

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

LOCALISM BILL

First Sitting

Tuesday 25 January 2011

(Morning)

CONTENTS

Programme motion agreed to.
Written evidence (Reporting to the House) motion agreed to.
Written evidence reported to the House.
Motion to sit in private agreed to.
Examination of witnesses.
Adjourned till this day at Four o'clock.

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Saturday 29 January 2011

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The Committee consisted of the following Members:

Chairs: † MR DAVID AMESS, HUGH BAYLEY

† Alexander, Heidi (<i>Lewisham East</i>) (Lab)	† Ollerenshaw, Eric (<i>Lancaster and Fleetwood</i>) (Con)
† Barwell, Gavin (<i>Croydon Central</i>) (Con)	† Raynsford, Mr Nick (<i>Greenwich and Woolwich</i>) (Lab)
† Bruce, Fiona (<i>Congleton</i>) (Con)	† Reynolds, Jonathan (<i>Stalybridge and Hyde</i>) (Lab/Co-op)
† Cairns, Alun (<i>Vale of Glamorgan</i>) (Con)	† Seabeck, Alison (<i>Plymouth, Moor View</i>) (Lab)
† Clark, Greg (<i>Minister of State, Department for Communities and Local Government</i>)	Simpson, David (<i>Upper Barn</i>) (DUP)
† Dakin, Nic (<i>Scunthorpe</i>) (Lab)	† Smith, Henry (<i>Crawley</i>) (Con)
† Dromey, Jack (<i>Birmingham, Erdington</i>) (Lab)	† Stewart, Iain (<i>Milton Keynes South</i>) (Con)
† Elliott, Julie (<i>Sunderland Central</i>) (Lab)	† Stunell, Andrew (<i>Parliamentary Under-Secretary of State for Communities and Local Government</i>)
† Gilbert, Stephen (<i>St Austell and Newquay</i>) (LD)	† Ward, Mr David (<i>Bradford East</i>) (LD)
† Howell, John (<i>Henley</i>) (Con)	† Wiggin, Bill (<i>North Herefordshire</i>) (Con)
† Keeley, Barbara (<i>Worsley and Eccles South</i>) (Lab)	
† Lewis, Brandon (<i>Great Yarmouth</i>) (Con)	
McDonagh, Siobhain (<i>Mitcham and Morden</i>) (Lab)	
† Mearns, Ian (<i>Gateshead</i>) (Lab)	Sarah Davies, <i>Committee Clerk</i>
† Morris, James (<i>Halesowen and Rowley Regis</i>) (Con)	
† Neill, Robert (<i>Parliamentary Under-Secretary of State for Communities and Local Government</i>)	† attended the Committee

Witnesses

Councillor Gary Porter, Chair, Environment and Housing Programme Board, Local Government Association

Alex Thomson, Chief Executive, Localis

Neil McInroy, Chief Executive, Centre for Local Economic Strategies

Andy Sawford, Chief Executive, Local Government Information Unit

Tony Burton, Director, Civic Voice

Councillor Keith Barrow, Leader, Shropshire council

Councillor Mike Jones, Leader, Cheshire West and Chester council

Derek Myers, Chairman of the Board, Society of Local Authority Chief Executives

Dr Nigel Keohane, New Local Government Network

Professor George Jones, London School of Economics and Political Science

Professor John Stewart, University of Birmingham

Sir Simon Milton, Deputy Mayor for Policy and Planning, Greater London authority

Mayor Jules Pipe, Chair, London Councils

Simon Watson, Policy Officer, Unison

Public Bill Committee

Tuesday 25 January 2011

(Morning)

[MR DAVID AMESS *in the Chair*]

Localism Bill

9.30 am

The Chair: Order. Before we begin, I have a few preliminary announcements to make. I realise that many Committee members have not sat on a Public Bill Committee before. Until the Panel of Chairs decides that things should change, I had better continue with the established procedure: it has always been the case that the Government sit on the right-hand side of the room, and the Opposition on the left.

Members may, if they wish, remove their jackets during Committee sittings. Please will all Members ensure that mobile phones, pagers and so on are turned off or switched to silent mode during Committee sittings? I am not going to be pompous and humiliate anyone if their mobile phone starts singing things, but if that happens, please locate the phone and switch it off, because it does get embarrassing.

As a general rule, my fellow Chairman—Hugh Bayley—and I do not intend to call starred amendments. I realise that some colleagues may not be entirely au fait with starred amendments, but if they want to see me privately with the Clerk, who basically tells me what to do, I should be more than happy to assist them. The required notice period for amendments in Public Bill Committee is three working days. Therefore amendments should be tabled by the rise of the House on Monday for consideration on Thursday, and by the rise of the House on Thursday for Tuesday. The deadline for the Tuesday meeting immediately following the February recess will be named nearer the time. There is a money resolution in connection with this Bill, and copies are available in this room.

As I say, not everyone on this Committee is familiar with the process of taking oral evidence. We introduced these procedures about three or four years ago—I cannot remember exactly when. We never used to have these evidence sessions. The reason they were introduced was that it was felt that it gave members of the Committee an opportunity to gather information from informed witnesses, and the end result would be that our Committee deliberations would be more informed. That was the theory.

The Committee will first be asked to consider the programme motion on the amendment paper, debate on which is limited to half an hour. We will then proceed to a motion to report written evidence, and a motion to permit the Committee to deliberate in private before the oral evidence session; I hope that we can take those two motions formally. I must say to the Government Members that the Government Whip is normally here—that is Bill Wiggin—but I do not see him. We have the Opposition Whip here, but normally the Whips get together behind the scenes to decide how these things are done.

Assuming that the motion to sit in private is agreed to, the Committee will move into private session. Once the Committee has deliberated, the witnesses and members of the public will be invited back into the room, and our oral evidence session will begin. If the Committee agrees to the programme motion, it will hear oral evidence this morning.

Fiona Bruce (Congleton) (Con): My apologies, Mr Amess, but when do we declare interests?

The Chair: At the beginning of the oral evidence session. These are the preliminaries before getting started.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 9.30 am on Tuesday 25 January) meet—

- (a) at 4.00 pm on Tuesday 25 January;
- (b) at 9.30 am and 12.30 pm on Thursday 27 January;
- (c) at 10.30 am and 4.00 pm on Tuesday 1 February;
- (d) at 9.30 am and 1.00 pm on Thursday 3 February;
- (e) at 10.30 am and 4.00 pm on Tuesday 8 February;
- (f) at 9.30 am and 1.00 pm on Thursday 10 February;
- (g) at 10.30 am and 4.00 pm on Tuesday 15 February;
- (h) at 9.30 am and 1.00 pm on Thursday 17 February;
- (i) at 10.30 am and 4.00 pm on Tuesday 1 March;
- (j) at 9.30 am and 1.00 pm on Thursday 3 March;
- (k) at 10.30 am and 4.00 pm on Tuesday 8 March;
- (l) at 9.30 am and 1.00 pm on Thursday 10 March;

(2) the Committee shall hear oral evidence in accordance with the following Table—

TABLE

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Tuesday 25 January	Until no later than 11.00 am	Local Government Association; Localis; Centre for Local Economic Strategies; Local Government Information Unit.
Tuesday 25 January	Until no later than 11.30 am	Cllr. Keith Barrow, Leader of Shropshire Council; Cllr. Mike Jones, Leader of Cheshire West and Chester Council; Civic Voice.
Tuesday 25 January	Until no later than 12.15 pm	SOLACE; New Local Government Network; Prof. George Jones, Emeritus Professor of Government, London School of Economics; Prof. John Stewart, Emeritus Professor of Local Government and Administration, University of Birmingham.
Tuesday 25 January	Until no later than 1.00 pm	Greater London Authority; London Councils; Unison.
Tuesday 25 January	Until no later than 5.00 pm	Chartered Institute for Housing; Shelter; National Housing Federation; Brent Private Tenants Rights Group; Tenant Services Authority.
Tuesday 25 January	Until no later than 6.00 pm	Barratt Developments; Redrow; Taylor Wimpey; Emerson Group.
Tuesday 25 January	Until no later than 7.00 pm	Home Builders Federation; British Property Federation; National Federation of ALMOs; British Land.

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Thursday 27 January	Until no later than 10.25 am	Confederation of British Industry; British Chambers of Commerce; Federation of Small Businesses.
Thursday 27 January	Until no later than 1.15 pm	Wildlife and Countryside Link; Royal Society for the Protection of Birds; Campaign to Protect Rural England; The Country Land and Business Association; Action with Communities in Rural England.
Thursday 27 January	Until no later than 2.00 pm	Town and Country Planning Association; Planning Officers Society; Royal Town Planning Institute; Royal Institute of Chartered Surveyors.
Thursday 27 January	Until no later than 2.45 pm	National Association of Local Councils; National Council for Voluntary Organisations; Association of Chief Executives of Voluntary Organisations; National Association for Voluntary and Community Action; Open Spaces Society.
Thursday 27 January	Until no later than 3.30 pm	Department for Communities and Local Government.

(3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clause 1; Schedule 1; Clauses 2 to 10; Schedule 2; Clause 11; Schedule 3; Clauses 12 to 14; Schedule 4; Clauses 15 to 56; Schedules 5 and 6; Clauses 57 to 64; Schedule 7; Clauses 65 to 89; Schedule 8; Clauses 90 to 96; Schedules 9 to 11; Clauses 97 to 101; Schedule 12; Clauses 102 to 107; Schedule 13; Clauses 108 to 133; Schedule 14; Clauses 134 to 140; Schedule 15; Clauses 141 to 150; Schedule 16; Clause 151; Schedule 17; Clauses 152 to 156; Schedule 18; Clauses 157 to 166; Schedules 19 and 20; Clauses 167 to 169; Schedule 21; Clauses 170 to 193; Schedule 22; Clauses 194 and 195; Schedule 23; Clauses 196 to 200; new Clauses; new Schedules; Clauses 201 to 203; Schedule 24; Clauses 204 to 207; remaining proceedings on the Bill;

(4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 4.00 pm on Thursday 10 March.
—(*Greg Clark.*)

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—(*Greg Clark.*)

Written evidence to be reported to the House

L 01 Civic Voice

The Chair: Copies of memorandums that the Committee receives will be made available in the Committee Room.

Resolved,

That, at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.—(*Greg Clark.*)

9.36 am

The Committee deliberated in private.

9.43 am

On resuming—

The Chair: Good morning, everyone. Before we start our formal proceedings and our witnesses introduce themselves, there are some technical matters that we need to deal with. Could I ask members of this Committee kindly to put their hands up—the Clerks will be recording all this—if they wish to declare an interest?

Alison Seabeck (Plymouth, Moor View) (Lab): I am actually declaring the interests of my right hon. Friend the Member for Greenwich and Woolwich, because I have an indirect interest—he is my partner.

Jonathan Reynolds (Stalybridge and Hyde) (Lab/Co-op): I am an elected member of Tameside metropolitan borough council.

Ian Mearns (Gateshead) (Lab): I am a vice-president of the Local Government Association, from which we are taking evidence this morning.

Mr Nick Raynsford (Greenwich and Woolwich) (Lab): In addition to my interests as recorded in the register, may I also declare non-pecuniary interests as chair of the Centre for Public Scrutiny, as president of the National Home Improvement Council and of Youthbuild UK, as vice-president of the Town and Country Planning Association, and as honorary fellow of the Royal Town Planning Institute, the Royal Institute of British Architects, the Institution of Civil Engineers, the Institution of Structural Engineers, the Royal Institution of Chartered Surveyors, and the Chartered Institute of Housing. Sorry about that.

The Chair: Oh my goodness. I do not think anyone will be able to cap that.

Iain Stewart (Milton Keynes South) (Con): I am an elected member of the Shenley Brook End and Tattenhoe parish council in Milton Keynes.

Alun Cairns (Vale of Glamorgan) (Con): I am an elected Member of the National Assembly for Wales.

Eric Ollerenshaw (Lancaster and Fleetwood) (Con): I am a vice-president of the Local Government Association.

Fiona Bruce: I would like to draw attention to my interests in the Register of Members' Financial Interests.

John Howell (Henley) (Con): I am honorary vice-president of the Local Government Association.

The Chair: I think we have got those declarations of interest out of the way.

Welcome to our witnesses. I do not know whether any of you have given evidence to one of these Committees before, but members of the Committee understand that this may be a new experience for you. We hope that it will be a pleasurable one. The purpose of it is quite simply this: before the Committee starts its detailed consideration of the Bill, it wants to gather evidence from you to consider later in the proceedings.

[The Chair]

Starting from the left, would our witnesses kindly introduce themselves and make a very brief opening statement?

Councillor Porter: I am Gary Porter. I am chairman of the environment and housing programme board at the Local Government Association. I am also leader of South Holland district council, a small, rural, district council in Lincolnshire. The LGA broadly welcomes the Bill. It is something that we have been hoping to see get on the starting blocks for a couple of years now. I am just a little bit disappointed that some of the bureaucrats and accountants seem to be trying to smother parts of it, but I am sure that as the Bill goes through Committee stage, parliamentarians will reclaim the Bill for the people and away from the bureaucrats.

Alex Thomson: Hi. I am Alex Thomson, chief executive of Localis, the think-tank. Localis very much welcomes the Bill, and believes that there are lots of excellent measures in there. I think there are elements that require more detailed thinking to ensure that the aims of the Government are translated into effective legislation.

Neil McInroy: I am Neil McInroy, chief executive of the Centre for Local Economic Strategies, an independent research and think-tank based in Manchester. Like my colleagues, I support the Bill. However, we feel that there may be unintended consequences, or perhaps perverse happenings, as the Bill stands at present.

Andy Sawford: I am Andy Sawford, chief executive of the Local Government Information Unit, a think-tank and membership organisation for local councils. We broadly support the Government's commitment to localism and to devolving power. We have big questions about whether this Bill will achieve that vision.

The Chair: Thank you. Colleagues, who would like to start the questions?

Q1 Nic Dakin (Scunthorpe) (Lab): May I pick up Mr Sawford's point about whether the Bill will achieve its vision? Can you explain your concerns as to why it might not achieve that vision?

Andy Sawford: The first thing I should say is that we are optimistic that the process that you will undertake in this Committee, as well as in the Lords and through Parliament, can move us towards the realisation of the Government's vision. As it stands, I think there are a couple of big concerns. One is the environment into which this Bill is being introduced, in terms of both the legal environment—the way in which the courts may interpret the law—and the way in which central Government and Whitehall operate. In that sense, there are 142 powers for central Government to make regulations and issue guidance in the Bill, so we want to hear what the Government intend by those and how extensively, or not, they might be used in the future.

When we get to critical elements of these powers, such as the general power of competence, we as localists absolutely support the principle. The Government should be congratulated on moving on from the fairly timid revisions that were proposed to the old general power of well-being. However, it would have been better if the general power of competence had stopped at the first line of the first clause, which is that local government

should have the power to do anything—I forget the exact wording—that any ordinary person can do, or anything that individuals generally may do. The clause does not need all the limitations and qualifications.

We can take this approach to various parts of the legislation. Why is there a different approach and a different standard around local democracy, and how it should be conducted, when we consider the question of referendums and plebiscitary democracy relative to the way in which central Government operate? What is the intention of that? How will minority interests be represented in communities? One of the real ambitions of localists—I am sure you will hear it time and time again today—is the financial freedom of local government. What will the provisions in this Bill around local referendums and council tax really mean? That is not to say that we oppose the idea of referendums per se, but these are referendums with conditions that will be prescribed by the Secretary of State. In that sense, is this something that really empowers local government around their financial freedoms, or actually disempowers it?

The Chair: Mr Bradford.

Mr David Ward (Bradford East) (LD): Could I just—

The Chair: I do apologise. I should have said Mr Ward.

Q2 Mr Ward: No, I am quite happy with being called Mr Bradford. Thank you very much; you have just written the heading of my next leaflet.

Taking that a stage further, I wonder if you have a general view on just how far this localism agenda can go without a substantial shift in the ability to raise revenue at a local level, as opposed to central Government grants being the preponderant amount of funding that authorities receive.

The Chair: Any of the witnesses may answer.

Andy Sawford: Part of our view of freedom is financial freedom. It is absolutely fundamental to our freedom, and if that is constrained by central Government or any other mechanism, we are clearly not free to act in the way in which we judge is in the best interests of our communities. It is a fundamental principle. Obviously there is then a point of how responsible local government may be with that freedom and the relative powers of central and local government in the whole equation. We are not fundamentalists about this; we recognise that central Government will be concerned with the whole burden of taxation on individuals in society and the whole picture of public service provision, and they may want to retain some ability to influence the taxation that somebody may have to pay. However, this is too limiting in our view.

