



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Wednesday 24 September 2014

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LOCAL GOVERNMENT AND REGENERATION COMMITTEE
23rd Meeting 2014, Session 4

CONVENER

*Kevin Stewart (Aberdeen Central) (SNP)

DEPUTY CONVENER

*John Wilson (Central Scotland) (Ind)

COMMITTEE MEMBERS

*Cameron Buchanan (Lothian) (Con)
*Mark McDonald (Aberdeen Donside) (SNP)
*Stuart McMillan (West Scotland) (SNP)
*Anne McTaggart (Glasgow) (Lab)
*Alex Rowley (Cowdenbeath) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Ian Cooke (Development Trusts Association Scotland)
Pauline Douglas (Coalfields Regeneration Trust)
Dr Amanda Fox (Scottish Government)
Angus Hardie (Scottish Community Alliance)
Professor Annette Hastings (University of Glasgow)
Calum Irving (Voluntary Action Scotland)
Norman MacLeod (Scottish Government)
Barry McCulloch (Federation of Small Businesses)
Councillor Harry McGuigan (Convention of Scottish Local Authorities)
Alasdair McKinlay (Scottish Government)
Elma Murray (Society of Local Authority Chief Executives and Senior Managers)
Councillor David O'Neill (Convention of Scottish Local Authorities)
Rachel Rayner (Scottish Government)
Eric Samuel (Big Lottery Fund)
Felix Spittal (Scottish Council for Voluntary Organisations)
Dave Thomson (Scottish Government)
Ian Turner (Scottish Government)

CLERK TO THE COMMITTEE

David Cullum

LOCATION

The Mary Fairfax Somerville Room (CR2) and the David Livingstone Room (CR6)

Scottish Parliament

Local Government and Regeneration Committee

Wednesday 24 September 2014

[The Convener opened the meeting at 09:33]

Decision on Taking Business in Private

The Convener (Kevin Stewart): Good morning and welcome to the 23rd meeting in 2014 of the Local Government and Regeneration Committee. I ask everyone present to switch off mobile phones and other electronic devices, as they affect the broadcasting system. Some committee members might consult tablets during the meeting, because we provide papers in digital format.

Agenda item 1 is to consider whether to take item 6 in private. Are we agreed?

Members *indicated agreement.*

Subordinate Legislation

Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulations 2014 (SSI 2014/214)

Building (Scotland) Amendment Regulations 2014 (SSI 2014/219)

09:34

The Convener: Agenda item 2 is consideration of two negative instruments. Members have a paper from the clerk that sets out the instruments' purpose. The Delegated Powers and Law Reform Committee considered them and had no comments to make on them.

As members have no comments on the instruments, do we agree not to make any recommendation to the Parliament on them?

Members *indicated agreement.*

Community Empowerment (Scotland) Bill: Stage 1

09:35

The Convener: Agenda item 3 is our first oral evidence session for stage 1 scrutiny of the Community Empowerment (Scotland) Bill. We have decided to start the process by having a round-table session with key stakeholders, to set the scene for the work.

As many of you may know, the committee has used its work programme over the past two years to examine key policy areas that are relevant to this very important piece of legislation. That has included examining public services reform, local elections, non-domestic rates, the community planning system, land use planning, public procurement, community regeneration policy and, most recently, flexibility and autonomy in local government.

We have also undertaken a wide programme of public and community engagement, in which we have visited all parts of Scotland. In the past three years, the committee has undertaken 10 visits and meetings outside Edinburgh, from Shetland to the Scottish Borders and from Ayrshire to Aberdeen.

I invite our witnesses to introduce themselves before we move to our discussion on the bill.

Eric Samuel (Big Lottery Fund): I am senior policy and learning manager with the Big Lottery Fund in Scotland.

Elma Murray (Society of Local Authority Chief Executives and Senior Managers): I am chief executive of North Ayrshire Council and I am representing the Society of Local Authority Chief Executives and Senior Managers.

Ian Cooke (Development Trusts Association Scotland): I am director of Development Trusts Association Scotland.

Councillor David O'Neill (Convention of Scottish Local Authorities): I am president of the Convention of Scottish Local Authorities.

Councillor Harry McGuigan (Convention of Scottish Local Authorities): I am a North Lanarkshire councillor and COSLA spokesperson.

Professor Annette Hastings (University of Glasgow): I am professor of urban studies at the University of Glasgow.

Angus Hardie (Scottish Community Alliance): I am director of Scottish Community Alliance.

Pauline Douglas (Coalfields Regeneration Trust): I am head of operations in Scotland for the Coalfields Regeneration Trust.

Calum Irving (Voluntary Action Scotland): I am chief executive of Voluntary Action Scotland.

Felix Spittal (Scottish Council for Voluntary Organisations): I am policy officer at the Scottish Council for Voluntary Organisations.

Barry McCulloch (Federation of Small Businesses): I am senior policy adviser at the Federation of Small Businesses.

The Convener: Thank you; you are all very welcome.

I will start. The minister has said that legislation in itself will not be enough to deliver community empowerment. I have always been of the opinion that sometimes you cannot legislate for things and that sometimes a bit of gumption—a bit of common sense—is required.

We are keen to ensure that as many people as possible are engaged in processes. Professor Hastings, you have done a fair bit of work on disadvantaged communities and engagement. How can we ensure that the bill and the common sense that we hope is behind it will let disadvantaged communities have their say?

Professor Hastings: The first step is to recognise, through the bill, that there is a problem and to state explicitly that the bill should not have the unintended consequence of empowering those in society who are already advantaged and empowered. A symbolic statement in the bill would give an important steer by suggesting that that should not happen.

Our concern is that there are insufficient safeguards in what is proposed to ensure that additional support and positive discrimination are afforded to more disadvantaged groups.

There is a considerable body of research evidence, which is growing all the time, that more affluent social groups have the necessary skills and cultural and social capital to take advantage of opportunities that are put before them. There is a clear case for our taking deliberate strategic action to ensure that more disadvantaged groups can avail themselves of the opportunities that undoubtedly are present in the bill.

The Convener: So by a symbolic statement you mean a statement of intent rather than something that is symbolic.

Does anybody else have any comments on how we ensure that we engage folks from more disadvantaged communities?

Councillor O'Neill: The unprecedented turnout that we saw last Thursday was replicated in

disadvantaged communities. The turnout was slightly lower in disadvantaged communities, but we still had a massive increase. We must take advantage of the fact that people engaged in that process. It would be a real shame if we let the engagement that we saw last week slip away.

Calum Irving: One of the reasons why we saw that big turnout and an increase in citizen activism was that people felt that they could influence the vote. Building on that is one of the key targets that should be written into the bill. There should be expectations in relation to not just outcomes but assessment of how people have been involved and whether the way in which the statutory sector has done that has led to greater involvement. We have said that the bill should not casually conflate the third sector and the much more empowering, citizen-based processes. That would do a disservice to both communities and the third sector. Those need to be clarified and separated out in the bill, and capacity building should be focused on engagement and participation.

Angus Hardie: As the minister said, the bill itself will not be enough. In order to avoid the sharp-elbow syndrome, whereby the more able, higher capacity communities get most advantage from the bill, we will have to ensure that resources are allocated fairly soon to build capacity in communities.

The Government has invested a lot in capacity building in the past and, frankly, it has not worked. We have to look at how we can change our approach to building capacity in the most disadvantaged communities so that it makes an impact and changes the normal pattern of those communities being the last to benefit.

Pauline Douglas: The phrase that I used was that people don't know what they don't know. We have to help communities to understand that they can be involved and will be listened to, and point them in a direction and offer help and support. I am just reiterating what everybody has said. How can we help the more disadvantaged people in communities to become involved and take part?

The Convener: As David O'Neill has rightly said, over the past few weeks and months we have seen a rebirth of things such as town hall meetings and the establishment of grass-roots groups on both sides of the referendum debate. There might be some hope there. If we grasp that and continue with it, we might get somewhere.

Stuart McMillan (West Scotland) (SNP): My first point is for Councillor O'Neill. I am very much aware that in some of the more disadvantaged communities, turnout was a lot higher than in some of the more affluent or middle-class areas.

Mr Hardie made some comments a moment ago. What would he or his organisation suggest to take the issues he mentioned forward?

Angus Hardie: This is a very complicated area. Our approach could do much more on peer support. In other words, communities that have already developed capacity could be harnessed much more effectively in supporting other communities. Traditionally, we come into communities from the top down and deliver capacity-building programmes, which generally miss their mark.

