



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government and Communities Committee

Wednesday 2 December 2020

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Wednesday 2 December 2020

CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT (INCORPORATION) (SCOTLAND) BILL: STAGE 1	2
COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015 (PARTS 3 AND 5) (POST-LEGISLATIVE SCRUTINY).....	16
SUBORDINATE LEGISLATION.....	36
Town and Country Planning (General Permitted Development) (Coronavirus) (Scotland)	
Amendment (No 2) Order 2020 (2020/366)	36

LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

31st Meeting 2020, Session 5

CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

DEPUTY CONVENER

*Sarah Boyack (Lothian) (Lab)

COMMITTEE MEMBERS

*Keith Brown (Clackmannanshire and Dunblane) (SNP)

*Gail Ross (Caithness, Sutherland and Ross) (SNP)

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

*Annie Wells (Glasgow) (Con)

*Andy Wightman (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Aileen Campbell (Cabinet Secretary for Communities and Local Government)

Iain Hamlin (FRIENDS)

Mary Peart (Community Out West Trust)

Peter Scott (Cramond and Barnton Community Council)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

Virtual Meeting

Scottish Parliament
Local Government and
Communities Committee

Wednesday 2 December 2020

[The Convener opened the meeting at 09:30]

Decision on Taking Business in
Private

The Convener (James Dornan): Good morning, and welcome to the 31st meeting of the Local Government and Communities Committee in 2020.

Please ensure that all mobile phones are in silent mode. I remind members that broadcasting staff will operate the cameras and microphones. Please allow a short pause when you are called to speak so that they can do so.

Agenda item 1 is consideration of whether to take agenda items 5, 6, 7 and 8 in private. Items 5 and 6 are consideration of the evidence that will be heard today; item 7 is consideration of our work programme; and item 8 is consideration of a draft letter to the convener of the Finance and Constitution Committee on the impact of Brexit on devolution.

As we are meeting remotely, rather than asking whether everyone agrees I will ask if anyone objects. If there is silence, I will assume members consent to take those items in private. Does anyone object? I take the silence as acceptance. We have agreed to take agenda items 5, 6, 7 and 8 in private.

European Charter of Local Self-
Government (Incorporation)
(Scotland) Bill: Stage 1

09:31

The Convener: Agenda item 2 is an evidence session on the European Charter of Local Self-Government (Incorporation) (Scotland) Bill. I welcome Aileen Campbell, the Cabinet Secretary for Communities and Local Government; and, from the Scottish Government, Emily Callaghan, who is a solicitor; Jessica McPherson from the local government policy team; and John St Clair, who is also a solicitor.

We have allocated just over an hour for the session and have a number of issues to discuss. Andy Wightman, the member in charge of the bill, is also a committee member. Under the Parliament's standing orders, he will, in effect, take part in the evidence session as a non-member of the committee. That means that I will allow him to come in only at the end for questions to witnesses if the time allows.

There is some brief technical information before we start. There is a pre-arranged order for questions. I will call each member in turn, for up to nine minutes. Cabinet secretary, please state clearly that you are bringing in an official to answer a question when you do so. There may be a short amount of time at the end for supplementary questions. I remind everyone to give broadcasting staff time to operate the microphones.

The cabinet secretary will make a short opening statement.

The Cabinet Secretary for Communities and Local Government (Aileen Campbell): I thank the committee for its work to date on the bill and I pay tribute to Andy Wightman for his work on bringing the proposal to this point.

I reaffirm the value that the Scottish Government attaches to the unique role of local government and the Government's respect for that sphere. We are committed to local decision making, as is demonstrated by ambitious legislation such as the Community Empowerment (Scotland) Act 2015 and the Islands (Scotland) Act (2018), which signalled a significant transfer of powers to communities across Scotland. The historic islands act introduces the additional powers request regulations, which enable relevant local authorities to request that responsibilities be transferred from the Scottish ministers to them.

The committee heard evidence from Councillor Alison Evison, the president of the Convention of Scottish Local Authorities. I agree wholeheartedly with her when she says that we can achieve more

for our communities when we work well together. That is why developing and maintaining a close, constructive partnership between central Government and local government has always been a key priority for this Government.

To give a sense of that partnership approach and to illustrate the influential role that local government has, you need only look at some of the current areas of success and at the mechanisms in place for joint working. For example, COSLA is a co-signatory of the national performance framework that sets out our shared ambitions for a successful and inclusive Scotland.

We jointly launched the local governance review as part of our shared commitment to subsidiarity and local democracy. That creates an opportunity to promote the biggest shift of power since devolution. We will do that by ensuring that decisions are taken as closely as possible to those that they affect most, something that I know Councillor Evison is passionate about.

COSLA is a key stakeholder in our cabinet sub-committee discussions on public sector reform and I have regular bi-monthly meetings with the COSLA president, which provide a platform to discuss key issues of concern to local government.

Those are just some examples of how local government plays a significant and inclusive role in the current decision-making process and governance in Scotland across all portfolios, and all levels of Government, thereby ensuring that local government's voice is heard and is firmly rooted in our policy development process. That relationship and partnership approach have also been critical in our response to Covid, as has our relationship with the Society of Local Authority Chief Executives and Senior Managers, given that we are all focused on doing what we can to support the communities that we serve. However, I recognise that there can be challenges, and there are times when we do not always agree. If there is ever any more that we can do to continue to strengthen the relationship, my ministerial colleagues and I are open to considering that.

That brings me on to the reason why we are all here today. I recognise that adopting the European Charter of Local Self-Government in domestic law might be one way of demonstrating our commitment to building a strong and lasting relationship with local government. I met Andy Wightman yesterday, and I appreciate the exchange that we had. As I explained in my memo, and to Mr Wightman yesterday, the Scottish Government took a neutral position to the bill to allow due diligence to be carried out, as I wanted to fully understand the bill's implications and practical application. Given that it is a member's bill, that is not an unusual position. I am

pleased to advise the committee that officials have completed the analysis, and my cabinet colleagues and I are satisfied that the Government can express support for the bill. I know that Mr Wightman, COSLA and the many stakeholders who have an interest in the bill will be happy with that.

There are some issues around the drafting, which some technical amendments would help to improve, but none of them are substantial. The principles of the bill are ones that the Government supports, and we will engage with local government, and build on a strong platform of collaboration, to cement our strong partnership and improve the lives of the people of Scotland.

I look forward to answering any questions.

The Convener: Thank you for stating the Government's position. You highlighted that the bill's requirement to report every five years on the steps that Scottish ministers have taken to safeguard and reinforce local self-government and increase the autonomy of local authorities was a potential challenge. Why does that requirement appear to be such a challenge, and will you be looking to deal with the matter through a technical amendment?

Aileen Campbell: It poses a potential challenge. The request for a report every five years is reasonable; however, depending on when the report becomes due, it may be a challenge to properly show what the Government has been doing. It is not a significant issue, but it could be a challenge. On the whole, we believe that the provision strikes the right balance, but we want to flag up at this stage that there might be issues in achieving what the bill requires.

The Convener: It is helpful to know that you do not see the requirement as being a stumbling block in any way.

The bill lends itself to financial independence. We recently heard from COSLA that local authorities' influence and effective governance has slowly been eroded over many years, with 60 per cent of their funding being directed and monitored by the Scottish Government. Do you agree with that figure? How will your local governance review and national islands plan address the issue, and why do you feel that the bill will impact on the current plans?

Aileen Campbell: As a Government, we have always sought to remove ring fencing. Since this Government came into post, we have tried to enable flexibility with local government finances. I know that that approach continues with Kate Forbes's work, particularly around some of the flexibility that she has announced in direct response to Covid.

More generally, we believe that the local governance review and the national islands plan are complementary to the ends that are being sought by the bill, which mainly involve recognising and respecting the role of local government and local decision making. As I said in my opening remarks, the local governance review was jointly launched by the Government and COSLA, which demonstrated a united approach to seeking to rebalance power and the close consideration of where decisions are made.

