Social Justice Committee

2nd Meeting, 2001

Wednesday 23 January 2002

The Committee will meet at 10.00 am in Committee Room 3

1. Item in private: The Committee will consider whether to take item 6 in private.

2. Item in private: The Committee will consider whether items at future meetings on the draft Report of the Inquiry into the Voluntary Sector be taken in private.


4. Housing (Scotland) Act 2001 - Homelessness – Use of interim accommodation for unintentionally homeless applicants in priority need: The Committee will consider a Scottish Executive consultation.

5. Committee away day: The Committee will consider proposals for its away day.

6. Communities Against Poverty (CAP) – Community representation and Social Inclusion Partnerships (SIPs): The Committee will consider its response to the meeting with CAP held on 7 December 2001.

Lee Bridges
Clerk to the Committee
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The following papers relate to the meeting:

**Agenda Item 3:**

Budget Process 2003/04 – Approach to Stage 1   SJ/02/2/1

**Agenda Item 4:**

Housing (Scotland) Act 2001 – Homelessness – Use of interim accommodation for unintentionally homeless SJ/02/2/2 applicants in priority need

**Agenda Item 5:**

Committee Away day - proposals   SJ/02/2/3

**Agenda Item 6:**

Communities Against Poverty (CAP) – Community SJ/02/2/4 Representation and Social Inclusion Partnerships (SIPs) – committee response [PRIVATE]
1. This paper sets out a timetable for the committee to report to the Finance Committee on Stage 1 of the Budget Process 2003-04, and outlines approaches which the Committee may wish to adopt.

2. The Annual Expenditure Report (AER) will be published in late March, which Committees will use as a basis for considering departmental budgets and suggesting changes to programmed expenditure for inclusion in the stage 1 Report. This approach would allow the Executive, in responses to Stage 1, to cost proposed changes in time for the start of Stage 2 and possible inclusion in the draft budget.

3. Members will be aware of the agreements reached with the Finance Minister regarding the presentation of information to the Parliament:
   - an assessment of the scale of resources available for allocation (i.e. the uncommitted portion of the new budget);
   - an assessment of the capital commitments from the previous year;
   - the presentation of the Executive’s spending proposals in output terms;
   - the introduction of cross-cutting expenditure reviews led by the Finance Committee.

4. The Finance Committee has appointed Professor Arthur Midwinter as a ‘standing adviser’ for the budget process. He takes up this post from the beginning of February and his duties cover two main areas
   - devising and advising on the arrangements for each year’s budget process, this includes planning the Parliament’s input into the Budget process and structuring guidance for subject committees that will enable meaningful scrutiny.
   - Acting as a technical expert to the Finance Committee

5. As part of this process it is suggested that position papers will be produced by SPICe for subject committees prior to the start of Stage 1. The paper will set out the recent historical position of departmental spending and where the pressures are in terms of non-discretionary expenditure.

6. The Committee’s views are sought on the following proposed approach to Stage 1:
• position paper to be prepared by SPICe (March))
• agreement to take evidence from relevant organisations at meetings on 20 March– for example:

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<th>Housing</th>
<th>Social Inclusion</th>
<th>Voluntary Sector</th>
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<td>Chartered Institute of Housing (Scotland)</td>
<td>COSLA</td>
<td>Scottish Council for Volunteer Organisations</td>
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<td>Shelter (Scotland)</td>
<td>Social Inclusion Partnership (SIP)</td>
<td>Volunteer Development Scotland</td>
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<td>Communities Scotland</td>
<td>representatives</td>
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• evidence from Minister at meeting on 17 April;
• draft Stage 1 Report to Committee on 1 May.

Lee Bridges
Clerk to the Committee
1. As members are aware, Part I of the Housing (Scotland) Act 2001 covers the subject of homelessness and makes provision for a range of new and amended duties and rights. The Scottish Executive has advised that much of the detail will be set out in guidance and subordinate legislation. Over the next two months the Executive will be issuing a number of papers covering their proposals.

2. Section 3(5) of the Housing (Scotland) Act 2001 amends the Housing (Scotland) Act 1987 to allow Ministers to prescribe in regulations the circumstances in which permanent accommodation need not be provided for priority need unintentionally homeless applicants. The first of the consultations (attached) sets out the Executive’s proposals for what the regulations should cover.

