

LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

Wednesday 24 September 2008

Session 3

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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

23rd Meeting 2008, Session 3

CONVENER

*Duncan McNeil (Greenock and Inverclyde) (Lab)

DEPUTY CONVENER

*Alasdair Allan (Western Isles) (SNP)

COMMITTEE MEMBERS

*Bob Doris (Glasgow) (SNP)

Patricia Ferguson (Glasgow Maryhill) (Lab)

Johann Lamont (Glasgow Pollok) (Lab)

*David McLetchie (Edinburgh Pentlands) (Con)

*Jim Tolson (Dunfermline West) (LD)

*John Wilson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Brian Adam (Aberdeen North) (SNP)

*Rhoda Grant (Highlands and Islands) (Lab)

Alison McInnes (North East Scotland) (LD)

Margaret Mitchell (Central Scotland) (Con)

*attended

THE FOLLOWING ALSO ATTENDED:

Jackie Baillie (Dumbarton) (Lab)

THE FOLLOWING GAVE EVIDENCE:

John Donaldson (Association of Chief Police Officers in Scotland)

David Fotheringham (Scottish Government Housing and Regeneration Directorate)

Richard Guest (Highland Council)

Stewart Maxwell (Minister for Communities and Sport)

Donald McKinven (Glasgow City Council)

Councillor Jim McLeod (Inclusion Scotland)

Ryan McQuigg (Leonard Cheshire Disability)

Gordon Mungall (Scottish Disability Equality Forum)

Liz Rowlett (Scottish Disability Equality Forum)

John Swinney (Cabinet Secretary for Finance and Sustainable Growth)

Alex Thorburn (Leonard Cheshire Disability)

Dr Ann Wilson (Inclusion Scotland)

CLERK TO THE COMMITTEE

Martin Verity

SENIOR ASSISTANT CLERK

David McLaren

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 3

Scottish Parliament

Local Government and Communities Committee

Wednesday 24 September 2008

[THE CONVENER *opened the meeting at 10:00*]

Interests

The Convener (Duncan McNeil): Good morning. I welcome everyone to the 23rd meeting of the Local Government and Communities Committee in 2008. As usual at this point, I remind everyone to switch off their mobile phones and BlackBerrys.

I welcome Rhoda Grant, who is a substitute member of the committee. I ask her to declare any interests that she may have.

Rhoda Grant (Highlands and Islands) (Lab): I refer members to my entry in the register of members' interests and point out my membership of Unison, which might be relevant to the work of the committee.

Subordinate Legislation

Public Appointments and Public Bodies etc (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 (Draft)

The Convener: The first agenda item is subordinate legislation. The committee will take evidence on the draft order. I welcome John Swinney MSP, the Cabinet Secretary for Finance and Sustainable Growth. Accompanying Mr Swinney are Paul Gray, the director of change and corporate services; Colin Spivey, the head of resourcing; and Carol Snow, a solicitor to the Scottish Government.

The Subordinate Legislation Committee has not drawn the committee's attention to the draft order. Members have received electronic copies of the publicly available material on the Standards, Procedures and Public Appointments Committee's web pages regarding its consideration of the issue. The draft order is laid under the affirmative procedure, which means that the Parliament must approve it before its provisions can come into force.

It is normal practice to give members the opportunity to ask questions of the minister and his officials before the start of the formal debate. First, I invite the minister to make some introductory remarks.

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): I welcome the opportunity to discuss with the committee the amendments that are being made to the Public Appointments and Public Bodies etc (Scotland) Act 2003.

As members will know, the approach to public appointments is structured around the work of the Office of the Commissioner for Public Appointments in Scotland, which provides important scrutiny of the public appointments process in Scotland. The purpose of the work of OCPAS, under the 2003 act, is to ensure that the public has confidence in the public appointments process and that the process is open, fair and transparent. No significant structural changes to that approach are envisaged in the draft order. In order to ensure that schedule 2 to the 2003 act is kept up to date, the draft order reinstates four bodies, removes two others, changes the category of three bodies and amends the entry for one. Such periodic changes are proposed by ministers as required. Essentially, the draft order tidies up schedule 2.

I look forward to addressing any points that the committee wants to raise in the first part of our discussion this morning.

David McLetchie (Edinburgh Pentlands)

(Con): Good morning, cabinet secretary. Can you explain why there is an intermediary role for the minister in the process of appointments to the national park boards? I suppose that you will answer that that is what the law says. In terms of the construction of the legislation, why is it deemed appropriate that a local authority nominee can join a board only through the intercession of an appointment by a minister? Could the drafting not say, "The board will comprise A, B and C people nominated by a minister and 1, 2, 3 and 4 people nominated by the relevant local authorities"? Why is the minister in the middle of the appointment of elected representatives to those public bodies?

John Swinney: My answer is probably the same as the one that you offered, which is that Parliament set out why that was to be the case, for which I do not think that there is a particularly compelling reason. The law could be amended, if it was considered appropriate that ministers should not be involved in the process and that there should be a sort of passporting approach so that a local authority that was entitled to nominate an individual to the board of a national park would be able to do so.

I suppose that ministers interceding in the process gives a certain extra imprimatur of order and administrative assurance. That is my explanation, other than giving my view about what is in the National Parks (Scotland) Act 2000.

David McLetchie: After the draft order comes into force, such nominations must still go through an intermediary, who is the minister. Theoretically, at least, could the minister still refuse to appoint a councillor whom a local authority had nominated?

John Swinney: In theory, yes. I have read the correspondence that was exchanged between officials, ministers, the Standards, Procedures and Public Appointments Committee and the Commissioner for Public Appointments in Scotland about the particular circumstance that influenced the appointment of members to the national park boards. It is clear from all that that there has not been the greatest of clarity, or, rather, the greatest of consistency between two pieces of legislation: the Public Appointments and Public Bodies etc (Scotland) Act 2003 and the National Parks (Scotland) Act 2000. That has left us in a situation that has had to be resolved by ministers deciding to confirm the appointment of local authority members to the boards without putting them through the OCPAS choice process, as I would characterise it. That issue has obviously had a significant effect on how the matter has been handled.

David McLetchie: Thank you for that.

I want to move on from the specific issue that concerned the Standards, Procedures and Public Appointments Committee to other aspects of the draft order. I am interested in the reclassification that is going on and the categorisation of various entities. Can you hazard an explanation as to what the difference is between "Nationalised bodies" and "Public corporations"?

John Swinney: As I reflected on my papers last night, Mr McLetchie, I wondered whether you and I might discuss the merits of "Nationalised bodies" and "Public corporations". I am glad that my predictions have proven to be correct—I must put a bet on a horse every so often.

To give a representative feel of the organisations that we are talking about, it is probably best to use a couple of the examples in the draft order: Caledonian Maritime Assets Ltd and David MacBrayne Ltd. Essentially, they are organisations that operate in the public interest and deliver a form of public service. However, we recognise that the focus and outlook of those companies and their relationship to other players in the transportation system might change, depending on decisions that are taken at a contractual level. Nationalised bodies would be defined as key, directed components of the infrastructure of the state, whereas public corporations act in the public interest, but their perspective and outlook may change on the basis of contractual decisions that may be arrived at through the competitive tendering process that is undertaken in relation to ferry contracts.

David McLetchie: That was a good effort, cabinet secretary. Can you perhaps tell us then where Scottish Water fits into all this? Is that now a public corporation for the purposes of the schedule 2 list?

John Swinney: It is.

David McLetchie: That is fine. Can you volunteer some information as to where the Scottish Futures Trust will fit in? Will that be a public corporation?

John Swinney: The Scottish Futures Trust is not yet a regulated body, but it will become one. I imagine that it will fit into the public corporation category, but I want to give the committee a definitive view on that in due course.

Jim Tolson (Dunfermline West) (LD): Good morning. In your opening statement, you said that various bodies are being added to or removed from the list. Obviously, the Standards, Procedures and Public Appointments Committee expressed concern about the rationale behind the decision on which bodies are to be added or removed. Can you outline which bodies are to be added or removed and the rationale for the changes?

John Swinney: Yes. Quality Meat Scotland is being added as a new body. Essentially, that relates to the transformation of a private organisation into a non-departmental public body, which took effect on 1 April 2008.

Skills Development Scotland is a new body that was created out of the shell of the Scottish University for Industry Ltd. As I am sure you are aware, Skills Development Scotland was created to draw together into one organisation a number of public bodies: the skills elements of Scottish Enterprise and Highlands and Islands Enterprise; and Careers Scotland. That work was completed in April 2008. The draft order makes the appropriate designation for Skills Development Scotland.

The other body that is being added to the list is the Scottish Local Authorities Remuneration Committee. The Office of the Commissioner for Public Appointments in Scotland regulates the committee as if it were included in schedule 2 to the 2003 act, so the draft order includes the committee for the purposes of good order in the process.

As I discussed with Mr McLetchie, the draft order makes changes to terminology. On that basis, under the draft order, Caledonian Maritime Assets Ltd, David MacBrayne Ltd and Highlands and Islands Airports Ltd, which were called nationalised bodies, will now be called public corporations.

The draft order amends the designations of the Cairngorms National Park Authority and the Loch Lomond and the Trossachs National Park Authority to take into account the exclusion of local authority nominees from OCPAS regulation. The draft order also reinstates the Common Services Agency for the Scottish Health Service as a body listed in schedule 2. We have done that because of the return to use of the body's statutory name.

Two bodies are being deleted from the list. The first is the Scottish Hospital Endowments Research Trust, which has had its status as an NDPB removed, given that it is now an independent charity. Secondly, the Scottish Advisory Committee on the Medical Workforce is being deleted, as the body no longer exists; it met last in the spring of 2002.

The Convener: The report that we are considering this morning states:

"The Commissioner confirmed that

the approach in the draft order would resolve the current situation and that it

"would avoid a recurrence ... but stated that it would not address her concerns about the fairness and transparency"

with regard to appointments by local authorities.

Has any discussion been held with the Convention of Scottish Local Authorities or local authorities on how they propose to proceed, given such an exemption? I note from our papers that at least two authorities—Argyll and Bute Council and Moray Council, I think—offered more than one nomination in order to give some sort of choice and to comply with the process. However, the majority—six out of eight—did not. Have such discussions been held? Should the issue be looked at?

10:15

John Swinney: Obviously, the issue does not affect all local authorities. Only a proportion of local authorities are involved, so a discussion with COSLA may not be appropriate. However, there has been a great deal of discussion about the issue, because it has been difficult to resolve. As I said to Mr McLetchie, there is not a very consistent fit between the public appointments legislation and the national parks legislation. We have not legislated with absolute consistency.

The issue can be handled in one of two ways. One way is to look to local authorities to select experienced individuals who are suitable to take part in the work of the national park authorities. The papers that I have—I presume that members of the committee also have those papers—contain copies of letters from the convener of Highland Council and the chief executive of Angus Council, who have commented on the appropriateness and experience of the individuals whom they have nominated to take part in the work of the boards of the national park authorities.

The other way of handling the issue is to go down the route that the convener suggested. Authorities could be invited to provide more than one nominee whom ministers could consider—I do not think that there is any statutory basis for requiring them to do so. My concern about that approach is that it would limit a local authority's ability to choose an individual to be a member of a national park authority board, as it is legally entitled to do. I understand that we would be constraining without statutory cover a local authority's ability to decide its nominee. We would be encroaching without statutory authority on a local authority's right to choose a person whom it considered fit.