Councillor Porter: It is probably worth adding that most of us recognise that, over the next couple of years, the whole local government finance system is going to be looked at in a positive light, as far as we have been able to pick up from conversations at the moment. We have seen some moves already: the proposed freedoms around setting planning fees. Lots of local tweaks to finance can be made, and I think that most of our members have realised that the world is going to be a lot tighter in terms of central Government grant. I do not

really see that, from an LGA perspective, as being the big stumbling block. We can see that that is work in progress and that something will come forward in the future, so that is not the issue for us at the moment.

The real issues around finance are the ones that concern the housing revenue account review. Obviously, the positive statements that Ministers have made have not been reflected in the work that the accountants have been doing over at the Treasury. They are issues that we would like to see you guys getting to grips with over the next couple of months, as well as bits about EU fines. It has to be somebody in a room with no knowledge of how the world works who decides that it is feasible to pass EU fines on to councils for things over which we have no control. I cannot see how a council with a motorway or an airport on its patch can ever be considered to be responsible for this country failing to reach its carbon reduction targets.

The same is true with landfill. How can we be responsible for the landfill fines if we do not have complete freedom with the levers that could reduce landfill? Clearly there is a tension between what Ministers and parliamentarians say that they believe should be in the Bill, and what the accountants and bureaucrats have put in it afterwards. I am convinced, as is the LGA, that the reason why we have 406 pages is that people who are not accountable to the electorate, even on a national basis, have been the final architects of this.

I am sure that ministerial statements made before the Bill was pushed forward clearly show that there was a great intention to free up local councils and local communities to shape their own places. It was only when the Bill was drafted that some unintended consequences came in. We really want to help you guys to get the information necessary to change that—to get us back to the Bill that I am sure you all want.

Neil McInroy: The ambition of the Bill is clearly radical decentralisation. It seems to us at the centre that that ambition needs to be matched by addressing the economic centralism that is currently in place. The Bill needs to cover financial elements, and it will be fettered unless there is clarity about how you attack economic centralism.

Alex Thomson: I would just add that Localis, like the rest of the panel, is very keen to see the Government's local government resource review, which I believe is starting shortly. I think that is a great opportunity to look at the issues that have been raised about how local government can be more financially autonomous. We at Localis will be hoping to feed into that with a paper on business rates and how they can be localised, which will come out in a couple of months.

The Chair: I am delighted that lots of colleagues now wish to put questions. If needs be, this session can go until 11 o'clock.

Q3 Barbara Keeley (Worsley and Eccles South) (Lab): I will direct this question at Neil McInroy because of something he said in his submission, but clearly the others may answer too. You talk about the negative unintended consequences that you are concerned the Bill will cause. Could you tell us a bit more about that?

Neil McInroy: I think, generally speaking, I am saying that when there are radical changes of such a scale as those proposed in the Bill, all such policy has things of which you cannot quite decipher the consequences. It is

like the Popperian notion—Karl Popper—of unintended consequences, and it is much better to do policy in incremental levels. There is a whole range of stuff across all the different aspects of the Bill where there is the potential for something odd, perverse or unintended to occur. One example of that could be the right to challenge. There is a right for the community to challenge the procurement process and how services are delivered, but once that challenge is made, it might not be the community that enjoys the transfer of services or more involvement with them, because the door might be opened to other types of service provision—big business or non-local provision. A range of elements in the Bill needs to be looked at carefully and thought through by asking, “What could be the worst case scenario of that thing happening? What might the knock-on effects be?”

Q4 Fiona Bruce: Welcome, gentlemen. How do you think the provisions in the Bill could help to address the key challenge that many of us have experienced in our time in local government of attracting more strong community leaders to serve as councillors? Perhaps Mr Porter will respond first.

Councillor Porter: I am not sure whether the Bill will encourage strong community leaders to become councillors, but it should attract those councillors who are already strong community leaders to reinforce how they believe their districts should be shaped. There is more to becoming a local councillor than can possibly be put in one Bill. Admittedly, if we are given greater freedoms and powers, it will bring more people in.

One frustration at the moment is that no matter what you try to change at a local level, someone higher up the food chain will stop, change or reverse it. I do not believe that that is the case everywhere. A number of us have sometimes thought that it feels like pushing water uphill, but you can achieve quite a lot. The Bill will help those of us who are ambitious enough to do that, but I am not sure whether it will bring in a higher calibre of candidates just in itself. That is down to the political parties to manage locally. We need to engage much more in getting those strong community leaders out and active. Greater freedoms and flexibilities in how we can work will achieve some of that, but it will not be the only piece of work that needs to be done in itself—political parties will have to engage more heavily at local level.

Alex Thomson: Just to add to that, I absolutely agree that the Government's plan of decentralising power and promoting localisation will, in itself, be a key driver in encouraging more new people into the local government fold. There is broad acceptance that the end of the Standards Board, which the Bill heralds, is probably a good thing in that regard. I am slightly unsure as to the effect of the introduction of a criminal offence of not registering members' interests. I have spoken to various people who have said that they think that might work the other way by putting people off even thinking about becoming a councillor. I am not sure why the provision is in there; it is perhaps a bit of an overreaction.

Andy Sawford: There are things in here that will be very much welcomed by councillors, such as scrapping the pre-determination rules and abolishing the Standards Board for England. I think those are things about which councillors around the country will say, “Great, we welcome that.” However, the big question—the

particular thing that we will be looking to hear from Ministers over the course of the debate is their vision for local government's place within the localism.

We would say localism is about communities being much more self-determining—a presumption that communities should be self-determining—but that that is enshrined in the role of the elected local councillors. I think there is potential here for people to see referendums, community planning and so on, as a way of, frankly, not seeking elected office, but rather seeking to change their communities in a different way. Or there is potential for councillors to become frustrated that, for example, in the use of 142 reserved powers of the Secretary of State, the council is overruled relative to parts of the community.

The key roles for the council are balancing all the interests of the communities; having an oversight of public services and local spending; its convening power to bring partnerships together; and representing all interests, including minority interests. If councillors feel frustrated in their ability to do that by the direct democracy in the Bill, I think that could become a problem. So we are optimistic, but that is what we want to hear during this debate.

Neil McInroy: Maybe it is just me as a nerdy political geek, but when I read the Bill I was very intrigued to find the balance—what is the vision here for the balance between representative and participative democracy? I think there is a tension in the Bill that is never resolved, and it does not say exactly what the role of the elected member and representative democracy is. What is the role of the elected member, now and in perpetuity? For instance, the divesting of services to the community—a good thing—but what would be the elected member's role in that? Would they be a manager of contracts or would they have some broader representative function? I think some tensions are there which link to my previous point about unintended consequences, which seriously need to be resolved because they are to do with the philosophy of the Bill and the drive behind the Bill, and I think that is weakened if it is not fully explained.

Q5 Heidi Alexander (Lewisham East) (Lab): I wonder whether I could ask the witnesses for their views on the general power of competence. I must admit that I am struggling with it slightly, inasmuch as I cannot really understand what it will enable a council to do that it cannot do at the moment. Could you give me some examples of what you think that will enable?

Councillor Porter: We certainly welcome it. We are pleased that it has survived the test to get it on the paperwork. We are a little bit concerned that some of the legislation that would need to be removed to make it fully active has not been done yet, but I am sure as conversations come out that that will be taken into account. I think the London Authorities Mutual Limited case is probably the most recent public example of what this Bill should allow us to do that we have been unable to do.

Councils are going to be encouraged to seek new ways of bringing income into their communities so that we do not fall for such heavy charges on the public purse, and the ability to do almost the same as you could as a citizen and trade properly for the benefit of your community—and not necessarily just for the well-being part of it—is great. I think the uncertainty around the powers of well-being—there are only a few councils

who use that—was the biggest barrier. If we could have something that clearly states where our freedoms will be and that we will have the ability to use that power, then I am sure that more councils will be stepping up to the plate to take full advantage of it. I think it is the uncertainty at the moment that has prevented us from using the powers that we already had.

Q6 Heidi Alexander: I think I heard you say “trade properly”—to enable councillors to trade properly for the benefit of their community. I am very keen to have specific examples of what activities local authorities might be involved in that they are unable and prevented from being involved in at the moment.

Councillor Porter: The LAML case: that is the biggest one that has kicked off nationally—

Heidi Alexander: Could you just say a few words about it?

Councillor Porter: A collection of councils wanted to do their own insurance, brought in another council and it ended getting turned into a big bun-fight. That is the broad spec of it. Somebody in here will give you chapter and verse of all of it. Our guys will do it for some reason the House of Commons Library has lost all reference to it, but I am sure it has not. That was a clear example where councils working together could have delivered financial benefits for their own communities.

In my own case, we have set up a trading company with a neighbouring council and that took nearly two years and unprecedented amounts of money from the district council in legal advice to try to cut through the minefield which this piece of legislation will cut through quite quickly. It is a fast-track route through to where we need to get to, and it will give us some certainty that it is a position worth pursuing rather than lots of half-started business cases never coming to fruition.

Q7 Heidi Alexander: Do you believe that the general power of competence gives you that legal certainty you require? You mentioned the legal problems you have encountered in the past, and I wonder if it is watertight in that respect. I see Mr Sawford is shaking his head. Perhaps he might want to say something as well.

Councillor Porter: Well, the original intention would have done; some of the words in the Bill as it stands at the moment do not. I will defer to him to fill in the details, because he was panicking earlier.

Andy Sawford: Who—me?

Councillor Porter: Yes, you. You were giving me grief on it outside.

Andy Sawford: We were talking about it because we think it is very important. It relates partly to the point that Mr McInroy made on the philosophy of the Bill. The Control Shift Green Paper that the Conservative Party published said the implications of the general power of competence were vast:

“The fact...will be that they have the power to change things, to provide services that are missing, to correct market or public service failures—in short to provide whatever it may be that local people want or lack or are prepared to pay for”.

That is an ambition that we absolutely share, and that is why we embraced the general power of competence. We called for it because it goes further than the power of well-being, which was consistently shown to have limitations. Those limitations were not just when it was challenged in court, as in the very high-profile case that Mr Porter described, but they were as much about

Whitehall's interpretation of the powers of general government and local government's own interpretation of competence, including local government lawyers, a whole generation of whom developed their careers through a time of ultra vires and the very restrictive approach by central government to local government—in which local government did what it was permitted to do.

Our ambition is that the general power of competence moves us on from that, which is why it is disappointing to see express limitations on what councils can do, including existing legislation. We were hoping this would be a kind of year zero. Let's start from here—have a review of existing powers and say what it is appropriate for councils to do or not do, have that discussion prior to the publication of the Bill or at least during the course of its passage, and certainly have some elucidation of that by Ministers during the course of its passage.

The Secretary of State reserves the powers to make orders preventing specific activities using the power, and orders making use of the general power subject to conditions. What is the intention behind that? What will that be? In a sense, if you turn the answer the other way around, what we would like to see is the ambition of local government unleashed over the coming years—its innovation and creativity—as it faces unprecedented challenges. We might not be able to imagine what councils could do if they were fully given the powers to do it. In that sense, what they want to know, and what is important, is what is envisaged around the restrictions on this. That is why it is very important that there is some constitutional statement about the role of local government, because otherwise, the courts will interpret this in a fairly minimalist way in terms of how permissive they are of local government. That is our concern.

We worked with the Minister, Andrew Stunell, some years ago on a local government bill around a constitutional statement that was built on the European Charter of Local Self-Government that said local authorities are self-determining. If we had that kind of statement in here, that really would help us to see the philosophy of the Government and the coalition parties in bringing forward this Bill, driven through the Bill and then on into the courts' interpretation and in how local councils act.

Q8 James Morris (Halesowen and Rowley Regis) (Con): May I just pick up the points about this power of general competence, which I would like to delve into a bit further? I was struck, Mr. Sawford, by your rather Maoist language about year zero. Is not the most important thing about the general power of competence that it sends precisely the signal you are looking for in signalling that change in central-local relations, which I know you have been advocating for some time? I hear the argument about the order-making powers, but in some ways, don't you think that is a bit of a red herring? Clearly, there needs to be a legislative framework. It would be unsurprising if there were not order-making powers in the Bill, given that one can never predict all the circumstances that may accrue around the general power of competence. I am surprised that you seem to be saying, "Yes, I broadly agree with this," when there are so many different caveats. Is it not a bit of a red herring that you are pursuing this line and saying, "Well actually, I don't quite welcome it because we've got this order-making power"? Is it not pretty unsurprising that the Bill should have it?

Andy Sawford: The position that organisations such as Localis and the LGIU would have agreed around over many years is to substantially shift power from central to local government, and in that sense, a constitutional statement would be much better—something that says, "This is our meaning around the scope of local government in relation to the general power of competence," rather than a whole set of reserve powers and limitations on local government. There are some very specific ones, including charging and trading, which Councillor Porter mentioned, that we would want to see removed during the passage of the Bill.

Q9 James Morris: May I also ask Mr McInroy a question? I do not understand your position. Everyone would agree, and the think-tanks represented in this room would agree, that we have had 50 years of increasing centralisation of the system, and we now have a Localism Bill. However, Mr McInroy, you seem to be arguing that we should be taking a much more incremental approach—that we should be cautious and not take these initiatives that communities are demanding. Is that not a rather surprising position for you to take given the opportunity that the Bill presents? You are kind of arguing that we should pilot this and do that, whereas the policy environment demands a radical Bill that opens up the possibility for community rights of challenge existing in communities.

Neil McInroy: I think it is right to have a radical Bill, and we need to move in a quantum leap to a localist world. I am just concerned that the fine-grain prescriptions and details in the Bill presume that things will happen in a particular way, and I think it would be much better to have a, perhaps, lighter Bill that leaves many more doors open and carefully monitors the changes as the Bill is put into practice. The Bill wants to be radical but it prescribes, and it needs to be as radical but prescribe less.

Q10 Jack Dromey (Birmingham, Erdington) (Lab): The Bill contains provisions relating to pay, transparency and accountability. Do the witnesses agree with those provisions in the Bill?

Councillor Porter: I am not sure how anybody could argue against transparency in how public money is spent.

Q11 Jack Dromey: In that case, may I ask a follow-up question? You are absolutely right about transparency over how public money is spent, so should the same principle not apply to the chief executives of the contractors contracting with local government?

Councillor Porter: Yes, really. I do not see a problem in making anybody whose business benefits from it accountable, and I am sure their company books will publish the information in the annual statements. For me, the biggest easy-to-address area is in housing associations and such bodies, which compete with councils for public assets and money. The furore at the moment over local government chief executives' pay should be set in the context of what housing and health association chief executives and permanent civil servants get paid. All of that should be on the public table to be looked at. I am not sure which Minister it was, but I was at an event once and a Minister said, "Sunshine is the greatest disinfectant." That works for me.

Q12 Jack Dromey: There are very important issues of transparency and accountability in the expenditure of taxpayers' money, which logically should apply both to the chief executives of local authorities and to the chief executives of contractors. Do any witnesses disagree with that?

Alex Thomson: I do not claim to be a lawyer, but I am not sure how you could set that sort of thing up in a contract, although, as Councillor Porter says, the salary of the chief executive of a public company would be public knowledge, I think. But you can attach conditions to grants; that would allow for transparency of other public bodies.

Q13 Jack Dromey: But if I can press you on this, Mr Thomson, there is £38 billion of local government procurement. In the procurement process, would it not be right for local authorities to be able to ask questions in relation to the senior pay policy of the contractors with whom they are contracting?

Alex Thomson: I do not see why they should not ask.

Neil McInroy: I would agree. I think that, in terms of procurement, one needs to go even further. A whole range of employment and environmental practices of suppliers of public goods and services at local government level need to be porous, open, and transparent. A whole range of things around the procurement and right-to-challenge element need to be explored in a lot more detail. There is an unintended consequence there, in terms of what the plans are, and there needs to be greater transparency and greater openness, with regard to what the opening up of procurement would do.

Q14 Jack Dromey: Mr Chairman, with your permission, I should like to ask a question on a separate issue—planning. Would it not be better if the national planning policy framework was put on a statutory footing, with sustainable development also being in the Bill? May I have the views of the witnesses on that?

Alex Thomson: I do not know, but I am sure that Ministers can offer an answer at some point. I was assuming that the presumption in favour of sustainable development would be built into the national planning framework.

Q15 Jack Dromey: Would it not be preferable for it to be in the Bill? Is there any reason why it should not be in the Bill?

Alex Thomson: I do not know the legal consequences of that.

Q16 Brandon Lewis (Great Yarmouth) (Con): Councillor Porter, speaking from the LGA point of view and as a councillor, what do you think about the Bill's changes to governance—allowing local authorities to look at going back to the committee structure if they wish, rather than having a cabinet structure? I am thinking about some of the comments that I have heard over the past few years from councillors, particularly back benchers on smaller authorities. Do you think that is a useful opportunity, and do you think that many councils will look to take that up, if that goes through?

Councillor Porter: Anything that allows a local council to determine its own executive arrangements has got to be a good move. I am not sure how many councils will actually take it up, though. When the changes to the executive leader cabinet model were first brought in, there was quite a bit of resistance from people who had

always operated inside a committee system, but that was nine years ago now, and I think the majority of members have grown to accept that quicker, generally better, decisions can be made through executive arrangements than through committee arrangements. There will almost certainly be some councils who will welcome the opportunity to go back to committee system, if that is what they choose to do.