3. The views of the Committee have been invited on the consultation by 5 April 2002. (Due to Easter recess this in effect means that the last opportunity that the Committee will have to consider its response is at its meeting on 20 March.)

Lee Bridges
Clerk to the Committee
HOUSING (SCOTLAND) ACT 2001 – HOMELESSNESS
CONSULTATION PAPER

Use of interim accommodation for unintentionally homeless applicants in priority need

Responses should be sent, by 5 April 2002, to:

Isabel Drummond-Murray@scotland.gov.uk
Homelessness Team
Scottish Executive Development Department
Area 2-B Bridge
Victoria Quay
Edinburgh EH6 6QQ
Section 3(5): Power of the Scottish Ministers to modify the application of sections 31 and 32 of the 1987 Act – inserts section 32A into the Housing (Scotland) Act 1987

Background

1. In its initial report, “Helping Homeless People - Legislative Proposals on Homelessness”, the Homelessness Task Force stated that

"...we recognise that in some circumstances, where the applicant is particularly vulnerable by virtue of youth or other circumstances, it may be more appropriate, in the first instance, to make use of suitable short-term accommodation where support packages are readily available and the person or household can be helped or prepared for a long-term tenancy. The legislation should allow for interim action of this kind, in tightly defined circumstances (which might be specified in subordinate legislation) on the basis that such interim action does not discharge the duty placed on the local authority to secure long-term accommodation for the person or household when such an outcome is timely."

Housing (Scotland) Act 2001

2. Section 3 of the 2001 Act amends Sections 31 of the Housing (Scotland) Act 1987 to require local authorities to secure accommodation that is permanent for applicants assessed as in priority need and unintentionally homeless.

3. Section 3 also introduces Section 32A to the 1987 Act. Subsection (1) of that section enables Scottish Ministers to prescribe in regulations the situations in which accommodation which is not permanent may be secured. This allows the recommendations of the Task Force to be implemented.

4. The subordinate legislation subgroup of the Task Force considered the content of the regulations and a summary of its discussions and recommendations is set out below.

Discussion

5. Section 29 of the 1987 Act places a duty on a local authority, while they make their inquiries, to secure accommodation for applicants that they have reason to believe may be homeless. However, in the context of this paper the term "interim accommodation" is used to describe accommodation provided after a decision has been made under the homelessness legislation that the local authority has a duty to provide permanent accommodation to the household under s.31(2).

6. Section 4 of the 2001 Act inserts section 35A into the 1987 Act which allows applicants to request the local authority to review decisions made under certain sections of the Act. This includes review of decisions made under s.31 and is therefore applicable in

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1 Power conferred on the Scottish Ministers and exercisable by regulations made by Statutory Instrument under Negative resolution procedure of the Scottish Parliament

2 Paragraph 27 of the Homelessness Task Force report, "Helping Homeless People - Legislative Proposals on Homelessness"
cases where an authority has decided that an applicant's needs are best met through non-permanent accommodation.

7. In setting out the circumstances in which interim accommodation may be secured, it is recommended that any regulations:

- **should not create a loophole** for the permanent accommodation duty, but also should not constrain local authorities from finding the best solution for the applicant.

- **should ensure the individual's needs are the priority**, not the availability of accommodation nor the perceived needs of the community. They should not be used to avoid giving permanent accommodation to a "difficult" applicant, for example, or enforcing a probationary period. Rather the process should be about identifying where giving permanent accommodation straight away would harm prevention of homelessness and about addressing such situations.

- **should not create presumptions** – for example it would be inappropriate to assume that simply because someone is young, they should not be offered permanent accommodation. Interim accommodation should not routinely be used for any priority need group such as young people, but assessment of needs should indicate whether or not this form of accommodation is required, on an individual basis, prior to providing permanent accommodation as defined in the Act.

- whatever circumstances were considered appropriate, the duty to secure permanent accommodation remains and should be discharged when the circumstances set out are no longer applicable and interim accommodation is no longer appropriate.