The Convener: I was exploring a general procedural point rather than a point about the Cairngorms national park. You have outlined several considerations in relation to whether best practice should be pursued. Is it best practice to have more than one nomination? Is the procedure in Highland best practice? There, nominations come with a full curriculum vitae—a person who has been nominated has some experience, so

there is justification for that nomination. Alternatively, are we content, on balance, with the current nomination procedures? Therefore, does no action need to be taken?

John Swinney: We should always be prepared to consider such questions, but we must avoid second-guessing local authorities when they are perfectly entitled to exercise their statutory functions in appointing individuals to boards. However, local authorities do not have an unfettered right. They must ensure that their selection process is open, fair and transparent, and they will be quite familiar with undertaking such processes in appointing members to various external organisations within their locus. I am certainly happy to discuss the matter with them, but we must be careful to avoid intruding on their statutory right to appoint, through an open, fair and transparent process, an individual whom they consider fit to be a representative on a board.

John Wilson (Central Scotland) (SNP): Most of the questions that I was going to ask have been covered. My understanding is that ministers make appointments to a number of public bodies, and local authorities can make nominations. The convener has hinted at where there may be a dispute about the manner in which a local authority has made an appointment. Who would oversee such a dispute or intervene to ensure that the transparency that the cabinet secretary is talking about is adhered to?

John Swinney: The answer to Mr Wilson's question essentially rests within individual local authorities' procedures and operating approaches. Local authorities have an obligation to operate in an open, fair and transparent fashion in their decision making. As members of the committee know, if there is any doubt or uncertainty about how local authorities have gone about making their decisions, there are plenty of avenues for scrutiny of how they came about.

Some of that scrutiny is at a more generic level. For example, external organisations and investigatory bodies such as Audit Scotland, Her Majesty's Inspectorate of Education and the Social Work Inspection Agency can consider such matters. At the level of individual conduct, the Standards Commission for Scotland can consider whether individuals have acted appropriately. There is no lack of opportunities for scrutiny of local authorities' decisions.

The Convener: That concludes the question session. We move on to agenda item 2, which is the debate on the draft order.

Motion moved,

That the Local Government and Communities Committee recommends that the draft Public Appointments and Public

Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2008 be approved.—[*John Swinney.*]

The Convener: Cabinet secretary, do you wish to speak to the motion?

John Swinney: I planned a three-hour address, but I will spare the committee that. I am happy to leave things as they are.

The Convener: Thank you for that. I invite members to debate the motion. Does anyone want to speak to it?

Members: No.

The Convener: I do not suppose that the minister wants to wind up, as he did not have any opening comments.

Motion agreed to.

The Convener: I thank the minister and his team for their time.

10:22

Meeting suspended.

10:23

On resuming—

Housing Grants (Assessment of Contributions) (Scotland) Amendment Regulations 2008 (Draft)

The Convener: Under agenda item 3, we will take evidence on the draft Housing Grants (Assessment of Contributions) (Scotland) Amendment Regulations 2008 from the Minister for Communities and Sport, Stewart Maxwell. I welcome the minister and his officials. He is accompanied by David Fotheringham, who is a team leader in the Scottish Government's housing markets and supply division, and Derek Willis, who is a policy executive in the division.

The Subordinate Legislation Committee did not draw the attention of the Local Government and Communities Committee to the draft regulations. They were laid under the affirmative procedure, which means that the Parliament must approve them before they may come into force. As is normal practice, members will have an opportunity to ask the minister and his officials questions before the formal debate on the draft regulations. I offer the minister an opportunity to make any introductory remarks that he wishes to make.

The Minister for Communities and Sport (Stewart Maxwell): The Housing Grants (Assessment of Contributions) (Scotland) Regulations 2003 set out the rules under which local authorities determine the applicant's contribution towards the cost of works for which

the authority proposes to give a housing improvement or repairs grant. The rules include an arrangement to “passport” applicants who receive certain benefits to a 100 per cent grant. The purpose of the draft Housing Grants (Assessment of Contributions) (Scotland) Amendment Regulations 2008 is to amend the 2003 regulations to take account of a new benefit—employment and support allowance—that was introduced by the Welfare Reform Act 2007.

From 27 October 2008, ESA will replace incapacity benefit and income support paid on incapacity grounds to become the main income-replacement benefit for people with a disability or health condition. People who are already in receipt of incapacity benefit or income support will continue to receive the benefits, but new applicants will receive ESA.

The draft regulations add the two forms of ESA—income-related ESA and contributory ESA—to the list of allowances and benefits that passport an applicant to 100 per cent grant. They also insert definitions of those allowances into the 2003 regulations. The amendments ensure that people in receipt of ESA as a result of the implementation of the Welfare Reform Act 2007 will be able to be passported to 100 per cent grant.

ESA does not have precisely the same effect as the benefits it replaces. Information from the Department for Work and Pensions suggests that, over seven years, a total of around 1,900 people in Scotland who would not get incapacity benefit or income support paid on incapacity grounds should receive ESA, but that around 7,700 people who could expect one of those benefits under current rules will not get ESA.

It is not possible to say how many of those 7,700 people would need an adaptation to their home to suit their disability, do not receive other benefits that passport them automatically and would rely on the passporting to 100 per cent to be able to afford the adaptation, nor is it possible to take account of the transition to ESA in any more precise way to reduce the number who might be so affected. However, the switch to ESA will not have any impact on numbers until the financial year 2009-10, by which time we expect to have changed the grant rules as a result of implementing the Housing (Scotland) Act 2006. Although separate regulations for that purpose have still to be laid, I expect grants for adapting houses to suit disabled people to be a minimum of 80 per cent rather than the current minimum of 50 per cent. In addition, local authorities will have discretion to top up the amount of grant.

The amendments made by the draft regulations will ensure that people in receipt of ESA will have access to passporting for grant for adaptations to their houses. Because of the change in definition

of benefits, a small number of people who might currently expect to receive passported grant will not in future receive ESA and as a result will not be passported. However, their grant for adaptations will, we expect, be a minimum of 80 per cent and local authorities will have the discretion to top up if necessary.

I ask the committee to recommend that the draft regulations be approved.

Alasdair Allan (Western Isles) (SNP): You outlined the fact that some people who would receive income support under the present system will not be entitled to income-related ESA and touched on some of the consequences of that. Will you elaborate on how you will address that situation and provide for those people?

Stewart Maxwell: At the moment, it is difficult to be precise about the exact numbers. The estimates are that, over the seven-year timeframe that I mentioned, up to 7,700 people in Scotland might fall into that category. However, that is the total number and we do not know how many of them would require adaptations or will have other benefits that would passport them. Therefore, the number of people who will actually be affected could be relatively low. It could be zero, but we expect that a small number will be affected. However, we intend that the regulations on the scheme of assistance, which have yet to be laid, will raise the minimum grant level from 50 per cent to 80 per cent and allow local authorities to bring that up to 100 per cent if they so desire. Through that route, conditions for many of those people will be improved.

Alasdair Allan: Different rules apply to people with and without spouses. Are you able to say any more about that and why it is so?

Stewart Maxwell: There are differences between contributory ESA and income-related ESA. Contributory ESA is, I think, an exact match for incapacity benefit; there is more of a difference with income-related ESA. It is quite complicated, so it is probably better if I read this out rather than do it from memory:

“Contributory ESA will be an individual benefit, and there will therefore be no increases for partners. However, partners will be able to make separate claims for contributory benefit. In income-related ESA couples will have additions made for partners, but only one of the partners can claim income related ESA. Couples can only claim one income-related benefit for day to day living expenses at a time. This means income-related ESA is not payable at the same time as income-based JSA, IS or Pension Credit, since otherwise there would be double provision from public funds.”

I hope that that covers the question.

The Convener: We certainly heard what you said. Whether we understood it is another matter.

Stewart Maxwell: That is why I read straight from my brief—it is a rather complicated benefit.

10:30

John Wilson: These changes have been brought about because the United Kingdom Government has effectively introduced a new benefit. Is it the interpretation of that new benefit that the minister is trying to adhere to and adopt in relation to how we conduct things in the Scottish context?

Stewart Maxwell: Yes. The Welfare Reform Act 2007 is a piece of UK legislation that introduces this new benefit. We have two choices. If we pass this Scottish statutory instrument, we will ensure that, from 27 October, people who are in receipt of ESA are covered in terms of grants. That may have a negative effect on a small number of people who will no longer be entitled to ESA although they were entitled to it under the previous set-up. If we do not pass the SSI, the number of people who are affected will be much greater because, from 27 October, all those who receive ESA will not be entitled to those grants because they will not be included in the passport benefits.

Effectively, our hands are tied in terms of trying to support people: the UK Parliament passed the Welfare Reform Act 2007 and we must update our regulations to ensure that the maximum number of people are entitled to receive support. That is what the SSI aims to achieve.

John Wilson: That clarifies the point. I was just trying to get to the fact that ESA is not something that the Scottish Government can manipulate.

Stewart Maxwell: No.

John Wilson: It came through the Welfare Reform Act 2007.

Stewart Maxwell: Yes.

John Wilson: Therefore, any impact that it may have on individuals who received benefit under the previous regime is down to the introduction of ESA, not the Scottish Government denying people that benefit.

Stewart Maxwell: Let me make it absolutely clear: the people who are currently on those benefits will remain on those benefits; it is new claimants after 27 October who will be affected by the change in the rules.

David McLetchie: Let us put this into perspective. I appreciate the fact that the regulations introduce a technical change to reflect changes in the UK benefits system, as you have described to Mr Wilson. How many people currently receive the improvement and repairs grants that are covered by the regulations? Can you give us an idea of how many such grants are

being paid by local authorities on an annual basis and what that expenditure is?

Stewart Maxwell: Unfortunately, I will have to get back to the committee on that. I do not have that information to hand. The effect of the regulations is to minimise the impact of the change to the ESA. I am sorry, but I do not have the numbers in front of me.

David McLetchie: I appreciate that. I recall periods in which councils paid generous repairs grants, which led to substantial runs on their repair grant expenditure funds. Those have been substantially scaled back in the past, in periods preceding the present Government. I am trying to get a perspective on what we are talking about in practical terms—how many grants are being paid and what that is costing the budget. It would be useful to know whether that expenditure and the number of people who are being assisted are broadly static, falling or rising. If that information could be supplied, that would be useful. I appreciate that it is not directly material to consideration of the SSI, but it would provide a useful perspective. Sometimes, in the past, regulations have given people only theoretical entitlements. Unless the money is available, they are not worth the paper on which they are written.

Stewart Maxwell: You are right to say that it is a connected issue but not one that directly affects the regulations. We intend to implement the 2006 act, and I mentioned in my opening remarks some of the changes it will make. Our expectation is that the overall number of grants will reduce after those changes come into effect, because of the establishment of the scheme of assistance. We believe that the changes that we hope to make—raising the minimum grant and making entitlement to it automatic—will be beneficial to people with disabilities.

Bob Doris (Glasgow) (SNP): You said that your proposal, which involves housing grants, is necessary because of the Welfare Reform Act 2007 and the establishment of the employment and support allowance. At what point in the process did the Department for Work and Pensions contact the Scottish Government to make the Scottish ministers aware of any knock-on effects of its legislation? Has there been a period of positive consultation between the UK Administration and the Scottish Government?