We should be looking for more peer support and mentoring, or at least we should begin to try that because it does not happen at the moment.

Eric Samuel: We attached to our submission to the committee details of the our place initiative, which I think the committee is aware of. We are into the second phase of that. In both phases, we put in support contractors. This time we are taking an asset-based development approach, so we are building on the assets. The support contractors are there to build on the assets that communities already have. In round one, although we thought that the process would take two years, it turned into a three-year process. In phase 2, we are leaving people in the communities for five years.

The first phase will be very much about working with communities rather than just leaving them, and in the second phase we will think about the vision that the communities have come up with and how we work towards it. It can be done, but it takes time and resources.

09:45

Mark McDonald (Aberdeen Donside) (SNP): Certainly in my constituency and in less deprived or regeneration communities a huge amount is going on. Sometimes when we talk about community capacity we mean the professional expertise that exists in the community. In more affluent areas, there are more likely to be solicitors and other professionals who can be called on, but such people are less likely to be available in more disadvantaged communities to support the organisations that exist there.

Is the issue how we get communities to build capacity through activism? In the areas that I represent, I detect that community activism is alive. Is it more to do with having a support base for existing community groups and organisations? If so, how do we get such a base into communities that do not have the people who would fill those roles?

Professor Hastings: I very much agree with suggestions about building capacity from the bottom up, but there is also a role for more top-

down solutions to the problem. Particularly in the years of austerity, when resources are tight, I am concerned that when community bodies come forward to request improvements to their service, outcomes can be improved for one community at the expense of another. The process that is developed for requesting participation should require public bodies to consider displacement effects on other communities as a result of improving the outcomes for a community.

Elma Murray: During the conversation I was reflecting on three or so examples, which might help the committee in its deliberations.

I agree with the comments about an asset-based approach. A lot of that is about building people's confidence in their ability to step up, bring forward their ideas and solutions and articulate the case for getting support. As Professor Hastings said, if we are to get people in our communities to that position, we need to provide up-front support. I would not necessarily call that a top-down approach. It is about working with people and providing them with extra capacity. We have done that in a number of communities across Scotland, and it is very much an asset-based approach. That is an example that it might be helpful for the committee to consider.

We should take opportunities as they present themselves. The Commonwealth games in Scotland this year were a significant success and a number of communities got involved. For example, when the Queen's baton relay went through their areas, communities organised local events and celebrations of local heroes, thinking about what the games meant for their area. That sense of community is hugely important in building empowerment and people's confidence in what they can do for themselves.

A lot of work on parenting is going on across Scotland, which is not about bringing in people who have professional skills but about finding people who are prepared to come forward as local community champions, to work with people who might have a wee bit less confidence and help them to feel able to do things that a few months or a couple of years earlier they did not understand that they could achieve. Such an approach can completely change people's aspirations and ambitions in their local community.

Felix Spittal: Over the past couple of years, we have had quite a few discussions with our members about capacity, and one of the comments that has stood out, which was made in one of the early sessions, is that communities need expertise on tap, not on top. Communities need a bit of technical expertise and organisational support at a specific time as well as different levels of support at different stages as

they go through the process of empowering themselves.

There is a big argument to be made for building capacity directly into the organisations that communities have identified as those that should take forward their priorities and ambitions. The Scottish Government's strengthening communities programme is piloting that approach well, but it needs to be widened and offered to many more communities to ensure that the organisations that they have chosen to take forward the priorities in their areas have capacity.

Angus Hardie: I absolutely support Felix Spittal's comments. As for how we respond to communities that do not have the middle-class capacities and skill sets that other communities might have, I think that the distinction is that we should invest in local leadership and local activists and give them the confidence to bring in those skills on their own terms. That is significantly different from skills being delivered in a top-down or up-front fashion to a community. If they are brought in on the community's terms, that is absolutely fine—indeed, that is what the communities need—but, as Felix Spittal has pointed out, that sort of thing should happen on communities' own terms whenever they need it as they move along the pathway of empowerment.

Mark McDonald: Communities often find that the pathways for support—if you will—are complicated and that they have to overcome hurdles in accessing funding or developing business cases. Sometimes, that funding needs to be match funding, which is easier for some communities to achieve. Moreover, local authorities often put up barriers to support because they perceive that the asset that a community might wish to take over is a local authority one.

Because of a perceived conflict of interest, communities can find barriers being put up, some of which might be genuine but some of which might be artificial. Is there any means of simplifying and streamlining the landscape for communities—particularly those that do not know where to go—to ensure that they know exactly where they can get relevant support? Can we remove any barriers that prevent communities from accessing the support that is out there?

Councillor McGuigan: Perhaps it might help if I refer to an experience that I had a number of years ago and which I think that we can all learn from. I certainly did—I hope.

When major issues emerged in a housing estate in the area that I represented, I went about my business, talking to the police, community development officers, social work and all sorts of professionals who knew how to go about social

planning and social reconstruction. We looked at all the problems and held a major and well-attended public meeting in a local school. However, within five minutes of my standing up to introduce the meeting, I could see heads shaking; after 10 minutes or a quarter of an hour, I saw lots of heads going down and shaking. At that point, we invited people to discuss the matter, because of what was being expressed by the voice—if you like—that was coming from the audience.

We—or, at least, I—realised quite quickly that that had happened because, although we had consulted all the experts and some of the influential community groups that operated in the area, we had not consulted the real experts, who were the people who lived in the community and who were experiencing what life was really like there. There were people who had skills, understanding, knowledge and a desire to make a change in their community, but we had forgotten—I had forgotten—to include that important voice. That is what the empowerment bill should be about.

I was not surprised by the huge turnout for the referendum on Thursday, because I realise that some people wanted to make a fairly simple statement. There were people at the polling stations whom I had never seen before and who said that they were voting a particular way for a particular reason. They said, “I want things to change. I want to be involved. I want my voice to be heard.” They did not say that individually, but the collective statement that they made was, “We want our voice to be heard. We want people to help our voice to be heard and to understand where we are coming from.” We have the expertise to do that.

Somebody mentioned pathways. We have to be careful that we do not construct a set of pathways that look good to the experts but are not relevant to, appropriate to or consistent with what is being felt out there in our communities.

Ian Cooke: I will pick up some strands of the conversation. Community capacity building is a wide concept. It is critical that we are clear about whose capacity we are talking about building and for what purpose. That is the fundamental question, which often does not precede the discussion.

I link that back to what the bill is trying to achieve. DTA Scotland’s particular interest, which I understand to be part of the rationale for the bill, is in how we further community-led regeneration in Scotland. We are talking primarily about the idea of building community anchor organisations. We are talking about community capacity building that builds organisational capacity, which Felix Spittal touched on. We have examples of where that is happening.

There are great examples of disadvantaged communities that have strong community anchor organisations. Disadvantaged communities often have a plethora of small community organisations. The question is how we work with them and bring them together to create strategic community anchor organisations. That is the task at hand. We can use the peer support to which Angus Hardie referred.

To answer the original question, as well as capacity building, we have to look at the funding and resources that will help the activity that the bill promotes.

The Convener: The FSB has a huge role in helping businesses to become more empowered. Can we learn anything from the business community about empowerment?

Barry McCulloch: Yes. The FSB comes at the issue from a completely different perspective. Our general point is that we should not forget that small local businesses are a key part of their communities and that the skills and expertise that they have can help the wider efforts to regenerate communities.

Calum Irving: Third sector interfaces—whatever kind of third sector we mean—are trying to do the job of building the capacity of third sector organisations, connecting them to public policy and helping them to find a way into influencing local decision making, through local authorities, health and social care partnerships and so on. One of the challenges that the committee needs to consider is the variable accessibility of the system. It is possible to connect the disparate parts of the third sector, but we find that the influence that they can have on the system varies massively across the country.

The Convener: I will play devil’s advocate. We have heard the terms “community anchor organisations” and “third sector interfaces”. Over the years, there has been much different terminology. When I was the chair of a social inclusion partnership, I banned some of the gobbledegook phrases. Do the terminology and the kind of discussion that we are having here often put folk off becoming involved in their communities because sometimes they listen to us and think, “What the hell is that all about?”? I see people nodding.

Ian Cooke: Having used the term “community anchor organisation”, I accept that point. It is a convenient shorthand to describe the organisations that we are trying to create, without being too prescriptive about what they are.