Andy Sawford: May I pick that one up? I think the absolutely fundamental point, as a localist, is whether councils and communities can decide their own arrangements for themselves. That is the absolutely critical point. It is not that there is one model that will work best. The idea that that should relate to the size or type of authority—I think that is a red herring. If there were a single model of corporate governance, for example, that worked best, then I am sure that we would be able to make a lot of money out of promoting it. Companies have all sorts of different structures, and local authorities should be able to explore different structures over time.

This speaks to our concern about the Bill, which is that some things go in very much the right direction—for example, letting local authorities determine their own government structures; that, broadly, is going in the right direction. Telling 12 cities that they must have a referendum for an elected mayor, and central Government giving that a little bit of oomph by creating the shadow mayors, in order to get the right outcome—that goes in the wrong direction. Local authorities can already seek to have an elected mayor if they wish, and there is no reason to change the legislation in that regard. We would even extend that to other issues, such as the issues around pay transparency. It is perfectly understandable, of course, that central Government Ministers will have a view about these issues, but in the end it should be for local councils to determine how best to operate, and the main check on that should be local accountability in their communities and local people. If local people want to demand pay transparency, they should do so in a robust system of democracy, rather than those things being prescribed in a Bill. That does not seem very localist to us. Things that give councils and local communities more powers are going in the right direction, and things that tell them what they must do are going in the wrong direction.

Alex Thomson: Very briefly, I obviously concur with idea of councils having the power to choose their own governance arrangements, and I would like to see the Bill go slightly further in allowing councils to choose their own governance arrangements. Subject to explicit democratic mandate, they should choose whichever structure they like.

Q17 Alison Sebeck: Mr Thomson, in your opening remarks you commented that there were elements missing. Could I ask each member of the panel to say whether they think there are specific gaps in certain areas and specify them? When answering, could they consider the fact that, with this very large Bill, we are largely legislating unsighted, because a lot of it is in regulations, is out for consultation or is under review?

Alex Thomson: Shall I go first? I will add just a couple of things. Ideally, I would like to see the planning provisions go slightly further than they do at the moment and go closer to what the Conservatives published in their "Open Source Planning" paper. On the general

power of competence, I am not a legal expert, but I understand there is a possibility of that going slightly further than it does currently. Mr Sawford quoted from the Conservative Green Paper on correcting public service failures; I cannot remember the exact language.

Andy Sawford: It was:

“correct market or public service failures”.

Alex Thompson: Yes. I am not sure if an individual would be able to do that; you might need to give them broader powers to allow a local authority with the general power of competence to perform functions carried out by other public bodies in the absence of those functions being provided.

The community right to buy is a policy I very much approve of. Unfortunately, in the Bill, it looks more like a community right to express an interest to buy. The provisions that were announced by the then Opposition allowed for a first refusal for the community, so that if a property of community value—a community asset—came up for sale, the community would have the first chance to buy it. That does not appear to be in the Bill, and therefore I am not sure how much community right to buy there will be.

Q18 Eric Ollerenshaw: May I just ask about neighbourhood development plans, and how you see that working through the system?

Councillor Porter: So long as it all goes according to plan, it should work really well. If the district or upper-tier development plan is the locally supreme document and sub-district plans have to fit in with that, then this will work really well. What we should be doing is turning that slightly on its head, as some of my colleagues do already, and use the neighbourhood plans to build a district-wide plan. That way, we will end up with development that communities actually buy in to and support, and hopefully we can reverse the situation that has gone on for the last 35 or 40 years, where this country has singularly failed to develop the amount of new homes it needs for the people we have living here. The greatest challenge for us is that this is going to be a brave new world for planning, and one that is kind of untested. One thing we know for certain is that the previous system has failed, so it is time to change, and local government really welcomes that. It is the end of the regional spatial strategies—top-down targets that failed, year on year, to deliver the homes we needed.

There were perverse situations in some councils, where we were prevented from building homes because the regional spatial target was too low. Hopefully, a planning system built from the bottom up will deliver the development that communities do need—and want, despite the fact that some of the popular press would have everyone being a nimby. That is not really the case out on the ground. What people want is the right development in the right place. What they do not want is the wrong development in the right place, if that makes sense.

Alex Thomson: I concur with every word of that. One small thing I am not entirely sure about under the neighbourhood planning provisions is which bodies can develop a neighbourhood plan or development order. If I have this right, they are parish councils or neighbourhood forums. The description of a neighbourhood forum, if I have read the Bill correctly, is still to come in secondary legislation, giving it more shape and scope. That will be

crucial to ensure that such bodies genuinely represent the views of the community they purport to represent—if you see what I mean. That is absolutely crucial. If that happens, the neighbourhood planning bottom-up system will deliver in spades.

Neil McInroy: I agree. A bottom-up system is very good, and there is the Russian doll idea in terms of scale of planning. However, one word of caution is that we do not want to get to a stage where planning becomes atomised, and there are individual elements of planning with a lack of strategic steer. There needs to be an element of understanding of the scale of functions around planning and of how certain planning decisions have a particular scale. We would not have to have the neighbourhood plans, which makes it difficult for a series of small plans and makes a more confused picture when large-scale strategic planning decisions need to be made.

Q19 Eric Ollerenshaw: Where would you draw that line?

Neil McInroy: This is how it would need to be spelled out in the future document that details the neighbourhood plans and the relationship between different scales and powers of planning. That is unclear at the moment. We have got rid of the regional spatial and economic strategies, and that is probably a good thing. However, we need to see where that scale of planning will take place in the future and how we would build up the blocks of all these individualised neighbourhood plans that people have put a lot of work and effort into. We need to see that a big scale does not ride over the top of them, but still manages to conglomerate them; it is a tricky business and a lot more work needs to be done on it.

Andy Sawford: We speak to the local authorities we work with, and there is nothing in here that we do not welcome in principle—the idea that you turn the planning system quite significantly on its head. We want the Bill to be radical. Instead of the planning system starting at the top and filtering down, with the real power in the system being the national framework and then various spatial levels going down to the community, it would start at the other end. We think that has to be the right approach in principle, but there are some practical issues that need to be worked through. One is that this will work only if it is a partnership between councillors and communities, because people will need to be supported to bring forward neighbourhood plans; they will need to be resourced by councils in terms of independent examinations and the potential for local referendums. There are also issues about how you ensure that they represent all of the community’s interests. I think that Mr McInroy’s point about how we define neighbourhood and community is really important. Thinking back over time, they are much more complex things to define in this day and age than they have perhaps ever been, and we must ensure that people feel involved and included.

The Chair: Before moving on to Mr Raynsford, Miss Seabeck put questions to our witnesses, and she wanted a response from all of them. She only got a response from one, which was my fault. Please, can we hear the responses to Miss Seabeck’s question from the other three witnesses?

Councillor Porter: Briefly, from the LGA, there are 406 pages and we would not want to add anything; we would want to take some things out first.

Andy Sawford: We would want to take quite a few things out of the 142 powers as well—subject to understanding what the Government’s intention is. There are things that we want to add into a Government vision of localism. There are two big elements to the Bill; I know that the Government describe six or seven elements, but there are things about the role of local councils and communities—local democracy and so on—and the very substantial parts of the Bill about the housing and planning system. Our vision of localism is one in which the local community and councils have a great deal more power in the criminal justice system, the welfare system, the stewardship of local natural resources and so on. That is a much more encompassing view of how communities should be self-determining and over which areas of community life. I think that is a bit of a challenge to bring forward.

Q20 Alison Seabeck: On the housing and planning element within that, do you have any concerns that if the voices of the vulnerable—particularly in relation to housing allocation and, perhaps, involvement in neighbourhood forums—are not given any strength within this Bill, there is a risk they could be sidelined?

Andy Sawford: I think there is always that risk, whatever the system. That will need to be discussed here, specifically how the Government envisage they will bring forward the guidance. That is ultimately why the ballot box and elected local politicians are really important because they should represent the whole community interest, or should seek to. They are a guardian of that in the whole community, so their role in the system here is incredibly important.

Neil McInroy: I would like to see more about the place stewardship role, particularly of local government and how it needs to be seen as first among equals when it comes to stewardship of place. The legitimate and correct representative democratic role of local government needs to be stated much more strongly. I also think the Bill, while about localism, is slightly spatially blind. It does not recognise that there is special disequilibrium—inequalities across the country—and different levels by which areas recommended in the Bill would or would not gain traction, depending on a whole range of different cultural, economic and social factors.

There is a danger—going back to my earlier point about unintended consequences—that there are areas where we would pick up the freedoms, flexibilities and localism in the Bill and run with them, and other areas where we would not. We must look at how that would be solved or worked through. The Bill talks to a particular type of place which many places are not like, for instance in terms of what you would expect the community to do.

Q21 Mr Raynsford: May I pick up the law of unintended consequences and in particular relate it to the abolition of the pre-determination rule, which I think all of you welcomed? I am sure you would recognise that there must be limitations on what can be said by people who find themselves taking decisions in a quasi-judicial role. The Government have recently relieved the Secretary of State for Business, Innovation and Skills of his responsibilities for apparently predetermining his view in respect of News International, and clearly that was with a view to the risk of judicial review. Will one of the

unintended consequences be that central Government will no longer be the whipping boy, and that the legal profession may replace it? Local government may find itself uncomfortable with legal decisions that strike down decisions taken by councillors who believe they are acting in the interests of their area, but may have predetermined a decision.

Neil McInroy: I do not know. What I would say—which I did not say when talking about the general power of competence—is that the legal power being there is one thing, but how does that work in practice? Who does the asking? Who carries the can? Who does the allowing? That all falls into the realm of legal discussion. The whole question is not really my ken—I do not know—but reading the Bill as a non-legal person I would like more clarity as to exactly how these things are going to work in practice. I have doubts, and I can see it being a legal morass—as you imply—rather than something that enables.

Andy Sawford: Clearly, Mr Raynsford, your experience in this is enormous, and I am no legal expert. However, we would have to look at any rule that prevents somebody expressing a view on an important local issue and stops them being clear to the electorate about where they stand for fear of facing serious limitations on their ability to effect change if elected. In that sense we welcome the Government, and there are many people well placed to advise the Government on how they can frame this legally in such a way that councillors are able to make decisions without recourse to the legal system.

There is a bigger point, which goes back to what I said about where the planning system starts. If it starts at the top and there is an enormous amount of guidance from Government, you end up with very significant legal constraints on an individual elected in a local area and their ability to act. If it starts in a community in a different way, and our view of the planning system is more empowering of local people and their decisions, then I would have thought that begins to tackle some of the legal problems that you envisage.

Q22 Mr Raynsford: But were the Government wrong to relieve the Business Secretary of his responsibilities?

Andy Sawford: That is not a matter for us, is it?

Q23 Mr Raynsford: No, but the parallel is very apt.

Andy Sawford: No, I think it is different. Had the Secretary of State talked about these issues very publicly prior to the election, I think it would have been a judgment issue for the Prime Minister in appointing that person to the role. That is a different issue, because in saying we are going to put a person in that role, you are saying we are going to take on the competition law and due process here because we have already been clear in our view.

The Chair: Does anyone else want to comment before we move on?

Alex Thomson: That seems to me to be more a political decision than a process decision.

Q24 Alun Cairns: Councillor Porter, can I come back to you about the community right to challenge? Could you tell us what your members’ reactions are, and those from local government in general? Is it fair to say that

some may feel threatened? Is it also fair to say that some of the more innovative ones see it as an exciting opportunity to reshape the services, bearing in mind the type of financial circumstances in which we are likely to be operating in the next few years?

Councillor Porter: I think that is quite a fair summary of where our membership are. With a lot of parts of the Bill, there are going to be those who are forward-thinking and ambitious and will welcome a lot of what is in there, and there will be those who want to retrench into a position they have held and enjoyed for years who will not. We have to be careful—we are on the lines. I will probably stop answering at this point, before I cease to speak for the LGA and start to speak for South Holland. They are not always the same line.

Q25 Alun Cairns: May I press you a little further then, Councillor Porter? Could you give us an example of the sorts of services, should the legislation go through in the current form or a very similar form, that some of your authorities are looking at from the discussions they may well have had with communities?

Councillor Porter: I do not feel able to answer that question. I do not want to be evasive, but it is going to give some other issues and I do not feel able to answer it and speak for the people I am here to answer for.

Andy Sawford: May I speak to that issue? When communities or community organisations come forward with bids, it is really important that the local authority is then able to make what it considers, along with local politicians, to be the best judgment for their area. That is why we are concerned about the reserve powers of the Secretary of State—effectively we play the dinner monitor. If you think about the big challenges that councils face right now, they are thinking in two directions. One is about scaling up, in a sense, with joint procurement, shared services, and big long-term contracts, because it is going to be more difficult for private sector contractors, for example, to see shareholder value unless they are able to look at long-term contracts. So there is a direction there that is about things getting bigger in terms of units of provision.

There is also a lot of opportunity to devolve services at local level to achieve efficiencies in that way and to have more diversity of service provision in local communities. Councils need to get that judgment right and not be second-guessed by the Secretary of State. When someone comes forward and says, “We want to bid to run this service,” the local authority says, “We made a judgment about procurement in that area over a period of time. This is the way we are working with neighbouring authorities, and therefore we are not going to be able to do that through community associations, but over here there are opportunities for communities to come forward.” I think it is really important they are able to make those judgments locally.

The Chair: We will have to move on because there are still lots of colleagues wanting to speak, and I want to give the Ministers an opportunity to participate.

Q26 Ian Mearns: I am interested in taking us back to the question of the potential for returning to committees. Everyone who has been around long enough will remember that, back in the committee time, we also had a different source of payment for councillors. We did not have basic allowances or special responsibility allowances as

we do now; we had attendance allowances. Do you think there is any real appetite in local government to return to that sort of regime—to get rid of basic allowances and return to people being paid by the fact that they signed a register in a committee when they come along?

Andy Sawford: Let us give them the opportunity to see if they want to do it and not try to determine it from the centre.

Councillor Porter: I would agree. I think that the freedom for people to be able to go back to that system, if they wish, is the important part. The real issue is that there is no compulsion to make them. If there is an appetite out there, it will show itself. People will take it up, and if they do not, it has not hurt anyone.

Q27 Ian Mearns: Sorry, Chair. I have been involved in local government for 27 years, and I am not getting the feeling that there is a national clamour among councillors for a return to the committee system. I do not know if that is the case.

Andy Sawford: Do you think that that should mean that if an individual local authority wants to do something different, it should not have the opportunity to do so, just because there is a general view about a way of working? Frankly, local authorities tend to work like that only because they were told they had to move away from a particular system. The way in which they could organise at local level was prescribed. The committee system could be retained only if there was a small inner population. They have not necessarily chosen this path themselves—it is the status quo. I doubt that it is a big concern for councils right now. They have got many bigger fish to fry than the structure of the organisation, or their type of allowances and the way they are paid.

Councillor Porter: There are a number of fourth option councils at the moment that could have chosen to keep the committee system—my own is one of them—but quite a few of us chose not to. We chose to have the ability to move to the executive system. I think that is why choice is the important part.

Q28 Ian Mearns: Yet the Bill is prescribing that some large cities should move to a mayoral system. Do you think that that is correct at the same time?

Neil McInroy: I think that the mayoral question is a different debate. It seems to me—personally speaking rather than organisationally speaking—that the Bill is about broadening and deepening democracy, and spreading it out, whereas elected mayors narrow democracy, so this does not really add up. It seems to me that localism is about actually getting communities and a range of other stakeholders involved in deciding the destiny of a locality. It seems odd to narrow that by forcing elected mayors, so the tone of the Bill is a bit surprising.

The Chair: I am afraid that we will have to move on because many colleagues wish to speak.

Q29 Gavin Barwell (Croydon Central) (Con): Thank you, Mr Amess.

I just wanted to pick up on two of the points raised so far by other Members' questions. Mr Sawford, when you were talking earlier about the general power of competence and expressing concern about the limitations

[Gavin Barwell]

based either on pre or post-commencement of limitations—you used the phrase “year zero”—I thought that you were arguing that there should not be statutory limitations on what local authorities can do. Are you really arguing that there should not be any at all? To give you an example, let us imagine the nightmare scenario that the BNP took control of a particular local council. Should there not be limitations at a national level on the kind of decisions that it could take regarding people’s rights to equal access to services? Are there circumstances in which the Government should limit what local authorities can do?

Andy Sawford: Speaking personally, and certainly not for my organisation, the argument was made some years ago that London should not be allowed to parish areas because the BNP might take over, but I always thought that that argument was weak. If you believe in democracy, you must accept that sometimes people are elected who national politicians will not like or who are not mainstream. So that is not a strong enough argument for me, although I understand that many people would have the concern that you express.

