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Pàrlamaid na h-Alba

Official Report

FINANCE COMMITTEE

Wednesday 18 March 2015

Session 4

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FINANCE COMMITTEE
10th Meeting 2015, Session 4

CONVENER

*Kenneth Gibson (Cunninghame North) (SNP)

DEPUTY CONVENER

*John Mason (Glasgow Shettleston) (SNP)

COMMITTEE MEMBERS

*Richard Baker (North East Scotland) (Lab)

*Gavin Brown (Lothian) (Con)

*Malcolm Chisholm (Edinburgh Northern and Leith) (Lab)

Mark McDonald (Aberdeen Donside) (SNP)

*Jean Urquhart (Highlands and Islands) (Ind)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Bob Doris (Glasgow) (SNP) (Committee Substitute)

Catherine Duggan (Scottish Government)

Brian Murison (Highland Council)

Judy Orr (Argyll and Bute Council)

Ann Oxley (Scottish Government)

Neil Rennick (Scottish Government)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament Finance Committee

Wednesday 18 March 2015

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Kenneth Gibson): Good morning and welcome to the 10th meeting in 2015 of the Finance Committee of the Scottish Parliament. I remind everyone present to turn off mobile phones and electronic devices. We have received apologies from Mark McDonald. I welcome his substitute, Bob Doris, to the meeting once again.

Our first item of business is a decision on whether to take items 4 and 5 in private. Do members agree to do so?

Members indicated agreement.

Local Government Finance (Unoccupied Properties etc) (Scotland) Bill: Financial Memorandum (Post-legislative Scrutiny)

10:01

The Convener: Under our second item of business, we will take evidence as part of our post-legislative scrutiny of the financial memorandum to the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill. I welcome Judy Orr, from Argyll and Bute Council, and Brian Murison, from Highland Council. Members have copies of all the written submissions that we have received, along with a Scottish Parliament information centre briefing. We will go straight to questions from the committee. The normal procedure is that I start with some opening questions, after which I will extend the evidence session to colleagues around the table.

Although this is not addressed in the witnesses' submissions—which I will go into—either or both of you should feel free to answer this question. With the exception of Falkirk Council, all local authorities that responded to the committee said that they saw no evidence of the legislation having an impact on speculative or regeneration activity. Will you comment on that?

Judy Orr (Argyll and Bute Council): We have not found evidence of that, but it has been difficult to track any impact directly. A tax increment financing scheme area is just starting up in our Oban and Lorn area, and we expect to have regeneration activity grouped around that. However, it is at too early a stage for us to notice any effect of the empty property rates changes.

The Convener: Do you agree with that, Mr Murison?

Brian Murison (Highland Council): Yes. We are aware of regeneration in some areas, but there is no correlation between that and the empty properties legislation.

The Convener: Argyll and Bute Council's submission suggests that collection rates have been adversely affected. It states:

"The collection on accounts with double charge at end of January was only 79% compared with overall collection rates at that time of 93.66%."

Why do you think that is the case?

Judy Orr: We have found there to be a continuing issue with collection on the accounts that have the double council tax charge on them.

At the end of February, the collection rate on those accounts had not changed—it was still around the 80 per cent mark—whereas our overall collection rate was up at 96.5 per cent by that stage.

The properties have been empty for a long time and in many cases their owner or landlord is absent and not living in the locality. We know from the addresses that the properties are in areas where there is a difficulty with surplus property and they do not have good resale values in the marketplace—they are not easy to sell. Therefore, it is no surprise to us that the collection rate on those properties is down. It is affecting our overall collection rate by about 0.4 per cent.

The Convener: What is the impact on the council in terms of the cost of pursuing those individuals?

Judy Orr: There is no direct impact on the council in terms of the cost of pursuing them because we have commission-based arrangements with sheriff officers, which means that we do not pay out any money unless we make a collection on the accounts. Therefore, there is no direct impact on the council's finances except through loss of the council tax income itself.

The Convener: I assume that the Highland Council figures for 2013-14 are not complete. Can you please clarify the situation? Your submission states that the collection rate on empty properties and second homes was 98.92 per cent in 2012-13, but it dropped to 52.71 per cent in 2013-14. That is a dramatic difference.

Brian Murison: Yes. That is just the position from last November; the position as at the end of February was that a collection rate of 88.21 per cent was anticipated.

The Convener: Do you expect it to be close to more than 90 per cent?

Brian Murison: We have increased collection only by 10 per cent, so we are seeing only a 0.1 per cent reduction. We have seen nothing to suggest that the rate would be anything less than it has been in previous years.

The Convener: In your submission you say:

“An emerging issue is a marginal increase in “pop-up” type shops which may be attributed to landlords seeking out short-term tenants (possibly rent free) to avoid 90 per cent EPR.”

Do you see that as being set to increase? You say that the increase in such shops is marginal, but is it of concern to the council?

Brian Murison: Yes, it is. The increase is marginal at the moment—we are talking fewer than 10 properties—but such properties are clustered, for example on the High Street in Inverness; over Christmas, for example, we saw

an influx of Christmas bazaar shops, which have moved on to become independent mobile trading shops. Those shops run for about three months then disappear. The same owners or occupiers just change the type of shop; we are seeing a pattern emerging.

The Convener: How could that be addressed?

Brian Murison: We are moving on to utilising the legislation. We have written to the landlords who own the properties and have suggested that we will charge them, given that the leases will run for under a year.

The Convener: Okay. Is Argyll and Bute experiencing anything similar?