In our experience, what helps local people to understand what the approach is about is visiting other communities that are doing things and speaking to them about the common issues and

problems and how they have been addressed—about what has and has not worked. To facilitate that cross-community learning does not cost a lot of money. We have a small grant fund for a development trust or an aspiring development trust to do that. Widening that out to include all sorts of community organisations would get round the problem.

10:00

Elma Murray: I agree with a lot of what Ian Cooke said and I accept the points that the convener made. It is easy for us to look at how we want to organise communities so that we can best engage with them. I think that that is part of the point that the convener is trying to make. However, that is probably not how communities would wish—

The Convener: Can I interrupt you? Do we maybe have a difficulty in that it might be others who want to organise communities rather than communities organising themselves in areas of work that they want to deal with, instead of being pushed into a box?

Elma Murray: For reasons of convenience, we probably try to organise communities so that we can marshal our resources. I am not saying that that is acceptable; I am saying just that I see that happening quite often.

There is without a doubt a requirement for us to marshal the resources that we can make available to assist, support and help communities. However, in my experience, a lot of that can be much better provided through a significant amount of building trust with communities. Even if we have in place the structures or organisation to help them or the pathways—we have used such words this morning—if communities trust us, they will ask questions and we will be able to help them to find their way through all that. A lot of the work is about how we engage with communities, build trust with them and are clear about what we are doing. We must also do a lot of regular and authentic consultation with them.

Councillor O'Neill: I have a number of points to make. If we are to deal with inequalities, particularly in our disadvantaged communities, we will have to disadvantage some other communities that are currently doing okay. I first became aware some years ago through the indices of multiple deprivation of the differences in life expectancy in North Ayrshire. At that time, the difference was 14 years between our most deprived and least deprived communities. In the intervening period, the community with the longest life expectancy has changed, but the community with the shortest life expectancy has remained the same, and instead of being 14 years, the difference is now 24

years. That is inequality going in the wrong direction, and we need to be willing to tackle that.

We also need to be willing to have a messy approach. We cannot have a one-size-fits-all approach to finding solutions in our communities. In many instances, different communities have the same problems, but in other instances, each community has unique problems. We therefore cannot have a one-size-fits-all approach. As Harry McGuigan said, the best folk to tell us what the solution is are probably the people who live in the community. We can help a wee bit and put some structure into finding solutions, but by and large it is the people in the communities who know what the solutions are.

The convener is absolutely right about language, because we use language that excludes people from the discussion. As part of the work of the commission on strengthening local democracy, we undertook a poll. Polls are very popular, as members know. One thing that the poll told us was that government is remote from communities. What the people polled meant by government was national and local government. That situation is partly down to the language that we use.

Cameron Buchanan (Lothian) (Con): Good morning. Following on from what the convener and Mr McGuigan said, I want to say that we should not use fancy words, because that disadvantages people. My question is: how would you prioritise Scotland's poorest communities? That is the key, and I would like your suggestions on it. We should not use fancy words.

Professor Hastings: I will augment points that I have already made. The bill is trying to deliver two distinctive things. It is trying to strengthen what is already there on community engagement and to make community anchor organisations more substantial. Making it easier to transfer assets would, for example, be an indicator of that. The bill falls short on the agenda of strengthening what is already there by not committing to more substantial resources for capacity building in the communities whose voices are heard to an extent but which could do with more support to have them heard more effectively. That is one intention of the bill.

A separate intention is to open up new routes and possibilities for people who do not have their voices heard. I guess that that is Councillor McGuigan's point—that there is a pent-up demand in disadvantaged areas for routes to enable voices to be heard. I am not sure that the bill delivers on that at all. It delivers on providing additional routes for some groups to have their voices heard, which could be at the expense of more disadvantaged groups.

Pauline Douglas: The Coalfields Regeneration Trust has been involved in the our place programme that Eric Samuel mentioned and in the Ayrshire 21 initiative. In addition, we have a programme of our own that is all about the asset-based approach, which we have found to be a fabulous way of working in communities.

The key area of our work is to be a facilitator. I do not live in all the communities concerned and nor do my staff, so it is a case of getting the people who live in those communities to take forward their ideas and do the work. We need to facilitate that and to ensure that they know where to go and know about all the different ways of making things happen in their community.

Alex Rowley (Cowdenbeath) (Lab): I will raise an additional point. Highland Council has raised the omission of community councils from the bill. We are talking about government being remote. The committee recently did a piece of work on local government across Europe. In many parts of Europe, local government is far closer to communities than the 32 authorities in Scotland are. One might argue that, regardless of whether community councils in their current form are successful—some are more successful than others—they might offer the structure for a fourth tier of government and, if real powers and budgets were devolved to community councils, that would generate interest across communities. I throw that in. If community councils cannot perform that role, what could? How else could we deal with remoteness?

I will pick up on consultation. People talk about the turnout last week, but many people have gone along to local authority consultation meetings, thought that they were a waste of time and been put off ever going back to such meetings again. The Scottish Community Development Centre raised the issue of the difference between engagement and empowerment.

I will give a practical example. In Rosyth, in my constituency, there is a housing estate where trees were planted in the grass panels when it was built. The wrong trees were probably put in, because they are now massive. That means that, in the summer, no light comes in people's windows and, in the winter and on wet days of the kind that we have had this week, the wet leaves make walking dangerous for people, as they might slip.

The majority of people tell me that the issue needs to be dealt with. That seems to be common sense, but the tree surgeon says that the trees are perfectly healthy and council policy is that such trees are not cut down. For the life of me, I do not understand why that is the case. If we were truly empowering the people on that estate, we would enable them to deal with the issue. The danger is

that the bill is full of rhetoric but has few teeth to empower anyone to do anything about the issues that bother them in their communities.

My final comment goes back to the point about substantial resources that Annette Hastings made and the failure to provide them in poorer communities. All the evidence suggests that poverty and social deprivation are a major barrier to people being able to engage. Could we build more into the bill to address that?

I do not apologise for shifting resources to the areas of greatest need. Not doing that is the reason why inequality has continued to increase over the past years.

I am just throwing those points into the discussion.

The Convener: I will let Harry McGuigan speak next. Anyone may respond to the points that have just been made.

Councillor McGuigan: The point that I want to make probably interfaces with some of what Alex Rowley said.

Sometimes we assume that the well-intending organisations in our communities are reaching the communities that they speak for and are meeting their aspirations. Sadly, however, that is not always the case. I see the same faces at the meetings of three local organisations that I attend. They are good people, but if you were to ask people in some areas in my constituency who those people are, you would find that they are not known to the wider community at all.

That touches on what might be the hard business that we face. As Alex Rowley says, it is important to differentiate between engagement and empowerment. Engagement can happen in all sorts of ways. Sometimes it can be hollow, but other times it can be fruitful. However, the empowerment part is the difficult bit. Getting into the communities and connecting with people in those communities will be tough, but we should not shy away from that. I think that we can find ways of improving engagement.

I represent COSLA at the Council of Europe Congress of Local and Regional Authorities and have been appointed as a rapporteur to look at and learn from what is happening in Scotland, in the United Kingdom and across Europe with regard to further devolution of power and communitarianism. I will be reporting on the first stage of that work on 17 November. I hope that that will be fruitful and helpful. We can learn from what works in other places, and we should not be afraid of small areas having some power and control over the factors that affect their lives.

David O'Neill made a valid point about prioritisation. Of course, we always have to

prioritise. However, we must remember that in every community there will be opportunities to enable that community to feel more satisfied because it is being listened to. We need to try to get to that point.

Angus Hardie: I support what Councillor O'Neill said about the nature of community empowerment and about communities in general being messy. We cannot take a one-size-fits-all approach to the notion of community empowerment. That is why, in our evidence, we suggested that we should try to frame the bill around some first principles concerning subsidiarity, local people being in control, assets and so on that we could use almost as a framework to examine the impact of the bill once it is on the statute book. If we did that, we would begin to see community empowerment in the round, rather than as some prescription that we can use to sort out the most disadvantaged communities.

The other point is about the remoteness of government, or the fact that that is how government is perceived by communities. You could argue that the bill is, in some ways, a compensatory measure for the absence of real localised government. The bill fits within that vacuum of local democracy, which is a risk that it is running. As was touched on by the report of the commission on strengthening local democracy, if we had real local democracy the bill might still be needed, but it might contain different measures. We need to see the bill in that context. It is landing in a sort of vacuum of local democracy.