In terms of the year zero point, what we would rather see is a general review of the current legal framework under which councils operate. In a sense, it says, “If it is there in statute, you cannot do it now or in the future.” We would like to look at what the limitations are. When a Government come in and say in a radical way, “We are committed to localism, localism, localism,” I think it is important to say that we are going to look back—I know that that is difficult through legislation—and see what those limitations are. Otherwise, the scope of the general power of competence is clearly more limited than it might be when we look at the language in the “Control Shift” green paper and the real ambition to free up councils.

Q30 Gavin Barwell: So you are actually arguing not for no limitations, but for a review of the existing ones?

Andy Sawford: No. We are not fundamental localists. Central Government clearly have an important role in our system of government. However, our understanding is that as the Bill is drafted, councils are affected by every limitation on them that goes before in statute.

Alex Thomson: Briefly—I am quoting legal stuff although I am not a lawyer—I think I am right in saying that regardless of the powers that local authorities choose to use or not, they are still bound by reasonableness. They are required to use their powers properly, for proper purposes, and to take into account all relevant considerations and ignore all irrelevant considerations—blah, blah blah. There are many things that stop them, and they are judicially reviewable against that.

Q31 Gavin Barwell: Very quickly, I would like to pick up a point made by Mr McInroy. You said that you felt that the Bill was directed at certain kinds of communities that might take the agenda forward and that it was not relevant everywhere. In my own constituency, which is very diverse, my experience has been that there is an even greater desire in the deprived bits for the community to take control of its own destiny. What kind of places do you think would not be able to take up what the Government are offering through the localism agenda?

Neil McInroy: I think that factors such as socio-economic class will play a role, but it is difficult to decide exactly what type of communities they are and to sketch them out. There are different cultural factors at play here, and I think that a community that is more deprived would perhaps have a tendency to rely more on the state and to have less desire to take on board responsibilities for a community centre or an asset. I am not explaining this very well, but it seems to me that it would vary by place. There is a range of factors to be looked at in individual localities. The Bill presumes that there is a general state where everybody would wish to take up some of these powers and opportunities, but I do not think that that state is universal. I think it varies by place, and many factors play a role in that, one of which is deprivation.

Q32 Barbara Keeley: There is quite a lot of concern about the role of elected representatives—local councillors. The Bill offers the potential for changes in governance arrangements—be that going back to the committee system or going on to elected mayors—and new delivery mechanisms. What do you feel should be in the Bill? Is there a role for an enhanced scrutiny function? Even a council with a committee system form of governance could, as a way of beefing up the role of elected councillors, have a strong scrutiny function—perhaps stronger than in the past. So is there scope for that and, in particular, for new delivery mechanisms? I think the Bill is quite silent on that.

Neil McInroy: I agree with you that the Bill is quite silent on delivery—understandably so, because it is focusing on empowering and unleashing all those forces of localism. We might remember things such as local strategic partnerships, which are rapidly being disbanded. That partnership was a vehicle through which the public, and the commercial and social sectors, could discuss and produce a stable community strategy. These things are useful vehicles in terms of place stewardship. If you have different ways of delivering services, and a flourishing of different ways in which a place is governed, one needs to have some glue—some coagulant—that brings all that together to shape the future destiny of the place strategically. I think delivery vehicles such as local strategic partnerships potentially could have a role, and the Bill generally needs to say more about delivery mechanisms that steward place.

Andy Sawford: May I pick that one up? Part of the point is that there is a difference between the starting point that we would have as localists, and the approach of central Government and the view of some parliamentarians. The defining thing about whether local political structures work tends to be the people, the place and the things that they do. The idea that a place would be more effective if it had a mayor rather than a leader, or that a council would be more effective if it had a prescribed scrutiny structure rather than the one that originated locally that was found to strong and something that worked for the area, is something we would reject. We would say that it is up to the councils to determine those things. You can really help from the centre by talking about the scope of powers. That is why, for example, we supported the extension of scrutiny to utilities. That is why, when you look at increased commissioning of the private sector, the role of local authority committees in scrutinising major contracts is

really important. What is important is the remit, rather than the structure, which I would not want you to prescribe from the centre.

The Chair: Colleagues, I still have seven people who have not yet put their questions, but we have very little time left. Will Stephen Gilbert, Henry Smith, Iain Stewart and John Howell put their questions very quickly? I will then call the three Ministers before we finish this part of the sitting at 11 o'clock.

Q33 Stephen Gilbert (St Austell and Newquay) (LD): Will you each please give me the top two implications from the Bill for housing policy?

Henry Smith (Crawley) (Con): Obviously the Bill deals with communities and democracy. Do you think that the concept of communities is too finely or too vaguely prescribed? This is a point that Mr McInroy was touching on in terms of the role of elected representatives in the interface with communities.

Iain Stewart: Do you believe the Bill gives communities sufficient time to raise funds to purchase assets of value, and are there any lessons that can be learned from the model that we have in Scotland?

John Howell: The message I got from Mr McInroy and Mr Sawford was one of “not yet”, but I never heard when. That was particularly true for the case of decentralisation versus the economic situation, on which we believe that decentralisation can help, and that waiting for a perfect economic situation is a recipe for doing nothing.

The Chair: And now if each of those four questions could be answered by just one witness.

Andy Sawford: That is a fundamental misinterpretation of everything I have said. We want a radical devolution and we want it delivered fast, but we want it to have the effect that the Government have talked about in terms of their ambition for the scope of localism. We recognise absolutely that this goes hand in hand with councils facing big challenges, in terms of the delivery of local public services, particularly at a time of constrained finances, and promoting economic growth and leading their communities in the years ahead.

The Chair: Who will respond to Mr Gilbert's question?

Councillor Porter: I will pick that up, if I may. The two biggest bits for housing are, first, incentivising the planning system—we believe that there is more chance of homes, particularly affordable homes, being built on the basis that communities will be rewarded for taking them, rather than penalised as at present. The second point is the review of, and change to, the housing revenue account system. Please make sure that the accountants and anyone who works for the Treasury are not allowed anywhere near the final solution for that. They will take all the money and spend it on things that have nothing to do with houses. We can come up with a truly self-financing housing system if you guys are strong enough to deliver what you know is the right thing.

The Chair: Thank you. And who will respond to Mr Smith's question?

Neil McInroy: The role of communities is vaguely and optimistically described in the Bill. The role of elected councillors needs much greater clarity.

The Chair: And Mr Stewart's question?

Alex Thomson: I do not have a particularly strong view on the length of time for the funds, but I reiterate the point I made earlier. There is no great value in being able to raise the funds if you do not have any kind of first dibs at buying the asset in question.

The Chair: Thank you for your co-operation.

Q34 The Minister of State, Department for Communities and Local Government (Greg Clark): We have had a fascinating session, and the questions have got to the heart of how radical this needs to be. Three of the witnesses have clearly said that we need to have a big change. Mr McInroy says that we should have a quantum leap, but through incremental change. It seems to me that if you are leaping a chasm, it is probably best not to do it in two steps. But really, this does go to the heart of it, because in the general power of competence, we are meaning to effect the constitutional change that Andy Sawford recommended. Changing the default from local government existing to do the things that the Government tell it to do, to the other way around—that local government can do anything unless the Government tell it not to—is the shift that I think Mr Sawford was recommending, so the question, as was picked up by Gavin Barwell, is: do you put no further safeguards or provisions in place at all? I see that a perfectly defensible and rigorous approach is to say that you completely change the defaults, and that local government can do everything and you just rely on the ballot box to vote out councils that do disgraceful things with their powers.

I have a concern. As much as I am attracted to extreme localism, there may be circumstances in which minorities in communities might be oppressed in ways that it is difficult to think of. Our thought, in drafting the Bill, was to provide some prospective protection—I am thinking particularly about minorities in these circumstances. The question then is, if you think it necessary to have some protection, do you set out in a schedule to the Bill what types of thing Parliament should be able to intervene on? I stress that it is Parliament, because these provisions would be enacted through statutory instruments that would come before Parliament, so it would have the chance to say what they should be. The judgment we came to—I am interested in the witnesses' reaction to this—was that if we start to think about everything that could possibly need to be included, we would end up with such an exhaustive schedule that it would be very long, confusing and legalistic, and probably would not capture everything that needed to be addressed. Therefore, we are left with the status quo, which is continuing with the current—unsatisfactory in my view—constitutional settlement in which local government can only do what central Government dictate.

We have thought very hard about the question, and, advisedly, have come down on the side of having some residual protection, particularly for minority communities. However, it is better to allow Parliament to decide what

[Greg Clark]

the protections should be and make them explicit when it invokes them, rather than seek to anticipate a world perhaps decades from now. I am interested in the witnesses' comments: if they think we should not have those protections, why are they confident that there will not be abuse, or, if they think that we should have an exhaustive list of areas where Parliament has the right to intervene, what should be on it?

The Chair: Before the witnesses respond, did our other two Ministers want to put any points? Are you content?

Q35 The Parliamentary Under-Secretary of State for Communities and Local Government (Andrew Stunell): I can see your steer. There was talk about needing more guidance on delivery mechanisms, which seems to suggest that local government does not have the ambition to exploit the Localism Bill. I challenge the panellists to say if they want more guidance or more localism.

Q36 The Parliamentary Under-Secretary of State for Communities and Local Government (Robert Neill): I will be very brief. Is it not fair to put the Bill in the historical context of a state that many academic commentators have described as one of the most centralised in its attitude towards local government? Some of you might be broadly saying that you want to go further towards localism to give a general power of competence—albeit circumscribed to some degree—but with a power in clause 5(1) to remove restrictions by parliamentary order, or, equally, to move from capping by the Secretary of State to a referendum of the inhabitants of an area, surely that has to be a step change in moving away from the centralist inheritance.

The Chair: Gentlemen, you have the final two minutes.

Councillor Porter: I did not ask for more guidance, and I am a councillor. The less guidance we get from central Government, the better. Some clear intentions and broad principles are what we look for, but we would determine local guidance for ourselves. In answer to the Minister: yes, I think we fully appreciate that there is no way central Government will completely take all the chains off, and there will need to be some mechanism. There are 142 places where that has been reserved in the Bill. If the most needed ones are retained, and the Secretary of State is asked to speak about them in the House to give a flavour of the circumstances in which they might be used, it would give the sector more confidence that future Administrations might not abuse what the current Administration put in place.

Alex Thomson: I absolutely agree with Bob Neill that we need to put this in an historical context to understand it. I am unashamedly in favour of the Bill; it is a big leap forward. I buy the argument about council tax referendums. Although everyone assumes that they would be lost, they would not be—that is the idea. It is in the hands of the populace, not central Government.

On the general power of competence, I completely understand there needs to be some kind of safeguard. Indeed, the idea that you should be allowed as a council to do anything except those things that you are prohibited

from doing includes those things that you are prohibited from doing in the future, by definition. As for the guidance on the delivery system, I am with Gary on that.

Neil McInroy: Very quickly on the delivery mechanisms, I think it is right that local authorities decide of their own volition what delivery mechanisms to use, but they are in a difficult position. The creative chaos and radical decentralisation will create a situation where they are in a maelstrom. Some feel for how they will retain a place stewardship role and a representative democratic role at a local level, and some feel for how that would pan out, would be useful in the Bill. Otherwise, there could be a maelstrom—not creative chaos, but very damaging chaos.

Andy Sawford: On the historic context, the point that Mr Neill makes is absolutely critical. The historic context is the relevant thing when you think about how the general power of competence may be interpreted in the courts. At the moment—

The Chair: Sadly, I have no powers to extend this session, so I must halt proceedings. I am sorry. On behalf of the Committee, I thank our witnesses very much indeed for the time you have spent with us and the information you have been able to provide us with. Thank you very much indeed.

11.2 am

The Chair: May I welcome our next set of witnesses? Before we do the introductions for the next session, which is a short session of half an hour, do any members of the Committee wish to declare any interests?

Fiona Bruce: In addition to the interests I mentioned earlier, which I hope will stand for all our sessions, I should say for this session that I am a resident Cheshire West.

The Chair: There is no need for anyone to repeat interests that they declared earlier. I assume that there are no new interests to be declared. Will our three witnesses, starting with Mr Burton, kindly introduce themselves? May I just say that members of the Committee fully understand that not all witnesses might be experienced in giving evidence, and we want this to be an enjoyable session? Will all our witnesses kindly tell the Committee who they are and perhaps make a brief statement of how they see the Bill?

Tony Burton: I am Tony Burton from Civic Voice. We are the new national charity for the civic movement. We were set up in April last year. We are responsible for a network of volunteer-led and community-based civic societies throughout England, some of which have roots that go back to the 1840s.

We have an intense interest in the Bill. The volunteers in our network are the most numerous participants in the planning system in the country, and they are very much involved in many of the issues that the Bill addresses. We are very keen on the ambition in the Bill—the power shift—to respect and understand the value that communities can bring through their knowledge and local expertise, which are so often not tapped into in the way that they need to be. Although there is a need for additional safeguards and a much stronger emphasis on support being made available to enable communities

to take advantage of the provisions of the Bill, we believe that the Bill is going to significantly improve the opportunities for civic societies and other community groups to take an active role in taking responsibility for shaping the future of their area, as well as influencing others.

Councillor Barrow: I am Keith Barrow; I am the leader of Shropshire council, and broadly I think the Bill is an excellent idea. I have actually spent 30 years in local government, on and off, largely doing unpopular things that central Government told us to, so it is quite nice to have power devolved downwards. We are equally keen to devolve powers down to our communities. There are some things within the Bill that I think could do with refining, and which I might have disagreement with. Broadly speaking I think it is a welcome advance, giving power to us, which we can then devolve downwards to local communities and people. It is an excellent thing.

Councillor Jones: I am Mike Jones. I am leader of Cheshire West and Chester council, one of the new councils formed on 1 April 2009. Since our inception we have tried to do things somewhat differently, devolving decision making and resources down to as low a level as we possibly can. We have some quite interesting examples. We allocated each of our local members £5,000 to invest in their community per year. Some of them have found it incredibly difficult to make decisions based on what their community is asking them for. That is quite an interesting issue to deal with. Others have taken that forward and made some real things happen in their communities, avoiding huge amounts of bureaucracy associated with some of the simple decisions that councils make.

We are looking to see how we can devolve services further. We are a pilot for the local integrated services—one of the Government pilots—in Ellesmere Port. It is an area where there are substantial areas of deprivation and disadvantage. One example is that one community alone—a small community, the Westminster estate—has 90% of its children in child poverty. That is 392 children on just one small estate in child poverty. We are looking at how we can work with those communities to start to get them to talk to each other within the community, let alone talk to people in authority like ourselves, and the police, who they normally associate with getting their door bust down, and so on. We are trying to work with those communities to see how we can get them to engage with each other and us, and enable them to start looking at how they can develop and improve their communities. These are fairly good pioneering initiatives and we are hoping that we will see some significant advances, in the coming years, on those.

We are very excited about the idea of devolving responsibilities, and about the powers that the Bill enables councils to operate, to strengthen members' local roles in terms of leadership; effectively they would act as cabinet members for their wards, and take on the responsibilities and work with people. We also welcome the proposals for community challenge and ownership and are working with community groups to see how the huge level of assets that councils own can be used for the benefit of their communities.

Q37 Barbara Keeley: I have a question first for Tony Burton, but I am obviously interested in what the other witnesses want to add.

Perhaps you could look at the community right to buy assets of community value. You have mentioned the Bill requiring

“disposal by public bodies on the basis of ‘best consideration’ to address the social and environmental value of assets”.

You have also mentioned having a range of people to nominate an asset of community value, including anyone capable of preparing a neighbourhood plan. I should like to ask you about that, but we have just heard Councillor Jones talk about a very disadvantaged community and it might be that some disadvantaged communities do not have the capacity to develop neighbourhood plans; there is a sense that they will be left out. Could you talk to us about those two aspects of changes you wanted to see in terms of that community right to buy an asset of community value?

Tony Burton: The community right to buy is very welcome in that it provides a breathing space in which a community can pull together an argument or business case for the long-term management of the asset, but at the end of the day the decision is simply being delayed to the point where the judgment is still, as we understand it, going to be on no different grounds from those which exist at the moment. It does not matter how good a community case is, if the social value—or environmental value, as it could be in some cases, if land is involved—of the asset is not fully recognised in the decision-making process. If it is simply on best consideration—simply a straight financial judgment—in some ways you may find communities frustrated, because they put a huge amount of commitment, effort, passion into building their case and they still lose out at the end of the day. They feel they have been led up the hill and then let go, and it is an even worse situation than they were in originally. We think that that is an issue that needs to be addressed, alongside the opportunity for a wider group of organisations to put forward those assets that should be subject to the provisions of the legislation.

