Passage of the

Disabled Persons’ Parking Badges (Scotland) Bill 2013

SPPB 207
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Passage of the

Disabled Persons' Parking Badges (Scotland) Bill 2013

SP Bill 44 (Session 4), subsequently 2014 asp 17

SPPB 207
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Foreword

Purpose of the series

The aim of this series is to bring together in a single place all the official Parliamentary documents relating to the passage of the Bill that becomes an Act of the Scottish Parliament (ASP). The list of documents included in any particular volume will depend on the nature of the Bill and the circumstances of its passage, but a typical volume will include:

- every print of the Bill (usually three – “As Introduced”, “As Amended at Stage 2” and “As Passed”);
- the accompanying documents published with the “As Introduced” print of the Bill (and any revised versions published at later Stages);
- every Marshalled List of amendments from Stages 2 and 3;
- every Groupings list from Stages 2 and 3;
- the lead Committee’s “Stage 1 report” (which itself includes reports of other committees involved in the Stage 1 process, relevant committee Minutes and extracts from the Official Report of Stage 1 proceedings);
- the Official Report of the Stage 1 and Stage 3 debates in the Parliament;
- the Official Report of Stage 2 committee consideration;
- the Minutes (or relevant extracts) of relevant Committee meetings and of the Parliament for Stages 1 and 3.

All documents included are re-printed in the original layout and format, but with minor typographical and layout errors corrected.

Where documents in the volume include web-links to external sources or to documents not incorporated in this volume, these links have been checked and are correct at the time of publishing this volume. The Scottish Parliament is not responsible for the content of external Internet sites. The links in this volume will not be monitored after publication, and no guarantee can be given that all links will continue to be effective.

Documents in each volume are arranged in the order in which they relate to the passage of the Bill through its various stages, from introduction to passing. The Act itself is not included on the grounds that it is already generally available and is, in any case, not a Parliamentary publication.

Outline of the legislative process

Bills in the Scottish Parliament follow a three-stage process. The fundamentals of the process are laid down by section 36(1) of the Scotland Act 1998, and amplified by Chapter 9 of the Parliament’s Standing Orders. In outline, the process is as follows:

- Introduction, followed by publication of the Bill and its accompanying documents;
- Stage 1: the Bill is first referred to a relevant committee, which produces a report informed by evidence from interested parties, then the Parliament debates the Bill and decides whether to agree to its general principles;
• Stage 2: the Bill returns to a committee for detailed consideration of amendments;
• Stage 3: the Bill is considered by the Parliament, with consideration of further amendments followed by a debate and a decision on whether to pass the Bill.

After a Bill is passed, three law officers and the Secretary of State have a period of four weeks within which they may challenge the Bill under sections 33 and 35 of the Scotland Act respectively. The Bill may then be submitted for Royal Assent, at which point it becomes an Act.

Standing Orders allow for some variations from the above pattern in some cases. For example, Bills may be referred back to a committee during Stage 3 for further Stage 2 consideration. In addition, the procedures vary for certain categories of Bills, such as Committee Bills or Emergency Bills. For some volumes in the series, relevant proceedings prior to introduction (such as pre-legislative scrutiny of a draft Bill) may be included.

The reader who is unfamiliar with Bill procedures, or with the terminology of legislation more generally, is advised to consult in the first instance the Guidance on Public Bills published by the Parliament. That Guidance, and the Standing Orders, are available for sale from Stationery Office bookshops or free of charge on the Parliament’s website (www.scottish.parliament.uk).

The series is produced by the Legislation Team within the Parliament’s Chamber Office. Comments on this volume or on the series as a whole may be sent to the Legislation Team at the Scottish Parliament, Edinburgh EH99 1SP.

Notes on this volume

The Bill to which this volume relates followed the standard 3 stage process described above.

The Bill was a Member’s Bill which had the support of the Scottish Government, and for which the Scottish Government provided drafting assistance.

The Parliament’s Standing Orders at the time of the Member’s proposal for this Bill provided, among other things, for members to consult on a draft proposal for a Bill (or to provide reasons why such consultation was not necessary) prior to submitting a final proposal. The final proposal also required to obtain the support of at least 18 members, drawn from at least half of the parties or groups represented on the Parliamentary Bureau. In addition to the requirement for significant cross-party support, a Bill could not be introduced if the Scottish Government indicated that either it or the UK Government intended to initiate legislation to give effect to the final proposal within a defined time period.

Following the required consultation on a draft proposal, Dennis Robertson’s final proposal for the Bill received support from 41 members (including the required degree of cross-party representation). The Scottish Government did not give an indication as described above. Dennis Robertson therefore obtained the right to introduce the Bill which is the subject of this volume.
At Stage 2, an As Amended Print of the Bill was not produced as the provisions of the Bill were agreed to without amendment.

At Stage 3, as no amendments were lodged, a Marshalled List, Groupings, and an As Passed print of the Bill were not produced.
Disabled Persons’ Parking Badges (Scotland) Bill
[AS INTRODUCED]

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Disabled Persons’ Parking Badges (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision about badges for display on motor vehicles used by disabled persons.

1 **Form of badge**

In section 21 (badges for display on motor vehicles used by disabled persons) of the Chronically Sick and Disabled Persons Act 1970, for paragraph (b) of subsection (1A) there is substituted—

“(b) of a form which fulfils any requirements as to form prescribed or otherwise specified by the Scottish Ministers, in the case of a badge issued by a local authority in Scotland.”.

2 **Power to cancel badge**

In section 21(7AB) of the Chronically Sick and Disabled Persons Act 1970, the words “in England and Wales” are repealed.

3 **Power to confiscate badge**

In section 21(4D) of the Chronically Sick and Disabled Persons Act 1970, the words “in England and Wales” are repealed.

4 **Offence of using cancelled badge**

(1) In section 21(4BZA) of the Chronically Sick and Disabled Persons Act 1970, the words “in England and Wales” are repealed.

(2) In subsection (1ZA) of section 117 (wrongful use of disabled person’s badge) of the Road Traffic Regulation Act 1984, the words “in its application to the use of a vehicle in England and Wales” are repealed.

5 **Enforcement officers**

(1) Section 21 of the Chronically Sick and Disabled Persons Act 1970 is amended as follows.
(2) In subsection (4BA)—
   (a) after the word “constable” in the opening words there is inserted “or enforcement officer”;
   (b) in paragraph (a), after the word “constable” there is inserted “or officer”.

(3) After subsection (4BB) there is inserted—
  “(4BC) No offence is committed under subsection (4BB) if—
   (a) the person requiring the badge to be produced is an enforcement officer, other than a traffic warden or parking attendant, and
   (b) when requiring the badge to be produced, the officer does not produce appropriate evidence of the officer’s authority to exercise the power under subsection (4BA).

(4) For subsection (8A) there is substituted—
  “(8A) In this section—
   “constable” has the meaning given by section 99(1) of the Police and Fire Reform (Scotland) Act 2012,
   “enforcement officer” means—
   (a) a traffic warden,
   (b) a parking attendant, or
   (c) a person who—
   (i) is employed by a local authority or by a person with whom the authority have made arrangements for the purposes of this section, and
   (ii) is authorised in writing by the authority to exercise the powers in subsections (4BA) and (4D).

6 Review of local authority decision

(1) The Scottish Ministers may by regulations—
   (a) require a local authority to review any relevant decision taken by the authority,
   (b) specify who may apply for a review and the manner in which an application is to be made,
   (c) provide for the procedure that an authority is to follow when conducting and disposing of a review.

(2) For the purpose of subsection (1), “relevant decision” means decision that a person is not a disabled person of a description prescribed under section 21(2) of the Chronically Sick and Disabled Persons Act 1970.

(3) Regulations under subsection (1) may provide that the review requirement which they impose does not apply to a decision that a person is not a disabled person of a description that is—
   (a) prescribed under section 21(2) of the Chronically Sick and Disabled Persons Act 1970, and
   (b) specified in the regulations.
(4) Regulations under subsection (1) are subject to the negative procedure.

7 **Commencement**

(1) This section and sections 6 and 8 come into force on the day after Royal Assent.

(2) The other provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.

8 **Short title**

The short title of this Act is the Disabled Persons’ Parking Badges (Scotland) Act 2014.
Disabled Persons’ Parking Badges (Scotland) Bill
[AS INTRODUCED]

An Act of the Scottish Parliament to make provision about badges for display on motor vehicles used by disabled persons.

Introduced by: Dennis Robertson
On: 17 December 2013
Bill type: Member’s Bill
These documents relate to the Disabled Persons’ Parking Badges (Scotland) Bill (SP Bill 44) as introduced in the Scottish Parliament on 17 December 2013

DISABLED PERSONS’ PARKING BADGES (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Disabled Persons’ Parking Badges (Scotland) Bill introduced in the Scottish Parliament on 17 December 2013:

- Explanatory Notes;
- a Financial Memorandum;
- Dennis Robertson’s statement on legislative competence; and
- the Presiding Officer’s statement on legislative competence.

A Policy Memorandum is printed separately as SP Bill 44–PM.
EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by officials of the Scottish Government to support Dennis Robertson MSP, the member in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

2. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a part of a section does not seem to require any explanation or comment, none is given.

THE BILL

3. The Bill includes amendments of section 21 of the Chronically Sick and Disabled Persons Act 1970 (“the 1970 Act”) and is aimed at improving the ability of local authorities to tackle misuse of the blue badge to obtain on-street parking concessions. The Bill is aimed at protecting the rights of badge holders who use their badges responsibly within the terms of the scheme.

COMMENTARY ON SECTIONS

Section 1 – Form of badge

4. Paragraph (b) of section 21(1A) of the 1970 Act requires the Scottish Ministers to prescribe the form of the badge in regulations. The regulations must be published (see sections 27 and 41 of the Interpretation and Legislative Reform (Scotland) Act 2010), thus all of the details about what constitutes a badge in proper form are immediately put into the public domain.

5. Section 1 of the Bill substitutes a new paragraph (b) that will allow the Scottish Ministers to specify requirements about the form of a badge administratively, which means the requirements so specified need not be published. The new paragraph (b) continues to allow the Scottish Ministers to specify some, or all, of the requirements as to the form of a badge in regulations.

Section 2 – Power to cancel badge

6. Section 21(7AB) of the 1970 Act (inserted by the UK Disabled Persons’ Parking Badges Act 2013 (“the 2013 Act”)) is extended to Scotland to give local authorities the power to cancel a badge that is no longer held by the person to whom it was issued. If cancellation is effected other than where the badge has been reported lost or stolen, the cancellation will take effect only when the authority has given notice to the holder.

Section 3 – Power to confiscate badge

7. Section 21(4D) of the 1970 Act (inserted by the 2013 Act) is extended to Scotland and will give constables and enforcement officers the power to retain a badge that has been presented
These documents relate to the Disabled Persons’ Parking Badges (Scotland) Bill (SP Bill 44) as introduced in the Scottish Parliament on 17 December 2013

to them for examination and which appears not to have been issued under the Act, has been cancelled, should have been returned to the local authority or is being misused.

8. Subsection (4E) of section 21 of the 1970 Act confers a power to make regulations to prescribe what is to be done with a badge which has been retained under subsection (4D). That power will be exercisable by the Scottish Ministers in relation to a badge that has been retained in Scotland.

Section 4 – Offence of using cancelled badge

9. Section 21(4BZA) of the 1970 Act (inserted by the 2013 Act) is extended to Scotland. The effect is that it will be a criminal offence for a person to drive a vehicle whilst displaying a badge which has been cancelled or should have been returned to the issuing authority.

10. Section 21(4C) of the 1970 Act (as amended by the 2013 Act) provides that an offence under section 21(4BZA) is a summary offence and can be punished with a fine up to level 3 on the standard scale. The standard scale is set out in section 225 of the Criminal Procedure (Scotland) Act 1995; as at the date of the Bill’s introduction a level 3 fine is £1,000.

11. Subsection (1ZA) of section 117 (wrongful use of a disabled person’s badge) of the Road Traffic Regulation Act 1984 (inserted by the 2013 Act) is extended to Scotland so as to make it an offence to display on a parked vehicle a badge which has been cancelled or should have been returned to the issuing local authority. An offence under section 117(1ZA) of the Road Traffic Regulation Act 1984 is also a summary offence that attracts a fine of up to level 3 on the standard scale (see Schedule 2 to the Road Traffic Offenders Act 1988).

Section 5 – Enforcement officers

12. At the time of the Bill’s introduction, subsection (4BA) of section 21 of the 1970 Act confers on constables, traffic wardens and parking attendants the power to require a person to produce a badge for examination. Section 3 of the Bill will give them the additional power under subsection (4D) to retain a badge produced for examination in certain circumstances (see paragraph 7 of these Notes).

13. Section 5 of the Bill will confer the enforcement powers mentioned in the preceding paragraph on a new class of official, namely a person employed or engaged by a local authority to exercise those powers. Section 5 of the Bill achieves this by inserting a definition of “enforcement officer” as section 21(8A) of the 1970 Act. Enforcement officer is defined to mean traffic wardens and parking attendants as well as the new class of official. References to “enforcement officer” are then inserted into the relevant subsections of section 21 of the 1970 Act.

14. Constables, traffic wardens and parking attendants will be in uniform when exercising their enforcement powers under section 21 of the 1970 Act. The new class of official which section 5 will create need not be uniformed. To ensure that the public can know that a person not in uniform who is requesting the production of a badge is entitled to make that demand, section 5 of the Bill will insert a new section 21(4BC) into the 1970 Act. The new subsection
provides that it is not an offence to fail to present a badge for examination in response to a request from someone other than a constable, traffic warden or parking attendant, unless the person making the request produces evidence of the person’s authorisation to make it.

Section 6 – Review of local authority decision

15. Section 6 allows the Scottish Ministers to make regulations requiring local authorities to review on request a decision not to award a badge on the grounds that a person is not eligible for one. Eligibility depends on being a disabled person of a description prescribed in regulations under section 21(2) of the 1970 Act. The current description of an eligible person is given by the Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000 (S.S.I. 2000/59).

16. It is intended that the regulations which will be made under section 6 will specify who may apply for a review, the manner in which an application for a review is to be made and the procedure to be followed by the local authority when conducting and disposing of a review. The regulations will be subject to the negative procedure (as defined by section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).
FINANCIAL MEMORANDUM

INTRODUCTION

1. This document relates to the Disabled Persons’ Parking Badges (Scotland) Bill introduced in the Scottish Parliament on 17 December 2013. To satisfy Rule 9.3.2 of the Parliament’s Standing Orders, it has been prepared by officials of the Scottish Government to support Dennis Robertson MSP, the member in charge of the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

2. The figures provided within this memorandum are the best current estimates for the costs expected as a result of the Bill.

BACKGROUND

3. The blue badge scheme provides concessions to disabled people to park where restrictions may otherwise apply. The scheme plays an important part in helping severely disabled people access jobs, shops and community services. Without their blue badge, many would be confined to their home. Further background information about the blue badge scheme is provided in the Policy Memorandum.

4. The Bill:
   - aims to strengthen enforcement of the blue badge scheme by providing the power to cancel and retain badges in certain circumstances and by allowing local authorities to appoint a new type of enforcement officer (sections 2 to 5)
   - will allow elements of the form of the blue badge to be set administratively by the Scottish Ministers (section 1)
   - will allow the Scottish Ministers to make regulations ensuring that people refused a blue badge on eligibility grounds will be able to seek a review of that decision (section 6).

COSTS FOR THE SCOTTISH ADMINISTRATION

5. No costs are expected for the Scottish Administration as a result of the Bill as they are not responsible for the administration and enforcement of the blue badge scheme.

6. Responsibility for blue badge enforcement lies with local authorities and Police Scotland. As set out in the following parts of this memorandum, the Bill is expected to have only limited cost implications for those bodies. The Scottish Government does not expect there will be any need to make additional resources available to them as a consequence of the Bill.
COSTS FOR LOCAL AUTHORITIES

Background

7. Local authorities are responsible for issuing blue badges to people in their areas and some local authorities are responsible for tackling blue badge misuse within their areas.

8. Local authority parking attendants enforce the blue badge scheme where parking enforcement has been decriminalised. Decriminalised Parking Enforcement (DPE) is a regime which enables local authorities to administer their own parking penalty scheme and to retain the penalties collected to finance their parking enforcement procedure. At present 12 local authorities have implemented DPE with a further two moving through the application process.

9. In those local authority areas where DPE has not been implemented, Police Scotland is responsible for parking enforcement. In those areas the blue badge scheme is currently enforced by police traffic wardens. Police Scotland is currently reviewing this service.

Section 5 (enforcement officers)

10. Section 5 of the Bill will enable local authorities to appoint people, other than parking attendants, to act as enforcement officers. At present the power only matters for those local authorities which operate DPE and it is likely that they will only appoint where it makes financial sense to do so (in other words, where the cost of appointing someone would not be disproportionate in view of what blue badge misuse is estimated to cost the authority in terms of lost parking revenue — which, for some authorities, can be very significant sums each year).

11. Assuming a local authority took on a new member of staff to act as an enforcement officer at the same wage as a parking attendant, the estimated cost per annum would be £26,000 inclusive of overtime, employers’ pension contribution and national insurance. Additionally there may be some training and development costs and one-off office and equipment costs estimated at £3,000-£4,000.

12. Of course section 5 of the Bill merely provides greater flexibility for local authorities, by allowing them to authorise people other than parking attendants to act as enforcement officers. It will be for each authority to decide whether it wants to take on additional staff, or contract with a third party, in order to have this new type of enforcement officer operating in its area. There is potential for the new enforcement officers to make efficiencies in enforcing the blue badge scheme by freeing up parking attendants’ time to deal with other parking violations. The cost of recruiting a new enforcement officer could be reduced if the appointment is made as a shared resource between neighbouring local authorities.

Section 6 (local authority reviews)

13. Regulations to be made under section 6 will require every local authority to have a review process in place to review its decisions to refuse an application for a blue badge on eligibility grounds. The Bill does not provide for a fee to be charged for reviews, so it is expected the costs of reviews will be borne by local authorities.
14. The cost of providing a review process will not be entirely new for all local authorities as 20 out of the 32 already do so.

15. Two local authorities which currently have review processes estimated the cost of conducting a review. One estimated £8.25 and the other £9.25 per review. To the cost of the review itself approximately £10 can be added for associated administrative costs. Taking the higher estimated cost for conducting a review and adding £10 in administrative costs gives a total cost per review of £19.25.

16. There are significant margins of uncertainty around the likely annual numbers of reviews and inevitably numbers will vary from one local authority to another. The responses from 27 local authorities to a questionnaire issued in March 2013 provide some basis for an estimate. The responses reveal that over a two month period 20 applicants requested a review following an Independent Mobility Assessment. This would equate to 120 requests per annum across 27 local authorities. Extrapolating from this snapshot, a generous estimate for 32 local authorities might be something in the order of 200 review requests each year.

17. The cost of 200 reviews each year at £19.25 per review would be £3,850. Allowing for the significant uncertainty around the number of reviews per year, if the number were trebled (i.e. 600) the estimated annual cost would amount to £11,550.

**COSTS FOR OTHER BODIES, INDIVIDUALS AND BUSINESSES**

18. The only provision in the Bill expected to give rise to costs under this heading is section 4, which creates new offences associated with blue badge misuse.

19. Individuals convicted of the new offences will bear a cost in the form of any fine imposed on them.

20. There will also be costs for the various parts of the justice system. The costs are uncertain since it cannot be known how many prosecutions there will be for the new offences. It is unlikely the costs will be significant and should be readily absorbed within existing budgets.

21. The cost of section 4 depends on how often the new offences are committed, how often the crime is detected and how many of the crimes detected proceed to prosecution or some other formal disposal.

22. The blue badge table in the Scottish Transport Statistics Bulletin shows that there were 263,045 badges on issue in Scotland as at 31 March 2012. The vast majority of them are not misused and of those which are misused fewer still will be misused in the ways that section 4 of the Bill will make an offence.

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23. As to the proportion of misused badges, research in 2008 by the Department for Transport in London\(^2\) (conducted in England only) found that between 1% and 3% of badges were replacement badges for lost and stolen badges, many of which were being used by family members. Further Department for Transport research in 2010\(^3\), again in local authorities in England only, suggested fraud levels of between 2% and 4%. Research conducted in England is not an altogether reliable guide to the Scottish position, given that England has more, and larger, cities where parking is at a premium. It seems reasonable to assume the level of misuse in Scotland will be at the lower end of the ranges indicated by the DfT research. If 1% of the badges on issue in Scotland were being misused it would equate to around 2,500 badges being misused. Allowing for the facts that a minority of cases of badge misuse will be one of the new offences, that not all occurrences of the new offences will be detected and that not all of those will be prosecuted, a way of making a reasonable estimate of the number of cases that will be prosecuted might be found by taking 1% of the estimated 2,500 cases of misuse (25).

24. The cost to the Scottish Court Service of a prosecution in a justice of the peace court is estimated at £169 and the estimated cost of a case in the sheriff court is £334. So the cost of 25 cases per year to the Scottish Court Service can be estimated as falling somewhere between £4,225 and £8,350. In practice the cost is likely to be at the lower end of the scale as it seems reasonable to expect many of the cases will be prosecuted in JP courts and a number will be brought to a swift conclusion by a guilty plea.

25. Average prosecution costs per case are £335, which gives an annual cost of £8,375 (25 x £335).

26. The average legal assistance cost is estimated at £329 per case, which would fall upon the Scottish Legal Aid Board were legal aid made available in the 25 estimated cases per year, resulting in an estimated annual cost around £8,225. These average unit costs are taken from the Scottish Government publication on the costs to Criminal Justice System 2011-2012.\(^4\)

\(^4\)http://www.scotland.gov.uk/Topics/Statistics/Browse/Crime-Justice/Publications/costcrimjustscot
MEMBER’S STATEMENT ON LEGISLATIVE COMPETENCE

On 17 December 2013, the member in charge of the Bill (Dennis Robertson MSP) made the following statement:

“In my view, the provisions of the Disabled Persons’ Parking Badges (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

———

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

On 17 December 2013, the Presiding Officer (Rt Hon Tricia Marwick MSP) made the following statement:

“In my view, the provisions of the Disabled Persons’ Parking Badges (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”
INTRODUCTION

1. This document relates to the Disabled Persons’ Parking Badges (Scotland) Bill introduced in the Scottish Parliament on 17 December 2013. It has been prepared by the Scottish Government on behalf of Dennis Robertson MSP, to satisfy Rule 9.3.3A of the Parliament’s Standing Orders. The contents are entirely the responsibility of the member and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 44–EN.

POLICY OBJECTIVES OF THE BILL

2. The blue badge scheme provides concessions to disabled people who meet the scheme’s prescribed eligibility criteria to park where restrictions may otherwise apply. The scheme plays an important part in helping disabled people access jobs, shops and community services. Without their blue badge, many would be confined to their home.

3. The proposals in the Bill follow a four year period of reform of the scheme and are primarily aimed at improving the ability of local authorities to tackle misuse of the blue badge, particularly by third parties, to obtain on-street parking concessions. Each time a blue badge is misused by a third party, blue badge holders are prevented from parking in that space. The Bill will improve the quality of life for many disabled people by tackling misuse to free up parking spaces for those who are entitled to the parking concessions and who need them most. The Bill aims to protect the rights of badge holders and strengthen the existing framework of the scheme.

4. The Bill will amend section 21 of the Chronically Sick and Disabled Persons Act 1970 (“the 1970 Act”) in order to help tackle blue badge misuse. It will provide additional powers to local authorities and the police to enforce the blue badge scheme in Scotland. It will strengthen current enforcement powers, including the ability to cancel or confiscate a badge in certain circumstances and will provide for security features of the blue badge format to be approved administratively by the Scottish Ministers.

5. The Bill will also allow regulations to be made to ensure that people refused a blue badge on eligibility grounds are entitled to seek a review of the decision from the local authority.

6. The Bill contains six provisions as follows:
This document relates to the Disabled Persons' Parking Badges (Scotland) Bill (SP Bill 44) as introduced in the Scottish Parliament on 17 December 2013

- **Section 1 - Form of badge** amends section 21(1A) of the 1970 Act to provide that the form of a blue badge must fulfil any requirements specified in regulations or set administratively by the Scottish Ministers.

- **Section 2 – Power to cancel badge** provides a power for local authorities to cancel badges which are no longer held by the person to whom they were issued (either because they have been lost or stolen or for other reasons).

- **Section 3 – Power to confiscate badge** extends the provision which currently allows a constable or other enforcement officer to examine a blue badge so as to also allow confiscation of the blue badge where it is apparent that the badge should have been returned to the local authority within the requirements of the regulations, or has been cancelled or misused or forged.

- **Section 4 - Offence of using cancelled badge** makes amendments of section 21(4BZA) of the 1970 Act and section 117(1ZA) of the Road Traffic Regulation Act 1984 Act (“the 1984 Act”). These provisions relate to the wrongful use of a blue badge while driving or parking a vehicle. It is made an offence to use a badge that should have been returned to the local authority as provided for in the regulations. The wrongful use of a badge that has been cancelled by the local authority will also be an offence. (A person committing one of these offences will be liable on summary conviction to a fine not exceeding level 3 on the standard scale.)

- **Section 5 – Enforcement officers** provides a power for local authorities to designate certain persons (other than parking attendants in uniform) to examine and retain badges in pursuance of matters relating to fraud or misuse of a blue badge. Unlike parking attendants, these officers would not be required to wear uniform, but would need to carry identification.

- **Section 6 – Review of local authority decision** allows the making of regulations to require local authorities to have review processes in place for applicants who have been refused a blue badge on grounds of eligibility.

**BACKGROUND**

7. The Disabled Persons’ Parking Badge scheme was introduced throughout the UK in 1971 (originally known as the orange badge scheme). The scheme is now commonly referred to as the blue badge scheme (“the scheme”) and the disabled persons’ blue badge is mutually recognised throughout the European Union. Local authorities are responsible for the administration of the scheme. The badge itself is produced and distributed through a central point and the design of the badge is the same for Scotland, England and Wales, incorporating security features to the same standard as those contained in a British passport.

8. In Scotland, the blue badge scheme provides parking concessions to enable badge holders to park without charge or time limit in otherwise restricted on-street environments (on-street parking meters, pay and display parking bays, designated disabled parking bays) and to park on single and double yellow lines, provided it can be done safely and with attention to loading or other local parking restrictions.
9. The scheme is open to disabled people who meet the eligibility requirements set in legislation. Blue badge holders must be present in the vehicle, irrespective of whether they are travelling as a driver or a passenger, for valid use of the badge. Badges are normally issued for a period of three years.

10. Having a blue badge allows people to be independent with their travel arrangements, enabling them to access jobs, shops and other services and to lead full and active lives. At 31 March 2012 there were 263,000 badges on issue in Scotland (around 3000 of these are issued to organisations which are responsible for the care and transport of persons who would qualify for a blue badge).

11. The blue badge scheme does not apply to off-street car parks, for example supermarkets and airports. However, many private car park owners permit badge holders to access disabled parking bays or to have free access to other facilities such as workplace parking bays.

**Existing legislation**

12. The primary legislation for the scheme is contained in section 21 of the 1970 Act. This is supported by secondary legislation in the Disabled Persons’ (Badges for Motor Vehicles) (Scotland) Regulations 2000 (S.S.I. 2000/59), as amended. The Regulations provide the operational requirements for the scheme, including:

- the form of badge;
- the description of disabled person to whom a badge may be issued (eligibility criteria);
- the circumstances and manner in which a badge may be displayed;
- the period of issue of a badge;
- the circumstances in which a badge must be returned;
- the cases in which an authority may refuse to issue badges;
- the fee which may be charged for the issue of a badge;
- the conditions (relating to the misuse of badges) which must be met if an authority is to refuse to issue a badge;
- the conditions (relating to the misuse of badges) which must be met if an authority is to require the return of a badge;
- the procedure for appeal where a local authority requires the return of a badge; and
- the badges issued outside Great Britain which may be recognised.

**Blue Badge enforcement provision in current legislation**

13. Subsections (4B), (4BA) and (4BB) of section 21 of the 1970 Act respectively make it an offence to drive a vehicle displaying a disabled persons’ badge that is not issued under section 21 and displayed in accordance with regulations, provide “constables” (who include police officers, police traffic wardens and local authority parking attendants) with a power to inspect badges, and
make it an offence not to produce a badge for inspection when required to do so. Police officers also have powers under other legislation to confiscate a badge.

14. Section 115 of the 1984 Act makes it an offence to use, lend or allow use of a blue badge with intent to deceive or to make or have in one’s possession anything so closely resembling a blue badge as to be calculated to deceive.

15. Section 117 of the 1984 Act makes it an offence to park a vehicle displaying a disabled persons’ badge unless it has been issued under section 21 of the 1970 Act and is displayed in accordance with the regulations made under it.

Parking enforcement – current arrangements

16. The responsibility for on-street parking enforcement is for the police and local authorities. The police are responsible where parking remains criminalised and Police Scotland use police officers or police traffic wardens to enforce parking restrictions. At the time of writing this memorandum, Police Scotland has announced a review of the traffic warden service provision throughout Scotland.

17. Local authorities are responsible in areas where parking has been decriminalised and use uniformed parking attendants to impose Penalty Charge Notifications for parking infringements. (Local authorities might also contract out this service to private companies).

18. The Road Traffic Act 1991 introduced provisions enabling the decriminalisation of most non-endorseable parking offences and the relevant provisions of the 1991 Act were commenced in Scotland in June 1997. This allowed for significant change to be made to parking enforcement in a number of council areas and a change to the service provision by the then local police forces.

19. Currently 12 local authorities operate Decriminalised Parking Enforcement (“DPE”). These are Edinburgh City, Glasgow City, Aberdeen City, Perth and Kinross, South Lanarkshire, Dundee, Renfrewshire, East Ayrshire, South Ayrshire, Fife, East Renfrewshire and East Dunbartonshire. Inverclyde and Argyll and Bute have also applied to Transport Scotland to operate DPE and are currently going through the application process.

20. In off-street parking areas, responsibility for enforcement lies with the local authority where the local authority owns and operates the car park and with the relevant private operators in the case of private car parks.

21. The misuse of a blue badge is a criminal offence and the potential penalty is therefore more serious than that imposed for a parking infringement. The provisions of section 21 of the 1970 Act make it a criminal offence to display a blue badge that does not conform to the regulations. This offence can attract a fine of up to £1,000. Failure to allow examination of a blue badge by a police officer, traffic warden or parking attendant can also attract a fine of up to £1,000.
22. Misuse of a blue badge can range from inadvertent misuse, for example, by a family member who simply does not know the rules of the scheme or blatant and deliberate misuse by an individual who is not entitled to a blue badge to obtain free parking concessions for their own benefit. This prevents blue badge holders accessing these parking spaces.

23. Common forms of blue badge misuse have included:
   - family members or carers using a badge, with or without the knowledge of the badge holder;
   - family members using badges after the badge holder has died;
   - applications being made using a deceased person’s name and details;
   - applications made by people using false identities or who misrepresent themselves or who make false statements about their disability;
   - badges being copied and forged;
   - badges being tampered with to alter the expiry date;
   - badges being falsely reported as “lost”, so that holders can be issued with replacements that are then used in more than one car or by family members; and
   - badges being stolen from cars for illegal re-sale.

24. Police and local authorities work together to investigate and report cases of misuse and fraudulent use of a blue badge to the Procurator Fiscal who will decide what action to take in individual cases. For example, Glasgow City Council and the police carry out joint operations, targeting specific hot spot areas where the misuse of blue badges is a regular occurrence. These operations are resource intensive and have to be repeated at regular intervals. The blue badge can have a substantial financial value as it provides a concession to parking charges in areas where there is on-street metered parking or in council run car parks. This can contribute to the incentive to abuse the scheme, particularly in urban areas where parking charges can be high.

Research

25. ODS Consulting was commissioned by Transport Scotland in 2012 to carry out research on “The Use and Value of the Blue Badge Scheme1”. The researchers carried out 819 telephone interviews with blue badge holders and the parents of children with badges. They found that for badge holders the “greatest value of the badge was securing their independence and ability to get out and about allowing a certain quality of life”.

26. Abuse of the scheme reduces the number of on-street disabled parking bays and other on-street parking spaces available for use by genuine blue badge holders. This results in badge holders being unable to access services in the community. The research shows that the blue badge plays a vital role in enabling people with mobility problems to live their lives as fully as they can. In the telephone survey carried out by ODS Consulting, 76% (624 out of 819) said that

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without their badge they would go out less often. Additionally, in focus groups some badge holders said that they would not be able to go out at all.