I do not accept the claim that local authorities' influence and effectiveness have been eroded—I would argue that quite the contrary is the case. As I said, we engage with local government across all portfolios. Moreover, as I said earlier, the national performance framework was jointly signed by the First Minister and the president of COSLA, which symbolised a joint and shared aspiration for and view of what type of country we want Scotland to be.

I also point to the fairly recent social renewal advisory board. COSLA and SOLACE are active participants in the social renewal work that we are taking forward, which ensures that local government is involved and active in shaping the recovery from Covid.

As the cabinet secretary with responsibility for local government, I regularly engage and meet with COSLA to maintain our relationship and work through the challenges that might arise. The foundations that we had in place have been underpinned by our level of engagement through our response to Covid and Brexit, and have enabled us to intensify our work together to ensure that we do all that we can to support our country's resilience now and in the future. We engage deeply and meaningfully with local government on a number of fronts, because we respect the role that it has, and we can point to a number of examples of that.

I conceded in my opening remarks that there will be challenges from time to time, and points of differences, but I hope that the relationship that we have tried to create between ourselves and local government will enable us to navigate a path through some of those challenges. I also recognise the calls that have been made to support the bill.

The Convener: I just want to put on the record that I was quoting COSLA when I talked about its influence being eroded.

My final question is around the costings of the bill. Your submission queried whether the costings for the bill were robust. Could you expand on that point? What do you think is missing from the financial memorandum that you would have liked to see there?

Aileen Campbell: We had to take a bit of time to look through the practical application of the bill to ensure that we also undertook a financial consideration of it. One of the biggest risks that we identified was around the potential increase of legal challenges and the associated costs that such an increase would bring. That was one area around which we had a concern about the robustness of the bill's costings. However, as we listened to the people who responded to the committee's work, we heard that those legal costs are something that people want to avoid more generally.

The financial memorandum is broadly fine. Although we did have concerns around those potentially escalating legal costs, they are not something that anyone wants to see happen. I would not want to put words in Andy Wightman's mouth, but I think that he also wants to avoid those costs.

The Convener: Yes. That idea came across loud and clear from the witnesses we heard from.

Sarah Boyack (Lothian) (Lab): It has been suggested that one of the main benefits of the bill will be that it delivers a parity between the Scottish Government and local government. The cabinet secretary has said that the Scottish Government will support the bill and I welcome that fact. Does she agree with that key idea of parity in the principle of the bill, which some of our witnesses said was long overdue?

Aileen Campbell: The Government, as a matter of course, has always viewed local government as another sphere of governance, with democratically elected representatives who are there to serve the communities, just as we are. We have always valued and respected local government.

I have set out a number of ways in which we sought to ensure that that parity is there when we develop our approaches, take forward policies and engage in new activities such as the social renewal advisory board. We have always viewed local government as another sphere of governance that needed to also be involved, because some of things that we want to achieve involve practical delivery by local governance.

That involvement is in all of our interests—Councillor Evison would have conceded that point as well. It benefits us all if we work well together. We also heed the calls that others have made about formalising that relationship more and giving that parity a legislative underpinning. That is why we have arrived at this position. We want to ensure that we can use the bill as a platform to further improve the relationship that we have with local government and embed that improvement in legislation.

Sarah Boyack: The acceptance of that principle is welcome.

In your opening remarks, you said that, although you were happy with the principles of the bill, you felt that drafting amendments would be required. Can you give us examples of the key areas in which you think that the bill needs to be redrafted before you would support it at stage 3?

09:45

Aileen Campbell: I had a discussion with Andy Wightman yesterday about some of the drafting. We have said that there are no substantial changes that we would be seeking to make; the changes are more about the technical drafting. It may be that that can be resolved. Our bill teams have undertaken to work together to talk through the interpretations and whether that can be resolved. For instance, in relation to section 3, which is on the duty to promote local self-government, we were looking for a bit of clarity on the timing, laying and publishing of reports in subsection (3), and on who is to assess and who is to be consulted. Those are the sort of things I am talking about.

I hope that that gives a sense that it is not about show-stoppers and our wanting to make substantial changes; we are talking about the technical drafting and clarity, and whether we can improve them. We flagged that up to Andy Wightman in our meeting yesterday, and our teams have undertaken to work together to try to work through some of that.

Is that okay? There was a rustle, and I was not sure if I heard something else.

Sarah Boyack: No, that is fine. I just wanted to clarify whether there are any issues of principle, whether you could give us a steer on the areas in which you think that the drafting needs to be improved for clarity, and whether there is a political issue that means that you want a slightly different flavour in the bill.

Aileen Campbell: No. As I said, the issues are more in the line of what I have outlined. There are points of clarity and drafting; there is nothing to change the purpose of the bill. There are some things that can be done through amendments and working together, or they can be resolved by ensuring that we have a crisp and clear understanding of the intention from Andy Wightman's team.

Sarah Boyack: Okay. Thank you.

Professor Chris Himsforth raised an issue. He suggested that it is not just the relationship between the Scottish Government and local government that needs to be given parity and that there is also an issue relating to Scottish

Government bodies that are responsible to the Scottish Government. He thought that an amendment might be appropriate. Have you considered that, or would you consider it?

Aileen Campbell: At this stage, I do not think that we would be looking to further expand that. I think that the scope and coverage of the bill are fine. That said, the bill will enable us to work with our partners to ensure that all our agencies and all public life are geared up to recognise the bill. I think that the scope and the terms of the bill are fine, and we do not feel that we need to extend them further. However, as other witnesses have said, the bill will change the culture. We need to ensure that we work across all our agencies to ensure that they are supported and geared up for the legislation.

Sarah Boyack: That is very helpful. In our evidence session, Professor Chris Himsforth, Professor Richard Kerley and Reform Scotland all thought that that issue should be explored. It would be good to explore it when we hit stage 2 of the bill, if we agree to its general principles.

Aileen Campbell: I think that you also had witnesses who did not say that and did not agree with that position. We can further work through that, and the committee will take a view and report on it.

Sarah Boyack: That is why I wanted to test it with you, cabinet secretary. In one of our evidence sessions, the three people from whom we took evidence all thought that that was a good idea that should be further explored.

Alexander Stewart (Mid Scotland and Fife) (Con): Good morning, cabinet secretary. In your preamble, you talked about encouraging and being supportive of local government as a key sector, and about the partnership working that is going on. I am very encouraged by that. To what extent can the Scottish Government prove that it has complied with the charter to date?

Aileen Campbell: We already act in compliance with the charter, and I have set out a number of areas in which we are working jointly with COSLA and local government to make sure that their views, experience and role as a sphere of government are reflected in the policies that we progress.

I can point to a number of policy areas in which we work well with local authorities. I have already mentioned the local governance review, which we and COSLA jointly launched. Furthermore, the national performance framework is jointly signed by the First Minister and the president of COSLA. That in itself is symbolic of the direction that we collectively want our country take.

In my portfolio, we have worked well with COSLA on our policy on asylum seekers. We have also jointly published guidance on, for example, the no recourse to public funding condition. Therefore, on issues that are, to a degree, reserved, we are working together to pool our efforts to enhance the provision and support for people who are particularly vulnerable. Similar work has taken place around the Gypsy Traveller community and our homeless community. Again, Councillor Whitham and Kevin Stewart have been working together effectively to try to make sure that we can take the right actions on those issues.

The same applies to other portfolios. When I was the Minister for Public Health and Sport, we worked together with local government on the shared priorities for and the delivery of public health. That work continues.

I argue that, in a range of areas across a range of portfolios, we work well with local government. I also argue that, prior to its incorporation into domestic law, we have worked in compliance with the charter—and policy decisions are better for that.