For us, support for neighbourhood planning is at the heart of the legislation. It is not something that we would expect to see in the legislation, and the provisions of the Bill only go so far. What really matters is whether anyone does anything different as a result of the legislation. That is very challenging, because it requires an approach to the communication of the legislation that encourages communities to see this as a massive opportunity. At the moment there is a risk of viewing it either very cynically or as a set of bureaucratic hurdles that people have to go through. The processes are quite complex: we think they need to be no more complex, and ideally simpler.

What will really make this Bill fly is whether the network of support is available to help communities through the process on their own terms. That will help a whole range of different communities across the country. Our worry is that at the moment the Bill will be picked up much more quickly in areas of high social capital, in rural areas, and in those areas where developers or landowners will essentially fund the neighbourhood planning process—in other words in areas of development change. We would like to see a much more universal approach, and that does require a more savvy and a better resourced mechanism of support from Government and elsewhere than we are seeing at the moment. The £3 million for community support that is being transferred from planning aid is extremely welcome, but we are not

sure it will cover the ground, and the potential demand that there should be if the neighbourhood planning process is to be as successful as we would want it to be.

Councillor Barrow: To take up the last point, I think the role of the councillor within the community is going to change fundamentally, and we are doing a lot of work to develop the new model for councillors, as proper leaders rather than as people who go into shire hall and attend lots of meetings. So I think that is a fundamental change. Like Cheshire West and Chester, our new unitary, we set up 28 local joint committees around the county, which is a partnership between us, town and parish councils and the public. They are works in progress but they have been quite successful. We also have a network of what we call regeneration officers, who are really community enablers, to help people in the community—particularly the urban ones. I take your point about that.

We are also undertaking an innovative process in developing our local development framework and our site allocation management. Instead of drawing a boundary round communities and saying that that is the extent of development, we are saying, how many houses does that community want? What is the need there for affordable and other types of housing? We are establishing a number, and that number dictates the amount of planning that will be allowed to take place. We are putting a larger amount of land in the process, so that people can pick and choose. It has the effect of giving people more control over what development takes place, but it is also an opportunity. To take up Tony Burton's point, people are very reticent, because they are not quite sure whether they can believe what they are hearing. I think that is another thing we have to do: we have to sell it to the public more.

The Chair: Let us speed things up, because half our time has gone already.

Q38 Stephen Gilbert: Councillor Barrow, you said that you consult the local community on the housing that they want and on the housing that they need. Are those not conflicting things sometimes, and how does the Bill resolve that tension?

Councillor Barrow: We try and evidence it, and it is by negotiation. Some smaller communities are very reticent about development; others are embracing it. The other point is that there can be financial incentives built in, to put more moneys into community through the planning process. I think that that is a very good thing within the Bill.

Q39 Heidi Alexander: With two councillors here, I would like to ask a question about some of the cost implications for local authorities of the provisions contained within the Bill—whether it is the conducting of referendums, or the cost of putting together neighbourhood plans. Even in community asset transfer, there is a certain enabling role that may have financial implications for local authorities. How satisfactory do you find the provisions in the Bill on finance and the cost that you might incur, especially as we are in very difficult economic times? I am fully aware of the pressures your authorities will be under.

Councillor Jones: The financial implications are twofold: first, you may want to sell an asset for a capital receipt, but if the community choose to use it, it effectively has nil value for a period—perhaps 25 or 30 years. Secondly,

there are the costs of the referendum, which are not cheap. Parish council elections normally cost £1 to £1.50 per person, so this is not a cheap way of doing things. Let us be honest about it, democracy has never been known to be cheap, and we have to live with that. The fact is that if you want to engage with communities, have their views on local planning issues, and get them to accept developments though financial incentives, which are outlined in the Bill, that may be a way of making it work. It certainly is not working at the moment, so we have to do something. This gives us an opportunity to experiment and see if this will work.

Councillor Barrow: I echo that, and the referendums are a concern. I hope we will not get too many people triggering referendums, because the costs are outrageous in some instances. I go back to the point that this is our job as local councillors. All my councillors are going into the community and attending public meetings; that is not so expensive, but it does take more time. A lot of it is about an attitude of mind. If you want things to work, you can make them work.

Q40 Henry Smith: On the duty in the Bill for authorities to co-operate, do you think it is about right or could it be strengthened or weakened?

Tony Burton: There is no doubt that it is an important component of the ability to work at a more strategic level. There will be a certain wry smile in some parts of the country where there is a very antagonistic relationship between neighbouring authorities, but, equally, it is difficult to prescribe solutions to that in legislation. We are looking forward to clarity on sustainable development. The duty is to embrace and deliver it, which hangs behind all the legislation on the planning side. What policy framework will all this take place in? Clearly, if sustainable development is inappropriately or very narrowly defined, it might not be a very helpful force. There is a lot riding on the definition and the practicality of how that can be implemented.

Q41 Nic Dakin: While forcing through a localism agenda, of which I think we all approve, the Secretary of State is retaining 142 powers for himself. What are your views on that?

Councillor Jones: It is a bit objectionable that in some cases they will fine local councils for errors of government—European fines. That is wrong. There are far too many powers in the centre as it is, and they should be significantly reduced. It will be a bit of a long-winded job to go through the 142 now, but if we are really going to be innovative and enable local government to solve problems and develop civic pride, you have to let go of the strings. The fewer powers, the better.

Councillor Barrow: I absolutely agree.

The Chair: Mr. Ward—the Member for Bradford East.

Q42 Mr Ward: Thank you, Chair. Any councillor worth his or her salt will have a plan, either formally or in their head, for their ward. Can you envisage conflict between elected councillors and others in the ward if sub-ward neighbourhood plans are put together that may conflict with the councillor's views on what should happen in his ward?

Councillor Jones: I think there will be conflict. I have ideas about my ward and I test them out; if they are not acceptable, I put them in the bin. Frankly, at the end of the day, you are up for election in four years' time. You are there to represent your community, but also to stimulate and develop those ideas within the community, and some ideas will take root and some will not. That is the way life is.

Tony Burton: It is really important that ward councillors have an important role to play in bringing the provisions of the Bill to life, which was referred to in earlier evidence, but that role means deploying different skills from those that some of the ward councillors are using. They have to be enablers and facilitators; they have to stimulate, encourage and support creativity and ideas; and they have to build their community's confidence to express its views, and then help it through the process. Of course, they will have views as part of that process—no one is suggesting otherwise—but the days when people just followed their elected representatives are way behind us, and that is not what communities are looking for.

Councillor Barrow: May I just add that it is also incumbent on the councillor to engage a wider part of the community than perhaps happens at the moment. Our local joint committees attract a particular demographic, and one of councillors' roles is to attract a wider spectrum of people to have a better community view, and the Bill encourages that.

Q43 Mr Raynsford: May I push you a little on the tension between the interests of the wider community and the interests of a particular locality? If we are considering, for example, the location for an unpopular facility—an incinerator or a hostel for a particularly difficult group of alcohol and drug abusers—what do you see as the right mechanism for resolving the inevitable hostility of the locality or neighbourhood when a proposal is made to locate such a facility in that area, and the responsibilities of the local authority to make provision for the needs of its area? How should that be resolved, particularly if the neighbourhood does not have a democratically elected body to represent it.

Councillor Jones: That is a challenging situation. In a council that has had applications for about six incinerators over the past few years, it is very difficult. Ward members have an important leadership role to play, and first and foremost they are there to represent their residents.

Q44 Mr Raynsford: But you said a moment ago that if your ideas about your own ward did not meet with local support, you would put those ideas in the bin.

Councillor Jones: Sorry, I am not sure how that conflicts with what I said, Mr Raynsford.

Q45 Mr Raynsford: If your view as a councillor about the interests of the locality as a whole, rather than those of the individual ward, led you to believe that that was a necessary facility, would you put the idea in the bin if your ward did not like it?

Councillor Jones: But those sorts of facilities actually impact on the whole area. They do not just impact on one ward, but on multiple wards. If those council members, working with residents, believe that that is wrong for their area, they are responsible for campaigning against it. Removing the predetermination issues is also

good for local democracy. But I do not see that that conflicts with what I said because, in the sort of plan that was suggested, no ward members would think of putting in their own ward an incinerator, which tend to be driven by third parties and developers.

Q46 Mr Raynsford: I was simply exploring the point. Third parties and developers may be interested in incinerators, but other interests may be involved in the location of a hostel for a particularly vulnerable group of people, who may not be a popular group.

Councillor Jones: Yes, I accept that. The homeless would be one example, as would people with particular problems of drug and alcohol abuse. I accept that, and I think it is very challenging.

Q47 Mr Raynsford: And the leadership role that you described may come into force there?

Councillor Jones: I think it would, but a leadership role by the council executive would also play a part. We had one such example when we sold the county hall, a project which was led by me. That was not popular with local residents. The local ward members discussed it and in some cases argued against it, representing the residents, but the greater good for the council prevailed, because it saved a huge amount of money in running costs and so on.

Q48 James Morris: I have a quick question for Mr Burton. You certainly thought that one of the potential weaknesses was that the community right to challenge would only be applicable or be more attractive in areas of high social capital or rural areas. Is it not the case that the Bill might facilitate the building of civic capacity in areas of higher social deprivation? I am thinking of part of an area that I represent in Sandwell in the west midlands, which has relatively high levels of deprivation. Will the provision in the Bill encourage capacity building in precisely those areas that require the building of new social capital? Do you see that as potentially a positive aspect of the provisions?

Tony Burton: Absolutely. There is no question about it. In going beyond planning decisions about where developments go, that will stimulate—in all sorts of unexpected ways, which is one of the strengths of the Bill—that coming together of people to think about the future of their area, which will have many other spin-offs. What I am saying is that that will not just happen; it will require support, and in different ways. That support will need to be tailored to the needs of a Sandwell community, which will be different from the needs of an east London community or of a Hull community. They will all have their particular needs, and there needs to be a recognition that people do not just instantly fill the vacuum. The social capital does not arrive, and people do not come together or facilitate those ideas; they need support alongside that.

Q49 James Morris: Does that speak to an emerging new role for local government to actually work in partnership, using some provisions in the Bill, in order to build capacity as well?

Tony Burton: Yes. That was my point about the developing role of rural councillors, as one aspect of that.

The Chair: Before ending this session with questions from Ministers, I have two final questions from Nic Dakin and Jack Dromey.

Q50 Nic Dakin: My question follows Nick Raynsford's about where this incinerator gets built, when nobody wants it in their local patch, for the understandable reasons that Councillor Jones described. How do we resolve such conflicts?

Tony Burton: Democracy is not a simple business, and there will be conflict. No one is suggesting that this legislation suddenly answers all those conflicts. I would emphasise two things: first, there is still a really important role for the strategic policies within the local plan, and any neighbourhood plan needs to ensure that it conforms with that. Certainly, some development examples that Mr Raynsford gave, such as an incinerator, would fall within that framework just as the housing numbers do. So, there is that mechanism for resolving things at a more-than-local, or more-than-neighbourhood level.

Secondly, the Bill is relatively quiet, as are the Government more generally, about the role of the public's involvement in that local planning process. There is a lot of focus on the neighbourhood planning process, but the local planning process will actually still be fundamental. We have evidence that where people are involved in the right way, they can make mature judgments and have mature input into hard, knotty problems in a local area. If they are brought into some of those strategic choices in the right way—on the front foot, feeling that they are genuinely being listened to, embraced and engaged, as opposed to just being consulted—there is a greater chance of resolving more of the conflict. That does not suggest that we will be able to, as it were, ensure that this is an entirely smooth process.

Q51 Jack Dromey: The evidence is that it is not axiomatic that a deprived community has no capacity to innovate. In Castle Vale in my constituency, there is the remarkable Castle Vale community housing association, which is, arguably, the best of its kind in Britain. However, the evidence is also that deprived communities, by definition, find it more difficult to innovate without capacity, support and advice. Therefore, I want to ask about two related issues. The first is, specifically, about planning aid. Secondly, what other forms of advice and support do you think it would be appropriate for us to look at for communities to take advantage of the opportunities that are open to them in the Bill?

The Chair: A one-minute answer, please, because I want the Minister to ask a question.

Councillor Jones: Certainly, in Ellesmere Port this week, we have half a dozen people working in the community, talking to people and engaging with them. That is where it has to start. No amount of money will help until you have engaged with those people who, frankly, have become disengaged some years ago. I think that you have to start with that engagement process and do it in a way that you are not only telling people; you are actually working to support them.

Q52 Jack Dromey: On planning aid, what are your views?

Tony Burton: On planning aid, money is not being lost; in a sense it is being transferred into neighbourhood planning support. We do not think that is enough; the scale of need is not going to be met, but it will be better

tailored to supporting neighbourhood plans. The other thing that we would emphasise is that you need to build a network of people who can support communities. There are not actually enough people out there who have the skills, wherewithal and status to get alongside communities and really help them on their own terms.

The Chair: Thank you very much. Finally, a question from the Minister.

Q53 Greg Clark: May I just put a question to Mr Burton, who is representing civic societies and groups across the country? One question in the previous session was whether rights, such as the right to challenge, the right to bid for assets or the right to produce a neighbourhood plan, should be confined to democratically elected councillors. We have tried to create a space for other groups, including your members, to exercise such rights. How do you feel about our provisions?

Tony Burton: I think if it were constrained to those that are democratically elected—and that could include parish and town councils, many of which are not elected, because there are no processes, and they are relatively moribund—that would exclude a large part of the country. We believe that there is a role for communities, be they civic societies or other means in which communities come together, and they have an awful lot to offer. They also feel a bit done unto by local authorities and others, and they need more rights to shape their areas. We do not think that the only route for doing that is to make everywhere parished, for example. We would love to see more parish councils and town councils, but we do not think that that is the only route to effective community involvement in shaping the future of someone's area and building pride in the place they live.

Councillor Jones: I would support that entirely. We have a number of organisations that work very hard for our communities. Whether it is a civil trust or a community association, they do not have to be democratically elected in the full sense to deliver very good value for our communities.

Councillor Barrow: I would go further and say that it would be a big mistake if it were limited to councillors.

The Chair: On behalf of the Committee, let me say that we realise that you have travelled a long way to be here this morning, and that it was a short session, but from the Committee's point of view, it has been very worth while in terms of gathering evidence, so thank you very much indeed. Now could our next set of witnesses kindly take their places?

11.31 am

The Chair: On behalf of the Committee, I extend a warm welcome to our witnesses. I repeat that the Committee fully understands that our witnesses might not have given evidence before in such circumstances. I assure our witnesses that members of the Committee want to make you feel relaxed and want you to enjoy the session. Would all our witnesses kindly introduce themselves and make a brief statement on how they see the Bill? Let us start with Professor Jones.

Professor Jones: I am an emeritus professor at the London School of Economics and Political Science. I began to study local government 50 years ago, when I began my doctorate on how my home town of

Wolverhampton was governed. I have written joint articles on local government with John Stewart for nearly 30 years. We have pretty similar views. The Bill should not be called a Localism Bill, and the Government know that. It is a centralism Bill, because it confers many powers on the Secretary of State to issue regulations and orders to interfere in local affairs. My second and final point about the Bill is that it is terribly confused and ambiguous, because it is trying to do two things: decentralise to local government, and decentralise to sub-local government entities. They have not sorted out how to reconcile those two approaches.

Professor Stewart: I am an emeritus professor as well, but at Birmingham university and the Institute of Local Government Studies, where I have been for 40 years. Obviously, I agree with a lot of what George says on that issue—it is just the odd matter that we do not agree on. I would just add two things. First, on the presentation of the Bill, it is still a bit obscure to me what localism is, from the Government's point of view. That is one reason why the Government have not apparently tackled the real obstacle to localism, which is the attitude and practices of central Government themselves.

A lot of Governments have, in fact, said that they will decentralise, build up local government and abolish controls, but they always seem to creep back again. Michael Heseltine abolished 300 controls, and it was not too long before there were 300 controls again. Talking about localism, and even legislating on it, will make little difference unless central Government review their whole system of working. We have put forward suggestions to assist that.

The second point I want to make is on the other neglected subject. The Government speak of decentralising to communities, and I think that everyone welcomes that. The Government also speak about decentralisation to local authorities. However, what has not really been faced up to is the relationship between them—the Government and local authorities—or in so far as it has been faced up to, it is resolved by drawing up another regulation. In other words, it has been resolved centrally rather than, as we believe it should be resolved, by putting the onus on local authorities to have a duty to develop community empowerment and community involvement. It should be left to local authorities, working in partnership with local communities, because I believe that there are many problems about community groups that still need to be faced. Are they representative of their areas? Are they accountable to their areas? Will they really be accountable, as public bodies are supposed to be accountable? Allegedly, that last issue has been raised by the head of the civil service, Gus O'Donnell.

The Chair: Thank you very much, Professor Stewart. Mr Myers.

Derek Myers: Chairman, I am a serving chief executive in London, but I am here because I chair the UK professional body for senior staff in local government, the Society of Local Authority Chief Executives, or SOLACE. We welcome the direction of travel of the Bill. We have a set of things that we applaud, a set of things that we have some concerns about, and a set of things the effects of which it is impossible to know exactly, but which seem worth while as an attempt to move things on.