27. The research also found that 83% (679 out of 819) of blue badge holders in Scotland had experienced misuse of blue badges or disabled persons’ parking spaces, and 52% (424 out of 819) regularly experienced misuse. Misuse is seen as a major problem by a majority of badge holders (52%), (425 out of 819).

28. Nearly half of badge holders surveyed (49%) considered that the blue badge scheme was not adequately enforced. In focus groups, badge holders expressed concerns about inadequate enforcement. They also held the view that traffic wardens and local authority parking attendants were not always clear on the rights and responsibilities of blue badge holders. No member of the focus groups had ever heard of anyone being prosecuted for misusing a blue badge. This may explain why half of them felt the scheme was not adequately enforced.

29. There are no statistics on the level of blue badge misuse in Scotland. However, Department for Transport research in 2008 in English local authorities found that between 1% and 3% of badges were replacement badges for lost and stolen badges, many of which turned up being used by family members. Further Department for Transport research in 2010, in local authorities in England, suggested fraud levels of between 2% and 4%. This estimated average includes highly pressurised cities such as London and it is assumed that the Scottish average will be less. A level of just over 1% would equate to around 2,500 forged or fraudulent badges in Scotland.

30. Although there are no definitive numbers for the whole of Scotland, there is evidence for the reality of the problem. As an illustration, the City of Edinburgh Council typically reports 20-30 of the more serious examples of blue badge fraud or misuse to the Procurator Fiscal each year. The costs to local authorities in terms of lost parking revenue can be significant. The cost to the Council of someone misusing a badge every day for a year in Edinburgh could be up to £6,000.

Programme of reforms

31. The Scottish Government has worked with the Department for Transport and the Welsh Government over the last four years to reform and modernise the blue badge scheme. The aim of the reform programme was to create a more consistent and unified scheme across the UK, to ensure that only those who meet the statutory criteria hold a blue badge and to ensure that the scheme is able to deal with future pressures and demands.

32. Reform of the scheme was informed by the Scottish Government’s consultation on blue badge reform which took place in October 2010. To support the reform process, the Scottish Government established a blue badge reform working group with representation from the

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4 Blue Badge Reform Consultation Document and Blue Badge Reform - Analysis of Consultation
Convention of Scottish Local Authorities (“COSLA”), local authorities, the voluntary sector, health service, College of Occupational Therapists, the police and the Mobility and Access Committee for Scotland. The reform process was also assisted by the findings of the Department for Transport research “Improving Blue Badge administration, assessment and enforcement: good practice review” (July 2011).

33. The reforms included:
   - the introduction from 1 January 2012 of a central database of all new badges issued, with key information on badge holders;
   - significant anti-fraud design improvements to the design of the new blue badge to prevent misuse and abuse;
   - local authorities being able to refuse to issue a badge or withdraw badges following a single relevant conviction in relation to misuse of a badge by a badge holder (rather than three previous convictions); and
   - the introduction from 1 September 2012 of Independent Mobility Assessments delivered by occupational therapists or physiotherapists who assess those applicants where there is uncertainty as to whether they meet the “unable to walk or virtually unable to walk” eligibility criterion. The aim was to provide greater consistency of practice and maximise efficiencies compared to assessment practice which in the past relied upon assessment by the applicant’s own GP.

34. As part of the 2010 consultation, the Scottish Government also signalled its intention to provide improved enforcement powers to local authorities and canvassed views on giving local authorities new or amended powers to tackle misuse of the blue badge scheme. It proposed to give powers to local authorities to confiscate badges that have been cancelled and/or are being misused by a third party for their own benefit. 450 respondents agreed that local authorities should have these powers, out of a total of 509 responses.

Consultation on this Bill

35. In recognition of this earlier support to tackle blue badge misuse, Dennis Robertson MSP submitted his draft proposal for the Disabled Persons’ Parking Badges (Scotland) Bill on 18 December 2012. This was accompanied by a consultation which made the case for amending the law in Scotland and covered six specific areas. The consultation document has been published on the Parliament’s website along with an analysis of the responses. Copies of or links to it were sent to a wide range of stakeholders including local authorities, the police and voluntary sector organisations.

36. The consultation ran until 28 March 2013 and 81 responses were received, 43 from individuals and 38 from organisations. There was widespread support for the general aim of the Bill to provide better enforcement. Responses in relation to the specific proposals show that a
majority of respondents support each of these. The responses to each question in the consultation are included in the narrative for each section in the Bill.

37. As part of the consultation process, Dennis Robertson MSP held meetings in Aberdeen, Edinburgh and Glasgow which were attended by the public, voluntary organisations and local authorities. All were keen to reduce the propensity for misusing a blue badge. He also met with SENSE Scotland, Inclusion Scotland and Capability Scotland. These meetings allowed detailed discussion of issues around protecting the rights of badge holders. These identified the need for:

- the timely return of confiscated blue badges to the holder in cases of misuse by a third party;
- assurance that the new powers would not be used to question a person’s disability and right to a badge on eligibility grounds;
- specific guidance and training for enforcement staff;
- a public education programme outlining the rights and responsibilities of blue badge holders; and
- an appeals/review process which is transparent, accountable, consistent and easily accessed.

38. In addition, Scottish Government officials have established two working groups to consider how the Bill’s proposals will operate in practice. The groups comprise membership from local authorities, Police Scotland, the College of Occupational Therapists, the Mobility and Access Committee for Scotland, Inclusion Scotland, Capability Scotland, Spinal Injuries Scotland, the Crown Office and COSLA.

39. One working group is looking at the confiscation process and the process for return of badges to badge holders. In addition, it will also progress the work identified in the research and the consultation to improve public awareness of the rights and responsibilities of badge holders. The second group is considering how local authority reviews of eligibility decisions can be applied more consistently across the country. The aim is to ensure that the Bill’s provisions are fashioned into workable, effective processes.

Raising awareness

40. Consultation respondents felt strongly that there was a need to raise general awareness of the blue badge scheme and the rights and responsibilities of blue badge holders. Both individual respondents and organisations said that this was crucial, not only for those involved in enforcement of the scheme but also for blue badge holders themselves and the wider public.

41. The need to raise awareness has also been evidenced through the recent Transport Scotland commissioned research carried out by ODS Consulting with blue badge holders. This showed that their overall awareness of the rules and restrictions was high. The overwhelming majority (94%), (767 out of 819) support the current eligibility criteria. 76% (623 out of 819) of blue badge holders have or are aware of the blue badge Rights and Responsibilities booklet and

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7 [The Use and Value of the Blue Badge Scheme](#)
92% (755 out of 819) think they have a good understanding of the restrictions. Focus group discussions however demonstrated some confusion about particular aspects of the scheme, despite badge holders claiming that they understood the regulations. This suggests that there may be some inadvertent misuse of blue badges, which highlights the importance of ensuring sensitive enforcement by local authorities.

42. It is not the intention to introduce the power to confiscate badges following inspection without ensuring that those who will exercise that power are trained to exercise it appropriately. The working group will provide updated guidance which the police and local authorities can incorporate into local training for enforcement staff.

England and Wales

43. Similar legislation on the enforcement of the scheme has been introduced in England and Wales through the Disabled Persons’ Parking Badges Act 2013. England and Wales have not legislated for a review process against refusal of a blue badge on grounds of eligibility.

BILL PROPOSALS

Section 1 - Form of badge

Policy objective

44. Section 21 of the 1970 Act currently requires the Scottish Ministers to specify the form of the blue badge in regulations. The original purpose of this legislation goes back to 1970 and was to allow local authorities to produce badges in their own local authority area to a consistent national design. However, the recent reforms of the blue badge scheme and advances in technology have allowed for badge production to be centralised and this is now provided under contract by a specialist company on behalf of the UK, Welsh and Scottish Governments.

45. There is therefore no longer a requirement to provide the level of detail of the format of the badge in regulations. Additionally, the badge has been modernised and now contains a number of anti-fraud security measures in its design. Having the detailed specification of the badge in regulations therefore heightens the risk of forgery.

46. The policy objective is to amend the existing provision in the Act which requires the form of the badge to be set down in subordinate legislation so as to provide in future that some elements of the specification can be set down in this way and some can be set administratively by the Scottish Ministers.

47. The effect of this is to allow some of the security features which are required only by the company producing the badge (such as the type of plastic used) to be excluded from publication in regulations. This will reduce the possibility of badges being forged. This in turn meets the overall aim of the Bill to reduce the incidence of misuse and fraud, ensuring that badge holders have every opportunity to benefit from the blue badge parking concessions.
Alternative approaches considered

48. The UK Parliament has recently passed the Disabled Persons’ Parking Badges Act 2013. In England and Wales, this has removed the requirement to specify in regulations the design of the blue badge. The original intention was to do the same in Scotland. As part of the consultation, Dennis Robertson MSP sought the view of Rosemary Agnew, Scottish Information Commissioner, on the basis that the amendment would be removing information that was currently freely available to the public, albeit that the original purpose was for use by local authorities. As a result of the Commissioner’s advice and with the agreement of the Minister for Transport and Veterans, it was decided to drop the earlier proposal to remove the requirement to specify the design of the badge from the existing legislation in its entirety.

49. The proposal is now to retain some of the features of the badge in regulations. This meets the Scottish Government’s principles of Freedom of Information and, as suggested by the Scottish Information Commissioner, it strikes a balance by retaining more general information in the public domain which means that the general public will have an idea of how the badge looks, while protecting the security features of the badge.

Consultation

50. Respondents to the consultation generally supported the proposal to remove the design format from regulations to safeguard the security features of the badge.

Section 2 and Section 4 - Power to cancel badge and offence of using cancelled badge

Policy objective

51. The policy objective of section 2 is to enable local authorities to cancel a badge which is no longer in the possession of the person to whom it was issued, for example, when the badge has been reported lost or stolen or the badge holder has died.

52. Section 4 of the Bill makes it an offence to display a badge which should have been returned to the local authority under the regulations or to display a cancelled badge.

Proposed approach

53. The Blue Badge Improvement Service (“BBIS”) database was introduced in 2012 to provide local authorities across the UK with up to date information on the status of blue badges. On checking the database, enforcement officers would be alerted that a badge has been cancelled by a local authority and should no longer be displayed on a motor vehicle. In such circumstances the badge could be confiscated to prevent further misuse.

54. In cases where a blue badge is not reported as lost or stolen and is subsequently found and returned to a local authority, the local authority normally contacts the badge holder and returns the badge. This practice will continue.

55. Badge holders who comply with the rules of the scheme will be protected. Each badge issued contains a unique identifier and in those cases where a badge is reported lost or stolen by the badge holder, the issuing local authority can cancel the badge on the database and issue a
replacement badge with a different identifier. The database will alert enforcement officers (across the UK) that the badge has been cancelled and should no longer be displayed on a vehicle.

Consultation

56. A large majority of respondents were in agreement to the proposal to allow local authorities to cancel badges and that display of a cancelled badge should be an offence. A few respondents however were not convinced of the need to create a new offence in support of enforcement and thought that existing legislation might be sufficient.

57. Comments included:
   - “The power to cancel would assist effective enforcement and provide a deterrent to misuse and abuse of blue badges, with the potential to reduce the black market value of a badge.”
   - “The process would depend on an up-to-date, reliable and comprehensive database being available to all local authorities, clarifying the legality of any use of a badge that is lost or stolen and ensuring that replacement badges are issued quickly where appropriate.” The BBIS database mentioned above now provides up to date information on badge holders.

Alternative approaches

58. No alternative approach was considered.

Section 3 - Power to confiscate a badge

Policy objective

59. The policy objective is to allow relevant local authority or police officials in certain circumstances to confiscate a parking badge which is being misused.

60. This would include confiscation of a badge which, on examination, appears not to have been issued under the 1970 Act, has been cancelled, should have been returned to the local authority in the circumstances prescribed by regulations or is being misused.

61. Regulations will identify the circumstances under which badges confiscated from third parties will be returned by the issuing local authority to the badge holder to whom it was originally issued.

Proposed approach

62. Misuse of a blue badge ranges from deliberate intent to gain free parking concessions to inadvertent misuse of a badge by a carer or relative through a lack of knowledge of the rules. Regardless of the circumstances, each time a badge is misused many badge holders may be disadvantaged by being unable to park in that space, causing stress, frustration and depriving them of their independence.
This document relates to the Disabled Persons' Parking Badges (Scotland) Bill (SP Bill 44) as introduced in the Scottish Parliament on 17 December 2013.

63. Unique identifying features contained in a blue badge assist enforcement officers to determine whether the badge is valid within the terms of the scheme. If examination of the badge shows that it does not comply with the requirements of the scheme, an enforcement officer may request the individual to clarify the circumstance in which the badge is being used, for example, if the person using the badge is not the person in the photograph on the badge.

64. Enforcement officers have the power to examine a blue badge which they suspect is being misused but they do not have the specific power to confiscate a badge. Currently only police officers have that power in certain circumstances. This can lead to situations where a traffic warden or parking attendant has to return the badge to the person using it at the time, even though the badge may have been reported lost or stolen and subsequently cancelled, has expired, has been changed or forged or is being misused by a third party. In such circumstances, there is no guarantee that the badge will be returned by the individual to the badge holder.

65. The power to inspect badges was introduced by section 73 of the Transport (Scotland) Act 2001 to support the penalties for misuse of a blue badge which were seen to be less effective because of the inability of police or enforcement officers to inspect them. Although a proposal was made at that time to extend the power to confiscate to parking attendants and traffic wardens, it was dropped over fears that blue badge holders might be disadvantaged by having their badges confiscated indiscriminately.

66. Under the terms of this Bill, badges will only be confiscated where it is clear that the badge is being misused by a third party or is invalid because it has been cancelled, expired, or forged or should have been returned to the local authority under the terms of the regulations. Badges are required to be returned on the death of the badge holder, when it has become so damaged or faded that it is illegible or in cases where a replacement badge has been issued by the local authority or another badge has been issued to the holder by another local authority. Only one badge can be held by an individual.

Consultation

67. ODS Consulting interviewed 819 badge holders in Scotland on the “Use and value of the Blue Badge” and found that 49% considered that the blue badge scheme was not adequately enforced. 83% had experienced misuse of badges or disabled persons’ parking spaces and misuse was seen as a problem by 52% of those interviewed.

68. The Scottish Government consultation in 2010 on the reform of the blue badge scheme asked whether “local authorities should have the power to confiscate badges that have been cancelled, and/or are being misused by a third party for their own benefit”. This proposal was supported by the majority of respondents.

69. Dennis Robertson MSP’s consultation in 2013 also asked if traffic wardens and local authority parking attendants should be allowed to confiscate a blue badge which they suspect is fraudulent or is being misused. The proposal was supported. A total of 41 respondents agreed, 25 unequivocally and 16 with some element of qualification, whilst 10 respondents disagreed.

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Blue Badge Reform - Analysis of Consultation
70. In both consultations, concerns were raised around the detail as to how the powers will be implemented. For example, badge holders were fearful of being disadvantaged if their badges were confiscated due to unscrupulous misuse by a third party without their knowledge. Others were concerned that the parking attendant or traffic warden might question their disability and right to the blue badge, particularly in cases where their disability is not visible or apparent.

71. The Bill is intended to give relevant powers to local authority and police officials to reduce the propensity for misuse of the blue badge. Questioning an individual’s eligibility to a badge is not the proper role of enforcement staff and their training on equality awareness should be quite clear on this. The role of enforcement staff is to ensure that the person who has been afforded the right to have a blue badge is the person who is actually using it, whether it is as a driver or a passenger in the vehicle.

**Process of retention and return of badge to the badge holder**

72. In view of the consultation responses and the discussions with representatives of agencies and voluntary organisations on the confiscation working group, it was recognised that it would be crucial to provide reassurance to badge holders that badges confiscated from third parties would be returned by the local authority to the original holder within a reasonable timescale. This was considered an important part of the process in order to prevent those persons with valid badges being disadvantaged through the actions of a third party. Returning confiscated badges would allow the badge holder to continue to use their badge.

73. Regulations will require local authorities to return valid badges to the badge holder following confiscation from a third party by enforcement staff. The return of the badge will be accompanied by a reminder of the holder’s responsibility to ensure that they are the only person to use the badge.

74. In cases where a valid badge is required to be held as evidence in a court case against a third party, the badge can be cancelled by the local authority and a new badge issued with a different identifying number. This will avoid inconvenience to the badge holder.

75. Unfortunately, there are likely to be occasions when badge holders themselves do not comply with the requirements of the scheme and in such cases local authorities will, as they do now, take the circumstances of each case into account. Badges will be confiscated where a badge holder inadvertently displays an expired or damaged badge as the badge is no longer a valid document. In such cases, the badges will be destroyed and the badge holder will be advised to apply to the local authority for a new badge or, in the case of a damaged badge, a replacement.

76. Safeguards are now in place under the Blue Badge Improvement Service to reduce the risk of a person continuing to display an expired badge because they have forgotten to re-apply before the expiry date. Since January 2012, the blue badge application form asks the applicant if they wish to be reminded when their badge is nearing expiry, in order that they can re-apply in good time. Each person receiving a blue badge also receives an information booklet which explains their rights and responsibilities as a badge holder.
77. Disability organisations expressed concern that there is no right of appeal for a badge holder whose badge has been confiscated from a third party in their absence. This issue is now addressed by the intention to return all valid badges to the badge holder. Badges which have expired, have been cancelled, or are damaged are not valid.

78. A badge holder already has the right of appeal to a local authority if the authority issues a notice of withdrawal of a badge, where there is evidence of a previous conviction for misuse of a badge or that the badge holder has purported to transfer the badge to another person. In the minority of cases where a valid badge is confiscated from a third party and the local authority is satisfied that there has been a previous conviction for misuse or the badge holder has purported to transfer the badge to another person, it will be open to that authority when returning the badge to the holder to issue a notice of withdrawal. The badge holder will have the same right of appeal against withdrawal of their badge in those circumstances.

Timescale for return of badge to holder

79. Members of the working group agreed that a timescale for local authorities to return the badge to the holder should be included in regulations. Some considered that a defined timescale of days should be identified for the return of the badge, while others supported a less rigid approach of “as soon as practicable”, similar to that adopted in England. It was agreed that an approach which included both (e.g. as soon as practicable but no later than 14 working days) would be appropriate. This would be supported by a requirement on the local authority to explain in writing to the badge holder the reason for any delay beyond the period prescribed by the regulations.

80. The Bill is intended to allow local authorities to build on existing local practice. Strengthening the legislation to allow enforcement officers to confiscate badges and increasing public awareness of the blue badge scheme’s rules and regulations will also act as a long term deterrent to misuse. The Bill is not about what happens to the perpetrators of blue badge misuse or about increasing the number of individual prosecutions. Local authorities and the police will, as they do now, take into account the circumstances of each case.

Alternative approach

81. One voluntary sector organisation suggested that a warning system should be implemented instead of confiscation of the badge. This option has been discounted because handing back the badge to the third party with a warning would not guarantee that it is returned to the original badge holder. It would also allow the misuse to continue and the badge holder to be completely deprived of the use of their badge. Other blue badge holders would also be deprived of the use of a blue badge parking space. The blue badge is owned by the local authority and issued to a specific individual. If that badge is being misused by a third party it is reasonable and proportionate for the local authority to retain it and return it to the person to whom it was issued, ensuring that the person has access to the parking concessions provided by the scheme. Confiscating a badge also sends out a clear message to the perpetrator that misusing a blue badge is illegal.
Section 5 - Enforcement officers

Policy objective

82. The policy objective is to give local authorities an additional option, should they wish to use it, to authorise officers to exercise relevant powers. These officers (whether in uniform or not) will be required to carry identification.

83. It is recognised that this power may be more attractive to local authorities in urban areas where parking is at a premium and there is greater temptation to misuse a blue badge. However one local authority which responded to the consultation considered that it would also be helpful in large rural areas. Other authorities thought that joint working arrangements with neighbouring local authorities might be appropriate. It will be entirely at the discretion of each local authority as to whether it authorises individuals. The proposal will not impose any requirement on local authorities to have plain clothed enforcement officers.

84. Cases of suspected persistent fraud or misuse of a blue badge cannot always be investigated on the spot by parking attendants or traffic wardens who have wider enforcement duties to carry out. Such cases may need longer term surveillance and investigation. Blue badge misuse may also be identified through complaints from the public and further investigation may be required to gather the necessary supporting evidence.

85. The City of Edinburgh Council takes a proactive approach to blue badge misuse and uses a fraud investigation officer, who works alongside parking enforcement and administrative staff, to assist with gathering information and evidence of alleged abuse of the blue badge scheme.

Proposed approach

86. The Bill will introduce a new definition of “enforcement officer” which will mean a traffic warden, a parking attendant or an authorised person employed or contracted by a local authority (whether or not uniformed).

Alternative approaches considered.

87. No alternative approach was considered.

Consultation

88. Many more respondents agreed than disagreed that local authorities should have the power to appoint persons (other than parking attendants in uniform) to examine and/or confiscate blue badges as a result of their investigations. There was comment on the need for appropriate training, as well as careful selection criteria in appointing people to these positions. There were mixed opinions as to whether such persons should or should not be required to wear uniform.

89. The local authority representatives who attended the consultation events held by Dennis Robertson MSP in Aberdeen, Glasgow and Edinburgh indicated an interest in this proposal.

90. The Bill will allow local authorities to decide whether or not an enforcement officer should be in uniform. Regardless, they will still be required to carry identification.
Section 6 - Review of local authority decision

Background

91. Local authorities can issue a blue badge if a person meets the eligibility criteria prescribed in the Disabled Persons (Badges for Motor Vehicles (Scotland) Regulations 2000, as amended. At 31 March 2012 there were 263,000 badges on issue in Scotland. Around half were issued to those who qualify automatically and do not require assessment by the local authority. This is known as passporting.

92. Badges may be issued without assessment by the local authority if the applicant:
   - receives the higher rate of the mobility component of Disability Living Allowance or Personal Independence Payment at the appropriate rate; or
   - receives the War Pensioners’ Mobility Supplement; or
   - has received a lump sum benefit under article 15(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011 at tariff levels 1-8 (inclusive); or
   - is blind or registered blind.

93. Badges may also be issued following assessment by the local authority if the applicant:
   - regularly drives a vehicle and has a severe disability in both arms and is unable to operate, or has considerable difficulty in operating, all or some types of parking meter; or
   - has a permanent and substantial disability which causes the person to be unable to walk, or virtually unable to walk; or
   - is unable to walk or virtually unable to walk by reason of a temporary but substantial disability which is likely to last for a period of at least 12 months beginning with the date on which the blue badge is issued; or
   - is a child under three who is required to be accompanied by bulky medical equipment or kept near a motor vehicle so that they can be treated for their condition.

94. Applicants who are not in receipt of a passporting benefit can apply through the assessment route in their local authority. This is a standardised process across Scotland. Many of these applications will be determined through a desk based assessment using the information supplied by the applicant from verifiable sources, or information held by the local authority for example, through other services received as a result of their disability. In cases where a desk based assessment cannot determine eligibility, the local authority may refer the applicant for an Independent Mobility Assessment which is undertaken primarily to determine whether a person meets the specific definition in the scheme of being “unable to walk or virtually unable to walk”. For many people, however, eligibility can be determined without the need for an Independent Mobility Assessment.

95. Independent Mobility Assessments were introduced from September 2012 and are carried out by occupational therapists. They replace the practice of an applicant’s own GP providing a
medical assessment to inform a local authority decision on the award of a blue badge. This has shifted the emphasis on qualification for a blue badge from the applicant’s medical condition to the effect of the applicant’s medical condition on his or her ability to walk.

96. Whilst Independent Mobility Assessments are relatively new, work by a multi-agency working group to introduce them in Scotland was predicated on experience of their use in pilots in England. The findings of research undertaken by Integrated Transport Planning for the Department for Transport in 2011 “Improving Blue badge administration, assessment and enforcement: good practice review”\(^\text{10}\) (page 103) reported that focus group discussions with disabled people found that “Independent Mobility Assessments, conducted by a healthcare professional independent of the applicant’s treatment, were perceived as the most robust approach overall to determining an applicant’s eligibility against the blue badge criteria.” Those who took part also thought it would reduce abuse of the scheme, which was widely identified as a problem, and praised the fact that the assessment and decision on awarding a blue badge was fully informed by a qualified healthcare professional.

Challenging the decision not to award a blue badge

97. In addition to this two tier process of desk based assessment and Independent Mobility Assessment, 20 local authorities advised Transport Scotland that they had followed the advice in the blue badge Code of Practice by having a review process in place to allow applicants who had been refused a blue badge to request a review of the decision. However some of these local authorities did not advise applicants of the process.

98. Information provided to Transport Scotland by local authorities covered a snapshot of the operation of the first two months of Independent Mobility Assessments. From 10,000 blue badge applications, 1456 required an Independent Mobility Assessment to determine their eligibility for a badge. 1150 were issued a badge following the assessment, 227 were refused a badge and did not request a review, 20 were refused and requested a review, 59 cancelled their appointment or did not attend. This represented only 20 requested reviews out of the original 10,000 applications following an Independent Mobility Assessment (0.2%).

Consultation

99. In 2010, respondents to the Scottish Government consultation on the reform of the blue badge scheme supported the introduction of an appeals process for those not awarded a blue badge on grounds of eligibility. The consultation on this Bill asked a similar question and also received some support, mainly from individuals and organisations, whilst local authorities were mainly against the proposal. 32 of a total of 81 respondents to the consultation agreed that there should be a statutory appeals process, nine disagreed (40 did not answer the question). 12 out of 16 disability organisations agreed (four did not answer the question). 13 out of 43 individuals agreed, four disagreed (26 did not answer the question). In terms of local authorities, of the 14 who responded, three agreed the need for a statutory appeals process and five disagreed (six did not answer the question).

100. There were varying views as to what such a process should look like, ranging from a local authority in-house review to the establishment of independent bodies, favoured by some

\(^{10}\) http://www.dft.gov.uk/publications/blue-badge-good-practice-review/
voluntary organisations, to undertake the task. COSLA and some local authorities expressed concerns about the need for a costly statutory appeals process, particularly given that the criteria for a blue badge are set in regulations with little scope for discretion and an applicant’s eligibility for a blue badge could now be assessed by an Independent Mobility Assessor. It has also been acknowledged through discussion with stakeholders that any system set up should be proportionate and not overly bureaucratic given the potential small numbers applying for review. Respondents across the different groups, however, unanimously identified the need for consistency of process, along with transparency and accountability as important issues in any appeal/review process.

Policy objective

101. One of the aims of the blue badge scheme reforms has been to ensure that the criteria and assessment procedures for the award of a blue badge are tightly defined and strictly and consistently applied. Local authorities are required by the regulations to explain in writing the reasons for their refusal to issue a blue badge.

102. As mentioned above, 20 local authorities have reported having review processes in place. Given this incomplete and inconsistent adherence to the recommendation in the Code of Practice, it is considered that there should be a statutory requirement for local authorities to have a review process for applicants who have been refused a badge on eligibility grounds and to advise applicants what that review process is. This will also meet the need, identified by those who responded to the consultation, for consistency of process, along with transparency and accountability.

Proposed approach

103. The Bill will introduce a power to make regulations to require local authorities to have a review process in place which is standardised and publicised. The working group looking at the review process has identified a number of additional requirements for the operation of the review process to be included in the regulations.

104. The working group considered that to achieve consistency of process, reviews of blue badge eligibility decisions should follow a common set of principles and be completed within a reasonable period of time. These principles should include for example:

- a time limit for an applicant to request a review following receipt of a decision by a local authority not to award a blue badge, e.g. 28 days;
- a timescale for completion of the review by the local authority, e.g. 28 days;
- a requirement for the applicant to provide the reason a review is being requested;
- a requirement that the local authority review is undertaken by a person or persons who have not been involved in the previous decision; and
- a requirement for local authorities to give reasons for any delay in consideration of a review in writing to the applicant.

105. The review working group is also tasked with updating the existing blue badge Code of Practice guidance to local authorities on reviews.
Alternative approaches

106. One alternative approach was to do nothing and allow Independent Mobility Assessments time to bed in. Also as 20 local authorities already report having a review process in place, the remaining local authorities might in time implement a review process. However there is no guarantee that this would be the case and there would continue to be inconsistency of practice across Scotland.

107. Another option was to introduce an independent appeals process. The advantage of this would be the establishment or identification of a separate independent body to which unsuccessful applicants could apply. The appeal process would determine whether the local authority had correctly applied the eligibility and assessment criteria of the scheme and, where necessary, reassess the applicant in line with the scheme. This might provide reassurance to applicants that the system was fair and transparent.

108. The disadvantages of establishing an independent appeals process are that it would be costly to set up and run. In addition, it would be resource intensive for local authorities who would be required to submit relevant paperwork and in some cases attend the appeal hearing, which would take local authority staff or Independent Mobility Assessors away from the daily administration of the scheme, creating delay for other applicants.

109. On balance, taking the criteria within which the scheme is defined, the recent introduction of Independent Mobility Assessments and balancing the range of views expressed in the consultation, the primary aim is for all blue badge applicants to have a level playing field across the country. This could best be achieved at this present time through an internal local authority review process rather than an external independent appeal process which would also be bound to the eligibility and assessment criteria of the scheme and therefore unlikely to deliver different outcomes for applicants.

110. Findings from the Department for Transport report “Improving Blue Badge administration, assessment and enforcement: good practice review” (page 114), following qualitative feedback from local authorities which had previously adopted appeals panels or tribunals as a final stage of appeal, advised that they are overly bureaucratic, expensive to assemble and manage. They were also considered less satisfactory for managing appeals rather than the two stage review practices of an Independent Mobility Assessment and review by persons not previously involved in the case. The research also concluded that the introduction of an external process would not necessarily elicit a different outcome for the applicant.

111. COSLA also proposed another approach to achieving a consistent review process across the country. The suggestion was to do this through the development of national standards for a review process under the terms of the Regulatory Reform (Scotland) Bill11 rather than through primary legislation.

112. This was subsequently discounted as the Regulatory Reform (Scotland) Bill was not considered appropriate for the purpose. It is aimed around the concept of making provision

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11 http://www.scottish.parliament.uk/parliamentarybusiness/Bills/61582.aspx
about an “activity” (which broadly means a business activity). National standards can be set in connection with what local authorities do in regulating the carrying out of an “activity”. The blue badge scheme was not considered to fit with the concept of “activity” envisaged in part 1 of the Regulatory Reform (Scotland) Bill.

EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT ETC

Equal opportunities

113. An Equality Impact Assessment (EQIA) has been carried out and the results will be published. Disability and age are the main protected characteristics impacted by blue badge policy and the Mobility and Access Committee for Scotland provided helpful input to the EQIA framing exercise. Responses to Dennis Robertson’s consultation, including those from disability organisations and badge holders, were also taken into account. The EQIA concluded that the proposals in the Bill will impact positively on disabled people who are blue badge holders. By strengthening enforcement powers, the valuable parking concessions provided by the blue badge scheme will be available to disabled people with the greatest mobility needs and allow them to park closer to their chosen destination.

Human rights

114. It is not considered that there is anything in the Bill which is incompatible with rights under the European Convention on Human Rights. Section 6 paves the way for a review process in relation to local authority decisions concerning eligibility for a blue badge. Since any review would essentially be carried out internally in a local authority, those dealing with the review would not constitute an independent and impartial tribunal for the purposes of Article 6 of the European Convention on Human Rights. It is, however, considered that the existence of judicial review makes the legislative regime compatible with Article 6.

Island communities

115. The Bill has no differential impact upon island or rural communities.

Local government

116. The Bill provides local authorities with additional enforcement powers, including cancellation and confiscation of blue badges in certain circumstances. It also requires them to put in place a process to enable applicants who are refused a blue badge on eligibility grounds to seek a review of the local authority decision. The impact of the Bill provisions is set out in detail in this Policy Memorandum and the financial impacts are considered in the accompanying Financial Memorandum.

Sustainable development

117. The Bill has no negative impact on sustainable development and will have a positive impact on those who hold blue badges.
DISABLED PERSONS’ PARKING BADGES (SCOTLAND) BILL

DELEGATED POWERS MEMORANDUM

PURPOSE

1. This memorandum has been prepared by Dennis Robertson MSP with the assistance of the Scottish Government. It describes the purpose of the subordinate legislation provisions in the Disabled Persons’ Parking Badges (Scotland) Bill and outlines the reasons for seeking the proposed powers. This memorandum should be read in conjunction with the Explanatory Notes and Policy Memorandum for the Bill.

2. The contents of this Memorandum are the responsibility of Dennis Robertson MSP and have not been endorsed by the Scottish Parliament.

3. The delegated powers memorandum applies to the Bill’s provisions listed below, with a short explanation of what each power allows, why the power has been taken in the Bill and why the selected form of parliamentary procedure has been considered appropriate.