Judy Orr: No. Our economy is not as buoyant as the economy in Inverness, and unfortunately we have not had pop-up shops—we have empty properties. However, I have noticed that the number of empty properties that are liable for non-domestic rates has been reducing year on year. It is not a growing problem.

The Convener: I will ask one more question before I open up the session to my colleagues.

Long-term empty homes that are being actively marketed for sale are exempt from the council tax surcharge, but some local authorities have expressed concerns about how that is being monitored, and about the cost implications. Do either of you have concerns about that issue?

Judy Orr: It is correct to say that, if an empty home is being actively marketed for sale or let, the double charge is implemented only after 24 months, as opposed to after 12 months. In terms of validating whether a property is being actively marketed for sale or let, we have taken quite a straightforward approach through ensuring that we have copies of the home report and can see that the property is being advertised on a website or through hard-copy adverts in newspapers.

We have had one case in which the person claimed that they had been advertising their property by putting a notice in a village shop. That was the extent of their marketing, and we did not agree that it was sufficient. We have not found it to be a difficult matter and we have not had to resort to sending out our empty-homes officer to inspect the properties or to discuss the specific issue with owners. However, our empty-homes officer is in regular contact with empty-home owners who are experiencing difficulty in selling their properties; she works closely with them.

Brian Murison: We will implement the 100 per cent surcharge only from 1 April 2015, and we have currently identified 72 properties in the category. We have written to the owners to find out their intentions. We will continue to monitor the situation.

The Convener: Thank you.

Gavin Brown (Lothian) (Con): Good morning. When the legislation was first proposed, there appeared to be two policy aims: to reduce the number of empty properties and to raise revenue. If we look at non-domestic rates only, would it be fair to say that it has raised revenue for your council?

Judy Orr: It is correct to say that the legislation has raised revenue; we can measure the specific increase in what we have charged. That revenue does not come directly to the council, but goes into the national pool. We have also seen a reduction in the number of empty properties. The legislation has been successful on both fronts.

Brian Murison: The legislation has had those impacts in Highland, although not to a great extent.

Gavin Brown: Okay—so the legislation has raised revenue.

I will stick with non-domestic rates. What sort of impact has the legislation had in your council areas on the number of empty properties, and is there a definite causal link between the legislation and the reduction in empty properties? Could a reduction be related to the economy more widely?

Judy Orr: I can give you the numbers. In 2013-14, Argyll and Bute had 157 empty properties, and in 2014-15, up to just a couple of weeks ago, we had 119. That is a significant reduction. The amount of the additional charge has not changed that much—it went from £184,00 to £161,000. However, I cannot say that there is a definite causal link. The economy in Argyll and Bute has been improving over that period, so it is difficult to be sure.

Brian Murison: Likewise, Highland Council has had a reduction of 35 properties overall, but we agree that there is no apparent link. We know of areas where there has been regeneration, and we know of the issue on the high streets that I have already mentioned.

Gavin Brown: I am grateful for that.

Under an initiative that was introduced at the same time called fresh start, if somebody brought an empty property back into use there would be a reduction in rates. What impact has the fresh start initiative had in your council areas?

Judy Orr: Fresh start has had a minimal impact in Argyll and Bute. I am afraid that I have not brought the figures with me, but it has affected just a handful of properties.

Brian Murison: Likewise for Highland Council.

Gavin Brown: You do not have the figures with you, but could you supply them to the committee?

Judy Orr: Easily.

Gavin Brown: Easily?

Brian Murison: Yes.

Gavin Brown: That would be helpful.

The convener asked you about speculative and regeneration activity, and both of you said that you had not noticed anything. You also said that the impact of the legislation is difficult to track, and I suspect that it is. How have your councils attempted to track it, or is your conclusion, based on a gut feeling or hunch, that there has been no difference? Is there something specific that you are tracking?

Judy Orr: Our economic development unit tracks start-up businesses through the business gateway, which leads to additional occupation of rateable properties, but we do not track in any systematic way the reasons why people go into those properties.

Brian Murison: It is the same for us. We liaise with our business gateway people, but we do not monitor individual properties in detail.

Gavin Brown: Okay. You were asked about the cost of the changes to public sector bodies. Argyll and Bute Council has given the figure of £80,000. Is that £80,000 over the two years or £80,000 per annum?

Judy Orr: It is £80,000 over the two years. In 2013-14 the figure was just under £44,000 and in 2014-15 it was just under £37,000. There was a reduction between the two years. In both years, the amount was 24 per cent of the total extra cost through the change in the charging mechanism.

Gavin Brown: Highland Council's submission gives a figure of £73,000. Is that over two years or per annum?

Brian Murison: That figure is for the two years and relates to 21 properties.

Gavin Brown: I am trying to work out the cost to all public sector bodies. Are the £80,000 and the £73,000 the costs purely to your councils and their associated bodies as opposed to all the public sector bodies that are located in your council areas?

Judy Orr: For Argyll and Bute, the figure relates to all the public sector bodies that we were able to identify. In fact, there are just three: Highlands and Islands Enterprise, the national health service and Argyll and Bute Council.

Gavin Brown: So, for Argyll and Bute, the figure includes the cost to every public sector body that you could identify. What about for Highland?

Brian Murison: Likewise.

Gavin Brown: If Highlands and Islands Enterprise, for example, had an empty property, would that have been included?

Brian Murison: Yes.

Gavin Brown: Okay. We have covered that. Let us move on to council tax on domestic properties. I have asked most of the questions that I wanted to ask. Let us return to the collection rate, to make sure that I have got it right.