We see the Bill as a debate between innovation and accountability. I think that the debate is about where you can have innovation without losing too much accountability, such that the confidence that people expect to have in how public money is spent and through whom decisions are made is put at risk.

Dr Keohane: I am Nigel Keohane, head of research at the New Local Government Network. NLGN is an independent, cross-party, not-for-profit think-tank and we promote the philosophy of localism. We therefore broadly welcome the Bill and the principle that power derives from the people. In particular, I would point to the recommendations around the general power of competence and directly elected mayors.

However, we have reservations about some aspects of the Bill, particularly to do with the restrictions that are still held up, either in Whitehall itself or for national politicians. There is a big question about the extent of localisation. What sort of services are we talking about? I think that we are still very much talking about services that have been previously held within DCLG, rather than across the rest of Whitehall. There is also a bigger question, alluded to by some of my colleagues, about local democracy more generally, and whether in some ways we are actually circumventing local democracy in some of the provisions of the Bill.

Q54 Brandon Lewis: Professor Stewart, if I am paraphrasing you correctly, you say that there is a problem with community groups and whether they are accountable. Is not one of the advantages of what the Bill proposes that we will trust people to use their own responsibility in exercising their own power in their own community? Through the local authorities, we are re-empowering people through local elections; councillors will be that bit more responsible with the power that they get, and will have to be very aware of what the public think, because that might empower them at elections to exert that power in a way that, at the moment, has probably dissipated due to central control.

Professor Stewart: Obviously, I would favour community groups that are close to their communities, involved in them, and really speak for them. However, I am not certain how the Bill provides for that. There are certain mechanisms by which people secure their representative. There is one marvellous bit of the Bill that says that a neighbourhood forum must have at least three people living in the area, which hardly makes it representative. However, even if that body has a large number of members, there still remains the issue of how we actually secure the fact that it is being representative and accountable to local people, and that the financial controls are adequate in that situation.

If community groups—representative, accountable, and carrying out proper financial and legal controls—are operating and flourish, that situation is to be welcomed, but realism tells us that things could go badly wrong. A small elite, which could be out of touch with people, might dominate the community group. The group might depend on a few people who then leave the area, and the thing might collapse. There might be financial scandals and controls.

Realism means that we must face up to these things, but I do not believe that can be done nationally. I want responsibility at local level, because that can be done adequately, as you said, only by local councillors who

are concerned about their communities and their areas. It will only work if local authorities are enthusiastic about community development, and I hope they will be.

Other problems could suddenly arise, such as conflict between local authorities and community groups, so we must also work on the problem of how much attention groups must pay to authorities' policies. Some of that has been worked out, to a degree, in the planning parts, but not in other cases, which illustrates my general point that the relationship between the two forms of decentralisation is not adequately dealt with in the Bill.

Professor Jones: I hope that your Committee will revise the Bill so that it places the main responsibility for involving, empowering and working with community organisations on the elected local authorities.

Q55 Barbara Keeley: Can you say any more, or do you have any suggestions to assist that clarifying and codifying of the relationship between central and local government to make the Bill less centralist and more localist? In addition, will members of the panel comment on the restrictions on the general power of competence, and the fact that the Bill imposes mayors and shadow mayors on particular authorities? What do you suggest would make the Bill more localist? What do you think of those two specific aspects of the Bill?

Professor Jones: John Stewart and I have proposed to the Political and Constitutional Reform Committee that there be a codification of central-local government relationships. I have supplied to the Committee a first attempt at that, which builds on the European charter of local self-government. I hope that in some way that code could be engineered into the Bill.

Professor Stewart: I shall deal with some of the other questions. I worry very much about the proposals on shadow mayors. Such proposals mean that the Secretary of State will take powers to appoint an individual to a political position in an authority, which sets a very dangerous precedent. In addition, I am not clear what happens if control changes in an authority in the period in which the shadow mayor is in office. Would the Secretary of State appoint a new shadow mayor in such circumstances?

I worry, too, about the imposition of referendums in 12 authorities—or is it 11, because I believe that Leicester has decided to have an elected mayor? I worry about that, because if the local council wanted a referendum, it could hold one. If the public wanted one, they could hold one—if 5% of the electorate sign a petition, they can have a referendum. In other words, far from exercising localism in this instance, the Secretary of State is exercising centralism when there is a mechanism for both the citizens and the local authority to call a referendum if they want.

I am worried that Leicester does not seem to be calling a referendum on its proposal using the powers given to it by the Labour Government. It worries me that if there are to be referendums, the people of Leicester will not have one; they will have a mayor imposed on them.

Professor Jones: May I interject? Why have a code? Given the culture of centralism in Government Departments, it is important to change the culture and behaviour of the civil service—of Whitehall—and to rein in Ministers and their ambitions to interfere. If we

had a code, backed up by scrutiny from a Joint Committee of both Houses looking at central-local relations, I think that would be one way to change the behaviour of Whitehall.

Derek Myers: Could I talk about the limitations on the power of general competence? We think this is too cautious as drafted. We think that this ought to be an opportunity to encourage more entrepreneurial councils, so that the tax relationship becomes only one way in which money is raised for local purposes. We think that the powers to charge and to trade ought to be supervised by external auditors, rather than circumscribed in the way that they are in the Bill. We would look for something that allows local government to operate with the consent of its local people, selling to willing customers, and supervised by the external auditor to ensure that it does not take advantage of a monopoly position.

Dr Keohane: In terms of the power, we have been advocates of this for many years. The issues, as they stand at the moment, are that the restrictions, in terms of the Secretary of State retaining the power to impose an order on an authority or authorities, actually undermine, in our view, the philosophy underpinning the change. What it will mean is that, ultimately, from a position where, locally, legal advice is often very risk-averse, we would hope to open people's minds to innovation. But actually, what this will do is introduce a slight nagging doubt that the Secretary of State might think that a certain action is a bad idea. My suggestion would simply be to delete subsections (3) to (5) of clause 5.

On charging and trading, again, I do not quite understand. This would be, in our view, an opportunity to look again at charging legislation, rather than to shore it up, as it were; that is what seems to be happening under the provisions of the Bill. In terms of trading, again, there is all sorts of legislation that would stop councils from acting in an anti-competitive manner, so I do not understand why that is in there either.

In terms of directly elected mayors, we have been strong advocates of them in the past, and we continue to be, because of the profile and the democratic accountability that they can give. The problem in the past has been that, ultimately, local people have not opted for elected mayors, and that is partly down to the fact that elected mayors have not really been given sufficient powers, as they have been in London. If they did have extra levers across their economy and across public services, maybe local people would have thought that that was a good idea.

Q56 Barbara Keeley: My question was whether they should be imposed.

Dr Keohane: In the current situation where we do not have those powers, we believe that the shadow approach is a good way of actually getting them put in place.

In terms of the codification, I think that there are arguments for it, but I think that a much broader argument, which I know that the Government will be looking at in the new year, is around the resources that local government can raise locally. That is the big question. If councils can raise their own revenue, it does not really matter what central Government think, because they will be getting on with their own job. That is the big issue. It is about making them accountable to their local taxpayers.

The Chair: Half our time has gone already, and many colleagues are indicating that they want to ask questions.

Q57 Henry Smith: I cannot let this opportunity with two eminent professors—I think that I counted 90 years' experience between them—go without pursuing an earlier point, which was about the perceived tension between elected local members and community groups. How do you believe that that tension could be resolved? Do you think that community groups have a greater role in scrutiny of local government or in having decisions devolved down to make themselves?

Professor Jones: The way these groups should operate should not be determined by central Government. As I said earlier, it should be a duty of the elected local authority to empower community groups. I think that decisions should be taken by people who have been elected. Bodies that are not elected should not be taking decisions on matters that affect the whole community. I am all in favour of community groups doing as much as possible, actively bringing pressure to influence and being involved, but decisions should be left to elected members. I am in favour of parish councils and having their equivalents in urban areas too. They would be proper elected bodies. I am worried if we give power over the community to self-selected minority groups.

Professor Stewart: I would go along with that. I would also say that non-elected groups, civic bodies and so on have anyway a very important contribution to make to scrutinising the work of the local authorities, giving evidence to the scrutiny committees and making their representations. That is the democratic process and that seems the most appropriate role for them. The issue is representation, accountability and proper standards.

The parish councils to which George referred are subject to such rules, and there have been developments in urban parish councils or elected neighbourhood forums and groups. With encouragement, they would flourish.

Q58 Jack Dromey: A quick question for Mr Myers and for Professors Stewart and Jones. Mr Myers, the Bill introduces measures relating to top pay, transparency and accountability for local government. Do you believe that the same principles should apply to the contractors with whom local government contracts?

Derek Myers: It is an attractive proposition, but probably impracticable.

Q59 Jack Dromey: Why?

Derek Myers: Because I think they would regard that as a matter of commercial confidentiality. Whenever I approach a contractor to try and get information, I can feel an FOI request coming on. They routinely say no.

Q60 Jack Dromey: But you have powers at the moment in work force matters, for example, in the procurement process.

Derek Myers: Yes. I don't think that they have historically been to dictate boardroom pay, though.

Q61 Jack Dromey: Okay. Professors, as legendary visionaries with the capacity to predict the future, cast your minds forward 10 years. Who will benefit as a consequence of the changes to the planning regime?

Professor Jones: First of all, central Government because they would have less to do. In Whitehall, they will be able to concentrate on genuine national and international matters, which would be of great benefit to the whole nation. There will be a revitalisation of local government. Local government will appear to be really something that matters and that will encourage people to turn out to vote. It will encourage dialogue between local councillors and local people. It will also revitalise political parties because people will want to join local political parties because they know that that will be a way in which they can get on to a local council and exert real influence over the way in which their local council develops. If we go along the path that John and I have urged, I can see a real revitalisation of local political activity.

Professor Stewart: I am glad that George said that at the end because I thought for one moment that he was actually speaking about what the Bill would do. We see the Bill on the whole as having the reverse effects.

I do not believe that the problems are quite so difficult, given that Derek thinks about subjecting private contractors, co-operatives and community groups to some of the requirements of open government. In America, there is interesting talk that, if you privatise a public service, it is not just privatisation, but an element of publicisation. Private bodies should be subject to at least some of the requirements for open government and accountability that bear upon the private sector. I recognise that those requirements would have to be carefully worked out because of the confidentiality thing, and I can see the difficulties that Derek highlights.

Q62 Fiona Bruce: The important group in the local community that we have not discussed yet is local business people. From my experience, their voice is often limited to a short meeting to gather their views on the annual budget, which is a statutory requirement of local authorities. I recall one case in which that was even done by e-mail. How could the provisions of the Bill address that?

Professor Stewart: The first thing to say, and Derek will want to come in on this, is that the situation has changed considerably. The meeting you spoke about was a farce in many areas—the meeting at which the private sector commented on the budget. However, I believe that the development of local strategic partnerships, where the private sector has been encouraged to come in and work with the local authority, has created a different atmosphere. I don't see the Bill in its present form making a contribution either way to the issue raised, but Derek might want to come in.

Derek Myers: In my experience, businesses are keen to come to the town hall, but only if they can influence the money that comes from them in national non-domestic rates and where it goes. Pending the outcome of the local government finance review, which might produce some changes, I do not see anything in the Bill that changes the current position.

Q63 Fiona Bruce: I am interested because I take issue with that, as someone who was a local businessperson and became a councillor. The more we can develop a relationship between local authorities and those in business in the town, the greater we will encourage engagement in other ways.

Derek Myers: I don't disagree with your aspiration.

Q64 Mr Raynsford: Professor Stuart, in expressing reservations about community groups' voluntary bodies and that such bodies might quite rightly hide the fact that they perhaps have a tendency to get out of touch with the wider community and to be dominated by one or two over-powerful people and so on, am I being unfair in saying that some community groups make exactly the same criticisms of some local authorities? I will not be invidious by naming any, but we have had examples of authorities dominated by one or two powerful personalities who are perhaps not as in touch with their local communities as they ought to be. Rather than putting the two in conflict, can any member of the panel suggest ways in which we could overcome such difficulties? If I might be a little provocative, election alone does not seem to be the answer, because such problems have arisen even in elected authorities.

Dr Keohane: If I may start, ultimately the issue is relevant to the community right to challenge and issues around communities taking over assets and neighbourhood planning. If you have a transfer of responsibilities, how will you ensure methods of recourse and that public money is used properly, and to what extent, when public money changes hands or if decisions are made affecting other citizens in the area? That is, essentially, the main issue in my mind—that the decisions reflect the stakeholders with an interest.

In terms of the community right to challenge, for instance, on public services, that mainly seems to be a commissioning or contracting arrangement. The voluntary body or other part of the public sector would come forward and take on the service, and therefore, through that method, you would have means of accountability, as you would if you contracted with a private organisation. In fact, we think that is sufficient, such that you could start opening it up across government, so it is not simply local councils, but Whitehall services as well. Why is that right to challenge not open to Jobcentre Plus services or health services and so on?

That is a public services issue which can probably be managed, because it is more of a contractual and commissioning arrangement. When you get over to the planning side of things, it gets much more complex. In our view, the issue is about what localism means. Localism recognises that, ultimately, you try and devolve as far as you sensibly can, but you have to allow decisions to be made in a practical way as well. A lot of these decisions, if we are talking about planning, are about things on which communities will disagree, perhaps between generations or with people sitting outside the specific community who want some type of infrastructure. So, on that issue, it is an issue of the scale of devolution. Should we be devolving such things right down to the local level, potentially undermining the strategic approaches?

Professor Jones: There is not necessarily a conflict between the elected councillors and community groups. Indeed, I see in my ideal local government system the two working very well together. We need both representative democracy based on elections and the participation of individuals and groups in such associations, which can be particularly important between elections. But there has to be a point at which you realise that decisions taken for the benefit of the whole community should be a matter for elected representatives. The other roles—

scrutiny, expressing views, articulating interests and so on—should be for the associations. There should be a clear line of division.

I apologise to Mr Dromey. I thought he was asking me about not what the Bill's provisions would produce in 10 years' time, but what my proposals would produce in 10 years' time. Indeed, you can go back to my answer and see that the Bill would not produce the end that I so desire.

Q65 Jack Dromey: But what would the Bill produce?

Professor Jones: Whitehall dominance: the same old ministerial games still being played; Ministers intervening; and civil servants devising their schemes and drawing up papers very similar to the Bill before the Committee. There would be gargantuan detailed intervention.

Professor Stewart: I would like to come back to Nick Raynsford's point, because I recognise some of those authorities.

Robert Neill: We will put you down as doubtful.

The Chair: On that note we will move on, because Ministers will have the last questions to our witnesses.

Q66 James Morris: Mr Myers, you referred to the need for more entrepreneurial behaviour within local government. I think we would all agree that that is the next wave. Do you think there are elements of this Bill that will help to drive more entrepreneurial behaviour within local authorities? I think you said that there are some aspects of the Bill that you thought would.

Derek Myers: The power of general competence, if loosened a little, would be very helpful and would encourage those who want to be creative. The general assumption that there would be a multiplicity of providers provides an opportunity for more innovation. If we are anticipating a new set of buccaneering mayors, that could have some potential for innovation, as well as some dangers, because clearly, unbridled power can bring dangers with it, particularly with powers to take over duties hitherto reserved for officials appointed on an objective basis—on merit and with proven experience and skill. So there are some dangers that go along with those opportunities.

Q67 James Morris: So you do think that the general power of competence opens up opportunities?

Derek Myers: The current drafting is too cautious. It could be loosened up, at which point it would take us to a new place.

Q68 Julie Elliott (Sunderland Central) (Lab): I would like to go back to mayors. The Bill contains the power to merge the roles of mayors and chief executives. Could the witnesses comment on whether they think it will work, and if so, how it will work?

Professor Jones: I think it is another disaster area. When you look at the leadership of local authorities, or even at the leadership of central Government, there are two types of leadership that you need: political leadership looking out to the world of politics and handling the politics of public policy making; and administrative leadership looking into the worlds of bureaucracy and

implementation. It is very rare to find one person who can combine those two leadership roles. When you look at different systems around the world, you find that there is always a duality of leadership—one person who deals with the politics and one person who deals with the administration. Whether a local authority or a central Government is a success or not depends on the interaction and the partnership between the political leader and the administrative leader. Trying to fuse them in one person seems to me to be dangerous nonsense.

Professor Stewart: I worry about the proposal, but in one sense I should be in favour of it, not as a compulsory thing, but as an option for local government, because one of the things that I believe needs to be greatly relaxed is the degree of detailed control over political structures. I am alarmed that the power of general competence rules that out as an area. I would have thought a competent local authority would be entitled to determine its own organisation. Let me leave it there for the moment.