RATIONALE FOR SUBORDINATE LEGISLATION

4. Section 1 (form of badge), section 3 (power to confiscate a badge), section 6 (review of local authority decision) and section 7 (commencement) either confer delegated powers on the Scottish Ministers or affect existing delegated powers. Careful consideration has been given to whether what is to be delivered by way of these provisions necessitated subordinate legislation or could have been spelt out on the face of the Bill.

DELEGATED POWERS

Section 1 (form of badge)

Power conferred on: The Scottish Ministers
Power exercisable by: Regulations
Parliamentary procedure: Negative procedure

Provision

5. Section 1 (form of badge) amends section 21(1A) of the Chronically Sick and Disabled Persons Act 1970 ("the 1970 Act") to provide that the form of a blue badge must fulfil any requirements specified in regulations or set administratively by the Scottish Ministers.
6. The recent reforms of the blue badge scheme mean that local authorities no longer produce their own badges. These are now produced centrally under contract on behalf of the UK, Welsh and Scottish Governments. There is therefore no longer a requirement to provide the level of detail of the format of the badge for local authorities in regulations. Additionally, the badge has been modernised and now contains a number of anti-fraud security measures in its design.

Reason for taking power

7. The policy objective is to amend the existing provision in the 1970 Act which requires the form of the badge to be set down in subordinate legislation so as to provide in future that some elements of the specification can be set down in this way and some can be set administratively by Scottish Ministers. The effect of this is to allow some of the security features to be excluded from publication in regulations. This will reduce the possibility of badges being forged.

Choice of procedure

8. Negative procedure applies at present to regulations under section 21(1A)(b) of the 1970 Act and the amendment made by the Bill is not thought to justify any change to that.

Section 3 (power to confiscate badge)

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Provision

9. Section 3 (power to confiscate badge) extends section 21(4D) of the 1970 Act to Scotland and will give constables or enforcement officers the power to retain a badge that has been presented to them for examination and which appears not to have been issued under the Act, has been cancelled, should have been returned to the local authority or is being misused. This section will also bring subsection (4E) of section 21 of the 1970 Act into practical effect in Scotland, thus allowing regulations to prescribe what is to be done with a badge which has been retained under subsection (4D).

Reason for taking power

10. Because of the form in which the 1970 Act presently stands, specific provision would have been required if there had been a wish to disapply to Scotland the existing power in section 21(4E) to prescribe what is to be done with a retained badge. The power is, however, thought to be useful. Subordinate legislation will allow flexibility to respond to changing circumstances and to make changes to administrative processes quickly under the scrutiny of the Parliament but without the need for primary legislation. This will allow the detailed administrative arrangements to be kept up to date.

Choice of procedure

11. Negative procedure applies at present to regulations under section 21(4E) of the 1970 Act, although that provision does not have any practical application in Scotland. That procedure
This document relates to the Disabled Persons’ Parking Badges (Scotland) Bill (Bill (SP Bill 44) as introduced in the Scottish Parliament on 17 December 2013

is considered appropriate for the setting out of administrative arrangements on the handling of retained badges.

Section 6 (review of local authority decision)

Power conferred on: The Scottish Ministers
Power exercisable by: Regulations
Parliamentary procedure: Negative procedure

Provision

12. Section 6 (review of local authority decision) confers on the Scottish Ministers the power to make regulations requiring local authorities to review a decision they have made in relation to a person’s eligibility for a blue badge. The regulations may specify who may apply for a review and the manner in which the application is to be made. The regulations may also provide for the procedure that an authority is to follow when conducting a review.

Reason for taking power

13. The Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000 contain the operational criteria for the blue badge scheme. These Regulations already require a local authority to provide reasons for its decision to refuse a blue badge on eligibility grounds. It is reasonable to set down in subordinate legislation any new provisions allowing applicants to request a review of a relevant local authority decision and setting out the procedure applicants are to follow, rather than setting out this detail on the face of the Bill.

Choice of procedure

14. Negative procedure is considered appropriate as the delegated powers are being used to set out the detail of how an independent review process within local authorities will work in practice e.g. who may apply for a review, the application process, timescales etc. The scrutiny provided by negative procedure is considered proportionate to the scope of the regulations.

Section 7 (commencement)

Power conferred on: The Scottish Ministers
Power exercisable by: Order
Parliamentary procedure: Laid before Parliament only

15. Sections 6, 7 and 8 of the Bill will come into force on the day after Royal Assent. The remaining sections are to come into force on such day as the Scottish Ministers may by order appoint. It is standard practice for Bill provisions to be commenced by order (where the definite date of commencement is not known at the time of enactment of a Bill) and for such an order not to be subject to any Parliamentary procedure.
Local Government and
Regeneration Committee

5th Report, 2014 (Session 4)

Stage 1 Report on the Disabled Persons' Parking Badges
(Scotland) Bill

Published by the Scottish Parliament on 7 May 2014
Local Government and Regeneration Committee

5th Report, 2014 (Session 4)

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**Annexe A: Oral evidence received by the Local Government and Regeneration Committee**

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Local Government and Regeneration Committee

Remit and membership

Remit:

To consider and report on a) the financing and delivery of local government and local services, and b) planning, and c) matters relating to regeneration falling within the responsibility of the Cabinet Secretary for Infrastructure and Capital Investment.

Membership:

Cameron Buchanan
Mark McDonald
Stuart McMillan
Anne McTaggart
Alex Rowley
Kevin Stewart (Convener)
John Wilson (Deputy Convener)

Committee Clerking Team:

Clerk to the Committee
David Cullum

Senior Assistant Clerk
Fiona Darwin

Assistant Clerk
Seán Wixted

Committee Assistant
Ben Morton
INTRODUCTION

1. The Disabled Persons’ Parking Badges (Scotland) Bill (“the Bill”) was introduced to the Parliament on 17 December 2013 by Dennis Robertson MSP, the Member in Charge of the Bill (“the Member in Charge”). The Parliament designated the Local Government and Regeneration Committee as lead committee for consideration of the Bill.

2. The Bill is a Members’ Bill, as specified under Standing Order Rule 9.14, prepared with the assistance of the Scottish Government, to satisfy Standing Order Rule 9.3.3A. The Bill is accompanied by a Policy Memorandum, Explanatory Notes, and Financial Memorandum.

3. We issued a call for written evidence on the Bill on 23 January 2014. The call for evidence closed on 12 March 2014 with 27 submissions received in response. We thereafter heard oral evidence at two meetings.

4. On 26 March 2014 we took oral evidence from three panels of witnesses. The first was local authority representatives: the second comprised third sector representatives: and the last comprised representatives from professional bodies: Police Scotland and the Law Society of Scotland.

5. At our second oral evidence session on 2 April 2014 we heard from Keith Brown MSP, the Minister for Transport and Veterans (“the Minister”) and the Member in Charge. The Official Reports for both meetings are available at Annexe A.

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Blue Badge Scheme

6. The Disabled Persons' Parking Badge scheme was introduced throughout the UK in 1971 (it was originally known as the orange badge scheme). The scheme is now commonly referred to as the blue badge scheme (“the scheme”) and the disabled persons’ blue badge is mutually recognised throughout the European Union. Local authorities are responsible for the administration of the scheme. The badge itself is produced and distributed through a central point and the design of the badge is the same for Scotland, England and Wales, incorporating security features to the same standard as those contained in a British passport.

7. In Scotland, the scheme provides parking concessions to enable badge holders to park without charge or time limit in otherwise restricted on-street environments (on-street parking meters, pay and display parking bays, designated disabled parking bays). It also allows badge holders to park on single and double yellow lines, but this only applies where it can be done safely and where there are no loading or other local parking restrictions.

8. The scheme is open to disabled people who meet statutory eligibility requirements. Blue badge holders must be present in the vehicle, irrespective of whether they are travelling as a driver or a passenger, for valid use of the badge. Badges are normally issued for a period of 3 years.

9. Having a blue badge allows people to be independent with their travel arrangements, enabling them to access jobs, shops and other services and to lead full and active lives. At 31 March 2012 there were 263,000 badges on issue in Scotland (around 3000 of these are issued to organisations which are responsible for the care and transport of persons who would qualify for a blue badge).

10. The blue badge scheme does not apply to private off-street car parks, for example supermarkets and airports. However, many private car park owners permit badge holders to access disabled parking bays or to have free access to other facilities such as workplace parking bays.

Policy objective of the Bill

11. The policy objective of the Bill, as stated in the Policy Memorandum, is to protect the rights of badge holders and strengthen the existing framework of the scheme.

12. The scheme provides concessions to disabled people, who meet the scheme’s prescribed eligibility criteria, to park where restrictions may otherwise apply. Without their blue badge, many disabled persons would be confined to their home.

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13. The proposals in the Bill follow a four year period of reform of the scheme and are primarily aimed at improving the ability of local authorities to tackle misuse of the blue badge, particularly by third parties, principally relating to on-street parking concessions. Each time a blue badge is misused by a third party, whether that be in a disabled parking bay or other place where badge holders are permitted to park, blue badge holders are prevented from parking in that place. The Bill aims to improve the quality of life for many disabled people by tackling misuse to free up parking spaces for those who are entitled to the parking concessions and who need them most.

14. The Bill provides additional powers to local authority and police officials relating to the enforcement of the blue badge scheme in Scotland. It strengthens current enforcement powers, including the ability to cancel or confiscate a badge in certain circumstances. It also provides for future security features of the blue badge format to be approved administratively by Scottish Ministers and allows people refused a blue badge on eligibility grounds to seek a review of the decision from the local authority.

GENERAL PRINCIPLES OF THE BILL

15. The Committee considered the general principles of the Bill primarily under the following headings.

Levels of use and misuse
16. The 263,000 or so blue badges on issue in Scotland are widely used, for example in Glasgow we were told “about 20 per cent of bays in Glasgow are occupied by blue badge holders.” To put that figure in context it relates to 669 of the 3400 parking bays available in Glasgow city centre.

17. We heard people are misusing badges for financial gain and one of the benefits of the proposed provisions would be the power to confiscate badges. We were told vehicles displaying blue badges often parked throughout the day and with parking costing £3 an hour in Glasgow city centre, there is an attraction for people to misuse a blue badge, the risks of getting caught being slim.

18. We received evidence of the frustrations badge holders feel at being unable to access disabled spaces as a consequence of misuse or abuse. This has consequential impacts on their quality of life and can prevent badge holders accessing vital as well as everyday services. Research carried out for Transport Scotland in 2012 found that for badge holders the “greatest value of the badge was securing their independence and ability to get out and about allowing a certain quality of life.”

19. The Member in Charge noted that “the bill’s aim is to improve and support enforcement of the blue badge scheme” and “we have evidence to suggest that

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4 Disabled Persons’ Parking Badges (Scotland) Bill. Policy Memorandum (SP Bill 44, Session 4 (2014)). Available at:  
[Accessed 3 April 2014].
the blue badges are being misused on a fairly grand scale, so we need to tackle the issue.\textsuperscript{5} Misuse can take a number of forms with common ones including allowing family members or carers to use the badge when the disabled person, the badge holder, is not with them. We heard of relatives refusing to collect shopping for badge holders unless they were able to use their badge. Other examples of misuse include displaying a badge with the photograph side up so the details on the front cannot be read; copying or tampering with the badge; or using the badge if it has expired or if the disabled person is no longer eligible.\textsuperscript{6} Some forms of misuse were classified as “unintentional” by witnesses representing disability groups with examples being given of the (unwitting) use of cancelled badges and they stressed there was a need for distinctions to be drawn between wilful and unintentional misuse. But the main abuse suggested by Disability Motoring UK was “when people do not show a badge at all.”\textsuperscript{7}

20. The extent of possible misuse was provided in oral evidence sessions with Michael Brady, the Assistant Group Manager Parking Projects and Events at Glasgow City Council, stating ‘misuse is rife’. Gordon Catchlove, the Parking Fraud Prevention Officer for the City of Edinburgh Council, stated there are 17,000 badges on issue to Edinburgh residents and that—

“…between 52 and 70 percent of all badges that are on display [in Edinburgh] will be being misused.”\textsuperscript{8}

21. The Minister commenting on these figures added—

“The 52 per cent figure is the same as the percentage of blue badge holders who believe that they have experienced abuse of the system. It is obviously a very real problem…”\textsuperscript{9}

22. While it is unclear how accurate these figures are or indeed whether they refer to overall abuse rates, it is clear from the evidence we received there is a substantial problem which impacts adversely on people’s lives. The Bill aims to address by improving the ability of the enforcement authorities to take action in a number of ways.

23. We also learned one of the areas of greatest concern for badge holders was abuse within private parking areas such as supermarket car parks where there is less enforcement undertaken. We were told “people think “It doesn’t matter if I park there because no one’s going to do anything about it.” If people know that in certain areas nothing is going to happen, they will never stop doing what they are

Legislativing in private areas is outwith the competence of the Scottish Parliament although the owners have the option of making private enforcement arrangements or negotiating with the local authority to ascertain if they would be willing to enforce on their behalf.

Offences created by the Bill
24. Section 4 of the Bill seeks to bring Scotland into line with England and Wales and make it an offence to drive a vehicle whilst displaying a blue badge which has been cancelled or should have been returned to the local authority. The section would also make it an offence to display a blue badge in a parked vehicle, where that badge has been cancelled or should have been returned to the local authority. Both offences are summary offences and can be punished with a fine of up to level three on the standard scale, currently £1000. The Law Society of Scotland had concerns about the offence provisions at section 4 suggesting “it creates a new strict liability criminal offence, which in the Law Society's view is disproportionate.”

25. In oral evidence we explored this suggestion further. David Cabrelli from the Law Society of Scotland indicated a number of reasons for this—

“First, the misuse or abuse of a blue badge is already covered under the common-law offence of fraud. Secondly, in relation to the proposed strict-liability criminal offence, we are concerned that the requisite intention to defraud would be lacking. Someone could be prosecuted and convicted under section 4 without having had any motive or intention to defraud. Therefore, our concern is about, first, unnecessary duplication and, secondly, the absence of any mens rea for the commission of an offence.”

26. Assistant Chief Constable Wayne Mawson of Police Scotland had a different view stating—

“Quite often local authorities cancel a badge for a serious reason, such as theft or some sort of fraud, and taking that type of offence to a civil court is quite a step. Perpetrators of that type of crime probably view prosecution in the civil court less seriously than they view prosecution in the criminal court. I would say that what the legislation proposes is right.”

27. While we accept the Law Society’s point there is an existing offence available, we agree with the views of the police and consider the offence provisions in section 4 of the Bill are necessary, proportionate and appropriate. We note similar criminal provisions exist in England and Wales.
Enforcement of provisions

Parking infringements

28. On-street parking enforcement is the responsibility of the police and local authorities. The police are responsible where parking remains criminalised (see paragraph 31) and Police Scotland use police officers or police traffic wardens to enforce parking restrictions. Local authorities are responsible in areas where parking has been decriminalised and use uniformed parking attendants or contractors to impose Penalty Charge Notifications for parking infringements. Currently 12 local authorities operate Decriminalised Parking Enforcement (“DPE”).

29. In off-street parking areas, responsibility for enforcement lies with the local authority where the local authority owns and operates the car park and with the relevant private operators in the case of private car parks.

Misuse of a badge

30. The misuse of a blue badge is a criminal offence and the potential penalty is more serious than for a parking infringement. It is a criminal offence to display a blue badge that does not conform to the regulations (see paragraph 24).

Decriminalising of parking offences

31. In their written evidence COSLA highlighted concerns at the withdrawal of the Police Scotland Traffic Warden Service and the impact on local authorities in terms of enforcement—

“The withdrawal of the Police Scotland Traffic Warden Service will result in a gap in enforcement of up to two years in councils who have not yet but are seeking to move to Decriminalised Parking Enforcement (DPE) while councils who deem it unfeasible or not cost-effective to move to DPE face total uncertainty. It is our view that the link must be made between the practicability of the provisions set out in this Bill and the need for full and consistent enforcement of parking regulations across Scotland.”

32. A number of local authorities where parking offences had not moved to DPE and relied upon enforcement by the police also expressed such concerns including West Lothian and North Lanarkshire. Although the position of the police and any move towards DPE were not matters for the Bill we nevertheless explored this issue in oral evidence. In his opening statement on 26 March 2014, Assistant Chief Constable Wayne Mawson laid out the forthcoming Police Scotland commitment—

“We are changing the way we conduct parking enforcement by removing the traffic warden role. However, we are committed to tackling dangerous or obstructive parking and the misuse of blue badges, including parking in disabled bays. That commitment will remain after the traffic warden service ceases. We are determined to work with councils to tackle all forms of

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14 COSLA. Written submission, page 2.
abuse in that regard.” Adding later “We take them (offences) extremely seriously. For me, anything that significantly and disproportionately impacts on people who have less mobility or some kind of physical impairment has to be tackled, and Police Scotland is absolutely committed to doing that.” And noting “We have found that, as you said, there has been no significant impact since the traffic warden service was largely removed on 3 February. We have 11,000 front-line operational divisional police officers in local policing, and we have made it absolutely clear to every one of our 14 divisional commanders that we have to be robust and that people who have no blue badge and who park in on-street disabled parking bays have to be dealt with. Where off-street parking is involved, we need to link up with our statutory partners and community groups, listen to them and deal with problems in partnership, and we are doing that...we are changing the way in which we enforce. We have not walked away from enforcement—quite the reverse, in fact: we are absolutely committed to it.”

33. **We accept the position as set out by the police and consider COSLA have misconstrued the provisions of the Bill in relation to the wider issue of DPE, which is not a matter covered in the proposed legislation.**

Central database and police
34. There was some confusion during evidence about identification of valid badges and the existence of a central database recording details of badges issued by each local authority. We were aware that on 1 January 2012 the Blue Badge Improvement Scheme (“BBIS”) was launched. This provides a database for use by local authorities in England, Scotland and Wales and contains key information on badge holders. The BBIS is designed to help assist in the prevention of fraud and to enable effective monitoring of cancelled, lost or stolen badges. The police initially seemed unaware of the existence of BBIS, however we were reassured by officials that talks with the people who produce the badges were ongoing to provide access for the police to the BBIS.

Confiscation
35. The police, traffic wardens and parking attendants have existing powers to require a person to produce a badge for examination. Section 3 of the Bill gives them additional power to retain a badge produced for examination when the badge appears not to have been issued under the Act, has been cancelled, should have been returned to the local authority or is being misused. These additional enforcement powers are also conferred on persons employed or engaged by a local authority by section 5 of the Bill. These new officials need not be uniformed. To ensure the public know a person not in uniform is entitled to request production of the badge, they must produce evidence of their authorisation (see paragraph 39).

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36. The power of confiscation was subject to a number of comments with disabled groups in particular expressing concern about the impacts on the badge holder following confiscation. Inclusion Scotland—

“supported the proposal to allow badges that have been cancelled or are otherwise invalid (eg expired, tampered with or should have been returned to the issuing authority) to be confiscated to prevent further misuse. However, we have concerns that extending this power to automatically confiscate valid badges that have been misused could unjustifiably penalise disabled people who may be unaware that their badge has been misused, and may restrict their right to independent living.” 17

37. Helen Dolphin from Disability Motoring UK however accepted “the disabled person has to take some responsibility for their badge – that should go with the badge.” 18 She went on to make a plea, stating that “If badges are confiscated and then found to be genuine, I would like them to be returned quickly to their genuine holders”. 19

38. The Member in Charge stressed—

“Badges that are confiscated will be returned as quickly as possible to the badge holder. We are trying to ensure that badges that are being misused by a third party are returned to the badge holder as quickly as possible. A person misusing a badge for on-street parking is denying a legitimate badge holder access to a parking space.” 20

Non-uniformed officers

39. Concerns were also raised about the use of non-uniformed officers as provided for by section 5 of the Bill (see paragraph 35 above). Inclusion Scotland expressed “serious reservations” both in written and oral evidence. They insisted that “non-uniformed officers must not have face-to-face contact with or challenge disabled people; they need to be identifiable, because if they are not the process will be open to abuse.” 21 The main issue centred on identification of non-uniformed officers and the potential for abuse.

40. In response both the Member in Charge and the Minister indicated they did not share the concerns of Inclusion Scotland and nor did a range of other disability organisations. The Member in Charge stated—

“Whether someone has a uniform is not really the issue. The relevant point is that people can identify themselves with the appropriate identification. Sometimes, being approached by someone in uniform can raise even more
anxiety among people in some vulnerable groups. Inclusion Scotland gave the example of people with cognitive or sensory impairments, but such people will no doubt have a third party with them. I suspect that there will be someone else with such people when the identification is produced.\(^{22}\)

41. We heard provision will be made for all officers involved in enforcement activity to receive full training and a multi-agency working group was developing appropriate guidance. We are aware provisions to empower non-uniformed officers are not novel; there are non-uniformed council officers in a range of areas across Scotland operating without the difficulties suggested.

42. **We are content with the provisions in the Bill relating to confiscation and the use of non-uniformed officers.**

**Review of local authority decisions in relation to applications for a badge**

43. Local authorities issue blue badges to persons meeting the eligibility criteria prescribed in regulations. There is a standardised assessment process across Scotland. Around half are issued to those who qualify automatically and do not require assessment. Many applications are determined through a desk based assessment using information supplied by the applicant from verifiable sources, or information held by the local authority for example, through other services received as a result of the person’s disability. In cases where a desk based assessment cannot determine eligibility, the local authority may refer the applicant for an Independent Mobility Assessment which is undertaken primarily to determine whether a person meets the specific definition in the scheme of being “unable to walk or virtually unable to walk”.\(^{23}\)

44. Although there are no statutory appeal provisions following an assessment many local authorities currently follow advice in the blue badge Code of Practice by having a review process in place. Section 6 of the Bill allows Scottish ministers, by regulation, to require all local authorities to review, on request, a decision not to award a badge on the grounds the applicant is not eligible.

45. The Law Society of Scotland and others raised concerns in their written and oral evidence on 26 March 2014 with regard to section 6 and the “absence of a procedure for appealing a local authority’s internal decision to a sheriff.”\(^{24}\) David Cabrelli stated—

“The machinery that the section envisages means that any decision that a local authority takes to cancel, refuse or not renew a badge would simply be

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dealt with in-house. We are slightly concerned that the process would breach article 6 of the European convention on human rights.”

46. During questioning David Cabrelli conceded the existence of judicial review was sufficient to satisfy article 6. However, he maintained concerns over the costs that could arise in taking a judicial review and queried whether its availability was both reasonable and proportionate.

47. Stuart Foubister, Legal Directorate at the Scottish Government, stated—

“Frankly, I think that the Law Society’s point is misconceived. It has mixed up the availability of judicial review with its costs. The availability of judicial review provides compatibility with article 6, and, by putting in place the rather simpler internal review procedure, the bill simply reflects the fact that judicial review is neither a cheap nor a terribly user-friendly procedure.”

48. We were assured Regulations would require reviews to be undertaken by different officials. We are also aware from our wider work there could be a role for the Scottish Public Services Ombudsman in considering the administrative approach taken by local authorities in such cases.

49. **We are satisfied the proposed review provisions in the Bill are reasonable and proportionate.**

**Education of badge holders**

50. At paragraph 19 we considered the various forms of misuse of blue badges. It is clear in many cases misuse is inadvertent and we explored with witnesses how blue badge holders could be better informed and better understand their responsibilities and the uses that can and cannot be made of blue badges. We heard holders of a blue badge receive a booklet, a blue badge book, but many do not read it or perhaps fully understand it.

51. The Member in Charge in his evidence indicated—

“Third sector organisations are asking us to produce a fairly concise script for people with blue badges. The booklet that people get at the moment is probably too large and complicated, with far too much information. That information is pertinent, but we probably just need some bullet-point information for blue badge users. I think that that in itself would reduce the level of misuse.”

52. Scottish Government officials added—

“We have been working with the multi-agency group. We are considering having 10 top tips for blue badge holders to distil the information down. We

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have also had Scottish Government marketing colleagues working with us. We have case studies from blue badge holders, and we are considering a campaign nearer the time of the launch. We know that we have to distil the messages down, just as we have done for road safety."

53. **We encourage the Scottish Government to work with its multi-agency group to bring forward new and focussed ways to educate badge holders with the aim of improving compliance and reducing inadvertent misuse.** We also encourage the group to look closely at ensuring road signage is both visible and clear. As this level of misuse falls it will become easier for the authorities to take the necessary robust action against those whose misuse is wilful.

**Financial Memorandum**

*Finance Committee*

54. The Finance Committee considered the response to their call for evidence and wrote to us on 12 March 2014.  

55. The key provision, identified by the Finance Committee in the responses to their call for evidence, was the Bill’s requirement for each local authority to put into place a process to review a decision to refuse an application for a blue badge on eligibility grounds. It was noted concerns have been raised that the Bill might lead to an increase in requests for such a review to take place.

56. Notwithstanding these concerns, the revised “best estimate” of review of the number of requests per annum has been assessed by the Member in Charge as 400. This remains lower than the “high-end estimate” of 600 reviews and is based on seven months’ worth of data from 28 local authorities covering a period from 1 September 2012 to 31 March 2013.

**Delegated Powers**

*Delegated Powers and Law Reform Committee*

57. There are provisions in the Bill which will confer delegated powers to make regulations. As such the Delegated Powers and Law Reform Committee (“DPLR Committee”) considered the provisions and submitted its report to this Committee on 19 March 2014.

58. The DPLR Committee considered each of the delegated powers in the Bill at its meetings on 25 February and 18 March 2014.

59. At its meeting on 25 February 2014 the DPLR Committee determined it did not need to draw to the attention of the Parliament delegated powers concerning Section 3 (power to confiscate) and Section 7 (commencement). It subsequently

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30 Dennis Robertson MSP. Written submission. 5 March 2014.
wrote to the Member in Charge of the Bill to raise questions on the remaining delegated powers in the Bill.

60. At its meeting on 18 March 2014, and in light of the correspondence of response from the Member in Charge of the Bill, the DPLR Committee agreed it did not need to draw the Parliament’s attention to the remaining delegated powers concerning section 1 (form of the badge) and section 6 (review of local authority decisions); this correspondence is reproduced at the Annex to the DPLR Committee report.

61. The DPLR Committee concluded it was content with the delegated powers provisions contained in the Bill as introduced.

Accompanying Documents

62. We are content with the Accompanying Documents provided in support of the Bill.

CONCLUSIONS ON THE GENERAL PRINCIPLES OF THE BILL

63. The Committee reports to the Parliament, it is content with the general principles of the Bill and recommends the Bill be agreed at Stage 1.
ANNEXE A: ORAL EVIDENCE RECEIVED BY THE LOCAL GOVERNMENT AND REGENERATION COMMITTEE

9TH Meeting, 2014 (Session 4), Wednesday 26 March 2014

ORAL EVIDENCE

Simon Cameron, Diversity Advisor, South Lanarkshire Council; Gordon Catchlove, Parking Fraud Prevention Officer, City of Edinburgh Council; Colin McNicol, Roads Manager (Support and Public Transport), Stirling Council; Michael Brady, Assistant Group Manager Parking Projects and Events, Glasgow City Council; Grahame Lawson, Mobility Access Committee Scotland; Sally Witcher, Chief Executive, Inclusion Scotland; Helen Dolphin, Director of Policy and campaigns, Disabled Motoring UK; Mike McCormick, Assistant Chief Constable, Local Policing East, Police Scotland; Craig Naylor, Superintendent, Lead on Reform and Local Engagement, Police Scotland; David Cabrelli, Member of the Society’s Equalities Law Committee, Law Society of Scotland.

10TH Meeting, 2014 (Session 4), Wednesday 2 April 2014

ORAL EVIDENCE

Keith Brown, Minister for Transport and Veterans, Scottish Government; Dennis Robertson, Member in Charge of the Bill, Scottish Parliament; Jill Mulholland, Transport Accessibility and Road Safety, Transport Scotland; Sharon Grant, Bill Manager, Transport Scotland; Stuart Foubister, Divisional Solicitor, Legal Directorate, Scottish Government.
Disabled Persons' Parking Badges (Scotland) Bill (in private): The Committee considered and agreed the following approach to the Disabled Persons' Parking Badges (Scotland) Bill: a 7 week call for evidence; the proposed list of targeted stakeholders in the call for written evidence; the media strategy; the strategy in relation to the participation in Committee of the member in charge of the Bill; the list of witnesses they wish to invite to give oral evidence and the number of sessions they wish to hold; to hold a discussion, in private, at the end of each meeting on the oral evidence; to consider any further approach to the Bill and all draft reports in private; and, to delegate to the Convener responsibility for arranging to pay expenses to witnesses under the SPCB witness expense scheme.
Disabled Persons' Parking Badges (Scotland) Bill: The Committee took evidence on the Disabled Persons’ Parking Badges (Scotland) Bill from—

Simon Cameron, Diversity Advisor, South Lanarkshire Council;
Gordon Catchlove, Parking Fraud Prevention Officer, City of Edinburgh Council;
Colin McNicol, Roads Manager (Support and Public Transport), Stirling Council;
Michael Brady, Assistant Group Manager Parking Projects and Events, Glasgow City Council;
Grahame Lawson, Mobility Access Committee Scotland;
Sally Witcher, Chief Executive Officer, Inclusion Scotland;
Helen Dolphin, Director of Policy and Campaigns, Disabled Motoring UK;
Wayne Mawson, Assistant Chief Constable, Local Policing West, Police Scotland;
Craig Naylor, Superintendent, Lead on Reform and Local Engagement, Police Scotland;
David Cabrelli, Member of the Society's Equalities Law Committee, Law Society of Scotland.
Disabled Persons’ Parking Badges (Scotland) Bill: Stage 1

The Convener (Kevin Stewart): Good morning and welcome to the ninth meeting in 2014 of the Local Government and Regeneration Committee. I ask everyone to ensure that they have switched off all mobile phones and other electronic equipment.

Our first item of business is an oral evidence session on the Disabled Persons’ Parking Badges (Scotland) Bill. On our first panel, we have Simon Cameron, diversity adviser, South Lanarkshire Council; Gordon Catchlove, parking fraud prevention officer, City of Edinburgh Council; Colin McNicol, roads manager, support and public transport, Stirling Council; and Michael Brady, assistant group manager, parking projects and events, Glasgow City Council.

As no one wishes to make an opening statement, we will move to questions. Gentlemen, do you think that the policy intention has been met in the bill?

Gordon Catchlove (City of Edinburgh Council): Yes, I do. I have been involved in the enforcement of the blue badge scheme since I joined the City of Edinburgh Council in 2005. Over that time, I have become more and more frustrated with the limited powers that I have to do my job outside of what I call full investigations, under the Regulation of Investigatory Powers (Scotland) Act 2000. I believe that the work that we have done as part of the blue badge working group has helped to fill the void that exists.

Colin McNicol (Stirling Council): I agree. The bill’s primary purpose is to improve enforcement of the scheme, principally by extending powers to local authorities. The general principle is sound, but it will be effective only if local authorities assign the necessary resources. I am from a small local authority, and we do not currently have enforcement powers. Those powers lie with Police Scotland. If Police Scotland is not going to do that enforcement work, the legislation will work only if all local authorities are assigned the necessary resources to carry out enforcement.

Glasgow City Council has similar issues with regard to the misuse of blue badges. Being an urban authority, we are in a different context from rural authorities. We have people who are misusing badges for financial gain. One of the benefits of the bill is that it would allow us to confiscate a badge that is being used in that way and pass it to its lawful keeper, notifying them of its misuse. The confiscation powers are an important part of the bill.

Anne McTaggart (Glasgow) (Lab): Good morning, panel.

What is the effect of blue badge misuse in your areas?

Gordon Catchlove: I maintain that, in Edinburgh, between 52 and 70 per cent of all badges that are on display will be being misused. That is based on exercises that we have done with the police over the years and what I see in my day-to-day role.

Michael Brady: As I said, Glasgow City Council is an urban local authority. Misuse is rife. The scheme is difficult to enforce because we have to approach the person who is misusing the badge, and we do not know when they will appear. Before
I came here, I asked the parking attendants to do a wee operation in one of our streets, which I thought would be beneficial. They found that there were 12 blue badges in the street between 4 o'clock and 6 o'clock. Of the three people who appeared during that time, one was a 30-year-old man whose badge said that he was a 66-year-old man; one was a 20-year-old girl whose badge said that she was a 55-year-old woman; and one was a genuine badge holder.

About 20 per cent of bays in Glasgow are occupied by blue badge holders. That is not an issue, if they are all genuine blue badge holders. However, we have evidence that there is a lot of misuse, although our figures are not as high as Edinburgh's. The reason why there is a lot of misuse is that it costs £3 an hour to park in Glasgow city centre, or people have to pay to park in a car park. That means that there is an attraction for people to misuse a blue badge, and the risks of getting caught are slim.