I think that you both suggested that the collection rate had been adversely affected, at least marginally. Am I correct in thinking that the overall revenue has increased, but the actual rate has dropped in pure percentage terms?

10:15

Judy Orr: That is absolutely correct. In absolute terms, we have collected more than £500,000 in income that we would not otherwise have had because we have collected 80 per cent of the additional double charge.

Gavin Brown: Is the situation the same for Highland Council?

Brian Murison: Yes. Obviously, we have increased our collection rate only by 10 per cent, but we have still taken increased income in the region of £210,000.

Judy Orr: I should clarify that my figures refer only to the double charge and not to the reduction in discount. We reduced the discount back in 2005, at the earliest possible opportunity, and about £1.7 million per annum additional income resulted from that. Our collection was not impacted by that activity; only the introduction of the double charge had an impact on the collection rate.

Gavin Brown: Okay.

My last question is quite technical, but I want to get to the bottom of the collection-rate issue. Has the collection rate dropped marginally because a few more people are saying that the charge is outrageous and refusing to pay it, or has the collection rate reduced because it is exactly the same properties that are not paying and, because they are due to pay more, it appears that the collection rate has changed? Has there been an increase in the number of properties for which people refuse to pay?

Judy Orr: I am not certain about that because we did not track those properties separately in previous years. I suspect that they were always bad payers and, of course, the doubling of the charge doubles the problem. We know that at least 0.2 per cent, although it may be as much as 0.4 per cent, has been added to the non-payers.

Gavin Brown: Are you aware of anyone saying, "We're not paying now because it is double the charge"?

Judy Orr: We have had a number of appeals against the imposition of the double charge on the ground that it is unfair in general—those were not appeals against the legislation. Some of those appeals have gone as far as the valuation appeals committee. We lost one case because the committee felt that the policy was too harsh, even though it complied exactly with the legislation and the way in which the council had chosen to implement it.

Gavin Brown: Does Brian Murison have anything to add from a Highland perspective?

Brian Murison: Although we have not monitored individual properties, our feeling is that the increase is down to the regular non-payers. We have only recently issued the letters to say that the 100 per cent surcharge would start from 1 April. We got very little, if any, response to those. It was only when we issued the annual bills that we started to see an influx of appeals. To date, we have had 12 appeals, and we are dealing with those.

Gavin Brown: Thank you.

John Mason (Glasgow Shettleston) (SNP): As I understand it, your two councils have taken slightly different approaches to timing. Argyll and Bute Council

"implemented a policy to double the charge of Council Tax on unoccupied properties with effect from 1 April 2014",

whereas Highland Council removed the 10 per cent discount from 1 April 2013 and increased the charge to 200 per cent from 1 April 2015. Can you give us the thinking behind that? I realise that all the other councils have done slightly different things.

Judy Orr: Argyll and Bute Council was very keen to implement the change as soon as was practicable because our councillors had been lobbying for the change to be made in the first place. However, we took a year from the change in the definition of "second home" so that we could update our records to ensure that we had precise numbers of properties that met the new classification. We also wanted to give good advance warning to the people who were likely to be affected.

Early in 2013-14, we decided that we would implement the policy as soon as possible, and we took the decision to do so in August that year. We then spent a lot of time reviewing the accuracy of the council tax records. First, we reviewed the second homes to ensure that they met the new classification. Secondly, we reviewed other classifications of properties, particularly those

where the subject address and the contact address were different and which had not been declared as being empty and had not had a non-occupancy discount at all. However, we suspected that no one was resident in some of those homes, so we reviewed all those properties too.

By November of 2013, we had a definitive list of properties that were likely to be affected by the introduction of the double council tax charge, so we were able to contact them all individually to give them advance warning and to ensure that they were able to tell us in good time whether they met the requirements of being actively marketed for sale or let before the double council tax charge came in on 1 April 2014.

We took that whole year to do preparatory work and to ensure that people were given the contact details of the council's empty-homes officer so that they could work with them to ensure that as many as possible could remove their properties from the catchment of the double charge.

Over that period, we saw quite a change in classification of a number of properties. The council also put a considerable amount of money aside to assist empty home owners through loans and grants—we put £3 million from the strategic housing fund into a pot to provide a carrot to the owners to do something positive with their properties. That was important.

The policy implementation in Argyll and Bute was about bringing homes back into use, and not so much about raising additional money—although that is a welcome by-product. We positioned the policy to reduce the number of empty homes, to bring them back into use and to make more affordable properties available to local residents.

John Mason: Is Argyll and Bute unique in doing that in Scotland and is it at the high end of the problem?

Judy Orr: We have large numbers of second homes and long-term empty homes. Overall, they account for more than 10 per cent of our total properties. We are unique in having that level—Highland Council is probably next in percentage terms. It is a huge issue for us and has a big impact on our communities.

John Mason: The theme that I get from you is that you wanted to act as soon as possible, but you gave people sufficient time to work out the practicalities.

Judy Orr: Yes.

John Mason: Can Mr Murison tell us what happened in Highland?

Brian Murison: The approach was probably the same, except that we extended it over two years. The idea was to introduce the policy from 2013 to

bring the discount down. As both councils have extensive rural areas, the difficulty is in identifying whether properties are second homes or long-term empty homes and making sure that the databases are correct. We wanted to afford people the opportunity to bring homes back into use and we have worked that over. When we brought the policy back, we extended it to implement the 100 per cent surcharge from 2015.