10:15

Felix Spittal: The question of prioritising powers links up with the engagement route. One aspect that is missing from the bill concerns participatory budgeting and other participatory approaches such as citizen juries. Such approaches can potentially solve a lot of the problems by involving people in poor communities in meaningful consultation and participatory events. That would help to address the disadvantage that those communities experience and make engagement more meaningful. It would begin to get to the heart of the Christie commission's recommendations on building public services around people and communities and giving them a real say in decisions about how public services are delivered and where the money is spent.

The commission on strengthening local democracy recommended a much greater increase in participation and the establishment of a participation unit in Scotland. The bill could assist that process by legislating for participatory approaches and for participatory budgeting in particular.

Stuart McMillan: I have a question for Mr McCulloch with regard to his earlier comments on the FSB. I accept that there are many small businesses in the communities that we are discussing. Do you see a greater role for FSB members, and for larger companies, to facilitate and help communities, rather than just being based in a community that the workforce does not necessarily come from?

Barry McCulloch: Business can play a greater role in local communities, but we cannot be prescriptive about that. The level of influence and involvement that businesses may choose is defined by scale, size, sector and geography, and it is difficult to say that a particular business will choose to get involved. However, I agree that businesses could, through their skills and expertise, contribute to the community approach that is outlined in the bill.

Anne McTaggart (Glasgow) (Lab): I will move on to the national performance framework and the national outcomes. I am intrigued by Councillor O'Neill's earlier comment that there was an increase, rather than a decrease, in poverty after the work had been done. In what ways do the Scotland performs strategy and the national performance framework currently inform your work? We can go round the table so each of you can answer.

The Convener: Who wants to have a crack at that first? I realise that it is a pretty complex question.

Elma Murray: At the local authority and community planning partnership levels, the national performance framework and the outcomes from it feed directly into single outcome agreements, so there is something there. I accept that it is still quite removed from individual communities in the way that we have discussed this morning, but there is a link to community planning partnerships.

The links between what we do at community planning partnership level and our local communities need to improve, although they are starting to do so. Most community planning partnerships now have a clear and well-defined view of each of the neighbourhoods and localities in their area, and of the needs of those localities. We know where our most disadvantaged areas are, whether they are geographical areas or areas of need that might be linked not specifically in terms of geography but to the particular vulnerabilities of individuals in our communities. We understand that clearly, or more clearly than we used to.

Every area in Scotland is implementing a new integrated health and social care partnership, and we are doing a great deal of locality planning to

ensure, again, that the needs of specific communities—particularly the health needs—are properly reflected in the way in which we prioritise our financial and people resources to target individuals in communities.

I hope that that is helpful, convener.

Councillor O'Neill: In support of what Elma Murray says, I note that, over the years, we have had a focus on national targets. It is not something that any one political party has been guilty of—we have all done it. That has meant that we have tried a one-size-fits-all approach for communities, but communities are different. As we sit here today, local government and the health service are focused on targets that may not be appropriate for certain communities. We need to get away from the national approach to targeting and make the approach very specific to what communities actually need.

Anne McTaggart: Under the bill, can we do that through CPPs?

Councillor O'Neill: I do not believe that the bill goes far enough on that, but it is going in the right direction. Perhaps your committee would like to make a suggestion on that.

Anne McTaggart: Okay. Thank you.

Councillor McGuigan: Community planning partnerships have a long way to go in some areas. Some are better than others. I believe that they represent one of the brightest opportunities to really make a difference by using the strengths and competences and the institutions in their areas to the very best effect. However, the approach cannot be driven by local government alone. There has to be a realisation that the rest of the public sector also has an important role and important sets of responsibilities. People do not always realise that to the extent that they should. However, we have the right direction of travel.

The Convener: So we still require some cultural change in public bodies and community bodies in order to make the processes work a little better than they currently do. Will the bill help to address that?

Councillor McGuigan: I certainly hope so, although I am not sure that it will. I would like to see in the bill a realisation that local government has an important and crucial role to play in all of this, yet it does not have any statutory status in terms of what would be considered required status under the European Charter of Local Self-Government.

We are moving in the right direction, but local government has to learn that it has to ensure that the voices are being heard at every level. I hear people talk about the failure to listen to the third sector or the voluntary sector, and the

mechanisms for representation at CPPs so that messages get through to them are not as good as they should be. That has to change.

Councillor O'Neill: Today, within the public sector and the third sector, no one has experienced anything other than a centralisation project. I emphasise again that no one political party is guilty, as this goes way beyond the lifetime of the Parliament and the involvement of any one party. All the parties have been guilty. There is a culture and a mindset that it is better to centralise things. We saw that most recently with the fire and police services. Three of the four major political parties had that in their manifestos, so this is not a criticism of any one party.

There is a culture that says that we get more efficiency if we centralise. We may get more financial efficiency, but we get poorer results within our communities by doing it that way. Let us get back down to communities and into the heart of communities. If that looks messy, so be it—if we get better results for our communities, that is a good thing.

I thank Harry McGuigan for mentioning the European Charter of Local Self-Government. If I had gone back to COSLA without that having been mentioned, I would have been kicked up and down Princes Street. We asked the minister to include the issue in the bill and his response at the time was that, subject to a yes vote, there would be a written constitution and local government would be protected within that. We now know the result of the referendum, so an opportunity exists to revisit the issue and put it in the bill.

I say that because, within living memory, a whole system of local government was effectively abolished at the whim of a Prime Minister because of Strathclyde region's temerity in stopping the privatisation of Scottish Water. There is no suggestion in what I am saying that anyone is thinking of doing that now—indeed, there has not been a single hint of that—but it could happen if local government is not enshrined in law.

The Convener: I have three committee members on my list to speak next, but if anyone wishes to intervene, please do so.

John Wilson (Central Scotland) (Ind): On Ms Murray's comments about health inequalities and the joint work with health boards and, indeed, Councillor McGuigan's comments about institutions, what work is being done with communities to develop services? I picked up from Ms Murray's comments that health boards, local authorities and other agencies are still taking a top-down approach to developing strategies, but our hope is that the bill will allow us to develop inclusive strategies that listen to and act on communities' wishes and aspirations. If, even as

the bill is going through its parliamentary process, we are still talking about the top-down development of strategies for delivering services, we are stuck in a groove that we need to jump out of.

As someone who has a number of years' experience of working in deprived communities, I believe that we need to engage fully with communities and ask them what they need instead of giving them what we think they deserve or should get. It is all about giving them what they want and interacting with them. I realise that that gives rise to issues of accountability with regard to the people we are engaging with, but those issues can be taken on board by local authorities, CPPs and other agencies as they develop strategies. Can anyone assure me that things are moving forward and that we are not stuck in the groove of continuing to make policy at the top and expecting people at grass-roots level simply to accept it?

Elma Murray: I apologise to Mr Wilson for perhaps leaving him with the wrong impression; I will give him a wee bit more of an explanation.

What we are doing with communities—not, I should stress, to communities—is not new; what is new is how we are doing it. The local authority will always have worked with a range of local stakeholders, local interest groups and particular representative individuals from certain groups to define and identify the provision of services in their areas. Depending on their needs, that will happen either with or for those communities. The health board will do the same.

What is new and different is that we are doing that work together. As has been pointed out, communities can be messy because everyone is coming from a different place and has different needs and different representatives, and we sometimes try to organise them a bit to make it easier for us to help them. What I am trying to say is that, through the integrated health and social care partnerships, we, too, have organised ourselves a bit to work with our communities. We have accepted that they would welcome a more structured approach to ensure that they do not need to deal separately with health boards and councils and can work jointly with us.

I cannot say what is happening across Scotland with regard to integrated health and social care partnerships, but the legislation prescribes the establishment of integration boards that take into account a range of interests from our local area. In North Ayrshire, the integrated health and social care partnership board is made up of 24 members. Eight members are from the council and the health board and the other 16 members are a range of representatives from across the community, including staff who provide services. Our staff often understand exactly what people need and

want, because they work with them day in and day out.

I hope that that gives some clarification.

10:30

The Convener: I will stop you there—I am sorry if I am cutting in on John Wilson.

I hark back to a number of years ago, when a community that I represented on the council put mental health as its number 1 health priority. The main priority of the health board and the council was stopping smoking, but the reality was that many people would have found it difficult to stop smoking unless some of their mental health problems were gone.

I think that John Wilson was driving at this: how can communities get across their priority in the face of priorities of the local authority, the health board or well-meaning front-line staff, who sometimes canna quite get to grips with what the difficulties are? What are the ins for communities?

Elma Murray: I hear those issues as well. Are we determining our priorities through a top-down or a bottom-up approach? I guess that that links back to some of the comments that were made about the performance management framework that we have in Scotland and the provision of more local flexibility to enable us to take into account what communities say their priorities are.