Colin McNicol: Stirling Council is not responsible for enforcement. We have no evidence on the level of misuse in the council area.

Simon Cameron: I have limited figures on misuse. However, when we first reviewed the blue badge process across South Lanarkshire a number of years ago, we issued around 800 penalty charge notices for the misuse of blue badges, and we ended up rescinding about 50 per cent of those. There is a degree of misuse, but it varies.

Anne McTaggart: So the scale of misuse is huge. Have you identified any trends in who fraudulently misuses blue badges?

Gordon Catchlove: It can be anybody. It could be anybody in this room. It could be a teenager, a student or a businessman. There is no demographic that misuses blue badges more than any other. In Edinburgh, the issue comes down to how much it costs to park, which means that there is an attraction to misusing a blue badge.

Michael Brady: I concur with that. There is a wide demographic. We have found people using their dead mother's badge. We have removed about 18 cars with fraudulent badges from the streets. We report them to the police. There is a wide and varied demographic involved. I could not say that one specific age group was involved or anything like that.

The Convener: Mr McNicol, I take it that you do not have an answer, because of your council's situation.

Colin McNicol: We do not have decriminalised parking enforcement, so we would not have that data.

The Convener: We will talk to the police later.

Simon Cameron: From the work that we have done, I can say that abuse ranges across the spectrum, from people who are legitimate blue badge holders but who do not understand how the scheme operates, because of the quality of the information that accompanies a badge, through to people at all levels of society who abuse the scheme. The public's perception is that it is not a scheme that is valued by wider society. People do not understand its purpose or the fact that, without a blue badge, many people would not be able to participate in simple day-to-day activities.

Cameron Buchanan (Lothian) (Con): I declare an interest, in that I have a blue badge.

My neighbour had a blue badge that was stolen, and there was no way of identifying who had it. Do you think that we should change the blue badges so that we can identify the person? At the moment, you show one side and not the other side. My neighbour never got her blue badge back—she had to apply for another one, and the original one is still out and about.

Gordon Catchlove: I totally agree. We have a database that records all lost and stolen badges that are reported to me. I have never come across a stolen or a lost—

Cameron Buchanan: It is luck.

Gordon Catchlove: Yes, it is. If I were doing my job and I came across a stolen badge being used, it would be down to sheer luck, because at the moment we do not have the technology to track the badges.

Cameron Buchanan: Can we not change the design of the blue badge so that there is a reader on it or so that it shows the person's picture or their name? At the moment, it depends on which way you put it up.

Gordon Catchlove: It does. The technology exists in the system, but its use depends on the cost to local authorities and the specifics of the technology itself, particularly for those authorities that have decriminalised parking enforcement and which use hand-held computers with scanners. They would need to be able to scan through the glass. We know that the technology is available, but there are issues to do with how it can be reproduced in a badge, whether the badge can be read through the windsheen glass and so on.

Michael Brady: I agree. The old orange badge—as I think it was called—had a photograph on the front and people had to show it, but there were issues with discrimination, so the process was changed when the new badge was brought in—I am not sure of the full details.
The new blue badge improvement service database that is being rolled out nationwide should allow for some sort of connectivity between local authorities over time, which will, it is hoped, assist with enforcement. Local authorities carry out enforcement in different ways and use different technologies. The question is how we can mesh all that together so that, if we see a stolen badge, we can take some form of action. The issue then is what action to take. As I have described, we have to catch the person, which means that we have to stand at the vehicle. Some councils do not use tow-aways, but we do, and if we find a fraudulent badge, we will remove the vehicle from the street and report it to the police.

Cameron Buchanan: What happens if I have a blue badge and I am in the car, but I go off and do some shopping, leaving my wife or somebody else in the car? A council officer may see them walking perfectly well towards the shops; that sort of thing has happened before. It is not fraudulent, but nobody is stopped.

Michael Brady: The wording on the back of the badge says that people are allowed to drop off and pick up the holder. I have no dispute with that, but we all have an issue with people who, when we approach them, say, "I've dropped my father off." That is a difficult situation, as we then have to ask them, "Where is your father?" The idea of such a conversation is not attractive, and it is not a good place for us to be.

However, people use the ambiguity in the wording on the back of the badge as a reason—which may be perfectly valid; I am not disputing that—to use it in such a way. For example, somebody may drive a person to their office, drive on to their own office and park up all day, and then drive back to pick the person up. Is that a valid use of the badge?

Cameron Buchanan: No, I would not have thought so.

Colin McNicol: My understanding is that, due to data protection issues or other reasons, the picture could not be displayed on the new badge, so it was put on the back. It is also my understanding that the badge contains the technology to enable it to be read through glass, so any enforcement officer could scan the badge and find out who the holder was.

All the badges are now in a national database to which everything can be relayed. What needs to happen now—as my colleagues have discussed—is that we move to the next stage, which will involve getting the technology, the people and the resources to carry out the enforcement. We have completed the first stage of building a national database, so we have a record of how many people have blue badges.

Cameron Buchanan: On the continent, the badges display a photograph. In France and Belgium, for example, the badges have the European Economic Community sign on the right—I know, because I have one—but the photo of the person is displayed so that people can see it. I do not think that that is a problem here.

Simon Cameron: My understanding is that the new badge has an identifier on the front, which is a coding that tells the authority the age and gender of the person who holds it. In some senses, in the debate about whether a picture is needed on the front, the question is whether a picture is needed on the badge at all, given the technology that we now have.

Cameron Buchanan: I would not have thought so.

Simon Cameron: That is one of the points to consider.

There is also the question of what we provide to blue badge holders to enable people to read the badges and see images, with key fobs and all the rest. Should we give people a holder that places the badge firmly on the windscreen so that the technology can be used appropriately instead of relying on people to place their badge on a particular part of the dashboard?

We have had tax discs in a certain place on car windscreens for however long that system has been in place. Why do we not have the same system for the blue badge, which could be easily removed on a day-to-day basis when necessary?

09:45

Alex Rowley (Cowdenbeath) (Lab): I find it quite staggering that 50 to 70 per cent of the badges that are issued are misused. If the legislation goes through and the new enforcement officers are able to act, what will local authorities need to do? Simply having the powers will not solve the problem, will it?

I also note that the Scottish Government says that the scheme has no cost implications, but we see potholes here, there and everywhere, and local authorities and transport services are under massive pressure. How far will the legislation take us?

Michael Brady: At present we approach people; we have a misuse form that we have been using for many years, and this year the parking attendants have reported that 118 badges have been misused. PAs currently cannot take a badge away from people on the street, so the fact that the legislation will allow us to do that and get the badge back to the original keeper is a step forward. The local authority will be able to write to the original keeper to inform them that their badge
has been misused and that they should retain it and not hand it to the person who is misusing it. I am also told that the keeper will be given guidance on how they should use the badge in future.

Working in an urban authority, I often see misuse, but there are obviously huge advantages for those who require blue badges and need access. The legislation will give us the power to take a badge off the street at the point of misuse; it is not a conclusion or the end of the journey, but it is certainly a step forward for us. Parking attendants who have been talking to a person who has misused a badge find it very frustrating if the person can just drive off.

Gordon Catchlove: I agree with my colleague Michael Brady. We are not dealing with a one-size-fits-all scenario, and the legislation is not ideal, but it gives us another weapon in our armoury for dealing with misuse. The committee might hear later this morning from organisations that want us to be able to inspect badges but to hand them back rather than confiscate them. However, with my experience over the past few years, when I speak to someone with a blue badge, I get a gut feeling about or just know whether the badge is being misused.

The ability to confiscate the badge there and then will stop misuse. I can put my hand on my heart and say that, if I were to speak to somebody this morning and I suspected that misuse was going on, I would know that it would not have been the first time that that person had misused the badge—it would have been the first time that they had been caught misusing it.

If we were able to take the badge off them, we could stop that misuse straight away; after all, if we gave it back to them, we would just be allowing them to move around the city and use it elsewhere. It takes perhaps five days to get a warning letter to the badge holder, which means another five days of the person in question misusing the badge before the badge holder even knows about the misuse. By taking the badge there and then, we can stop misuse dead in its tracks.

The Convener: Do you agree that it should be an offence to use a badge that has been cancelled? Should that be liable for summary conviction?

Gordon Catchlove: Yes, because it would clarify things. If somebody was reported for using a cancelled badge, there would be no argument—they would know. Under the bill's provisions, a badge is considered cancelled only after a letter of cancellation is sent to the badge holder; as a result, cancellation would not take effect straight away. However, once that has happened, we could seize the badge and, if need be, report the misuse as a summary proceeding under criminal legislation.

Colin McNicol: The question was about resources in councils, and Gordon Catchlove talked about having an armoury. Along with all the other councils that do not have DPE, Stirling Council needs to establish the armoury to begin with, and the legislation can be added to that. Currently, however, all the small councils that do not have DPE still have to rely on the police and traffic wardens for enforcement.

If the legislation goes through, Stirling Council and other smaller councils will need to decide whether they want to go down the DPE route. If there was a business case for having DPE, the legislation would just be added to it, so it would have advantages as another part of the armoury.

Alex Rowley: Another danger is that, as local authorities take on this role, the police do not continue with the work. Because local authorities are cash-strapped, they might not resource enforcement properly, and because police budgets are being slashed throughout Scotland, the police are cutting back on enforcement.

What is the relationship with the police like now? In addition to the 70 per cent level of misuse, a telephone survey found that, for about 76 per cent of respondents who had experienced misuse, the main problem was the use of disabled spaces by people who did not display or did not even have badges. It seems to be a major problem for people who have badges that they cannot find parking spaces. Enforcement is a real issue, and at the moment the police are responsible for dealing with the matter, because it is a criminal act.

The Convener: We will have the opportunity to speak to the police later.

Alex Rowley: I am trying to get at what the relationship is like right now.

The Convener: That is what I was just going to ask Mr Catchlove. What is the relationship with the police like?

Gordon Catchlove: In Edinburgh, I have had a very good—indeed, fantastic—relationship with the police, who are more than happy to help. Over the years, I have carried out training with the police not only to bring them up to speed on the legislation but to ensure that they can identify fake badges and know what the information on the badges means so that, when they are out, they are able to do something about the problem. Over the past three or four years in particular, the police's experience in relation to blue badge fraud and misuse has grown, and they now know about the legislation and how to deal with people who misuse the badges. Personally, I think that the relationship with the police is very good.
Michael Brady: The relationship with the police has been fine, but the reality is that the scheme is not something that they enforce on a day-to-day basis. When we undertake joint operations, we have to approach them because they are the only ones with the power to seize badges.

To be honest—and I concur with others on this—the police are moving away from enforcement anyway; in fact, they have already announced as much, and the traffic warden service is going to be all but disbanded. The police can speak for themselves, but I do not see it being a core function of what they do. We need the power to seize badges, because I do not think that we can rely on the police to do so.

Colin McNicol: Generally, our relationship with the police is very good. However, as Michael Brady has said, the police have, in light of their limited resources and what they see as their priorities, decided to move away from enforcing the scheme. As a result, local government is being pushed towards having to deal with it.

The Convener: Apart from the situation with traffic wardens, do you have any other evidence that the police are moving away from enforcing the scheme?

Colin McNicol: All we have is the fact that the traffic warden service is being withdrawn. There used to be six traffic wardens in the Stirling area; now there are three, and the police had been planning to remove them completely this year. However, after discussions between council members and Police Scotland, an agreement was reached to extend traffic warden cover in Stirling until the end of April. I am not sure what will happen after that.

The Convener: Do you have any figures for the enforcement that traffic wardens were carrying out? For example, do you know the number of tickets that were issued compared with the current situation?

Colin McNicol: No.

The Convener: So there is no evidential basis.

Simon Cameron: We have always had a positive relationship with the police in South Lanarkshire. When we ran our be fair or be fined campaign on the misuse of disabled parking bays and blue badges, the police carried out a number of purges with us. Our parking team comprises between 12 and 14 wardens, but the area that we cover is so large that, starting on the M74, you have to travel for almost an hour to get to the bottom of it. In addition, 80 per cent of our population lives in an urban area that covers only 20 per cent of South Lanarkshire; the rest is rural.

We have close to 1,000 on-street disabled parking bays in the area, and enforcing those meaningfully on a day-to-day basis will be extremely challenging. If misuse is reported, we will have to rely on people in the local area going out and seizing a badge, but, given the time that it might take them to get there, the car might not be there any more. That is one of the problems that we face.

Alex Rowley: I would hate to build up people’s expectations that the bill will solve all the difficulties. You are saying that local authorities will have to apply significant resources to enforcing the scheme if the bill is to have the impact that it needs to have to address the issues that you are flagging up.

Gordon Catchlove: I would not say that significant resources will be required. The bill will allow local authorities to consider how they can enforce the blue badge scheme in their areas. That can be done on an ad hoc basis or in a more committed way, as Edinburgh does with a full-time investigation team. I read in the submissions that Glasgow would like to deploy parking attendant teams in plain clothes, as long as they have written authorisation to carry out such operations. The issue is about using the legislation in the best way possible to allow local authorities to enforce the scheme effectively, based on their resources.

Michael Brady: I do not know how high the expectation is, but we will have to manage that. Whistleblowers write to us and say that a badge is being misused, but finding the person who is doing that or getting them to approach their car when the parking attendants are around is very labour intensive. We have significant issues with that. When we do what we call stings in the morning, we have several PAs out, but we find that people just do not park up—they drive somewhere else and park. It is incredibly difficult to enforce.

Colin McNicol: We would first need to look at a business case for introducing decriminalised parking enforcement, which might or might not wash its face. If Stirling Council decided to proceed with DPE, by default we would be assigning the resources to deal with all parking offences, including blue badge offences.

Simon Cameron: Although the bill has absolute merit and will help us to improve the scheme in general, I come back to the point that we need to carry out general public awareness raising if we are to have an effect on people’s choices on a day-to-day basis. People need to realise that, by doing something as simple as driving into a bay and getting on the train because they are running late, they are taking away a life opportunity for somebody else. Frankly, it is as serious as that—people become prisoners in their own homes because of other people’s unwillingness to walk a few yards further when they could do so perfectly easily. We have to put an emphasis on that.
The Convener: By being lazy, someone can get a £1,000 fine, but that in itself does not prevent the deterioration of some folks' quality of life.

Simon Cameron: No, it does not. That is the point. We need a campaign that raises the profile of the issue and says that the scheme is absolutely valid and worth while and that everyone in society should value it because, at some stage in our lives, we might rely on it.

John Wilson: I want to concentrate on Mr Catchlove’s answer about the 50 to 70 per cent misuse of blue badges, which I think will be the headline from today’s meeting. How many blue badges does the City of Edinburgh Council issue in a year?

Gordon Catchlove: I am sorry, but I do not know. I can tell you that, currently, 17,000 badges are on issue to Edinburgh residents, but that excludes commuters and tourists coming from outside Edinburgh.

John Wilson: I understand that it is difficult to calculate the number of people who travel to and park in Edinburgh from surrounding local authority areas where blue badges are issued, but—

Gordon Catchlove: I am sorry, but I cannot tell you that.

John Wilson: I know that it is difficult to calculate that. Is the 50 to 70 per cent the figure for misuse?

Gordon Catchlove: It is for misuse. It relates to third parties using a badge to park up in the city somewhere—it does not have to be within the controlled parking zone.

John Wilson: As I have said, the headline will be that 50 to 70 per cent of blue badges are being misused. Is it 50 to 70 per cent of the blue badges that are being used to park in the city of Edinburgh?

Gordon Catchlove: Yes—I am sorry. It is those that are currently being used and which are on display.

John Wilson: That is different from 50 to 70 per cent of blue badges being misused. As I have said, the headline from this meeting will be that 50 to 70 per cent of blue badges in Edinburgh are being misused.

Gordon Catchlove: It is 50 to 70 per cent of those that are on display today.

John Wilson: So it is the percentage of those that are on display today that might be being misused.

Gordon Catchlove: Yes.

John Wilson: Right—that is fine.

I believe that Glasgow did some work last year on this issue. Mr Brady said that 118 blue badges were found to have been misused in the centre of Glasgow.

Michael Brady: I will clarify that. Of the people approached by the parking attendants, there were 118 cases of what is termed “misuse”. The attendants fill in a form, and we record the information.

In preparation for this meeting, I asked the police to tell us how many badges were in the city centre. On 20 March, there were 669 badges on display; there are 3,400 bays, which means that 20 per cent were occupied by vehicles with blue badges. I do not have an equivalent figure to the one that Gordon Catchlove has for misuse. I bow to his superior knowledge, but on any one day there are 669 badges on display in Glasgow city centre.

10:00

John Wilson: Mr Brady indicated that parking attendants carry out enforcement of the blue badge scheme in Glasgow. Would parking attendants be suitable for providing enforcement in the areas of the other panel members, rather than the police?

Colin McNicol: If we went down the route of decriminalised parking enforcement, we would do it with our own parking attendants.

Simon Cameron: Yes—we would look to use the parking attendants and the parking unit in general to enforce the blue badge scheme.

The Convener: It is not decriminalised in South Lanarkshire at the moment, then.

Simon Cameron: It is decriminalised.

Stuart McMillan (West Scotland) (SNP): Good morning, gentlemen. Following on from my colleague John Wilson’s comments, I have a couple of questions on enforcement officers. In the local authorities that you represent, what type of additional training would be required, either for the parking attendants that you currently have or for additional members of staff?

Gordon Catchlove: I have an enforcement background. I was in the Royal Military Police for 22 years, so I went from one law enforcement environment to another law enforcement environment. Parking attendants and officers such as myself would need to know the legislation extremely well to be able to make judgments on whether a badge had been misused. That would come with experience.

The necessary diversity training and disability awareness training would be required, as well as communication training. Here in Edinburgh
especially, the reputation of parking attendants is not that high, so we would need to ensure that they were fully qualified if they were deployed in that role in Edinburgh.

Michael Brady: We already approach people with blue badges, and we have in place training scenarios for parking attendants. Since we started making such approaches in 1999, I can remember only one formal complaint about a parking attendant and their approach.

We find that genuine blue badge holders are happy that people are approaching them. They are happy to give the proper and appropriate information, and there is no issue with that. Referring to the documentation, there seems to be some concern about the diversity training, but we have been approaching people since 1999 and no issues seem to have arisen.

The training would have to be beefed up a bit with regard to how the actual confiscation should be approached and the appropriate wording to use when that is done, but genuine blue badge holders in the city have nothing to fear. Any feedback that we have had about those approaches has been positive.

Colin McNicol: We have parking enforcement officers who deal with enforcement of the council’s own off-street parking places. We generally carry out diversity training, customer care training and dealing-with-difficult-people training. That is standard practice to ensure that our parking enforcement officers are equipped to deal with any situation that arises.

Simon Cameron: Our training, too, is already in place—diversity training, customer service training and dealing with challenging situations. The focus would be on the changes to the law.

Stuart McMillan: One issue that has been raised in relation to the bill concerns plain-clothes enforcement officers. Do you envisage any challenges with that being rolled out?

Simon Cameron: It is a matter of public perception and how we assure people that the officers in the role are acting for the right reasons and are legitimately doing a job. It is a matter of ensuring that the public are aware of the officers’ role.

Colin McNicol: I appreciate that there might be concerns about non-uniformed council officers doing what is seen as enforcement. I would have thought that most local authorities would have suggested that uniformed and non-uniformed members of staff should be involved, to ensure greater flexibility in the enforcement arrangement. That would provide more effective surveillance and would allow us to make best use of our resources.

However, I can understand the issue from the point of view of blue badge holders. They might not feel comfortable about the task being performed by someone who was not in uniform. Most people expect traffic wardens or parking enforcement officers to be in uniform.

Michael Brady: We have not thought very deeply about whether we would have any non-uniformed officers dealing with the matter. Once the bill is implemented, we will start to think about that a bit more. Initially, we would just use parking attendants. We have not gone down the road of considering the use of non-uniformed staff.

However, I understand that, in other areas, the council uses non-uniformed officers, who carry identification. You are right that when someone approaches a person in a vehicle, there is an issue of vulnerability, and that has to be dealt with sensitively.

Gordon Catchlove: I have been working under cover, for want of a better expression, since 2006 and I have never had an issue. I introduce myself. On my council ID, which I produce if I approach anyone, it says “Fraud Officer”. Regardless of whether the person has been the badge holder, they have complied. I have never got involved in a confrontational situation while doing my job. If it is done correctly, I do not think that such a situation should ever arise.

Stuart McMillan: There are local authorities that have community wardens. Could the role in question be added to their responsibilities?

Gordon Catchlove: I think so. The more, the merrier. If we get more people out there dealing with the issue, that will act as a deterrent. In Edinburgh, we have environmental wardens, who are out and about every day. If the public know that they have similar powers and that they can report back or can speak to people themselves, that will be another weapon that will reinforce the scheme and local authorities’ commitment to enforcing it, and it might just reduce the level of misuse.

The Convener: Do any members of the panel have an alternative view?

Michael Brady: Some councils already use their environmental wardens to carry out parking attendant duties. I suspect that they would include the role as part of those.

Mark McDonald (Aberdeen Donside) (SNP): I come from an area in which the local authority has decriminalised parking enforcement. Indeed, it has gone further than that and has banded parking enforcement with other forms of enforcement, such as environmental enforcement.

Mr McNicol, you talked about the possibility of Stirling Council going down the route of
decriminalising parking enforcement. Is that issue likely to appear on the council’s agenda at some point in the near future? I appreciate that that is for elected members to decide, but is it an issue that is being actively discussed by the council?

Colin McNicol: It is being actively discussed.

Mark McDonald: You mentioned the production of a business case. One of the issues that the committee is concerned about is the costs that will be associated with the enforcement process. For Stirling Council, there would probably be a start-up cost that would not be incurred by other authorities. Do you know the rough costs that might be associated with Stirling Council pursuing the enforcement for which the bill provides?

Colin McNicol: Some business case work has been done in the past—I recall some work being done about 10 years ago, which showed that the idea did not stack up. It would depend on the level of enforcement that was put in place. The issue is being looked at again to find out whether there is a better model. We are in the process of doing that. The expectation is that it might take up to two years to go through the process.

Mark McDonald: You mentioned that some form of parking enforcement already takes place in relation to the parking bays that the council operates. For the record, how much wider would you have to make that activity under the terms of the bill?

Colin McNicol: I honestly do not know all the detail of that, because I do not deal directly with that side of things. However, my understanding is that a parking office would need to be set up. It might be better if you directed that question at the authorities that already have DPE, as they will have gone through the pain of setting it up.

The Convener: I do not want us to go too deeply into the realms of decriminalised parking enforcement; I would prefer us to stick to the bill. Whether local authorities choose to decriminalise parking enforcement is a matter for them, but they will have to do the enforcement for which the bill provides.

Mark McDonald: I just wanted to clarify where this would take local authorities in terms of widening the legislation. However, I am happy to open up the discussion to other panel members on the costs associated with the legislation in their local authority and whether they have had a look at the figures and crunched the numbers.

Simon Cameron: The numbers have to be crunched. We need to gather the data and look at where the hotspots are before deciding on the best approach in order to target the abuse that is taking place and enforce the legislation appropriately.

Michael Brady: The cost to us will probably not be any more than it is now, because we already do enforcement. We might target resources—we do so already. We sometimes target areas in which we think there is abuse of blue badges. We gather a lot of data; we gather information on the age and the sex of the person from the number. We gather that information and, as the new blue badges next year will be the final new blue badges, we will be able to gather quite a lot of that data, which will allow us to target resources. That is a genuine part of the enforcement that we have to do. I have no issues or concerns about it, as it is part of our current role, except that we will have the additional power to seize the badge. We will still be targeting any blue badge abuse that we can.

Gordon Catchlove: I agree with Michael Brady. As a local authority, we have been doing this work actively since 2006. Local authorities will have to look at their budgets to decide on the best way to enforce the legislation. I sometimes get telephone calls from non-DPE local authorities saying that they cannot enforce because parking enforcement is not decriminalised. However, the misuse of a blue badge is a criminal offence, so the local authority has that power. Some non-DPE local authorities have that misconception.

Mark McDonald: Would any implications spread beyond your department to other areas of the local authority?

Gordon Catchlove: What do you mean by “implications”?

Mark McDonald: Are the cost implications likely to go beyond your department into other areas of the council?

Gordon Catchlove: I do not think so. As I said, blue badge enforcement is part of parking operations within the council, so it is in that budget. We do not go into any other budget streams within the City of Edinburgh Council for the role.

Michael Brady: I am not sure that I concur with that, because there is obviously the administration side of the blue badge scheme. In Glasgow, when badges are seized and given back to the local authority an administration process will have to be undertaken to write to the keeper of the badge. In addition, the bill proposes that a review panel will have to be set up, so some costs will be associated with those aspects.

Colin McNicol: I agree with Michael Brady. I think that costs will be associated with the review panel, administration and so on.

Simon Cameron: Yes. The costs will cut across not only our parking unit in one resource but our
social work resources, when there are review panels and so on and administration is involved.

The Convener: Cameron Buchanan has a very brief question.

Cameron Buchanan: I want to look at the other side of enforcement. What happens when someone who is ill—who has broken their back or something—recovers? Do you monitor those people after three or four years and ask them how they are getting on? A lot of people are not permanently disabled.

The Convener: Very briefly, gentlemen.

Gordon Catchlove: I would say yes. A temporary badge lasts for a minimum of 12 months and up to three years, so we have the flexibility to ask whether the person still needs the badge.

Michael Brady: I give the same answer.

Colin McNicol: I give the same answer.

Simon Cameron: I, too, give the same answer.

The Convener: Grand. Finally, I turn to the review process, which has just been touched upon. What are your views on the review process for the confiscation of blue badges that is envisaged in the bill?

Gordon Catchlove: A robust review process is required to ensure that badges go to the people who deserve them. Perhaps we should consider having third-party assessors to do the reviews so that the process is independent from the local authority, or the local authority could use a neighbouring authority to do the assessment or to review it.

Michael Brady: Yes; I think that the local authority is probably the best place to do that.

Colin McNicol: I agree.

Simon Cameron: I also agree.

The Convener: Thank you very much for your evidence, gentlemen. I suspend the meeting briefly to allow for a changeover of witnesses.

10:14

Meeting suspended.

10:17

On resuming—

The Convener: For our second panel, I welcome Grahame Lawson of the Mobility and Access Committee for Scotland; Sally Witcher, who is chief executive officer of Inclusion Scotland; and Helen Dolphin, who is director of policy and campaigns for Disabled Motoring UK.

Would the witnesses like to make opening statements?

Helen Dolphin (Disabled Motoring UK): Disabled Motoring UK is a representative body of disabled people. Around 99 per cent of our members are blue badge holders. We hear a lot from our members; we communicate to them through a magazine, and our postbag is always full. I would say that 80 per cent of the correspondence that we receive is from members who can no longer park because of abuse of the blue badge scheme. We are therefore very concerned about how the scheme is being managed in respect of who gets badges; about the fact that many local authorities do very little to enforce the scheme; and about the fact that many people see what happens as a victimless crime although, in fact, many people suffer a great deal because they cannot park when they go out.

Sally Witcher (Inclusion Scotland): As members may be aware, Inclusion Scotland is a national organisation of, as opposed to for, disabled people and their organisations. It exists to try to ensure that disabled people's views inform policy making, and to draw attention to the barriers of many kinds that they confront.

We, too, have experience, of course, of disabled people's issues around misuse of blue badges. It is clearly an important issue, and I think that we all share the concern about ensuring that disabled people's independent living is not unjustifiably compromised by the misuse of blue badges. However, we also need to be absolutely sure that it is not compromised by attempts that are made to address that misuse. I will expand on that in my evidence.

Grahame Lawson (Mobility and Access Committee for Scotland): To clarify for the record, my name is spelled “Grahame”, not “Graham”, which is on my nameplate.

The Convener: Thank you, Mr Lawson.

Grahame Lawson: In a previous existence, I was head of roads and transportation in North Lanarkshire Council, so I have had direct involvement in administering roads and parking matters.

My involvement in blue badge issues goes back to 1996, when it was the orange badge, and I was a member of the disabled persons' transport advisory committee in London. I have a long history—I hesitate to use the word “pedigree”—in development and review of the orange badge and blue badge systems.

The Convener: Thank you all very much. We move to questions. Will the bill meet the intended policy objectives?
Sally Witcher: The bill has the potential to meet the aim of addressing blue badge abuse. However, a number of issues about how the system is enforced could make the difference between the legislation’s being effective and its creating a new tranche of issues that would impact adversely on legitimate blue badge holders.

We very much welcome the fact that the badge will be more difficult to forge, which is important. Powers to cancel and confiscate blue badges could be very helpful, but the big proviso is that it is important to distinguish between where inadvertent casual misuse takes place because people are not aware or have not realised that they are misusing the badge, and blatant, systematic and purposeful misuse.

I was a little concerned by the tone of some of the previous witnesses. Disabled people commonly experience demonisation in the media on issues around benefits fraud and so on. We do not want to set up a system that would potentially exacerbate the view that disabled people are scroungers, are fraudulent and so on. While acknowledging that misuse is an important issue that must be addressed, we must have regard to how people view legitimate badge holders and disabled people in general. That is one concern.

We have particular concerns about the use of non-uniformed officers. The committee might want to explore that issue later on. How are disabled people to identify non-uniformed officers? Will they be consistent in how they make themselves identifiable? For example, disabled drivers have been known to cross local authority boundaries. What about the scope for abuse? What about training issues and how they would recognise whether people are legitimate blue badge holders? A whole raft of issues must be dealt with. Some of that can be picked up in regulations and guidance, but it is important to consider some of those issues now.

The Convener: We will, without a doubt, come on to a lot of that line of questioning later, but you are happy with the bill’s general principle, and that the bill would be an improvement.

Sally Witcher: As I said, elements of the bill would most definitely be an improvement, but other aspects of it require to be addressed to ensure that genuine blue badge holders are not impacted adversely.

Helen Dolphin: I will stick with generalities as I suspect that you will come on to the finer points. Generally, we support the bill, mainly because we see a lot of abuse. We heard some incredibly high statistics earlier about how much the blue badge system suffers from abuse—which was no surprise, considering what we hear from our members.

The system’s loopholes need to be closed. It is slightly ludicrous when you know that a badge is being used fraudulently but can do very little about it. That situation should not exist.

Like Sally Witcher, I have a few concerns about the non-uniformed officers and how that will be dealt with. I guess we will go into that later.

Grahaome Lawson: MACS generally supports the bill’s principle but, as members will know, the whole scheme—from the orange badge to the blue badge—has evolved and has been enhanced and improved over the years. Changes to the eligibility criteria have been dealt with in the scheme’s application and administration.

The third aspect of the review is to strengthen enforcement. We have improved how the badge system is delivered and we made that more consistent. The administration is more consistent, too. We now need to make enforcement more consistent.

I agree with the other panellists. I am happy with the bill in principle, but there are issues about the detail.

Anne McTaggart: You have made clear your wealth of experience of misuse of the blue badge scheme. What do you think is the solution that would reduce or eliminate such fraudulent misuse?

Sally Witcher: A lot of what is already in place or is being proposed could help, but we need to address certain issues that could have adverse impacts. For example, non-uniformed officers must not have face-to-face contact with or challenge disabled people; they need to be identifiable, because if they are not the process will be open to abuse.

The Convener: What is the difference between non-uniformed council officers in this regard and non-uniformed council officers throughout Scotland dealing with disabled people on other matters? Identification is paramount here but, as Mr Catchlove said in the previous evidence session, he does this sort of thing a lot and has never had any difficulty. He simply shows his ID. What is the difference between wearing and not wearing a uniform?

Sally Witcher: It is, to some extent, about the setting. After all, this could happen out in the street. Anyone walking past could be a non-uniformed officer, so how would the person in question identify that individual? We just need to be alert to the potential for abuse, because someone who is not a legitimate enforcer could be going around, checking people’s blue badges. I do not want to sound overly paranoid, but we need to think through how we ensure that the people who check badges and have that kind of interaction...
can be identified as having the authority to do that job. It is an important issue that needs to be sorted out.

**The Convener:** You think that a uniform will make a difference.

**Sally Witcher:** I think that it will help.

**The Convener:** Any naughty person who wants to play such games would find it easier to get a uniform that looks like some of the uniforms that are already out there than they would to fake an ID badge. What is different about this area of council business from other areas in which non-uniformed folk simply carry ID that other folk normally think is okay?