John Mason: Are we considering the issue too soon? Both councils seem to be in a process of change—as are other councils—that in some cases covers a number of years. When will things have settled down so that we get a better picture? It is hard to look at one year on its own. Should we go back to the issue in five years? What do you suggest?

Brian Murison: It is too early for us to gauge the situation, because we will see the impact of the 100 per cent charge only from this coming year. The impact for us to date has been minimal. It will possibly be a few more years until we see the full extent of the change.

Judy Orr: The position for us is now much more stable. Year on year, I expect to see a slight reduction in the numbers of long-term empty homes as more and more are brought back into use. I expect around a 10 per cent reduction year on year. That is an educated guess, based on the number of properties that our empty-homes officer typically brings back into use, which is about 60 each year.

John Mason: In your submission, you said that some registered social landlords have been a bit unhappy about the changes. How unhappy were they?

Judy Orr: We had a housing stock transfer, so the council no longer owns any council housing. The additional cost to our largest registered social landlord, which received the bulk of those houses, has been £20,000 for the first financial year. That cost will probably rise, because that RSL has a large number of properties in certain areas that are void and which it is finding particularly difficult to let.

John Mason: I am interested in that. My constituency has quite a lot of housing associations; some are very good at reletting and some are not. I realise that that is not just down to the housing association but also relates to where the properties are and so on. Are there particular problems in your area, perhaps in relation to more remote houses?

Judy Orr: Yes. The problems relate to areas where there is an oversupply in the market. Private sector landlords have also been bringing down their rents considerably. Normally, private rents are much higher than those in the social

rented sector, but we have noticed that, in hard-to-let areas, some landlords have been bringing levels down to nil rents, just to get someone in to pay the council tax. That has been the exception, but it has been heavily reported in our local press. Two areas are particularly problematic—they are parts of Campbeltown and parts of Rothesay.

John Mason: Is that true in Highland, as well, or are you short of housing everywhere?

Brian Murison: In certain areas, the correlation is exactly the same.

John Mason: So landlords are having problems letting in some areas.

Brian Murison: Yes.

John Mason: Do you have any evidence of avoidance and people doing artificial things? Judy Orr hinted at that in speaking about just getting the council tax paid with no rent. In some business areas, the suggestion is certainly that small businesses are being given much more property than they want, just so that the landlord can say that it is not empty or vacant. Is that situation unusual, or are there signs of that happening?

Judy Orr: We have not seen much evidence in relation to non-domestic properties, but I am concerned that there is quite a lot of potential to say that a domestic property is a second home, although it is not, and for it to be empty in the long term. Because our area is rural, we have not employed a large number of officers to go out and inspect those properties. We have taken as valid what people have told us but, certainly anecdotally, I know of properties that have been boarded up, although we have been told that they are second homes, which cannot be the case. We will put more resource into that, but we wanted initially to take a fairly soft approach. However, we know that there is avoidance.

John Mason: Does the same situation apply to Highland?

Brian Murison: No, because as I have said, we have not moved to the 100 per cent surcharge yet, so we have not seen any particular problem with the council tax. As we have reported, the difficulty is that we are starting to see a pattern with NDR whereby shops are occupied for three or four months, people move out and then a new shop kicks in. There are suggestions that that is being done rent free and just to avoid the 90 per cent charge. Patterns are forming in which the same properties are involved.

John Mason: Is it difficult for you to pin down who is liable or who the owner is?

Brian Murison: The nature of non-domestic rates charging is that, by the time we get into a

recovery situation, the occupier has moved on. The issue is tracing them then.

John Mason: Thanks very much.

The Convener: Richard Baker was going to ask about that issue, but he will not do so now, as you have just answered his question.

There appear to be no other questions from colleagues around the table. Would the witnesses like to make any other points to the committee?

Judy Orr: No, thank you.

The Convener: We thank you very much for the evidence that you have given. I suspend the meeting to let the next witnesses in.

10:28

Meeting suspended.

10:34

On resuming—

Human Trafficking and Exploitation (Scotland) Bill: Financial Memorandum

The Convener: Our next item is to take evidence from Scottish Government officials on the Human Trafficking and Exploitation (Scotland) Bill's financial memorandum. I welcome to the meeting Neil Rennick, Ann Oxley and Cat Duggan. Good morning to you all.

Members have copies of the financial memorandum, as well as all the written evidence received. We will go straight to questions. You know the drill: I will ask some opening questions and then I will open out the session to colleagues around the table.

First, I will ask about consultation. Aberdeenshire Council has suggested that

“the consultation window was ... relatively short.”

Was there a reason for that?

Neil Rennick (Scottish Government): There was no formal consultation on the bill. We took the position—it is set out in the policy memorandum—that there had been extensive dialogue and a number of reports produced on adult and child victims of human trafficking. We drew heavily from and took account of the work of the Equality and Human Rights Commission, Scotland's Commissioner for Children and Young People and the Justice Committee, which is reflected in the detail of the bill.

The Convener: A matter on which everyone seems to agree—it is a fair point, but it must be frustrating from your perspective—relates to the overall accuracy of the projected costs. Human trafficking is a covert criminal activity. If the bill is successful, the costs will go up; if it is not, they might not go up, because people are not being arrested and tried and so on. That all being said, the margins between the projected costs are quite wide. Is that because you have taken the absolute minimum and maximum amounts that you think the bill will cost? Could the costs go beyond the financial memorandum's suggested parameters?