Stewart Maxwell: We have been aware of the situation for many months. Officials have been in conversation with their counterparts in the UK Government on this issue for some months. The fact remains that the powers over welfare benefits are reserved to the UK Government and the UK Parliament has taken the decision to make the alteration that we have been talking about. Since becoming aware of the developments, we have

been working on regulations that would minimise the effect of the change on people who currently receive the benefits that will be replaced.

Bob Doris: That is positive, but my point is that when the Welfare Reform Bill went through the UK Parliament, issues would have been raised about the knock-on effects of the proposals. Does the Scottish Government have to monitor what happens at a UK level, or does the UK Government inform the Scottish Government of possible knock-on effects during its scrutiny process?

Stewart Maxwell: The piece of legislation that we are discussing was dealt with prior to the election in May 2007. As I was not a minister at the time, I am not aware of the discussions that took place during the passage of the act. I cannot really help you.

The Convener: Can the officials help Mr Doris?

David Fotheringham (Scottish Government Housing and Regeneration Directorate): On the administrative side, through colleagues in other departments we have had links with DWP and we have been informed of the administrative processes. I am not aware that there has been a great deal of engagement on a policy level; I think that that is left to Westminster.

Bob Doris: I am not sure that that exactly answers my question, but it raises a general point—

The Convener: It might be that your questions might be better asked of the Minister for Parliamentary Business, who I believe has regular contact with Westminster about the impact of proposed UK legislation.

John Wilson: The employment and support allowance is a new benefit in the sense that it will replace the payments that were previously paid out to new claimants. The Scottish Government has to work through the changes and ensure that its partners in local authorities are aware of the changes and take on board the impact on future claimants. It is important to state that the issue concerns future claimants, not existing claimants.

Stewart Maxwell: We are in regular contact with local authorities, through the Convention of Scottish Local Authorities in particular. I am not aware that the regulations will have any financial impact on local authorities—in fact, I do not think that they will—but local authorities are aware of the change.

As I said earlier, we think that these regulations are necessary to minimise the impact on people who are affected by the change and to ensure that everyone who is in the new scheme benefits from the passporting effect.

The Convener: For clarity, I should say that we are dealing with a technical change, not the changes in the benefits system.

Stewart Maxwell: Yes, this is a technical change.

The Convener: The powers for grants and payments flow from the Scottish Government to local authorities, which deliver and manage them. We heard you say that the minimum grant levels are to be examined. We may be getting ahead here, but I think that we would all, as constituency MSPs if not as a committee, agree that that aspect needs to be examined.

You mentioned a review. I have come across a small number of people who, despite being given substantial amounts of money, do not have the wherewithal to access the £15,000 or £20,000 that would complete their project—I am talking about the level of grant for modernisation work. Will the examination of minimum grant levels and the review of grants include consideration of how such people could be helped?

Stewart Maxwell: The scheme of assistance regulations are still to come. As I understand it, the discussion in the 2006 act is that people will be allowed to use the equity in their property as part of the process, so they can access increased funds through borrowing on their asset. That will help many people who have an asset that has value but do not, as the convener said, have cash in the bank to improve their property. Obviously, local authorities will have discretion to provide grants.

The Convener: When can we expect news on that?

Stewart Maxwell: The regulations are just about finalised and we expect to lay them before the end of September.

The Convener: Thank you. That concludes our question session.

We now move to agenda item 4 and the debate on the draft Housing Grants (Assessment of Contributions) (Scotland) Amendment Regulations 2008. I invite the minister to move motion S3M-2569.

Motion moved,

That the Local Government and Communities Committee recommends that the draft Housing Grants (Assessment of Contributions) (Scotland) Amendment Regulations 2008 be approved.—[*Stewart Maxwell.*]

Motion agreed to.

The Convener: I thank the minister and his team for their attendance and their evidence.

**Housing Grants (Application Forms)
(Scotland) Amendment Regulations 2008
(SSI 2008/283)**

The Convener: Agenda item 5 is consideration of a negative instrument: the Housing Grants (Application Forms) (Scotland) Amendment Regulations 2008 (SSI 2008/283). Members will have received copies of the regulations, but they have raised no concerns about them and no motion to annul has been lodged. Do members therefore agree that we have nothing to report to the Parliament on the regulations?

Members *indicated agreement.*

**Disabled Persons' Parking
Places (Scotland) Bill: Stage 1**

10:45

The Convener: Agenda item 6 is oral evidence at stage 1 of the Disabled Persons' Parking Places (Scotland) Bill. I welcome our first panel: John Donaldson, who is a sergeant in Strathclyde Police's traffic management section; Donald McKinven, who is a traffic manager at Glasgow City Council; and Richard Guest, who is head of roads and community work at Highland Council.

We are pleased to have you here this morning. We will move straight to questions from members.

Jim Tolson: Good morning, gentlemen. Jackie Baillie's member's bill is particularly interesting—it is nice to see that she is present today—but I have a number of concerns about the practicalities of administering its provisions on disabled parking bays.

First, whether the new bays are advisory or enforceable, I am concerned that the bill will place a significant administrative burden on local authorities—and, no doubt, on the police and others.

Secondly, I am concerned about the cost of implementation, the estimates of which vary. I ask the witnesses from local authorities in particular to comment on that.

Thirdly, I am concerned that, under the bill's provisions on parking in private areas, local authorities would have to discuss with private landowners every two years whether to enforce disabled parking bays.

I ask the witnesses for their feedback on those key areas.

Richard Guest (Highland Council): I agree that the bill would place a heavy administrative burden on us, and a rather more expensive one than the consultation would suggest.

Highland Council has about 300 advisory bays. In a normal year, we process about 40 or 50 traffic orders. To make all the bays enforceable, we might have to process 300 traffic orders in a year. We have two full-time staff who do advisory 20mph speed limit orders, and they manage to process about 40 to 50 orders per year. If the new orders take a similar time, it would take about 12 person-years of staff time to process the ones for advisory bays on roads and in public car parks, without even considering the ones in private car parks.

We have serious concerns about the number of bays that we might find in private car parks. We do

not think that the bill clearly identifies what a private car park is. We are also concerned about the number of people to whom we are likely to have to speak. It would certainly be necessary to dedicate some full-time staff to the task, and we do not have the staff to do it. Highland Council probably has about 12 officials who have the necessary skills to progress traffic orders, but they do not just process traffic orders; they do a lot of other things as well. Potentially, they would all have to work on disabled parking places.

Donald McKinven (Glasgow City Council): Mr Tolson has raised a number of valid points that also concern Glasgow City Council. However, we support the principles of the bill.

In Glasgow, we demonstrate that we do our best to support disabled drivers. The fact that we have just over 4,500 advisory bays is testament to the fact that we are doing our best to provide a facility for disabled drivers in residential areas.

I agree, however, that the bill would be difficult to administer and would place a great burden on officers. I agree with Mr Guest about the promotion of traffic orders. At the moment, the bays are advisory, and there is a courtesy marking. Providing mandatory bays would require us to remove the 4,500 existing bays and mark the mandatory ones in accordance with the regulations, which includes making the appropriate road marking and installing a pole and a sign. That is where our costs have come from and, as is demonstrated in our previous written evidence, they are a lot higher than was previously thought.

The drafting of the orders would also take considerable time and resources. Because the bays would become designated mandatory bays, they would have to be scheduled in the appropriate order, which would mean that we would have to dimension them on street, measure exactly where they would have to go and describe that in the order. I am sure that you appreciate that, with the number of bays that we have in Glasgow, that would take considerable resources. In our previous written evidence, we identified a need for two full-time officers for a year just to prepare the necessary paperwork.

The Convener: You mentioned that you support the bill's aims. Will you comment on the abuse of car parking spaces? To all intents and purposes, that is why we are discussing the bill.

Donald McKinven: As I mentioned, we have about 4,500 advisory bays in Glasgow. We also have just under 300 mandatory bays in our controlled parking zones, off-road charging car parks and quality bus corridors. We receive few complaints about those because there is a level of enforcement that ensures that they are not abused.

We reckon that we receive about 100 complaints a year about the abuse of bays in residential areas. That represents a little more than 2 per cent of the total number of bays that we have. Most complaints involve disputes in which a neighbour does not agree that the bay is being used appropriately.

In Glasgow City Council's experience, the level of abuse of bays over which the council has jurisdiction has not been a great problem, but I cannot speak about the off-road car parks at supermarkets, for example.

Richard Guest: I agree with that. Courtesy is possibly a bit more prevalent in the Highlands than the inner-city areas and we do not think that abuse of bays is a big issue. We do not get many direct complaints. We hear anecdotally that disabled persons and disabled groups feel that there is a certain level of abuse, but that is not reflected in the number of complaints that we register.

John Donaldson (Association of Chief Police Officers in Scotland): I concur with Donald McKinven's comments. The police are generally supportive of the bill but I am concerned about the response that the disabled public might expect from us. They might not get the level of response that they expect simply because other core duties take precedence over parking issues. I am not saying that we would not respond; all that I am saying is that there might be a level of expectation that we could not meet.

I cover three council areas: Glasgow, East Dunbartonshire and East Renfrewshire. East Dunbartonshire and East Renfrewshire have 1,000 bays each. At the moment, they are policed by four traffic wardens in each area, plus the local police. Parking is not decriminalised in those areas and, therefore, is still under police jurisdiction.

The Convener: Do we know how many tickets the traffic wardens issue on those bays?

John Donaldson: I could not tell you off hand, convener.

The Convener: Would that not give us an indication of the level of abuse?

John Donaldson: The thing is, the disabled bays outside people's houses are only advisory. Tickets would be issued only in places where the bays were part of a controlled parking zone.

The Convener: That is what I was talking about.

John Donaldson: I would not be able to hazard a guess as to how many tickets were issued in that regard.

Alasdair Allan: A number of concerns have been expressed about the provision in the bill that would do away with advisory bays, as it is felt that

they have a function that is worth retaining. What are the views of our witnesses?

Richard Guest: We think that advisory bays work quite well. If the bill goes through, there will still be advisory bays, so there will still be dubiety about whether a bay is enforceable. It is suggested that an advisory bay should be put in place to cover the time that it takes to put in place an enforceable bay.

Alasdair Allan: I think that the bill calls them temporary bays.

Richard Guest: Yes. So, although the advisory bays will be temporary, there will still be a mixture of advisory and enforceable bays. From an enforcement point of view, that might lead to difficulties. We find that the advisory bays are reasonably well respected in our area.

Alasdair Allan: Alternative approaches have been suggested. I appreciate that some of them touch on reserved matters, but it has been suggested that it might be helpful to amend a piece of UK legislation—is it the traffic act?

Richard Guest: The Traffic Signs Regulations and General Directions 2002 (SI 2002/3113).

Alasdair Allan: Do you have a view on whether that would be more practicable than the proposal in the bill?

Richard Guest: That would be much more straightforward, as it would give us the power to make a bay enforceable simply by putting the approved road markings down on the road, and would avoid the necessity for progressing a traffic order. It is the traffic order part of the process that my council is concerned about, not painting the markings on the road and putting the signs up, which is relatively straightforward.

For example, if traffic orders are used, each time someone moved house or died, a traffic order would have to be revoked and, possibly, another order would have to be made. However, road markings made under the 2002 regulations could simply be removed, or put in place, without having to refer to anyone or go through a legal process. That would be a straightforward way of doing it.

Alasdair Allan: You have already touched on the question of private car parks. Do you feel that it is possible in any way to prioritise your work in that regard? Could you direct your attention to certain types of private car parks, or are you saying that the task is beyond the capabilities of local authorities?