- interim accommodation should not be used where support needs can reasonably be met in permanent accommodation. Similarly, if the household that is in interim accommodation, still requires support, but this can be provided in permanent accommodation, then the household should be moved on to permanent accommodation.

- in order to reflect the Task Force's recommendations that the duty to provide permanent accommodation should be suspended as an interim measure only it is necessary to set a timescale for review of the circumstances within the regulations.

8. In light of the above it is recommended that the circumstances in which the permanent accommodation duty does not apply should be defined in terms of actions to be taken by the local authority rather than the characteristics or circumstances of the applicant.

**Proposed content of subordinate legislation:**

9. It is recommended that the regulations set out that:

- Interim accommodation should only be used instead of permanent following a housing support services assessment which has concluded that the household
requires support and that its assessed support needs cannot reasonably be provided within permanent accommodation.

- Provision of interim accommodation must be accompanied by a clear programme of support, with an end date in place or a clear timetable for review. The applicant should have access to independent advocacy and information services throughout this process.

- For the purposes of the assessment to be carried out by the local authority "housing support services" has the meaning given under section 91(8) of the 2001 Act.

- The circumstances leading to the decision to use interim accommodation should be reviewed at a period to be agreed between the parties, subject to a minimum requirement of 6-monthly review.

Homelessness Team  
Scottish Executive Development Department  
14 January 2002
1. Further to the Committee’s decision to hold an away day on 10 and 11 February 2002, please find attached a draft programme to be discussed at the meeting of 23 January 2002 (annex A).

2. The Conveners Liaison Group has approved the Committee’s request to hold the away day at New Lanark.

3. The Committee Office will meet the cost of travel to and from the venue. Travel claims will need to be made on the committee travel form and the clerks will ensure that all members receive one.

4. Aside from the details of the programme, there are three issues the clerks would appreciate members’ comments on.

Invitation to Social Justice Ministers

5. At other committee away days, the relevant ministers have been invited to have dinner with the committee at the beginning of the away day. This informal arrangement has given an opportunity for members and ministers to discuss current issues of relevance in a more candid manner than is possible in a formal committee setting.

6. Members are asked to discuss the option of inviting Iain Gray and Margaret Curran to dinner at New Lanark on the evening of 10 February.

Facilitation of the event

7. As members will see from the draft programme, there is a substantial amount of work to get through on the away day. Experience has also shown that if the detail of the work plan is deferred to discussions later on in future committee meetings, then the momentum can be lost. Members may therefore wish to see a positive product by the end of the away day.

8. The views of members are invited on how the event should be facilitated.

Committee Meeting Scheduled for 6 February 2002

9. The aim of the away day is to provide the Committee with its work programme for the rest of the parliamentary session. The clerks will be providing members with detailed briefing notes for each session of the away day, including copies of the external research, which are lengthy. Members views are therefore invited on whether the meeting of 6 February 2002 should be postponed to allow members sufficient time for preparation for the away day. Members may wish to note that the next scheduled meeting of the Committee after this date is 6 March 2002 owing to the February recess.
Conclusion

9. Members’ views are invited on the specific points raised above and the draft programme attached at annex A.
Proposed Away Day Programme

Attendees:
Committee Members
Clerks
SPICe

Sunday 10 February 2002

17.00 Arrive at New Lanark
17.30 Briefing Session
   • away day objectives & programme
   • time available until dissolution
   • resources available to the committee – civic participation, reporters, advisers etc
18.30 Check in
19.00 Dinner with social justice ministers

Monday 11 February 2002

9.00 Session One – Context, Social Justice & the Voluntary Sector
   Objectives:
   • receive brief presentations on the housing and social inclusion research reports, and discuss findings/ways forward
   • initial consideration by members of work plan
   • to bring together the findings of the research, Glasgow seminar and other issues to formulate a plan for work on the social justice agenda
   • to consider the findings of the voluntary sector inquiry and any bearing on the social justice agenda
   • to discuss the on going monitoring of the Housing (Scotland) Act 2001
   • discuss future work on HMOs
10.30 Coffee
10.45 Session One – Continued
12.30 Lunch
13.30 Session Two – Work programming
   Objectives:
   • establish committee priorities
   • form work programme based on priorities and methods of working
15.30 Close