Neil Rennick: We acknowledge—in the financial memorandum and today—that it is hugely difficult to make estimates. Human trafficking is by its nature a hidden crime. We know that people are identified and referred through the national referral mechanism and are confirmed as trafficking victims. We know from agencies that they are in contact with people who, as adults, do not want to engage with that process, although

there is a strong belief that they are trafficking victims. We can be reasonably confident that far larger numbers of people who we do not identify and do not come into contact with may well be trafficking victims but be receiving support in other ways.

Given the crime's hidden nature, there is no way to confirm an absolute figure. We have looked at the National Crime Agency's strategic assessment of trafficking levels across the United Kingdom. That draws not only on the number of referrals but on intelligence, information and advice from agencies. It estimates that the true number of victims is two to three times the numbers referred through the national referral mechanism. We have used that figure to make our best estimate of the numbers in Scotland.

The Convener: It is acknowledged that the support grant for human trafficking victims is significant. However, a number of local authorities, including North Ayrshire Council in my area and South Lanarkshire Council, have talked about subsequent additional pressures being placed on social work, for example. North Ayrshire Council said:

“additional pressures may occur within social work assessments associated with investigations and or prosecutions”.

South Lanarkshire Council talked about the impact on social work, education and housing services. Does the financial memorandum take enough of a long-term view of the bill's potential impact on local authorities?

Neil Rennick: On the arrangements that are in place for people, when someone is identified as a potential human trafficking victim, they have a right to a period of support, to allow them to adjust from their experience and to take decisions about their long-term needs and life choices. The Scottish Government provides funding for that period of immediate support. That is set at a minimum of 45 days, which has been increased from a lower level. For adults, we fund that through direct grant funding. Part of the function of that is to allow them to take decisions about their long-term future and ensure that, once they move beyond that period, they can access mainstream services just as any other person can access them.

It is important to note that a significant majority of the people who are identified as trafficking victims come from outwith the European Community and are therefore subject to asylum and immigration arrangements, which means that they are subject to support arrangements organised by the UK Government, including support arrangements that involve funding to local authorities. The vast majority of people who are identified as trafficking victims get support through that route.

There are separate arrangements for children, which Cat Duggan can describe.

Catherine Duggan (Scottish Government):

The situation in relation to children is somewhat different, because local authorities are already under a duty to provide such services to children under the Children (Scotland) Act 1995. We do not expect that there will be more trafficked children in Scotland because of the bill. However, we think that a lot of children who might not have been identified as being trafficked currently receive services for a different form of abuse and that the awareness and training that will result from the bill will mean that front-line services are better able to identify those children as being trafficked and, perhaps, give them a different form of advice and counselling.

The Convener: Yes. North Ayrshire Council has talked about the fact that it is already training staff to recognise victims of trafficking and exploitation and does not believe that it will face a financial burden.

The Scottish Court Service has concerns about the

“one off costs of around £12k to amend its criminal case management system to allow it to record statutory aggravators for offences connected with human trafficking”.

However, curiously—I find it curious—it also said:

“If responsibility was to lie with the SCS for forfeited aircraft and ships ... then we would require to procure a service which would provide for the transport, storage and disposal of these items.”

How likely is it that there will be any forfeited vessels or aircraft? If there are any, how will the matter be addressed?

Neil Rennick: The bill allows for additional powers. Two elements are involved, and it is important to separate them out. One concerns the immediate seizure of vehicles, ships and small aircraft that the bill will allow the police to undertake so that they can immediately stop trafficking happening or prevent the risk of further trafficking.

There are separate provisions under existing proceeds of crime legislation that allow for the seizure of vehicles and aircraft. However, such seizures happen already and we do not expect huge numbers of additional seizures. There are existing arrangements to cover the situation.

The Convener: The financial memorandum says:

“between 2012 and 2013 the number of potential identified victims across the UK identified through the NCA strategic assessment and NRM increased by 22% and 41% respectively.”

However, the bill envisages a year-on-year increase of about 10 per cent. Why was that figure

chosen, given that the numbers seem to be increasing.

Neil Rennick: We have been looking at NCA and national referral mechanism figures for Scotland. Only the most recent NCA figures provide separate information for Scotland, whereas the national referral mechanism figures run back to 2012 at least.

The numbers that we have seen for the national referral mechanism have gone up from 96 in 2012 to 99 in 2013 and 111 in 2014. That is with Police Scotland putting a lot of effort into the matter and undertaking more training of officers, and with the NHS and others, including local government, providing training. There is an increase in the numbers of people who are being referred, but it is a steady increase rather than a huge step increase.

The NCA figures for Scotland were slightly unusual. We saw higher estimates for the rest of the UK than in the NRM figures once intelligence and other factors were drawn in. However, for Scotland, the figures came back lower once we took out people who were not confirmed as victims and duplicate cases. We are trying to understand why that was the case.

On the basis of the NRM figures, we are confident that the numbers will continue to go up over the next few years and we think that 10 per cent is a reasonable estimate. We do not expect the work that we will put in to have an immediate effect on increased identification.

The Convener: If there is going to be an increase year on year, I assume that you do not think that the bill will have a deterrent effect.

10:45

Neil Rennick: The hope is that, in the long run, there will be a deterrent effect. To be honest, I suspect that there is still quite a significant pool of people whom we are not identifying and whom we need to identify before we can be confident that we are seeing a genuine downturn in the number of people who are being trafficked. The aim is to deter people who are trafficking, and a number of measures in the bill, such as the risk orders and the control orders, try to achieve that.