Donald McKinven: The task of catering for on-road and off-road situations is monumental. Glasgow's public charging car parks are already covered by an order and have priority spaces for blue badge holders. It might be possible to enter

into arrangements with car park owners that provide charging car parks, such as NCP, and companies and organisations that provide non-charging car parks, such as supermarkets and hospitals, and get agreement to promote an order to make the priority bays mandatory. However, our view is that, even though you might make a great effort, you will not necessarily get that agreement, which means that you will have to repeat the process after two years. Further, if you manage to get that agreement, would the companies and organisations be willing to pay for the cost of the markings and the enforcement? I would have liked to have heard what those organisations have to say about the proposals.

11:00

David McLetchie: I wonder whether I can explore further the cost and bureaucracy involved in converting advisory bays to enforceable bays, and the requirement for traffic orders to be put in place in order to do that. I understood from your evidence, Mr Guest, that you have 300 advisory bays in Highland, that you promote about 40 or 50 traffic orders a year and that the process of converting 300 advisory bays into 300 enforceable bays would take the two members of staff devoted to the task 12 person years to achieve.

In his evidence, Mr McKinven said that Glasgow has 4,500 advisory bays. I understood from what you said that your two full members of staff would take a year to convert 4,500 advisory bays to enforceable bays. There seems to be a wide discrepancy between the bureaucracy times and costs given by different authorities for converting the advisory to the enforceable. I wonder whether you can shed any light on why that is the case.

Richard Guest: I acknowledge that there is a discrepancy. Of course, we have not had the opportunity to discuss the matter with Glasgow or other authorities. The evidence that we have seen from different authorities shows a wide discrepancy in what people think the conversion will cost. However, there is a difference between a compact urban area such as Glasgow and a widespread area such as the Highlands, where we have traffic orders in dozens of different towns over a network of 4,500 miles of road. As Donald McKinven said, each bay will require somebody to go out and measure it to ensure that the written description is exactly right and that there is no margin for a lawyer to challenge it because, say, the bay is 12m from a junction whereas the description said that it was 15m from it. Doing the measurements across a widespread network will be a much greater burden on staff time than doing them in a compact urban area.

David McLetchie: Does a traffic order not have a standard template? Does it not have a particular

legal form or style, so that filling in the address and measurements would complete the order?

Richard Guest: Yes. The basic form of the order is not the problem; the problem is the scheduling, which is the detailed description of each individual space, which must be dimensioned and referenced to a point on the road so that it can be identified. That is the part that takes the time. The other part that takes the time is the consultation and discussion if people object to the bays. We must go out and see such people, argue with them and try to persuade them. If we cannot persuade them, we must publish the order for objections to be made, then hear the objections in council. That will be an onerous process.

David McLetchie: Yes, but what we are talking about is a process of converting advisory bays that are an established part of the infrastructure—and which are, one would like to think, being respected by people—into bays that are enforceable. I am just sceptical about why it takes so long to go out with a measuring tape and confirm, for example, that a bay is 15ft by 6ft or 7ft. I would not have thought that it would take 12 person years to do 300 measurements in the Highlands, even given the distances that must be covered. Is that not fair comment?

Richard Guest: Maybe the assessment of the time that it would take is over the top, but doing that work will be a big burden. Obviously, the time has not been worked out accurately. I am simply going by the time that it took to do other types of traffic orders and the number of orders that a person can progress in a year.

David McLetchie: We have been given information that shows that West Dunbartonshire Council apparently managed to accomplish the conversion of all its 600 advisory bays into enforceable bays. There is therefore an evidential model. I presume that people can go along to West Dunbartonshire, which has a mixture of urban and rural areas, and find out how long it took the council to do the conversion and how many staff were employed in achieving it—that would be a reasonable guide.

There are big discrepancies in the evidence that councils have given us on costs and bureaucracy. It is important that we establish the facts on the matter because it is fundamental to the bill. We must be fair to everybody involved in the process and not just accept assertions one way or another when there are such wide divergences. Perhaps Mr McKinven would comment on how he expects 4,500 advisory bays in Glasgow to be converted in one year by two people.

Donald McKinven: We compared what we did previously for orders associated with mandatory school keep-clear areas. That work took two

officers 26 weeks to carry out. We based the procedure for advisory disabled bays on that model, and worked out that two officers would probably take around a year to prepare the necessary paperwork. Those orders also related to locations in isolated pockets throughout the city. The same approach must be taken with the 4,500 disabled bays.

I know where you are coming from. It might be thought that it cannot be too difficult to go out, measure and get dimensions, but we have been asked first and foremost to assess whether the bays are still required; if they are, we must prepare the paperwork for the necessary orders. As I said earlier, because no legislation covers the advisory bays, they are generally made to fit in with the existing circumstances on a street. They are not necessarily the proper size, but they serve a purpose. If they are made mandatory, they must conform to the 2002 regulations, and they will be much bigger. Therefore, people will have to go out and ensure that, if they can justify them, they can fit them in. Many roads in Glasgow are very narrow. If we have to put a full-size mandatory bay on a road, we might not be able to allow parking on the other side of it, and other restrictions might have to be considered. It is not simply a case of saying, "That's what we had before. Let's get rid of it and put in another bay." We must take into account other considerations on the street. There are eight advisory disabled bays on some of our streets. If we make them mandatory, we must consider how such streets will work with larger bays to accommodate the legislation.

David McLetchie: Thank you. That is helpful; I appreciate it.

John Wilson: Will the representatives of Highland Council and Glasgow City Council clarify the procedure for installing advisory bays? I am picking up the idea that there will be a lot of paperwork relating to identifying advisory bays and making them enforceable. What is the procedure for establishing an advisory bay on a street?

Donald McKinven: In Glasgow, a person with a blue badge normally applies for an advisory disabled bay through social work services. The person fills out an application form, which is then sent to land and environmental services, where I work, and we will assess the site. In general, provided that the blue badge holder has the vehicle registered at the address in question and there is no conflict with any other regulations that apply to the road, we would agree to mark the bay. It can be marked out within four weeks of our receiving the application, so the disabled person therefore receives a very quick service. Obviously, the process for establishing mandatory bays is considerably longer, but the bill allows for advisory bays to be made until they can be made

mandatory. Generally, we receive applications from social work services and within four weeks we assess them and a bay can be marked out.

Richard Guest: We have a similar procedure. Our council policy is that the applicant must possess a blue badge; they must be the driver of a vehicle that is registered at the address or a passenger who cannot be left unattended while the car is parked elsewhere; there must be no opportunity to park the car off the road; a difficulty with parking must be identified; and the installation of the parking bay must not compromise the general requirements of safe and efficient traffic management. Installation can be considered only where it will not impinge on safety and legal requirements.

From what I have seen on the internet, most councils' procedures are similar to that. We also involve our social work colleagues in helping to assess applicants' difficulty with walking, which varies.

John Wilson: From an earlier response, I was given to believe that advisory bays do not have to comply with traffic regulations. What is the difference in the case of an enforceable bay? Why would you decide to make an advisory bay smaller than an enforceable bay? The point has been made that the dimensions of advisory bays are different from the dimensions that are required under the traffic regulations for enforceable bays. Why does that difference exist in the dimensions that are afforded to disabled drivers?

Richard Guest: Our advisory bays are not necessarily a different size from our mandatory bays. The point is just that we cannot be certain about the size because we are not as careful in measuring up bays if there is no traffic order to back them up and we can be more flexible in fitting them in. Many of them are on residential streets. The bays that we create under traffic orders certainly do conform and are the appropriate size.

The Convener: I understand the point about the strict requirements of traffic orders and the work that would be required if the bill were passed, but I wonder about the different procedures and requirements. I presume that, when an advisory bay is created, there is contact with residents, measurements are made and photographs are taken. What is the difference at the moment between the allocation of an advisory bay and the creation of an enforceable bay?

Donald McKinven: When we receive an application for an advisory disabled bay, we go on site, confirm the address and make sure that we can get the bay as close as possible to the individual's home. We do not consult the neighbours. When we agree to install the advisory

bay, we simply mark it as well as we can for the individual.

When it comes to a mandatory bay, we have to follow the procedure that is set out in the Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999 (SI 1999/614). That involves our preparing an order, which we are required to put out to primary consultation with the likes of our colleagues in the police. Thereafter, we have to advertise it formally in a newspaper and give people an opportunity to object to it. A period of time is allocated for that. If we get objections, we have to try to deal with them to get them withdrawn. If they are not withdrawn, another procedure comes into play, which might well involve a reporter.

The length of the process for a mandatory bay varies. If there are no objections, it takes a short time—perhaps three to six months—but when there are objections and we have to try to get them withdrawn, it can take between nine months and a year.

The Convener: That is helpful. Did you say that it could take nine months to establish a mandatory bay, as compared with four weeks for an advisory bay?

Donald McKinven: Yes.

The Convener: I was impressed when I heard that Glasgow could deliver an advisory bay four weeks after application. I do not know whether other MSPs felt the same way.

I do not want to single you out, Mr Guest, but you are the only person I can address this question to. How long does it take in the Highland Council area? It takes a lot longer than four weeks in my neck of the woods.

Richard Guest: Four weeks is pretty good going. That is quite an optimistic target.

The Convener: What would your average be?

Richard Guest: I am afraid that I cannot really say.

The Convener: It is that bad, is it?

Richard Guest: I do not have any hard data to base an answer on. I would say it would take several weeks for an advisory bay and several months for an enforceable one.

11:15

Bob Doris: The issues that have been raised concern not the logic of the bill but the ways in which each local authority will implement the provisions of the bill, which are issues that can be dealt with and do not represent reasons to oppose the bill.

I would like to clarify a few points. Am I right in understanding that, under the provisions of the bill, advisory bays will be deemed to be temporary bays, and it will be up to each local authority to convert them into compulsory bays?

Richard Guest: Yes, that is what I understand.

Bob Doris: Assuming that that happens swimmingly—although, obviously, there will be some teething problems—and we reach the point at which every bay in the country is a compulsory bay, are there provisions in the bill for local authorities to put in place an advisory bay if someone applies for one, as has always been the practice? In other words, could new advisory bays be set up under the terms of the bill?

Richard Guest: I believe so.

Bob Doris: So there would be no greater delay in the disabled person's accessing of the provision than there is under the current system. Is that right?

Richard Guest: I think that that is correct.

Bob Doris: I would have a problem with the bill if I thought that it would mean that people who were in need of a disabled bay near their house would end up having to go through a slower process in order to get one. However, if the local authority representatives can tell me that there will be no difference in the time that it will take a new applicant to get an advisory bay or a temporary bay—whatever term is used—outside their house, that would reassure me. Can you reassure me in that regard?

Donald McKinven: My understanding is that, while approval for the mandatory bay is being sought, the advisory bay will be in place and will remain in place until the order is approved.

I thought that one of the reasons for the bill was that people did not understand the difference between an advisory bay and a mandatory one. However, that confusion will not be removed, because advisory bays will still be used while people are waiting for the approval of the mandatory bay.

Bob Doris: The confusion would arise from the fact that there would be mandatory bays, with signage, as well as temporary bays that would be put in place by the council within four weeks of someone calling up to say that they needed one. Would that be the situation under the bill?