Alexander Stewart: I agree with that, cabinet secretary. You have talked about the further devolution that you want for local government. Has the fact that the charter is not currently enshrined in legislation led to any constraints?

Aileen Campbell: No, I do not think so. The charter places an emphasis on consultation and agreement, and I think that we do that already. However, again, we are not blind to the evidence that the committee has had from our colleagues in local government who are seeking to formalise and underpin that with legislation.

On whether there have been any barriers or whether we have been constrained, I do not think so.

Alexander Stewart: Good.

Some witnesses told us that the bill should be extended to cover other public bodies. Do you have any views on whether doing that would be beneficial?

Aileen Campbell: No, not at this time. I understand from Sarah Boyack's line of questioning that the committee is perhaps seeking to explore that issue further. I consider that the charter and the bill are primarily about the relationship between local government and central Government, and the bill places a duty on central Government to act compatibly with the charter. At this time, I consider that the scope of the bill is right. Again, it will be up to the committee to consider that—in light of Sarah Boyack's similar question, it might want to explore the issue further. From our perspective, I think that the scope is fine.

Alexander Stewart: This is all about strengthening outcomes and strengthening democracy. Will compliance with the charter strengthen outcomes in relation to the local governance review? Is that an objective for the legislation?

Aileen Campbell: I think that the bill will complement the joint local governance review. We continue to work on the review, although it has been disrupted by Covid. That is an exciting opportunity to shift the balance of power.

This is a timely moment—a milestone; 20 years after devolution—to think about whether the current structure is the right one, whether decisions are made in the right places and what we should do to ensure that the structure reflects the needs of Scotland in the here and now.

With the Convention of Scottish Local Authorities, we are looking to work with our communities to consider what would give them a greater sense of empowerment and the ability to take more decisions themselves. The past nine months have shown what communities can do when they are given the tools, the support and the sense of agency that enable them to cope and to look after people during something as traumatic as a pandemic. Once the restrictions ease and we are a wee bit further through, in relation to the health measures that are in place, we will be able to embark on that work to further empower communities—that is a desire that we set out in our programme for government.

The bill will undoubtedly complement that work—that is a shorter way to answer to your question.

Alexander Stewart: Thank you.

Keith Brown (Clackmannanshire and Dunblane) (SNP): Cabinet secretary, the Scottish Government said in its submission:

“The UK ratified the Charter in 1998 and so the Scottish Government is bound to comply with it”—

these days, I suppose, the need to comply with international treaties has become a rather old-fashioned view.

The Government goes on to say that the bill

“places a duty on Scottish Ministers to act compatibly with the Charter Articles”.

Am I missing something? Is there a distinction between the Government's being “bound to comply” with the charter and the bill trying to make it “act compatibly” with the charter, which is lost on me?

Aileen Campbell: Are you asking whether we believe that this is required for us?

Keith Brown: It says in the Scottish Government's submission that the Scottish Government accepts that it is "bound to comply" with the charter, but it also says that the bill seeks to ensure that the Scottish ministers "act compatibly" with it. Is there a distinction between the two? Maybe there is not; I am just wondering why the bill would seek to achieve something that is already provided for.

Aileen Campbell: We have always believed that, from the outset, we have acted compatibly and sought to comply with the charter and adhere to its principles, in all our approaches, policies and portfolios. I suppose that what is different is the call—from COSLA, others from whom you have taken evidence and Andy Wightman himself—to give the charter a formal statutory footing in domestic law. It probably is an unusual bit of legislation to incorporate, but on the whole we are comfortable with the principles that underlie it because we already comply with them. I suppose that the real difference is the formal footing and the legislative underpinning in domestic law.

Keith Brown: As you said, we have heard a variety of views from people. What I have heard from people in local government veers from a view that the bill is pretty irrelevant to the issues that they face and would have no huge effect and make no real difference, to a view that the bill would be a charter for endless and expensive legal disputes between different tiers of government, which would come to a head before elections, when people would try to score points.

Given that local government and the Scottish Government are pretty hedged around by bodies that examine what they do, and given that they operate at one remove through arm's-length external organisations and public sector bodies, for example, which view do you go along with? Is the bill likely to be pretty toothless in its effect or could it be detrimental to a proper working relationship between the two spheres of government? Do you have a view on that?

10:00

Aileen Campbell: Our view is that we act compatibly with the charter. I know that you have heard some views to the contrary in your evidence, but our relationship with local government is pretty good. Undoubtedly, from time to time, we have differences of opinion and we can hold different viewpoints but, on the whole, in my experience and across the Government, our engagement is positive. That fairly solid relationship has been essential during the course of the past nine months and has had to intensify because of the regularity of having to work together. How we have responded has meant that

we have had to work very closely with local government, including with SOLACE.

We have always worked on the assumption that we were compliant with the charter and that our relationship with local government was good, but we cannot ignore that local government colleagues have said that they feel that the legislative underpinning and the legislative articulation of that respect of local government is important in order to give more focus to the relationship and the sense of parity between the two spheres of government.

We also take heart from the fact that nobody—regardless of whether they are in local government or national Government—is looking to make the relationship into one in which decisions are challenged routinely and where there are big barneys in the courts, legal wrangling or expensive cases. I do not think that that is what anyone wants from the bill; that is certainly not what I heard from Andy Wightman or your witnesses, and it is not something that we want. We simply wanted to flag up the risk of an escalation of the cost, and that had to be checked across the whole of Government.

My hope is that we use this moment to further strengthen our relationship with local government and demonstrate our commitment to it.

There is an element of risk—there are risks with anything like this. However, from how it has been framed by the folk who have given you evidence and the fact that we do not want it to end up being caught up in the courts, we can have a sense of reassurance that we are talking about a gentlemanly relationship between the two spheres of government, and our communities will benefit from that.

Keith Brown: One of the comments that we heard from COSLA was that not doing what has been suggested would leave Scotland as an outlier along with Hungary, which is a pretty unfavourable comparison. However, if the bill becomes law, the rest of the UK will be the outlier, which COSLA did not seem concerned about. We also heard from Professor Chris Himsworth that not only should other public bodies be incorporated in this proposal, as has been mentioned by Alexander Stewart and Sarah Boyack, but the UK Government should be involved as well, which would genuinely make it about different spheres of government. I know that you cannot answer for the UK Government, but do you feel that it would be anomaly if we were to incorporate the charter and other parts of the UK did not?

Aileen Campbell: If the bill progresses through the Parliament and we are the only UK nation that has it in place, that would mean that there is a

different approach in Scotland from the one that there is the rest of the UK. However, the bill is proposed in Scotland and the Scottish local authorities' umbrella body, COSLA, is looking for the legislation. As the bill progresses, we can see whether the UK has any position on the matter.

I am focused on making sure that the relationship between the Scottish Government and local government is as good as it can be. It would be up to the UK Government to determine whether it feels that it always acts in compliance with the legislation in relation to its local authorities.

Despite some of the concerns that have been raised around the work and the relationship between local government and the Scottish Government, I feel reassured that we are in not a bad place, which has been demonstrated through the close contact that we have had to have over the past nine months in particular. My focus is on that relationship and, if that puts us at odds with the rest of the UK, that is simply a consequence of our taking different approaches. Getting to make our own decisions is a consequence of devolution.

Keith Brown: I agree with what you said about the way that local government responded during the pandemic. It has done a fantastic job, working with the Scottish Government.

Gail Ross (Caithness, Sutherland and Ross) (SNP): Good morning. We heard from Professor Kerley that some of the different views that were expressed in the earlier consultation may well resurface. A significant area that people could not agree on was whether the post of commissioner should be created. What is the Scottish Government's view?

Aileen Campbell: We feel that we agree with and are in the same place as the majority of the consultation responses, including—I believe—those from COSLA and Andy Wightman himself, although I would not seek to prejudge his views.