The Convener: Does Cat Duggan want to say something?

Catherine Duggan: No.

The Convener: Sorry; it is just that Neil Rennick looked at you as if he thought that you did.

John Mason: I want to press you a little further on the issues that local authorities might face. If the legislation is going to be tighter, presumably we will find more young victims, whom the council

will then have to take into care, which will involve quite a cost. Further, if we are imprisoning more adults, they might have children of their own who might have to be taken into care. Is there a possibility that a considerable number of younger people will need to be taken into care?

Neil Rennick: I will answer the question on prisons; Cat Duggan will answer the other question first.

Catherine Duggan: In 2013, 22 children and young people were referred through the national referral mechanism. The number for 2014 is 25, even taking account of what the National Crime Agency has said.

We have done quite a lot of work on the issue with local authorities and health boards. They have told us that a lot of children present as being victims of abuse or as being vulnerable and in need of care, and they would have been taken into care anyway—perhaps they would have been seen as a looked-after child. It is only later in the process that they become known as victims of trafficking. I think that what we are dealing with today will result in exactly the same situation, and that there will, therefore, not be a huge upturn. There will not be a lot of children appearing from nowhere and presenting as victims of trafficking; there will simply be a better understanding that the children who are in the system might have been trafficked.

John Mason: That is the point that I was asking about. You are saying that you think that we are in touch with all the kids and, as you say, we will find out more about some of them as they go through the system. I have not been involved in the bill process, but I had imagined that, by tightening up the legislation, it might become apparent that there were kids whom we were not aware of. However, you are saying that that is not really the expectation.

Catherine Duggan: There might be some, but I think that it would be a small number. As everybody has said, it is a complex issue and a lot of it is hidden, so we do not really know anything for sure. However, all the evidence that we are getting anecdotally from local authorities and from services that work directly with children and young people on these issues suggests that only a small number of trafficked children would not be known to services at all.

Neil Rennick: On the criminal justice system and the number of people going through the courts, we know from advice from the Lord Advocate that only a small number of people have been prosecuted under existing human trafficking offences. I think that four was the maximum in any year—that was in 2013.

The Lord Advocate has advised that other people are believed to have committed offences in the context of trafficking, but although the courts can prosecute them for offences relating immigration, money laundering or brothel keeping, for example, the trafficking element cannot be proved. Most of the people we are talking about will already be going through the court system and then to prison, but not under the label of human trafficking.

The bill aims to strengthen and clarify the trafficking offence but it also aims to introduce a trafficking aggravator, which can be applied if someone is prosecuted for one of those other offences and there is reasonable evidence of a trafficking background, so that we can see that those are cases with a trafficking background as well. Of course, there may be people whom we are not currently identifying, and we hope that we will be able to identify and prosecute them.

John Mason: I will come at this from another angle. The figures that I am looking at show that it costs £42,500 to put somebody in prison, which presumably includes the cost of building the prison, paying the interest, paying the governor and so on. However, that does not mean that putting one more person in prison would cost £42,500, does it?

Neil Rennick: No. We use that as the unit cost basis. You are absolutely right that you have to look in the round in terms of the overall impact on the prison population and passing the threshold at which new accommodation is needed. The numbers involved in human trafficking are very small and would be at the normal margins of the daily change around of the prison population.

John Mason: I am not saying that we should do this, but I presume that if we took the marginal cost of one extra prisoner in a given prison, it would be very small.

Neil Rennick: Yes. The cost of the first prisoner in a prison is very expensive and it goes down as you add in more people. It is a difficult thing to cost and we try to reflect that in much of our criminal justice legislation. We try not to underestimate or overestimate, but we recognise that it is not an exact science.

John Mason: Thank you.

Gavin Brown: There is not too much left to ask about.

Table 7, on the last page of the financial memorandum, is a collection of most of the costs. The total costs for year 4 are shown in the bottom right corner as being between £775,000 and £1.928 million. Am I right in thinking that, based on the work that you have done, the likely maximum

cost as a consequence of the bill will be just over £1.9 million by year 4?

Neil Rennick: Yes, that is right. As Mr Mason has pointed out, the largest part of those costs relates to the Prison Service, and to a lesser extent, the courts. In reality, we think that the full costs will not be at that level.

Gavin Brown: They could well be lower than that.

Neil Rennick: We would expect them to be at the lower end, rather than the upper end, but we have included the range to reflect all possibilities.

Gavin Brown: The convener asked about a deterrent effect and presumably the policy objective, and your hope, is that, over time, the bill will have a deterrent effect, although it is unknown at what point and to what degree there will be such an effect. Do your figures assume a deterrent effect of nil, so that the deterrent effect would be a financial bonus, as well as being good full stop?

Neil Rennick: That is broadly right. We have not assumed that we will see a turnaround in the short timescales that we are discussing in the financial memorandum. On the basis of various reports that have been done, my suspicion is that there may well be victims whom we are not identifying, and we need to take account of that.

We have looked at the introduction of specialist risk orders for people who have already been prosecuted as traffickers or identified as potential traffickers. We are introducing the new risk orders to control their actions and to deter them from undertaking further human trafficking activity.

When similar provisions were introduced down south, the presumption was that they would offer a significant financial benefit because certain criminal cases and related actions would not have to be proceeded with. We have not assumed any such savings; we have assumed cost neutrality.

Gavin Brown: Is it possible that, by the time that we get to year 5 or year 6, the £1.9 million will drop to £1.7 million? It is perfectly possible that, instead of a guaranteed upwards trajectory, over time, the trajectory would become a falling one.