Donald McKinven: Yes. However, the problem is that the advisory bay is marked in yellow paint and the mandatory bay is marked in white. That means that we will have to remove the paint that we have used for the temporary bay before we put the mandatory bay in place. There are practical issues that must be dealt with.

Bob Doris: Do you think that the bill might provide us with an opportunity to make the public more aware of why the bays exist and what their purpose is?

Donald McKinven: Yes. I think that there is talk of having publicity campaigns to tell the public what the differences are.

Bob Doris: I will move on to enforcement. People might expect a policeman to be lurking around every corner to enforce mandatory bays, but that would not be the best use of police time. I am interested to know about more imaginative ways in which the police and local authorities could enforce them. For example, somebody could take a picture of someone using a bay inappropriately, just as a policeman does not have to be present for a speed camera to see that somebody is doing 90mph down a motorway.

John Donaldson: I understand what you are saying but, if somebody took a picture and sent it in, an officer would have to make an inquiry into the abuse and trace the vehicle owner. The owner might not even live in the same area, in which case an inquiry would be generated in another force area to try to get somebody for a £30 ticket. Is that the best use of resources? I do not think so.

Bob Doris: Would you be happy for local authorities to take more responsibility for enforcement?

John Donaldson: Yes, if they wanted to do that. South Lanarkshire Council, the City of Edinburgh Council and Glasgow City Council have all decriminalised parking and are managing it well. I take your point about there not being a policeman around every corner waiting for somebody to park in a disabled bay. As I said earlier, the police would respond to a call about a bay being abused, but I cannot—nobody can—give any guarantees about whether the response would come the next day or within five minutes.

Bob Doris: So, in your opinion, it would be more appropriate for local authorities to deal with enforcement.

John Donaldson: That is certainly ACPOS's view. We encourage local authorities to take responsibility for parking.

Richard Guest: The authorities that have decriminalised parking and taken on parking enforcement are in the major cities where there is a large volume of parking and a large volume of tickets to be issued. It simply does not make economic sense for a rural authority to decriminalise parking, because it would cost more to administer than the authority would ever get in fines.

Donald McKinven: Glasgow City Council has decriminalised parking enforcement, and our own

parking attendants enforce all yellow-line or on-street parking regulations. We have 117 parking attendants, who are well worked. At the moment, they control what happens in the city centre and on our quality bus corridors. The advisory bays are generally located in residential areas and the difficulty for us would be to get parking attendants out there to enforce those isolated bays. I am concerned that people will expect them to be enforced but we will not have the resources to take the parking attendants away and send them to such areas.

Bob Doris: Glasgow has community safety services and community wardens stomping about residential areas and interfacing with the community. Could they not take on responsibility for enforcing the bays?

Donald McKinven: I am not sure whether the legislation permits those officers to issue penalty charge notices. I think that the legislation on who can do that is quite strict.

Bob Doris: It would be interesting to find out how we could give them more responsibility for that.

John Donaldson: The responses to Jackie Baillie's consultation showed that a lot of people in the community wanted to take on the job of enforcing the bays, but we would have to change the legislation to allow whatever body it might be to take on that responsibility.

Rhoda Grant: There was mention earlier of the different colours of car parking spaces—one kind being yellow and the other being white. Is there any reason why they are coloured differently?

Donald McKinven: Yes. The Traffic Signs Regulations and General Directions 2002 (SI 2002/3113) specify how to mark mandatory bays and are clear that they have to be white. In Glasgow, we agreed to mark advisory disabled bays as a courtesy. That is a throwback to the time before local government reorganisation. Because such bays are not covered by the legislation, they cannot conform with the TSRGD and therefore cannot be white, so we had to mark them in another colour. That is why we marked them in yellow.

Rhoda Grant: So the legislation, in specifying that a mandatory bay must be white, says that you cannot use white on an advisory bay.

Donald McKinven: That is right. There is no legislation covering advisory bays. The marking is purely a courtesy.

Rhoda Grant: Oh, right. So you could use white. You have to use white for mandatory bays, but nothing prohibits you from using it for advisory ones.

Richard Guest: The regulations state that a bay described in the regulations can be used only if we have the order first. The order must be in place for the bay to be marked.

Rhoda Grant: However, there is nothing to tell you what colour an advisory bay should be, so you could colour it blue with yellow spots, for instance, or white if you were waiting for an order. There is nothing to prevent you from doing that.

John Donaldson: East Dunbartonshire Council and East Renfrewshire Council use white. There is nothing to prevent it.

Rhoda Grant: Duplication of work could be avoided if advisory bays were coloured white while you waited for them to become mandatory.

I will ask about enforcement in the private car parks of hotels and other businesses. Some concerns have been expressed about local authorities having to go out and speak to businesses every two years. My understanding is that the bill does not insist that advisory disabled parking bays in private car parks become officially designated, so it would be a case of advertising every two years to inform businesses that had advisory bays that they could turn them into designated bays. I do not think that that would be a huge amount of work.

John Donaldson: I think that you are correct. Some of the bigger supermarkets, such as Asda and Morrisons, employ their own management companies to enforce parking within their car parks. There would not be any need for that to change.

Rhoda Grant: Therefore, there would be no additional cost.

Richard Guest: The additional burden would arise because every two years the bill would require us to go back to someone who said that they did not want an enforceable bay and try to persuade them again. That could conceivably be quite an onerous burden.

Rhoda Grant: I am not 100 per cent sure that you would have to go and try to persuade them; I think that it would be a case of placing an advert to inform them that, if they wanted their bays to be properly designated, they could contact you for that to be done. A business such as Morrisons might decide that the people who policed its parking could police disabled bays better than the public authority could and, therefore, that it had no need for designation. I think that you would have to persuade people only when you were getting lots of complaints from a disabled person who was trying to park in the disabled bays in a business's car park and could not. In that case, you might go out and ask the business whether it had thought about designation.

Richard Guest: I must say that that is not my reading of the bill. It does not appear to me that advertising every two years would be sufficient to comply with the bill, but we will have to take legal advice on that.

Donald McKinven: It is not our impression either. Our reading of the bill is that it would require us to go out every two years. There are an awful lot of locations in Glasgow that would probably come into the relevant category.

The Convener: I am not precluding any other questions from committee members, but they have all had an opportunity to ask questions. I will now allow Jackie Baillie to ask questions. If committee members wish to come back in after that, I will allow them to do so, with the witnesses' agreement.

I welcome Jackie Baillie and ask her whether she has any interests to declare.

Jackie Baillie (Dumbarton) (Lab): I refer members to my entry in the register of members' interests. I comment in passing that Asda has sponsored a Christmas card competition for me in the past, but I am sure that the detail can be found in my entry in the register.

Thank you for the opportunity to ask questions, convener. I will be brief, because the committee has done a lot of the work for me. I want to establish some technical points, particularly with Mr Guest, whose approach seems to be slightly different from that taken in other local authorities. He talked about making 300 individual traffic orders, and I can imagine what a nightmare that would be. Is he aware that other local authorities, such as West Dunbartonshire, applied one traffic order to all their advisory bays? That might be a much more efficient, less bureaucratic way of doing things.

11:30

Richard Guest: Yes, I am well aware of that, but that approach has difficulties, too. We have established that individual bays are likely to change fairly regularly. If we make one consolidated order covering all the bays, it will have to be changed every time that we want to add or take away a bay. That will mean that the order is in a constant state of change, which may give an enforcement problem. If the police want to enforce an order, they must quote the correct order. However, if the order changes regularly—probably every several months, as bays are added and taken away—it will be difficult for the police to ensure that they have the right order, when several hundred or even several thousand bays are covered. It may be easier in the first instance to create one consolidated order that includes all the bays, but that would be storing up trouble for

the future when it had to be changed. It is easier simply to revoke an individual order when it is no longer necessary or to make a new order. The work that is involved in changing an order is at least as onerous as that involved in making a new one.

Jackie Baillie: But local authorities already process revocation orders and work with grouped traffic orders. Perhaps we can all learn from one another in the process, because some local authorities have found a much more efficient approach.

To continue on that theme, surely there is no need for a grid reference or measurements for each bay. We could identify the size of an optimal bay, subject to variations where there are narrow roads, and a composite order could be made that sited the bays outside particular premises, which would provide the location. That information is already available through the application process for an advisory bay.

Richard Guest: The problem is not the size of the bay but its location in the street. The schedule must state specifically where the bay is. It must be referenced so that we can measure it up and find out whether it is in exactly the right place. That is why site visits and measurements are required; it is not to do with the size of the bay.

Jackie Baillie: You do not do that already for advisory bays.

Richard Guest: No.

Jackie Baillie: What about in Glasgow?

Donald McKinven: No. As Mr Guest says and as I referred to earlier, when we prepare an order and a bay is scheduled, the schedule must state the exact location in the street. Generally, that would be measured from a junction, along the kerb line to the bay. The schedule also states how long the bay is. We must ensure that the legal document is correct when we schedule the bays because, if someone is booked and appeals against the decision and the matter goes to the adjudicator but the bay is not scheduled properly, the charge will be dismissed.

Jackie Baillie: Of course, there are parking adjudicators only in local authorities that have decriminalised parking enforcement, but not in the other ones.

Donald McKinven: Yes.

Jackie Baillie: I just wanted to be clear about that.

You both express a preference for the approach of amending the Traffic Signs Regulations and General Directions 2002, which is of course reserved legislation, and point out the cost and bureaucracy that are involved in instigating traffic

orders. However, West Dunbartonshire Council's figures suggest that its approach costs the council £12.20 per bay and that the main cost is really in signage, which would not be escaped, even through an amendment to the Traffic Signs Regulations and General Directions 2002.

Donald McKinven: I would like you to give me the name of the person who does the work for that rate, because I cannot believe it—it is astonishing.

Richard Guest: To be honest, I do not think that that rate would cover the cost of the advert in the newspaper, or the paint.

Jackie Baillie: Those are figures that West Dunbartonshire Council has provided to the committee and the Finance Committee.

Donald McKinven: An advert alone would cost about £1,000.

Jackie Baillie: Well, there you go.

My final question is more general. We can talk about costs and all the rest of it, but I am clear that during the committee's previous meeting, the witness from the Equality and Human Rights Commission said that much of what the bill would require from local authorities is part of their duties under the disability equality duty. How do your councils take account of the disability equality duty in their traffic management plans?

Donald McKinven: When we promote one of the many mandatory traffic management orders in Glasgow—particularly for our controlled parking zones—we do our best to provide for disabled access. We provide for several mandatory bays in orders, which can be for general use by the many blue badge holders who come into Glasgow. The blue badge scheme is national and European, so we deal with disabled badge holders from not only the city, but surrounding authority areas. We try to accommodate that in our orders.

When we produce controlled parking orders that involve residential areas, we also designate several mandatory bays for residential use. As I said at the beginning, our provision of 4,500 advisory bays in residential areas goes some way towards meeting the duty.

Richard Guest: That is fair comment. We have no difficulty with traffic orders for general purpose disabled bays in the town centre and in shopping areas, for example. The problem is with diverse residential bays.

Jackie Baillie: Does the disability become less simply because the bay is residential? Perhaps that question is unfair, convener.

The Convener: As we are bringing evidence from the first panel to a close, I give committee members a final opportunity to wrap up.

John Wilson: I will follow up my previous line of questioning, which the convener took over. We have been told that Glasgow has approximately 4,500 advisory bays. I understand that Donald McKinven said that only about 100 complaints a year are made about abuse of those advisory bays. Is that figure correct?