I do not believe that we feel that a commissioner is required.

Excuse me, but something has just cropped up on my screen that I will have to take down. I am sorry. There was a gremlin on my screen that I wanted to make sure to sort.

The Convener: No watching movies when you are in front of the committee, cabinet secretary.

Aileen Campbell: I did not mean that!

I am sorry for that interruption to my train of thought. As I was saying, we do not believe that there is a need for a commissioner.

Gail Ross: I do not have much else to ask about. However, I will ask about the more general subject of encouraging more people from diverse backgrounds to stand for local government. That

subject came up with Councillor Evison, who was of the opinion that the bill may help in some ways. Obviously, I would be delighted if it encouraged more diversity in elected membership in local government. Does the cabinet secretary see that happening, and how do we ensure that it does? In addition, how do we encourage more diversity in elected membership in local government more widely?

Aileen Campbell: If I am honest, when I ask people about the barriers to their taking part in elected life, the answer has never been the fact that we have not incorporated the charter. The way that Gail Ross framed the question is therefore right, in that it is about how we use the bill—if it progresses—as a chance to increase participation, which we all want to see.

Although it could be different for others, speaking anecdotally, the issue has never been raised with me as the thing that is putting people off. Nonetheless, if we choose to use it positively, it could help. However, it is more important that we encourage diversity through political parties doing what they can, and through mentoring and networking and so on, particularly for women. I know that Councillor Evison cares very strongly about those things and has done a lot of work on them at COSLA to try and encourage more people to stand for local government.

You and I are in a particular position: neither of us are seeking re-election next year, so we will have views about what other things need to change in political discourse and debate, such as how we respond to the challenges of family life. A host of other things need to change, not just in local government, but across all our elected arenas, in order to encourage a more diverse range of people to enter politics. If we achieve that, it will be better for our communities and constituents and for the country more generally, because every scale of Government will be more reflective of what our communities and society are like. It will take more than the bill to improve diversity but, if we choose to use it wisely, it gives us another way to encourage more diversity in local government; we will also need to work on diversity in the national Parliament.

Gail Ross: Thank you.

Annie Wells (Glasgow) (Con): Good morning, cabinet secretary. I have a couple of questions. If there are to be any sanctions beyond a declaration of incompatibility, what does the Scottish Government see potential sanctions for non-compliance being?

Aileen Campbell: I do not believe that there is a need for sanctions. If a declaration of incompatibility is made, it would be necessary to deal with that.

Annie Wells: Perfect. Most of my points have been covered already, but I have a final question. Does the Scottish Government have concerns around cost implications, particularly if the principles of the charter are already being adhered to?

Aileen Campbell: We have talked today about the concerns that we raised. We are reassured by some of what has been said in previous evidence sessions around the potential legal costs, but we still need to be mindful of them. However, if the legislation goes through Parliament and is adopted, we also need to make sure that we provide material support, such as training, to make sure that folk are geared up for it. That would involve a cost, but the biggie would be the potential costs and risk around the legal challenge. As I said in a previous answer, we are broadly content with the financial memorandum, but we wanted to flag up that issue around legal costs.

Annie Wells: Thank you, cabinet secretary.

The Convener: Andy Wightman, do you have any comments or questions for the cabinet secretary?

Andy Wightman: I do not have any questions but I welcome the Government's support for the bill.

The Convener: Thank you. That completes our questions and concludes this evidence session. I thank the cabinet secretary and her officials for taking part. The committee will take closing evidence from the member in charge of the bill on 9 December and report to Parliament early in 2021.

10:13

Meeting suspended.

10:16

On resuming—

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

The Convener: Agenda item 3 is post-legislative scrutiny of parts 3 and 5 of the Community Empowerment (Scotland) Act 2015. Today, we will take evidence from three community organisations that participated in the committee's survey on the act. We are keen to explore some of the issues that they have raised. I welcome Peter Scott, planning representative with Cramond and Barnton community council; Iain Hamlin, secretary of FRIENDS, or Stevenston Conservation; and Mary Peart, secretary of Community Out West Trust.

Thank you all for being here. We have just over an hour for this session. Before we start, I have some brief technical information. There is a pre-arranged questioning order. I will call each member in turn to ask their questions for up to nine minutes. It would help broadcasting if members indicated who in the panel their questions are addressed to. We might have a short amount of time for supplementary questions at the end.

As there are three panellists, please indicate clearly whether you wish to answer the question—for instance, by raising your hand—and do not feel the need to answer every question if your views are generally in line with points that have already been made or if the question is not aimed at you.

I ask everyone to please give broadcasting staff a second to operate your microphones before you speak.

We will now move on to questions. First, can each of you tell me about your community and what your organisation is trying to achieve? What are the big challenges facing your communities or organisations?

I am happy to take anyone who wishes to start.

Peter Scott (Cramond and Barnton Community Council): Good morning, and thank you for inviting me to give evidence.

The challenges to our community include large numbers of housing developments on the periphery of our community, which are putting huge pressures on local transport networks and causing us issues in trying to get decent traffic management solutions. That is part of the reason why we have been trying to get good engagement with the City of Edinburgh Council.

Another issue is that there are quite a lot of elderly people who need services. It is often thought that an affluent community such as ours does not have any needs, but we certainly have a need for medical, social and care services.

We also have people coming into the area whom we need to service. We have a lot of visitors coming to use the waterfront at Cramond, the Cammo estate and so on, and that gives us problems of traffic congestion and more traffic issues.

I will leave it at that.

The Convener: What is your organisation trying to achieve?

Peter Scott: I suppose that we are trying to reduce some of the issues, such as parking issues and traffic congestion on the main traffic networks through our area. We are trying to provide community services. At the moment, we have limited facilities for community meetings and so on. A lot of voluntary work is undertaken to help to maintain the environment in our area. We need to upgrade public toilets, for example, in some of the resort parts of the area. We just want to engage with the community and help it to liaise with the city council, and to make the city council's services work on our behalf.

Mary Peart (Community Out West Trust): The challenges in our community are really about the closure of facilities, or the lack of facilities, for the local community and the many visitors who come to the area. We set ourselves up nearly two years ago in order to take over a set of local public toilets that were closed by Highland Council. Since then, we have been trying to get funding to develop that and to provide camper-van hook-ups and other facilities such as camper-van waste disposal units. That is for the many tourists, but we hope that it will provide sustainable funding for the community toilets. In a small way, that is what we are trying to do in our area.

Iain Hamlin (FRIENDS): Our group has a reasonably specific remit, in that we deal with community green spaces. We try to improve them along various dimensions and we try to protect them, too. It is the issue of protecting community green spaces that is a big issue in the community. We have lost playing fields, and we are in the process of losing public parks and other wild green spaces in the town. There is a huge rate of loss of community green spaces, which obviously has a terrible impact on the town in various ways, and we devote a lot of time to trying to stop that.

The Convener: How would you describe an empowered community? Do you feel that your communities are sufficiently empowered to make the changes that you have all spoken about and that your areas need?

Iain Hamlin: I guess that an empowered community is one that has influence and that genuinely has decision-making power over the big things that happen in the community. Our community has influence over small things. For example, a year or two ago, the council carried out a consultation about which flower beds should be maintained and which should be abandoned.

In that sense, there is a certain amount of power over the small things, but that is not really of great interest to the community. People are interested in the big issues and the big money that is spent in their community, but we have almost zero power over that. I have no hesitation in saying that we have almost zero power over the big decisions.

There is a certain façade. There are public consultations, council community working groups and all kinds of community empowerment processes that take place when there are big plans on the table, but those tend to be just for show because, any time that the community is at odds with the council, the council never budges. Therefore, I would say that the community lacks empowerment in the extreme.

The Convener: That is interesting. I am sure that my colleagues will come on to question you further on that subject.