**Sally Witcher:** I do not have a solution that would ensure that a person was able to demonstrate unequivocally, in any situation, that they are a council officer, but I can tell you that it is easier to identify a uniform than it is to identify some bit of paper or document. After all, we are talking about people who have a variety of impairments, some of which will make it more difficult for them to recognise these people. They might also have communication impairments. We will not be able to rule out absolutely everything— we will never be able to do that—but certain measures can be taken that will make things easier or more difficult. That is the best that we are ever going to get.

Another issue is the rapidity with which people get their badges back.

**The Convener:** We will come on to that later. I want to cover the various issues in tranches, if I can.

**Helen Dolphin:** On the question about how we think the scheme should be managed, the most important issue is to ensure that enforcement happens and that it is known to be happening. In certain areas, there is close working with, for example, the local media; publication of the numbers of people who have been caught and prosecuted can act as a deterrent. If people know that such measures are being enforced, they are less likely to park in disabled spaces.

The greatest amount of abuse happens in private parking areas, such as those in supermarkets, where there is less enforcement, because people think, "It doesn't matter if I park there because no one's going to do anything about it." If people know that in certain areas nothing is going to happen, they will never stop doing what they are doing. Enforcement must be carried out and must be seen to be carried out, and the figures for it must be published so that people see that it is being carried out.

10:30

**Grahame Lawson:** Helen Dolphin touched on a point about supermarkets that I would like to return to later.

When a blue badge is issued, it comes with a little booklet about the blue badge holder’s rights and responsibilities. The badge holder is supposed to read that and anybody who takes them in the car is asked to read it, but in practice nobody does. People all think that they know the answers because they have had a badge before.

It is vital that we deal with enforcement. The wording in the bill will help to strengthen that.

**Anne McTaggart:** Have you seen any solutions that are not mentioned in the bill?

**Grahame Lawson:** We have talked in the past about police enforcement and the use of wardens. The wardens and the police have a wide range of duties to carry out. The difference with the parking attendants whom councils employ is that they are dedicated to a single purpose, so the opportunity exists to target resources more effectively and give greater emphasis to enforcement of the blue badge scheme. All I can say is that there is an opportunity.

**Stuart McMillan:** Good morning, panel. I will follow on from the previous point. I asked the previous panel about extending community wardens’ powers. The idea is that more people being involved in enforcement might yield better results in catching people who misuse badges, or in finding stolen badges. Mr Lawson’s comments seem to disagree with that.

**Grahame Lawson:** Community wardens are the community’s eyes and ears. If they observe things, they can pass on the information to their local authority colleagues who are parking attendants and enforcement officers. It does not matter whether wardens are directly or indirectly involved, but eyes and ears are important to enforcement issues.

**Helen Dolphin:** I agree. The more people who are out there looking out for issues, the better. It would not be a problem, as long as people have appropriate training and know exactly what they are doing. The issue is that authorities seem to think that they do not have a problem and that they need not do anything.

**Sally Witcher:** I agree with my colleagues.

**Stuart McMillan:** The bill does not cover leisure trusts and arm’s-length organisations that provide services that previously fell within local authorities’ powers. Is there scope to consider such organisations and the parking facilities that are under their control?
Grahame Lawson: I am not quite sure where you are going with the question. We have expressed concern in our submission to the committee. The blue badge relates purely to on-street parking but, as Helen Dolphin has shown, a lot of the problems relate to off-street parking.

The Convener: We understand that you would like much more enforcement across the board. I do not want to curtail the debate, but our difficulty is that the bill does not cover what you want, which involves reserved issues. If we can, I would prefer to stick to the bill as it is than to stray into other matters.

John Wilson: Good morning. Ms Dolphin said that her members had identified in surveys an 80 per cent abuse rate. The Scottish Parliament information centre provided information to the committee on a survey of blue badge holders by Transport Scotland, which found that 76 per cent of respondents had experienced abuse of the scheme. A previous witness said that 50 to 70 per cent of badges are abused.

My question follows on from the convener’s point. When blue badge holders identify abuse, is that abuse of blue badges or abuse of designated parking bays for disabled drivers and users?

As the convener said, there are two areas of legislation. The committee needs to be clear about the views of the disabled community in relation to the abuses that are taking place. I was shocked when I heard that 50 to 70 per cent of blue badges are being abused. I want to find out whether the issue for your members is abuse of blue badges or abuse of parking bays that are supposed to be set aside for disabled drivers and where blue badges might not be being used?

Helen Dolphin: The figure that I referred to was that 80 per cent of the correspondence that we receive is to do with abuse of blue badges. I will home in on exactly what that means. There are all sorts of blue badge issues. One is to do with people who do not use a blue badge at all—the chancers who think that they will get away with it because they are not stopping for long, and who just park and might or might not get a ticket. That type of abuse tends to happen mostly in off-street or private parking for supermarkets, where people know that it does not really matter if they park in a disabled bay.

Another sort of abuse involves people using a badge that belongs to a family member, a fake badge or one that they have doctored or obtained through illegal means. Our members will not know that such abuse is happening, because they will not see it. They might see someone whom they think is not disabled but, as we say all the time, none of us can really judge whether a person is disabled. We might think that a person looks fine, but they could have a fluctuating condition, such as multiple sclerosis. We always try to get over the point that no one, unless they are a medical professional, can make such judgments about someone who is doing their shopping. People do not really know about that, although they can have their opinions.

A type of abuse that our members can see involves someone, possibly the badge holder, sitting in the car while a non-disabled person does the shopping—basically, they leave granny in the car. That allows someone to take advantage of free on-street parking, but the person who is left in the car does not benefit at all, although we recognise that, in a small number of situations, it can be an advantage for a non-disabled person to leave a disabled person in the car, so that they can keep an eye on them when popping into a shop, for example.

The main abuse that our badge holders see and report is only really when people do notshow a badge at all, because otherwise our members do not know. They do not have the skills that enforcement officers have and they do not know whether a badge is doctored. I do not know whether the committee has seen many doctored badges, but some of them are fantastic forgeries and are very difficult to spot, even with an open eye. That is the sort of abuse that our members talk about.

Sally Witcher: I have similar points to make. It is difficult for disabled people and others to know whether an individual has an impairment that qualifies them for a badge, especially if they are not interacting with that person. However, disabled people can talk about the implications of misuse and abuse and the impact on them of illegitimate use of badges, which affects how they get around and compromises their independent living.

Grahame Lawson: I respect what the convener said about not broadening out the debate to supermarkets, but the perception of the effectiveness of enforcement relates to all provision for blue badges, and that is part of the problem. On abuse, we can begin to get into semantics. There is abuse and misuse, and we could consider how much of the abuse is deliberate misuse of badges and how much of it is accidental misuse. Many people see the blue badge as some form of compensation for having a disabled family member and think that it is to make their life easier in looking after that disabled person. However, the badge is not for that; it is to allow the disabled person to go about his or her life and to make it easier for them.

Helen Dolphin talked about a disabled person being left in a car while a member of the family or whoever goes to the shops. Again, that is not the purpose of the badge. The badge is to allow the
disabled person to do that. My mother, who is a blue badge holder, wanted to go to the bank, and the most convenient place to park was outside the bank. I said, “Right, there you are, mum. Off you go.” She said, “Will you go and get the money for me?” I told her that I was sorry, but I could not because I know the rules about the blue badge, and that the badge’s purpose is to allow her to go. If I was to go, I would have had to go round the corner, find a parking place, and then get the money for her, which is what happened in the end. Those are the sort of problems that we have with distinguishing between deliberate abuse and accidental abuse of the scheme. At the end of the day, it is abuse.

John Wilson: One thing that comes to mind is education in the use of the blue badge. Mr Lawson rightly identified that the blue badge is issued to the disabled person but can be used by other drivers to assist that disabled person to carry out their day-to-day duties.

I would like the panel’s views on one of my concerns. Earlier, we heard from the local authorities about the inference that is sometimes drawn when a car displaying a blue badge is parked up from 9 o’clock until 5 o’clock every day in the city centre. The person might genuinely be carrying out their normal day-to-day activities and holding down a full-time job while being disabled. We need to get the message over to those who abuse the blue badge scheme and the general public that some people might not look like they have a disability but still have a disability that means that they require the use of the blue badge to carry out their duties.

How can we educate and get that message out to wider society, particularly to those individuals who abuse the blue badge scheme?

Sally Witcher: I am not sure that there is a simple answer as it is part of a bigger problem around how people understand disability and their attitudes towards disabled people.

It is entirely plausible that a legitimate blue badge holder could be parking as John Wilson has described. They might be in full-time work. Because of some of the media coverage and because of people’s low expectations of disabled people, there is already potentially a default position that disabled people using their badge in that way would not be doing so legitimately. There is therefore a huge job of work to be done to challenge attitudes towards disabled people in general.

The bill could provide a useful peg for doing some concerted work around that kind of awareness raising. The message is that people should not prejudice. We will come down hard where there is evidence of misuse and abuse, particularly when it is deliberate, but people should not make assumptions about who is and who is not disabled on the basis of what might appear to be the case.

The issue is not straightforward, which is why training is so important for the officers who will be involved in the process. Getting it wrong could have a major impact on disabled people who are entirely genuine.

Helen Dolphin: It is complicated, but one reason why we have so many people thinking that they have to police the scheme themselves is because they do not see proper enforcement happening. They know that nobody else in their local authority is policing the scheme, so they take it upon themselves to be blue badge enforcers who wonder whether people are disabled or whether they are abusing the scheme. People feel that they have to do it because they do not think that anyone else is doing it.

I go back to what I said earlier. If the scheme is seen to be enforced, fewer people will think that they have to be their own personal blue badge enforcer. Last year, we had a death in a car park when someone accused someone else of misusing a parking space. They punched them and that person died. I do not think that any of us wants to see any repeat of that. I still believe that things like that happen because people feel that no one else is doing the policing and so take it on themselves.

I come back to the responsibility of badge holders. Holders get a blue badge book, but they do not read it. Perhaps they should have to sign something—not a book; something much clearer—that means that they agree to abide by the rules. If they then say, “Oh, I didn’t know”, the response could be, “Well, you signed it—did you sign something that you didn’t read?” People have to take responsibility as badge holders. We cannot keep saying, “Oh, the poor disabled person didn’t read it.” They or, if they are not able, someone on their behalf must take some responsibility.

Grahame Lawson: As Helen Dolphin says, the badge holders themselves must take some responsibility. In addition, the information that we give out to badge holders and their families must be better and should perhaps be given out more regularly.

There is also scope for publicity campaigns through national media and so on. If the bill becomes an act, there will be an opportunity to make a very definite statement that life has changed because blue badge enforcement has gone up a gear and that if people misuse a badge they are more likely to be caught.
There are signs all over the place warning us about speed cameras. In the same way as people know that there are now speed cameras all around the country, we need to raise people's awareness and get the message over that enforcement officers are out to get them if they are misusing the blue badge but that they have nothing to fear if they are not misusing it. It should be clear that this bill will enhance the facilities and opportunities for a disabled person but that, if anyone abuses those facilities and opportunities, they should fear the consequences.

Cameron Buchanan: Some written submissions suggest that the enforcement penalty should be a fine, and others suggest that it should be penalty points on the driving licence. What does the panel think? If somebody is misusing their blue badge, should they be fined or should they have penalty points on their licence?

The Convener: Again, unfortunately, penalty points are a reserved matter.

Cameron Buchanan: Okay.

The Convener: As most folks know, the Scottish Parliament has only a certain amount of powers at the moment. However, I am willing to take very brief responses to Mr Buchanan's question.

Grahame Lawson: There are practical problems for enforcement. For example, the blue badge holder is not necessarily the driver of the car—in fact, several drivers could be involved. As the convener said, the practicality of adding penalty points to a licence for misuse of a blue badge would have to be considered in another forum. On the £1,000 fines, I do not know how many have been levied, but if we increased the incidence of those or of penalty charges being incurred, I think that that would make a big difference.

Helen Dolphin: I think that, in principle, penalty points should be added to people's driving licences for misuse of blue badges. If it is the driver of the vehicle who is caught, they are responsible for the fact that the badge has been displayed on their vehicle. I do not think that that aspect would be as difficult to deal with as might be imagined—it would be possible. We must also remember that the £1,000 fine is for each incident of blue badge abuse, so there is nothing stopping the fine from being more than £1,000. For example, if an enforcement officer sees a car being parked for five days in a row through misuse of a blue badge, why can the fine not be £5,000?

Sally Witcher: A fixed-penalty notice for illegal parking is certainly one way to go. The only additional observation that I would make is that poverty is often a real issue for disabled people, so we should be clear about what is the most appropriate way to address blue badge abuse that will not inadvertently penalise disabled people in a way that is unjustifiable. Other than that, fines might be appropriate, as indeed might points on people's licences—I think that either is possible.

Alex Rowley: Good morning. I have a brief question on the current situation and on your members' views on, and their experience of, traffic wardens and the police. We will hear from the police shortly, but what has been your experience when abuse of blue badges has been reported? What do your members perceive the current role of the police to be in that regard?

Helen Dolphin: Their perception at the moment is that nobody does anything. Very few local authorities have blue badge fraud hotlines for them to phone. They phone us and say that they know someone is abusing a blue badge and ask us what can be done. In most instances, we cannot do anything.

Our members' general opinion is therefore that nobody really cares about blue badge abuse and that nobody really does anything about it. The message that we get is that they would like to see enforcement. Genuine badge holders have nothing to fear. Indeed, many people are proud of the fact that they are genuine holders and are happy to show their badges. The general opinion that we hear is that more enforcement is warranted and our members would like it to happen.

The Convener: Do you want to comment, Mr Lawson?

Grahame Lawson: I do not have anything to add to that.

The Convener: Ms Witcher?

Sally Witcher: I agree absolutely that the absence of apparent enforcement is the overriding issue. As a small aside, I wonder whether having uniformed officers as opposed to non-uniformed officers might be one way to convey that enforcement is happening.

Mark McDonald: I note that Ms Dolphin highlights in her submission the potential unintended consequence of a confiscation or cancellation depriving a disabled person of their mobility, particularly if the badge has been used by their carer or relative without the disabled person's knowledge. I ask her to touch on the issues that she has with the review process for confiscation or cancellation and what she would like to happen.

Helen Dolphin: We come back to saying that the disabled person has to take some responsibility for their badge—that should go with the badge.
That said, we have had people ring us up and tell us that, for example, their son will not do their shopping unless they let him use their blue badge. Sometimes, family members force the disabled person to let them use the badge, and there needs to be a separate way to deal with such people.

In a way, it is not that lady’s fault. She has signed the paper saying that she will not lend badge to other people but, if she does not, what will happen to her daily or weekly food shop? She will not get any food. There needs to be some way of dealing with that kind of case without the badge holder suffering any detriment. The son is the abuser in more ways than one.

If badges are confiscated and then found to be genuine, I would like them to be returned quickly to their genuine holders, but that cannot continue happening again and again. There must be a point at which it is decided that we cannot keep returning the badge to the holder for someone else to be caught using it again. I would not be particularly generous on how many times we allow that to happen.

There need to be proper warnings, but I do not want people who are put in difficult situations, such as the one that I described, to suffer because of it.

Grahame Lawson: I have a lot of sympathy with what Helen Dolphin said: many blue badge holders are vulnerable people and it is easy to put them under pressure. However, it is difficult to quantify the incidence of that. I do not know how serious an issue it is, but we know that there are instances, and Helen Dolphin can give the committee details of them.

We must ensure that the badge is returned to the badge holder and that they are reminded of their responsibilities under the scheme. If the issue is abuse by the family, we need to educate the family as well. It might be that a much wider approach is needed to deal with the matter, perhaps involving social work services. I do not know.

The Convener: There is adult protection legislation as well for such a situation.

Grahame Lawson: Yes. That is what I had in mind.

Sally Witcher: The point is that misuse and abuse can happen for a wide variety of reasons and can take many different forms. Therefore, it is important that the redress that is available is appropriate and fitting to the nature of the misuse or abuse.

We are concerned that a disabled person could, for reasons that are not of their making and which they had no part in creating, end up not having access to their blue badge and, as a consequence, be unable to go out to work, see friends and live their lives. That is clearly a really important issue.

Once again, we are touching on a much bigger issue. It concerns the importance of services such as independent advocacy. Colin McNicol talked about social work and the convener mentioned adult protection. The other important way of addressing the issue is through the role of centres for inclusive living—local organisations that work to support disabled people—and the services that they provide to deal with the kinds of situations that might arise, such as the one that has been described in which family members hold somebody to a situation in which they have no choice but to allow the abuse to happen.

The Convener: That is outwith the scope of the bill, Ms Witcher. I know exactly where you are coming from, but I do not want to deviate too much from the proposed bill, although I understand the role for advocacy and for other things as well.

Anne McTaggart: I have a wee supplementary question. I do not want to go off scope even further, but would some of the misuse be due to the length of time it takes for a renewal? I find the lengthy time that it takes for a renewal included within my bag of constituents’ complaints. What would you advise the disabled person to do within that lengthy time?

The Convener: Again, we are going out of scope. I will take very brief answers on that. I really want to stick to the bill rather than the generalities. It is important that we do that.

Sally Witcher: There is a need to ensure that systems are fit for purpose so that people are not left in a situation in which they are waiting for a badge to show up. That is the challenge.

Helen Dolphin: There used to be reminders from local authorities, but they have been stopped in many areas. It is very difficult after three years to remember that your badge has expired.

Grahame Lawson: My views are very much along the same lines as regards better information and better follow-up. The blue badge scheme itself has been substantially enhanced. Overall in Scotland, people get their badges much more quickly than they ever did in the past. Some councils used to be very quick; some used to be very slow. Now the process is much more consistent and it is consistently quick.

Anne McTaggart: For it to be consistently quick, the resources need to be there to enable that to happen.

Grahame Lawson: Absolutely.

The Convener: I have a final question on the review process for the confiscation of blue badges.
You have touched on that to a degree, and basically you have given examples of where common sense should come into play. Unfortunately, we cannot legislate for common sense—I wish that we could. What are your views on the review process for confiscation as it is envisaged in the bill?

Grahame Lawson: The bill raises expectations about how things will be enforced. We have concerns about the confiscation of badges, as there is potential for abuse by people pretending to be enforcement officers.

The situation is very difficult. For example, when my mother was a driver, if she was sitting in a car and somebody came up to her and asked to see her badge, she would just give it to them. She would not worry about whether the person flashed a piece of ID in front of her; she would just hand over the badge. That is one of the difficulties that we have: many blue badge holders are relatively vulnerable people.

Helen Dolphin: I agree. I do not have such a problem, as Sally Witcher does, with non-uniformed enforcement officers. I have been out with some fraud teams and seen the work they do, and it is quite important that we have the non-uniformed officers as well because otherwise it is very easy to see that officers are there.

The officers need to be carrying some kind of information that can be easily verified by a telephone call or something like that. I do not open my door to people unless I can verify them. I would do the same for someone who wants to take away my badge. It is important, if that is going to happen, that disabled people are made aware of what they can do.

I do not think that a uniform makes a blind bit of difference because I go to many shows and I know that people can buy uniforms for £20. I think that badges should be confiscated when necessary because we need to get those badges, especially the fake ones, off the market and away from ever being used again.

Sally Witcher: I agree that fake badges should not be allowed to continue, but the question was about the nature of the review process. We would want an independent review where possible.

It is important to have consistency in how the scheme is dealt with across Scotland. Indeed, consistency is an important principle throughout. We have accepted it in the design of the badge, and it is also important with regard to how the scheme is enforced and the nature of the review process that is in place. There needs to be consistency across the piece.
introduces a new strict-liability criminal offence that, in our view, is disproportionate. To use a cliche, we would characterise it as a sledgehammer and nuts. We recommend that the most appropriate method of addressing the policy intent behind the bill would be through civil penalties—fines—rather than a criminal offence. We suspect that that would strike a fairer balance between addressing wrongful use of blue badges and creating a fair and just process in relation to the blue badge scheme.

There are a number of reasons for that. First, the misuse or abuse of a blue badge is already covered under the common-law offence of fraud. Secondly, in relation to the proposed strict-liability criminal offence, we are concerned that the requisite intention to defraud would be lacking. Someone could be prosecuted and convicted under section 4 without having had any motive or intention to defraud. Therefore, our concern is about, first, unnecessary duplication and, secondly, the absence of any mens rea for the commission of an offence.

We need to be careful when we criminalise individuals and should stop to think before we do so, particularly when the existing common law is extremely flexible and can be used to address the situation. That is our first issue, and it relates to section 4.

The Convener: Let me stop you before you move on from that issue. We have received evidence today from the City of Edinburgh Council that the level of misuse is between 52 and 70 per cent. We have also heard evidence from disability organisations that the existing legislation is not helping folks who are affected by that misuse. You mentioned the strict-liability criminal offence. Surely the prosecutor would be in the public interest.

David Cabrelli: Yes. The statistic of 50 to 70 per cent has been quoted in respect of misuse, but I do not know the facts behind those cases. Some of them could—I have no idea whether they do—relate to individuals who have reported a badge lost and then found it, but because the badge has been cancelled they are breaching the law. A carer or relative may not know that a badge has been cancelled or confiscated and may use it in such circumstances. Although there may be misuse, we do not know the exact circumstances behind each of those cases.

The Convener: Surely the prosecutor would take those things into account before they decided whether a case would go to court. That would be the norm for any other offence.

David Cabrelli: The circumstances would be irrelevant because, under section 5, misuse of the badge would be a strict-liability criminal offence, and the commission of the act would be sufficient in itself to prosecute.

The Convener: Perhaps the police could comment on that issue, which the Law Society of Scotland has raised for the first time today.

Assistant Chief Constable Mawson: I have a slightly different view on the issue. Quite often local authorities cancel a badge for a serious reason, such as theft or some sort of fraud, and taking that type of offence to a civil court is quite a step. Perpetrators of that type of crime probably view prosecution in the civil court less seriously than they view prosecution in the criminal court. I would say that what the legislation proposes is right.

The Convener: Thank you.

What is your second point, Mr Cabrelli?

David Cabrelli: Can I come back on the previous point?

The Convener: Yes—briefly.

David Cabrelli: The Law Society of Scotland is not saying that abuse or misuse of a blue badge should not be prosecuted. We are making the point that there is already criminal law in place to address that. All that we are saying is that if someone misuses a badge, there would be two avenues. One would be the criminal route, under the common-law offence of fraud, and the second would be the civil penalties route.

The Convener: How many prosecutions have there been under the existing fraud legislation?

David Cabrelli: For misuse of the blue badge scheme?

The Convener: Yes.

David Cabrelli: I do not have those figures, so I cannot answer that question.

Superintendent Craig Naylor (Police Scotland): My understanding from the Crown Office and Procurator Fiscal Service is that, in the past three years, no more than 30 such cases have been submitted for prosecution.

The Convener: Okay.

Mr Cabrelli, you can move to your second point.

David Cabrelli: My second point relates to section 5(4), which allows the use of plain-clothes enforcement officers. The Law Society has concerns about the absence of uniformed officers to police the misuse of the blue badge scheme; we would prefer the enforcement officers to have
some type of outward display, through a uniform, of their ability to enforce the scheme.

One must bear in mind that many of the individuals concerned will be vulnerable, and the sensibilities are such that we would prefer the existence of the authority to be conveyed through a uniform, as that would avoid needless confrontation. If a plain-clothes enforcement officer presented a badge or some sort of identification, the individual concerned would have no way of knowing whether it was genuine, and no way of checking.

The Convener: I will play devil’s advocate. A huge amount of enforcement is carried out by non-uniformed council officers. In your opinion, what makes this area so different from other areas in which environmental wardens and others carry out their day-to-day business throughout the country without a uniform?

David Cabrelli: It is the context, which is extremely different. We are dealing with individuals—

The Convener: What is the difference in context between the situation that we are discussing and a non-uniformed officer approaching someone in the street who has committed a litter offence or has allowed their dog to foul?

David Cabrelli: The average holder of a blue badge may be vulnerable, and we need to take that into account. They may be confused, and such situations may be difficult. There is the potential for needless confrontation, which needs to be considered. That is not necessarily the case with an environmental warden.

The Convener: You say that a person may be vulnerable and confused, but a person who has littered may also be in that position. We are putting people in boxes, which I do not particularly like doing.

David Cabrelli: I would not characterise it in that way. We need to address the reason why someone has been given a blue badge: it is because they are disabled, and as such they may have mobility, dexterity or mental health problems. The context is extremely different, and the ability to identify enforcement officers by an outward display of authority is crucial to avoid upsetting individuals in that context.

The Convener: Okay. What is your third point, Mr Cabrelli?

David Cabrelli: My third point relates to section 6. The Law Society’s sub-committee is concerned about the absence of a procedure for appealing a local authority’s internal decision to a sheriff. The machinery that the section envisages means that any decision that a local authority takes to cancel, refuse or not to renew a badge would simply be dealt with in-house. We are slightly concerned that that process would breach article 6 of the European convention on human rights.

The existence of the judicial review process is, in our opinion, insufficient in itself to ensure compliance with article 6, bearing in mind the access to justice issues that arise where an individual is seeking to overturn a decision of a local authority before the Court of Session. The only procedure through which judicial review could be undertaken would be through the Court of Session.

The Convener: Do you accept the following comment from the House of Lords? It has stated that judicial review was sufficient for the purposes of article 6 where “the issues to be determined” by a review body “required a measure of professional knowledge or experience and the exercise of administrative discretion”.

David Cabrelli: I would always defer to the judgment of the House of Lords—who am I to question it?

Our concern is the costs that would be involved in taking a judicial review to the Court of Session; we are talking about an average cost of £40,000 to £50,000. If someone’s application for a blue badge has been refused, or if their badge has been cancelled or not renewed, is it likely that they will have £40,000 to £50,000 lying around in their bedroom to instruct counsel and go to the Court of Session? I suspect not.

Why should we not put in place a simpler procedure to enable a decision to be appealed to a sheriff in the sheriff court, which would cost substantially less and require fewer resources?

The Convener: It is obviously for the committee and the Parliament to decide whether judicial review is a disproportionate remedy.

I ask you to clarify your point. With regard to the breach that you say would exist, the House of Lords says that there would be no breach in that regard. You are really arguing about whether the costs are disproportionate rather than whether it would be wrong to proceed in that manner.

David Cabrelli: Judicial review is compatible with article 6 in the sense that it offers people an avenue to go down in seeking to review a decision that a public body has made. However, behind that lie the actual cost of doing so and the access to justice issues that arise.

Is it reasonable and proportionate to expect someone to spend that amount of money to try to overturn a decision that a public body has taken?
The Law Society’s position is that it is not and that there is a much simpler route, which is to enable a review to be undertaken by the sheriff.

**The Convener:** Do you have case law to support that?

**David Cabrelli:** No. We have our members’ evidence on the amount of money that it generally costs to take a case to judicial review. That would not be found in case law, because the issue is really an access to justice one rather than a point of law as such.

**The Convener:** Okay. Thank you very much.

My next question is for ACC Mawson. We heard from previous witnesses that there may be a difficulty with the withdrawal of traffic warden services and that perhaps the police do not take such offences seriously enough. I recently visited Elgin with John Finnie for the Justice Sub-Committee on Policing and was told that, since the withdrawal of the traffic warden service in Moray, more folk have been dealt with for traffic offences than were dealt with by the wardens, if my memory serves me right. What is the situation across the country? How seriously do you take these matters?

**Assistant Chief Constable Mawson:** We take them extremely seriously. For me, anything that significantly and disproportionately impacts on people who have less mobility or some kind of physical impairment has to be tackled, and Police Scotland is absolutely committed to doing that.

On where we are currently across Scotland, roughly half the councils have gone down the line of decriminalised parking enforcement, and more will potentially move down that line. We have found that, as you said, there has been no significant impact since the traffic warden service was largely removed on 3 February. We have 11,000 front-line operational divisional police officers in local policing, and we have made it absolutely clear to every one of our 14 divisional commanders that we have to be robust and that people who have no blue badge and who park in on-street disabled parking bays have to be dealt with. Where off-street parking is involved, we need to link up with our statutory partners and community groups, listen to them and deal with problems in partnership, and we are doing that.

So far this month, we have already had days of action and weeks of action, and we have issued tickets where they have been needed. Therefore, we are changing the way in which we enforce. We have not walked away from enforcement—quite the reverse, in fact: we are absolutely committed to it.

**The Convener:** Mr Cabrelli said that parts of the proposed legislation are a sledgehammer to crack a nut. Do you think that the proposed legislation is a sledgehammer to crack a nut?

**Assistant Chief Constable Mawson:** I do not. I think that it is long overdue and that the sections that apply to Police Scotland, particularly section 3, on the power to confiscate a badge, and section 4, on the offence of using a cancelled badge, which we have already discussed, are welcome.

I would like to touch on one issue that remains a concern. In practice, when patrolling officers come across a blue badge, it is quite difficult for them to know whether it is forged, cancelled, withdrawn or whatever, unless it is really obvious. The specialist knowledge lies with the local authorities. If an incident takes place between 9 and 5, Monday to Friday, we can start the process of trying to get the right person in the right council area on the end of a phone, but we would really like a joined-up mechanism that makes it easier, particularly out of hours, for patrolling police officers to get instant access to the 32 different information technology systems—the 32 different databases—in which all the information is contained. That would be a really big step forward.

**The Convener:** Obviously we cannot legislate for that, but I am sure that that plea has been heard.

**Anne McTaggart:** That answers one of my questions about some of the solutions for reducing or eliminating the fraudulent misuse of blue badges. If the witnesses can think of any more solutions just now, they would be more than welcome to share them. I put that question to Mr Cabrelli, too.

11:30

**David Cabrelli:** I do not have anything to add on that point.

**Assistant Chief Constable Mawson:** We try to gather as much information as we can. Every local area commander at chief inspector level has weekly or bi-weekly tasking meetings with all their statutory partners, which invariably include people from the local council. We are trying to get information informally and to update our own intelligence databases where we can, but the system needs to be more joined up.

**Alex Rowley:** The evidence that we have heard this morning would suggest that there is widespread abuse of the current blue badge system. It is perhaps not Police Scotland but your predecessors and local authorities throughout Scotland that would have to ask themselves whether the issue has been taken as seriously as it should have been.

You spoke about the fact that there have been no more than 30 prosecutions under the existing...
law. It is not necessarily to be taken as read that the law was therefore wrong. It seems to have been suggested this morning that the existing law has not been policed.

Referring to the different evidence that exists, the groups representing people with disabilities have said that their members simply do not see anything happening. How do you respond to that? The picture that has been painted this morning suggests that the matter has not been taken seriously by many people.

The final part of my question concerns information about the parking bays themselves. The survey that was carried out by Transport Scotland suggested that 75 per cent of respondents said that the biggest problem was abuse of the parking bays.

**Assistant Chief Constable Mawson:** There are a number of facets to your question. First, Police Scotland is responsible for on-street parking in the remaining council areas where DPE has not been adopted. That is an important point. Where we are responsible for dealing with on-street parking, we are very proactive in issuing tickets to people who are parking in bays where they should not be parking.

I have already made the point that it would be good if we had access to the information that is held on the 32 different council systems regarding which badges have been withdrawn for what reason, which badges have been cancelled, which badges might be subject to fraud and so on. That information would be good for the future—to increase the number of proper misuses of blue badges. Unless it is really obvious to the patrolling officer, that can go unnoticed. You are absolutely right that we need to increase prosecutions, working in partnership.

**Alex Rowley:** I was encouraged by what you said about divisional commanders being told that the issue is serious, and by what you said about the joined-up mechanisms. I wonder about the involvement of community planning partnerships with regard to the powers. Everyone has welcomed the proposed legislation, and we can take it as read that people generally think that it is the right way to proceed. How do we ensure that the measures are not viewed as the police passing matters across to the local authorities? How do we join things up so that, if we have the new powers, we can get them to work better to achieve the bill’s objective?

**The Convener:** I will add to Mr Rowley’s point, which I think is important. Is there a role here for the local commanders and the local policing scrutiny committees to get together and coordinate that spread of information where possible, so as to make your job easier and to make the local authorities’ jobs easier?

**Superintendent Naylor:** The key aspect as far as enforcement is concerned is the proportionality that we spoke about earlier, and ensuring that we are targeting the right places at the right time with the right resources.

Part of the problem that we have is the lack of knowledge of where abuses are happening. Some of the paperwork that SPiCe pulled together mentions that people say that it is hard to get into touch with a police officer to deal with abuses, and we have also heard that today. It has never been easier to get in touch with a police officer through 101 and the various other methods that we have in place in Police Scotland. Evidence of an abuse does not go away when the vehicle moves. The evidence is there in the vehicle being parked and in the badge that is on it, and if a traffic warden, police officer or parking attendant sees that, they can take notes, which provide strong evidence. However, it seems that we are not getting that joined-up approach.