Donald McKinven: That is correct.

John Wilson: So abuse seems to take place in 0.25 per cent of advisory bays in Glasgow.

Donald McKinven: I thought that the figure was 2.2 per cent.

John Wilson: It was a rough calculation.

It is clear that advisory bays are widely understood in Glasgow. I will turn that around. How does Glasgow City Council police its resident-only parking bays? How many resident-only parking bays does it have?

Donald McKinven: You refer to resident-only parking bays; we have residents permits. Most of our controlled parking zones that accommodate residents permit parking are on the periphery of the city centre. I cannot tell the committee the number of bays now, but I could provide it later.

John Wilson: I understand that most resident-only parking bays are in residential areas. I wanted to compare how they are policed. If only 100 complaints a year are made about 4,500 advisory bays, policing those bays does not seem too onerous.

Donald McKinven: In controlled parking zones, we do not enforce only residents bays. In general, bays in Glasgow are dual use. Residents do not have dedicated bays but, if they can find an available bay, they can park in it for free—although they will have paid for their residents permit. When residents do not use bays, anyone else who comes into the area to park must pay the rate at the pay-and-display machine. Enforcement in those areas is not just of residents permits.

Further out, in residential areas, restrictions do not cover whole areas. Isolated bays are dotted about areas, so enforcement would be much more onerous, because parking attendants would be sent out to deal with one small location rather than a whole area in which they could undertake several other functions at the same time.

Jim Tolson: I would like to expand on points that members of the panel have made and to raise a couple of new issues. We have touched on the issue of cost. The financial memorandum estimates a total cost for Scotland of about £1.7 million, but in its written submission Glasgow City Council suggests that the cost for Glasgow alone would be £2 million. We have significant concerns about costs. It may be difficult to get clarity on the

issue—Mr McLetchie and others have tried to do that—but unless we have a clear outline of how the figures were arrived at, it is understandable that there will be large discrepancies. I invite members of the panel to comment further on costs.

My next point relates to disability discrimination legislation. The EHRC states that the bill should place no additional administrative burdens on local authorities, but Mr McKinven said that Glasgow City Council will face a monumental task. We have heard other anecdotal evidence that suggests that there will be significant administrative burdens at the end of the day.

We have not heard much from Mr Donaldson about the police's view on the bill's impacts on the service, in terms of both manpower and costs. I would be grateful if he would say more about the issue.

It has been suggested to us that one way of dealing with the administrative aspects and practicalities of the bill, especially in residential areas, would be to limit the number of disabled parking bays. What are the witnesses' views on that suggestion?

Should the bill provide for local authorities to audit all privately owned car parks, or should private car park owners carry out such audits? The bill seems to place an onerous burden on local authorities.

The Convener: The member has raised more than one issue. We have another panel to appear before us, but I ask witnesses to do their best.

Donald McKinven: When we considered the issue of costs for a second time, we looked in detail at the cost of removing the existing advisory bays, which works out at about £113 per bay. The cost of remarking is about £85; the manufacture and siting cost for each sign, foundation and pole is about £260. By multiplying that cost by 4,500, we arrived at the figure of just over £2 million.

John Donaldson: I have lost my train of thought—can Jim Tolson repeat the question that he put to me?

Jim Tolson: What administrative burdens will the bill place on police authorities? What extra staff costs will it involve?

John Donaldson: I cannot comment on that issue. I deal with advisory bays at the moment. The suggestion is that, when they become mandatory, the system will be self-policing, because the thought of getting a £60 or £30 fine for sitting outside someone's door is pretty frightening. We know that in the real world that will not happen. The bill may generate three or four calls a month, or 300 or 400 calls a month—we do

not know. Asking about the additional cost is like asking about the length of a bit of string.

The Convener: How many calls a month do you get at the moment?

John Donaldson: Ours is a small unit—only one constable and I are involved in traffic management. I get probably one or two calls a month about people parking in disabled bays.

The Convener: As John Wilson pointed out, to gauge the extent of the issue we need to look at the number of complaints that are made to local authorities and the police. What work does designating a bay generate for the police at the moment? What regulation and consultation is required? Is it a relatively simple matter?

John Donaldson: It can be. Every chief constable is a statutory consultee; consultation on such matters is carried out through the traffic management section.

We would normally have to go out and look at each request for an access protection mark or a disabled parking bay. We would not do that for an advisory bay, because they are not legally enforceable, so the police cannot comment on them. If we are bringing in mandatory bays, technically speaking, we should go out and look at every one. However, given that there are only two of us for three council areas—

11:45

The Convener: You do not usually bother.

John Donaldson: We might not be able to do it.

The Convener: You probably have other things to do, but what you have said puts things in perspective.

John Donaldson: If there was an amendment to the TSRGD that provided that every bay would be of a specific size and dimension—and there was an order for that—there would be no real need for the police to go and look at each bay.

Richard Guest: Donald McKinven's costs for the physical painting of lines, removal of lines, putting up signs and so on sound reasonable. However, they are only the physical costs; they do not include the cost of processing the orders, which has already come to £2 million for Glasgow. The administrative costs worry me more than the costs of the lines and signs.

Jim Tolson: I do not want to drag out the evidence session, but I did not hear the councils' perspective on having to carry out an audit of private parking bays.

Donald McKinven: I said earlier that if we had to contact all the private car park owners in Glasgow to come to an arrangement, that would

tie us up for a long time, especially if we had to go back every two years in situations in which we had been unsuccessful. That would be an onerous task.

Richard Guest: It is difficult to quantify the cost of that.

The Convener: This is a slightly frivolous question, but do you seriously need to take the pole out to change the sign? You included that in the list of costs.

Donald McKinven: There is no pole for an advisory bay; there is just the marking. A lot of people have said that the sign can go on existing street furniture. However, the only street furniture that you will find in residential areas is lampposts, and there would not necessarily be a lamppost outside the house where we wanted to put the sign. That is why we keep coming back to the TSRGD. It would be beneficial to have provision written into it to remove the need to promote an order. An amendment could be made, so that there just had to be a road marking, instead of a sign and pole, which would require to be manufactured and maintained.

The Convener: Thank you for your time, gentlemen. We found your evidence very informative.

11:48

Meeting suspended.

11:50

On resuming—

The Convener: I welcome our second panel of witnesses. We have with us: Dr Ann Wilson, convener, and Councillor Jim McLeod, member, of Inclusion Scotland; Ryan McQuigg, policy and parliamentary officer for Scotland, and Alex Thorburn, local campaigns co-ordinator for Scotland, of Leonard Cheshire Disability; and Gordon Mungall, convener, and Liz Rowlett, senior policy, information and parliamentary officer, of the Scottish Disability Equality Forum. We appreciate your attendance. You might have heard some of the evidence given by the previous panel.

I will begin by following up an issue that my colleague John Wilson raised earlier. What is your experience of the abuse of disabled persons' parking spaces? We have heard this morning that the number of complaints received suggests that it is not much of a problem at all.

Liz Rowlett (Scottish Disability Equality Forum): I have a few comments about the number of complaints that have or have not been received. We have lots of anecdotal and photographic evidence of abuse of these parking spaces. There

have been various campaigns, including the baywatch campaign by Leonard Cheshire Disability, that have identified such abuse. If complaints are not being made, does that mean that the complaints procedure is fully accessible? We think that it is probably not accessible, given the work that we have done with public bodies on general access and the disability equality duty. Just because you are not hearing complaints does not mean that people do not want to complain. Sometimes, people challenge marked bay abusers only to be met with threats and abuse. I suggest that that is a deterrent to people making complaints. If people wish to complain about a neighbour, they might be deterred from doing so if they have been harassed. We have heard that the bays are so far from the centre of towns that wardens and police cannot get out to them. Some people might wonder what the point is of making a complaint and putting themselves in a difficult position if the complaint is not going to be followed up.

Dr Ann Wilson (Inclusion Scotland): Over my years of attending and holding meetings, forums, conferences and workshops—all sorts of events where disabled people gather—I have found that it does not matter what subject is on the agenda, the discussion always turns to parking difficulties. We always end up discussing the distress that is caused by our not being able to get out and about and do our ordinary business, such as shopping, and having to go home because we cannot get a parking place. It is at the top of the list of what disabled people consider as being barriers to their getting out and living a life in Scotland in the same way as everybody else. As Liz Rowlett said, people do not make official complaints, for one reason or another; a lot of people will not know how to go about it.

Councillor Jim McLeod (Inclusion Scotland): I agree. Unfortunately, I came in during the latter part of the discussion with the previous panel. A previous witness mentioned a total of 100 complaints a year, but I could probably make 100 complaints a year, if I wanted to. It is a huge problem. It is not just a problem outside people's front doors; it is a problem all over the place—outside supermarkets, hospitals, health centres, cinemas and sports centres. We continually see lazy and inconsiderate car drivers parking in disabled parking bays if there is so much as a drop of rain, so that they can jump out of their car and sprint inside. It is a massive problem.

Over the years, I have faced personal abuse and, on some occasions, intimidation when I have dared to challenge people. I probably should not say this, given that I got elected last year, but there have been times when I have taken direct action. When I have seen two cars without disabled badges parked side by side in the

hospital car park, I have parked behind them so that their drivers had to sit and wait until I was ready to move. Sadly, disabled people sometimes need to take such action.

As members are probably aware, there are 224,000 blue badge holders. There are 1 million disabled people throughout Scotland, 96,000 of whom are wheelchair users. Parking is a huge problem that must be tackled. I know that there are difficulties to be overcome, but I ask the committee to listen to what the bill is trying to do and to take forward its spirit so that we can finally put the issue to bed.

The Convener: Does anyone have a contrary opinion?

Gordon Mungall (Scottish Disability Equality Forum): No. I totally agree with what the other witnesses have said.

You asked why so few complaints are made. I put it down to apathy. Some disabled people probably will have complained over the years, but nothing will have been done about their complaints. One of the main reasons for the small number of complaints is that people in Scottish society do not complain enough.

The Convener: I was not suggesting that not enough complaints are made; I was just referring to previous evidence and giving you an opportunity to rebut some of it, which I expected you to do.

Alex Thorburn (Leonard Cheshire Disability): I work for Leonard Cheshire Disability and part of my job is to set up campaign action groups in Scotland. At present, there are four such groups, in Aberdeen, Inverness, Glasgow and Peebles. When those groups started out, each of them was asked what its main priorities were. As Ann Wilson said, every one of them said that the main priority was to tackle abuse of non-mandatory parking bays.

I am also vice-chairman of Dumfries and Galloway access panel. The main complaint that we receive is about the same issue. I cite the example of parking at Dumfries and Galloway royal infirmary. I have surveyed the parking there several times and have found that, in general, 50 per cent or more of the disabled parking bays are taken up by non-badge holders; on one occasion the figure was 75 per cent. I have missed a hospital appointment because of that, and have heard of other people missing appointments at Dumfries and Galloway royal infirmary because they could not get parked.

As far as the situation in Glasgow is concerned, the first reason why not many people complain is that they know that because the bays are advisory there is not much point in complaining because

they will not get anywhere. I came across a lady who was most distressed about her situation. She was frightened to take the car away from the parking bay outside her house because she knew that when she came back, she would not be able to get in again. That is the sort of situation that I hope the bill will rectify.

The Convener: Panel members should not feel that we need six answers every time we ask a question.

12:00

Ryan McQuigg (Leonard Cheshire Disability): I echo the point that because bays are not enforceable, people will not complain.