Peter Scott: Empowerment is really the ability of the community to be heard and, as my colleague said, to influence decision making in the council and other public agencies. It is also about the ability to get support for any initiatives that we put forward.

We are now part of two community participation requests. One is on traffic management issues at a local and strategic level and the other is a joint community participation request by five community councils in our area. That is basically a result of the council, over the past six years or so, keeping on changing the structures through which it engages with the community. First there were neighbourhood partnerships, and then there were locality committees. Now there are neighbourhood networks, but we remain unclear as to how the latest of those structures is supposed to work. They keep being changed, and the staff—

The Convener: Mr Scott, I think that some of my colleagues are going to ask you about those areas, so I will move on and give them a chance to ask you about them in more detail later.

Mary, will you give your views on what an empowered community looks like?

Mary Peart: For us, an empowered community is one that takes responsibility. It does not just sit back and complain about things; it does something about them.

We are quite a small group and we have not been around for too long, so it would be going a bit far to say that we are a fully empowered community. However, it has been an encouraging experience, because people have been excited by what has been achieved and there is a coming together of the community. I talk to other groups, and they are now looking at the approach as a way forward for some other problems, and perhaps some of the other toilets in the area. I think that we have shown the way in our community.

The Convener: You see growing empowerment in your group and you think that the model may be one that others can follow.

Mary Peart: Yes. I think that we have shown what is possible.

Sarah Boyack: I welcome the witnesses. It was really good to hear your opening remarks, and I am keen to follow them up.

Mr Scott, the convener asked you to wait until another member asked you about this, and I would like to ask you about the relationship with local authorities. One thing that came up in the workshops that we held with community groups was how they could access the right person in the local authority or public body. Do you know who to contact? Is it clear? You said that you had neighbourhood partnerships and then locality committees, and that you now have neighbourhood networks. Is the issue to do with the people you need to contact, the structures or the culture?

I ask Peter Scott to respond first, and then the other two witnesses.

Peter Scott: It is about the structures, for one thing. Recently, we had to ask the transport service for an organigram so that we could understand who does what, and we are still waiting for that. The responsibilities keep being changed and we keep being told that we are going through another change. We do not know who we are dealing with. That is one issue, and the culture is another one. There is sometimes a culture of people being listened to but not heard, and a culture of intransigence and procrastination. We keep thinking that we are getting somewhere, but then another study comes along on road issues or whatever, and we do not make any progress.

We have some good relations with individual officers. A lot is happening with voluntary work on environmental issues—for example, at one of our local nature reserves on the River Almond. We get on well with them at a local level. The problem arises when we try to get through to headquarters and influence the real decision making at the higher level, on the committees. With decisions on

planning and traffic issues, we just seem to get nowhere.

Sarah Boyack: Mary, what is your experience at the Community Out West Trust? Is the problem to do with access to the council and knowing who to contact, or is it the culture?

Mary Peart: I think that we have been lucky, because we were solving a bit of a problem for Highland Council. We found the whole process remarkably easy. We were lucky, in that there is a special community asset transfer team. I phoned up one day with a vague idea that we could maybe take the toilets over, and it was brilliant from that moment on. The team was helpful and supportive, which was a contrast to everything that I had heard. We also had to work with the amenities department, and the team chivvied that department along and got it on board with us.

It has been easy but, as I say, that is because we were solving a particular problem for Highland Council, which is that it has a bad reputation for closing toilets. The situation was a win-win, really. We met with nothing but encouragement.

10:30

Sarah Boyack: Thank you. That was a good culture and a straightforward process—we could learn from that.

Mary Peart: The team was also fantastic to work with. We really enjoyed it.

Sarah Boyack: Thank you for that. Mr Hamlin, do you have any insights on access, knowledge of who to contact and the culture? Has your contact been primarily with the local authority, or have you had contact with other public sector bodies?

Iain Hamlin: Our organisation does not have much trouble with identifying or accessing people. We have been around for an awful long time, so we are well acquainted with who does what in the council. Our problem is really with influencing the council on big decisions. When the council has a big plan up its sleeve, it does not want to be influenced, and that is a problem for us.

When it comes to other public bodies, we have liaised with Scottish Natural Heritage and the Scottish Environment Protection Agency on a few things. I do not think that we have necessarily had trouble with accessing the right people, but we have not really had much success with influencing them. Access is not the issue; the issue is with influencing people. That is the killer.

Sarah Boyack: It is not about the difficulty of getting into organisations, such as the two that you mentioned; it is about getting a result. Community Out West's experience was, however, a good relationship, with good results.

For those of you who have done participation requests, do you have any recommendations for how things should change? Is the issue not so much the participation requests themselves as the outcomes from them? Mr Hamlin, would you like to answer first?

Iain Hamlin: In a sense, there is nothing wrong with the participation request process; it would be entirely reasonable if public bodies were willing to be influenced. What strikes me as perhaps something that is wrong with participation requests is that there does not seem to be anything in the legislation that gives a community power. All it does is allow the community to speak to public bodies; it does not give it any power at all. The system will not work unless public bodies have more of an aspiration to give away power to communities, and I do not think they have that aspiration.

Sarah Boyack: Could Peter Scott follow up on that? You have had major strategic issues with the impact of transport coming into your area, but also you mentioned that you have had quite a few issues with support for older people and access to social care. Did you get the outcomes that you wanted from your participation requests? Does the shift need to come through the process, or is it more to do with the question that Mr Hamlin asked about the power relationship?

Peter Scott: We had problems with the process—I could go into those, but I am limited in what I can say at the moment about whether the process was successful or not. We have had two substantive meetings on the traffic management issues. The joint community participation request by the five community councils has only just started—the first meeting has not even been held yet.

We have found the process to be problematic. We have never had a formal decision notice. We asked over and over again for an outcome improvement process, which is what the 2015 act suggests. We then got three generic objectives for such a process, which were just short paragraphs. We ended up writing back to the council to say what we thought an outcome and improvement process should look like, which included timetables, people whom we wanted to be involved, key stages and so on. That was not what we received from the council to start with and not what we thought the guidance to the 2015 act required of it.

We had problems at the start. Our request got lost on a couple of occasions because of an information technology glitch. At that stage, we wondered, “If the council is ignoring our request, to whom do we appeal?” Appeals are quite important, so the committee might want to follow up on that issue.

The process has not been ideal. I am not sure whether there have been the same problems for other organisations in the community participation request process, but we have certainly not found it ideal. There are also issues with the reporting process. We have never been able to find any reports of previous participation requests to the council, apart from when they were hidden away in a committee report.

Sarah Boyack: Do I have time for a quick supplementary question, convener?

The Convener: You will have to be very brief and put it to just one witness.

Sarah Boyack: To follow up, I have a yes-or-no question for Mr Scott. Has the relationship between the community and the local authority changed as a result of your participation requests?

Peter Scott: It is far too early to ask that question. We now have good relationships with some of the officers, but it remains to be seen whether we will get the outcomes that we are looking for.

Annie Wells: Good morning. I will follow on from Sarah Boyack’s questions and pick up on something that Mr Scott said regarding an appeals process. Which body or bodies should be responsible for assessing appeals?

Peter Scott: [*Inaudible.*]—that the community participation request has been made to. We wondered whether the Scottish Public Services Ombudsman was the right person, but we do not really know. Basically, it has to be an independent body with a mediation role. That is about all that I can say.

Annie Wells: I will frame the question slightly differently for Mr Hamlin. Should there be an appeals process for participation requests?

Iain Hamlin: Definitely. There could be two appeals processes. One could be used when people are not happy with the process itself, if the participation request has been rejected or if they feel that it is not being handled appropriately. It is a good idea to have an appeals process for that.

However, there is a different type of appeal that would be even more useful. If you do not agree with the outcome of the improvement process, you should have the opportunity to appeal to an independent body. That could go beyond participation requests. If at any time a community was at loggerheads with a local authority over an issue, it would be good to have an external appeals process, so that an external body could make a determination.