Q69 Eric Ollerenshaw: May I go back to something that Professor Jones said at the beginning? You referred to sub-local government entities, which I think was a disparaging remark. In my patch, a lot of people would regard sub-local government entities as the neighbourhood where they live, possibly where they send their children to school, although possibly not where they work. That is what they would define it as, but it does not always match the existing ward structure, or the town hall, which could be a long way away. For a lot of people in those neighbourhoods, the existing structures have not worked, which has been shown by the turnout in local elections. Perhaps this Bill does something to address that.

Professor Jones: Sub-local government entity is a neutral term referring to organisations, associations, clusters of people and groups of people who are operating beneath the level of the elected local authority. I could call them sub-local organisations or associations. To me, the word “entity” is not a disparaging word. You have put your finger on a very important point. If you look at different wards and communities, there are all sorts of bodies who would claim to speak out for different parts of the ward. Who is to be regarded as the authoritative expression of that sub-local entity? That is a problem and it will not be decided in Whitehall—it cannot be. That is a role for elected local councils.

The Chair: May I ask Nic Dakin and Heidi Alexander to put your questions together and respond?

Heidi Alexander: My question has already been asked and answered.

Q70 Nic Dakin: Is it consistent with localism for the Secretary of State to retain 142 powers for himself?

Professor Stewart: It is what we regard as turning the Bill into a centralism Bill.

Dr Keohane: It partly depends what provisions those are. People have highlighted on Second Reading—and since then—some specific powers that should be removed. The general power seems to be one where retaining those controls centrally seems inconsistent with the

thrust of the Bill. One can imagine that in whatever Bill it is, there will be some reserved powers or order-making facilities for the Secretary of State. However, the number of them and, for example, the general power and how the Secretary of State will relate to Mayors, seems inconsistent with the Bill.

Q71 Mr Ward: On the general overview, I wondered whether you would comment on my view that the Treasury is reluctant to let go of the levers of control through central Government finance. The ghost of Derek Hatton is still with us, in that the Government will not trust the electorate to get rid of a bad council. Do you think that that is a view behind the centralism Bill we are looking at?

Professor Stewart: It is one of the reasons often put forward for it. If you draft all your legislation with the assumption that there are going to be bad councils, you will end up with a very centralist solution. Derek Hatton was dealt with in the end—by his own party. Situations will often correct themselves without detailed intervention.

In relation to that, I emphasise that our objection regarding the 142 regulations is the assumption that detailed prescription is necessary. Even when we might agree with what is recommended in a bit of regulation, those 142 regulations sum up the relationship between central and local government. We recognise that central Government must operate where there is a national interest, and where there is a national interest, you can see duties imposed upon local authorities. However, we do not want a situation in which central Government specify not merely the duty, but the procedures, the criteria, the nature of decisions and so on in great detail, which is what seems to be implied by the plethora of regulations.

The Chair: I sense that we have reached the point that we have been waiting for with great anticipation: the unleashing of our witnesses on our Ministers.

Q72 Andrew Stunell: Obviously, from my point of view, it is extremely important that we have a Localism Bill with more freedoms. I was a bit puzzled by the evidence that we heard from the two professors. On the one hand, they want fewer prescriptions from Ministers but, on the other hand, they think that a duty to work with community groups should be imposed on local authorities. What we thought we had established was a right for community groups to insist on their role in their neighbourhoods and communities. I am interested to see exactly what you think the balance of that relationship should be.

Professor Jones: I am not happy about giving any old group that says, “I’m a group”—it could be just three people coming forward—a right to get considerable privileged treatment. It is proper for a local authority to be in close touch with its locality. Indeed, I would have thought that it was in elected councillors’ interests to be really representative of their areas and to welcome community involvement and the opportunity to hear what their localities are saying. It is right to put a duty on local authorities to engage and empower localities, but it would not be proper to give any old group a right to be involved.

Professor Stewart: I go along with that.

Q73 Robert Neill: On what basis do you say “any old group”? Cannot some of these community groups have every bit as much legitimacy as other bodies? Does not devolution go beyond the doors of the town hall?

Professor Jones: I believe that legitimacy lies—I am sure that MPs are conscious of this—with being elected. That is a very important act. That is the one act of politics that most people in this country engage in—other activities are only a minority sport. I am very reluctant to confer legitimacy, governmental authority and decision-making power on self-selected groups that usually represent either rather eccentric, nutty individuals, or narrow sectional interests.

Q74 Robert Neill: It might, I suppose, suggest that we have a dichotomy between two sets of witnesses. One set has a glass-half-full view of the Bill, as Mr Myers and Dr Keohane think that it is broadly going the right way, although there are bits with which they disagree. The professors have a view that the glass is very much half empty, however, because they say it is all terribly centralistic and that it will end in grief and woe. If we are saying that a decision on the neighbourhood plan is ultimately taken by a vote of the community in that area, that is hardly giving powers to any old group, is it, Professor?

Professor Jones: A local authority represents more than just a single ward or a single neighbourhood. It has a concept before it of the general borough, county or district interest. There is wider public interest than the narrow sectional interest that will inevitably be brought forward by any old group.

The Chair: May I interrupt to allow the Secretary of State to ask the last question?

Q75 Greg Clark: You have promoted me, Mr Amess. I have got off to a good start.

May I ask one brief question about the general power of competence? Do you think that there should be no prospective opportunities for Parliament to circumscribe its use, or that there should be certain circumstances for that which are defined in advance—and, if so, what should they be?

Dr Keohane: If it was designed in the way in which we would like it to be designed, local authorities would be free to act as individuals—within the constraints of law generally. The thing that is always thrown up is, “Can they develop a nuclear bomb?” Well, no, because that is illegal under other parts of our legal framework. We would propose that you simply design it like that. If Parliament decided that authorities were doing something so heinous that it wanted to stop them from doing it, it could just pass a Bill.

Q76 Greg Clark: Why does it need to be a Bill rather than a statutory instrument?

Dr Keohane: The difference is that it is more difficult to pass a Bill. That, in our view, is very important, because what we have had in the past is the creep of centralisation. We want a sustainable localism. We do not want a situation whereby a decision can be made by a Secretary of State—things will change in the future and different parties will be in control. We want local authorities to know what the state of play is, and for it to be very hard for Parliament to change that. We do not want this on the whim of a Secretary of State.

The Chair: Sadly, I must call a halt to this particular session. On behalf of the Committee, I thank our four witnesses very much indeed for their time and the information that they were able to share with us.

12.16 pm

The Chair: On behalf of the Committee, I welcome our final set of witnesses this morning. As I said to the other witnesses, you might not all be familiar with our proceedings and might not have given evidence at such a session before. I assure you, however, that the Committee is only trying to get information from our witnesses and to make the session as valuable as possible. I should like our witnesses to introduce themselves and kindly make a comment about the Bill.

Sir Simon Milton: Thank you very much, Chair. My name is Simon Milton. I am deputy mayor and chief of staff to the Mayor of London, Boris Johnson. I have held the position for the two and a half years since he was elected, and I am also responsible for spatial development and planning matters at the GLA. Prior to that, I was an elected councillor for 20 years in the City of Westminster, including eight years as leader of the council, and I am a former chairman of the Local Government Association.

The Mayor and the GLA were consulted extensively by the Government on the London sections of the Bill. We welcome that part of the Bill, but have concerns about three specific items in other parts of the Bill: the delegation of fines; an aspect of the standards regime changes; and referendums. I would like to comment on those, if we have the opportunity.

Mayor Pipe: My name is Mayor Jules Pipe. I am the directly elected mayor of Hackney, but I am here in my capacity as the chair of London Councils, which has particular concerns about four areas of the Bill. The first is the limitations on the general power of competence and how that perhaps relates to the codification of the relationship between central and local government. The second is the issue of councils’ contributions to EU fines. The third relates to planning issues, because clarity is needed on how some of the provisions will operate, and that also connects with the issue of referendums and how they will be used to engage with the community on adopting local plans. Fourthly and finally is the issue about mayoral development corporations. While there is a great deal of consensus on a number of issues between the Mayor of London and London Councils, even particularly about MDCs, the Mayor does not seek to have more than one. I think that there is an issue about London mayors going forward, and about there being no checks and balances enabling local authorities to have some say about whether MDCs should be set up in their area.

Simon Watson: I am Simon Watson. I am a national officer working for Unison. I cover local government policy and the evolving local services framework.

Unison’s concerns about the Bill are threefold. The first, and probably the most major, is about the community right to challenge, which we believe does not live up to the title that it puts forward. It does not necessarily mean that a local community will gain more control or influence, and the whole approach to how the local community can be involved in improving and developing local services is not reflected in the sections covering it.

We have concerns about the centralisation provisions, some of which are included in the community right to challenge, with more powers being given to the Secretary of State to rewrite those parts of the Bill should he or she so decide.

The final aspect about which we have concerns is the part around council tax referendums, which we believe is so complex that it effectively gives the Secretary of State the ability to cap council tax increases. At a time of cuts, that is obviously quite significant for local authorities and for the amount of money that they can spend on their services, and therefore the quality of those services.

Q77 Barbara Keeley: I would like to ask Simon Watson—although, obviously, other witnesses can comment—about the concerns that you have just expressed about the possible impact of the community right to challenge on service quality. You talk about having a vision of empowering service users and people living locally to work alongside front-line staff, but you clearly have concerns about the community right to challenge. Will you tell us more about that?

Simon Watson: The first thing I would like to say is that we recognise that local communities and local community groups have a huge role to play in developing services and making sure that they are locally accountable. Many small community groups develop services in their own right and have innovated where necessary. They are important groups with which local authorities should be working.

The way in which the Bill puts the community right to challenge into practice is somewhat different from what I would have imagined. It gives voluntary groups the right to require a council to look at its services and to decide, on the Secretary of State's guidance, whether they should be put out to procurement or not. It does not say that they have to be local groups; it says that they should be non-profit-making groups. Very large housing associations, for example, or health providers that might want to expand into an area can put in a request and compel the council to look at effectively privatising that part of its services. In addition, in terms of localism, there is no requirement in the Bill for consultation with local people about that, and the local authority is not given the option to accept or decline on its own volition, as regulations will control that. That does not seem to fit with the localist claims for the Bill.

On top of that, before I come to the direct effect on quality, we do not know who is going to win the procurement exercise. Under European law, a procurement exercise would be required for any service that is challenged by a part of the local community. Just because a community group says, "We feel we could run your drugs rehabilitation project in a better way, and we would like to bid for that," the service will go out to procurement. A wide range of organisations might like to bid for it, including large private sector organisations, which would be the complete antithesis of localism.

In terms of our concerns about quality, the mechanism that is being put in place could lead to the asset stripping of the public sector. The Secretary of State has the right to allow other organisations, by future regulation, to invoke the community right to request. In the future, if the Secretary of State gave the power, we could therefore see large private sector corporations bidding for such services. That is not localism.

The kind of fragmentation that might occur because of that process is likely to lead to services getting worse. How will a local authority ensure that it can provide joined-up services if it can be requested under the Bill that small parts of those services should be privatised? How do you make sure that there is a seamless service that the public can access? Is it clear how the public will influence what those services are? There are a whole range of issues in the Bill that relate to ensuring that services are of a high quality.

Mayor Pipe: As a Labour mayor, I would probably agree with everything that Mr Watson said, but that is not the capacity in which I am here. I would think, however, that there would probably be broad consensus among all the political groups on London Councils on Mr Watson's point about the perverse outcome of a large private sector provider from perhaps another country—let alone somewhere else in the country—being the outcome, when the local choice would have been either the local authority or a local third sector provider. Local people could end up with what might be their least favourite choice.

Q78 Stephen Gilbert: I cannot resist the temptation to engage in this line of argument, so forgive me, Mr Amess, that this is not the question that I was going to ask. What is to stop that happening at the moment? Does not the Bill put in place a right for communities to challenge a contract—they do not currently have that right—whereas the perverse outcome that you are talking about involving procurement exercises could still happen at the moment? The Bill actually gives communities something that they do not have. Of course, under procurement rules, there is the potential for the outcome you have outlined, but that is no different from the status quo ante.

Mayor Pipe: So are you saying that the Bill has no effect?

Q79 Stephen Gilbert: No, it has an effect, because it brings in the right for communities to challenge on procurement, which is something that they do not have at the moment.

Mayor Pipe: But surely the thrust of the Bill is meant to be a right for people to challenge so that a local third sector group could pick up the service, whereas its effect is actually to widen the scope of potential providers much wider. The Bill does not deliver its stated intention.

Stephen Gilbert: I think that that is a negative interpretation.

Simon Watson: That happens at the moment. Some local authorities design their contracts so that small, local providers will come in and get them, but this is saying something different from that. This is allowing what I would describe as asset stripping, because it will allow small numbers of people employed by the council to say that they want to run a specific bit of a service, or it might allow an external organisation to come in and say, "We want to run that bit of a service." That is no way to provide the comprehensive, joined-up services that exist at the moment. If small contracts are put out, the community can work with the council to bid for them and get them, but that is quite different. That is a planned way for the council to look at how it can provide its services, rather than this ad hoc fragmentation.

Q80 Stephen Gilbert: Sir Simon, do you share that view?

Sir Simon Milton: I do not. It is actually not a relevant debate for the GLA, because we are not a direct service provider, unless you are thinking of London Underground—it would be quite hard to subject that to the measures in the Bill—or indeed the Metropolitan police. I do not agree with the comments of my two colleagues, and I think what we have just heard about asset stripping is quite a peculiar way of looking at this. That is understandably a very trade union approach. I had 20 years' involvement with a council that outsourced more services than almost any other in the country and I simply do not recognise that description.

Q81 Heidi Alexander: I suspect that we could go on with that debate for many hours, so I would like to ask Sir Simon a direct question about a referendum, particularly in a London context. I know you touched on it in your introductory remarks. Have you made any calculation of what such a referendum on a London-wide basis would cost to conduct? If you have, do you think that is a good and appropriate use of public money?

Sir Simon Milton: We have made a calculation. Because the GLA is a panel and an authority, it would be required to hold a referendum panel. The cost of doing that, if it were to be combined with our quadrennial elections, would be around £5 million. If it were to be taken outside that period, and you would basically have to run a referendum with nothing else going on, that would cost £11 million. The GLA's annual budget is £70 million, so you can see that that would be quite a disproportionate burden for the GLA to have to carry. One of the things we would urge this Committee and, indeed, the Government to consider is injecting some kind of requirement relating to proportionality or value for money. That would mean we would not be faced with having to hold such a referendum for small issues.

Another angle to this that is of concern is that under the GLA Act, the Mayor is the person responsible for setting public transport fares. A great deal has to be done by way of consultation, scrutiny and so on before that can take place. It is a very transparent process and fares have to be set bearing in mind the needs of the transport service over a long period of time—investment plans and so on. It would be incredibly disruptive to business planning if that power were in some way to be undermined or jeopardised by the referendum provision that, under our reading, would be applied. Fare setting is one of the most political things any Mayor can do and they will be held accountable by the electorate for whether they have got it right or not at the ballot box. It would be very destabilising to inject a referendum into that process.

Q82 Gavin Barwell: I have a question for Mr Watson and a different question for Sir Simon and Mayor Pipe. To Mr Watson, you were talking about the parts of the Bill that deal with council tax referendums and you claimed that they were so complex that they essentially equated to capping. Can you say a little bit more about why you believe that to be the case?

To Sir Simon and Mayor Pipe, I want to talk about mayoral development corporations and the wording of the legislation in that respect because clearly in London

there is an issue that Mr Raynsford raised in the Second Reading debate about localism and which authority you are devolving to. The Bill as drafted says that the Secretary of State must by order establish a corporation that the Mayor has designated, and that the Mayor has to have regard to comments made in the consultation. Do you believe that that is a strong enough safeguard to a local community that might feel very strongly that it does not want the Mayor to designate such a corporation?

Simon Watson: Just on the council tax referendums, the Bill's provisions allow the Secretary of State to effectively set a limit beyond which they deem council tax increases to be excessive. If a local authority wants to increase council tax beyond that, they have to hold a local referendum. At the moment, councils do their planning using medium-term financial plans, so that they can plan for their income and expenditure over a number of years. The Secretary of State may decide the limit for excessive council tax increases quite close to when that decision has to be made by local authorities. That means that first of all, on a year-by-year basis, financial plans may have to be quite radically changed.

Also, if a local authority wanted to have a council tax increase in excess of what the Secretary of State had laid down, they would have to make some very rapid changes to their plans. They would potentially have to go out to a referendum. If they lost that referendum, they would have to make very short-term changes to their financial plans, resulting in quite chaotic arrangements for the provision of their services for the coming year. In addition to the cost of the documentation that would have to be sent out to local people to give them the full details and to try to make it understandable, that is sufficient to deter the vast majority of local authorities from ever thinking about challenging the excessive limit that the Secretary of State puts in place.

Q83 Gavin Barwell: Surely, if an authority wanted to have a significant council tax increase in its medium-term plans, it would only include it in those plans if it had confidence that it would win a referendum—if it had sampled public opinion and was confident it could make the case to its residents. You would not include something in your plan unless you had reason to believe you had a prospect of getting it through.