In our disability review of the UK last year, 66 per cent of disabled people said that they needed their car because public transport was not accessible, so public transport is creating a barrier too. We have produced a report, which every member of the Scottish Parliament has received in the past couple of weeks, about inaccessible transport in Scotland. We state that, on the one hand, public transport is inaccessible but, on the other, disabled people's lifeline, their car, is of no use to them if they cannot use it. That is why disabled parking bays need to be enforceable.

We do not know the extent of the problem because people do not want to complain as they know it will not get them anywhere. The fact that there are as many complaints as there are indicates the tip of the iceberg. We could monitor the situation and see the increase in the number of complaints if there was enforceability.

The Convener: As MSPs, we can testify that we get a considerable number of complaints about these issues. I know of situations similar to the one that Mr Thorburn described. I have experience of an elderly lady who is confined to her home because she is so frightened that if she goes away she will not get back into her home. We understand the issues and we certainly get complaints about them.

Jim Tolson: I want to reiterate what I said at the start of the previous evidence session. I am in agreement with the principles of the bill, but the concerns about it need to be investigated in detail both in the committee and elsewhere.

It is important that we have had some initial feedback from members of the second panel. The evidence from almost all disabled people and from organisations that operate on their behalf is that the issue of disabled bays is their highest priority. The committee will take that viewpoint on board.

I ask panel members to give me feedback on the following points. First, I ask for your comments on the view that some local authorities have

expressed that the proposal to designate temporary disabled persons' parking places would prejudice the statutory procedure for a designation order and could cause more distress for disabled persons.

Despite the Disability Discrimination Act 1995, the abuse of disabled persons' parking places in private car parks continues. I ask the panel its opinion on the bill's proposals in that respect. The public may be confused by the fact that some private bays would be enforceable and some would not, depending on negotiations and discussions between local authorities and the owners of the private bays.

Ryan McQuigg: On private parking bays, in April, the Transport Committee at Westminster considered the blue badge strategy. It was pointed out to Rosie Winterton, the Minister of State for Transport, that if someone places litter in a private parking place, such as a supermarket car park, there are powers for local authorities to come in and fine them for littering. The committee member asked why that should not be the case for abuse of parking spaces. Rosie Winterton said that the Government would look at that and that there are powers to act on that.

Local authorities say that it would be a mammoth task for them to engage in, but our point is that it should be seen as an opportunity to engage with local businesses, which should be able to be identified through the rates that come in. There is an opportunity for local government to talk to businesses and foster better relationships. There are 1 million disabled people in Scotland and they have spending power of £5 million. It does not make business sense for businesses to ignore that demographic; it is not common sense and it does not make business sense.

We are saying that it can be done. Asda at Braehead has taken the lead and there may be a tipping point. The situation is similar to price wars. If one supermarket does it, the rest will have to follow. We hope that the rest will follow, but if they do not, they need a kick up the backside to do so. I hope that that is what the bill will give them. It should be seen not as a problem but as an opportunity.

Councillor McLeod: I agree with Ryan McQuigg about the business opportunities—that is one of the selling points. As a disabled person who has been part of disabled organisations for a great many years, I know that the figure is not £5 million disposable income a year, but £5 billion. That is a heck of a lot of money for businesses to ignore.

Supermarkets have to apply to planning when they build new stores and put in parking bays. The planning process could address some of the

issues that we are talking about here. At least, I hope that that could be the case. One of the biggest problems that we must overcome is people's attitudes, and the mindset of ignorant drivers. It is a great many years since I passed my driving test, but could we not try to encourage the people down in London to get across as part of the driving test the point that people should not park in disabled bays, just as they should not park on the pavement?

Liz Rowlett: Private car parks outside supermarkets and shops should be covered by the DDA but unfortunately in the past it has always been up to disabled people to mount a challenge, and they do not have the financial resources to do that. I suggest that, where it comes under a local authority's remit, it should be part of a local authority's disability equality scheme action plan to find out from businesses what provision they have made for disabled parking and how they intend to enforce it. One of the problems with the lack of enforcement is that people will not take responsibility for the issue. I hope that the bill manages to redress that.

David McLetchie: I was interested in Liz Rowlett's point about not seeking compensation in using the act to enforce rights. Perhaps Ryan McQuigg might comment on that in relation to Leonard Cheshire. As part of its campaigning activities, has your organisation ever taken any test cases on behalf of people whose rights you feel have been infringed in relation to parking?

Ryan McQuigg: Not at present. Like I say, private businesses are meant to monitor their spaces under the DDA, but we think that they are doing so by saying that the spaces are there but not enforcing them. We can take test cases, but they take time, and you have to go through the EHRC, which has not taken on any cases while it is being rebranded. We have a backlog of cases. I am sure that Alex Thorburn will be able to inform you more about that. We have done a report on transport and although it was on public transport, we will now consider car parking spaces as well. It will be a twin approach.

Alex Thorburn: The EHRC is not taking on any cases at the moment. It is trying to get itself sorted out, which has seen a big reduction in confidence in what the EHRC can and cannot do for disabled people, compared with what the Disability Rights Commission used to provide. Just as Ryan says, it is up to individuals to take forward any cases under the DDA, and it is such a costly process that they are just not doing it.

David McLetchie: I understand that, but many organisations will in a sense sponsor an individual to take a test case. That is the whole point of having a test case. Usually, it will be in the name of an individual, but often it will be funded by a

campaigning organisation to establish a principle on behalf of a group. There is no individual barrier if the resource is provided by the sponsoring organisation.

Ryan McQuigg: Yes. That is true. We are gathering information. Alex Thorburn does local campaigning, and we are harvesting all the information that is out there so that we can present the best case that we can. It is not set in our plans to do that, but given the discussions that we have had with people, it probably will be. Obviously, that goes beyond my pay bracket at the moment, but I will go back to my bosses with that. However, the underlying point is that although we know that we could go down that avenue, we should not have to.

David McLetchie: In your experience, is the problem at large shopping centres and supermarkets not so much the number of bays that are provided for disabled customers but the enforcement of the bays? Are people happy with the number of bays?

Liz Rowlett: The number of bays provided for people with accessibility issues is nowhere near enough; and the comments that have come back to Ryan McQuigg are interesting—it cannot be right that the onus is on disabled people to challenge the barriers that are deliberately put before them.

David McLetchie: No, it cannot. However, we heard from Councillor McLeod about the revenues derived from customers with disabilities, and I am sure that supermarkets are not deliberately chasing customers away by making their premises inaccessible. Sins in planning are often sins of omission rather than commission.

If a local authority gives planning permission for a major shopping centre or supermarket, will it usually specify that a proportion of the spaces in its car park must be allocated for disabled people? Is that a requirement?

Gordon Mungall: Under building regulations, a percentage must be allocated. Local access panels often get involved, and they sometimes ask for a larger percentage. If they put the case, they tend to succeed.

David McLetchie: So, on the provision of spaces, as opposed to enforcement, your experience is that people are sympathetic and will, by and large, accede to requests from local access panels to increase provision if it is regarded as insufficient. Is that correct?

Gordon Mungall: That happens in most areas, but I would not say that it happens in all areas.

David McLetchie: Thank you, that is very helpful. Now—

The Convener: David, you mentioned Councillor McLeod, and he is anxious to make a point.

Councillor McLeod: In my experience, the problem is not to do with the number of bays. Quite often, if you increase the number of bays, all you do is increase the number of instances of abuse. At Inverclyde royal hospital, our own organisation was proactive in getting another eight or 10 bays put in some years ago, but all that happened was that there was more abuse. Enforcement is the big hurdle that we must overcome.

The Convener: I see that Dr Ann Wilson wants to comment, but I will let David finish his question first.

David McLetchie: I wanted to move on and ask about mechanisms. I think that I understood from evidence that the baywatch campaign was a UK-wide survey that highlighted a high level of abuse of disabled parking spaces. As I understand it, Scotland is the only place where it is proposed to introduce tougher legislation to counter abuse, courtesy of Jackie Baillie and her bill. However, the evidence from the UK-wide survey suggests that the problem is not confined to Scotland. What is being done in other jurisdictions? Other witnesses have suggested that, rather than using devolved powers, a more appropriate mechanism for dealing with the problem would be UK road traffic legislation.

Ryan McQuigg: As I said, back in April the Transport Committee at Westminster looked into the blue badge scheme. During the course of evidence, they discussed changes to planning permission to make disabled parking spaces more enforceable. They also discussed the problem of litter. Rosie Winterton said that she would get back to the committee and carry out a consultation. Westminster is looking into the problem, but the work is a spin-off from the blue badge scheme and we will have to wait and see how it will be fleshed out.

In one area near Liverpool, the local authority has put up signs at disabled parking spaces saying “If you take my parking space, can you take my disability, too?” Similar things are done in other countries, including France and South Africa. Westminster is considering the issue, but as a spin-off from the House of Commons Transport Committee’s review of the blue badge scheme. The matter is on Westminster’s radar, and we will be following up on that.

12:15

Dr Wilson: We in Scotland have taken the lead in other ways, and I see no reason why we should not support Jackie Baillie’s bill and take the lead in

this case. We look to the Scottish Parliament to maintain its good record on equality issues, and it is an equality issue that the bill addresses. I see no reason why we should shrug the issue off and say that it can be better dealt with at Westminster. We should take the lead and show the rest of the United Kingdom how it can be done.

Alasdair Allan: A number of us, across the various political divides, have raised the question of UK legislation. People in this Parliament would like to push forward the equality agenda, although we run up against the problem that equality issues, among many other aspects of transport, are reserved to Westminster. Is it legitimate to ask whether Westminster has been pushed further? Ryan, you mentioned that your organisation was lobbying Westminster about its consideration of the blue badge scheme. Is your organisation pushing Westminster further on the whole issue of parking? If so, does that work duplicate what we are doing? How does it affect what we are doing here?

Ryan McQuigg: We have considered that. Following the responses that were made to the Commons Transport Committee's blue badge consultation, the parking issue was raised by the chairman. The Minister of State for Transport said that she would get back to the committee and write a paper on the issue. We await that paper and the proposals for enforcing the measures that it contains. Over the next month, a consultation document is meant to be coming out. I have e-mailed off for it, and I will be e-mailed back. My colleagues down in Westminster will examine the proposals.

When Scotland has taken the lead, for example with the smoking ban, Westminster has followed—albeit a bit slowly. Even if things are duplicated at first, it gives the Westminster Government an impetus—a shot in the arm—to change things. The potential duplication does not mean that Scotland should not take the lead; it should take the lead. As I say, where Scotland has gone, Westminster has followed. To paraphrase your colleague, Mr Allan, it has danced to a Scottish jig. We hope that there is a disability jig that it can dance to as well.

Councillor McLeod: Many of us here represent Scottish organisations and Scottish members. We have to approach things in that context. It is not just on smoking that we have taken the lead. We took a lead on free personal care and prescriptions, too. I concur with what the two previous speakers have said.

The Convener: There is no doubt that we can have an influence. Westminster might be interested to see some of our evidence, and we can certainly get that to the House of Commons Transport Committee and the people who are

considering the matter there. The difficult point that we are addressing is that those who are being asked to implement and manage the system have come along with strong evidence about why certain things cannot be done, which needs to be rebutted at a high level. That is the point that Alasdair Allan was making, I think. Do you have any further points to raise at this stage, Alasdair?