The communities that we work with tell us what they want and we listen to that. We work with them to make decisions about what we prioritise.

John Wilson: The end of that response—the point about working with communities to prioritise—was interesting. Surely through the bill we are trying to get communities' priorities to be at the top of the agenda. The convener highlighted the issue of mental health vis-à-vis smoking. I understand that argument: if we tackled the mental health issue, people would have less need to smoke.

The bill has come around as a consequence of the failure of agencies—which may be the Scottish Government, the UK Government, health boards or others—to listen to and act on communities' priorities. Many deprived communities might not have running a community facility as their priority; their priority might be to ensure that every house in the area is at a tolerable standard and that people's next-door neighbours are behaving themselves and not engaging in antisocial behaviour.

How do we get that turnaround in the thinking of agencies, authorities and Governments to ensure that they address communities' issues rather than the issues that they think that communities have?

How do we stop them working towards their priorities rather than communities' priorities?

Councillor McGuigan: John Wilson makes a good point. There has been a frustration, certainly in the early days of CPPs. CPPs did not always have the solidarity of purpose that they should have had and that there needs to be. The bill will at least insist that members of CPPs—health boards and the Scottish Prison Service, which will have a role to play in relation to safe communities—come together and be required to undertake the same type of consultation, listening and learning that local authorities try to undertake.

There is a greater insistence that we will and can work together better, and that the agenda that we are setting and the outcomes that we are working towards—which the bill proposes will be set nationally—will be properly addressed by all, not just one or two, of the partners. There has to be a real insistence on that.

I think that the situation will improve as a consequence of the bill. If it does not improve, questions will need to be asked.

The Convener: I return to Elma Murray's point—*[Interruption.]*

10:35

Meeting suspended.

10:59

On resuming—

The Convener: Welcome back. I apologise to our witnesses and to our thousands of viewers at home for the breakdown of the broadcasting system. I always say that there are thousands of viewers at home—around the world.

I was in the middle of asking Elma Murray a question about integrated health and social care boards. You were saying that since their establishment the way things have been done has changed. My question is this: why has it taken the establishment of the integrated health and social care boards to make that change rather than it having come from community planning partnerships since their inception?

Elma Murray: First, I would like to emphasise that in some places integration of health and social care took place prior to the new legislation; the change had happened in some areas of Scotland that had already decided that that was right for them. The new legislation has put a requirement on everyone to do that, and that is now being progressed, certainly in relation to adult services. However, in a lot of areas it is being done on a

voluntary basis for both adults' and children's health services.

I could not say exactly why such integration has not happened before. The issue for me is that it is now starting to happen on a much more widespread basis, which is to be welcomed.

The Convener: Maybe the lesson for the committee, when it comes to dealing with the Community Empowerment (Scotland) Bill, is that rather than hope that certain things will happen voluntarily, we should put down a legislative mark at the very beginning. Is that a fair suggestion?

Elma Murray: Professor Hastings made a point at the start of the meeting about the bill's intent and what we want to see as its outcome. It will be very important to make sure that that is clear.

The Convener: So, the statement of intent is probably important. Before the break, Annette Hastings wanted to come in. Do you still wish to do so?

Professor Hastings: I will do so quickly, if that is all right. I want to say a word in defence of strategic overviews. I am not suggesting that people who are advocates of community empowerment do not think that strategic action is important, but I think that it is worth having a reminder. Learning takes place at the level of the individual public body or community partnership, so that it is seen that it is not smoking, but mental health that is the issue, and that the issue is not the community centre, but housing. That learning can take place at the level of the institution so that mistakes are not replicated.

There is therefore the issue of how we aggregate the learning from the various community empowerment activities and institutionalise it within public bodies. Thinking about the need for strategic co-ordination and action around avoiding perverse outcomes as a result of participation is also needed.

In my written evidence I used the example of street sweeping and how the processes of participation can inadvertently lead to more services being provided in more affluent areas, and their having better outcomes. The local authority that we did our research with took action and said that that was not what it was trying to do, so it has prioritised poor areas in a deliberate strategy. It is important to think about the sum of the parts and about maintaining capacity at the centre—dare I say it?—to undo some wrongs that might be done.

The Convener: What is needed is a combination of legislation, culture change and good old gumption.

Professor Hastings: Recognition that sometimes decisions will be made that appear to be anti-participatory is also needed.

Councillor O'Neill: Perhaps the legislation needs to focus more on what the outcomes should be. It is absolutely right that central Government decides that it wants, for example, a reduction in differences in life expectancy or a reduction in the number of children who live in poverty. The Government setting out the outcomes for legislation is probably a good thing, but it should not necessarily get into the nitty-gritty. As I said earlier, one size does not fit all; the same model will not necessarily apply everywhere.

Ian Cooke: The challenge for the bill is how we empower communities from the top down, which is quite difficult. I think that there is agreement around the room that there is no one blueprint, that communities are very different in nature and that this sort of activity can be quite messy. In trying to do it from the top down, there is a real danger that we crush the sort of creativity and enterprise that have contributed to much community-led regeneration, which has been largely organic and has happened in communities all over Scotland.

It seems to me that the bill builds on experience. It is not just about middle-class or rural communities; I am talking about working-class and disadvantaged communities. The task at hand is to inspire, encourage, nurture and support communities to engage in the process. By introducing new duties and powers, the bill offers a framework that will make it a bit easier for communities to engage in activities, which we hope will encourage more communities to take part. However, it cannot be imposed on communities.

It is crucial that there is culture change. I hope that the bill will influence the culture, but the process really has to go two ways. That culture change needs to take place in the public sector because a lot of the activity involves some risk, and public organisations can—understandably—be quite risk averse. Equally, a culture change is required in the community sector.

In going around Scotland, what has struck me is that the challenged and disadvantaged communities are very dependent on grants and the public sector. We have to begin to change that. There are opportunities with the bill to do that through encouraging people to take a more enterprising approach through looking at ownership of assets, at community enterprises and so on.

Different sorts of interventions and approaches will be required to support implementation of the legislation.

The Convener: It is interesting that you used the word “cajole”, which can sometimes be understood as forcing something.

Voluntary Action Scotland has been vocal about the issue of forcing folk into voluntary positions. Is there a danger that there will be a backlash if we try to force people into participation?

Calum Irving: I am not sure that there would be a backlash per se, but there is the principle that supports what Ian Cooke said about not forcing participation. However, the point is that the legislation could be an opportunity to create the best possible environment for participation. I encourage the committee to look at how we can drive into the system much more of a duty to involve that can be measured. That is not imposing something from the top down; we are not saying exactly how that should happen, but we would be able to test whether there were processes and means by which involvement and participation were supported. Not for one second do I suggest that we want to do anything to take away from the creativity of grass-roots activity. We are trying to get to a system in which that creativity can flourish even more than it does now.

The Convener: Ian Cooke.

Ian Cooke: I do not know that I would use the word “cajole”. This is about encouraging and inspiring, not forcing. If I gave that impression, I would like to correct it.

The Convener: Thank you.

Stuart McMillan: I have a question for Ian Cooke, first. A moment ago, you mentioned culture change and dependency on grants and the public sector. Earlier I asked Mr McCulloch a question about FSB and other business organisations assisting in communities. Are you aware of DTAS organisations being in contact with local branches of the FSB and other business organisations to see what joint working could be done to help communities to help themselves?

Ian Cooke: We have a lot of examples of that kind of partnership. Part of the development trust approach is about encouraging partnerships while redefining what we mean by partnership. Partners aim to achieve whatever the community is trying to achieve.

A lot of the partners are private sector partners—often small and medium-sized businesses. Sometimes arrangements are informal, but they can range right up to joint ventures. I can give the committee lots of examples. If we are trying to encourage a more enterprising approach, there are many lessons and much experience to draw on in the private sector.

The Convener: The Big Lottery Fund has previously put funding into community capacity building. What more can you do to help disadvantaged communities to participate?

Eric Samuel: We can do various things; we are involved at many levels. As you know, I am interested in community asset transfer. It started in rural communities, but has developed over the 13 or 14 years in which we have been involved in it, and many more urban and deprived communities are now involved. It is not only the well-to-do communities that are doing that sort of stuff.