Neil Rennick: That is certainly our hope.

Gavin Brown: The final point that I want to raise has been touched on, but I seek clarification.

Paragraph 39 in part 3 of the financial memorandum deals with confiscation of property. I want to check what the Government's approach to that is. It seems that there will be no additional costs, but the financial memorandum does not really talk about any additional benefits, either. In practice, however, I presume that there are bound to be some additional costs. The convener suggested that this would be unlikely, but if a boat

was involved, for instance, there would be a cost attached to its confiscation. Ultimately, if that property is confiscated and can be sold off under proceeds of crime legislation, that would be income.

I guess that you have taken the approach that there will be neither a cost nor income. Was that a policy decision? Are there other ways of looking at it?

Neil Rennick: That particular element is focused on a fairly narrow timeframe. Seizure happens immediately: that is, when someone is first arrested, but before they have been formally prosecuted. That approach allows the police to take immediate action if someone is using a vehicle for the purposes of trafficking, in order to deter that trafficking by seizing control of the vehicle.

As I said, separate arrangements apply once someone has been through the court process and has been convicted. There are existing arrangements to deal with the formal forfeiture of a vehicle or boat.

Gavin Brown: Okay—I take the point.

Perhaps this is an impossible question to answer. but, for the sake of argument, let us say that a boat is involved. Do the costs of seizing, holding and storing a boat versus the costs of selling it tend to work out fiscally neutral, broadly speaking? Overall, does the Government generally end up slightly better off or slightly worse off financially? I know that that is a very general question, but is there a rule of thumb?

Neil Rennick: We do not tend to separate out the individual elements of proceeds of crime income. We get a total figure for that. Overall, we gain a benefit under proceeds of crime legislation, and that money is used by the Government to invest back into communities through various schemes. There is an overall benefit relative to the costs.

Jean Urquhart (Highlands and Islands) (Ind): I have a general question. We all assumed that the people to whom you were referring earlier had been involved in human trafficking from outwith the European Union, as people in the EU are free to come here. However, there is some knowledge of bogus agencies that have set themselves up as employment agencies in some eastern European countries and which treat people in a way that is almost equivalent to the way that has been described in the references to modern slavery or human trafficking. There is a similarity with the bogus colleges that were set up to bring foreign students in—I think that they were investigated. Do the financial implications take into account how we investigate employment agencies that are, to

say the least, dubious in their ambitions for finding work for people from Poland, Slovakia and so on?

Neil Rennick: Ann Oxley will correct me if I am wrong, but I think that the bill and existing legislation include provisions that allow for extraterritorial application of the law. If people who are committing crimes abroad are here in Scotland, there is scope for prosecution of those crimes.

Is there anything else, Ann?

Ann Oxley (Scottish Government): No—what you have said is correct.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): The strongest evidence that I have read, with the biggest range of concerns, came from the Convention of Scottish Local Authorities, which reflected some of the submissions from individual local authorities. COSLA deals with various sections, but I will start with the protection of victims. I suppose that you have already answered the point in relation to child victims of trafficking. COSLA suggests that key points of the bill include increasing awareness and the identification of victims. There might be some scepticism about the idea that the numbers will not increase at all.

COSLA also makes points about internal trafficking and the possibility of appointing guardians. Is that against policy?

11:00

Catherine Duggan: The answer depends on the definition of a guardian that is used, and the evidence that the Justice Committee has had shows that it can vary quite a lot. We have the Scottish guardianship service, which the Scottish Government funds. It deals with unaccompanied asylum-seeking children. They do not have to be trafficked children, although some have indicators that they have been trafficked.

We are reviewing that organisation's funding. It does an excellent job of providing advice to children who come here from outwith the UK, and particularly outwith the EU, on understanding their immigration rights. It puts them at the centre of the process, as opposed to having the immigration process at the centre and fitting children around that.

Our position on guardians is that we will look at the Scottish guardianship service's work with unaccompanied asylum seekers, which we will review later this year.

Malcolm Chisholm: On services for adults, COSLA says:

"these services are provided through dedicated providers (TARA and Migrant Help)".

It goes on to say that

"a significant number of potential victims do not engage with the National Referral Mechanism"

and that therefore

"COSLA is keen to confirm that if the potential victim of Human Trafficking does not consent to referral into the NRM, the processes in place for TARA and Migrant Help are flexible and able to provide emergency funding to cover accommodation and support".

I do not know in detail how that works. Does that funding come from you or the UK Government?

Neil Rennick: The national referral mechanism's purpose is to be a route into Government-funded services. Any adults who are referred to that process and are confirmed to be trafficking victims have automatic rights to support that, for people in Scotland, is funded by the Scottish Government. That is the current arrangement, which will continue under the bill. We will continue to pay for that.

When people do not wish to take part in the NRM or are not identified as trafficking victims, they are not part of the same arrangement and will be subject to other arrangements. If they are non-European Economic Area nationals, they will be subject to the asylum and immigration system, which the UK Government funds centrally. Other than that, they are—like anyone else—able to access mainstream services.

Malcolm Chisholm: Can you reassure COSLA on its concern about the funding of the trafficking awareness-raising alliance—TARA—and Migrant Help?

Neil Rennick: We currently fund TARA and Migrant Help and we will continue to fund services. Our assumption in the financial memorandum is that more of the people who we think are genuine trafficking victims will be identified, so we have assumed an increase in our funding for that.

Malcolm Chisholm: Do you accept COSLA's point on funding for awareness raising and training?