At the moment, the only people in the equation who have any power are the people in the council. They have absolute power. That is not a very

healthy environment for good decision making, so it would be highly desirable to have an external body that could intervene on contentious issues.

Annie Wells: I will ask you the same question that Sarah Boyack asked Mr Scott. Has the relationship between the community and the local authority changed as a result of a participation request, at any point?

Iain Hamlin: The only two participation requests that have been submitted to our local authority are on the same issue. My group and the community council submitted them in parallel. That has had a negative effect. In other words, the requests have not led to any improvement; they have not led to anything at all. That is one more example in a long series of examples of having no effect on anything. In that sense, it is just one more nail in the coffin. It is a negative thing, rather than a positive one.

Annie Wells: Thanks for that.

My final question is for Mary Peart. Although your organisation has not yet had to submit a participation request, how confident do you feel about influencing decisions that are made on behalf of your community? I note that you said that you have a good relationship with the local authority.

Mary Peart: That is not something that we have thought of, at this stage. The nature of our body means that that would not be an obvious way forward. We feel that we are listened to; the people whom I have worked with so far certainly listen and we have had good conversations. I would be more than ready to give appeals a try, but I am not sure that that is likely to be necessary in the field that we work in at the moment.

Annie Wells: Thank you.

Gail Ross: Good morning, panel, and thank you for joining us. I want to start with Mary Peart, who will probably not be surprised by that. I am delighted to hear that your experience with the council has been good. We chatted about that at some length during the workshops. Has there been anything that you have found to be negative with any other groups? I believe that the council is not the only organisation that you have had contact with.

Mary Peart: [*Inaudible.*—the minor negatives were sorted out very quickly with that. Since then, we have been trying to develop the site. We have a rural tourism infrastructure fund grant application in at the moment, on which we have a bit of a problem emerging with SEPA, which is making a broad-brush decision about the site without looking at it specifically. That is not strictly on asset transfer, but about planning and moving

forward. Even there, we have had support from various bodies.

Gail Ross: There is a lesson in that, however. We were talking before with other bodies and organisations about what we saw as the lack of interest in community bodies coming forward, and about what could be learned from the ones that have been successful and, perhaps, those that have not been so successful. The lesson is probably that asset transfer is a big undertaking. It is not just the initial asset transfer that has to be gone through; a lot goes on behind that, and a lot happens afterwards, as well. It is interesting to hear that; I hope that it can be sorted out.

Mary Peart: We hope so.

Gail Ross: I will open the question up to our other two panelists. At the workshop, one of the big bits of feedback was that the legislation is good but there is possibly a lack of awareness of it and a deeper lack of understanding of how it works in practice. That applies to members of the public and community groups, and to members and officers of local authorities. How did your groups first think about using the Community Empowerment (Scotland) Act 2015?

Mary Peart: [*Inaudible.*—had been trying to get Highland Council to keep the toilets open and they were told, “Absolutely no—if you want them open you’ll have to do an asset transfer.” That was how we heard about it. We then sat and talked about it and thought, “Let’s go for it.”

10:45

Gail Ross: Iain Hamlin, how did your group first start thinking that it could use the act?

Iain Hamlin: Every couple of weeks I read the Scottish Community Alliance website, which had an article about participation requests. When I read that, I thought that I would give it a shot. I told the community council about it and suggested that it do the same thing. We just advertised on the Scottish community web presence, as it were.

Gail Ross: How did you find the initial process in terms of knowledge of the act within the local authority?

Iain Hamlin: That is a good question. We submitted requests and heard back from the local authority, so it must either have known or taught itself what it was, and followed the appropriate steps. Obviously, the process was a bit shaky and there were delays, but that is to be expected when working with local authorities.

Although the local authority followed the process well, I do not think that it wanted to buy in to the most important aspect of the process, which involves it being influenced. Perhaps the people

involved do not understand that they are supposed to be influenced. Perhaps they think that it is just another thing that requires them simply to nod and to placate communities when they come along. They might not appreciate that they are supposed to be more influenced by participation requests than they usually are.

Gail Ross: Did you have to deal with one specific officer in the council? Another thing that was brought up in the workshops was that people have had to deal with different departments and different officers, and have ended up having to explain the objectives several times. It was suggested that having in each public authority a specific officer, who at least has knowledge and experience of the process, would be helpful. Would that have been helpful in your case? Did it happen?

Iain Hamlin: I think that it must have happened. We submitted a form—I cannot remember where we submitted it to, but it obviously went to the right people—and we must have got an interim email that thanked us for our request and outlined what would happen next. Following that, we were pointed to the council manager who would liaise with us. That was not a community empowerment individual but a man who was actually working on the project that we were interested in. The process seemed to go smoothly.

Gail Ross: At what point did you realise that it was starting to go not so smoothly? Was there a specific point, or did things just fall by the wayside in bits and bobs?

Iain Hamlin: Things did not really fall by the wayside; there was a conclusion. Both organisations—the community council and FRIENDS—went through the process in parallel and discussed matters with the relevant people in the council. Based on those meetings and the information that we gathered, we reached our respective positions and put them to the council.

To say that those positions were ignored would not be right, because our emails would have been read, but they were not used to influence the council. It was the same as what happens when the council runs a community consultation, or there is a community petition or a community council working group: whatever the process is, it results in an output—in this case, a community representation—that has no influence. We went through the process, produced an output and it had no influence.

Gail Ross: That is interesting.

Peter Scott, is the legislation understood and is there enough awareness in the community and the public authority?

Peter Scott: I do not think that the legislation is understood or well known in the community. I happen to know about it because, in the past, I had been interested in asset transfers and was interested in the opportunity that the act might provide in that regard. That led me to find out about the community participation element. After a lot of frustration, we eventually put in our request.

The City of Edinburgh Council has a set of guidelines about how requests should be dealt with, but we have found that they have not been followed. The council seems to follow an informal process: you put in an application and, eventually, you get a letter or an email saying that there will be a meeting and that certain people will attend. We have never had what I would have understood to be a decision notice—which should be published on the website, according to the guidance. I believe that there is not even a page on the website that deals with that.

As I said, the process is informal. The lead officer in the governance team who started the process handed it over to a transport officer. The community participation request was on transport issues, so it was not exactly an impartial person who was going to lead the process in the council. Luckily, we have somebody who is dealing with it on a very impartial basis and who knows the locality, which helps. Basically, it has been handed over from governance to the service that we had the problems with, which does not give an impartial view. The process is carrying on in that informal way. We have to write the notes of the meetings and get them agreed. We had to develop the process, say what stages we wanted to go through, what the timetable was and so on. My understanding from the guidance was that that should be done by the public authority. It has not been a very happy process, so far.

I see that the second CPR—the one that is being done jointly—is going through the same initial stages of meetings with senior officers, but there is no process set out. We wait to see whether that will come.

Gail Ross: That is very helpful.

The Convener: Andy Wightman is next.

Andy Wightman: Thank you, convener. This is for Iain Hamlin and Peter Scott. Have you considered using the asset transfer provisions and, if so, how far have you got?

Iain Hamlin: We have thought about it. There is, next to the biggest and most deprived part of the town, a really nice public green space, which is obviously of great social and environmental value. Despite our best efforts, the council has for the past 15 years repeatedly zoned it for housing. We thought that an asset transfer might be the best

thing to do, and it has been spoken about in the community.

We have got as far as making inquiries, but not so much about how to acquire the asset, although we had a chat with the leader of the council and a local councillor about how to get our hands on it. I have made inquiries with various organisations about how we would pay the ongoing costs, which is the worrying part. The process of acquiring or getting the money to buy the asset is not particularly challenging, but how on earth to pay the ongoing costs of owning land is. Therefore, in a very casual way, I am continuing to make inquiries to try to find the simplest way possible for our community to raise enough money to pay the ongoing costs of land ownership.