It is absolutely appropriate that we feed back in through our chief inspectors tasking processes that we encourage our partners to share that information with us if they come across it, and not to be frustrated at the side of the road when someone drives off in their car.

**The Convener:** I have the great privilege of sitting in the convener’s seat, and I can see the public gallery as our discussion is going on. I can see some of the witnesses who have appeared previously, and I see various nods and shakes of heads and their general body language.

You pointed out how the public can share information with you, but how much communication do you have with local authorities on the issues? Are there regular liaison meetings about this and other community safety issues? How can the position be improved? As I have said a number of times, the bill is fine, but we cannot legislate for common sense or communication.

**Superintendent Naylor:** I have not had the privilege of seeing what is behind me, so I will try not to be too controversial. On 2 February—the day before we went live with the removal of the traffic warden role—three journalists phoned our on-call media office complaining of parking issues in various areas of the country. I am glad that we had a sharp and astute media officer who said, "Why are you phoning the media office? Phone 101 and we will send a police officer to deal with it.” We need to go back to that commonsense approach whereby people can report abuses and tell us about issues. Whether it is a Police Scotland matter or a parking attendant matter, we can then farm out the issues.
Local discussions are on-going through community planning partnerships about Police Scotland policing plans for next year, and I know that a lot of them are being presented to local scrutiny boards as we speak.

On national work, I am involved with a group that has representation from the Convention of Scottish Local Authorities, the Society of Local Authority Chief Executives and Senior Managers, the Society of Chief Officers of Transportation in Scotland, the Scottish Government and Transport Scotland. That group is looking not only at blue badge issues—there is a working group on blue badges—but at the totality of parking enforcement across Scotland, how councils can move towards decriminalised parking enforcement and alternative methods, perhaps involving consortia. The group is also looking at how we can reassure our communities that, where Police Scotland still has the legislative responsibility, the 11,000 officers that we have out there are well tasked and well briefed and have the necessary knowledge and understanding of the legislation to do an effective enforcement job. However, part of that has to be down to our communities and our representatives in communities telling us where the problems are.

**John Wilson:** Good morning. Following on from Alex Rowley's questioning about an answer that Superintendent Naylor gave earlier, I want to clarify whether the 30 cases that were mentioned were prosecuted or just reported.

**Superintendent Naylor:** The information that I received from the Crown Office and Procurator Fiscal Service as part of our equality impact assessment was that, over the past three years, on average, 30 cases a year were reported. I do not know how many were prosecuted, I am afraid.

**John Wilson:** That is why I asked the question. It is fine that 30 cases have been reported, but we also need to consider the level of prosecution. Earlier today, a witness said that 50 to 70 per cent of vehicles with blue badges that are parked up in the city of Edinburgh today are parked fraudulently or illegally or are abusing or misusing the blue badge system, and the evidence on Glasgow shows that, in one trawl, 118 misuses of blue badges were reported.

I find it surprising that we have such a low incidence of the reporting of such incidents, given the seriousness of some of the issues that we are trying to cover in the legislation, and the seriousness of the abuses that are taking place in relation to the fraudulent use of the blue badge. Why do we have such a low level of reports? Do you think that the level would increase if the bill were passed?

**Superintendent Naylor:** I think that the reporting levels would increase. One of my concerns is the implications and the knock-on effect for organisations such as the Procurator Fiscal Service of an increase in reporting. Would there be a financial impact?

Of course, however, the councils that you mentioned operate decriminalised parking enforcement and have responsibility for the enforcement of parking offences on the streets. We have issues around the ability of parking attendants to seize badges when they see abuses on the streets. They do not have that power at present, and the bill will introduce it. That is a strong move.

**The Convener:** Assistant Chief Constable Mawson, do you want to add to that?

**Assistant Chief Constable Mawson:** No, I think that Superintendent Naylor has covered that perfectly well. I think that it will lead to a rise in cases reported, but that is what we want.

**David Cabrelli:** I do not have any way of knowing whether reporting would rise as a direct result of the legislation. The Law Society is concerned about situations in which individuals will be prosecuted and convicted when they have no intention to defraud.

**John Wilson:** Given the number of cases that have been reported—30 in the past three years—we do not have high levels of prosecution at the moment. One of the challenges might be to get the message out about the lack of evidence in terms of prosecutions and to make a determined case for the public to be made aware of the situations in which they would be abusing the blue badge. I take on Mr Cabrelli's point about whether something is deemed to be fraudulent use of the blue badge. However, if someone has a fake blue badge in their car, that is clearly fraudulent use of the blue badge system, and they should therefore be prosecuted.

Earlier, ACC Mawson made a comment about the co-ordination of who is issued a blue badge. One of the problems that was identified is that each of the 32 local authorities is responsible for issuing the blue badges in their areas. How easy would it be to get a central database of where blue badges have been issued and who has been issued with one? If one of the problems is that, between 5 o'clock on a Friday evening and 9 o'clock on a Monday morning, we cannot determine whether abuses of the blue badge system are taking place, what would be your solution, bearing in mind the fact that we have 32 issuing authorities at present?

**Assistant Chief Constable Mawson:** That is a really good question, to which there is no easy answer. The solution will be complex, it will take
time and there will be a cost implication, but that is exactly the kind of thing that, through Superintendent Naylor’s group—

The Convener: Can I ask a question at this point? Sometimes I can be a little simplistic about these things but there are 32 local authorities with 32 programmes that are probably quite basic things, and I do not think that it would be that difficult to haul that information together. As I said, I can be a little simplistic when it comes to IT, but perhaps that could be added into i6, when it is up and running.

Assistant Chief Constable Mawson: I am not up to speed on the exact technical abilities of i6, but we will certainly consider the idea. The group that Superintendent Naylor goes to has all the right people around the table and is clearly the right forum to take the issue forward. However, you are right to say that we need to do something.

The Convener: From my perspective, all that you need is 32 Excel spreadsheets from 32 local authorities. Those will need to be changed regularly, which could be done by email. Maybe I am far too simplistic in such things. There are often difficulties to do with data protection, but we sometimes make mountains out of molehills on such issues. I get a little sick fed up of it.

Sorry to interrupt your line of questioning, Mr Wilson.

11:45

John Wilson: That is okay, convener.

The issue that I was going to move on to was that, although we have 32 issuing authorities, they now use standardised blue badges. How easy would it be to transfer the data, bearing in mind data protection legislation, to Police Scotland to allow it to have a centralised database that is tied into the local authorities? That could work like the electoral roll, which is updated on a monthly or daily basis, depending on the valuation board. Would it be possible to co-ordinate such an arrangement with local authorities so that Police Scotland has a central database?

Superintendent Naylor: Your example of the electoral register is a good way of looking at the issue. We would like access to the information, but we do not want to own the data—it is not our data. In that way, the data protection issues would not be for us, but we would get sight of the data. I am keen for us to have something like that, but I am reluctant to say that i6 should be the solution, because i6 has a particular focus.

The Convener: You could have a simple Excel spreadsheet, then.

Superintendent Naylor: That would be lovely, convener, thank you very much.

Stuart McMillan: As someone who was not previously a local authority member, I will have to have a chat later about what i6 is.

The Convener: It is nothing to do with local authorities. It is a new super-duper—so we are told—police information and communications technology system. We await it with anticipation.

Stuart McMillan: Thank you.

I asked the previous panel about non-uniformed enforcement officers. What are the witnesses’ opinions on such officers carrying out the function?

Assistant Chief Constable Mawson: My view on that is, like the convener’s earlier view, fairly simplistic. The preventative and reassurance value of mainly having enforcement officers in uniform is obvious. That is where we get the most value from them. However, it is equally important to have the option in the legislation of having plainclothes enforcement officers. We sometimes come across sustained and really problematic abusers of disabled parking bays and blue badges and it would be useful to have the tactical option of deploying an enforcement officer in plain clothes to gather evidence. We would welcome the option, but we see it as probably the exception rather than the norm.

Superintendent Naylor: I will add a touch of tactical information on the issue. The Regulation of Investigatory Powers (Scotland) Act 2000 is the legislation that would cover such officers. Significant powers have to be put in place, and senior officers in a body—the council, the police or whoever—would authorise such activity. So there are appropriate safeguards on that. The points that were made earlier about the identification of plainclothes officers are absolutely right. I would be slightly concerned if we were to have a significant amount of enforcement by plainclothes officers, although they are excellent for gathering evidence and intelligence.

Stuart McMillan: The previous panel raised concerns about that and said that many people who have a blue badge might be vulnerable. Is the existing legislation strong enough or would there need to be amendments or discussions with the organisations that represent people who are disabled and who have blue badges to ensure that non-uniformed enforcement officers are used as the exception rather than the norm?

Assistant Chief Constable Mawson: You are absolutely right. There are two key issues. First, a communications strategy must be developed that involves all partners, including people with disabilities. We have to get that right. Secondly, a
little bit of extra training is probably needed for people who would be specifically deployed in the plain clothes role, so that they have good quality identification and they know how to interact with people. What is proposed would mean carrying out enforcement differently and we need to make sure that those involved approach it in the right way.

David Cabrelli: The Law Society would support that. It would be useful to have a mechanism whereby a member of the public could check—if enforcement officers are not to wear uniforms—the identification of the plain-clothes enforcement officer in order to verify their identity, so that appropriate safeguards are in place. That would, I hope, reduce tension and confrontation between the member of the public and the enforcement officer.

Superintendent Naylor: We have gone down the road of standardised badges across Scotland for the blue badge scheme. It would be sensible to go down that route for plain-clothes enforcers, too, so that there is parity between the users and the enforcers.

Stuart McMillan: I posed questions to a previous panel about the potential extension of community wardens’ powers to undertake such an enforcement role. Wardens have various powers; they also have identification. Would your suggestion mean that they would have to carry two different badges, a hybrid badge or what?

Superintendent Naylor: I would love to give you an answer to that, but I do not know what the position would be. However, it would be good if someone, whether they were working in Duns or Dundee, had the same style or nature of badge, and to have only one way to contact the issuing authority to confirm who the person is.

The Convener: It is not beyond the wit of man to print a double-sided badge with the local authority’s details on one side and universal details on the other. Again, I am being simplistic. I am sure that that happens elsewhere.

Superintendent Naylor: Or you carry two badges.

The Convener: Or you carry two badges.

Cameron Buchanan: Somebody mentioned attaching the blue badge somewhere on to the windscreen with a holder, which is a rather good idea. I should declare an interest in that I am a blue badge holder. A holder would allow you to transfer the badge from one car to another. It is very often the case that you cannot see the badge, but with a holder you could see both sides of it, which could be read with a reader. What do you think of that?
Disabled Persons' Parking Badges (Scotland) Bill: The Committee took evidence on the Disabled Persons' Parking Badges (Scotland) Bill from—

Keith Brown, Minister for Transport and Veterans, Scottish Government; Dennis Robertson, Member in Charge of the Bill, Scottish Parliament; Jill Mulholland, Transport, Accessibility and Road Safety, Transport Scotland; Sharon Grant, Bill Manager, Transport Scotland; and Stuart Foubister, Divisional Solicitor, Legal Directorate, Scottish Government.

Disabled Persons' Parking Badges (Scotland) Bill (in private): The Committee considered the evidence received.
Scottish Parliament
Local Government and Regeneration Committee

Wednesday 2 April 2014

[The Convener opened the meeting at 10:00]

Disabled Persons’ Parking Badges (Scotland) Bill: Stage 1

The Convener (Kevin Stewart): Good morning and welcome to the 10th meeting in 2014 of the Local Government and Regeneration Committee. Item 1 is an oral evidence session on the Disabled Persons’ Parking Badges (Scotland) Bill. I welcome our panel: Keith Brown, the Minister for Transport and Veterans, Dennis Robertson, the member in charge of the bill, Jill Mulholland, head of transport, accessibility and road safety at Transport Scotland, Sharon Grant, the bill manager at Transport Scotland, and Stuart Foubister, divisional solicitor in the Scottish Government legal directorate. I invite the minister to make his opening remarks.

The Minister for Transport and Veterans (Keith Brown): To set the bill in context, the blue badge scheme is an important parking concession that enables improved mobility, and therefore accessibility, for disabled people. We have around 245,000 badges in circulation in Scotland, and it is my intention to ensure that the scheme remains fit for that important purpose.

In the past four years, Transport Scotland has been working closely with agencies and third sector groups to ensure that the scheme is easier to access and is used by those who are eligible, and that it is easier to enforce and more efficient to administer. The reforms that we have had so far have included clarifying the eligibility criteria, introducing independent mobility assessments undertaken by occupational therapists, redesigning the badge to make it harder to tamper with or to forge, and introducing a United Kingdom-wide database of badge holders, which should be fully populated by the end of 2014 and will allow up-to-date information to be held by local authorities.

I support Dennis Robertson’s bill, which complements the recent reform programme, and Transport Scotland officials have been working with Dennis to develop the bill. Two multi-agency groups that include local authority staff and disability representative groups are also working with him to develop the important guidance and the content of the regulations to underpin the bill.

Misuse of the badge is a problem. I receive complaints from the public about third parties’ misuse of the badge scheme, and recent Transport Scotland research, which interviewed around 800 blue badge holders, concluded that badge holders value the concessions that are provided by the blue badge, although the majority reported that they had experienced misuse of the badge.

The bill responds to the views of blue badge holders by enhancing the existing powers that we have to enforce the scheme. It also helps to send out the message that blue badge misuse is socially unacceptable. The relevant provisions of the bill are strong preventive measures; those powers do not seek to catch more abusers, but rather to discourage and prevent abuse of the system in the first place, thereby saving time and money for enforcement agencies and, crucially, freeing up spaces to be used by blue badge holders.

I am pleased that the bill will further strengthen the scheme by providing a process that will allow people who have been refused a blue badge on grounds of eligibility to request a review of that decision. That will provide a fairer and more consistent approach across the country.

The bill is about on-street parking, as that is the area that the wider blue badge scheme legislation covers. However, I am aware of blue badge holders’ frustrations at misuse of disabled parking spaces in private car parks, such as those that are owned by large retailers. Members of the Scottish Retail Consortium are aware of the issues that disabled people face and some take action to encourage patrons to park sensibly. Although the Scottish Government has no jurisdiction to legislate in this area, I believe that Dennis Robertson’s bill will raise awareness and encourage private owners to emphasise that disabled parking bays should be left for those who need them.

A need to raise awareness of the blue badge scheme came through strongly in the Transport Scotland research and Dennis Robertson’s consultation on the bill. I want to address that, and officials are working with multi-agency groups to identify how messages about the purpose and the dos and don’ts of the scheme get to badge holders, the public and those who are responsible for its enforcement. A substantial amount of guidance is already out there, but messages need to be distilled and simplified so that badge owners understand how their badges should be used. Enforcement officers must understand the sensitivities that are required when they carry out their duties and the general public must understand that misuse of badges is not a victimless crime.
I will ensure that the changes resulting from the bill are publicised in advance of introduction of the powers. As I said, the bill is not about catching more abusers of the scheme; it is about making people think about proper use of the badge, making people aware of the consequences of misusing blue badge parking spaces and discouraging and preventing systematic abuse of the scheme. The clear aim is to send a strong message that abuse of the blue badge scheme will not be tolerated and to ensure that the rights of the blue badge holder to use the concession to access their work, leisure and support services are upheld.

The Convener: Thank you, minister. Mr Robertson, do you want to make any opening remarks?

Dennis Robertson (Aberdeen West) (SNP): I will be brief, as the minister has given a fairly full and comprehensive opening statement.

I reiterate that the bill’s aim is to improve and support enforcement of the blue badge scheme. We have evidence to suggest that blue badges are being misused on a fairly grand scale, so we need to be able to tackle the issue.

I am grateful to the minister and the Government for supporting the bill. My gratitude also goes to Transport Scotland, which has supported me in taking the bill forward.

I have read the Official Report of last week’s evidence session and I look forward to members’ questions today.

The Convener: Thank you very much. You said that blue badges were being misused on a grand scale. Some members were taken aback last week by the evidence of Gordon Catchlove of the City of Edinburgh Council, who reckoned that between 52 and 80 per cent of use of the badges is misuse? Did you find that to be the case when you gathered evidence for the bill?

Dennis Robertson: The evidence and our consultation show that blue badge holders are concerned about misuse. Sometimes the misuse is fraudulent and sometimes it is third party—quite often, third-party misuse takes place without the knowledge of the blue badge holder.

Mr Catchlove’s evidence is probably fairly significant regarding urban areas, but maybe not so much regarding rural areas. Dundee conducted similar research and again the results were quite staggering. The Official Report might say that Mr Catchlove said that the figure was between 52 and 70 per cent, convener, but I stand to be corrected.

The Convener: The clerks have already spotted that, Mr Robertson. You are dead right.

Do you have any comment on that point, minister?

Keith Brown: The 52 per cent figure is the same as the percentage of blue badge holders who believe that they have experienced abuse of the system. It is obviously a very real problem, which is why Dennis has introduced the bill.

Stuart McMillan (West Scotland) (SNP): My question is for Dennis Robertson. Are you aware of any marked difference in the level of misuse between urban and rural communities?

Dennis Robertson: I think that the situation for blue badge holders who are trying to gain access to parking spaces is the same in urban and rural communities. However, it is exacerbated in urban areas because of the number of cars and vehicles that are looking for a limited number of parking spaces.

The issue is not just about designated blue badge spaces in urban and rural areas; it is also about on-street parking, because the blue badge concession enables a person with such a badge to park on single and double yellow lines, where there are no restrictions. The problem is the same, regardless of the area. However, from my constituency perspective, sometimes my mailbag is quite full because people contact me about the misuse of blue badges in rural settings.

Anne McTaggart (Glasgow) (Lab): Good morning, panel. What do you think is the solution for reducing and eliminating fraudulent misuse of blue badges, given that it has been claimed that between 52 and 70 per cent of use of the badges is misuse?

Dennis Robertson: Raising awareness is probably one of the solutions and I think that the bill will assist by introducing enforcement powers. However, much of it is about education and awareness, which means education of the blue badge holders themselves, as well as education of the public at large, on what constitutes the right of a person to use the blue badge. I am sure that most people have seen the misuse of blue badge spaces, whether they are private or local authority spaces.

Misuse is a huge problem, but I think that the solution is raising awareness. We intend to raise awareness through guidance and the bill’s provisions. We will launch an awareness campaign after the bill is enacted. Third sector organisations are asking us to produce a fairly concise script for people with blue badges. The booklet that people get at the moment is probably too large and complicated, with far too much information. That information is pertinent, but we probably just need some bullet-point information for blue badge users. I think that that in itself would reduce the level of misuse.
Keith Brown: I agree that awareness raising among the public is essential in eliminating the abuse of blue badges. In addition, the teeth in some of the bill’s provisions will provide the necessary powers for local authorities to tackle the problem. We will leave it to local authorities to say how they want to do that. Some of them might experience the problem to a greater extent than others—Edinburgh has been mentioned in that regard—so they might want to make full use of the powers that the bill will make available.

The problem will be tackled by a combination of awareness raising and using enforcement powers. Increased awareness should mean that there will be less inadvertent abuse and people’s awareness of the enforcement powers, along with some of the reforms that we have made to the system previously, should mean that there is much less inclination to abuse the system. People will be aware that if they abuse the system, there is a real possibility that they will be brought to account.

The Convener: At last week’s meeting, it was suggested that blue badge holders should sign for the booklet and the badge and say that they have read, or will read, the booklet and stick to what it says. Mr Robertson said that the booklet is extremely large; I must be honest and say that I have not seen it. He also suggested having a shorter version of the booklet.

Are there other ways and means of getting the information across? For example, could a little DVD be used? Folk are more likely to look at that than to read a massive booklet. Do you have a comment on that, Ms Grant?

10:15

Sharon Grant (Transport Scotland): The application form requires the person to sign a declaration that they will read the booklet and abide by the scheme’s rules. At the point of applying for the badge, the person has to make a number of declarations, and that is one of them. That is a first step at least to asking badge holders to take some responsibility for the scheme.

Dennis Robertson: The convener made a valid point about trying to ensure that the information is accessible to everyone in a format that is readily understood. Perhaps we could look at, for example, the production of a DVD or an audible version to ensure that the information is presented in a concise manner. That could simply look at the main aspects of using a blue badge. Perhaps we can take that back to the working groups and look at the feasibility of producing something like that. We must ensure that the information gets out to the blue badge holders in the appropriate format.

The Convener: Thank you. On what Ms Grant said, if I applied for a blue badge and signed a declaration that I would abide by what the booklet says, by the time that I got the badge, I would probably have forgotten that I had signed to say that I would read the booklet.

Dennis Robertson: Absolutely.

The Convener: It could be helpful if that was done when the badge and the booklet were received. Could that be looked at? I see nodding. Grand.

Alex Rowley (Cowdenbeath) (Lab): Good morning. It has come across very clearly that there is widespread support for the bill. Nobody is jumping up and down and saying that it is a bad thing. However, last week’s evidence focused on enforcement. From the user’s perspective, there was a view that there is little enforcement out there on the misuse of blue badges and the misuse and abuse of parking bays. How will that be addressed? Will the bill in itself work simply by giving local authorities powers?

I tend to liken the proposals to what happened when I was a young driver and the compulsory use of seat belts was introduced. People did not comply until they realised that, if they did not buckle up, they would certainly be stopped and fined for breaking the law. For me, the key evidence last week was from people from organisations that represent disabled groups whose members predominantly have blue badges. Some 80 per cent of the members of one organisation have blue badges. Their perception is that nobody really bothers at the end of the day. If that is their perception of those who abuse the blue badge system, will anything really change?

Keith Brown: Effecting that change is the whole purpose of the bill, and of previous reforms such as ensuring that the design of the blue badge is much less susceptible to being fraudulently replicated. The database will help to do that, too. The vast majority of people who hold blue badges are aware of the previous reforms, and many of the groups and individuals are aware of the bill’s progress.

Alex Rowley is right to say that there has perhaps been a feeling that there has been a bit of laxity about the system so far. The groups that I have talked to—I have not talked to them nearly as much as Dennis Robertson has—are aware of that. We should think back to what happened with seat belts and drink-driving. Peer and social pressure on people made them comply almost more than the legal remedies did.

I return to the convener’s point about how we get the message out. We undertake social marketing in relation to the dangers of rural roads in particular. We did an exercise recently on the need for parents to demonstrate good behaviour when they drive, because the first time that a child
of whatever age goes into a car, they start to learn about behaviour in cars. We undertake such social marketing exercises. When the convener asked the previous question, I wondered whether we might want to look at what social marketing we can do, once the bill has progressed through the Parliament, to make it more socially unacceptable for people to abuse blue badges.

Dennis Robertson held a launch event for the bill with all the groups involved, which was pretty well covered in the media. The message is starting to get out there that we are treating the matter more seriously. The bill will enable local authorities to do things that they might want to do so that the matter is taken more seriously, if they see it as a problem.

Dennis Robertson: The purpose of the bill is to ensure that we widen the scope of the enforcement. At the moment, a parking attendant can look at a blue badge and say to the person using it, “I don’t believe that you’re the badge holder,” but they cannot confiscate it, so the person can just drive off and retain the badge.

There are limited powers of confiscation, which lie with the police. The bill will widen the scope of that area, so it will provide an opportunity for the scheme to be enforced much more widely than it is at present. With the current limited powers, there is a reluctance to go forward given that very little can be done with regard to confiscation of a badge if a parking attendant, for example, thinks that the person is not the badge holder.

Alex Rowley: Enforcement will be down to each local authority. A question was asked earlier about the difference between rural and urban communities. I assume that in authorities where parking charges generally bring in significant resources—in the cities, in particular—we will find a lot more parking attendants and a lot more people who are enforcing. However, that will not be the case in local authorities, particularly in the rural areas, that have very few parking charges.

Is there a danger that we will have a spread of approaches across Scotland? Will the police still have a significant role to play, even though their traffic wardens are being removed? Earlier, I mentioned seat belts. People now generally belt up; I accept that part of that might be to do with social acceptability. Right now, we have people using phones in cars and the police have to enforce the ban on that; eventually that might go the same way as seat belts. Will the police still have a significant role to play in enforcement?

Keith Brown: Yes. They still have the same powers as before. Of course, the bill extends those powers because it will create a new criminal act, which is not just misuse of the badge—that is currently a criminal act—but the use of a cancelled badge. The police will still have those powers.

You are right to say that it will be a case of different fits in different areas. To me, that is exactly right. The action should be proportionate to what the local authority believes the problem to be.

You are right to mention parking charges in cities, for example in Edinburgh. If one person misused a blue badge and took up a space for an entire year that he would otherwise have to pay for, I think that the cost could be about £6,000. That lost income would be significant to the City of Edinburgh Council, and I assume that the council would find it a good idea to ensure that resources go into maintaining income and driving down abuse.

The power in the bill is an enabling power. Local authorities can say that abuse of the scheme is not such a big problem in their area, or that they do not feel that the additional expenditure would be justified because they believe that they are already covered by their current provision as well as by the police. That is the right way to do it, rather than for us to prescribe the establishment of a new set of enforcement officers or other things. It is entirely right that local authorities should take that forward themselves.

As you said, in some areas there are very few parking charges. In my area, in the town centre of Alloa, there is no costed parking provision that people need to pay for and there are very few regulations about where people can park other than the obvious ones about double yellow lines and so on. The approaches will therefore be different for different areas, but I think that that is the right way to do it. Local authorities will decide, on the basis of their own situation, what resources to commit to enforcement. In the case of Edinburgh, lots of people come into the city from outwith Edinburgh; there are costs and pressure on parking spaces. I think that it is right and proportionate that we do it in this way.

Dennis Robertson: Assistant Chief Constable Wayne Mawson stated at last week’s meeting that the police would enforce the scheme and that they are committed to doing that. The police are right behind the bill and will continue to be so. Awareness will be raised amongst officers themselves, and I am sure that Police Scotland will continue to do that.

Cameron Buchanan (Lothian) (Con): I declare an interest in that I am a blue badge holder. First, I agree about the booklet being too large. It comes out before people get the blue badge. It is only when people get the blue badge that they can put it on the car and go. There should be one piece of paper with just the salient points on it, as Mr
Robertson said. It should cover just the five or six important points—you could have the booklet as well.

Things are not the same everywhere. When I was in London recently, I just had my blue badge, but Westminster does not have the same thing. There, people need to display a time clock if they are on a single yellow line, and they have to pay if there is a parking meter. That should be made obvious.

Is the position the same everywhere in Scotland? Does everywhere have the same rules, on single yellow lines in particular?

Keith Brown: Yes, it is the same across Scotland. It happens to be different elsewhere. You are right to say that we should ensure that people are aware that things might be different if they travel to London. I am not saying that the authorities there should mimic what we do here. However, things are the same in all areas of Scotland.

On your first point about the booklet, Dennis Robertson has said that he is willing to give the matter further consideration. We will do so, too. We were looking to raise awareness, and we will be considering how best that can be done, whether through a DVD, by improving the booklet or even through some social marketing exercises.

Cameron Buchanan: It should be kept simple. I wonder whether the piece of paper could state, “These rules only apply to Scotland.” It would not be necessary to say what all the rules are. Abroad, there is the European Union thing that says that it is for abroad, but we all know that things will be different abroad; we do not necessarily know that the rules will be different if we go down to Carlisle, for instance. In fact, in Carlisle they are the same as they are here, but in Westminster they are completely different. It is up to local authorities, and that should perhaps be emphasised on the blue badge.

There is quite a lot of fraud, and we addressed that point at our last meeting. Any fraudulent elements will be eliminated, because the badge will have an electronic thing on it so that the police can read it. Is that right?

Jill Mulholland (Transport Scotland): We have been working with the multi-agency group. We are considering having 10 top tips for blue badge holders to distil the information down. We have also had Scottish Government marketing colleagues working with us. We have case studies from blue badge holders, and we are considering a campaign nearer the time of the launch. We know that we have to distil the messages down, just as we have done for road safety. We have been successful in that regard, as the minister said.

We have been considering what we used to call freebies but are now apparently called objects for change—everyday things such as badge holders with messages on them. We would have simple, straightforward messages that people can understand, rather than presenting the information in a large booklet. That would make it clear to people what the rules and responsibilities are. I repeat that we are considering how to distil the messages down.

There is also a DVD about the impact of abuse of the scheme—it is perhaps already on YouTube. We are considering adding to the video the consequences of abuse of the scheme. It is a pretty hard-hitting DVD. It involves people talking about the effects that the abuse has on them on a daily basis. We can strengthen it, as I say, by adding some material about enforcement.

On the badge itself, it already has an indicator. I think that Mr Catchlove mentioned that last week. Although the photograph is face down, the indicator in the back of the badge will immediately tell enforcement officers, if they have a smartphone or a hand-held device, what the circumstances of the badge holder are. If officers do not have the relevant hand-held equipment, they can phone their back office.

Following last week’s evidence, we have been in contact with the police to see whether they can have direct access to that information as well. We are talking to the people who produce the badges, Northgate Systems, so that the police can gain access.

Cameron Buchanan: The photograph is virtually meaningless—it is not seen. When someone else is driving me, for instance, it is not their photograph that is displayed, but mine. I just got my licence back a few months ago so I was being driven all over the place by various different people, but it was my photograph on the blue badge. If I was not in the car at the time, because I was at the doctor’s, shopping or whatever, even for a minute or two, it could well have been open to abuse, I suppose. The photograph is not as important as the electronic tag.

Jill Mulholland: That is right. There is a chip on the badge that gives the badge holder’s information.

The Convener: You have mentioned the video on YouTube and various other bits, including the top tips. Are those new things that have come into play since the launch of Dennis Robertson’s bill? I know that you have been round the country with Dennis, talking to various folks. Have the various tips come from folks around the country?

Jill Mulholland: The DVD already existed because of the former reform process. The idea of putting the video on YouTube, of strengthening it
by referring to the new powers and of having the 10 top tips resulted from the bill. As we have discussed things with the working groups, they have raised the need for awareness and to distil information to make it much simpler. We have had conversations with local authorities and representative groups on the working groups, the feedback from which has been that we need to ensure that badge holders are aware of their responsibilities and that the wider community is aware of the impact of abuse on badge holders.

10:30

The Convener: Does Mr Robertson have anything to add to Ms Mulholland's comments?

Dennis Robertson: I do not think so. The issue has been well covered.

John Wilson (Central Scotland) (SNP): Good morning. The minister said that using a blue badge fraudulently could save someone up to £6,000. Are the penalties for fraudulent use of blue badges high enough?

Keith Brown: We and Dennis Robertson have identified that two of the main inhibitions on people undertaking fraudulent activity are societal pressure, which makes them realise how unacceptable such behaviour is, and the chance of being caught. Those aspects are better deterrents and will make more difference than increasing fines. That has been said in the feedback that we have had so far.

We can ratchet up the measures. We can have badges that are hard to counterfeit and a database that allows badges to be verified in the way that Jill Mulholland just described. We can go further than that and say that using a cancelled badge is an offence—that is not currently the case. Non-uniformed personnel could also undertake investigations and enforcement work. Those enforcement elements provide a better disincentive to fraud than increasing fines would. Does Dennis Robertson have a view on that?

Dennis Robertson: The minister is right. The fine is £1,000, but we are looking at prevention and reducing the amount of fraud.

John Wilson: It is fine to do all the campaigning to raise awareness of the misuse of blue badges, but we heard evidence last week and received follow-up written evidence about the number of cars that local authorities have towed away because of the fraudulent use of blue badges. The written evidence suggests that people are happy to pay the tow-away fine.

What will happen if the public awareness campaign fails to get the message over? As the minister said, the financial incentive for someone to misuse a blue badge can be up to £6,000 a year. If that is multiplied over a number of years, the risk of paying a fine of up to £1,000 if they are caught might seem irrelevant, given what they could save by abusing the blue badge.

Keith Brown: If I try to put myself in a criminal's mind, I suggest that they make their calculation on the basis of not just the financial penalty but the likelihood of having to pay it. We are trying to address that. The feeling just now might be that, because some of the measures in Dennis Robertson’s bill are absent, the chance of getting away with it is much greater.

I would have to ask the City of Edinburgh Council about its experience of co-ordinated abuse such as John Wilson describes, which becomes financially attractive over a period. However, that council has pretty assiduous enforcement measures in place, to which most of us who have tried to park in the city can attest.

Somebody might say, “It's fair enough—I can pay £200 or £300 to recover my car and I might pay a fine.” If somebody repeatedly abused the system and was caught, I imagine that the courts would levy the maximum fine to discourage repeat behaviour.

However, it is much more to do with enforcement and with the social unacceptability of such abuse. It is about people who know that somebody is abusing the system feeling more confident to come forward and tell the authorities that the system is being abused. That is right and the penalty has to be proportionate. For that reason, although I agree that someone could see it as financially advantageous to take the risk, the point is that the bill tries to make the risk much greater, because there is much more likelihood of being caught.