Simon Watson: But they do not know what the Secretary of State is going to set as an excessive amount for a council tax increase.

Sir Simon Milton: On the mayoral development corporations, before the last general election the Mayor of London published his wish list for issues concerning London and devolution. One of those was that the Olympic park zone should become a development corporation, so that there would be a single place to go in order to ensure that the regeneration of east London, which remains the biggest single regeneration challenge in London, could be dealt with effectively. That argument was supported by the Government and therefore we are happy with what is provided for in the Bill. But it is the only development corporation that Mayor Johnson would wish to set up.

We were advised that it probably was not going to be possible just to refer to that development corporation in the Bill because that would risk making it hybrid, hence the general power that is being created. I do understand that there will be concern among London's boroughs

about what might happen in the future. We would have no objection to discussing ways in which safeguards could be put in place to prevent that from happening, or to prevent a rogue Mayor putting in place loads of these things all over London. For one thing, it wouldn't actually be necessary for a Mayor to do that in order to exercise the right amount of influence in a strategic sense across London.

But if you are going to put in a safeguard, it has to be one that allows for a development corporation to be set up, if thought necessary. A borough veto power would, I suspect, mean that another such body would never be set up. It might be a more appropriate safeguard to have a vote with a threshold in the London assembly, which is there to scrutinise the Mayor, in order to move on from the one that is proposed.

Mayor Pipe: As one of the local boroughs, I can certainly allay any fears that the London Councils issues are anything to do with the Olympic park MDC. There are key areas of principle of establishment of an MDC: representation, local representation and the area that it encompasses. All these are key areas of argument that are pretty much sorted out in east London, so it is not about that one. But having seen how we have come close to an agreement in east London and accepted it among the four boroughs that are affected by the MDC, I can see that it could be very fraught elsewhere. There have to be some safeguards against its being simply imposed.

Although there might not be any plans at the moment for the London mayoralty to be able to access NNDR—business rates—if there were a move to widen TIFs or the access to TIFs through future legislation, when we are moving to a situation where local boroughs could be faced with being heavily reliant on their NNDR if there is a re-localisation of business rates, it will make it even more important that on a whim a body could be established that could not only have great planning powers over an area, but an ability to remove significant amounts of, if not current NNDR, certainly growth in NNDR, which could be siphoned away from the borough and spent elsewhere. There are great concerns now but also potential concerns for the future.

Q84 Nic Dakin: Could Sir Simon and Mayor Pipe say a little more about their concern about delegation of fines? Will Mayor Pipe also perhaps say a little more about his concern about planning?

Sir Simon Milton: We object in principle to the concept of delegating fines without also delegating the funds, resources and powers to take the steps necessary to avoid the fines. The EU is currently taking action against both the UK and Italy for air quality measures. A number of other European countries—Austria, Spain, Germany—were all able to negotiate an extension to their obligation. We were not in the UK. Instead, I think the attitude of the previous and present Government has been, “We’ll see what we can do to get through this, but it is not a problem because we will just delegate the fine down to the London level.”

We think that if the Government are to proceed with this, some very important safeguards need to be put in place. I would stress two things in particular. The first is that the fines should not simply be levied until Government had exhausted all their other powers—powers of direction, policy powers and so on—that could have a mitigating

effect. In other words, fines should not be the first resort; the delegation of the fine should be the last resort. Secondly, it should not be for Ministers to delegate the fine; there should be a judicial process, so that the fine can be apportioned in the right way. There are many aspects of air quality in London and other cities that are simply beyond the powers of those cities to take action against, because it requires changes in national policy or strategies. It would be quite wrong for the whole fine to be levied at the local level. For example, in London there are three waste sites that contribute to our exceeding air quality levels. Those waste sites are operated by boroughs, they are regulated by the Environment Agency and yet it is the Mayor of London who will face a fine if those sites continue to exceed air quality levels. So this issue really needs to be thought through very carefully and the idea that it can simply be passed down without further calibration would be a huge mistake and quite unfair.

Mayor Pipe: There is the same issue for local authorities. Ultimately with air pollution, although we share responsibility for it with the Mayor of London, short of barricading my borough to commuters and erecting giant fans that blow the pollution beyond our borders—obviously, that would be complete nonsense. So we would have to pay our fair share, or a determined share, and yet we have one of the lowest rates of car ownership—probably the lowest rate of car ownership—in the capital. So it would seem particularly iniquitous that some sort of blanket apportionment could be put in place.

Obviously, another good example is waste. Again, I will use my own borough as an example. We have a hugely extensive system of recycling collection, down to food waste on a weekly basis, as well as weekly bin collections—I say that, just before we get into that area. And yet 50% of the properties in my borough are flats and therefore it is very difficult to get participation in recycling to the high levels of areas where people have long drives that can have five wheely-bins at the end, all with the different types of recyclable materials in them. So how one would go about apportioning a failure to achieve a particularly high recycling rate would have to be very carefully thought through if it is to be seen as acceptable by local authorities.

Sir Simon Milton: May I make one further point? At the moment, it is the responsibility of the UK Government to negotiate with the EU either about getting the ability to extend the deadline or indeed to be excused the fine. So we are wholly reliant on the Government's negotiating determination. Currently the Mayor has an air quality strategy that includes a number of measures that we believe would bring London's air quality well below the levels that the EU has stipulated and yet several of those measures have not been included in the Government's submission to the EU because they do not believe that it is necessary to include them. So we are not even being allowed to make our best case in order to avoid the fines.

Mayor Pipe: There was a planning issue that I had not responded to. There is a lack of clarity about how these community plans and neighbourhood forums would work and how anything drawn up by such a body would operate, or even something drawn up by competing bodies because it is not clear, if more than one organisation came forward to propose neighbourhood plans, how those competing plans would be seen by the authority.

Also, what is an “area” or “neighbourhood”? I think that is an issue for every local authority up and down the country, particularly urban areas that are not parished. How would that be determined? Yes, there are wards, but why should the randomness of the electoral divvying-up of votes determine what actually is a neighbourhood or not? Many wards can go right through a town centre, so again wards are not necessarily the best basis on which to determine neighbourhoods. So there is that uncertainty. Also, how will these plans dovetail with the local development framework or the unitary development plan, if that is what the borough is still relying on? Again, there is a lack of clarity about that.

Q85 Alun Cairns: I want to ask Mr Watson a question. I want to go back to the right to challenge. He called it privatisation and suggested that a large housing association from elsewhere might want to run the housing stock in a local authority area. However, do you not accept that there is a procurement process that would potentially open that sector up so that others might well bid, and that your position is opposition for opposition’s sake? It would prevent any local authority from tapping into the expertise, interest or capacity that exists in the community in following that process through.

Simon Watson: I think that local authorities have the power at the moment, and will retain the power, to look at how they will deliver their services. Unison’s view is that directly provided services provide the best value and the best quality in most circumstances, but local authorities have that power. If they want to put a service out to tender, they already have the power to do so. If they want to talk to local groups about how a service is being provided, and work with them to use their ideas and provide that service in the best way, they have the power to do that at the moment as well. The legislation effectively gives external organisations the right to require small, medium or large parts of council services to be put out to procurement. That is not a way to provide quality, thought-through services.

Q86 Alun Cairns: Mr Watson, you mentioned where local authorities have the power to do it, but it is about when they choose not to use that power. Does not that come back to the point I made about the expertise, interest and capacity of the community, which a local authority may not choose to tap into?

Simon Watson: I think there are other ways to achieve that aim. We had the legislation about the right to consult local people; there are duties on local authorities to consult local people on strategies, and local people decide how they should vote. We would support a requirement for local authorities to consult local organisations and people about how a service should be delivered openly; we would find a lot of merit in it. This is a very blunt instrument; it just talks about who should provide a service, rather than the service itself.

Q87 Mr Raynsford: May I ask Simon if he will say a little about the third issue he highlighted in his comments—standards? Slightly maliciously, may I also ask him why, in the context of a Bill that abolishes regional spatial strategies, the Mayor of London should continue to have substantial planning and housing powers at a larger than local level?

Sir Simon Milton: I should be delighted to answer. The issue with standards is technical; we were not consulted on it, and if we had been, hopefully, it would have been picked up. The Bill says that the existing standards regime is being abolished, but it is up to local authorities to have their own home development regime. As far as the GLA is concerned, the power to develop the local regime was given to the assembly rather than to the Mayor and the assembly, and yet the Mayor has to be subject to it. The assembly agrees with the Mayor on this. It would be appropriate for it to be amended so that the Mayor and assembly together construct the new standards regime in London.

There is a very clear difference on regional spatial strategies; the Mayor is a directly elected individual who has to be accountable to Londoners for his regional spatial strategy. That is unlike the regional spatial strategies elsewhere, which were put in place by wholly unelected bodies.

Q88 James Morris: This is actually on the same point. I think most people agree that the London mayoralty is perceived as a success in representing matters relating to London strategically. Do you think that that model could also benefit cities such as Birmingham?

Sir Simon Milton: Personally, I do. I have long been supportive of elected mayors. There is a difference between an elected mayor for London and my colleague, Jules Pipe, who is the elected mayor of a borough, because those bodies perform very different functions. The GLA is a strategic body; it is not a direct service provider in the way that the London borough of Hackney is. Under the Act constructed so expertly by Ministers in the past, the Mayor of London has the power to appoint up to 12 people to form an administration with him or her when he or she comes in. They have a cadre of people who will help them run the place, but I think the Bill proposes that the new mayors will operate more as local councils, in that cabinets will have to be formed from other elected members. Those mayors will have less ability than there is in London to bring in experts to work for them directly. The Government may wish to think about that as this goes forward.

Q89 James Morris: On that point about powers, do you think that the same spatial level applies?

Sir Simon Milton: It depends. The city of Birmingham covers a huge area and has a population of 1.2 million. Manchester has a very small and tight boundary—Greater Manchester is another matter. If you were going to look at Manchester, you would have to consider the 10 authorities that make up Greater Manchester, and that would be quite a departure from what the Government have in mind.

Q90 Jack Dromey: The London Mayor made some welcome steps in the right direction on the living wage. Chapter 6 of the Bill demands transparency and accountability in relation to top pay in the public sector. Do you believe that there is a case for that to be the pay policy as a whole, including internal relativities and the importance of a living wage?

Sir Simon Milton: The current Mayor has wanted to make London as transparent as possible when it comes to such matters, so all senior people have their pay on

the website. My salary is on the GLA website; you can find it out if you are interested, and obviously the same is true for the chief executive and all those in senior positions. We have gone down the necessary steps that the public might expect, not just for pay, but for expenses.

Q91 Jack Dromey: I am sorry to interrupt you, but you have acted on top pay, which is welcome, but as a matter of policy you have also acted on bottom pay—I don't like using the phrase—the pay of those at the bottom of the pay structure, including the notion of the living wage.

Sir Simon Milton: Yes.

Q92 Jack Dromey: Should a pay policy not address that?

Sir Simon Milton: I think that is a policy matter for the individual local authority. The Mayor has a policy of supporting a London living wage. He therefore has ensured that not just the GLA, but all its functional bodies pay the living wage. We are doing our best to promote that through our supply chain. It is a matter of political policy. I do not think that it should be something that every council is required to do. It should be for the elected leaders of those councils to take the decision.

Q93 Jack Dromey: Are there any moves on that?

Mayor Pipe: Yes. Incidentally, I am probably different from Simon inasmuch as I would be happy obviously for a London living wage to be in force for all local authorities. Local authorities desperately need clarity about our ability to apply a living wage clause. It is a matter of debate. I have been on a number of forums where it is heavily contested on either side as to whether local authorities have the ability to introduce a London living wage clause. Whatever the situation between our laws, such as the best value legislation or EU laws, which I believe are for debate yet again because some action has happened in Europe recently, there lies a problem. Procurement officers and legal officers throughout the country regard it as impossible to dictate that there should be a living wage payable in any contracts. That is very relevant if we are moving into another series of outsourcings through the mechanism that we discussed earlier.

The best that anyone has been able to do when they claim that they adopt a London living wage for letting contracts—this applies to the GLA or has done—is that we will ask for a tender price both with the London living wage and without, if their normal wage grades are below, and we can only let a contract on the higher rate if the company is explicit about what we are getting for it, and that there is added value. Otherwise, legal officers and procurement officers will say that we cannot let that contract and that we must take the lower tender. There have been many instances when members would like to adopt a contract with the London living wage, but are prevented from doing so. That lack of clarity goes through local government and regional government equally.

Q94 Jack Dromey: Do you believe that the same principles of transparency and accountability applied in chapter 6 should also be applied to the contractors with which local government contracts?

Mayor Pipe: Absolutely, and down the chain; otherwise, it stops at the door of the town hall.

Q95 Mr Ward: You have been accused of predetermination. Can I ask you about community assets? Do you share my concern that the inclusion of privately owned property on lists of community assets could represent an infringement of personal property rights?

Sir Simon Milton: I really don't have a view on that because it's not something that is likely to apply very much to the GLA, but I think from a borough and council point of view that's much more of a live issue.

Mayor Pipe: I think that there will be some difficulty in enacting that. If a pub is to close, somewhere in London for example, I would question how often the local community would be able to come together to buy it and keep it open as a pub. In reality, it is far more likely to allow time for perhaps a local faith group to organise and buy the pub, so it becomes a place of worship. It will be converted in that sense.

I don't think that the measure will have the desired effect that often, simply because of the financial capacity of the communities we are talking about. Perhaps if we were talking about Ambridge, people might be able to gather enough resources to keep it as a pub, but otherwise I am not so sure.

The Chair: If there are no further questions from colleagues, our final questions will be from Ministers.

Q96 Robert Neill: On that last point, in such a situation, that ability would not be unhelpful for the faith group or the community it represented in the broader community.

Mayor Pipe: Fine. I am not saying that that is a problem. All I point out is that it probably doesn't deliver the intention—presumably, the community intervention would be to keep it as a pub, rather than as something else.

Q97 Robert Neill: Mr Watson, may I be quite clear? Are you saying that Unison has an objection in principle to the idea that community groups—a voluntary or community body, a charity, a parish council, the employees of the authority and people like that—should have the right to challenge and to take on the running of a service provided by the council, if they think they could make a better stab at it?

Simon Watson: What I think is that the procurement process opens up the ability to bid for contracts to everyone. If there is grant funding of community groups to provide a service if they come to the local authority and say, "We think that this can be done better. We think that we can contribute this to local public services," I think that is an excellent mechanism for local authorities to support local people. However, the procurement process is open to everyone. You can't restrict it to a small number of groups allowed to bid for it.

Q98 Robert Neill: Isn't an open procurement process more likely to get value for money?

Simon Watson: Well, it may be more likely to get value for money, but how many community groups have completed a pre-qualification questionnaire? Capita is much better set up to bid for local authority contracts

than a small community group which has never done it before and does not have the HR expertise or the track record to put in a bid.

Q99 Robert Neill: I am trying to get a sense of whether you have an objection to challenge in itself.

Simon Watson: We do not have an objection to challenge in itself on how services are provided. However, is that challenge best served by giving the service to a different service provider or by the local authority interacting with a community group and saying, “How can we change the way we provide our service best?” so that the eye is kept on what is happening to how the service is provided, rather than the local authority looking at who is providing the service?

Q100 Robert Neill: I will leave that bit there. Let us come on to Simon and Mayor Pipe.

On EU infractions, do either of you dispute the legitimacy of the principle that paying for an infraction should fall on those who are responsible for the infraction? But you have an issue as to the methodology of finding out and determining who that person is—is that the nub of it?

Sir Simon Milton: You are right that there is an issue with the methodology, but I would argue that there is an issue with the principle as well if you don’t also devolve the resources and the powers to deal with the problem, which would avoid the fine in the first place.

Q101 Robert Neill: You are saying that if you were responsible and couldn’t do anything about it that would be one thing, but if you were responsible and

could do something about it then it’s probably pretty just under such circumstances that you should pick up the bill.

Sir Simon Milton: Yes, and that’s where I think it’s important to have safeguards as to methodology, to make sure that fines are not unfairly dedicated.

Q102 Robert Neill: I understand your point.

The final thing I was going to ask, gentlemen, is on the London package, which is broadly agreed, and the safeguards in relation to MDCs. Do you accept that any discussion about consultation and so on must be in the context of the Mayor being the person with the statutory responsibility for the economic strategy of London?

Sir Simon Milton: I do accept that. The Mayor is publishing a consultation document around the proposals for the MDC in the Olympic area, so that the Committee, Parliament, the boroughs and other stakeholders will have the opportunity to see what is proposed before the law comes into effect.

The Chair: Again, on behalf of the Committee, I thank our witnesses very much indeed for the time you have spent with us this morning. We are very grateful.

This afternoon Mr Bayley will be chairing proceedings.

1 pm

The Chairman adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Four o’clock.