We try to help communities from the early stages all the way through. We provide £10,000 for a feasibility study that allows them to consult their communities and visit other projects. It is a two-stage process. If they get through stage 1, we can give them more development funding to do the technical stuff that they need to do. As I have said to the committee before, we have a social enterprise that is available to help communities with the financial side of things. That kicks in between stages 1 and 2, but we do not just leave it there. If the community gets an award, that social enterprise will work with it after it has got the award. That is one example of how we deal with the matter in one investment area. I am sorry that I am getting into jargon again.

I have talked to you this morning about our place initiative, which is a different approach. We are trying lots of different things and trying to learn lessons from them. We are taking an asset-based approach and fitting that to a community of learning. We had the first meeting of the initiative about three weeks ago. We brought people together to learn from each other's experience, pass on the lessons and find out where the wider community—not just the Big Lottery Fund—can go with it.

Felix Spittal: In answer to Stuart McMillan's question about grant dependency, it is worth highlighting a recent report from Community Land Scotland that considered the role of community land trusts and compared their grant funding to their business income. It showed a lot of economic development through, for example, community energy, and it punctured the myth about community land trusts and development trusts being grant dependent. It is well worth looking at that piece of research.

Barry McCulloch: The business improvement district model is a good example of joint working between business organisations and the community sector. In Carlisle, it is development-trust led but involves small business owners. There is a slight omission in the bill and the accompanying documents in that the BID model brings people together in a specific locality to deliver additional services for the business

community, which also benefits the wider community.

Eric Samuel: The Big Lottery Fund is a grant giver, but we are not in the business of trying to create grant dependency. Often, our grants kick things off. We are looking a lot more at social investment now and asking projects to take a much more enterprising approach. Projects often cannot get off the ground unless they have some grant funding. We are not talking about grant dependency, but about injecting grant to let projects get started, then making them enterprising.

Stuart McMillan: Mr McCulloch gave the example of Carlisle. Do you have any examples of that type of activity in places such as Easterhouse, Craigmillar or other schemes throughout the country?

Barry McCulloch: There are no such examples, to my knowledge. There is an urban regeneration company in Craigmillar but, to be completely honest, in many areas where there is deprivation, such activity is local-authority led because the capacity for it has not existed in the past.

As the bill demonstrates, community empowerment and involvement require a step change. From our perspective, the question is how small businesses play a part in that and contribute to the process.

Mark McDonald: We need to think about the outcomes that we were speaking about and how we would measure the success, or otherwise, of the bill. Empowering communities is one thing, but those communities then using that empowerment is something different, as is how they go about using it. Different communities will have different ideas about what they want to do. Sometimes, ambition will not tally with what can be achieved, which will be the case whatever legislation is put in place.

When the legislation has been passed and we come to look at how it operates in practice, how will we correctly assess what is happening, so that we do not say that it has been a runaway success when that does not match what communities are saying, and so that, if some communities have not been able to realise their ambitions for perfectly valid reasons, we do not fall into the trap of suggesting that the legislation is failing or is not doing what it is supposed to do?

The Convener: Does anyone want to comment on that?

Calum Irving: I will make a suggestion. I talked about a duty to involve; the guidance could talk about citizens juries, which the commission on strengthening local democracy in Scotland

considered. Why not drive into the community planning system an annual citizens jury process, to set the agenda for community planning and to test what has been delivered? It is possible to make enabling legislation and then, in guidance, to consider suggestions about how to test it.

The Convener: If no one else wants to comment, I thank the witnesses for their evidence, which has been extremely useful. I apologise for the breakdown in the broadcasting system.

I would be interested in your feedback—through the clerks—on whether the round-table approach to taking evidence suits you. Many of you have given formal evidence in different ways. A number of members of the committee like round-table sessions, but I am keen to hear your feedback, too. I am empowering you in that regard.

I suspend the meeting to allow for a changeover of witnesses.

11:16

Meeting suspended.

11:25

On resuming—

The Convener: I welcome our second panel. I understand that Alasdair McKinlay, who is head of the community planning and community empowerment unit, will introduce his colleagues and tell us what their remit is when it comes to the bill.

Alasdair McKinlay (Scottish Government): Thank you, convener. In fact, I will ask them to introduce themselves, if that is okay. There are quite a few of us, and we all have different responsibilities.

Norman MacLeod (Scottish Government): I am from the Scottish Government legal directorate.

Ian Turner (Scottish Government): I am the bill team leader.

Dr Amanda Fox (Scottish Government): I am from the food and drink team, and I have a responsibility for the part of the bill on allotments.

Dave Thomson (Scottish Government): I am from the land reform and tenancy unit. I am responsible for the part 4 elements of the bill on the right to buy.

Rachel Rayner (Scottish Government): I am from the Scottish Government legal directorate. I am dealing with the provisions on allotments and the right to buy.

The Convener: Do you wish to make an opening statement, Alasdair?

Alasdair McKinlay: No, thanks.

The Convener: You heard the evidence from our previous panel. Annette Hastings said that the bill should make a statement of intent about empowering disadvantaged communities. Have you given any thought to that?

Alasdair McKinlay: We have been very conscious of that in the wide-ranging engagement that we have done on the bill. The first thing to say is that the bill provides opportunities for all communities in Scotland on asset transfer and participation requests. We certainly recognise that the capacity to benefit from those opportunities will not be evenly spread across the country, although I was particularly heartened by the recognition during the discussion with the first panel that, just because people are in disadvantaged communities, that does not mean that they cannot do many things for themselves.

The Scottish Government already invests in a range of things, some of which were mentioned earlier. The community ownership support service, which provides some of the technical expertise that was mentioned, is important. It is focused on asset ownership in disadvantaged areas. The strengthening communities programme, which was also mentioned, is involved in direct investment in community anchor organisations—to use the shorthand jargon—in disadvantaged areas. We are conscious of the issue that you raise, convener. As you said at the outset, the bill will not do everything. Those are policy responses to address that issue.

We are conscious that, as well as fulfilling the duties in the bill, the public authorities must fulfil their equalities duties, which are set out in other legislation.

The Convener: Thank you.

We heard a lot about culture change and common sense. Although it is sometimes possible to legislate for culture change, it is less easy to legislate for gumption. How do we ensure that, as we go through the process, we get the maximum amount of gumption out there? Beyond the bill, what do we need to do to ensure that logicity comes into play?

Alasdair McKinlay: Again, it came up in the discussions, which was helpful, that the bill tries, in the way that any legislation can, to found itself on some gumption. It tries to reflect some of the things that we know were already happening. Beyond that, we will have a very important job to do in promoting the bill in adopting the approach that we have taken in its development of being inclusive and in recognising that, as it is a piece of

legislation, some people will struggle with some of the language and the concepts in it. We have a big job to do in promoting—in the clearest possible language that we can, in the way that we did with the easy-read version of our policy memorandum—what the bill is about and what opportunity it provides, and in explaining to people the committee's interest in the fact that a lot of what we are talking about is common sense.

The Convener: In framing the bill, how much attention has been paid to stakeholders? Let us consider the allotments scenario, Ms Fox. We have had a number of responses from folks who are involved in allotments and the various allotment societies. How much attention has been paid to what stakeholders have said?

11:30

Dr Fox: We have undertaken a substantial amount of consultation on the specific issue of allotments, first, through the consultation on the community empowerment and renewal bill back in June 2012. In April 2013, we had a consultation that looked solely at the potential duties and powers relating to allotments, and in November 2013, individual provisions in different areas were consulted on through the consultation on this bill. In addition to those written exercises, we have gone out to stakeholders and had a lot of meetings with the growing community and our colleagues in local authorities and COSLA.

The Convener: One of the bill's more complicated aspects is the issue of common good. Given the forthright opinions that are out there about what should and should not be done with common good funds, what consultation has been carried out with stakeholders on that part of the bill?

Alasdair McKinlay: The issue was not addressed separately, but it formed part of the exploratory and secondary consultations. It is important to point out that, because the bill is about community empowerment, our focus has been on participation, transparency and helping to establish what common good is in local authority areas and how it is being used.

Anne McTaggart: Staying on the subject of allotments, I note that, according to the Scottish Allotments and Gardens Society, the bill

“repeals the existing legislation and in doing so some of the protections for plot-holder and allotment sites contained in the provisions of the old legislation appear to have been lost.”

Dr Fox: The bill updates quite a lot of provisions, but a number of powers and duties have been removed. Would it be helpful if I briefly went over them?

The Convener: That would be useful.

Dr Fox: The duties and powers that have been omitted from the current draft of the bill include the duty to provide access to allotments, which was not restated in the bill because it is already provided for under the general law of landlord and tenant, and the use of local authority rooms for discussions about allotment-related business. The latter came about after consultation with local authorities, which indicated that buildings could be made available for that purpose but that there should be a requirement to pay, as is the case with other community groups.