Dennis Robertson: The design of the new badge and the ability to read the information that will be held in the chip within the badge will be a deterrent. The new badge came out in September 2012, so there will be an issue for three years. Those badges will be gone by 2015. The new badges will make it much more difficult for someone to abuse the system, and enforcement officers will be able to detect abuse. As Mr Catchlove said last week, he currently does an undercover operation to investigate the abuse and gather evidence, but the new badge will give him the necessary information. If a person in their mid-twenties or whatever gets out of the car when the badge has been issued to someone in their eighties, there is a case for confiscation. Detection will be made much easier with the new badge, so I envisage that abuse will decrease.

John Wilson: To paraphrase Cameron Buchanan, Westminster is completely different from Scotland—and not just in terms of the blue...
badge parking restrictions. However, that is a debate for another day.

Mr Robertson commented on the parking restrictions that apply to parking on yellow and double yellow lines. How do we get the message over to blue badge holders that there may be other restrictions? A number of years ago, someone who is very close to me who has a blue badge parked in a street in Glasgow on a yellow line, only to find when they went back to their car after 4.30 that they had received a ticket because there was a parking restriction, which was publicised on a small sign by the side of the road. The sign was 6 inches by 4 inches and it stated that drivers were not allowed to park on that particular street between 4.30 and 6 o’clock.

How do we ensure that genuine blue badge holders are not penalised because local authorities fail to display properly the restrictions that are in place in their local authority? We know that blue badge holders rightly do not restrict themselves to the village or town that they live in and travel elsewhere. Is it necessary to get a message over to local authorities to ensure that they put proper signage in place so that genuine blue badge holders are protected against unnecessary parking fines?

**Dennis Robertson:** Mr Wilson makes a valid point. It is about ensuring that the appropriate signage is in place, is extremely visible and is not confusing. We have heard evidence in the past that signage is perhaps visible but can be confusing. Local authorities must ensure that signage about a parking restriction is in place.

However, if there are yellow lines and a parking restriction is in place, the restriction applies to the blue badge holder in the same way as it does to any other person. The concession is within the limits and the scope of that concession. If a person is given a parking ticket for a parking abuse outwith their concession, the consequences are the same for them as for any other person.

**Keith Brown:** The restrictions that apply tend to be about safety or access. The safety of the blue badge holder is also an important consideration. It is vital that they do not park in a place where they could cause accidents or inhibit legitimate and important access.

We would encourage local authorities to ensure—as we are obliged to do for the trunk road network—that signage is clear, so that people understand the restrictions, especially if they have the preconception that, because they have a blue badge, they have a dispensation. It is right to say that the restrictions should be made clear to people.

**The Convener:** I think that Ms Grant wanted to come in on the previous point—sorry, but you caught my eye right at the end, Ms Grant.

**Sharon Grant:** I wanted to go back to Mr Wilson’s point about the effect of a £1,000 fine. The person will receive a criminal conviction, so the effect is probably a bit more than just the fine. As with drink-driving, there is the longer-term impact of having the conviction. In London last year, there was a case in which a lady paid £500 for a fraudulent badge. She was investigated and spotted using the badge over a period of weeks. In London, she would have been saving a lot on parking. She was prosecuted and fined £1,000 or £1,500 or whatever but, as she worked for a bank, she had put her livelihood in jeopardy because she had abused trust. The impact on her—and probably on her family—as a result of her attempts to get free parking was much wider than just the fine that was imposed. That is another aspect to consider.

**John Wilson:** Given that Ms Grant has raised the issue of fines and the criminal records that go with them, does the Scottish Government hold any figures on the number of cases in which people have been taken to court and fined for abuse or misuse of blue badges?

**Keith Brown:** We do not have that information centrally. Even the estimate of the number of people whom we believe to be involved in fraudulent activity is an extrapolation from UK figures. Because these things are determined locally, we do not have the figures.

**Mark McDonald (Aberdeen Donside) (SNP):** At our previous meeting, concerns were raised about the provision enabling non-uniformed officials to undertake enforcement action. One witness representing a disability organisation said that that might present difficulties for vulnerable individuals, who might not consider somebody who is not in a uniform to be undertaking enforcement. I ask Mr Robertson to give us information on the purpose behind including the provision.

**Dennis Robertson:** Inclusion Scotland feels that many people with disabilities might be disadvantaged if non-uniformed people approach them. I do not share Inclusion Scotland’s concern and nor does a range of other disability organisations. Whether someone has a uniform is not really the issue. The relevant point is that people can identify themselves with the appropriate identification. Sometimes, being approached by someone in uniform can raise even more anxiety among people in some vulnerable groups. Inclusion Scotland gave the example of people with cognitive or sensory impairments, but such people will no doubt have a third party with them. I suspect that there will be someone else
with such people when the identification is produced. Therefore, to be perfectly honest, I do not see that as an issue.

Keith Brown: I agree with Dennis Robertson. We have had a number of discussions about the issue. As Dennis Robertson says, other groups are supportive of the provision, because they see it as a key element in reducing abuse.

Mark McDonald: I am grateful to the member for outlining that reasoning.

Another issue that came up was confiscation. The point has been made that a blue badge can often be abused without the knowledge of the person who holds the badge, and that confiscation can result in difficulties for the holder of the blue badge. Have you looked into that as part of your consideration of the confiscation powers? What is your expectation of how local authorities ought to deal with that situation?

10:45

Dennis Robertson: Yes we have. Certainly the working groups have been looking at that in great detail. We think that what we are proposing in the bill and the guidance that will accompany it is a reasonable action. Badges that are confiscated will be returned as quickly as possible to the badge holder. We are trying to ensure that badges that are being misused by a third party are returned to the badge holder as quickly as possible. A person misusing a badge for on-street parking is denying a legitimate badge holder access to a parking space. I believe that Inclusion Scotland felt that what we are proposing would disadvantage the badge holder, but the badge holder is being disadvantaged anyway by that third-party misuse of their badge. The badge will be returned as quickly as possible, with a letter explaining that the badge was withdrawn and is being returned and reinforcing the need to use the badge appropriately and the rules for doing so. I hope that that answers Mr McDonald’s question.

Mark McDonald: It does indeed.

A point was raised previously about the number of prosecutions that will arise. I think that we had figures from Police Scotland at the previous meeting that showed that the number of cases passed for prosecution was quite low. Do you agree that we ought not to measure the bill’s success on the basis of the number of prosecutions or cases that are passed for prosecution, because what you are trying to do is to modify behaviour? The hope would be that abuse of the blue badge scheme will reduce as a result of people being aware of the bill, which might help to reduce the number of prosecutions that are required.

Dennis Robertson: I agree that the bill is about prevention rather than anything else. If we ensure that blue badges are used appropriately, that will be to the good of the blue badge community who are trying to get parking spaces. Misuse is a real problem. I do not think that the conviction rate is particularly high, but if we can raise awareness, that is good and I think that we will see a significant reduction in misuse of the badges.

Stuart McMillan (West Scotland) (SNP): I have some questions regarding the role of the non-uniformed enforcement officers. What level of training will be required for those who are non-uniformed to participate in enforcement?

Keith Brown: That will be different in different areas, although some fundamentals will remain the same. Local authorities undertake training for their staff in all sorts of areas, and we believe that they can readily do this training, either by adding it on to other training that is undertaken or by covering it through customer service in other areas. Perhaps the most fundamental part is dealing with people in difficult situations in a non-confrontational manner. A vast number of local authority staff have to do that on a daily basis, so we think that the training falls within the current training environment that local authorities are involved in in any event.

It might be that not all local authorities will want to go ahead with non-uniformed officers, but we think that it is best left to them and that it will not present a huge problem for them. We are working with a multi-agency working group to develop guidance as a result of the bill for inclusion in training. It is important to ensure that the information is readily understood by the public. Those who are involved in local authority training might have to go through the bigger booklet. We have to make sure that we provide the right tools for them, but they can take on the job.

Dennis Robertson: The minister is absolutely right to say that training already exists. Whether it is parking attendants or non-uniformed people who make the approach, it is about being non-confrontational, and we would ask them to exercise appropriate caution. We do not, as some of the user groups and third-party organisations have suggested, expect people to take an overzealous approach. The appropriate training already exists, and it is awareness raising that will be key to successful enforcement of the blue badge scheme.

Stuart McMillan: Do you expect community wardens across Scotland to get additional training and to incorporate the responsibility into their current role?
Dennis Robertson: I say again that it will be entirely up to each local authority to decide how it wishes to exercise the powers in the bill.

Stuart McMillan: Finally, what role will be undertaken by plain-clothes enforcement officers, whom we discussed last week?

Dennis Robertson: This is all about the use of appropriate enforcement powers that already exist. I think that Mr Catchlove suggested that such officers could be used to gather intelligence but, again, I emphasise that it will be up to each local authority to decide how it wishes to use the powers in the bill.

Keith Brown: As Mr Robertson suggested, plain-clothes enforcement officers could be involved in longer-term investigations and in building up a picture of what is going on, particularly with regard to John Wilson’s point about considered, measured and calculated abuse of the system—that is where they could really come into their own. The other obvious benefit of being non-uniformed is that they will be able to undertake that work discreetly.

John Wilson: If I picked up Mr Robertson correctly, he said that it will be up to local authorities to interpret the regulations that will be introduced and to determine how they will use the powers in the bill. Would it not be better to have guidance that makes it clear that the powers should be applied equally across Scotland? As I said, blue badge holders do not restrict themselves to their own village, town or city but move around, and conflict might arise given how the regulations are interpreted in one part of the country and in the neighbouring local authority—for example, in Aberdeen city and Aberdeenshire.

Dennis Robertson: The framework of the legislation and the guidance will be in place and will make things very clear. However, I also point out that the bill enhances the current situation in that it gives local authorities the powers instead of placing them under a duty, which means that they will have to exercise their own judgment as to whether they apply them.

Alex Rowley: I acknowledge that, but I have a question—it is perhaps for the minister more than for Mr Robertson. Going back to Mr Wilson’s point about parking restrictions, I note that at last month’s meeting of Kelty community council, which the police and I attended, council members raised yet again the on-going problem of drivers parking their cars at the cross in Kelty, where there are double yellow lines, and nipping into the bookies. Two questions arose from that discussion.

First, when community councillors said that the police were simply driving past and not doing anything about the problem, the police made the point that parking in Fife has been decriminalised and that the local authority is now responsible for the issue. Can you confirm that the police have a responsibility in this matter and that they are able to act where they see illegal parking?

Secondly, the police also made the point that it could be blue badge holders who were parked on those double yellow lines. Blue badge holders can park on yellow lines, but who determines whether they are parking dangerously? There are yellow lines at Kelty cross because of the danger that parked cars pose to those who are driving around the cross. Is it up to the police to decide whether someone is parking dangerously? Under the provisions in the bill, would parking attendants and local authority officers pick up that sort of thing?

Keith Brown: The answer to your first question is yes. The police have the power and indeed the responsibility to ensure that the law is observed, and that will continue to be the case regardless of whether decriminalised parking enforcement is introduced to a local authority area. That said, the police make a judgment on when to enforce the power. I live quite close to Kelty, but I have never been to the bookies at Kelty cross and, to be honest, I am not familiar with that road layout. However, whether the police take action will depend on how dangerous they believe the parking to be.

People need to know what the restrictions are before they can obey them. If the local authority has put parking restrictions in place at a particular location and, because of access and egress or safety issues, they also apply to blue badge holders, people should know about them. After all, blue badge holders as much as anyone else have to understand what the restrictions are. If restrictions do not apply to blue badge holders, they are perfectly entitled to park on single and double yellow lines.

As for the question of who would take responsibility if the police were not present, again, it would be up to Fife Council to decide that any problem that existed, not just in Kelty but throughout Fife, was sufficient to be addressed with the use of non-uniformed officers.

Coming back to John Wilson’s point, I believe from my time in local government that, in such areas, discretion should be left with local authorities wherever possible. The powers have to be the same across the land, and that will still be the case. However, as with DPE, in which authorities decide to decriminalise parking enforcement, they should also take the decision on this issue. That is the right approach. If they perceive there to be a particular problem at Kelty cross or, indeed, in other areas and they think that it is worth their while to put in place non-uniformed employees, they will be able to take that decision.
That said—and to go back to John Wilson’s previous point—I add that they must also make any parking restrictions clear to people to ensure that blue badge holders know that, even though they can usually park on single or double yellow lines, they cannot do so where restrictions apply for safety or other reasons.

Cameron Buchanan: With regard to the suggestion of putting the rules and instructions on one sheet of paper, I wonder whether the sheet could be laminated and sent out at the same time as the blue badge. After all, pieces of paper get lost. If the sheet of paper containing all the bullet points were to be laminated, it would keep things simple.

Keith Brown: Those are all good and practical ideas and we will undertake to look at them.

The Convener: With regard to Ms Mulholland’s earlier response, I note that the working group is looking at a huge number of matters and it seems that things have cracked on apace since the beginning of the consultation on the bill. Am I right in thinking that you will take note of all the points that have been made, Ms Mulholland?

Jill Mulholland: Yes.

The Convener: Finally, in its evidence last week, the Law Society of Scotland expressed concern about

“the absence of a procedure for appealing a local authority’s internal decision to a sheriff”—[Official Report, Local Government and Regeneration Committee, 26 March 2014; c 3311.]

which it believes is not compliant with article 6 of the European convention on human rights. Do you have any comments on that? Perhaps the minister will go first.

Keith Brown: I read the remarks that were made last week. When we discussed the matter with Scottish Government legal officers, they were of the firm view that there is no breach of article 6 and that the bill is ECHR compliant. Over and above that, we have been concerned to ensure that there is, as has been mentioned, an appeals process, which will be independent of the person who made the first decision but which will still be carried out within the local authority. Other forms of redress include the local authority ombudsman and the legal remedy of judicial review. Remedies are available, and the information and advice that we have received is that the bill is ECHR compliant.

As this is the final question, convener, I want to make a final point in response to an earlier question from Mark McDonald. He is absolutely right to say that, if the Parliament passes Dennis Robertson’s bill, its success should not be judged on the level of convictions. One might argue that a lower level of convictions would be a mark of success, but the fact is that one can only guess at that. Instead, we should try to drive down the 52 per cent of users who believe that the system is being abused. If, when we carry out another survey, we find that percentage to be much lower, I think that that will be a mark of success, rather than the conviction rate.

The Convener: When the minister referred to legal points, he looked at Mr Foubister. Do you wish to add anything, Mr Foubister?

11:00

Stuart Foubister (Scottish Government): Yes, convener. Frankly, I think that the Law Society’s point is misconceived. It has mixed up the availability of judicial review with its cost. The availability of judicial review provides compatibility with article 6, and, by putting in place the rather simpler internal review procedure, the bill simply reflects the fact that judicial review is neither a cheap nor a terribly user-friendly procedure.

The Convener: I leave the last word to Mr Robertson.

Dennis Robertson: Thank you. With regard to the issue of an appropriate review, I point out that the criteria remain the same; the independent mobility assessment, which was introduced in 2012, follows the strict criteria that are set out in the guidance. Under the bill, if a person’s application is denied, they can request a review of the decision, and although it will be carried out within the local authority, the issue will be examined by different line managers. Because they will follow existing guidance and criteria, as I said, there will be no need for the matter to be reviewed externally. The costs of such work will be borne by the local authority but, in any case, we do not envisage any significant costs arising.

As I said, the aim of my proposal is to ensure that those who have a blue badge use it appropriately and that those who apply for a blue badge meet the criteria.

The Convener: Thank you for your evidence. I suspend the meeting for a couple of minutes to allow the witnesses to leave.

11:01

Meeting suspended.
Disabled Persons' Parking Badges (Scotland) Bill (in private): The Committee considered and agreed its draft Stage 1 report on the Disabled Persons' Parking Badges (Scotland) Bill.
Disabled Persons’ Parking Badges (Scotland) Bill

Index of written submissions received by the Local Government and Regeneration Committee

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- 5 - ECAS (144KB pdf)
- 6 - Land and Environmental Services (69KB pdf)
- 7 - A Pearson (107KB pdf)
- 8 - Stirling Council (211KB pdf)
- 9 - Disabled Motoring UK (324KB pdf)
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- 13 - The Law Society of Scotland (130KB pdf)
- 14 - West Dunbartonshire Community Health and Care Partnership (190KB pdf)
- 15 - Equality and Human Rights Commission (1137KB pdf)
- 16 - Inclusion Scotland (154KB pdf)
- 17 - Aberdeenshire Council (132KB pdf)
- 18 - Mobility Access Committee for Scotland (MACS) (153KB pdf)
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- 20 - Scottish Disability Equality Forum (SDEF) (149KB pdf)
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- 29 - Transport Scotland
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Submission from Jamesp69

I truly feel that if an individual or any local authority or authorities abuse their powers as a law-abiding citizen. Then the individual or, individuals should indeed be reprimanded and stripped of his or her badge, with no hesitation. Do to the fact, the peace officer swore under oath and solemnly swore under oath to abide by the law, under God. Moreover, went through law school and familiarized themselves with the law then most citizens of the United States. Not like most citizens that are definitely naive to each state law and the United States Constitution.

Sent from my Virgin Mobile phone.
Dear sirs,

On behalf of every legitimate Blue Badge holder in the country, I would like to thank the committee for tackling the problem that has plagued legitimate Blue Badge holders since the scheme began. The abuse of the scheme is blatant and widespread. As it is viewed as a victimless crime, those engaged in the practice think it’s a clever way of saving money and not having to walk.

All legitimate badge holders are extremely thankful for the scheme, as it provides users the ability to go out and about as needed, without the agony or in many cases, the impossibility of walking long distances after parking the car and therefore allows them to lead a much more normal life than would otherwise be possible.

It is because we value the scheme so highly, that we become so angry at the blatant abuse of the scheme and feel that it is not before time that this abuse was dealt with.

As a Blue Badge holder myself and a Community Councillor, I have discussed this topic with many fellow Blue Badge holders on many occasions and the feelings run very high every time. All the holders that I have spoken with agree that if the badge is been used unlawfully, then it should be confiscated and the person using the badge prosecuted. Whereas there has always been the provision to do this in the current conditions of issue, enforcement has always been a problem and issuing authorities are reluctant to remove entitlement because of abuse by the holders family members. All holders agree that the legitimate holder must take responsibility for his/her own badge and ensure that family members are not able to use it unlawfully. Perhaps the knowledge that entitlement will be permanently withdrawn may drive the message home and force these holders to protect their badges from abuse.

The most common forms of abuse, that we all see on a daily basis, is the perfectly fit young couple pulling up on a yellow line, throwing Granny’s Blue Badge into the window shelf and then merrily strolling off to do the shopping, or the lazy drivers who just use their parent’s Blue Badge to park where they like, for free. The conditions of use clearly state that badge may only be used when the holder is present in the vehicle and in most occasions of abuse, the holder is nowhere near the location of the vehicle.

As the badge has to be displayed with the photograph unseen, it is impossible to tell if the person using the badge is the legitimate user, which makes enforcement difficult. Unless the traffic warden or police officer actually see the driver leave the vehicle, he/she would have to wait by the vehicle until the driver returns in order to carry out a check and all that any unauthorised user needs to do is to wait until the warden or police officer gives up and walks away. They know that the warden or officer is not going to stand there all day just to check that if the badge is being used correctly.

The purpose of concealing the identity of the holder on the badge, is presumably to protect their privacy, yet all the holders I have spoken with agree that the photograph should be visible, so that anyone can check if the user is the legitimate holder and if they see abuse...
then they can record the badge number and report the matter. With the photograph, expiry
date and badge number all visible, it would be much easier to spot the abuser. By leaving
the name concealed, the holder’s identity is still protected.

When an user is challenged and the badge checked, and abuse is found to have occurred,
then the badge should be confiscated on the spot and the decision on prosecution left to
the local authority who issued the badge. It would also drastically improve abuse detection
if powers of badge inspection were allocated more widespread. Until the numbers of
people on the ground, checking badges, is increased, it is always going to be difficult to
catch these abusers and solve this problem.
Submission from David Davies

Can you make sure that the bill has sufficient powers and fines for parking in a bay without a badge. I see this all the time.
I think that putting photographs on front of badges would go a long way to stop misuse of badges. It would also make it easier for council officials to check the person who the badge was issued to was in the car. I have been told by several young women that they are entitled to use badge because they are doing mums or grandmas shopping.
Submission from ECAS

Ecas is an Edinburgh based charity established in 1902 to improve the lives of people with disabilities. We have always taken a keen interest in transport issues as these have a major impact on people with disabilities. We have previously commissioned research in this area, lobbied for improvements and run our own schemes, including the original taxi card scheme. We welcome the Disabled Persons’ Parking Badges (Scotland) Bill.

The following response is based on the specific questions in the call for evidence:

1. In what ways do you consider the Bill will strengthen the existing blue badge scheme? Will it weaken it in any way?

   Historically enforcement has been so rare that there can appear to be little incentive not to misuse blue badges. Misuse can have significant financial incentives as well as convenience. Better enforcement is currently hampered by outdated legislation which can prevent local authority staff from taking enforcement action.

   There will need to be sensitive guidelines to support this legislation to ensure that, as far as possible, those empowered to confiscate blue badges are sensitive in their enquiries and only confiscate badges when there is a high degree of certainty that the badge is being used contrary to the law.

   That said, and accepting that errors will be made, the current arrangements are lacking and there is a need for stronger and wider enforcement. The obvious people to do this are police traffic wardens and local authority parking attendants and there are frustrating examples of people getting away with their fraudulent badge (presumably to offend again) because those on the scene lacked the necessary powers. I believe that, on balance, the increased enforcement is the better option.

   With regards to the cancellation of badges, with modern communications and the ability to check validity all over the UK it is now essential that badges can be, and are, cancelled. It has to be accepted that there will be occasions when a legitimate badge holder loses, and then finds, a badge and then uses the cancelled badge accidentally – this will need sensitive handling as there may be genuine mistakes. Again, sensitive guidance will be required but on balance the proposal to cancel such badges is the best course.

2. What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants in uniform?

   Edinburgh, for example, employs staff specifically for blue badge enforcement and they are not uniformed. I can see that there are occasions where it would be sensible for them to have the power to confiscate badges. However, there will need to be clear and well-understood ways for them to identify themselves, noting that those they are questioning may well be vulnerable and nervous.

3. Are there any other equality issues arising from the proposed Bill?

   No.
4. Do you have any other relevant comments or suggestions. In particular are there other proposals which should have been included in the Bill?

Along with enforcement it will be essential to have education of badge holders, their carers and supporters, and non-badge holders to avoid misunderstandings and resentment. Significant PR is recommended.

Misuse of blue badges has been a significant issue for genuine badge holders for some years and is a cause of anger and frustration. We welcome all efforts to increase enforcement.
Submission from the Traffic and Road Safety, Land and Environmental Services

1. In what ways do you consider the Bill will strengthen the existing blue badge scheme? Will it weaken it in any way?

Yes, it would strengthen the scheme; currently there is no consistency in how blue badge misuse is dealt with by various authorities and Parking Attendants (PA’s) are currently limited in what action they can take when misuse is found.

If PA’s have the power to seize blue badges which are fraudulent or being misused, then this will strengthen the scheme, as it will allow genuine badge holders more opportunity to take advantage of parking spaces.

2. What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants in uniform?

This would be a matter for each Local Authority – obviously there would be a financial impact if an authority chooses this option.

GCC works with the Enforcement Team and Police Scotland to target misuse using information gathered by PA’s.

It was also raised at one of the consultation meetings that blue badge holders may be concerned/worried at handing over their badge to someone not in uniform.

3. Are there any other equality issues arising from the proposed Bill?

Blue badge holders raised concerns about handing over their badge to someone not in uniform.

Genuine badge holders may unaware that their badge is being misused - such misuse is often committed by a family member. If a PA comes across this and seizes the badge, the genuine holder is then left without their badge.

4. Do you have any other relevant comments or suggestions, in particular are there other proposals which should have been included in the Bill?

PA’s become familiar with vehicles which consistently park with blue badges displayed. These vehicles often park in the same vicinity, 5 days a week, for long hours; this can be a ‘signal’ for misuse.

With many Authorities using/introducing ‘Cashless Mobile Phone Parking’, could badge holders be required to ‘register’ with the provider, in order to park free of charge, in the same way vehicles buying parking, have to register to park.

This would allow for some monitoring to take place and help identify badges which consistently park for long hours.
The vast majority of misuse occurs when a PA asks to inspect a badge and it is not the badge holder in the vehicle. Usually the driver will say that they have just dropped off/are picking up the badge holder. Due to the wording on the badge, shown below, it makes it very difficult for a PA to deal with.

In order for misuse to be effectively dealt with, there needs to be some clarity on what this wording actually means.

Otherwise, potentially, anyone can use a badge and when challenged by a PA, just say they are dropping off/picking up the badge holder.
Submission from Mr Andrew Pearson

Stage 1 consideration of the Disabled Persons’ Parking Badges (Scotland) Bill

I have witnessed first-hand a significant amount of abuse of the Parking Badge over the last few years where able bodied drivers have left their cars with the badge in view but not displaying the badge holder’s photograph. Whilst it is possible that a disability might not be immediately obvious this practice makes it impossible to challenge a driver suspected of abusing the system or reporting it to a parking attendant.

My mother was a badge holder and in driving her around it was easy to see how the system could be abused and how some drivers could succumb to the temptation of free and convenient parking.

I would suggest the Bill specifies that the badge must display the holder’s photograph on both sides as this would surely cut down on misuse and the temptation to do so and would improve enforcement levels.
Local Government and Regeneration Committee
Disabled Persons’ Parking Badges (Scotland) Bill Scrutiny

Submission from Support and Public Transport Stirling Council

Call for Evidence: Disabled Persons’ Parking Badges (Scotland) Bill
February 2014

This response relates to the consultation dated 23 January 2014.

Where appropriate, the response to the 4 questions set in this particular consultation is cross referenced to the responses provided in previous consultations included in Appendices 1, 2 and 3.

Committee’s Call for evidence: Questions

1. In what ways do you consider the Bill will strengthen the existing blue badge scheme? Will it weaken it in any way?

The Bill’s primary purpose is to improve enforcement of the scheme, principally by extending powers to Local Authorities. The general principle is sound but will only be effective if Local Authorities assign the necessary resources. See various responses to related questions in Appendices 1 and 2.

2. What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants in uniform?

I agree with the principle of Local authorities having the power to appoint authorised Officers who would not be required to wear a uniform. Response to questions 2 and 3 in Appendix 1 refers.

3. Are there any other equality issues arising from the proposed Bill?

In my opinion, the proposed Bill is neutral and has no obvious implications for Equality Groups. Response to question 9 in Appendix 1 refers.

4. Do you have any other relevant comments or suggestions; in particular are there other proposals which should have been included in the Bill?

a) See responses to various questions in the appendices.

b) Section 4 of the Bill refers to an offence of using a cancelled badge. The text states that “it will be a criminal offence for a person to drive a vehicle whilst displaying a badge which has been cancelled”. The Blue badge scheme provides parking concessions, not driving concessions. It is recommended that the wording is changed accordingly.
Response to Consultation on the proposed Disabled Persons’ Parking Badge (Scotland) Bill - December 2012

Enforcement

Question 1: Do you agree with the general aim of the Bill to provide for better enforcement?

I agree with the general principle that there is a requirement to establish clearer, simpler and more straightforward arrangements and processes for carrying out enforcement. However, the reality is that many Local Authorities, Police Forces and Traffic Warden Teams may be unable to resource the additional regulatory burden.

Question 2: Do you think that police traffic wardens and local authority parking attendants should be allowed to confiscate a Blue Badge which they suspect is fraudulent or is being misused?

Yes. But such powers should be extended to include appointed persons other than parking attendants in Uniform, proposal 2 refers.

Question 3: Do you think local authorities should have the power to appoint persons (other than Parking Attendants in uniform) to examine and/or confiscate suspect Blue Badges as a result of their investigations?

Good idea. But again, resources within Councils will be an issue.

Question 4: Do you think that local authorities should have the power to cancel Blue Badges that are lost or stolen?

Local Authority staff already cancel badges that are lost or stolen on the national database. So, if required, regulations should be updated accordingly to ensure the national database remains an accurate record that can be used for enforcement purposes.

Question 5: Do you think that a new offence of displaying a cancelled badge should be created?

Yes. This would further deter fraudulent use of cancelled badges

Design Specifications

Question 6: Do you agree that the requirement to publish in regulations the detailed specification for the Blue Badge should be removed?

Only if the improved security features and general layout of the badge remains standard throughout the UK to ensure a consistency of approach is maintained.

Appeals against eligibility decisions
### Question 7: Is there a need for a statutory process of appeal for a Blue Badge?

No. The introduction of Independent Mobility Assessments should make the process much more robust. Further research may be required to establish if there is any evidence to support the introduction of a statutory appeals process. But another tier of bureaucracy should not be introduced at this time.

### Question 8: If you consider that a statutory appeals process is necessary. What format should this take?

Not applicable

### Equality

### Question 9: Does the proposed Bill have any substantial positive or negative implications for Equality Groups?

In my opinion, the proposed Bill is neutral and has no obvious implications for Equality Groups

### Resources

### Question 10: What is your assessment of the likely financial implications (if any) of the proposed Bill?

Giving additional statutory responsibilities to Local Authorities adds an expectation that Local Authorities will be in a position to resource these additional responsibilities. Many small Local Authorities have not introduced decriminalised parking enforcement as there is no business case for doing so. Therefore, it is likely that only the large city Councils and some of the larger Authorities who have established decriminalised parking enforcement arrangements will be able to apply these additional powers.

### General

### Question 11: Do you have any other comments or suggestions relevant to the proposals?
Call for Evidence: Blue Badge Scheme
Potential Extension to Eligibility Criteria

Questions:
What do you think would be the key benefits to people with a diagnosed mental disorder should the Blue Badge scheme’s eligibility criteria be extended? Minimising risk of injury to badge holder and carer/escort. Thereby reducing potential carer stress.

- Would there be different benefits for adults or children? No. It would be anticipated that neither adult nor child with the impairment would be able to access the community unaccompanied – unlike adults with significant physical disabilities.

- Would there be different benefits for people with different conditions? On consideration, no differences could be identified.

- What would it make possible that is now currently not possible? Through minimising exposure to road risks it is possible that carers/escorts will be more likely to enable Badge Holders to access the community.

2. What consequences, if any, would there be for other badge holders if the Blue Badge scheme was extended to people with a diagnosed mental disorder? Demand could rise significantly making the scheme unusable for all badge holders. The general public and other badge holders frequently judge those using the scheme in terms of their perceived eligibility, i.e. obvious physical disability – this could have implications for those qualifying with mental health issues. There is also the possibility of a stigma being attached to badge holders who do not display obvious signs of physical impairment.

- If so, how would it impact on them? See above

3. Do you think that the definition ‘diagnosed mental disorder’ as defined in the Mental Health (Care and Treatment) (Scotland) Act 2003 could be suitable for determining eligibility for a Blue Badge? No, it is too vague and could lead to the diagnosis of any mental health disorder acting as a passport to the Blue Badge scheme. There are many people with mental health disorders who are physically fit but unable to go out unaccompanied. Providing a blue badge would have no significant impact on their opportunities to access the community as they would still require an escort.

- Would the definition cover the people you feel should be entitled to a Blue Badge if the eligibility criteria were to be extended? It would also cover many people who should not be eligible.

- Does this definition extend eligibility beyond those who you feel should be entitled to a Blue Badge? Yes

Could the PIP descriptor “cannot follow the route of a familiar journey without another person, an assistance dog or an orientation aid” be used as a threshold for determining eligibility? This
definition is too loose and could be interpreted to cover anyone with a diagnosis of dementia for example, who does not display the significant behavioural traits that should be covered by this change.

☐ Is there an alternative definition that would be more suitable? Unsure if one which could be adopted currently exists, but it would describe severe and high-risk behaviour – perhaps even a history of actual events rather than anticipated risk.

4. What challenges would arise for the administration of the scheme should it be extended to incorporate people with a diagnosed mental disorder? There should be a clearly defined assessment process, which may need to include specialist workers who practice in the field of mental health, rather than those who are exclusively ‘physical disability’ focused.

☐ How would eligibility be identified? Probably have to involve GP or Psychiatrist endorsement.

☐ Who would be an appropriate person/organisation/authority to carry out the process of identifying eligibility? Possibly a Community Psychiatric Nurse (CPN).