Neil Rennick: The Government and local authorities already fund training, as the convener mentioned earlier, on recognising the signs of human trafficking. The year before last, we worked with Police Scotland to publish an information leaflet to raise awareness. We have included in the financial memorandum an assumption that we will carry on funding additional training and awareness-raising activities as part of the human trafficking and exploitation strategy that we will prepare.

Catherine Duggan: Last year, the Scottish Government published a toolkit on identifying potential victims of trafficking, to support front-line practitioners who engage with children and young

people. We have included that in our national guidance, which we refreshed in 2014. Following this committee meeting, I will meet child protection committee chairs. That meeting has been set up for quite a while and will have a trafficking element to look at how the committees are responding to things locally and what we can do at the national level.

Malcolm Chisholm: COSLA says:

“clarification is required with regard to the costs and arrangements for managing and overseeing any Trafficking and Exploitation orders within a local authority.”

It is the costs that we are concerned about.

Neil Rennick: The main costs of monitoring the orders would fall on Police Scotland. That must be offset against the costs of not having to investigate and prosecute trafficking offences because we will be controlling things and preventing people from committing those offences.

Malcolm Chisholm: I have a final question. At the beginning of its section on offences, the COSLA submission talks about

“additional pressures ... on existing local government services such as social work assessments”.

It says:

“Local authorities could also incur costs in supporting any individuals that have a specific physical or mental health condition”.

Do you accept any of COSLA's points on that and have they been taken on board?

Neil Rennick: We will certainly keep a watch on what happens with the new offence and the aggravators, to see the scale of any increase. As I said earlier, the number of people who are currently prosecuted is extremely small. Our advice from the Lord Advocate is that people are being prosecuted for other offences, so we think that a reasonable proportion of the people who might be prosecuted for the additional human trafficking offences will be people who are already being prosecuted under other offences. One of our key aims is to monitor that. If there are any extra costs for local authorities, we will discuss that with COSLA.

Bob Doris (Glasgow) (SNP): I will be brief, as Malcolm Chisholm covered some of the points that I had hoped to raise. My questions relate to part 4 of the bill, on trafficking and exploitation prevention orders and risk orders, which he mentioned. The bill states that there will be

“two new civil orders and associated interim orders to assist in preventing trafficking and exploitation: Trafficking and Exploitation Prevention Orders (TEPOs) and Trafficking and Exploitation Risk Orders (TEROs).”

That is the terminology. I have read through the financial memorandum and read about costs and

savings. When a TEPO or a TERO is granted, the monitoring process will fall to Police Scotland. I heard what you said to Mr Chisholm about the benefits of not having to investigate in certain cases. Have you estimated how many TEPOs and TEROs are likely to be issued in, say, the first five years?

Neil Rennick: We think that the numbers will be very small, based on the number of prosecutions at the moment. Even if we assumed that we would manage to double the maximum number of prosecutions in any one year, we would still be talking only about roughly eight people. The numbers will be very small compared with the activity that Police Scotland undertakes.

Bob Doris: That is eight per year.

Neil Rennick: Yes.

Bob Doris: Have there been discussions with Police Scotland about what the level of monitoring will be? Eight people does not sound a lot, given the resources that Police Scotland has, but it all depends on the level of monitoring that is put in place.

Neil Rennick: That is correct. The position also depends on whether the police are already engaged in monitoring the people involved for other reasons, such as organised crime or issues associated with prostitution and brothel keeping. Part of the dialogue that we had with Police Scotland was about giving it the powers in relation to people it is already aware of and in contact with.

Bob Doris: I do not want to get too hung up on the numbers but, as this is a financial memorandum, I suppose that we should get a bit hung up on the numbers. Figures such as eight per year have to be guesstimates, by the nature of the legislation and the criminality that it is trying to expose. Are we thinking that half those people—or all of them—will already be under the monitoring of police via investigations? What do you think?

Neil Rennick: I worry that the committee is encouraging me to make guesstimates. In our dialogue, Police Scotland was comfortable that the powers would be helpful to it, that the numbers would be relatively small and that the people involved would probably be people who the police are in contact with already.

As I said earlier, we have not assumed that there will be a significant saving from not prosecuting people, but clearly the intention of TEPOs and TEROs is that we will not have to pay the costs of investigating trafficking crimes and of prosecuting people through the courts. There is a balance from putting the work up front, to save having to do the investigation and court activity further down the line.

Bob Doris: I know that Police Scotland is content, and I do not want to drift into policy matters, as we are discussing the financial memorandum. However, there will always be a debate about, for example, how extensive the monitoring of sex offenders in the community should be. Should there be a multi-agency approach? Is it really just Police Scotland that will be monitoring such individuals who, as you say, might be involved in a variety of crimes? We are not talking about a new specialist unit; we are talking about teams in Police Scotland that are already actively involved in such matters day in, day out.

Neil Rennick: That is correct. I give Police Scotland significant credit for the fact that, very quickly after it was established, it put in place a national team and specialist local officers to deal with human trafficking and make sure that, as a country, we deal more effectively with that crime. Those resources are in place and are being used to monitor those activities.

Bob Doris: That is helpful. If Police Scotland is content, the level of monitoring comes down to a policy question rather than a financial memorandum question. Thank you.

The Convener: That appears to have exhausted all the committee's questions. Would the bill team like to make any further points?

Neil Rennick: No.

The Convener: Thank you for answering our questions so comprehensively.

11:10

Meeting continued in private until 11:14.

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