The power of entry on to unoccupied land for the purpose of providing allotments and the power of compulsory purchase of land have also been removed. The first power, which was introduced to drive an increase in food production, reflected the post-war era in which it was drafted, and it is viewed as being unnecessary at present. Local authorities have indicated that they are unaware of any situation in which these powers have been used to provide allotments, and they consider that using them would be a last resort because of the financial costs involved. The Scottish Government views the powers as being draconian and rather difficult to justify because of the costs. Additionally, such actions would deprive a person of their right to the peaceful enjoyment of their property and could not be justified in the wider public interest on the basis of the provision of allotments.

The power for a local authority to charge a fair rent has also been removed because the Government believes that land values and the costs of managing allotment sites are likely to vary between sites depending on where they are in Scotland and that, consequently, decisions on rents are best made at local level. Indeed, the bill requires local authorities to make regulations that specifically relate to rent.

The power for a local authority to purchase plants, seeds and fertilisers to sell to tenants has also been removed. It was a rather outdated duty, which reflected the post-war era in which it was drafted. It came into force when there were not very many garden centres or agricultural suppliers around. It has been excluded from the bill, but that does not prevent local authorities from continuing that practice if they so wish and if there is a need for it.

The next power that has been removed is on the improvement and adaptation of land for allotments. It was considered unnecessary to restate that as it is part of a local authority's general powers under subsequent legislation. On the rating of allotments, the power allows a local authority to deem itself the occupier of land despite it being let for allotments. It was considered unnecessary to restate that provision,

as subsequent legislation has excluded allotments from the ratings regime. The provisions relating to land leased for allotments have been updated and are reflected in the bill.

The provisions in the bill that relate specifically to private landowners, which ultimately deal with the termination of leases and compensation, have also been removed from the bill. The rationale behind that—bear with me while I refer to my notes—was that the Government believes that those arrangements are better dealt with under individual lease arrangements. It was difficult to see what justification there was for interfering with such private arrangements. In addition, general law on landlords and tenants would apply to those arrangements.

To support private landowners with lease negotiations, in 2013 the Government supported the production of a guide for landowners, which was developed in liaison with the community land advisory service. That guide, which applies to both private and public landowners, encourages landowners to make sites available for growing food. It provides comprehensive information and makes suggestions about background details to try to equip landowners to play their part in making more land available to local communities in Scotland for growing food. I am happy to provide the detail of that to the committee if you would find it helpful.

The Convener: That would be useful, Dr Fox. Anne, did you want to come back in?

Anne McTaggart: Yes, I have another small point—in fact, it is a huge point. Some sector bodies have highlighted a difference of opinion, shall we say, in relation to the financial memorandum attached to the bill.

Dr Fox: Given the different ways in which allotments are managed across Scotland, it was very difficult to get definite costs for the individual duties and powers in the bill and to see the implications for local authorities. We have made estimates, but obviously they are only estimates. It was very difficult to get tangible information relating to the different impacts. However, we have tried to identify the areas that might incur costs.

The Convener: John Wilson has a supplementary.

John Wilson: I am glad that you will provide us with the briefing that you have just referred to, Dr Fox. You will be aware that there was a major campaign in Glasgow in which residents of the tenemental properties in particular tried to take over vacant and derelict land to create small areas where residents could grow their own food. How would the changes that you have outlined in the post-war legislation and the proposals before us today change the actions of individuals or groups

who want to take over vacant land to put it back into productive use for food in those areas?

Dr Fox: Under the wider provisions of the bill—on asset transfer and the community right to buy—there is scope for communities such as the ones in Glasgow to approach the relevant authority to take over that land. I will defer to my colleagues, who might want to add to that. The allotments provisions will not necessarily help those people per se, but the wider provisions of the bill will.

Alasdair McKinlay: Yes indeed. That is one of the examples that we heard a lot, Mr Wilson, which strongly influenced part 5, on asset transfer. On the question of engaging with stakeholders, some community growing colleagues took us from a place where we focused very much on community bodies owning assets to the broader provisions in the bill around lease management and indeed land use. Some people said that they did not necessarily want to own a piece of land that is in the public sector but that they would love to be able to grow on it. Part 5 provides a process for making the case for the benefits of community growing and places a duty on an authority to respond to that, if the vacant and derelict land is owned in the public sector. As Amanda Fox said, the extension of the community right to buy across the country will be another tool for communities to use in such circumstances.

Stuart McMillan: In the consultation, what activity took place to get as many consultees and responses as possible from schemes across Scotland? We heard in the previous session that there are challenges in getting information and feedback from various parts of the country. The bill is about community empowerment. What activity did you undertake to get information from people in schemes?

Alasdair McKinlay: We relied a lot on some of the people whom the committee heard from earlier. We worked through intermediaries such as the Development Trusts Association Scotland, the Scottish Community Alliance and the Scottish Community Development Centre. Community Land Scotland ran a conference to which a number of community activists were invited.

We would always like to do more. For example, we did not go out and visit a range of our most disadvantaged communities specifically to discuss the bill. That is partly a resource issue, because we are a small team. However, we tried extremely hard to ensure that a wide range of voices was heard. During the second stage of consultation, ministers and officials had 40 meetings. We also had the first stage of consultation. We did not write out our ideas, send them out, put them on the website and wait for people to reply; we were proactive and we went out to speak to people face to face.

Stuart McMillan: I assume that you spoke to the community councils across Scotland.

Alasdair McKinlay: Community councillors participated in a number of sessions that we were involved with. It might be better if we provided you with a fuller report on the consultation, rather than me trying to remember the 40 meetings. Would that be helpful?

Stuart McMillan: Yes.

The Convener: That would be extremely useful. In other work that we have done in the lead-up to the bill, we have heard from community councils that feel that some local authorities are not adhering to the existing legislation and guidance. It would be interesting to get an idea of the feedback that you guys had in your consultation.

Alasdair McKinlay: Absolutely. We also surveyed local authorities about community councils, so we have details of the number of community councils that have had contested elections and which are active. That came up in the earlier conversation, so we can provide that information, too, if you would like it.

The Convener: That would be extremely useful. If that could be provided, we would be grateful.

Mark McDonald: We discussed earlier how the bill's success could be measured and the outcomes that will be sought. Alongside that sits expectation management. In your discussions and soundings with communities, do you get the feeling that people understand that, although the bill will have a significant impact on communities and their empowerment, expectation management is needed from communities and legislators about what can be achieved?

Alasdair McKinlay: I think so, but my experience from working on policy with communities for a number of years is that it does not take too long for communities to understand the issues with expectations. Community activists are some of the most reasonable and sensible people to speak to, as long as the conversation happens in a respectful, open and trusting way.

Through all our consultation, we have worked hard to explain to people that the bill is only one element of how we might empower communities. As the convener said, the minister has made that point repeatedly—Mr Mackay brings up culture and resources all the time.

It is important that we do that, while not seeking to underplay the role that the bill can play in empowering communities in culture change and so on. I expect that it will be a fairly straightforward thing to do, as I said.

11:45

Mark McDonald: The reason why I raised the matter is that there have also been discussions about how community capacity is developed. I made the point that there is a feeling out there that development of community capacity is required in some of our most deprived areas, but those are some of the areas where we see the most activism within communities. It is just a question of the support that community organisations are given and have available to them.

We cannot legislate for everything, but there will be a role for legislative guidance in relation to setting parameters and expectations for public bodies as to how they work with community organisations that want to take forward some of the elements of community empowerment. Do you envisage guidance that will spell out to local authorities, for example, what is expected of them? If a deprived community does not have ready access to the expertise that might be required to enable the drafting of a business case, for example, or the handling of a transfer of an asset, public bodies will be expected to provide that support. Will that be spelled out clearly in the guidance that follows the legislation?

Alasdair McKinlay: An important principle is that we will develop all the guidance in close partnership with the people you listened to earlier this morning—colleagues in COSLA and the community sector—because we want the guidance to reflect the best possible practice. We are already in a positive position with things such as the statutory instrument that now exists on community learning and development, which places obligations on local authorities to assess capacity in communities and to do things about that.

There are other things that we can discuss with people. A specific example is participation requests, which is a new aspect in the bill that has been warmly welcomed because it puts communities on the front foot and enables them to raise the issues that are on their agenda. In the guidance, we could talk about the quality of engagement and the requirement to use existing tools that promote good-quality engagement, for example.