Alasdair Allan: It might not be directly related to the last point, but I wish to discuss advisory disabled persons' parking places. The bill would change provision in that regard—local authorities would be required to audit existing advisory parking places and to establish whether more were necessary. Spaces that were not necessary would be removed. Do your organisations have a view on that?

Gordon Mungall: Local authorities should have done highways audits under the DDA. Surely they must know exactly how many parking bays they have.

The Convener: Councils were worried about the audit that they had to carry out to identify the spaces on private land.

Gordon Mungall: I have been involved in audits in my local authority area, and I know that the council even audits car parking on private land.

Liz Rowlett: This morning, we heard a lot about the time and money it would take for local authorities to audit disabled parking bays in their areas. In the past year, our organisation has worked with Transport Scotland, which committed resources and personnel to an access audit of the entire trunk roads network over the summer. That did not cause Transport Scotland as many problems as the local authorities make out that the audit would cause them, in terms of personnel. New technology was used to ensure that standardised descriptions of the physical infrastructure were collected. Some of the issues that local authorities have suggested would be barriers to undertaking the work do not strike me as being valid. They could learn lessons from other public bodies.

Alasdair Allan: I am not trying to defend local authorities as much as I am wondering whether your organisations are content with the changes to the advisory bay system, and whether you think there is any value in the existing system that might be lost through the changes. Do you have any concerns in that regard?

Liz Rowlett: The issue is not necessarily about the system. At the end of the day, we want provision of parking spaces that meets the needs of disabled people. This morning, people have seemed occasionally to lose sight of that. For example, it was suggested that, if a person with mobility problems lives in a housing estate far out

of town, abuse of their bay would not be dealt with, because that bay would be viewed as being somehow different from ones in the centre of town and dealing with the abuse would incur a greater cost.

Today, the committee has an opportunity to make a real difference to people's lives and act positively to remove barriers that people face every day. You should take that opportunity.

Ryan McQuigg: On the audit, the DDA makes it the councils' responsibility to ensure that they have that information. We want the councils to have that information because it would help them to conduct a mapping exercise to identify hot spots and prioritise the areas that need to be dealt with first. Councils should be able to say, "We'll deal with these bays this week because we've had a number of complaints about them being abused." If they are easily identifiable, they can be dealt with early on, which will send a message to people. That approach would be useful in terms of the enforceability of bays, because people would be aware that they cannot park in those bays and that people complain when able-bodied people abuse the bays.

John Wilson: The debate this morning went down a certain route because one of the major obstacles that local authorities have identified is the cost factor, and most of the cost arises from turning advisory bays into enforceable bays. That was why I was pursuing the issue of cost.

The debate that we are now engaged in concerns disabled parking in shopping centres and so on. Some of the panel members have raised issues about enforcement of those bays, as opposed to the individual parking bays outside people's homes.

Mr Mungall mentioned that he has been involved in assessing provision of disabled parking bays in shopping areas. What do you all think about the enforcement aspect? Must the local authority be the enforcement agent, or could Asda, Tesco and so on carry out some enforcement themselves? Councillor McLeod said that, no matter how many disabled parking bays are provided, the reality is that people abuse them. The suggestion is that it might be better to enforce the bays properly rather than simply ask for more parking bays.

Councillor McLeod: It is interesting that you mentioned Asda. I do not know whether you are aware that after a trial at six stores, Asda has introduced a system of £60 fines for those who abuse disabled parking bays and mother-and-toddler bays. I think a similar system operates at the Braehead shopping centre just outside Glasgow. There is a need for a partnership approach to get people on board.

On the issue of bays outside people's houses, during my time as the director—and previously chair—of Inverclyde Council on Disability and, over the past 17 months, as a councillor, most of the people who have come to me with problems about parking bays have been concerned not about the bays outside their homes but about the bays at the supermarket, health centre, hospital and so on.

It is true that there are issues with the bays outside people's homes, because anyone with a blue badge can park in that bay, even though they are not the person who has fought to get a bay outside their house and has gone through the year-long bureaucratic process. However, by far the biggest issue that is raised with me involves people not being able to use a bay when they want to go shopping, visit the cinema or keep a hospital appointment.

John Wilson: This morning and in previous meetings, we have heard that it would be difficult to get companies such as Asda and Tesco to engage in enforcement. However, Councillor McLeod is telling us that some of those companies are ahead of the game and are imposing fines on people who abuse the disabled parking bays. Clearly, there is a conflict between the local authorities' suggestion that it is difficult to enter into localised agreements with the providers of private car parks and what we have just been told. Do the members of the panel feel that the action of those stores is to be welcomed and that we might see the stores moving ahead of local authorities, given the reluctance of the local authorities to act, especially given the two-year negotiation issue?

Dr Wilson: I believe that Tesco is beginning to do what Asda has done. If an initiative proves popular in one supermarket, all the others will get on board.

This morning, the local authorities said a lot about the cost of enforcement. However, what was not mentioned was the fact that revenue would be gained as a result of enforcement. I know that that would not help with the initial cost of changing advisory bays into enforceable bays, but it would go some way towards it.

The Convener: I will check with the clerks, but I think that we will have an opportunity to speak to the retailers next week. This is an important line of questioning, and you have an opportunity to put questions in our mouths for next week's meeting.

12:30

Ryan McQuigg: The fact that local authorities do not even seem to know that businesses are willing to carry out enforcement highlights the need for them to talk to those businesses. There is a tipping point in regard to enforcement: if a

couple of big businesses do it, the rest will follow. The revenue from the six councils that have decriminalised parking offences, from the latest figures available in 2005-06, was £16.8 million, so there is money to be gained.

In Birmingham, there is discussion about abuse of the blue badge system. Members might have seen a report on the BBC news last week, in which enforcement officers spoke to a man who was returning to his car. The car had a blue badge, but the man was walking. The officers said, "Is this your car?" and the man said, "Yes." They said, "Is this your blue badge?" and he said, "No—it's my mum's." They said, "Oh—where's your mum?" and he said that she was in the shopping centre. They said, "Can we go and get her?" and he said, "No—she's not there." Birmingham City Council now says that it wants extra powers to impose a £1,000 fine for such abuses. That will provide another revenue stream, as well as sending a hard-hitting message to the public not to do it. Everything is there; we just need to put it together and agree on it.

Bob Doris: In my experience, when local authorities have the will, they always find a way. In Glasgow, controlled parking schemes are being extended deep into the north of the city. Extensive consultation documents have been posted out to every local household, and public meetings have been held, so there has been extensive feedback on it. The council will mark out the bays right across north Glasgow, in order to put meters in and use the revenue from those to deal with local parking problems.

I would not, therefore, worry too much about local authorities. From what I have heard from local authority representatives today, councils are arguing over how they will implement a scheme that they—some of them begrudgingly, but most of them more positively, I hope—agree with.

At the start of this evidence session, we discussed enforcement and the equalities issue. For me, it is about rights, and about every individual citizen having the right to equal access to their own residential property and to amenities throughout cities, towns and villages or wherever they are. That right exists in law, but if it is not enforceable, do you feel that you currently have it?

Liz Rowlett: No.

Bob Doris: I was hoping for a longer answer than that.

Ryan McQuigg: I will make the answer a bit longer.

We do not have that right, but we should have it. If the political will for enforcement exists within local authorities, it will be carried out. Local authorities need to get round the table and sort the

problem out, because there is disparity between Highland Council and Glasgow City Council, and various other councils. They need to get together and say, "That works there", learn from areas in which there is best practice, and share information for the benefit of everyone.

It is about ensuring that disabled people can access services that other people take for granted. If public transport is not accessible, using the car is one thing that can get them out of the house and ensure that they have the life chances that other people expect. You are right to highlight that.

Liz Rowlett: Public bodies have a duty to promote equality, but it is clear that they are failing in that. Bob Doris was right to pick up on the rights dimension. It is about making public bodies take up their responsibilities rather than ducking out of them, and about valuing disabled people as equal contributors to society.

Dr Wilson: Under the disability equality duty, local authorities should include disabled people in their planning processes. It is patently obvious that most local authorities do not do that—if they do, it is in a token way. That is why we shook our heads and said no in response to Bob Doris's question about whether we feel that we have our rights in society today. We still have a long way to go before we can feel that we are full and equal citizens in Scotland, in many ways. I think that each of us could talk for an hour on the subject and not repeat ourselves.

Bob Doris: I thank the witnesses for eventually answering at length what appeared to be a cul-de-sac of a question.

The Convener: As all committee members have asked at least one question, I now give Jackie Baillie an opportunity to ask a couple of her own.

Jackie Baillie: I will confine myself to one question and one comment. Although I would like to claim credit for Scotland leading the rest of the UK in this, I should advise the committee that in Northern Ireland, where the matter is dealt with centrally by the Northern Ireland Roads Service rather than by local authorities, all bays are designated as enforceable. There is not a single advisory bay. We are not leading the UK, but we can at least learn from others.

The fact that all local authorities have to meet a disability equality duty is something of a happy coincidence. How would the bill, which is principally about parking, assist local authorities in meeting that duty?

Gordon Mungall: The bill would allow disabled people to get full access to local authority services. For example, people who need to get to council offices are quite often unable to park near the main exit or, indeed, to park at all.

Councillor McLeod: It would put a lot of power behind what is presently on paper. So much of our legislation—the DDA, the DES, the DED and so on—is all fine talk, but, as Bob Doris pointed out, this is a human and civil rights issue, and introducing some form of enforcement would send out a loud message that we are not just talking the talk but walking the walk.

The Convener: Does that sum up the position of the other witnesses?

Ryan McQuigg: Yes. The bill would mean that disabled people would not have to rely on people's good nature and courtesy. By introducing an element of enforcement into parking, which is certainly a major issue, people's mindsets will change and disabled people will have more opportunities.

Liz Rowlett: The disability equality duty provided disabled people with a great chance to work with public bodies and promote cultural change across the board. Under the duty, public bodies are obliged to collect data on the impact of their policies on disabled people. In other words, they have to prove what they have done. Certain elements such as conducting audits of parking spaces, and making goods and services more accessible to disabled people not only help them to fulfil that duty but improve their lives and meet the aspiration of independent living—which, after all, we have all signed up to.

The Convener: Jackie Baillie is indeed a politician of her word. She asked only one question.

I believe that Jim Tolson has a question.

Jim Tolson: Thank you for your indulgence, convener.

I wonder whether the panel or officials can clarify what I consider to be an important legal point. I am slightly concerned that in seeking to allow the bill to go ahead—which is fine by me—we are all assuming that local authorities will be able to put enforceable bays in streets that they have adopted. What about the sizeable number of streets that they have not adopted? In rural areas, including in my constituency and, I believe, in other members' constituencies, there has been a lot of new build, and the streets in those developments are not adopted by the local authority for at least a year—sometimes longer—after they have been built. Will it disadvantage disabled people if enforceable bays cannot be put into streets that local authorities have not adopted for maintenance purposes? If a local authority tries to put in such a bay, it might, for example, be deemed a private car park.

The Convener: Would the bill prevent local authorities from putting in advisory or temporary bays?

Jackie Baillie: My understanding is that it would not. I will certainly check and clarify the point, but I think that with any privately owned road, car park or area of public access local authorities are under an injunction to negotiate some kind of arrangement.

Jim Tolson: I appreciate that.

The Convener: As there are no other questions, I thank the panel for giving evidence this morning. We look forward to working with you.

Meeting closed at 12:40.

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