Peter Scott: [*Inaudible.*]*—*car park, but at the moment the community council is struggling to get volunteers to do such things. In fact, we struggle even to find members for the community council who will be active and take proactive roles. That might be surprising in a community council such as ours, but many people are already volunteering with various initiatives—in the kirk, giving care to elderly people or working on environmental projects. To take on more at the moment would perhaps be too onerous for us. We would like to do it, but we are unsure, given our experience of working with the council, how positively the council would respond to such a request, and how much hassle it would give us.

Andy Wightman: Thank you. Iain Hamlin, you are from Stevenston, which is a place that had argued for more power since 1831 and eventually became a town council in 1952, giving it power over licensing, planning and all the rest of it. Stevenston managed all that itself for almost 25 years. Is there an issue about where power lies? You have expressed a degree of frustration with the Community Empowerment (Scotland) Act 2015, which you have said allows you to speak but does not really allow you to make decisions. Do you think that we need to return some of the powers that you used to have in the past?

Iain Hamlin: Yes, I agree 100 per cent. When one is doing community projects, one's peers tend to be older retired people, and people of that age remember Stevenston back in the days when there was a town council. The community produces a narrative about why the town has gone down the tubes over the past few decades and they attribute it almost entirely to the town council vanishing. Local people think that the fact that decisions are made at local authority level, where there are 130,000 people—the most local level of decision making—is the reason why the town is so bad, because local decision making was removed and replaced by decision making by people who

have no connection to the town and no real interest in its wellbeing.

Andy Wightman: On asset transfer, I am intrigued by the green space you mentioned. What is the history of the parcel of land that you have been interested in?

Iain Hamlin: That is the thing. The land was owned by a wealthy landowner until the 1960s, when it was sold to Glasgow City Council for Kerelaw residential school for young folk. Technically, Glasgow City Council owns the land—I have been making inquiries about it to the council for 15 years. However, one of the problems is that an arm's-length quango, City Property (Glasgow) LLP, owns it on behalf of the city council. It tells me that its only remit is profit. I have contacted the quango about improving the site for the community, protecting it and taking legal ownership and the company tells me that its only remit as a quango is to make money and that anything community-related does not make money. That has been a problem and that is the current situation.

The land is owned, on behalf of Glasgow City Council, by an arm's-length quango that is determined to make money and is marketing it as a development opportunity and our council—North Ayrshire—is complicit in that because, despite objections, it keeps zoning the land for housing, even though we have three times as much housing space as we need. That is what is forcing us to try to acquire the land because we know that, otherwise, it will be lost.

Andy Wightman: Thank you. The committee has heard concerns that a lot of land that is held by ALEOs is not eligible for transfer because they are not listed as eligible public bodies.

Stevenston has a common good fund, which has about £100,000 or £200,000 in it. Do you have any role in managing the fund or the land that is owned by the fund or is that all done by the council?

Iain Hamlin: That is all done by the council. The community does not have a role in that. The community has tried to exert influence over common good land. We have a couple of small parcels of common good land, one of which was acquired by community subscription about 100 years ago, to serve the benefit of alleviating suffering and promoting good things in the community. That piece of land was particularly important to us—it was a building with nice gardens—and we tried to exert influence over it, but the council decided to sell it to a property developer for £15,000. The community launched a campaign, but it failed and part of the common good land was sold off. That was a few years ago.

We have tried to exert an influence over common good assets but we have had no luck.

Andy Wightman: My next question is for Mary Peart. Has your experience in taking over public toilets encouraged you to think more ambitiously about other assets in your community over which you could take ownership and management?

11:00

Mary Peart: Yes, in the long term. At the minute, we are very busy—it is the typical thing of a small number of people being involved in something. We keep thinking of other things that we might like to get around to in the future. However, it is a lot of work. We have to be cautious, and not overambitious, because it all the paperwork and management takes time. However, the experience has made us think about other things in the area that could be improved, that is for sure.

Andy Wightman: Thank you; that is useful.

My final question is for Peter Scott. You mentioned a participation request for which you have just begun the process, in which, I think you said, five community councils are involved. Will you say a little about how that process came about, and how you got together as community councils?

Peter Scott: Some major planning and transport issues were affecting the whole of north-west Edinburgh, so the chair of our community council suggested getting together with the chairs of all the other community councils. We have had several meetings with the convener of the council's transport and environment committee, and with senior officials in planning and transport services, but were basically getting nowhere, so the Queensferry and district community council has headed up a joint community participation request. As I have said, that has only just started, so I cannot really comment on how successful it might be.

Andy Wightman: Okay. It is interesting that you have got together to do that, and I am very keen to follow your progress.

I think that I said that my last question was final, but this question is—it is for Peter Scott and anyone else who wishes to answer. Community councils were created in 1973, mainly as a concession because 196 town councils that were being abolished resented the loss of real power on things such as planning and licensing. Peter Scott mentioned that there is an issue about capacity and volunteer time. Is there an argument for giving community councils more statutory powers, so that they could have a proper income through taxes, could employ professional people and could

thereby increase the capacity of the community to do useful things?

Peter Scott: That might be possible at community council level, or it might be better at the locality level, bringing together several community councils. I am not sure that our community council alone would have the resources and the strength to be able to do that.

As well as what you are talking about, one of the important points about community asset transfers is that money would need to come with some of the assets that the community might take over. For example, there is not really a lot of reason why a community would want to take over a large car park without getting funding to do so from the council that was responsible for it. Things such as open space or allotments would be more attractive to take over and perhaps raise funds for, but toilets or car parks, important as they may be, perhaps do not have the same appeal for a community to start fundraising to look after them. I am not sure that that totally answers your question.

Andy Wightman: Thank you; that was very helpful. Unless Iain Hamlin or Mary Peart wants to come in on that, that concludes my questions.

Keith Brown: A lot of ground has been covered. I will not take as long with my questions; I have one for each witness.

My first is to Peter Scott. I last lived in Cramond about 45 years ago, and traffic management was the issue at that time. That was when they changed the flight path to Edinburgh airport; it went right above our house.

I can understand why community councils would be very focused on the local council, as it is central to what they do and produces the scheme for their establishment. However, the act allows for participation requests with other public bodies. I do not know how relevant it would be to the particular issues that you have raised or whether, for example, Lothian Buses would be classified as a public body, but have you ever considered looking at participation requests with other public bodies?

Peter Scott: We are early in the process. We are only beginning to realise the scope that the act provides for community participation requests, so we will not decide whether to take on more until we see whether the process works. We see it as a process of last resort and one would hope that we would manage to get the levels of engagement and the outcomes that we are looking for before we went down that route of last resort.

Keith Brown: I said I had just one question for each witness, but I will follow that up. Many of your answers have been about frustrations with the local authority. Previously, we have had a number

of recommendations that might help, such as the perennial one of saying that there should be a culture change—in this case, that would be a culture change in the approach to community empowerment. I worked in local government for 20 years; culture change can be aspirational but difficult to achieve. In your experience, would it be more beneficial if one person had central responsibility for making sure that the authority responded in the correct way—[*Inaudible.*—the minutes of meetings and that kind of thing?

Peter Scott: Yes, it would.

Keith Brown: Thank you.

I have a question for Iain Hamlin. In response to a previous question, you said how powerless you felt, that all the power was with the local authority and that it would be good to go back to how it was before. Am I right to assume that, in looking for that authority and power to be devolved further down—through reorganisation of local government—you mean to an elected body, not to a conservation body such as yours?

