



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government and Communities Committee

Wednesday 13 January 2021

Session 5



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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

1st Meeting 2021, Session 5

CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

DEPUTY CONVENER

*Sarah Boyack (Lothian) (Lab)

COMMITTEE MEMBERS

*Keith Brown (Clackmannanshire and Dunblane) (SNP)

*Gordon MacDonald (Edinburgh Pentlands) (SNP)

*Alexander Stewart (Mid Scotland and Fife) (Con)

*Annie Wells (Glasgow) (Con)

*Andy Wightman (Lothian) (Ind)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Aileen Campbell (Cabinet Secretary for Communities and Local Government)

Kathleen Glazik (Scottish Government)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

Virtual Meeting

Scottish Parliament

Local Government and Communities Committee

Wednesday 13 January 2021

[The Convener opened the meeting at 08:45]

Decision on Taking Business in Private

The Convener (James Dornan): Good morning and happy new year. Welcome to the first meeting in 2021 of the Local Government and Communities Committee.

Agenda item 1 is consideration of whether to take items 6 and 7 in private. Item 6 is consideration of the evidence heard today on the Community Empowerment (Scotland) Act 2015. Item 7 is consideration of a draft letter to the Scottish Government on common frameworks and hazardous substances. Members are also asked to agree to take in private future consideration of our draft report on the European Charter of Local Self-Government (Incorporation) (Scotland) Bill.

As we are meeting remotely, rather than asking whether everyone agrees, I will instead ask whether anyone objects. If there is silence I will assume that members are content.

There are no objections, so the committee will take items 6 and 7 in private. Future consideration of our draft report on the European Charter of Local Self-Government (Incorporation) (Scotland) Bill will also be taken in private.

Subordinate Legislation

Corporate Insolvency and Governance Act 2020 (Meetings of Scottish Charitable Incorporated Organisations) (Coronavirus) (No 2) Regulations 2020 (SSI 2020/284)

08:46

The Convener: Under agenda item 2, the committee will take evidence on the Corporate Insolvency and Governance Act 2020 (Meetings of Scottish Charitable Incorporated Organisations) (Coronavirus) (No 2) Regulations 2020, which is a made affirmative instrument.

I welcome Aileen Campbell, Cabinet Secretary for Communities and Local Government. I also welcome from the Scottish Government Caroline Monk, senior policy officer, and Jamie MacQueen, legal directorate lead for this Scottish statutory instrument.

Following the evidence session, the committee will be invited under item 3 to consider the motion to approve the instrument. I remind everyone that Scottish Government officials can speak under this item but not in the debate that follows.

Before we proceed, there are two corrections to points in the clerk's paper. Both are at paragraph 10 of the paper. First, we understand that the instrument came into force on 30 December, and not immediately on being laid. Secondly, the Parliament has 40 days—not 28 days—to decide whether to approve the instrument. The instrument is currently in force, but it requires parliamentary approval to remain in force.

I invite the cabinet secretary to make a short opening statement.

The Cabinet Secretary for Communities and Local Government (Aileen Campbell): Good morning, colleagues, and happy new year. I welcome this opportunity to join the committee to recommend that the Corporate Insolvency and Governance Act 2020 (Meetings of Scottish Charitable Incorporated Organisations) (Coronavirus) (No 2) Regulations 2020 be approved.

The UK Corporate Insolvency and Governance Act 2020 allowed Scottish charitable incorporated organisations—known as SCIOs—and other bodies to hold remote meetings with their members during the relevant period, even when their constitution would not allow that.

The relevant period originally ran from 26 March to 30 September. The act allows Scottish ministers to extend the relevant period for SCIOs by three months at a time, and the Scottish Parliament

approved a previous set of regulations that extended the relevant period to 30 December.

SCIOs are legally required to hold certain meetings. However, given the current Covid-19 restrictions, those meetings will not be possible in person. This further set of regulations allows SCIOs to continue to hold remote meetings with their members, even when their constitution would not normally allow that, until 30 March 2021. The regulations are a final extension to the relevant period for SCIOs.

I look forward to taking questions from committee members.

The Convener: If any member has a question, please notify me of that via the digital channel by typing R in the chat box. I will call anyone who wants to ask a question, in turn, by name. Cabinet secretary, please state clearly whether any official is being brought in to answer any question.

As members do not have any questions, we will now move to item 3, which is formal consideration of motion S5M-23666, in the name of the Cabinet Secretary for Communities and Local Government, calling on the committee to recommend approval of this made affirmative instrument.

Motion moved,

That the Local Government and Communities Committee recommends that the Corporate Insolvency and Governance Act 2020 (Meetings of Scottish Charitable Incorporated Organisations) (Coronavirus) (No. 2) Regulations 2020 (SSI 2020/421) be approved.—[*Aileen Campbell*]

Motion agreed to.

The Convener: Having agreed to the motion, the committee will report on the instrument in due course. I invite the committee to delegate authority to me, as convener, to approve a draft of the report for publication.

I thank the cabinet secretary and her officials for taking part in the meeting. Members of the panel who are not taking part in the next item can leave the meeting by pressing the red telephone icon. I remind committee members that we remain in public for the next item.

08:51

Meeting suspended.

08:53

On resuming—

Community Empowerment (Scotland) Act 2015 (Parts 3 and 5) (Post-Legislative Scrutiny)

The Convener: Under item 4, the committee will take evidence on post-legislative scrutiny of parts 3 and 5 of the Community Empowerment (Scotland) Act 2015, which relate to participation requests by community groups and asset transfers to community groups.

Today we will take concluding evidence from the Cabinet Secretary for Communities and Local Government on the themes that have emerged throughout our scrutiny.

I welcome back the cabinet secretary, Aileen Campbell. I also welcome Kathleen Glazik, the Scottish Government's community empowerment team leader, and Malcolm Cowie, policy lead for asset transfer and participation requests. I thank you all for being here today. We have just over an hour, if required, for this evidence session.

I will briefly go through some technical information. There is a pre-arranged questioning order, and I will call each member in turn to ask their questions for up to nine minutes. We may have a short amount of time for supplementary questions at the end. I ask everyone to give broadcasting staff a second to operate their microphone before speaking.

I invite the cabinet secretary to make a short opening statement.

Aileen Campbell: I thank the committee for inviting me to give evidence today and for the work that it has been undertaking to date in scrutinising these two parts of the Community Empowerment (Scotland) Act 2015. I pay tribute to the many community groups and partners who have done so much to establish participation requests and community asset transfers across the country.

At the outset, I reaffirm the value that the Scottish Government places on community empowerment. Our policies are, at their heart, about strengthening local voices to enable them to be heard and listened to in the decisions that matter most to them, and enabling communities to take control of the assets that matter most to them.

We want to see a Scotland in which everyone can play a full part in society—an ambition that is demonstrated by the legislation that we have introduced, such as the Community Empowerment (Scotland) Act 2015, which has signalled a

significant transfer of powers to communities across Scotland. That aspiration is backed by sustained funding and by our policies, including those on participation requests and asset transfer requests, which enable communities to have more control over the decisions that affect them and help local people to develop their own economies, wellbeing and environments.

The legislation on participation requests and asset transfers has been in force for nearly four years, and during that time the Scottish Government commissioned Glasgow Caledonian University researchers to evaluate both policies on its behalf. Although Parliament requires us to evaluate only the policy on participation requests, we quickly realised the benefits of conducting an evaluation of both policies, and the final Glasgow Caledonian University evaluation reports have provided us with invaluable knowledge to enable us to develop our policies and our approach further.

Nonetheless, we recognise that we cannot do that work on our own. In previous sessions, the committee has heard from some of our partners, with whom we have worked closely over the past four years since the legislation came into being. Organisations such as the community ownership support service and the Scottish Community Development Centre told us of the value of partnership work in promoting parts 3 and 5 of the 2015 act, and of their work in promoting and sharing good practice.

Lesley Forsyth from North Ayrshire Council spoke about the council's work on community engagement and the cultural shift that has developed as people have moved from being customers of the council to becoming actively involved citizens. Elisabeth Manson from Dumfries and Galloway Council spoke of the value of good community engagement and described how the council has worked closely with its communities to help them to achieve their goals. All those colleagues had one thing in common, which was their regular use of well-connected networks and partnerships to achieve their community goals.

That is why developing and maintaining a close, constructive partnership between ourselves, our partners and our communities has always been a key priority for the Government. It is something that we not only work hard to achieve, but greatly value.

I will give the committee a brief picture of our successes and the mechanisms that we have put in place through our joined-up working. We have provided and maintained sustained funding to the community ownership support service and the Scottish Community Development Centre to embed asset transfers and participation requests throughout Scotland, with a focus on reaching out

to marginalised communities and those who are experiencing disadvantage. We have acted on the Glasgow Caledonian University evaluation report on asset transfer activity by establishing a national asset transfer action group to take forward its findings and recommendations. The group is made up of community representation and asset transfer stakeholders and relevant authorities, and provides us with the necessary direction to embed and strengthen our policy.

We have put in place supportive solutions for relevant authority annual reporting by developing an annual reporting template with our partners. The template was used for the first time in 2020; it not only improved reporting levels but provided a greater depth of local knowledge, thereby helping our understanding of asset transfer activity levels across Scotland. Finally, we have worked directly with individual relevant authorities to provide support and guidance as they have established their own practice and methods to promote those policies. Those are just some examples of how we are embedding participation requests and asset transfers across Scotland.

As we look forward, we are keen to give more control to our communities and to work continually with our partners and communities to make processes easier to navigate, especially for harder-to-reach communities. We are developing work that directly responds to the knowledge that we have built up so far from community feedback; from partner and stakeholder advice and guidance; from our own data and information analysis; and from the work of the evaluations that have been carried out on our asset transfer and participation request policies.

We will continue to monitor levels of engagement, data and uptake of those policies, and we will work with our partners to understand the information and act on what it tells us.

We look forward to receiving the findings of the committee's work on asset transfers and participation requests, and I thank all members for taking such a close interest in our work. I will leave it there—I look forward to questions.

The Convener: Thank you, cabinet secretary—we will move to questions. I ask you, as always, to please state clearly if you are going to bring in an official to answer any questions.

I will begin by asking whether you agree that the implementation and delivery of parts 3 and 5 of the act have been patchy and, if so, how the Government will address the inconsistencies.

09:00

Aileen Campbell: Since 2017, throughout Scotland, 249 asset transfer requests have been

made, and more than 63 participation requests have been submitted, using the new powers. We recognise that we need to understand the policies' effectiveness and ensure that everyone can benefit from them. That is why I pointed to the research that we commissioned from Glasgow Caledonian University, which involved an evaluation of both parts 3 and 5 of the 2015 act and monitoring of activity levels. That helps us to understand the policies' effectiveness, and—I hope—ensure that, over time, we can adapt, mould, shift and change approaches where necessary.

We have acted quickly and early on the findings, and we have put in place funding to support communities through the community ownership support service and the Scottish Community Development Centre to carry out bespoke work in areas of low or no uptake. Therefore, we have been able to use some of the research and its findings and target areas in which we know we need to make improvements.

There is always room for improvement, but we have put in place evaluation and monitoring approaches, and we are taking action as a result of what they tell us. We will continue to take that approach as we go forward. In such matters, there will always be a need to improve and be agile, to make sure that we respond to the needs of communities and support them in the best way possible.

The Convener: Do you feel that communities across Scotland have been more empowered as a result of parts 3 and 5 of the 2015 act? How is the Scottish Government measuring the effectiveness of its legislation?

Aileen Campbell: I come back to the funding that we put in place to allow Glasgow Caledonian University to evaluate some of the approaches and study the effectiveness of parts 3 and 5. From that research, we know that the legislation is working as intended and that activity is increasing year on year. I gave you some of the numbers in relation to how many participation requests and asset transfer requests have been made as a result of the legislation. However, we will always need to be agile and adaptable, work with our communities to support them, and put in a bit more effort to ensure that they can realise the opportunities that are available to them through the legislation.

I hope that people in communities feel more empowered. The legislation sits alongside a number of other policy areas that have been taken forward, including through the local governance review and participatory budgeting, and there is always more that we can do to ensure that communities feel that they have agency and

empowerment in respect of the decisions that affect them most.

The Convener: One of the things that came across loud and clear in our evidence sessions, certainly from the organisations that had tried to participate, was the need to have a person at the top of each public body who is responsible for ensuring community empowerment. Often, those organisations found that they were talking to somebody who was further down the food chain, if you like, and their requests dissipated. Do you agree that it would be good if a local authority, for example, had somebody with some influence as the person whom communities could contact about community empowerment matters?

Aileen Campbell: We are absolutely aware of the findings of the research by Glasgow Caledonian University and its evaluation report, which is being considered as part of the wider response to the recommendations. In an ideal world, we would absolutely understand the benefit of having a single person to go to. Many authorities have already established a single point of contact, and have highlighted the advantages of doing so.

As MSPs, we all know how much easier it is to support a constituent or constituency group if there is a single point of contact in an authority or public body who can help them to navigate what can often feel like clunky bureaucratic systems. We know that that has been recommended, and we are taking action to work through how we might respond.

We are also pleased that many authorities have that single point of contact in place, but, like everything in this area of work, there is always room for improvement. There is also a need to change and shift the culture across the wider public landscape to ensure that people take the legislation seriously.

The Convener: To use the local authority example again, some have what they would say is a point of contact, but the contact might not have enough influence in the local authority. If there were to be a point of contact in every local authority, it would be helpful if that person were capable of pushing things on, rather than their being a point of contact, but then going somewhere else in the council, never to be seen again, or not seen again for some time. That issue should be taken into account.

Aileen Campbell: That is a good point. It is one thing to be able to eventually tick off that such an arrangement is in place, but it is very much another thing to make sure that it is a quality, supportive offering that drives forward the required work with the authority to make things happen. That is a good point well made, and it will be part

and parcel of the work that is being taken forward by the national asset transfer action group in response to the recommendations that came through from Glasgow Caledonian University's evaluation report. It also sounds as though that will be a strong recommendation from the committee, which will be useful in further progressing that side of things.

Sarah Boyack (Lothian) (Lab): Good morning, cabinet secretary. To follow up on that point, one issue that came through was the extent to which all communities are able to use the powers and opportunities that come from the act. I am keen to hear what is being done with local authorities and other public sector organisations to ensure that people from low-income, deprived or disadvantaged communities know how to exercise their rights. What is being done to ensure that those bodies are open to talking to people who want to change things in a community to help them through what can be a long process?

Aileen Campbell: We recognised that, and that is why we have provided funding and support to the two organisations that I mentioned previously—the Community Ownership Support Service and the Scottish Community Development Centre. They provide free support and advice to Scotland's communities to help them to navigate through some of what you have described. Moreover, they have now been explicitly tasked with targeting communities that are experiencing deprivation or disadvantage, to make sure that they can realise the opportunity that exists in the legislation and to help them to navigate some of the mechanisms that are in place to make the asset transfer or the participation request come to life. We recognise that that is an issue that we need to tackle, and that is why we have specifically and explicitly tasked both those organisations to help communities that require a little extra support and capacity.

There is always more to be done, and we look forward to any recommendations that come from the committee. We have recognised that issue and we want to fix it, and that is why we have taken that action. Of course, more will come through from the national asset transfer action group to further guide and advise Government on what further actions might be required in that space.

Sarah Boyack: In particular, I am thinking of some of the analysis that we have. For example, an annual report process is really useful for some things, as it flags up what has happened in the year and what progress has been made. However, for other things, that is not at all useful and does not tell us anything. It is about not just meeting the letter of the law, but dealing with the culture of public bodies and local authorities. The convener asked about having a key point of contact who is

not just a recipient of emails, but is somebody who will help to enable change and engage with people.

There is also the issue of community capacity. One thing that has emerged strongly during the pandemic is that many people do not have digital access. According to the research that we saw, only 18 per cent of the population feel that they can influence decisions that affect their local areas. That figure has fallen from 24 per cent since the 2015 act received royal assent.

What are the priorities when it comes to accelerating the impact of the legislation, given all the feedback that we have had from communities about where it is not working? What can be done—

Aileen Campbell: Yes, I think—I am sorry, Sarah; I did not mean to cut you off. What was the final part of your question?

Sarah Boyack: I realise that you thought that I had finished my question. What can be done to accelerate the process and get a bit of energy into it, so that it brings about the transformation that we were hoping for?

Aileen Campbell: I think that you are right. The figures from the Scottish household survey were extremely disappointing. Work needs to be done to ensure that we properly understand what prompted those figures and what made people feel that way. In addition, the work in this area should be linked to the local governance review, which we are conducting to further empower communities. We are working with local government and wider public life on that.

We can also point to participatory budgeting, which sits in the same portfolio. Over the past few years, the activity in that area has gone from a handful of events to 47,000 people attending events across the country or voting online. That equates to 122,000 voters having a say on £6.6 million of expenditure in the past few years. That is a massive shift, which is part and parcel of the work that we all want to be done to empower our communities to have more say, a greater sense of autonomy and agency, and control over decisions that impact on them. We want to continue to promote that and, if there are more things that we need to do, we will give consideration to that.

We commissioned Glasgow Caledonian University to evaluate not just one part of the legislation but two parts of it because we wanted to get a better idea of what was working, what was not working and what more we needed to do. We established the national asset transfer action group to take forward those recommendations. We have brought together all the relevant stakeholders and key bodies and entities in one place so that they can give us guidance on what

we need to do and what further action we need to take to drive forward a policy that stands to be transformative and—if we get it right—to make a huge difference in our communities.

More than most years, the year just passed has shown what the country stands to gain if we have empowered communities. The communities that have shown the greatest resilience have been those that have had community anchor organisations in place and those in which people have been motivated and empowered to drive forward highly localised bespoke, tailored community supports and responses. If that had not been there, what would have replicated it? That would have been very difficult for national Government to do, although it might have been easier for local government to do, but what we have seen has been far better. Councils and Government have worked with communities that have been able to respond directly to the needs of people in those communities.

There is no disagreement, in principle, with the desire to progress the policy, to move it further forward, and to ensure that more people can access the opportunity that is available through participation requests and asset transfers.

There is also the wider work that we are doing on participatory budgeting and the local governance review. In addition, I flag up to the committee the forthcoming report on town centres, which we will receive shortly.

All that points to the need to build and drive up capacity in communities, so that people have the ability to take control. There has perhaps been a gap there, which we need to plug. We must ensure that communities—all communities, not just those that have the luxury of having capacity—have the capacity that they need. The effect of the policy must be equitably felt by all.

Sarah Boyack: It would definitely be useful to come back to that in the future.

The other issue is how we log success. Some people say that success is not having a lot of participation requests, because that shows that things are working. What monitoring of whether communities have actually changed decisions is being done? For example, we have spent a lot of time talking about local government, and we have heard some good evidence about success and failure, but what are you doing with public bodies to get culture shift and to gather evidence that decisions have changed as a result of community engagement?

09:15

Aileen Campbell: The issue of whether low numbers of participation requests signal success

is tricky, because we know that lots of local authorities have a well-established dialogue with the community and good and effective community links. Whether such dialogue and links act as suppressants to participation requests is difficult to say with confidence. That is why the annual reporting will be important, and we established the template to provide us with a degree of consistency. It is also why it is important to continue with the evaluation that we have supported through Glasgow Caledonian University. That will ensure that we get a better understanding—a deeper and richer sense of the situation—in order to draw more conclusions about what is working and why, as well as about what that means for activity in a local authority or a public body with regard to what it needs to do and how it needs to support that.

Lots of great work is happening across local authorities to support communities but, equally, there is a lot of room for improvement. The monitoring and the template will be critical. Some of the Glasgow Caledonian University research shows that it is probably too early to judge success or failure, particularly with regard to participation requests, because the numbers are quite low. However, that bit of work is being looked at by the national group, to continue to push the policy and approach forward and to take forward the recommendations that are necessary to make the improvements that we all want.

Alexander Stewart (Mid Scotland and Fife) (Con): Good morning, cabinet secretary. You have spoken about the groups that have met, the task force that has been introduced, and the action groups, which are very welcome. When the committee engaged with organisations and individuals about the participation requests and their involvement, it became evident that there was a mixed picture of what was happening on the ground. That is also evident in Glasgow Caledonian University's report. What is the Scottish Government's role in ensuring that communities understand the challenges of asset transfer and participation as well as the benefits of community ownership? There seemed to be a mismatch between what organisations and individuals thought they were getting involved in and what they were actually involved in when they participated in the process.

Aileen Campbell: The Government convenes the national asset transfer action group, and Kathleen Glazik, who is on this call with me, chairs that group. The Government has convened a group of relevant stakeholders—groups, organisations and all sorts of entities—to work through Glasgow Caledonian University's recommendations and some of the challenges that Alexander Stewart has described, and to point us in the direction of how to fix those or make

improvements. In that sense, the Government is convening the wide plethora of voices required to ensure that we are moving in the right direction.

On helping to support communities to understand what it might mean if they decide to embark on an asset transfer or whatever, the organisations that I mentioned previously—the Community Ownership Support Service and the Scottish Community Development Centre—are the ones that we fund and support to support communities and help them to understand what some of this might mean for them. It is a big task, and we have heard from communities that taking something on is a big job and a big responsibility, but we also hear that that can be transformative and result in positive outcomes.

Of course, we will all see that in our constituencies. We will see where communities do phenomenal things to make a difference and have an impact. It is important that we do not take that for granted and just assume that it will always be there. We must support and nurture that capacity so that there is no fatigue creep and people do not feel that things have somehow been foisted on them, because that is not what we want either. We want it to be an empowering, positive and proactive choice for people to be involved in their communities and take action. That is why we support the groups that we have and continue to work through the process of how we can further improve that important set of policies.

Alexander Stewart: We all want the policy to be taken seriously, and I believe that a number of councils that we went to and other bodies do take it seriously and want to engage. However, there is still a low turnout for engagement, and even the Convention of Scottish Local Authorities did not really engage with evidence and give us information. If we are not seeing a real drive or push from the powers that be in local authorities or organisations, that makes it difficult for the community organisations and individuals to progress.

The convener spoke about having a link with an individual in an organisation. That is vital if the policy is to be successful and taken seriously.

You talked about how reporting has improved. How well has the reporting improved over time? Has that ensured that people and organisations take the reporting seriously and will produce reports annually? They are obliged to do that, but many are choosing not to give the information that is required.

Aileen Campbell: That is why we recognised that there was a need to improve the reporting and why the team worked to produce the templates, which are intended to prompt and promote reports

of a better standard and quality and ensure continual improvement.

On how we know whether people and organisations are taking the reporting seriously, a range of organisations that represent huge parts of public life are on the national action group, from Transport Scotland, individual city councils and Scotland's Towns Partnership to the national health service. There are also the two groups that I mentioned that we support to support communities. That gives a sense of the spread of the organisations on the group to help to drive forward improvement across the range of partners that need to see improvement.

However, there is no denying that we need to see a culture shift and a change across the public landscape and public life in how we trust our communities and respect that they know best what they need and are best placed to achieve it. It is about how we disentangle the red tape and bureaucracy that stymie some of that. The past 10 months or so have shown what we stand to gain if we get that right and be a bit more relaxed if things do not work as well. We must ensure that there is an understanding that, if people take a bit of a punt on something, the chances are that it will work well. However, if it does not, it is about what learning can be taken from that and how it can be used to help to inform other communities.

There is a lot of risk aversion in the system. That is not just in relation to the community engagement policy; it is across a great swathe of public life in Scotland. In this space, what people see is that, when communities are trusted, empowered, supported and nurtured, they stand to gain more than they lose. Part of that is about the culture shift and the change that we need to see across the wider public landscape. However, I engage with COSLA—its president, for instance—and we have worked very well on the local governance review, and we talk similarly about wanting to see our communities empowered. Regardless of whether a person is an MSP or a councillor, we represent communities that we want to see flourishing and improving, and it is in all of our interests to make sure that that is the case. Councils want that to happen and we want that to happen, but we also need to make sure that not only national Government and local government are in that space, but the wider public landscape is, as well.

Alexander Stewart: The timescales have been very different; there is a variety of them. It seems that, if the community is transferring a public toilet, for example, it is easily handed over, because both the community and the local authority want that to take place. Therefore, there is a drive. However, there are logjams when communities are very enthusiastic about achieving something

and then, as the cabinet secretary has identified, the red tape and bureaucracy come into play. Weeks, months and years later, they are still in the same location. We have found that that creates real frustration in communities. How can we ensure that there is impetus all the time to ensure that communities get what they want?

Aileen Campbell: We have the groups in place and the legislation because we want to see those things happen. We have public toilet examples. I think that, in Highland Council, the council asset transfer team supported the community and was able to make the process run smoothly. The Community Ownership Support Service also provided support to the community, and that whole process went fairly smoothly and was a positive experience.

Those examples show that things can happen well. The national group is useful, because it will enable us to share and use good practice to drive improvement. I hope that it will also make the journey feel not so bumpy for communities, as Alexander Stewart described. On the whole, it should not be that. However, we have heard from communities that we engage with that that has not been their experience. Therefore, we need to try and fix some of that.

Sometimes some of those things are complicated and take time, and it is important to take the time to make sure that we get things right. Again, I point to the organisations that we fund to support communities to navigate their way through some of that so that they do not get to the end of the process and are put off by it, because they think that it has been absolutely blooming awful and feel that they do not want to do anything like that again. That is not what we want. What happens has to be empowering, transformative and positive for communities. However, sometimes it takes time and sometimes those things can, because of their nature, be complex, and we would not want to cut corners. I point to the evaluation and the reports, and to the action group that is bringing people together to ensure that we make improvements where they are necessary.

Gordon MacDonald (Edinburgh Pentlands) (SNP): I will carry on the conversation about asset transfers. The committee heard evidence that some assets and ownership or control of certain arm's-length bodies are not available for asset transfer. Audit Scotland identified 130 arm's-length external organisations across Scotland. How many ALEOs can consider asset transfers under part 5 of the act?

Aileen Campbell: We recognise that some of the issues around ALEOs that Gordon MacDonald described are—and have been—a barrier to some. That is why there is further explanation of

that issue and of what more we need to do to ensure that ALEOs adhere to the spirit of the law. We certainly do not see any reason for ALEOs not to adhere to the spirit of law. However, it is an issue that has been pointed out and which we recognise. That is why it is currently being explored by the action group to see in what practical ways we can remedy that so that we can relieve that barrier, if it is stymieing progress in that area.

09:30

Gordon MacDonald: If the national asset transfer action group was looking at whether, under section 78 of the act, ALEOs should be designated as relevant authorities in the future, is there a timescale for that work to be taken forward?

Aileen Campbell: We are looking at how we might best remedy the matter. I do not have a timescale at present, but we might be able to furnish the committee with that information if we think that that route is the best approach. At the moment, the group is considering the issue, and we recognise that it has been a problem in some areas. Indeed, I think that the convener asked me about it fairly recently in the chamber.

The national asset transfer action group will consider the matter, and we will continue to explore with the group how we remedy the issue. We do not see any reason why there should be a barrier, but if there is, we will consider how we best fix it. If there is a timescale involved in doing so, we will let the committee know.

Gordon MacDonald: In Edinburgh, we have three large employers that are ALEOs—Lothian Buses, Edinburgh Leisure and Edinburgh Trams. If ALEOs were included in the list of relevant authorities, are there any concerns about the impact on those larger ALEOs?

Aileen Campbell: Given that I have just said that there should not be a barrier, and there is no reason for ALEOs not to act in the spirit of the law, off the top of my head, I cannot think of any negative consequences for the ALEOs. We would point to fact that, on the whole, the legislation drives forward positive outcomes and impacts. Given our endeavour to ensure that the wider public landscape is also acting in accordance with the legislation, I do not see why the situation would be negative for an ALEO.

In relation to some of the questions about ALEOs, I will bring in Kathleen Glazik, who chairs the group and might be able to provide further detail.

Kathleen Glazik (Scottish Government): To give some perspective, you have mentioned 130

ALEOs. On the asset transfer relevant authority list, we have 95 organisations, and organisations can be added, changed or deleted from the list by designation. We have heard concerns from communities about ALEOs, which are more about transparency regarding who owns the asset. When a community tries to go through the process of securing land for lease or purchase, it goes through the local authority, but then it realises that the land belongs to an ALEO. That is what causes confusion and concern.

The legislation enables the Scottish ministers to designate other organisations, which can apply to an ALEO as long as it is a public company and is owned by a relevant authority. That is also tricky, because some ALEOs are owned by maybe four different local authorities. For example, that is the case for Lothian Buses.

The issue is definitely something that we are considering, and I have developed a discussion paper for our next meeting of the asset transfer action group. I would also like to start conversations with my colleagues in COSS who have more experience of the issue, and with local authorities. There are only about 10 local authorities that use ALEOs to manage their land for them, which I have learned from the research that I have done, mainly using the Audit Scotland annual reports on ALEOs that come out each year.

We are considering the issue, and we can provide further information to the committee if you are interested in it.

The Convener: In Glasgow, under a previous administration, an ALEO was created solely for the purpose of getting rid of the properties that the city council did not use. Its remit was to raise money—the thinking behind it was to pay off a mortgage that it had, to allow people over 50 to retire early. One of the issues with ALEOs is how you balance something that has written into it that it is meant to raise as much money as possible with the Community Empowerment (Scotland) Act 2015.

Kathleen Glazik: That is a difficult issue, which brings me to another part that I will discuss tomorrow with the national asset transfer action group about social return on investment. My colleague Malcolm Cowie recently drafted another paper on the subject.

It is one of the challenges that relevant authorities come up against time and again: the balancing of the benefits to the public purse generally with the social benefit to the community in taking over an asset, whether a lease or a purchase. It is a difficult question, and it is a discussion that needs to continue, as it will with the group tomorrow. We look forward to hearing its

views and we can feed those back to the committee, if that is of any help.

Andy Wightman (Lothian) (Ind): I take the cabinet secretary back to a response that she made to a question from Sarah Boyack about the local governance review and the matter of participation requests. If someone were to arrive in this country from most European countries and hear that there were “participation requests”, they would probably look at us strangely and ask whether we do not already participate in the governance of our local space. Could the cabinet secretary say a little bit more about how the local governance review is dealing with not just asset transfer and participation requests but the more general theme of community empowerment, and could she say what we might expect by way of reforms or changes that reflect the spirit of the Community Empowerment (Scotland) Act 2015?

Aileen Campbell: Some of the work on the local governance review has been delayed this past year because of Covid. Some of the issues that we wanted to progress with our communities have unfortunately had to take a bit of a hit. We continue to work with local government on the issue of how we work with particular communities so that we can get a better understanding of what we need to do to make some of the review’s aspirations, such as the transfer of powers, come to life. That is where we are at with the review.

The team in the Government, in partnership with COSLA, is working on how we can engage with particular communities to understand some of their barriers and to ensure that we take together the issues around participatory budgeting and this work in order to realise the ambitions of empowered communities.

Progress on the local governance review has not been as fast over the past year, for understandable reasons, but we are working with COSLA on the second phase of community engagement. In our programme for government, we set out the intention to work with a small number of communities to road test some of the material that has been developed as a result of the “Democracy Matters” work, to ensure that we can come to conclusions on how best to progress the community element of the review and knit that work together a bit.

There are lots of bits across the Government that are on similar territory. I mentioned the town centre review to Sarah Boyack—some of that review comes into this work as well. If we have community capacity, we can see far more successful towns, whether through business improvement districts or more collaboration across a community to drive forward improvement across towns.

Some of those bits, weirdly, sit in different parts of my portfolio, but the same conversations come up time and again, whether they are about participation requests, asset transfers, town centres, community empowerment or local governance reviews—in essence, they are all in the same territory. We need to ensure that what we are doing also makes sense to communities, because I think that the committee has heard that people feel a bit fatigued from all the different bits of government wanting to know about and consult them on how to make things better in their communities. We now have the chance to knit this together more effectively to make it more impactful for communities.

Andy Wightman: Yes, indeed. One witness said that they are engaged to death by councils but that there is very little that they can do—they have very little power. At the same time, there is a town that has a community development trust doing various work, a community council and a towns partnership, and there was an issue with some common good land on which there had to be a ballot, in which people outside the 1973 burgh boundary could not vote because that legislation has never been updated. It was a real mess in governance terms, and lots of people were doing the same thing, rubbing up against each other, and it did not seem very efficient. Against that background, some sort of rationalisation would be a good idea, so I wish you well with the local governance review.

Aileen Campbell: I had something similar in my constituency. Sometimes, it is about trying to work out what is an actual barrier and what is a perceived barrier. In Carlisle in my constituency, for example, it was just as you described in that there was a development trust, a business improvement district, a community council and other groups all doing largely similar things but not working collaboratively. We tried to establish the ONECarlisle approach to bring everyone together. They also had a bit of common good land, which I think you know about, and there was a whole rigmarole to navigate through that to get it back into community ownership.

Absolutely, there is a lot that national Government can do to redress the landscape a bit but, sometimes, it is also about how we support communities to recognise when something is a barrier and when it is a perceived barrier and how we can help them to overcome that.

Andy Wightman: That is helpful. Another issue that was raised with regard to participation requests was the question of appeals from communities whose participation requests are refused. That idea was rejected when the bill went through, but a power was put in place to allow an appeals process to be developed via secondary

legislation. There was also a commitment to undertake a review, and the Glasgow Caledonian University study is an expression of that. Do you have any views on whether there should be an appeals system for participation requests?

Aileen Campbell: Because the numbers have been lowish in that area, it is difficult to come to a definitive conclusion on that. Again, I am sorry if that is unsatisfactory but, sometimes, it is about our continuing to monitor what might be best, how best to ensure that activity increases in that area and whether appeals would be beneficial. We are not ruling it out, but we will continue to consider and monitor that, particularly given that it is a recommendation from Glasgow Caley. The national asset transfer action group is looking at those recommendations. We do not want to rule it out, and we will continue to actively monitor whether that would be useful in the future.

Andy Wightman: Finally, one of the problems that were identified was that, when Parliament passes legislation that provides new opportunities and new powers for communities, such as the Community Empowerment (Scotland) Act 2015—we have done that in a number of other statutes over the past 20 years—the level of awareness of those opportunities is still very limited. Even today, 15 years after provisions in the Land Reform (Scotland) Act 2003 and community right to buy came into force, some communities do not know anything about it. Of course, the 2015 act extended rights in that regard. What more can be done to enhance the level of awareness about these opportunities? What are the best approaches to that?

09:45

Aileen Campbell: Again, we work with different groups, including the two that I mentioned earlier. We also have the national asset transfer action group, which can help us to understand the best ways to ensure that people understand what is available to them. We can probably do more, but with regard to areas that might not have realised what opportunities are available to them, we have specifically tasked COSS and the Scottish Community Development Centre to work with areas of disadvantage and multiple deprivation, for example, by going out and engaging much more proactively with the communities so that they understand what they need to do.

There is also an issue around capacity. It might not necessarily just be about ensuring that people know about community empowerment. If the capacity is not there, that gap will continue to be felt. One of the issues that have come up from the town centre review is that we need to ensure that we are building capacity in communities so that they have the ability to use the tools and levers to

achieve the intended impact. It is one thing to have those in place, but it is another for a community to be able to use them. It is therefore incumbent on government at all levels to ensure that communities are empowered and have the capacity to make use of the available tools.

We continue to promote the relevant pieces of legislation through community development networks as well. I said in my opening remarks that community engagement works only on the basis of the networks and partnerships that we have. It is important that we use the networks to push out further those messages to our communities. There is probably a role for all of us too, as MSPs, to ensure that the communities that we represent know that those options are available when they present to us the challenges or barriers in their communities. There is probably no one answer but a lot of answers and lots of ways in which we can use all our influence and networks to ensure that communities understand what opportunities are available to them.

Keith Brown (Clackmannanshire and Dunblane) (SNP): The committee has been looking at parts 3 and 5 of the 2015 act and all the mechanics around that legislation. However, the most important point is where the gold dust lies. Where is the community that feels empowered by the legislation? An example in the Highlands has been mentioned, which was about the Community Out West Trust taking over a public convenience. What is more important, though, is that, at the end of that process, the people involved felt that they had a real say in their community and felt empowered. As well as what this committee will recommend for improving things technically and mechanically, what can the Government do, in working with local authorities, to proselytise about outcomes where communities feel empowered, which is of course the intention of the 2015 act?

Aileen Campbell: There are lots of good examples of that. As well as the one in the Highlands to which you referred, there are loads of examples across the country of communities feeling empowered and having a positive experience. At the meeting tomorrow that Kathleen Glazik mentioned, the national asset transfer action group will look at calculating social value and how we measure outcomes. There is therefore on-going work on how we capture that, ensure that we raise awareness of it and demonstrate the positive outcomes from good use of the legislation.

I agree that there is always room to do more. However, as I said, the group will look at how we calculate social value and measure outcomes, which aligns well with the national performance framework. If we want to focus on outcomes, have a country that is based on and underpinned by the

values of kindness, respect and dignity and have a wellbeing economy, the territory of community empowerment will enable us to make that happen.

It is therefore incumbent not just on me and my part of Government but on the whole Government to acknowledge and understand that when we support and value our communities, and when we trust them and work with them, we can get good outcomes in not just a social sense but an economic sense.

One other area of work that has started to take hold, which was mentioned in the programme for government, is the community wealth building approach, which I think we have spoken about at this committee before. We have put some support into North Ayrshire, through the Ayrshire growth deal, to further embed that. I give all credit to North Ayrshire, which has been at the vanguard of that. We are introducing the community wealth building approach into other local authorities and regions, too.

The approach ensures that, instead of an extractive model of economic policy, a policy is in place that enables communities to feel that wealth is being utilised for them and that they are being given far more of a stake in the local economy. Neil McInroy, who is on secondment to the Government from the Centre for Local Economic Strategies, is part of the group that Kathleen Glazik chairs.

A number of areas of Government are pooling on that area of work, and there are opportunities there. I hope that that gives the committee a sense of some of the ways in which we can promote the sense of empowerment that communities should feel as a result of the legislation.

Keith Brown: Two of the words that you used, “nurture” and “culture”, are probably more important than some of the technical changes that we might make. We need to get the message out about the importance of a community feeling empowered, whichever process it has been through. It goes back to an earlier point about nurturing a culture in which people feel that a real difference has been made. Like you said, something can be tangible, increase community resilience and provide a real sense of ownership.

On the culture side, it is often the case, not unreasonably, that councils, being bureaucracies, provide a process-driven response rather than a nurturing response. The issue is how we effect change in that regard. I know that you do not want to be in a position where you tell local authorities, “This has got to be done in collaboration.”

On the issue of there being one point of contact, and that point of contact being somebody who can actually effect change, the committee has heard about situations where councils have said, “If you

have an issue”—a leisure and recreation issue, for example—“you can go to anyone.” Most people who work in local authorities would know that that is not really satisfactory.

By contrast, if you are an MP, an MSP or even a councillor, there is a specific track for how your representations are delivered, and there is real organisational weight behind that. I suppose that the issue is how we get real organisational weight behind a request for either participation or community asset transfer. How do we get councils to look upon that as a real opportunity for them?

On the culture and nurture issue, I would be keen to see whether the Government could proselytise—whether it could go around councils and communities saying, “This is what we’re trying to achieve.” We need to keep our eye on the prize of actual empowerment. The question is how the Government can best do that.

Aileen Campbell: Again, there will probably be lots of different ways that we could do that.

You talked about trying to unlock some of the bureaucratic structures that we have put in place. Whether it is in national Government, local government, the national health service or wherever, there is a whole range of bureaucracies that we expect communities to navigate, and we judge them on the basis that they know all that. Sometimes that does not feel very balanced. However, what have we seen in the past 10 months? We have seen people roll up their sleeves—regardless of who they are or what organisation they are from—focus on the task in hand, and get on and tackle it.

I cannot remember whether I have used this phrase at this committee, but I borrow it from Sally Thomas from the Scottish Federation of Housing Associations. She captured it really well by describing what we have seen over the past 10 months as

“no silos, no logos, no egos”.

People did not really bother who they were representing or what bit of the world they came from; they were simply tackling the issue and working in partnership. That meant working with communities, the third sector, local government and national Government. As a result, we saw some phenomenal things happen and some really positive outcomes.

That prompted us—me and Shirley-Anne Somerville—to establish the social renewal advisory board to capture that good practice, so that we use this opportunity to not go back to the old ways of doing things and to the “It’s aye been” culture. Instead, we can capture and use this moment to push forward that approach.

The social renewal advisory board will report back to us fairly soon. I mention that because the board was tasked explicitly with looking at how we capture that good practice and use it to drive momentum so that it can become the way that we do business across the country. That is one way that we can answer that question, and I hope that the recommendations and thoughts that the board brings forward enable us to work through how we do that.

There are also lots of other ways to do that, such as through the local governance review and other things. However, although on one level we will be content and happy enough to see—for example—that there will be a single point of contact in an authority, we need to dive down a wee bit deeper into what the quality of that offer is. It is about how we make sure that communities are properly supported and able to navigate through the systems.

I also point to East Ayrshire as a local authority that is a good example of good practice. It is led really effectively by Fiona Lees, who I think is retiring fairly soon. She has led that council from the top by reminding all of the folk across the council, “If we say that there is a barrier to a community to doing something, what is that barrier? Nine times out of 10, it is a barrier that we as a council put in place—and if we put it in place, then we can remove it.” She was really effective in instilling across that authority a culture that was about asking, “What is my default answer to a community? My default answer is yes—and then we work out how we make it happen.” That leadership is really important.

It is important for us to have in place the legislation and the national guidance and leadership, and all the different things that flow from that, but it is also really important to see that leadership in a local area. We have that. For example, we have Fiona Lees and we have Karen Reid, up in Perth and Kinross, with the Perth offer.

All of those people realise how important it is to empower their communities and to do that by changing the culture of the authority. Authorities are really up for that, but we also need to do work across our public bodies.

That was probably a far longer answer than Keith Brown was expecting—I am sorry about that.

Keith Brown: Thank you very much for that. I agree about Fiona Lees; there is some fantastic leadership in our local authorities.

One of the clichés that we use these days is “What does success look like?”—which is a bit of a tiresome phrase. For me, success looks like the face of the woman who spoke to us about the transfer of the public convenience in the Highlands when I asked her if she felt that they had

subsequently been empowered—before that, the discussion was all about the transactional nature of what happened. She certainly felt that she had been empowered.

I am sorry to end on a slightly downbeat note but, to go back to Alexander Stewart's point, is it not the case that most successes have come about when there has been a coincidence of interests, with councils looking to offload an asset that the community values and transfers to itself? I am not saying that that is not legitimate, but the test of the legislation will be in circumstances where there is not that coincidence of interests. Is that a concern for you, cabinet secretary?

The Convener: I ask the cabinet secretary to make the answer quite brief, please.

10:00

Aileen Campbell: Sorry—yes. Point accepted. *[Laughter.]*

There could be something in that, but it depends how you look at it. It will always be better if councils and communities are working well and effectively together. There have been 119 successfully agreed asset transfers, which is good progress. The others that have been put in place are being worked through. Therefore, we have to look at the situation optimistically.

I have heard directly from communities that felt that an asset transfer was not empowering—in fact, it felt disempowering. We do not want that to be the case, so we have to guard against it. However, on the whole, we have to look at matters optimistically. Communities want to take control of their local areas, and they are working with councils to make it happen. Councils are recognising that when they work with their communities, they can inspire better and more positive outcomes.

You heard from North Ayrshire Council, which is in the vanguard of community wealth building, and COSLA, which, through its president Councillor Evison, led from the front by wanting to embed a local governance review approach to empower our communities. We have to be optimistic, but we have to guard against the examples that you mentioned. There are successes when people work in collaboration.

The work that Kathleen Glazik spoke about around social return and investment will be important, and we need to make sure that it is given the status that it requires to enable councils and other public bodies to take a more balanced approach in considering the benefits of transferring an asset that has been requested.

I will look at the situation optimistically. There is a lot of momentum and motivation in the system

and the organisations that it works with. We have good evaluations that tell us that the legislation is working as intended, although it is still fairly early. We have a national action group that is considering how we further drive improvement, and we have councils that want to be part of that. We will also have a moment in time, post-Covid, when we will be thinking about how to rebuild our country. We have seen how well we do when we trust our communities.

All those ingredients have to mix together to make something that I hope empowers communities in the future, which will enable our country to recover and ensure our long-term resilience. At Government level, that means that, nationally, we are leading that drive and ensuring that everyone is part of it.

Annie Wells (Glasgow) (Con): I have a question about asset transfers. Does the cabinet secretary believe that there are socioeconomic trends in the types of community that seek an asset transfer? For example, are they more likely to be wealthy communities or areas with high levels of professional people living there?

Aileen Campbell: That was kind of covered in answers to previous questions. We recognise that there may be capacity issues, which is why we have specifically tasked COSS to consider areas in which there might be deprivation or other barriers, to make sure that we support communities to build capacity and realise the opportunity that exists in the legislation. We recognise the point, we want to fix it, and that is why we have taken action to do so.

Through its work, the action group will be acutely aware of some of the inequalities that persist in our country, and that we need to make sure that the legislation is equitable. I hope that that demonstrates that we are being proactive in trying to tackle the issue.

Annie Wells: I will touch on the subject of the appeals process, which Andy Wightman brought up earlier. If there was an appeals process, which body do you believe should decide on the appeals?

Aileen Campbell: As I said to Andy Wightman, the evaluation from Glasgow Caledonian University almost said that because the numbers of participation requests are quite low, sometimes we are unable to make definitive conclusions. We have not ruled out appeals, but we would have to build an appeals system and work out how it would be best realised.

At the moment, we are not ruling out having appeals, but we are monitoring the situation and whether that would be the best route forward, and we would have to decide what the process would look like. It is probably too early at the moment,

but we do not want to rule it out indefinitely. We would have to build it and work out the best approach, so it is not without complexities.

Annie Wells: Thank you. Convener, I am content.

The Convener: Thank you very much. That completes today's evidence session, but before we go, I reiterate the request for feedback from the meeting that will take place tomorrow about ALEOs. It would be helpful for the committee to have that.

Aileen Campbell: Yes. The meeting will discuss a range of things, but I am sure that Kathleen Glazik and Malcolm Cowie will be able to give us an update on that.

The Convener: Thank you very much, and thank you and your officials for taking the time to speak with the committee today. You can leave the meeting by pressing the red telephone icon, but I remind committee members that the meeting is still in public for the next item of business.

Subordinate Legislation

Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (No 2) Order 2020 (SSI 2020/139)

10:06

The Convener: Item 5 is consideration of a negative instrument as listed on the agenda. I refer members to paper number 4. The instrument is laid under the negative procedure, which means that its provisions will come into force unless the Parliament agrees to a motion to annul it. No motions to annul have been laid.

The Delegated Powers and Law Reform Committee considered the instrument on 22 December 2020 and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

Do members have any comments on the instrument?

Sarah Boyack: Would it be possible for us to write to the Scottish Government to ask for an update on progress on the issue? I will not speak against the instrument today, but constituents have raised with me concerns about the issue, including about people having to leave their temporary accommodation, such as hotel accommodation, during the day because it is to be cleaned. People are very worried about that because it pushes homeless people back out on to the streets, particularly in these difficult winter months when the cold will not help their health.

It would also be good to know how many people who have been in temporary accommodation during the past few months have been able to move into permanent housing. We are in exceptional circumstances. The report about the work being done by local authority working group, which is working with the Scottish Government to look at improvements to the drafting of the initial order, is really good, but I am keen to see an update on what is happening with homelessness. Locally, I have heard that things are mixed. The council is spending a lot of money to look after people in temporary and hotel accommodation. I would like to see what happens next, given the fact that the pandemic is clearly going to be with us for some months yet.

The Convener: I do not see there being any problem with sending such a letter; it sounds like a sensible thing to do.

As there are no further comments, I invite the committee to agree that it does not wish to make

any further recommendations in relation to the instrument.

10:08

That is agreed.

Meeting continued in private until 10:13.

That concludes the public part of this meeting.

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