The guidance is another opportunity to lift people's game in relation to participation and empowerment.

Mark McDonald: Thank you.

Anne McTaggart: On lifting people's game, many community groups in my area meet around the medium of sport. Have you spoken to and consulted people in sport?

Alasdair McKinlay: Again, I would need to refer to the detail on the kinds of people who came to the events that we ran. I have certainly come across people such as those at Beith Community Development Trust, who have a close interest in sport. I would need to look at the detail of who we have spoken to about that, but we certainly recognise that an interest in sport is often a positive thing in terms of empowerment.

Anne McTaggart: Sport should be a viable partner as it involves huge parts of our community, for very good reasons.

The Convener: If we could get that information, it would be useful and helpful to us. It may well be that the committee will write to you after today and ask for other pieces of information, too.

HIV Scotland and Inclusion Scotland highlight possible unintended negative impacts on those who are currently marginalised from engagement. Inclusion Scotland states:

“Community should not be defined by a narrow definition based on location and residence. Disabled people are often excluded from traditional communities, or have specific needs and interests that are best addressed by their own community.”

How do we ensure that communities of interest are best served by the bill? What does it do to ensure that they are included?

Alasdair McKinlay: Interestingly—this also relates to your earlier question about consultation—we have half a dozen little examples of things that we believe we changed quite significantly following the consultation, and one of them concerns improving the definition of “community body” in the elements around participation to do two things.

One is that, in the draft bill, we defined “community body” in different ways and people felt that it was confusing, so we simplified it so that the definition is the same in different parts of the bill. Secondly, the definition is now drafted in such a way that it could include communities of interest. We have had a discussion about top-down and bottom-up approaches and the challenges of empowering from above, which in a sense some aspects of legislation will always do. However, interestingly, the definition of “community body” leaves the community to define itself. A community body will have to be certain things, but how it defines itself is left to the community.

The Convener: Do members have any more questions?

John Wilson: Yes, convener. Sorry, but I want to make good use of the witnesses’ time while they are here.

One pertinent issue is the community asset transfer debate. In some areas, communities are

being actively encouraged to take on buildings, particularly sports facilities. We had a discussion earlier about the long-term financial viability of such assets. What thought has been given to ensuring that, when communities take on assets, they get the required financial support? When any organisation, not just a community organisation, takes on an asset, it sometimes takes several years to build it up so that it is financially sustainable.

What support will be given to communities that take on sports facilities in the longer term? One local authority suggested that we can give a community an asset and the community can get the grants to do it up but, if the asset is not viable after two or three years, it will transfer back to the local authority at the value for which it was transferred, despite the fact that a couple of million pounds-worth of improvements might have been carried out. How do we ensure that communities are given the time and opportunity to develop an asset’s economic viability so that it can be sustained?

Alasdair McKinlay: If I may, I will first make a broader point, on which I am sure Ian Cooke would support me. When we developed the provision, there was anxiety that it would somehow signal that we want all communities to take on assets. We have to be very careful about that, because it just will not be the right way for some communities to develop. We have heard and fully understand that what might look like an asset on the face of it can be a liability. We have therefore tried to build that into the process in the bill, so it is all about a business case and ensuring from the outset, before an asset is transferred, that questions about sustainability and viability have been asked and that a really clear view is being taken.

On existing support, Eric Samuel mentioned the growing community assets fund. There is also the Scottish land fund in rural communities. On revenue funding, which is often raised with us as an issue, Ian Cooke raised an interesting point about community organisations being enterprising. That is a fundamental part of the approach. People might be able to access other funding streams such as the climate challenge fund, which is popular among many communities.

That business of actually looking at the hard sums is a critical part of the process.

John Wilson: To follow up on that, Eric Samuel said that funding had been extended from two to three years for some organisations. I declare a vested interest in the issue, because I am actively involved in my local community and we are going to take on a community asset. The long-term planning for that community asset and its financial viability is tied to proposed major housing

developments in the area. The difficulty is that, if those developments do not take place within the timescale in which the community asset is developed—if, say, three or five years pass before the housing developments finally come to fruition—the financial viability plans could fall apart. Can you envisage any fallback position so that, if a financial viability strategy is predicated on certain things happening at certain times but, due to other circumstances, those do not happen, the community can ask for an extension to the funding process to allow the asset to continue to operate until everything is in place to make it sustainable in the long term? We are not talking about sustainability in five years—we are talking about sustainability over 25, 30 or 50 years for some of these assets. Can we look at that?

The other issue is that the Big Lottery has indicated that it will give funding only if the premises are seen to be viable in the long term.

How do we ensure that we support communities when they take on assets so that they can be safeguarded and, if other factors do not come into play, they can turn to someone for help to ensure that a project comes to fruition and that they are on track with the investment strategy and the sustainability strategy?

The Convener: Although we cannot legislate for changing factors, I ask Alasdair McKinlay to attempt to answer that point.

Alasdair McKinlay: Mr Wilson's point is incredibly helpful because it is a reminder of just how complex the matter is sometimes and that each case is different. This is a good point for me to say that I welcome the committee's involvement and interest in the bill. It has been incredibly helpful to us that the committee has unearthed a whole range of such examples through its regeneration inquiry and so on.

We have to continue to listen and to ensure that, whether they are legislative issues or policy issues, the community ownership support service, for example—which can at least help with learning and advice—is picking up on those issues. I am sure that Ian Cooke will do that in relation to cost.

However, it is one of those things where we will just have to keep listening and ensuring that the issues are picked up. Fundamentally, this is not about owning an asset simply for its own sake, although that can have huge benefits in relation to a sense of ownership and a positive view for the future; rather, it is about achieving outcomes.

If the outcomes are going to be so fantastic for communities in Scotland, we must have a culture that looks to overcome those barriers in order to achieve the outcomes that people want.

The Convener: Grand. Cameron Buchanan is next.

Cameron Buchanan: Can alienable and inalienable common good land be used for allotments if it is purchased? Is that possible? It seems that we need clarification on what common good land is, and it seems very unclear to most of us what it could be used for.

Alasdair McKinlay: I am afraid that we will have to get back to you on that specific point because although there are six of us here, the common good policy specialist is not among us. I reiterate that the bill really only deals with involving local people. I should say that it includes community councils because I know that some community councillors felt that community councils were absent from the legislation. Community councils are specifically mentioned in relation to common good and in relation to participation requests, so there is a recognition of the important role that many community councils play. However, we will have to get back to you on that specific point.

Cameron Buchanan: Thank you.

The Convener: Finally, a lot of the submissions from local authorities and community planning bodies have been very positive—we often find that that is the case. How do we ensure that local authorities and community planning partnerships do not end up taking a narrow interpretation of the bill?

Alasdair McKinlay: The parts of the bill that I mentioned in relation to asset transfer and participation requests shift the landscape significantly because there is a duty for those bodies to respond to rights that community organisations have.

In my view, people have not quite seen the potential of participation requests yet. They will mean that groups of community bodies in our more disadvantaged areas that work with young people and have really good ideas about how to make the lives of those young people better will not have to wait until they are consulted by children's services. They will put their case together, and the authority will have to respond. When I spoke to local government colleagues during the consultation, I heard that they feel that that will make them up their game. They can see it coming—they can see that communities will approach them—so they are thinking that they have to get their own processes in order.

Once we get into the detail of the community planning provisions, we can see that community bodies are now a more significant player. They will participate in community planning, not just be consulted on a plan.

Community planning partners are now required to properly resource community bodies—if the lawyer present will forgive me for saying that, as the legislation obviously does not say “properly”. However, the fact that the law now recognises that there should be an obligation to resource the involvement of community bodies is another significant change.

The Convener: I told a fib. That was not the final question.

Part 3 of the bill says:

“In this Part, a ‘community-controlled body’ means a body (whether corporate or unincorporated) having a written constitution”.

Why does a body have to have a written constitution in order to participate?

Alasdair McKinlay: Ian Turner is better placed than me to deal with the detail of that.

Ian Turner: That comes from the consultation. People expressed a view about what “community” means. It was felt that, given that we were going into a legislative process, some sort of structure was required in that regard. It is not that a huge amount is required in order to get involved in the process; a written constitution is the minimum requirement. It is the same with regard to asset transfer requests.

The Convener: It would be interesting to see the responses to the consultation in that regard.

Ian Turner: Okay.

The Convener: I thank our witnesses for their evidence. We now move into private session.

12:01

Meeting continued in private until 12:26.

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