Iain Hamlin: Our body is a small community group that does environmental projects, so it would be odd if we were given genuine carte blanche power. A lower level of elected representation would make a lot of sense but you can give community organisations such as ours power via other means, albeit on a case-by-case basis. There could be a powerful body that sits separately from county councils and liaises with community bodies to give them power when needed. In a previous answer, I mentioned that, if a community organisation or movement is at odds with the council on an issue, it would be good to have an independent body that had power, so that, on that particular issue, it could give power to the community. Whether it is small or big, the body could take power away from the council and give it to the community on an issue-by-issue basis.

Keith Brown: I apologise; I said that it would be one question but, again, I will follow that up. Your particular issue was with what you called a quango but which the council might call an ALEO, although the language does not matter. Do you think that one of the improvements might be to bring those bodies more directly into the remit of the 2015 act or to strengthen the arm of organisations such as yours in relation to arm's-length external organisations such as that?

Iain Hamlin: Yes. We have had only one scenario in which we have encountered arm's-length bodies, which was the one that I mentioned. Yes, it is frustrating. On that occasion, and in the context of that issue, it would have been 1,000 times more helpful if the quango had not been there and Glasgow City Council had owned and managed its assets.

Keith Brown: I have a final question for Mary Peart. It seems that you have the most clear cut and positive experience. Without putting too much on it, having taken control of the public convenience, is it the feeling of empowerment from taking that decision—and action being taken, so that a local facility was protected—that led to that intangible sense of empowerment in the community? The community can see that it has taken action and that it worked in the way that it wanted. Do you feel that that helps to empower local communities?

Mary Peart: Yes. The toilets were in the middle of the village and abandoned, and people were misusing them when they were closed. We took them over, and one of the best things about that was that we started to see a rekindling of the community spirit in the village within a matter of weeks. We were not expecting that, but it was there; for example, people who had never done so before were turning up to fundraising activities. It is a tiny village, but the action has—in a small way—brought a bit of life back into it and the neighbouring village. It is a very rural and spread-out community, hence why we need the public toilets, and other villages are now doing the same. We have been invited to talk to two other community groups about their toilets. It is spreading and, although it is a slow process, it is a very good one.

Alexander Stewart: Good morning. It is obvious that each and every person on today's panel is very much a community champion. We have also seen that in the engagement that the committee has had with other organisations when taking on board their views. You will want the act and you will want empowerment to take place, because it enables you—as communities—to feel ownership and responsibility. There is no question but that you have echoed today much of what we have already heard about frustration, the lack of communications, and even, at times, the lack of respect that there seems to have been between yourselves and officials at the community level.

What more could the Scottish Government and public bodies do to ensure that there is real empowerment? As I see it, and from what I have heard today, there seems to be an element of empowerment, but not what you, as community champions, want or need to ensure successful asset transfer or participation.

Peter Scott: The problems in relation to empowerment and engagement start at the top. We find that we do not get heard properly, even when we go to conveners of committees. If the leadership at both the elected member and the officer level does not give the lead to junior officers, we will not get the change in culture that we—[*Temporary loss of sound.*]

Gail Ross: I think that I am the only person left who people can see and hear. I apologise—we appear to have some connection problems. We will suspend the meeting for a couple of minutes to see whether we can figure out what is happening.

11:15

Meeting suspended.

11:24

On resuming—

The Convener: I apologise for the technical glitch. Does Alexander Stewart want to pick up where he left off?

Alexander Stewart: Yes, thank you. I think that Peter Scott was trying to answer. My question was about what the Scottish Government and other public bodies should be doing to support engagement.

Peter Scott: I am sorry—do you want me to speak without seeing me?

The Convener: Yes, that would be fine.

Peter Scott: I am told that the committee cannot see me.

Alexander Stewart: As long as we can hear you—that is the main thing.

Peter Scott: It is probably better that way. I am not sure how much of what I was saying you heard.

Alexander Stewart: Not very much.

Peter Scott: I was saying that the change in culture needs to come from the top of the organisation. We have found that, even when we engage with the conveners of committees or senior officers, we do not really get the level of engagement that we want or the time that is needed for them to take on board what we are saying to them. They seem to hear but not to listen.

I am not sure how many of you have read the Accounts Commission's report on best value. Basically, it says that the Edinburgh partnership and the council do not have a community engagement strategy in place. That is an accurate assessment; it is certainly the impression that we get.

Alexander Stewart: Will Iain Hamlin give his impressions? Are they similar?

Iain Hamlin: Yes, I think so. The broad problem with things such as participation requests is that they do not give any power; all that they do is encourage engagement. There is a difference between engagement and empowerment.

Communities are engaged to death by councils—there is engagement all the time—but there is no power for them. A distinction needs to be made between increasing engagement and increasing power. As far as I can see, participation requests increase engagement, but do not increase power.

Mary Peart: [*Inaudible.*]—respected and listened to. We had a very contrasting experience. As I said, we found Highland Council to be very receptive.

A lot of work is needed. We started off as interested individuals, and we had to set up a company and register it at Companies House. There was a massively steep learning curve, which we enjoyed; it was a very fulfilling journey. However, we need more organisations or strengthened organisations, such as the Community Ownership Support Service—[*Inaudible.*]—service. They were fantastic, but there is so much to learn and to do.

My worry is that we could end up with a proliferation of small organisations such as ours. Is that the best way forward? We have enjoyed what has happened—it has been fantastic—and we are ambitious for the future. We are lucky in the Highlands. We have the dedicated community asset transfer team, which is brilliant, but we need support, help and advice at the next stage. We were lucky that we got that and that we had the skill set to deal with it, but there must be a lot of opportunities for which that skill set does not exist.

Alexander Stewart: You have all identified that you have enthusiasm and energy, that you want to be involved, and that you get so far. Then, however, there is frustration and lack of support and you are dismissed, or you believe that your abilities do not seem to match what the community, the council and the officials want.

My question is for Mary Peart in particular, because she seems to have had a reasonably good experience. What made the difference for you? Was it simply personal contact, or was there a strategy? Was there an overarching ability in your organisation and the people whom you met to ensure what happened? It appears from what you have said that that is the case, but others do not seem to have had the same good experience.

11:30

Mary Peart: It was all those elements. I must preface that by saying that Highland Council was getting enormous stick in the press for closing toilets and we were opening a set of toilets, so we were on the same side, basically. That colours a lot of what has happened to us.

Our experience was down to the CAT team listening and to its human touch. We are lucky that

the small group that we formed had the time, skill set and determination. Things fell into place for us, but that was due to a combination of factors, and I do not know how often that would be repeated.

In fairness, I point out that Highland Council has asked us whether it can give our details to others who approach it about asset transfers, so that we can provide advice. Our experience was down to a unique combination of elements that we were lucky to have.

Alexander Stewart: Thank you very much. I will end there, convener, as I know that time is pressing.

The Convener: That completes the evidence session. I thank the witnesses for taking time out to speak with us today and for raising interesting issues for our inquiry.

Subordinate Legislation

Town and Country Planning (General Permitted Development) (Coronavirus) (Scotland) Amendment (No 2) Order 2020 (2020/366)

11:31

The Convener: Item 4 is consideration of a negative instrument, as listed on the agenda. I refer members to committee paper 3. 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 motion to annul have been lodged.

The Delegated Powers and Law Reform Committee considered the instrument on 24 November and determined that it did not need to draw Parliament's attention to the instrument on any grounds in its remit.

Do members have any comments on the instrument?

Sarah Boyack: This morning, when I was thinking about what the instrument could be used for, I heard the announcement about the Covid-19 vaccine. That leads me to guess that it is about infrastructure for roll-out of testing and vaccinations, so it is an important piece of subordinate legislation. I am very interested to see it in front of us today, and look forward to scrutinising its impact in the future.

The Convener: As no other member wants to comment, I invite the committee to agree that it does not wish to make any recommendations on the instrument. Are we agreed?

As no member objects, that is agreed.

11:33

Meeting continued in public until 12:14.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba