



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government and Communities Committee

Wednesday 10 March 2021

Session 5



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Pàrlamaid na h-Alba

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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

11th 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:

Jen Ang (JustRight Scotland)

Susanne Millar (Glasgow City Council and the Glasgow City Health and Social Care Partnership)

Eloise Nutbrown (Convention of Scottish Local Authorities)

Graham O'Neill (Scottish Refugee Council)

Girijamba Polubothu (Shakti Women's Aid)

Robina Qureshi (Positive Action in Housing)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

Virtual Meeting

Scottish Parliament

Local Government and Communities Committee

Wednesday 10 March 2021

[The Convener opened the meeting at 09:19]

Decision on Taking Business in Private

The Convener (James Dornan): Good morning, and welcome to the 11th meeting in 2021 of the Local Government and Communities Committee. I ask members to ensure that all mobile phones are on silent. I remind everyone that broadcasting staff will operate your camera and microphone as usual. Please allow a short pause after being called to speak to allow them to do so.

Before we move on to item 1, I apologise for the delay in starting this morning. It was because of technical issues.

Item 1 is consideration of whether to take items 4 and 5 in private. Item 4 is consideration of the evidence that we will hear today on people with no recourse to public funds, and item 5 is consideration of an analysis of responses in relation to licensing of static mobile homes with permanent residents. As we are meeting remotely, rather than ask whether everyone agrees, I will ask whether anyone objects. If there is silence, I will assume that members are content. Does anyone object?

As no one objects, that is agreed, and items 4 and 5 will be taken in private.

No Recourse to Public Funds

09:20

The Convener: Under item 2, the committee will take evidence on the issue of people with no recourse to public funds. Following the tragic events of last summer, the committee's attention was drawn to the vulnerability of asylum seekers and those with insecure immigration status. In particular, the committee was concerned about the plight of people with no recourse to public funds and the gaps that those seeking to help them in local authorities and the third sector found in the system. We sought written evidence on the issue, and agreed to hold a one-off evidence session to explore some of the issues in more detail in a public forum.

Today, we will hear from a range of organisations on the provision of support to people who have no recourse to public funds. I welcome our first panel, who are Susanne Millar, Glasgow City Council and interim chief officer with the Glasgow city health and social care partnership; Eloise Nutbrown, policy manager for migration, population and diversity with the Convention of Scottish Local Authorities; and Girijamba Polubothu, manager of Shakti Women's Aid.

Thank you all for being here today and for your written submissions. We have allocated about an hour for this session, and we have a number of issues to discuss with you. Before we go on to that, I will give some brief technical information. There is a prearranged questioning order, and I will call each member in turn to ask their questions for a block of up to nine minutes. It would help broadcasting if members could indicate who their questions are addressed to. We might have a short amount of time for supplementary questions at the end.

As there are three people on the panel, please indicate clearly if you wish to answer a question—for instance, by raising your hand—and do not feel the need to answer every question fully. For example, if you agree with a point that has just been made, you should feel free simply to confirm that. I ask everyone to give broadcasting staff a second to operate your microphone before you speak.

We will now move on to questions. The first question is from Alexander Stewart.

Alexander Stewart (Mid Scotland and Fife) (Con): Good morning. Can the panel members provide us with some general information about how they individually support people who have no recourse to public funds?

Susanne Millar (Glasgow City Council and the Glasgow City Health and Social Care Partnership): I will offer my perspective as the chief officer of the health and social care partnership and as someone who has worked in Glasgow City Council for 30 years, with responsibility for asylum since 2006. The way in which our organisation—previously the council and now the health and social care partnership—supports people with no recourse to public funds is articulated in the policy and procedure document that we submitted as part of our evidence.

There has very much been an evolving picture for us in relation to our being confident and reassured about the legal framework within which we can operate as a local authority to support people with no recourse to public funds. Part of our business in relation to that support is very clear, particularly, for example, in relation to dependent children, and that is articulated in the policy document that we submitted. There are other areas where there is a need for a clear social work assessment in relation to need. Clear criteria are set out in the policy document about need that goes beyond destitution. If we can, through assessment, establish need beyond destitution for adults, for example, we can offer support to people with no recourse to public funds.

That is not necessarily as straightforward as the document suggests, and it is an area of policy and practice in which we in the local authority have relied particularly heavily on support from COSLA, the strategic migration partnership and the third sector. As a local authority, we try to be as compassionate as possible in the implementation of the policy while recognising that we have legal restrictions and that immigration is not a devolved responsibility. We have to be really clear that we continue to operate within that legal framework while taking a compassionate approach to supporting people with no recourse to public funds.

Our relationship with the third sector has got much stronger. That is certainly the case with my work with Eloise Nutbrown and the team at the strategic migration partnership. That partnership has yielded a much more effective support system for people with no recourse to public funds. The partnership between local authorities and the third sector is where we continue to have some mileage or some room to offer support to people with no recourse to public funds.

The past year has brought a different set of challenges for all the business that I am responsible for. However, one of the advantages of the past year has been that, because of Covid-19 and some of the public health restrictions attached to it, we have been in a position to offer a number of people with no recourse to public funds

clear support from the local authority, working alongside the Scottish Government. So, it has been a different year for us, but the short answer to your question is that NRPF is a difficult area of policy and practice for local authorities, which we continue to work our way through.

Eloise Nutbrown (Convention of Scottish Local Authorities): Good morning. As Susanne Millar said, I am based in the strategic migration partnership in COSLA and our team broadly supports local authorities in relation to migration humanitarian protection. Part of my role is working to support councils to respond to no recourse to public funds restrictions. There are two ways in which we seek to assist local authorities and community partners, one of which is monitoring the policy impacts. It is a complex policy area that changes frequently, and the impact of the policy on migrants of different immigration status is quite challenging. We provide national guidance in partnership with JustRight Scotland and the no recourse to public funds network that sets out the legal framework that local authorities operate within. We seek to support local authorities to think about the service provision that can be put in place under statutory duties and how to provide that effectively. We looked recently at training and awareness-raising to support front-line workers to respond.

At a policy level, we support our elected members in COSLA so that COSLA's leadership, particularly our community wellbeing board, take an interest in the issues. The board has been looking at what the opportunities are for working with the Scottish Government and the United Kingdom Government to try to prevent destitution. We have long-standing policy positions in relation to the removal of NRPF conditions. We advocate for cross-party political calls, and we seek to engage with the UK Government. We have also been working with the Scottish Government on the development of an anti-destitution strategy that will look at how we can work with the third sector and maximise statutory powers to prevent and mitigate homelessness, rough sleeping, food insecurity and other issues that we have seen the third sector in particular draw attention to over the past few years.

As Susanne Millar said, during the past 12 months, given the public health crisis, our team has increasingly shifted focus to look at what the public health response has meant for people with no recourse to public funds. We run a typical network, with our local authorities and officers coming together to share practice, but we convened an additional network team with the third sector to monitor needs and pick up on changes in migrants' experiences, and to escalate those to local government and the Scottish Government.

The main areas that we are looking at are the European Union settlement scheme and the changing rights and entitlements of EU nationals. I hope that we can come on to that during the meeting, but there will be some significant impacts from the changes in rights and entitlements for EU nationals. We anticipate an increased number of people with no recourse to public funds and significantly increased risks of destitution. We are looking at how to respond, how local authorities need to prepare to respond and what we need from partnership working.

09:30

Girijamba Polubothu (Shakti Women's Aid): I will speak about how we operate as a service provider. Shakti has been supporting women with no recourse to public funds since it was established. I can comfortably say that we are one of the main third sector organisations that raised concerns about supporting women with no recourse to public funds. We work closely with the Scottish Government, COSLA and other organisations that work towards a change to support women with no recourse to public funds. We also sit on the national no recourse to public funds campaign body and have been instrumental in bringing in the destitution domestic violence concession.

When we receive a referral, we provide information and emotional support to the women, we do a risk assessment of the case and, where necessary, we refer the women to other agencies for support. We refer the women to the multi-agency risk assessment committee—MARAC—and we help them to get accommodation and help from the immigration solicitors.

Those are all things that we do, but there are a lot of barriers, because they have no recourse to public funds. We raise some funds to support women initially for day-to-day life, but that is not much. We raise very little money and we do not get funds from anywhere else. We give the women £30 per week to start off and that is not for a long time. We also have access to money from Southall Black Sisters, which is the main body that campaigns for women with no recourse to public funds, and it has some funds to support those women. Initially, that was only for the rest of the United Kingdom. Later, because of our negotiations, it started funding Scottish organisations as well. However, it funds only accommodation, not subsistence. We also work closely with the police.

As a third sector and black and minority ethnic women's organisation, it is very difficult for us to access services for women with no recourse to public funds, because not all organisations are open to support those women. During Covid, one

positive thing was that accommodation was open to anybody who was homeless. That was good but, despite having that convenience, our women still faced barriers at the beginning; when they approached housing providers and refuges, they were not initially given accommodation. It was not that simple at the beginning. Later on, it got better, but some women were put in mixed-gender accommodation, and that became a bit difficult. Some of the accommodation providers, especially refuges, were concerned about what would happen after Covid, because whatever they provided was only for the Covid period. What happens post-Covid? Where will the women go? That was another barrier for many organisations with regard to offering accommodation to the women.

Alexander Stewart: Thank you. I have some final quick questions for Susanne Millar. You have given us a good flavour of what has happened and the policies that you have to manage but what practical impact has the pandemic had? What lasting processes will you look at? How will lessons be learned from all that?

Susanne Millar: The opportunity that is afforded goes beyond the people who quite clearly come within the power of welfare that local authorities have—the people whom we have been able to accommodate—and we have enacted that.

A particular piece of practical work that has come out of that has been in working alongside the third sector. The health and social care partnership in Glasgow City has made a commitment to extend funding for three months beyond the withdrawal of central funding, whenever that may be. That is specifically to allow us to work with third sector organisations, primarily but not exclusively the Scottish Refugee Council and the legal organisations, to make sure that individuals have exhausted any rights of appeal. We have identified a team leader within our homelessness services to undertake that work. That will give us and the third sector three months in which to make sure that we have exhausted every single possible support that could be offered legally from the local authority, and any other representation that could be made with legal and SRC support.

Eloise Nutbrown mentioned EU nationals. We also have a specific piece of practical work going on that involves encouraging any EU nationals who have not already applied for settled status and who are currently within that emergency-type situation just now. Again, we are working on accommodation, mainly through the third sector, because our experience is that EU nationals in particular are more likely to be able to engage with that because we are seen as an authority and as part of the wider authority.

We are taking such practical steps, at this time, to make sure that, if anybody in that cohort can access public funds, and/or make a fresh claim, we will support that.

The Convener: As we move out of the pandemic, obviously, things must have been learned through working together in a way that has not really happened before at such a level. What key messages do you have for the next Local Government and Communities Committee and the Scottish Government—and, I suppose, even a message that you would wish to send down to Westminster—about how best you could support people who have no recourse to public funds?

Eloise Nutbrown, you are on my screen, so you can kick off.

Eloise Nutbrown: [*Inaudible.*]

The Convener: Can we unmute Eloise, please?

Eloise Nutbrown: Hi, can you hear me?

The Convener: Yes.

Eloise Nutbrown: The key message that we have within local government for the UK Government is about the policy itself. Fundamentally, we have been calling for a long time for the no-recourse-to-public-funds conditions to be removed and lifted, and for alternative ways of managing immigration to be introduced. We understand that the intent behind the policy is to make sure that people are contributing financially in the UK while they live here, but the reality is that people hit times of crisis, such as when they lose work, and, as we see, the economy is really struggling as we come out of the pandemic.

Social security is a human right, access to which local government supports for everybody regardless of immigration status. We have been advocating for the conditions to be lifted so that mainstream central Government support can be in place as opposed to a local government safety net that is expensive to resource and administer and does not meet the needs of everyone who requires it.

In Scotland, and for the Local Government and Communities Committee, we are really clear that, as Susanne Millar has outlined, local authorities have powers and duties. Those are increasingly challenging to resource, deliver and administer, both because of the numbers of people who require assistance and because the financial implications are significant. In some cases, families need financial payments to meet housing costs and daily subsistence needs for years at a time. In particular, the City of Edinburgh Council and Glasgow City Council have consistently high costs and a population that consistently requires that on-going support.

The main call that we have for the Scottish Government, which it has responded to and on which we are bringing forward a strategy, is to work together to look at the scope of the powers and duties that local authorities have, how to apply those duties and how we fund them, and the best way of providing a social security system, in effect, under those devolved pieces of legislation. We would like to see that work taken forward at pace in the form of a review with clear outcomes that we can discuss and start to implement.

In relation to learning from the pandemic, as Susanne Millar said, there have been some brilliant examples. We cannot praise the third sector partners enough for their willingness to work with local authorities and act quickly in response to need. They also need to be supported and able to access on-going funding and they need to be able to work effectively with local authorities. For that to happen, the national strategy needs to provide that framework and, crucially, the sustainable funding for those partners to keep providing accommodation, food and legal advice, which are all essential needs that we must ensure are in place in our communities.

We are keen to discuss the funding implications for local government and the third sector, and the final area that we need to focus on is innovation. It is fairly basic stuff in many ways; we are talking about a safe place for people to stay, cash support, food and access to legal advice so that people can fundamentally re-enter normal systems and mainstream services. It is more about partnership working than innovation in many ways.

The Convener: That takes me on to Girijamba Polubothu. One thing that is clear during the ongoing pandemic is the partnership working that has grown between local authorities and third sector organisations. What can we take from that and continue with once the pandemic is over to make sure that we do not go back to the old ways of there being silos?

Girijamba Polubothu: I agree with all that Eloise Nutbrown said. We would like the no recourse to public funds policy to be abolished, if possible, and for funds to be made available to women and children irrespective of their immigration status. I would copy and paste everything that Eloise said. We would like local authorities to continue to provide accommodation for women who have no recourse to public funds; there should also be some subsistence money made available to them.

We currently support women through sections 12 and 22 of the Children (Scotland) Act 1995, but there is no consistency. The City of Edinburgh Council has a very good protocol. Because our office is in Edinburgh, women who have no

recourse to public funds there get a good service. It is not the same in, for example, Dundee, Forth Valley and Fife, where we have outreach services. We want there to be consistency across Scotland in getting funds for those women.

The Convener: Would that be part of the destitution work that you are doing with the Government?

Girijamba Polubothu: Yes. The DDVC applies only to women who are here on spouse visas; it does not apply to any other insecure immigration status. During the Covid period, we have had increased referrals. There are young women who are studying at university who have had no recourse to public funds and have been stuck during this period because they cannot go back home. There have been quite a few forced-marriage referrals, as well.

The Convener: The extra three months that Susanne Millar talked about was an excellent piece of work—it was fabulous to hear about that. I hope that other local authorities take that up. What lessons has Glasgow City Council learned through the pandemic, particularly in relation to people who have no recourse to public funds, about how important it is to work with the third sector?

09:45

Susanne Millar: The point about lack of consistency is important. I recognise that from a local authority perspective. Eloise Nutbrown was polite about training of front-line staff being a key task for COSLA, because part of that relates to the lack of consistency. To be fair to local authorities, however, the problem relates directly to their experience. You will find that the Edinburgh protocol that was referenced is the same as the Glasgow protocol; it is built on work that we did in Glasgow. We have worked closely with Edinburgh on that policy and procedure and we have worked closely with COSLA to influence and support the anti-destitution strategy.

However, you will find inconsistencies because, for a range of front-line staff, the matter is not part of their daily experience, and it is a complicated legislative framework within which to work.

Our experience in Glasgow on no recourse to public funds throughout the Covid pandemic has been pretty straightforward, in that there had always been a commitment to working in partnership with the third sector. The Covid situation accelerated that. However, if I am being entirely honest, that success was partly because the work took out the point of tension between local authorities and the third sector in respect of whether a person meets the criteria for the local authority to fund them.

As Eloise Nutbrown said, we have always had a decent working relationship with the third sector, but there has been conflict when there have been different views on eligibility in relation to what power of welfare the local authority can enact. People who work in local authorities must act on the legal advice that they get as public servants.

That was a massive point of tension, but the Covid situation has allowed us to take it out of the relationship with the third sector and to focus on people in terms of our different strengths and skills, and what we can do together. That is why we are hugely supportive of COSLA's position on the Westminster Government's ask. We have demonstrated that, when we take that tension out, the work that local authorities can do alongside the third sector is hugely significant in improving outcomes for some of the most vulnerable people we will ever see.

The Convener: Thank you for that.

Sarah Boyack (Lothian) (Lab): I have found the evidence that is before us incredibly moving, but also useful in terms of suggestions for change.

My first question is for Girijamba Polubothu. You said that Shakti has a particularly good relationship with the City of Edinburgh Council, and I was struck by your point that the council has a protocol that enables it to support women who have no recourse to public funds. Will you say a bit more about how that works in practice? After that, I would like Eloise Nutbrown to talk about how we might spread the protocol around local authorities.

Girijamba Polubothu: When we have a woman who does not fit the DDVC criteria, we refer her to the asylum and refugee unit in the council, which I think has to do with the social work department. Under sections 12 and 22 of the 1995 act, it funds the woman for accommodation and subsistence expenses, which works well. However, prior to referral to the council, the woman must get advice about immigration. We therefore help her to get in touch with the immigration solicitor, then the referral is made to the asylum and refugee unit, and the council supports her through the social work department.

Before that, women without children were falling through a gap and had no support unless they were certified as vulnerable adults. Those women are getting help too, nowadays, which is really good for us. We do the practical support and social work funds the accommodation and subsistence. We help women to get advice from the immigration solicitor.

In most cases, it takes a year or two for a woman to get indefinite leave to remain, depending on things including her immigration status and the risk to her in her country. As I said, we have outreach services in Fife, Dundee and

Forth Valley, but the situation is not the same in those areas. Even during the Covid period, we have found it difficult to get financial support for women in those areas.

Sarah Boyack: That is very useful. I will follow that up with Eloise Nutbrown. When I speak to my local councillors, they always tell me that they do not have enough money for almost anything. I do not agree with just small pots of money being provided to them, but in this case targeted money for councils that need it would be useful.

Giri Polubothu talked about the protocol that the City of Edinburgh Council has. Is there a way that that protocol could be shared with other councils to support them? Gearing up the knowledge of social work staff on the front line is obviously not something that can happen at the flick of a switch. Is there a resource issue or a cultural issue? Is it a political priority? What more needs to be done to take that approach and make it work elsewhere?

Eloise Nutbrown: There are a few challenges, but there are also opportunities. A number of authorities have protocols in place. Susanne Millar will correct me if I am wrong, but I think that the feedback from local authorities is that a single protocol will not work for every council because the arrangements of health and social care partnerships—where social work sits and how it interacts with other services—differ so much. A shared protocol is, therefore, not usually desirable.

We routinely bring local authorities together through our NRPF network to share their practice and discuss how things are done. As Susanne Millar mentioned, and as I know from having worked with Edinburgh council and speaking to colleagues there, there have been discussions with a number of councils in recent months and over the past couple of years to share how they do things.

Some local authorities that do not have a protocol experience such small numbers of cases that the work to establish a protocol has not yet been done. We are raising awareness in local authorities of the impact of the changes in EU nationals' rights, which might mean that they will have new families and individuals coming forward and will need to do something different because their existing safeguarding protocols and policies might not be sufficient.

COSLA offers advice, online guidance and routes into other local authorities, and we are taking further steps, particularly on domestic abuse. We have already started work with Scottish Women's Aid and the Scottish Government, under the "Ending Homelessness Together" action plan, on how to improve housing outcomes for women and children who are experiencing abuse. We are working to see what the picture is: how the duties

of councils are applied, the recognition of abuse as a factor when NRPF conditions are placed on an individual, and what the referral pathways are. We hope that that work will strengthen social work departments' understanding of practice and what is possible under the powers that they hold.

I mentioned the review of the powers that local authorities have that we hope to bring forward under the anti-destitution strategy. That will bring us back to both the funding of the support and what support involves. Councils' not having enough money is a real pressure for them. Really significant and difficult decisions are being taken about public spending by local government, but this area of spend is not factored into the settlement, so there is no baseline for us to work from.

Lack of money is a very real pressure, but we also need to quantify staff time and consider the complexity that is involved, because staff are not only doing social work. The social workers that we speak to realise that they also have to provide an understanding of the immigration system, refer people for legal advice and help with evidencing residency and applying for changes in NRPF conditions. There are all sorts of processes, so understanding the administrative capacity needs of local authorities will be a big part of that review.

In short, COSLA continues to prioritise support for councils so that we have consistency in outcomes, if not in processes. We help where we can.

We are also considering additional capacity. We have a partnership with the United Nations International Organization for Migration, which involves two or three caseworkers who routinely support local authorities, particularly around the EU settlement scheme. They raise awareness of how it works and provide additional caseworker support to vulnerable people who are in local authority care, such as looked-after children and adults with additional vulnerabilities, to ensure that they can access the scheme and overcome some of the barriers that they face.

That model is showing really good results and we hope that, with some support from the Scottish Government, we will be able to expand it to consider further NRPF and the wider range of immigration issues. The model resolves the issue of the length of time for which people need to be in the local authority area.

The point that I wanted to make earlier was to clarify the public health duties. I will briefly comment on that. We have discussed what has been possible during the pandemic and what local authorities can do, and we have referred to the provision of accommodation. The legal basis for that changed because Covid-19 became a

notifiable disease under the public health legislation, which enabled local authorities to provide homelessness accommodation to everybody. As the lockdown restrictions start to ease and travel restrictions are lifted, use of that legislation will change, which is why we are in a tricky position.

Although there are many opportunities, there will still be groups of people for whom local authority housing and homelessness services will not be accessible, and who do not have an eligible need under social work responsibilities. The only source of support that they can seek is through the third sector. Under the protocol, partners in the third sector do a fantastic job, but they are not always available nationally, and many local authority areas will not have third sector partners with the knowledge of NRPF—

The Convener: Eloise, we are going to have to move on.

Sarah Boyack: May I ask Giri a quick follow-up question, convener?

The Convener: Yes—on you go.

Sarah Boyack: Thank you for your indulgence, convener.

Giri, you talk in your written evidence about the definition of domestic abuse, women who experience domestic violence and abuse, and the issue of perpetrators. You say that some women fall through a gap. Briefly, how does the guidance need to change so that we can address that?

Girijamba Polubothu: I am so glad that you have asked that question. I was just thinking about whether to mention the subject.

When it comes to perpetrators, the criteria in the Scottish definition of domestic abuse do not include family members. However, when we talk about forced marriage or female genital mutilation, the perpetrators are family members. Sometimes there is no partner or ex-partner. FGM and forced marriage happen before one is married. We have had women who could not stay in Edinburgh because they were at high risk, but when they were referred to agencies or organisations in other areas of Scotland, they were not offered refuge spaces because the perpetrator was not an ex-partner or partner.

We say that forced marriage, FGM and honour-based violence are domestic abuse, but some services are not available to women who are victims of those things because the perpetrators are not partners or ex-partners. We need to acknowledge that, in certain cultures and with certain forms of domestic abuse, the perpetrator is not one's husband, ex-partner or partner; the perpetrators are family members. Because of that, women are missing out on services.

The Convener: Thank you for that.

Girijamba Polubothu: Can I—

The Convener: I am sorry, but I will have to move on, as we still have a lot to cover.

Before I bring in Keith Brown, I ask the witnesses to make their answers a bit shorter than they have been to date, because we have taken up a lot of time and we still have a lot to get through.

10:00

Keith Brown (Clackmannanshire and Dunblane) (SNP): I will ask just one question.

It has been useful to hear the occasional reference to the situation outwith Edinburgh and Glasgow. Although I realise that they are where the issue is on the biggest scale, it is also an important issue for those of us outwith Edinburgh and Glasgow. Shakti did a fantastic event in Alloa about a year ago.

My question is about how the response has been during the pandemic. As has been mentioned, the Scottish Government has repeatedly urged the UK Government to suspend the policy on NRPF during the Covid-19 pandemic, and COSLA has done the same. The Scottish Government has provided £500,000 in grant funding specifically for NRPF support during the pandemic. Has the Scottish Government done enough during the pandemic to support people with NRPF, or could it do more? If so, what more should it do?

I will start with Eloise, please.

Eloise Nutbrown: The availability of additional funding has been absolutely crucial from a local authority point of view and was really welcomed. My understanding from councils is that the presence of funding—whether directly to councils or the funding that was made available to the third sector—enabled the provision of accommodation, food and other assistance that would not have been possible otherwise. It was therefore really welcomed.

We have learned that we need a more strategic response to NRPF that is not so much about doing more but that is about learning and reflection. We collaborated with the Scottish Government when we formed the consortium bringing together the third sector partners and the local authorities to identify needs and target support and resources. We need to do more of that. The way in which we respond is very localised, but councils have shared challenges that we need to think about. If we are resourcing the third sector, we need to think about how we do that strategically so that organisations can scale up their provision in local

authority areas outside the central belt, as Keith Brown mentioned. We need to do that together and in close conversation.

There is also other learning around policy areas beyond the Scottish Government's migration and asylum team. We increasingly see an awareness of NRPF in Scottish Government policy making. When we think about new benefits and social security policy development, and new developments in housing policy and homelessness services, we need to have a conversation, and clear analysis of the impact, on people with NRPF. We have seen that start to happen across the Scottish Government during the pandemic.

Keith Brown: I ask Giri—I hope that I am getting the pronunciation right—for her view on what more the Scottish Government could have been doing during the pandemic.

Girijamba Polubothu: We welcome the additional funding, which was really helpful, especially for accommodation and food. However, it was short lived—whatever was given was for only six or three months. We would like the Scottish Government to continue to give that kind of support.

We were in a dilemma, as were the women, because women who were experiencing domestic abuse and wanting to leave their homes were aware that it was not guaranteed that, post-Covid, they would still get whatever support or accommodation they had been getting. Although the facility was there, some women did not take the opportunity because of the uncertainty as to what would happen afterwards.

At that time, I think that we thought that Covid would go away in three months' time, but it did not. Some of the funding that we got was for three months and some of it was for six months. Although that was good—we needed it at the time and I do not know what we would have done otherwise—we would want that support to continue.

Susanne Millar: My answer is similar to Eloise Nutbrown's: the funding was welcome. In this financial year, Glasgow city has spent in the region of £400,000 from its own funds on people with no recourse to public funds, for those who, regardless of Covid, continued to meet the eligibility criteria that are set out in our policy document. The funding was hugely welcome and, as I said, it removed that tension.

I am keen for the Scottish Government to step more strongly into the strategic space in relation to people with no recourse to public funds and recognise the impact across Scotland. As Keith Brown pointed out, we have big pockets, but we need a national strategic approach and a national

strategic framework to allow us and local authorities to operate with some confidence, if that makes sense—it is not that we are unconfident. We want the Scottish Government to step clearly into that space in relation to people with no recourse to public funds, with a clear strategic commitment to provide support and a framework within which local authorities, COSLA and the third sector can continue to work together. There is an on-going cost to local authorities that goes beyond the cost that has been picked up during Covid.

Keith Brown: I have a quick follow-up question. Do the legal constraints on the Government's moving into that space come back into play outwith the Covid situation?

Susanne Millar: We have looked at that every which way, to be honest, certainly from a local perspective in Glasgow, including getting advice from a QC to ensure that, as I think I mentioned at the beginning, we optimise anything that we can do. When you get into the bowels of the immigration legislation, you see that it is hugely restrictive and counterintuitive with regard to what local government can and cannot do. That runs counter almost to our purpose as local government and as public servants. Perhaps we should continue to push it but, having been in and out of the bowels of the immigration legislation, the restrictions that have continued to be added to over recent years by different Governments make it a really difficult space for the Scottish Government.

I apologise if I overstepped the mark there, convener.

Andy Wightman (Lothian) (Ind): I thank everyone for their written evidence, which is useful in navigating what is a complicated legal landscape, as you have indicated.

Eloise, in response to an earlier question, you said that supporting people with no recourse to public funds is "expensive to resource". On page 9 of your evidence, you provide some figures from the NRPF Network's UK-wide data about the cost of supporting people with no recourse to public funds. If we got rid of the policy, would it be cheaper or more cost-effective overall to support the kind of people who you are trying to support?

Eloise Nutbrown: The costs cited by the NRPF Network, to which I refer in the evidence, are mostly subsistence costs of financial cash payments made direct to families for children and vulnerable adults. If the NRPF conditions were not placed on those individuals, they would be able to apply for universal credit and mainstream benefits, and therefore the issue of destitution, which they are presenting with, would disappear. They might still experience poverty in the way that many families and individuals in the UK do, but they

would be able to draw on the benefits system, which should stabilise their housing position. They would also be able to access local authority housing allocations—social housing—and homelessness services, if they were at risk of homelessness. The costs rapidly disappear, because those costs are associated purely with responding to that policy.

Andy Wightman: I understand that. I am trying to ask whether, in the broad terms of the cost to the public sector, would it be more cost-effective overall?

Eloise Nutbrown: Sorry. I believe that it would, if we take into account that every individual local authority is having to resource additional staff time to identify people's needs, assess their immigration status and put in place appropriate responses. There would not be those additional costs if someone applied direct to the benefit system or through the mainstream housing and homelessness systems, so from that perspective it would reduce the cost to the taxpayer.

There are also wider costs of destitution from the public health impacts—the cost to the health service of people's mental health being impacted by destitution and all the other unintended consequences of the policy.

Andy Wightman: Does Susanne Millar have any observations? I picked up from you that what is expensive and time consuming is people having to navigate the complex landscape, as opposed to being able to access the routine benefits that everybody else does. Do you have a perspective?

Susanne Millar: Yes, my perspective is similar to Eloise Nutbrown's on the position if it was routine. The point that Eloise made at the end about the impact on individuals and families of having to navigate the system is really important. Our experience would say that it significantly impacts on levels of anxiety and mental health distress. We see it particularly in families with children, so we try to move really quickly to support them. We have very few instances where we have a child welfare concern, but people's experience is that, for families with no recourse to public funds, having to navigate their way around that complex system and all of us in the public sector while not being certain about their future really impacts on family functioning.

There would be a straightforward arithmetical reduction in cost if people were able to access the benefits and the housing system, in that there would not be that added complexity, but I also believe that the impact on individuals and families has a hidden cost to the system. Were the NRPF policy not in place, we would see much less of that.

Andy Wightman: Eloise Nutbrown said that COSLA and the Scottish Government have been making representations to the UK Government to suspend its policy on NRPF. As I understand it, the policy has been in place for some time but is not obligatory. The Government can suspend the condition, if it wishes. What are the main barriers to persuading the current UK Government to lift its policy in that regard?

Eloise Nutbrown: The policy is a long-standing one that has existed across a number of Governments, but it has got tougher under the current Administration in recent years in terms of some of the restrictions on European Economic Area nationals. Our understanding of the position is that, in the eyes of the UK Government, people with no recourse to public funds are individuals who have chosen to move to the UK and who should, therefore, be self-sufficient. They should not need to rely on Government-funded benefits, and the UK Government's solution to destitution is that the individuals can take up voluntary return. There are funded schemes that would pay for someone to return to a country of origin.

Our difficulty is persuading the UK Government that people's lives are more complicated than that and that there are legitimate reasons why people might temporarily require assistance from the social security system. For example, individuals who are working and contributing to the UK have a right to remain, so local authorities will continue to need to provide support in times of crisis. The UK Government perhaps has a different view on the causes and effects of destitution from that held by local government in Scotland. Until we achieve some political agreement on the impact of the policy, I am not sure that we will see a change.

Andy Wightman: That is helpful.

Gordon MacDonald (Edinburgh Pentlands) (SNP): It is only right that I declare an interest in the matter, as I have a relative who has leave to remain in the UK but has the status of no recourse to public funds despite having been in continuous employment since they arrived, paying income tax and so on. I thought that I should put that on the record.

I am keen to understand how councils and third sector organisations reach out to communities to give them the level of support that we have talked about this morning. The submission from Glasgow City Council and the health and social care partnership highlighted the number of people who are in hotels or managed flats. It also refers to the fact that around 70 people are in

"precarious and survival homeless situations".

Given that there could be language barriers and that people are in lockdown and might not have good computer skills, how do you reach out to

communities and individuals, especially during the pandemic, to give them the level of support that we have talked about? I will ask Susanne Millar first, as I have quoted her numbers.

10:15

Susanne Millar: That goes back to earlier questions about the unforeseen consequences of the pandemic, in the sense of being able to offer that accommodation. That brought a lot more people with no recourse to public funds into our view, so there is absolutely a positive there. Working with the third sector over the past year, we have been in contact with a lot more people with no recourse to public funds than we might have been previously. From a local authority perspective, those people tend to appear on our radar because of a presentation through the third sector directly to our offices in health and social care, through general practitioners or, sometimes, through the police. There has always been a hidden population, and it has always been really problematic to reach out to those people.

We are part of the Everyone Home collective, which is a third sector-led collection of organisations. It has tried to reach out to people during the Covid pandemic, partly—I hope that I get my words right on this, and I do not mean to take advantage—to offer some security in relation to accommodation for people who might have been in a precarious situation in order to get them on our collective radar, along with the third sector, to see whether we can work with them to stabilise some of that situation. This year, we have done more than we have been able to do previously, because we had an offer—we had a reason to get people on to our radar.

However, generally, it is tricky for us, certainly as a local authority, to reach out to the hidden population. That is partly because there are all sorts of cultural and language barriers and a sense that the local authority is part of the Home Office. People do not always understand some of the differences between us and the Home Office and where we are with regard to implementing immigration processes. There is a lot of misunderstanding about local authorities' role in that.

The short answer to your question is that it has got better. It is best when it is third sector-led and when the third sector is identifying people within the cohort that it is reaching out to, who then need us and the local authority to step in. As I said, this year has allowed us to be in contact with a lot more people than was the case previously, because we had an offer, but it remains a challenge. We remain concerned, as does COSLA, about the number of people who are

hidden and who are destitute and have an insecure immigration status.

Gordon MacDonald: Giri, what is your experience of reaching out to people who are being missed in communities?

Girijamba Polubothu: The first point is that it was really difficult for us, because we were giving outreach support to women who were still living with their abusers. It became so difficult for us to get in touch with those women, because the perpetrators were living in the house 24/7. Some of those women were also living with extended family members, which is an additional barrier for black and minority ethnic women. It is not just the woman, the children and the husband who live in the house—they live with in-laws and other siblings—which makes it very difficult for us. We managed, but with a lot of stress. It was stressful for the workers as well as for the service users.

The second point is that, when we received referrals, women had language barriers, which also made it difficult. We had to work with police, social work or solicitors, and the women needed interpreters. During the Covid period, there was a shortage of interpreters and even they were working from home, and not face to face. We became everything—the interpreter and the key worker. Some meetings took much longer than they should have done. A one-hour meeting would take three hours, because the conversation would go three ways: the woman in her home, the police at the police station and us in our homes. We had to interpret, so we were going from what the police said back to the woman. There were difficulties with that and it was not easy for us; there was a lot of stress. The workload has increased because of the things that I have just mentioned.

Eloise Nutbrown mentioned that, in some areas, numbers of people who have no recourse to public funds are low. One thing that I wanted to say previously is that that is not because there are no people there with no recourse to public funds; it is because no service explicitly says that it is there and can support women or men with no recourse to public funds. That is what our learning is. I am sure that the numbers of people with no recourse to public funds that we are reporting now are much lower than what they are in reality.

I want to say one more thing. Last year, from January 2020 to December 2020, we supported 102 women with no recourse to public funds, which included women from the European Economic Area.

The Convener: That takes us to the end of our questions. I thank everyone for their time today.

10:22

Meeting suspended.

10:24

On resuming—

The Convener: Welcome back. I am pleased to welcome our second panel of witnesses: Robina Qureshi, director of Positive Action in Housing; Jen Ang, co-founder and director of JustRight Scotland; and Graham O'Neill, policy manager at the Scottish Refugee Council. Thank you for attending the meeting and providing written evidence.

We have allocated about an hour for the session. I ask the witnesses to keep their responses as short as they can while getting their point across. Members will ask their questions in a pre-arranged order, and supplementaries will be asked at the end, if time allows. It will help broadcasting staff if members indicate who on the panel their questions are addressed to, and I ask everyone to allow broadcasting staff a second to operate the microphones.

We move to questions. My first question—*[Inaudible.]*—migrants' rights and entitlements Covid-19—*[Inaudible.]*—in its implementation from front-line staff. Can I ask what—*[Inaudible.]*

The Deputy Convener (Sarah Boyack): I think that the convener's connection has gone, and my microphone has come on as I am the deputy convener. I ask Keith Brown to nod his head if I am on the screen—thank you. *[Interruption.]* Are you back, convener?

The Convener: I am here. Thank you for that; I was here all the time, talking away like an idiot, but nobody could see or hear me. I apologise for that and I will repeat my question, which was to Robina Qureshi.

Scottish Women's Aid welcomed COSLA's migrants' rights and entitlements Covid-19 guidance but said that its implementation by front-line staff lacked consistency. What are your views on the framework guidance?

Robina Qureshi (Positive Action in Housing): I am sorry—will you say that again?

The Convener: My question was about COSLA's migrants' rights and entitlements Covid-19 guidance. Scottish Women's Aid said that its implementation by front-line staff lacks consistency. What is your view?

Robina Qureshi: I agree with that. Support from social work, for example, is almost non-existent in relation to the work that we do. I say that as the director of a charity that supports about 2,500 people from BME, refugee and migrant

families each year, primarily in Glasgow. They are predominantly people who have no recourse to public funds; some rare cases involve children or older people but, by and large, we are on our own.

From April to December last year, we had to change how we work to reach those who are most vulnerable. We have distributed emergency payments that are projected to total more than £130,000 by the end of March, which is almost three times as much as we normally distribute. That shows the extent of the issue—they are payments for people who are in crisis.

We have been working intensively on the ground, operating a skeleton team, throughout lockdown. At the time that we submitted our written evidence—we would like to add more to it—we were working intensively with hotel asylum seekers.

10:30

The Convener: You can just send in the evidence to the clerks and it will be added to the other evidence.

Jen Ang, what is your view? Oh—she has dropped off the call. Graham O'Neill, can I bring you in on this question?

Graham O'Neill (Scottish Refugee Council): Thank you, convener, for giving attention to this—*[Inaudible.]*—not least until the Covid recovery. I do not think that we will be able to have a Covid recovery if we do not do something serious about ameliorating NRPF or, ideally, the UK Government suspending it.

The guidance is good; it is well drafted and it covers the key legislation. Early on in the pandemic, it spoke to the fact that we had a public health crisis of an unprecedented breadth and penetration into people's lives. It was a real shock to people and society. Because of the crisis, we needed public health to be the overarching policy framework.

In the immigration and asylum sector around the UK, the approach was really needed, because we have been sitting in the hostile environment that operates through the NRPF regime, which crushes people and leaves them in a horrendous situation. As Robina Qureshi said, it is often the third sector that is there in communities to support people.

On implementation, we have to be really straightforward: local authorities across Scotland have had problems understanding NRPF, which is not a surprise, because it is such a complex bit of legislation. As we came into the pandemic, some good guidance had been drafted. Jen Ang can speak a lot more about the training that was done for all local authorities to equip social workers to

understand NRPF and ensure that they undertook their statutory safeguarding duties consistently.

As we came into the pandemic, the guidance was overlaid by the Covid public health guidance. Again, it is well written, but we are starting from a place in which local authorities' social work and homelessness teams do not feel that they understand the issue. The cost of that is that people fall through the gaps. A huge amount of work must continue to be done, because the pandemic is still with us and people are still in destitution.

We understand that the Scottish anti-destitution strategy by COSLA and the Scottish Government will be published in about two weeks' time. As we go into the Covid recovery, it is absolutely essential that the strategy is a cross-Government priority, because of some of the issues behind the convener's question. I cannot stress enough that we will not be able to have an effective Covid recovery if we leave communities behind, and that the point of NRPF is to isolate people and exclude them from the big social protections of homelessness support and social security.

The strategy that, to their credit, the Scottish Government and COSLA are about to publish and implement will have to be a cross-Government priority of the new Scottish Government, as I said. The new Government will have to resource it so that local authorities can meet their statutory safeguarding duties and duties under the Children (Scotland) Act 1995 and Social Work (Scotland) Act 1968, and so that third sector organisations such as Robina Qureshi's and ours can work together to provide the integrated package of support that people need on the ground.

The Convener: There are two points that I would like Jen Ang to respond to. The first is consistency across local authorities on the migrants' rights and entitlements guidance. The second is the role that her organisation—I will ask the other two organisations, as well—has played in helping to draft the anti-destitution strategy.

Jen Ang (JustRight Scotland): I am a co-founding director of JustRight Scotland, which is a legal charity that is independently funded to help people in Scotland use the law to defend and extend their rights. I co-authored the COSLA advice that you referred to, working with the NRPF network. I also assisted with drafting the Covid-19 framework guidance that we have just discussed. JustRight Scotland is also a member of third sector and statutory sector stakeholder groups that have been working on co-ordinating the response and feeding into the strategy that you have been discussing.

My opinion of the framework is conditioned by my contribution to its legal elements. It accurately

reflects good practice as we understand that during this challenging period. However, and as Susanne Millar said in the first evidence session, it is only a framework for guidance, which means that local authorities are left to grapple with complex issues and, in some cases, there is a lack of unified leadership about how we want to tackle those in Scotland. There have been huge inconsistencies in practice between local authorities. Some of that is because of resourcing, some comes from experience. I have delivered training to most local authorities on the issue. There is interest.

I heard the last part of what Graham O'Neill said and I agree. The group of people who have no recourse to public funds is large and growing. It is up to the Scottish Government to co-ordinate a response to that and to seriously pursue what routes are open to us within our devolved powers so that we can mitigate the impacts of the UK-wide NRPF policy that comes from Westminster.

We cannot hide from that. There is compelling evidence that the policy has an impact and that our statutory authorities are failing in duties that they have, under Scottish legislation, to people who live here.

Day after day, JustRight Scotland lawyers provide direct advice to people with NRPF. We work with women and children fleeing violence, survivors of trafficking and asylum seeking children and young people. We work with European citizens as well as those from other countries. We see every day that there are thousands of NRPF people in Scotland.

Gordon MacDonald pointed out that being NRPF does not mean that someone is destitute. Workers in jobs and students who are studying can all be NRPF. However, the hostile environment policy means that, if someone falls on hard times but is not required to leave, we cannot help them in the way that we can help others. There is a direct inequality between the support that we can provide to families with children who are British and the support that we can provide to families of children who are not.

The Convener: You said that you had participated in developing the anti-destitution strategy. Are you confident that when that is published in a couple of weeks, as Graham O'Neill said it will be, that it will be met with support and will be welcomed by the organisations that are doing the work, such as your own or Positive Action in Housing?

Jen Ang: As Susanne Millar said in the first session, we have learned a lot and have improved co-ordination between COSLA, local authorities and the third sector. We have learned by delivering projects together. A lot of those lessons

have gone into the strategy, but it says that there is a lot of work still to do. We need core Government funding and we need a broader perspective on what the Scottish Government and local authorities can and should be doing. I must be honest about that. I think that it is possible. The strategy must be taken up, not just released and left. There is a role for the committee in scrutinising that.

The Convener: Whoever is convener in the next session will have that pleasure.

Sarah Boyack: I will follow on from the convener's point about advice for our next committee. Issues that were talked about by the first panel included finance, guidance and access to legal advice, but there was also a sense that they were behind the curve—the pandemic came and then everyone responded. Given that EU citizens' right to remain is definitely an upcoming issue, is there more work that you could all be doing now to promote access to advice and guidance to make sure that those people can sign the forms and get the support that they need? First, on access to legal advice, I ask Jen Ang whether a public campaign would avoid people falling into that trap by not having filled in the right form.

Jen Ang: That really concerns us because, as you said, during Covid we lost a lot of ground—months and months. The people who require assistance need face-to-face support or a little extra support and they were not able to obtain it. A public campaign would be good. Additional financial support is needed for targeted assistance—not just public advice but hand holding or face-to-face support. Because we are very close to the deadline of June 2021, something also needs to be put in place for the rest of the year for the additional applications that do not get in by then.

Sarah Boyack: Thank you. I ask a similar question of Robina Qureshi. In terms of your work, your excellent submission raises the issue of how you contact people during the pandemic. Can you to give us a sense of how you are managing to do that? It must be incredibly difficult not being able to see people easily on a one-to-one basis. How do people get in touch with you and how do you offer them support during the pandemic?

Robina Qureshi: First, we do see people face to face. We see them in a Covid-secure office and operate outside surgeries. We have been on the ground since the Park Inn tragedy, and before, to get information directly from people, because we knew that they were vulnerable. While other charities were not on the ground, we were working on the ground with our skeleton staff who could come out and with volunteers.

We gathered information straight away, which meant gathering data from individuals so that we could contact them. I am talking about vulnerable people such as people from the Vietnamese community who had nobody to speak to. Perhaps they did not have a mobile phone and could not talk to anybody, so they were, in effect, isolated. The number of contacts that we have had in terms of support for people with no recourse to public funds and people seeking asylum has gone up drastically. We have just completed our figures for April to December. They are far higher than the entire previous year altogether and those contacts were all face to face. We will not have people directly in the office because we have to be careful about protecting everybody. We are operating our office in a Covid-secure way, so we meet people outside the building—we call those outside surgeries—or we carry out deliveries of emergency crisis support.

In terms of pre-settled status, which was referred to earlier, we are doing direct work with individuals, primarily using social media such as Facebook groups and WhatsApp digital networks. Our volunteer network—the humans of Glasgow network—involves around 280 people across and outside Glasgow. They have been crucial in providing the direct support that our casework teams needed to have in place when somebody was highlighted to us as being highly vulnerable. For example, somebody who had major cancer surgery was moved to Easterhouse the day after by the Mears Group and that individual was left with no food, no mobile top-up data, no wi-fi and no money. The card could not be activated because the mobile phone data did not work for him to activate it. People were being given random amounts of money—perhaps £18 of cash here to £20 there. A lot of people were left with no money at all, living that way for months and in some cases for more than a year. Those people are living in hotels and are desperate to get out.

Essentially, we continue to do that face-to-face work, albeit in a different manner.

10:45

At the height of lockdown, when we were all told to stay home and stay safe, the Home Office-contracted asylum accommodation provider, Mears Group, took it upon itself to take people who had no recourse to public funds—human beings who happen to be asylum seekers—out of their accommodation, where they were settled and which was their home, even if only for three months, and—

The Convener: Robina, could you focus on the questions, please?

Robina Qureshi: Yes, I am trying to focus on them.

Those people were removed from their homes and put into hotels. We were all told to stay at home and stay safe, but the empty hotels were used. The point that I am trying to make is that it was a strict lockdown, and we would like to know why the matter was not investigated, and someone penalised or punished—we wrote to the Scottish Government to ask that question. That is not the only point that I want to discuss, but it is an important part of the work that we did last year.

Sarah Boyack: That is helpful, thank you. Earlier, you talked about supporting 2,500 people. Was that in Glasgow alone? That is a stark number of people who are facing destitution.

When I asked my connectivity question, I was thinking about social media, but if someone does not even have access to a phone or the internet, the possibility of communication with people—even digital communication—which we all take for granted, is gone.

In the short term, as we begin to come out of the pandemic, presumably your charity could use additional support. For the purposes of our report, in terms of supporting people moving forward, what is your top priority?

Robina Qureshi: Sorry, in what regard are asking about our top priority?

Sarah Boyack: What is your top priority for supporting people as we come out of the pandemic, when public health maybe goes down the list of reasons to support people? Presumably, the public health aspect will still exist, but people's capacity to survive will be undermined unless they have some support going forward.

Robina Qureshi: To support people, we need to be able to see them face to face, particularly to sort out their paper work. Often, people have paperwork, but they do not understand what is relevant. They cannot simply scan to see what is relevant to them, particularly in an increasingly digital world, in which people are remote working. We need the funding to be able to provide digital skills and technology. We also need to be able to automate our systems, although we are already quite good in that regard, because a lot of our systems are already online. However, we need more support to be able to encourage charities to automate systems, so that we can operate using that model.

At the same time, we need to be able to address the fact that remote working is not ideal for someone whose first language is not English. They do not know their rights, and they do not necessarily have the digital skills or technology to get the assistance that they need. They do not

even know what they are meant to ask for, because they were not told their rights in the first place.

Sarah Boyack: That is helpful, thank you.

Alexander Stewart: I want to tease out a little bit more about the co-operation that is taking place. The witnesses have spoken about the targeted approach that is required and the difficulties that individuals face because they do not have the knowledge to act, which means that they have to use organisations for support. What are the key messages for the Scottish and UK Governments about what the priorities should be to ensure that people are being supported? It is quite evident from the witnesses' oral evidence and their written submissions that people are falling through the cracks, which is a major issue for us. I will go to Jen Ang first, then Graham O'Neill.

Jen Ang: You want to know what a positive way is of preventing people from falling through the cracks, or what the targeted support looks like. Some good examples already exist in Scotland of successful and positive programmes that work within the complex legal framework that Susanne Millar spoke about. For example, to address child poverty, there are measures such as the baby box, providing free school meals and grants for children at school. Those are not linked to or prohibited by NRPF; they are about using our powers to alleviate child poverty. The measures are targeted because we need to create universal programmes that are not restricted in order to meet our goals.

We realised that someone with NRPF might not be able to access the self-isolation support grant that is given to people who are isolating because of Covid. That is an important public health issue, because people who work but have NRPF need to be able to self-isolate and not be penalised for doing so. We were able to make such support available, within our powers, simply through how the support was funded.

When I talk about targeted support, that is another way of saying that our universal services should be universal and making them so will fix the problem. However, if we do not take steps to ensure that they are, we inadvertently, or otherwise, leave people out.

I know that we are short of time, so I will hand over to Graham O'Neill. I am sure that he will say things that I am likely to agree with.

Graham O'Neill: I echo Jen Ang's points. The starting point in Scotland should be to take a universal approach to social security and then work back from that. Hopefully, that would bring in powers. I say that because one of the problems with NRPF is that it provides the structure on

which the legislation and policies in place operate, which means that the social security and homelessness assistance policies that follow it must reflect that structure. Therefore, NRPF restricts people's entitlement to those provisions. We need to do it a different way in Scotland and take a universal approach so that we ensure that we are not working within the parameters of the UK NRPF system.

There are a number of measures that need to be put in place, which I hope that the committee can reflect on and recommend. The Scottish anti-destitution strategy, as its first objective, needs to do relentless work with devolved Governments and local authorities across the UK, as the penny has dropped for many of them about how NRPF is fettering their ability to manage the pandemic in their areas, which are often the poorest and most deprived in the country. A lot of alliances can be built, and they are starting to be built, on the—*[Inaudible.]* There needs to be a political objective, because otherwise we will not get the Covid recovery that we need. That is the macro point.

The second aspect relates to Sarah Boyack and Alexander Stewart's questions about what we need to put in place now. We need a proper funding mechanism for local authorities—ideally through the Scottish and UK Governments—so that they can meet their statutory safeguarding duties. At the end of the day, those are legal entitlements that children, families and vulnerable adults have, regardless of NRPF conditions.

The third aspect relates to the third sector. Everybody Home is a really good collective. The collective, which has been working on a route map on destitution in Scotland, comprises housing and refugee rights organisations. We hope that its route map will be included in the Scottish anti-destitution strategy. The point that it is trying to get at is that the public and third sector should work together and put in place the practical stuff that is needed.

The key measure that needs to be in place—the route map mentions it—is an integrated package of support that wraps around each person. The package should comprise accommodation, essential financial support, access to advocacy, access to legal support and access to health. Those five essential elements must be included so that people are safe in accommodation, which is the pivotal intervention.

Through that safety, they can have trusting relationships with people—advocacy workers and others—and they can then start to make progress in their lives again, rather than being stuck in a constant precarious existence that stems from the NRPF regime.

The package of support needs to be funded strategically during the three years that the strategy will be in place, because that is how we will keep people safe, get them to make informed choices about their future and, I hope, regularise their status.

The fourth aspect is about lived experience. We need to protect against the strategy being detached from the people who experience destitution. I do not experience destitution. There needs to be a range of people who experience destitution and are supported over the three years of the strategy to hold it to account and ensure that it is real and meaningful, otherwise it will unintentionally become detached from reality. Darren McGarvey put the problem of well-intentioned, assumptions-based policy really well in his recent series on social class, "Class Wars". I do not think that that is where the strategy will end up, but, right now, we need to build in three-year funding for an independent group of people with lived experience to monitor the operation of the strategy.

If we can put in place relentless political campaigning across the UK against NRPF, proper practical funding for what people really need—the five elements of the support package that I mentioned earlier—and the involvement of that lived experience group, we can build on the fundamental point that I made at the start, which is that the strategy must be a cross-Government priority. This cannot be a marginal issue—that would be ethically wrong and it would undermine the public health recovery from Covid that we all want.

We must ensure that the strategy is properly a cross-Government priority and that mental health, trafficking and exploitation, child poverty and social security all touch on the different aspects of any new Government's policy.

Alexander Stewart: Thank you for that comprehensive answer to my question.

Gordon MacDonald: I have a question for Jen Ang. This morning, we have talked a lot about targeted support from third sector bodies and local authorities, but in my experience, most people, and asylum seekers in particular, just want to work to support their families. In your written evidence, you mention the Lift the Ban campaign. Can you tell us how that campaign to extend the rights of asylum seekers to work is going? What can the committee do to highlight the campaign?

Jen Ang: Thank you for that question, Gordon. The Lift the Ban campaign is asking for asylum seekers to be given the right to work. Many years ago, at the start of my immigration practice, asylum seekers were permitted to work or could ask for permission to continue to work. It was a

practical way to alleviate the cost of accommodating and supporting asylum seekers: if someone was in employment, they could continue to work and pursue their asylum claim, and we would not be required to support them through asylum support. That changed some years ago, as part of the measures to take asylum support out of the mainstream benefits system and put it into a separate Home Office-administered system.

It will not surprise you to hear that that change had something to do with the increase in hostile environment provisions. If someone claims asylum because they fear to return home, we remove them from the right to work and mainstream benefits, and we keep them in a separate system with less financial provision and poorer housing, with the intention of making asylum seeking less attractive. That was what the Government of the time said in its guidance when the policy was introduced.

The Lift the Ban campaign is sensible in asking both for a better approach and a more economic approach to supporting asylum seekers. The Home Office has said that seeking asylum should take only six months, but, in practice, it can take years. There is a difference between being in a reduced financial position for a short period and being in that position for years. It is also about dignity for asylum seekers. Asylum seekers want to contribute to our community. Many of them have professional qualifications—they are teachers, doctors, nurses and so on—yet they are restricted from being able to contribute to our society while they are waiting for a decision that is not in their hands.

The Lift the Ban campaign has been gathering steam north and south of the border. We fully support it—as do many third sector organisations in Scotland, including those giving evidence at today's meeting. The issue is that, just like NRPF, the provisions and the power to lift the ban are reserved to the Home Office. However, the policy changed before, so it can certainly change back. Support and pressure from the Scottish Government, Scottish local authorities and the public would be very welcome. There is a real possibility that the policy could change, particularly as Covid has shifted everything about how we fund people's support and how people contribute to, for example, the NHS and our education system.

11:00

Gordon MacDonald: Graham O'Neill, you might have heard me say earlier that I have a relative who, although they are in continuous employment, has no recourse to public funds. In your written evidence, you say that it is "deeply hypocritical and unfair" that people who are paying

tax are not allowed to get that support from social security, on the odd occasion when they need it. You suggest that it is

"unfair and creates risk to safety and wellbeing."

Will you expand on that, please?

Graham O'Neill: To follow on from what Jen Ang said, we really support the Lift the Ban campaign, partly because what people want more than anything else is to work. When I speak to people who are seeking refugee protection, they want to be given that key socioeconomic right to contribute and chart their own course in their new community in Glasgow, or wherever they are in the UK.

The point that I was making stems from the deeper, effective tactic that the UK Government, through the Home Office, persistently pushes, which is to shunt responsibility and costs on to devolved Governments and local authorities across the UK, as well as on to third sector and charities. That happens with the NRPF system, in social security policy, and it absolutely happens in asylum dispersal policy. In the latter case, asylum seekers are moved on a no-choice basis to private accommodation in the cheapest parts and housing markets in the UK, in the areas with the deepest, most entrenched forms of multiple deprivation, and the Home Office provides no direct funding to local authorities or the third sector.

To be frank, the Home Office is scamming the rest of the UK on dispersal, and it is the same with the NRPF system. It is deeply insulting that, when people who have contributed need that support, they are told, "You're not getting it." That is why we made those points in our written submission. Those individuals are being treated in an egregious manner, and it is the Home Office that is scamming them.

People come and contribute—they work and pay taxes. How dare the Home Office come along through their system of no recourse to public funds and say, "We're not here now. We've benefited from all the work and effort that you've put in, but we're not going to be here now"!

Who, then, must pay? It is the individual and their families, who could be made destitute and at risk of exploitation. Local authorities and the third sector have to step in to try to help, if they are there—they might not be. The Home Office, the officials and politicians who run the system for, to be frank, ideological reasons, then detach. I am yet to meet a Home Office official who can show me the written evidence that the NRPF system works and that people are coming here in order to get social security benefits. They are not doing that; people are coming to contribute. There is no evidence for that, which is why I describe the

NRPF system, not loosely but factually, as an ideological mechanism.

Basically, the NRPF system shunts the costs and the responsibility on to those who are least able to deal with it: the individual; local authorities, often in deprived areas; charities; and communities. As I keep saying, the NRPF system is a structural thing. Particularly in the Covid recovery phase, it needs to be dismantled, because it drags down people with its pretty dreadful tentacles and keeps them there—they cannot get free of it. Obviously, the strategy will be important, because that is to try to pull people out of it and to ensure that they are safe in accommodation, with good access to services, including health, legal advice and accommodation, so that, it is hoped, they can move on with their lives and make choices about their futures and, ideally, regularise their status.

You described an issue affecting a family member. I have dealt with cases of individuals who have conditions placed on them. There are two groups in the NRPF population. One group is the very vulnerable, and the people in it are undocumented and classed as irregular migrants. The other group of people have leave to remain but conditions are placed on that, as in the case of the family member who you referred to. There is a legal process to go through with the Home Office to try to get those conditions lifted. I have been involved in cases where that has happened. Other witnesses at this meeting do that far more often than SRC or I do.

All that is a symptom of a deeper problem, which is that those conditions are placed on people for no good reason at all. To add insult to injury, the recession that we are in, which has been caused by Covid and by EU withdrawal, is hitting sectors where we find significant numbers of migrant workers, such as hospitality—Eloise Nutbrown mentioned that earlier—and agriculture. People are losing their jobs. If they cannot fall back on a social security system or a homelessness system, they are destitute.

Home Office officials and politicians sit there, presiding over that system. We must be smart and campaign coherently against the root cause of the problem. In the meantime, we must be practical in ameliorating the effects of what the system does to people, local authorities, services and charities.

Robina Qureshi: As Graham O'Neill said, there was an anti-destitution strategy. We have given evidence to various parliamentary committees. Especially in the light of black lives matter, we are concerned about the exclusion of black organisations such as ours. Many discussions take place in an institutionally white vacuum.

You asked whether Positive Action in Housing had contributed to the anti-destitution strategy. We commented, but we were never asked to contribute to writing it. We need to be conscious of the fact that the structural problems that exist in Scotland are not necessarily imported from Westminster. We need core Government funding, but we were not directly involved in writing the strategy.

I agree with what Jen Ang said. We want to see people being allowed to work and being given recourse to public funds so that they do not have to rely on profiteering asylum landlords, contractors or charities. We want them to have agency and to be able to exercise housing choice and achieve financial autonomy. We want to see the Scottish Government calling for the thousands of asylum seekers living in Scotland to be allowed to work, so that they can contribute to the Scottish tax base and achieve financial autonomy.

Although asylum is a reserved matter, there is nothing to stop the Scottish Government campaigning more rigorously with the UK Government to make all that happen.

Andy Wightman: Graham O'Neill, your evidence describes the NRPF regime as a form of UK state hostility towards migrants and you point out that that is a legal power, not a duty, under the Immigration Act 1971. Have Governments of all persuasions since 1971 adopted that policy, or have there been variations during that period?

Graham O'Neill: Other witnesses may be better placed to speak about the longer-term deployment of that power. It has certainly been used relentlessly and extensively since 2012, when the hostile environment became an unashamed public policy under the then Home Secretary, Theresa May, although it was also used before then.

The no recourse to public funds system and the asylum support system basically separate out human beings—people who are seeking asylum or who are here through other immigration routes—and place them in a highly controlled situation with systematic prohibition of the core socioeconomic rights to work, to social security, to housing of your own choosing and so on. The NRPF and asylum support systems coexist and share many of the same aspects and elements, and there is a genuine denial of rights.

To answer your question, the NRPF system is extensively used. As I touched on earlier, we have never seen evidence that shows that the system is justified on its own terms. That is why we describe it as ideological. As I also mentioned earlier, we think that it operates to shunt responsibilities and costs. What has happened in the pandemic has reconfirmed that for us, although it has, I hope, exposed the issue to a wider group of people,

including politicians and others across communities in the UK, who have seen that the NRPF system is a significant drag on individuals' ability to get on with their lives. I keep coming back to the Covid recovery, because it is an important point that in and of itself justifies why the NRPF issue needs to be dealt with as a key structural issue. The system has been routinely used.

The final thing that I would say is that the current Home Secretary and the Home Office are weaponising asylum even more, if that is possible, as we move into this year. We expect new legislation—the so-called sovereign borders bill—to go through the UK Parliament. We have already seen changes in the way in which people are accommodated, with a shift towards institutional accommodation and the use of hotel room isolation and barracks. Last March, there were 2,500 people in hotel rooms, which was 2,500 too many, but the figure is now up to 12,500 across the UK. That accommodation has a grim effect on people's mental health, and we have shared some information on that.

In the immediate aftermath of the Park Inn incident, we worked with many of the people who were affected by that, alongside Glasgow health and social care partnership, and the levels of mental health issues, trauma, poverty and isolation were horrendous. Frankly, we do not think that the Mears Group was well equipped to deal with that. That was instructive for us. At the end of the day, we are talking about commercial contractors delivering a crucial public service for people who are seeking safety and protection. The more we move towards an institutional accommodation regime and away from people being in communities, the more mental health issues—and worse—we will see.

We have figures that show that, across the UK, from April to November 2020, 25 people in the asylum support system lost their lives. Some of those deaths might have been from natural causes, but some might not have been. That of course includes the three people who tragically lost their lives in Glasgow. However, the Home Office does not have a policy on how to deal with those tragedies and, more to the point, how to prevent such issues.

There is a real problem with the asylum system, and that will increase with the new legislation. The likelihood is that it will introduce more institutional accommodation, which will harm people. It will also actually change the ability to access the right to seek asylum, which is a new low. We saw the early indications of that with the widened scope for the Home Office to render claims inadmissible that was introduced at the start of this year. Basically, people register an asylum claim and are put into an inadmissibility pool for around six months—that

is what the Home Office is currently saying. That is threatening to break the UK state's relationship with the Refugee Convention, in relation to people's ability to claim asylum and have that claim heard. I mention that, because it will be a big issue for the new Government and Parliament to deal with.

11:15

Andy Wightman: I want to ask Jen Ang a question as well. The NRPF conditions are placed on a migrant's leave to remain, but is there a consistent policy sitting behind that, or do you in your legal work find that it is a bit ad hoc in some cases?

Jen Ang: That is a good question, because the practice has shifted over time. The power to place NRPF conditions on leave to remain has always existed and it is specified in legislation, but in practice Home Office case workers work from a piece of policy guidance. They are required to make some individualised determinations but in practice in the past four or five years the power has been applied by default rather than on the basis of determinations. As a result, it has been successfully challenged; in one case earlier this year involving a woman who was NRPF with a British child, a court in England found the application of NRPF to that family unlawful because of the impact on the British child, who could not access things.

The practice has shifted and it can and should shift again, in part because the way in which it is being applied is unlawful, but the wider point is that waiting for it to be found unlawful is too late. Given the work of the strategy, the committee and me as a lawyer, I would rather stop a poor practice affecting thousand of people now by working proactively than wait to challenge again and again as the Home Office shifts the baseline on what it does with these powers.

Andy Wightman: Do you think that it is unlawful for Home Office case workers to be applying the NRPF conditions by default, without, as you imply, any detailed consideration of the individual case?

Jen Ang: If they were required to say that in court, they would be challenged. The policy says that there needs to be an individualised determination and, of course, all policies of the Home Office are unlawful if they breach human rights. They will say that they apply the policy generally unless it breaches human rights, but the key is that people in these circumstances are not able to be represented to dispute the application of the policy in relation to them, nor would that be efficient. The better approach for all of us is to shift the baseline back and, more important, to build the supports that we can in Scotland to respond to

where the Home Office has taken its practice for now.

Keith Brown: I just have one question, although it is complex. It is about where the committee should go with the evidence that you have provided and what the most effective thing for the committee to do is. We have to face the fact that the committee can only do so much. If that is the case, what can it most effectively do?

The starting position for most of us is Andy Wightman's one that NRPF is incompatible with an inclusive and just society and we should be attacking it at its root. To what extent should the committee follow that through by inviting the UK Home Office minister, who I am sure will refuse to come, and urging Scottish Government ministers to push that point? To what extent should we be looking instead at mitigation? I also sit on the Social Security Committee and I am conscious that the Scottish Government is asked to mitigate all sorts of stuff; we do the baby box, child poverty payments and bedroom tax mitigation and there are lots of demands. This committee cannot take the issue much further forward because we will finish shortly, but what are the most effective things that the future committee could do to help out?

Jen Ang: I welcome those suggestions. First, the Scottish Government can and must continue to make representations to the Home Office, but I agree that they are generally met with silence. It is a significant devolved authority and one that the other devolved authorities look to. Secondly and more importantly, I agree that the Scottish Government needs to use its devolved powers to their fullest and, as you have outlined, there are good examples of how we do that. By legislating and creating policy in that way, we set an example not just in Scotland by saving people's lives but across the UK by showing what a positive response is in the area.

The last thing that I will mention involves supporting the cross-Government response. The pieces are there, including our new Scots integration strategy, but they need to be drawn together. The committee should play whatever role in that that it can, whether that involves having an inquiry or having a consistent piece of work that involves ensuring accountability on the part of the next Government. It is important to ensure that this issue is not lost and that the resources that local authorities need are identified and built on. That is important for the future of Scotland, which is increasingly migrant, in part by operation of Home Office policies and also, in part, because we are a welcoming and inclusive country.

Robina Qureshi: I agree that we want to end the NRPF role and that the Scottish Government should be making robust representations to the

Home Office in that regard. It should also make that argument publicly, so that it can be supported across civic society.

We very much appreciate the mitigation measures that were given in terms of immediate priorities funding to help people, but that relates only to an emergency situation. We are not facing an either/or option, because we can also take mitigation measures.

As we have already said, we want people to be allowed to work so that they do not have to rely on asylum contractors or charities. We want the Scottish Government to publicly support the call for the thousands of asylum seekers who are already resident here, particularly in Glasgow, to be allowed to work, so that they can contribute to the tax base.

Finally, we want an investigation by the Scottish Government into the breach of lockdown rules that has been caused by the shift of people from homes into hotels. That is not a reserved matter; it is something that the Scottish Government has power over.

Keith Brown: Graham O'Neill, as you answer that question, could you also say whether you think that there has been a bit of a shift in the most effective political arguments, which is to say that, in a post-Brexit environment, with labour shortages and so on, it is stupid to prevent people from working who are able to do so and keen to contribute? Do you think that a different kind of argument needs to be made, or should we just attack the immorality of the NRPF system?

Graham O'Neill: I agree with everything that Jen Ang and Robina Qureshi said. There is something very wrong about what Mears did last March and April and the way in which it treated people, moving them in the first week of lockdown. Even though there were strictures against non-essential travel, Mears and the Home Office decided to do it anyway. It was disgraceful. There needs to be redress. The issue cannot just go away.

In response to your first question, at heart the argument is primarily an ethical one. However, there is also an economic element. We work closely with people in the asylum process and meet talented individuals with loads of experience, who do not want to be categorised as asylum seekers and would rather be seen as what they are: teachers, engineers and so on. People want to work. They want to contribute and be part of society, on their own terms.

There is an ethical argument and an economic one. People are talented and have loads to contribute, but allowing them to do so is also the right thing to do. Those arguments apply across the board to people who are caught up in the

NRPF system more broadly and have different forms of immigration leave or are undocumented. People want to contribute.

The wider economic argument involves the fact that allowing people to work ensures that they can be part of society and are not at risk of being exploited by unscrupulous individuals or, worse still, organised crime. If someone is pushed to the edges of society, they can meet people who want to do harm.

As I said before, there is a deep problem around the fact that the responsibility and the costs are being shifted to not only the Scottish Government and local authorities in Scotland but also the Welsh Government and Welsh local authorities, and mayors and local authorities in the north of England and the midlands. There must be a coherent, sustained political approach from those local authorities and devolved Governments to the Home Office to send the message that they cannot tolerate the NRPF system, first, because it is ethically wrong, and, secondly, because it is just too economically damaging, and they cannot afford to keep filling the gaps that the NRPF system leaves people to fall through. The Covid pandemic has exposed that latter point. The Home Office did not at any point agree to suspend NRPF, even though it was under sustained pressure to do so. It took a legal challenge to deal with some parts of it.

The argument needs to be ethical, but it must also involve economic and public health elements. All that must go together. However, those devolved Governments and local authorities inside and outside Scotland must make that case together to the Home Office, because there is strength in numbers.

There is nothing inevitable about NRPF. It should not be something that is just there. With the right amount of pressure, it could be significantly challenged, and now, in the Covid-recovery phase, is the time to do that. If we do not do that, people will be left behind. [*Interruption.*]

Keith Brown: Graham O'Neill's screen has frozen, convener.

The Convener: I think that he was drawing to a close, anyway.

That completes our questions and concludes this evidence session. I thank the members of both our panels for all their help and for describing some key issues today, which will give us something to think about with regard to what we need to do when this is all done.

As always, I remind members of the panel that they can leave by pressing the red telephone icon.

Subordinate Legislation

Town and Country Planning (Cairnryan Border Control Posts) (EU Exit) (Scotland) Special Development Order 2021 (SSI 2021/98)

11:26

The Convener: Item 3 is consideration of a negative instrument. I refer members to paper 3, which contains further details. 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 24 February 2021 and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

Does anyone have any comments on instrument?

Keith Brown: I do not have any comments on the practicality of the instrument; I just want to point out the irony that the two areas in the UK that voted against Brexit—Northern Ireland and Scotland—are now to have a border post erected where, previously, there was not one. It is just ridiculous.

The Convener: Thank you. That is on the record.

As no one has any comments, we agree that the committee does not want to make recommendations in relation to the instruments.

That concludes the public part of the meeting.

11:27

Meeting continued in private until 12:26.

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

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