☐ Would there be any challenges to administrative systems currently in use if eligibility were extended to those with a diagnosed mental disorder? Yes. The development of a standardised assessment tool for mental health disorders would be complex. In addition, there is the issue of the mental capacity of the applicant – where Power of Attorney or Guardianship orders are not in place. The issue that would need to be addressed is who is authorised to apply on the applicant’s behalf.

☐ What would the impact on caseload be for local authorities? Caseloads could potentially increase to unmanageable proportions if this change is not well considered and targeted only at those on the most extreme end of the spectrum.

☐ What would be the impact on resources for local authorities and any other affected organisations? The scheme could be rendered useless, particularly in town centres unless Councils were to substantially increase the available parking spaces to meet increased demand. However, this could prove difficult given the limits on space and the conflicting demands for parking, loading etc
Appendix 3

Consultation on Disabled Persons Parking Badges (Scotland) Bill
Ref: 14/01/498 - January 2014

1. Did you take part in the consultation exercise which preceded the Bill and, if so, did you comment on the financial assumptions made?
   Stirling Council Officers responded to the consultation, dated Dec 2012, in February 2013. This included a response to a general question related to financial implications.
   Stirling Council Officers also responded to the consultation "Call for Evidence - Potential Extension to Eligibility Criteria" in December 2013.

2. Do you believe your comments on the financial assumptions have been accurately reflected in the FM?
   The FM recognises that there are additional costs associated with enforcement and administering a statutory review process. However it does not reflect that, for many small local authorities, there is no business case for introducing decriminalised parking enforcement (DPE). The current proposals from Police Scotland to withdraw Traffic Wardens, means that Stirling Council will be required to introduce DPE as soon as possible. However DPE is unlikely to be cost neutral.

3. Did you have sufficient time to contribute to the consultation exercise?
   Yes

Costs

4. If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.
   The FM recognises that the Bill will result in additional duties and responsibilities being placed on Local Authorities, which in turn will result in additional costs.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?
   The FM includes information on the direct annual costs for employing an enforcement Officer, which seem reasonable. However, it does not include the overall costs to small local authorities of establishing and operating DPE. No consideration is given to overhead costs including software, hardware, accommodation, transport, uniforms, line management, training etc.

6. If relevant, are you content that your organisation can meet the financial costs associated with the Bill which it will incur? If not, how do you think these costs should be met?
   As there are significant margins of uncertainty around the overall costs for enforcement it is not possible to predict if the Council will incur additional costs related to this part of the Bill. Regarding the establishment of a formal review process, as we already have a review process in place, I consider we will be able to update our process to accord with the legislation without incurring any significant additional costs.
   If there are any additional costs, these could be met by raising the maximum allowable charge for a blue badge, currently £20.
7. Does the FM accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise? Costs directly associated with the Bill are reasonably captured. Indirectly associated costs, related to DPE are not.

**Wider Issues**

8. Do you believe that the FM reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom? The FM does not reflect the margins of uncertainty of the wider issues related to the costs of establishing DPE.

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs? Response to previous questions refer.
Submission from Disabled Motoring UK

Please find below a written response which addresses a number of the questions in Annex A.

**Cancelling badges**

One of the most important aspects of this Bill is that it gives local authorities the power to cancel a badge which has been lost or stolen and so is no longer in the possession of the legitimate holder. Many people may have assumed this was always the case but in the past a badge that had been reported lost or stolen could not be cancelled. This Bill will therefore close this loophole and with the national database it can quickly be recorded so other enforcement officers can quickly find out if a badge being used is one that is still valid.

**Inspection and enforcement**

Another daft loophole of the current scheme is that an enforcement officer could inspect a badge and find it was stolen but then have to give it back! This Bill will now give enforcement officers powers so if they discover a badge has been cancelled, stolen, is fake or being misused they are now allowed to confiscate it. Knowing that their badge could be confiscated would also help as an effective deterrent for Blue Badge holders who might otherwise be tempted to loan their badges to others.

This Bill will also expand enforcement powers so authorised enforcement officers in plain clothes who are carrying appropriate identification may inspect badges. This makes it easier for “surprise” inspections to be carried out.

Having spent some time on the streets with Blue Badge enforcement teams in England before the introduction of the Disabled Persons’ Parking Badges Act 2013, which provides similar benefits to this Bill, I know only too well the problem un-uniformed enforcers have in not being able to confiscate a badge. If a uniformed attendant was not nearby the enforcer could do nothing except watch the abuser drive off. As long as enforcement officers or those confiscating badges have proper ID which is easy for people to verify than we would support these additional powers.

If a badge is being used by a third party it is important to confiscate it so it can be reunited to its rightful owner. If misuse is occurring with the owners knowledge they should be given a written warning and if it is found happening again it may be that the badge is withdrawn for a specified period of time or in some situations permanently.

A possible disadvantage would be if the badge were being used by a family member / carer / friend without the badge holder's knowledge. In this case confiscation of the badge could have a detrimental effect on the badge holder's personal mobility. For this reason, the appeals & returns process should be as efficient as possible and cases where a genuine holder has been identified should be prioritised.
We believe these additional powers will help to strengthen the Blue Badge scheme and make it more likely to help those it was intended to.

**Badge design**

This Bill will mean that the Secretary of State no longer has to issue regulations to specify the badge design. We support this change because we believe publishing the requirements in regulations will mean that the badges’ security features will be disclosed and it also prevents a swift response to developments in badge counterfeiting.

**Proposals which should be included in the Bill**

These new proposals do not change the penalties for fraudulent or wrongful use, and so the maximum penalty remains at a £1,000 fine. Disabled Motoring UK would like to see the addition of points on driving licenses being added and in some circumstances a minimum three-month custodial sentence for anyone fraudulently using a Blue Badge.
Submission from West Lothian Council

1. In what ways do you consider the Bill will strengthen the existing blue badge scheme? Will it weaken it in any way?

The proposal, under section 1, to allow Scottish Ministers to approve certain aspects of blue badge design administratively rather than through Regulation is welcomed. The current form of blue badge contains a number of security and anti-fraud design measures. Defining these measures through Regulation releases the design details into the public domain and undermines the effectiveness of the measures. Setting definitions administratively rather than through Regulation will help to protect the details of the security and anti-fraud measures and it is anticipated that this will reduce the opportunity for forgery. These proposals will bring Scotland in line with the rest of the United Kingdom.

The proposals, under sections 3 and 4, to provide additional powers to police officers and traffic wardens to detect fraudulent use of blue badges and to confiscate badges is welcomed and should contribute to detection and control of fraudulent use.

The proposal, under section 6, to require local authorities to have a review process in place for applicants who have been refused a blue badge on grounds of eligibility is welcomed. West Lothian Council already has a review process in place, conform to Transport Scotland’s blue badge Code of Practice. The Code of Practice recommends that a review process should be implemented in each local authority area, but the implementation is not consistent or universal across Scottish local authorities. The proposals will introduce a consistent approach which will be of benefit to those applying for a blue badge regardless of where they live.

2. What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants in uniform?

The proposal, under section 5, to introduce powers for officers employed or engaged by local authorities to exercise the enforcement powers are generally welcomed. However, West Lothian Council is not currently responsible for enforcing parking or blue badge regulations within West Lothian. That responsibility lies with Police Scotland through their police officers and traffic wardens.

Police Scotland removed the provision of traffic warden services across most of Scotland on 3 February 2014. It is anticipated that the removal of traffic warden services will impact negatively on detection rates for forgery and misuse of blue badges.

It is noted that the decision on whether to introduce the powers under section 5 will be left to the discretion of each local authority. This discretion is essential as the considerations of necessity, affordability and viability of enforcement will differ for each local authority area. These powers cannot be relied on as a substitute for the primary responsibilities of Police Scotland. Continued reliance will be made on Police Scotland to enforce parking and blue badge regulations within West Lothian.

3. Are there any other equality issues arising from the proposed Bill?

The main characteristics impacted by the proposals are disability and age. The proposals aim to protect the rights of legitimate blue badge holders and should therefore have a positive impact.

That said, care should be taken by those exercising the enforcement powers not to make
assumptions in terms of disability or age in relation to eligibility or potential fraudulent use of blue badges.

4. Do you have any other relevant comments or suggestions, in particular are there other proposals which should have been included in the Bill?

The proposal, under section 2, to create the power to cancel badges is welcomed. The proposal codifies a practice that is already undertaken by West Lothian Council. Where the council is advised that a badge has been stolen or lost, the council updates the national blue badge database, issues a replacement badge and cancels the old badge. The proposals should assist with the detection of fraudulent misuse of blue badges.
Submission from Ms Marina Armitage

I wish to lend my support to the Bill proposed by Dennis Robertson MSP to strengthen the Blue Badge Scheme.

I am particularly interested in that section of the Bill relating to the introduction of a review procedure. I wholeheartedly endorse the proposal which would require Local Authorities to conduct a review where a badge is refused. At present no consideration is given to applicants who, having held a badge for a number of years, are refused renewal.

I speak from personal experience of this situation. Having applied to North Lanarkshire Council to have my badge renewed in September 2012, I was informed, by telephone, that the Local Authority had measured the distance from my home to the end of my street, using maps at their disposal in the council office. The distance was apparently 87 yards and since I had indicated on my form that I could walk approximately 100 yards, I was therefore not entitled to a badge.

Absolutely no consideration had been given to the fact that, had I walked to the end of my street I would have been unable to walk back to my house! Nor was it considered important that when I had walked this distance I would be in considerable pain and suffering as I do from Benign Positional Vertigo, there was a distinct possibility that I could have fallen. The Local Authority also appeared to ignore the fact that the street where I live has fairly steep inclines at either end.

Perhaps most surprising is the fact that in removing my badge North Lanarkshire Council could be confining me to my home. Surely no way to treat disabled people who are trying to live life as normally as possible.

This Bill is long overdue and I look forward to it becoming law.
Submission from South Lanarkshire Council

1. In what ways do you consider the Bill will strengthen the existing blue badge scheme? Will it weaken it in any way?

The bill will give more power to local authorities to carry out enforcement duties effectively and more flexibly dependent on the other circumstances pertaining locally. It may be necessary to inform Blue Badge holders across the country that the use of their badges in other local authority areas may be policed by other individuals, not in uniform. The only anticipated weakening could be by over-zealous policing of legitimate Blue Badge users by inappropriately trained parking attendants or other enforcement officers.

2. What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants in uniform?

Without adding this power it is impossible to police the scheme in car parking areas not managed or operated by the local authority. However legitimate Blue Badge users would want to be re-assured that non-uniformed parking attendants will be appropriately trained and supervised to ensure that badges used legitimately are not confiscated in error. There would need to be identified structures responsible for overseeing appropriate use of these powers locally.

3. Are there any other equality issues arising from the proposed Bill?

None identified.

4. Do you have any other relevant comments or suggestions, in particular are there other proposals which should have been included in the Bill?

South Lanarkshire Council already operates an appeals procedure. However it is worthwhile mentioning that this does add considerably to the cost of operating the scheme for the Council. The existing maximum that can be charged as a fee associated with Blue Badge applications is £20. However to assess the applicant and then undertake a review of the decision will cost the council more than twice that amount. In addition, the review process adds layers to the system that need to be counted and reported on annually. Councils need to develop IT systems to allow the rationale for decision making and appeals to be recorded internally to allow subsequent review and to allow statistical information to be extracted as necessary.
Submission from The Law Society of Scotland

Introduction

The Law Society of Scotland aims to lead and support a successful and respected Scottish legal profession. Not only do we act in the interests of our solicitor members but we also have a clear responsibility to work in the public interest. That is why we actively engage and seek to assist in the legislative and public policy decision making processes.

The Equalities Law Sub-committee (the committee) welcomes the opportunity to consider and respond to the Local Government and Regeneration Committee’s call for written evidence on the Disabled Persons’ Parking Badges (Scotland) Bill. The committee has the following comments to put forward:

Comments:

The committee considered and responded to Dennis Robertson’s earlier consultation on the proposed Disabled Persons’ Parking Badges (Scotland) Bill.¹

The committee welcomes the proposals to strengthen enforcement powers in relation to the Blue Badge Scheme. We are supportive of the policy intent behind this, which is to identify and minimise the misuse of this valuable scheme and to reduce the exploitation of this by those engaged in fraudulent activities. We do however have some reservations in relation to the specific provisions of the bill, which we set out below.

Section 1: Form of badge

We have no comments to put forward.

Section 2: Power to cancel badge

We have no comments to put forward.

Section 3: Power to cancel badge

We have no comments to put forward.

Section 4: Offence of using cancelled badge

The committee notes, and is concerned, that section 4 creates a new strict liability criminal offence, which in the committees view is disproportionate. The committee suggests that the most appropriate method of addressing the mischief complained should be a civil penalty. This would strike a fair balance of addressing wrongful use of Blue Badges and creating a fair and just process. Those who use the Blue Badge scheme fraudulently would, in any case, be liable for prosecution in Scotland under the common law offence of

Local Government and Regeneration Committee
Disabled Persons’ Parking Badges (Scotland) Bill Scrutiny

fraud. Therefore the committee do not feel that it is necessary for an additional criminal law offence to be created in legislation where the offence already exists in common law. The strict liability nature of the offence may result in individuals being incorrectly prosecuted. For example, the situation could occur if a disabled person loses, then finds and continues using a Badge after reporting it lost. Equally, a local authority could issue a notice of withdrawal of a Badge due to its misuse by a disabled person’s relative, who could withhold such a notice from the disabled person who would then be using their own badge unlawfully.

In addition family members / care staff often will use a disabled person’s badge whilst driving them, which they are entitled to do. The driver, whether care staff or family/carer, has no way of knowing if the disabled person’s Blue Badge has been cancelled or not. Also, the committee raise the question: how would an enforcement officer identify or recognise a badge which has been cancelled?

If a new criminal offence is to be created, then in the committee’s view, this should require the intention to defraud.

Section 5: Enforcement officers

The committee is concerned that the provisions of the Bill will allow Local Authorities to give powers to ‘enforcement officers’ who need not be uniformed. It has not clearly been made out why the powers are to be given to non-uniformed individuals and we would welcome clarification of this.

Many people may not be aware of plain clothes enforcement officers and this may give rise to confrontational situations. A uniform, in the committee’s view, generally conveys the authority to act and reduces the risk of confrontation.

The committee notes that it is intended for the Enforcement Officers to carry and produce identification. However, how will a person know if the identification produced by an enforcement officer is genuine?

Section 6: Review of Local Authority decision

The committee is concerned that the Bill appears to restrict the review process internally to the Local Authority, and there is no right of appeal to an independent and impartial tribunal. This is a clear breach of Article 6 of the European Convention on Human Rights. The Policy Memorandum recognises this, but states ‘It is, however, considered that the existence of judicial review makes the legislative regime compatible with Article 6.’

It costs £40,000-£50,000 to take a case forward for Judicial Review. This is likely to be far beyond the means of many Blue Badge uses, and so is not a genuine root to justice to those without sufficient means.

In addition Judicial Review proceedings are wholly out of proportion as a process for addressing a decision about a Blue Badge. They are not a substitute for an appeal process as they can’t consider the merits of a decision or substitute it with an alternative decision. The involvement of a subjective test of someone’s physical capability in an
application for a Blue Badge means that the merits of the decision are likely to be the basis of appeals.

The committee suggests that it would be far more appropriate for an external review process, and this should be to the Sheriff
Submission from West Dunbartonshire Community Health and Care Partnership

The Committee invites all interested parties to submit written evidence on the Bill, setting out views on the provisions of the Bill. It would be helpful if written submissions could address the following questions:

As an already fully integrated health and social care partnership, West Dunbartonshire Community Health & Care Partnership (CHCP) is particularly well-placed to comment on the national proposals, reflective of our actual experience of working to realise the benefits of integration in practice.

West Dunbartonshire Community Health & Care Partnership welcomes the spirit of the legislation and there is a pragmatic logic for the development of these provisions. However we would wish to guard against a separate series of arrangements which could have been developed within existing legislation.

1. In what ways do you consider the Bill will strengthen the existing blue badge scheme? Will it weaken it in any way?

For clients who are not automatically passported to receipt of a Blue Badge the Council undertakes a review and, if necessary, examination by Occupational Therapists to confirm whether a Blue Badge should be issued. This increases significantly the financial impact of blue badge assessment for the CHCP. Around 43 % of our applications require additional investigations, in addition to significant impact on reviews, at cost to the CHCP.

Whilst the development of subordinate legislation allowing flexibility to respond to changing circumstances/make administrative process changes timeously is welcomed, for the consultation to be fully informative, inclusion of the content of this secondary legislation should sit alongside the current proposal. Notwithstanding the need for flexibility of local approaches, there needs to be some consistency of approach. This is specifically relevant with the development of the power to confiscate badges.

The power to cancel badges is a logical addition to local authority powers, reflecting a need identified, and clear response from earlier consultations.

2. What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants in uniform?

Perhaps the Bill and guidance could allow for a reduction in the number of currently silo-ed and increasingly over-lapping actions across separate legislation that impacts on the same client groups and indeed the same services.

In principle these powers are positive in that they allow local flexibility in response to a real issue. However, whilst introduction of these powers may indeed reduce the impact and cost of illegal use of Blue Badges, it also potentially increases the financial burden on the local authority, specifically the CHCP (and thereafter its successor Health & Social Care Partnership – HSCP), who would expect to be well placed in identifying where blue badges are no longer eligible. This increased capacity issue and change of role for agencies requires consideration regarding any detrimental impact on other aspects of their work.
The impact seen on CHCP (and then HSCP) Occupational Therapy services, and potential financial implications of creating employment officer posts, as referenced in the Bill, require noting.

3. Are there any other equality issues arising from the proposed Bill?

Any equality issues should be identified as part of the Scottish Government equality impact assessment.

4. Do you have any other relevant comments or suggestions; in particular are there other proposals which should have been included in the Bill?

The current maximum charge possible for a Blue Badge at £20 is, for those individuals who actually choose to take on the costs of running a car, the equivalent to the cost of just a little more than a gallon of fuel per annum in return for free parking for three years.

It is important to recognise that any decisions to provide Blue Badges to individuals at a charge that is less than the administrative cost for a local authority reflects a public subsidy for the provision of free parking for those that are eligible; and one that is thus prioritised at the expense of other local supports and services (many of which may be have a greater impact on outcomes for individuals with disabilities within our communities).
Kevin Stewart MSP
Convenor, Local Government and Regeneration Committee
Scottish Parliament
Edinburgh
EH99 1SP

6 March 2014

Dear Mr Stewart

Disabled Person’s Parking Badges (Scotland) Bill

The Equality and Human Rights Commission is the regulatory body for equality and anti-discrimination law in Scotland, England and Wales, working across the nine protected grounds set out in the Equality Act 2010: age, disability, gender, race, religion and belief, pregnancy and maternity, marriage and civil partnership, sexual orientation and gender reassignment. We are an “A status”¹ National Human Rights Institution (NHRI²) and share our human rights mandate in Scotland with our colleagues in the Scottish Human Rights Commission (SHRC).

We welcome the opportunity to comment on the Disabled Person’s Parking Badges (Scotland) Bill, having previously responded to Dennis Robertson MSP’s consultation in March 2013. We have previously advised Jackie Baillie MSP prior to and during the successful publication of the Disabled Persons’ Parking Places (Scotland) Act 2009. The Blue Badge system makes an enormous difference to many people’s lives, particularly those whose impairments make public transport use impossible or impractical. We recognise however that for the system to work effectively there must be

¹ [www.ohchr.org/Documents/Countries/NHRI/Chart_Status_NIts.pdf](http://www.ohchr.org/Documents/Countries/NHRI/Chart_Status_NIts.pdf)
public confidence that the badges are being used only by those to whom they are issued.

Your committee’s call for evidence asks three questions, which I will address in turn:

1. **In what ways do you consider the Bill will strengthen the existing blue badge scheme? Will it weaken it in any way?**
   Public confidence is necessary for the effective working of the system. We are anxious however that there are sufficient safeguards in place to avoid mistaken or disproportionate enforcement action: please see my comments below.

2. **What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants?**
   It is important that anyone with powers to confiscate a badge under the Bill has appropriate training and is working to robust and objective criteria. Badges should not be confiscated on the basis of a subjective hunch. The Equality Act 2010 defines disability as any physical or mental impairment which has a substantial and long-term adverse impact on a person’s ability to carry out normal day-to-day activities. This definition therefore covers visible impairments, but also “hidden” impairments such as heart disease, and fluctuating chronic conditions such as arthritis or Crohn’s Disease.

   There is compelling anecdotal evidence of disabled people who are entitled to benefits such as a disabled person’s railcard being challenged by ticket inspectors on trains and buses because they do not have an immediately obvious impairment. This can be humiliating and intrusive. We would not want to see similar situations arising where traffic wardens or parking attendants are confiscating badges where they “suspect” that the badge holder is not disabled.

3. **Are there any other equality issues arising from the proposed bill?**
   Blue Badges can make an enormous difference to a disabled person’s ability to live independently. Public transport provision in some parts of Scotland is such that private car use is the only realistic transport
option for some disabled people. Ensuring that we have a robustly, yet fairly and proportionately, enforced Blue Badge scheme is one means of advancing the equality of disabled and older people in Scotland.

We would also support the concerns raised by the Law Society of Scotland regarding:

Making the use of a cancelled badge an offence: we see no reason for the creation of a standalone criminal offence where the common law offence of fraud already exists.

No right of appeal of a local authority decision: as the Law Society notes, this potentially engages ECHR Article 6 (right to a fair and public hearing within a reasonable time). Judicial review is not a realistic and affordable option for the vast majority of individuals.

I hope this information is of use to the committee – if you require any further detail, please do not hesitate to get in touch.

Yours sincerely

Alastair Pringle
National Director, Scotland
Submission from Inclusion Scotland

1. Introduction

1.1 Inclusion Scotland (IS) is a national network of disabled peoples' organisations and individual disabled people. Our main aim is to draw attention to the physical, social, economic, cultural and attitudinal barriers that affect disabled people's everyday lives and to encourage a wider understanding of those issues throughout Scotland. Inclusion Scotland is part of the disabled people's Independent Living Movement.

1.2 Inclusion Scotland broadly recognises that the abuse and misuse of blue badges and disabled parking spaces is of significant concern to disabled people, and therefore supports the general principles of the Disabled Persons' Parking Badges (Scotland) Bill. We note that the provisions of the Bill largely mirror changes introduced in England and Wales by the Disabled Persons’ Parking Badges Act 2013\(^1\).

1.3 However, Inclusion Scotland has consistently expressed the concerns of disabled people about proposals for confiscation of valid badges and the use of non-uniformed enforcement officers, for example in our response to the Scottish Government’s Blue Badge Reform Consultation in 2010 and in our response to Dennis Robertson’s consultation on his proposed Disabled Parking Badges (Scotland) Bill in 2013\(^2\).

1.4 We recognise that that some of our concerns will best be addressed in considering the detailed regulations and guidance that will follow the passing of this Bill, but we ask that the Committee should take account of these important issues when considering the Bill at Stage 1.

1.5 We are slightly concerned that there has been a shift in emphasis, reflected in the working groups on the Bill and in the policy memorandum, away from protecting disabled parking spaces and towards protecting the parking revenues of local authorities\(^3\).

1.6 The primary focus of this Bill should be about ensuring that disabled parking spaces are protected for the use of valid blue badge holders. In addition to enforcement, local authorities should also be ensuring that there are sufficient disabled person’s parking spaces available. The number of disabled person’s parking spaces is not going up in proportion with the number of disabled or older people who are acquiring mobility impairments.

2 In what ways do you consider the Bill will strengthen the existing blue badge scheme? Will it weaken it in any way?

2.1 Form of badge - Inclusion Scotland supports the proposals to amend the requirements to set out the form of the badge in regulations in order to make it more difficult to make forged badges.

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\(^1\) [http://www.legislation.gov.uk/ukpga/2013/4](http://www.legislation.gov.uk/ukpga/2013/4)

\(^2\) Copies of Inclusion Scotland’s responses to these consultations can be found on our website: [http://www.inclusionscotland.org/reports.asp](http://www.inclusionscotland.org/reports.asp)

\(^3\) Disabled Persons Parking Badges (Scotland) Bill Policy Memorandum, paragraph 30.
2.2 **Power to Cancel badge** – Inclusion Scotland support the power to cancel badges that have been reported lost or stolen, or where they should have been returned to the issuing authority, for example because of the death of the badge holder.

2.3 **Offence of using a cancelled badge** – Inclusion Scotland agrees that it should be an offence for someone to **knowingly** display a cancelled or invalid badge. However, it must be recognised that there may be circumstances where a person is unaware that they are displaying a badge that has been cancelled or is invalid, for example because they have a visual impairment, cognitive impairment or learning difficulties.

2.4 **Power to confiscate badge** – Inclusion Scotland supports the proposal to allow badges that have been cancelled or are otherwise invalid (eg expired, tampered with or should have been returned to the issuing authority) to be confiscated to prevent further misuse. However, we have concerns that extending this power to automatically confiscate valid badges that have been misused could unjustifiably penalise disabled people who may be unaware that their badge has been misused, and may restrict their right to independent living (see 4 below).

2.5 In general, subject to appropriate guidance on implementation, these provisions should strengthen the operation of the blue badge scheme by reducing misuse.

3 **What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants in uniform?**

3.1 Disabled people have serious reservations about the use on non-uniformed enforcement officers.

3.2 Disabled people do not like the idea of non-uniformed people being able to challenge them about their blue badge. How are non-uniformed officers to be identified by the disabled person? Disabled people who have a visual or hearing impairment, or who have learning or cognitive difficulties, may be unable to examine the identification document or to communicate with or understand the enforcement officer.

3.3 Disabled people are also concerned about how to prevent imposters who may be trying to take advantage of vulnerable people, for example by stealing their blue badge, robbing them or finding out the vulnerable person’s address.

3.4 We have no concerns about non-uniformed officers conducting investigations into alleged misuse (eg surveillance, recording of parking activity, checking validity of displayed blue badges), but we believe that in the interests of public safety, enforcement activities should only be carried out by suitably trained uniformed police officers, traffic wardens or parking attendants, as is the case for other parking offences.

3.5 We welcome the assurance that enforcement officers (uniformed or otherwise) will not be able to question whether a blue badge holder qualifies for the badge. However, there could be circumstances where an enforcement officer suspects a badge is being misused because the badge holder has a hidden impairment or fluctuating condition.
3.6 It is therefore essential that all enforcement officers have received disability equality training (as opposed to disability awareness training), to give them a good bearing on the variety of different needs and barriers that many disabled people who qualify for a disabled badge may face.

4 Are there any other equality issues arising from the proposed Bill?

4.1 As indicated at 2.4 above, disabled people are concerned that the power to automatically confiscate valid badges that are being misused may impinge on the rights of disabled people to independent living.

4.2 As a result of concerns raised by Inclusion Scotland at the Scottish Government’s Blue Badges Enforcement Working Group, there will now be a requirement on issuing authorities to immediately return all valid badges to the badge holder.

4.3 Whilst this is a welcome improvement, we remain concerned that a disabled person, who may have been unaware of the misuse of the badge, may be deprived of the use of the badge they need for a period of days or even weeks.

4.4 This may leave the disabled person effectively trapped in their homes, unable to go to work, attend medical appointments, visit friends, participate in social activities, or go shopping or collect benefits.

4.5 The argument appears to be that the person misusing the badge will not return it to the badge holder, but will continue to misuse it. This appears to be based on a belief that all misuse is systematic, regular and blatant, and that the person misusing the badge is depriving the disabled person of the proper use of their badge.

4.6 We do not doubt that the intention and motivation of Member in Charge of the Bill is to protect the availability of disabled person’s parking spaces for the proper use by blue badge holders. However, we are concerned that the approach in the Bill seems to view disabled people as habitual misusers of the blue badge, and generally a problem for local authorities in that they are being deprived of parking revenues.

4.7 In many cases the misuse of a valid blue badge will be “casual”, and by a carer or close relative who regularly travels with the badge holder and who is unlikely to hold on to the badge and prevent the badge holder using the badge when they require it.

4.8 Where another driver parks illegally, for example in a disabled parking space, on yellow lines or without paying the appropriate on-street parking fee, they would be subject to a fixed penalty parking fine. This is seen as a deterrent to parking illegally. We believe that a fixed penalty notice for illegal parking will also act as a deterrent to further misuse of a blue badge in many cases.

4.9 Inclusion Scotland would therefore urge that regulations and guiding provide that valid badges are only confiscated where:
   - The enforcement officer has evidence of regular or systematic abuse;

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4 The main focus of Disability Equality Training is to promote an understanding of disability as an equality and rights issue. By contrast, Disability Awareness Training tends to focus on individual impairments or conditions.
• There has been previous misuse of the badge; or
• The enforcement officer has reasonable grounds to doubt that the badge will be returned to the badge holder.

5 Do you have any other relevant comments or suggestions, in particular are there other proposals which should be included in the Bill?

5.1 Inclusion Scotland welcomes the proposal to require local authorities to review on request decisions to refuse a badge. However, we would welcome an assurance that the regulations will require the review to be independent and with the power to overturn the refusal.

6 Conclusion

6.1 Whilst we have some reservations about the provisions in the Bill, particularly on enforcement officers and confiscation of valid blue badges, Inclusion Scotland supports the General Principles of the Disabled Persons’ Parking Badges (Scotland) Bill at Stage 1.

6.2 We would urge the Local Government and Regeneration Committee to seek assurances from the Member in Charge of the Bill and the Scottish Government that the concerns we have raised will be addressed in regulations and guidance.
Submission from Aberdeenshire Council

1. In what ways do you consider the Bill will strengthen the existing blue badge?

If the Bill is successful in its aim of reducing the fraudulent use of blue badges by those who do not have a disability, it will strengthen the scheme in the following ways:

- More blue badge spaces will be available for use by genuine badge holders who do have a disability;
- The public will have more respect for the scheme.

Will it weaken it in any way?

No evidence points to this

2. What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants in uniform?

This would be a useful power to help reduce misuse. However, clear identification for enforcement officers would be required as well as a good knowledge of the scheme, the eligibility criteria, and knowledge of who is entitled to use the badge.

However, it is questionable whether recruiting Enforcement Officers to cover the 3,500 square miles of the Aberdeenshire area would be viable, or cost effective. The charge for the Blue Badge is a minimal cost of £20 which does not even cover the basic costs of operating the scheme by Aberdeenshire Council.

In the Aberdeenshire area, existing parking enforcement officers and Police Scotland Traffic Wardens currently undertake the enforcement activity. Although there is currently a lack of Traffic Wardens employed.

It is likely that the costs to the Council associated with the bill will be increased if we employ additional Enforcement Officers. There is no budget for this. However, if Police Scotland decides to withdraw from the enforcement of parking offences in this area, these additional Enforcement Officer costs could possibly be met by the transfer of the relevant funding from the Police Scotland budget to the Council’s affected. Alternatively Scottish Government funding would be required.

In addition to these new powers, perhaps a national public awareness raising campaign about Blue Badge misuse should be run by Transport Scotland?

3. Are there any other equality issues arising from the proposed Bill?

No obvious ones
4. Do you have any other relevant comments or suggestions; in particular are there other proposals which should have been included in the Bill?

An electronic hand held device could be used by enforcement officers to scan Blue Badges could be used to help determine ownership? This could help to identify potential misuse, e.g. when a Blue Badge has been cancelled or a badge holder has died.

In terms of introducing a statutory review process. The current system for reviews in Aberdeenshire is in line with the Transport Scotland Code of Practice. A Senior Occupational Therapist reviews the BB application and IMA assessment, the applicant is informed throughout the process and given reason’s for refusal. We believe this system is transparent and provides a standardised response. We have in place an agreed process for ensuring any updates in the Code of Practice are passed to all staff involved with the scheme which means that the Council is able to maintain a high level of consistency within the entire scheme.

At present there is no statutory response and the changes in the Bill appear to be supporting the introduction of a statutory response for this part of the process. This seems to isolate one part of the process for statutory response and that seems out of keeping with the rest of the Code of Practice. Having said this however, to ensure fairness and equality, all citizens throughout Scotland should be treated in the same manner when it comes to reviewing the decision regarding a Blue Badge.
Submission from Mobility Access Committee for Scotland (MACS)

We would like to thank the Local Government and Regeneration Committee of the Scottish Parliament for giving us the opportunity to comment on the Disabled Persons’ Parking Badges (Scotland) Bill.

As members will know, we in the Mobility and Access Committee (Scotland) (MACS) are appointed by the Scottish Ministers and our primary role is to give Scottish Ministers advice on aspects of policy affecting the travel needs of disabled people. We are supported in this role by a small Secretariat within Transport Scotland.

MACS has been very supportive of the need to enhance the Blue Badge Scheme and we have been directly involved in supporting and promoting a series of improvements in recent years. We are also represented in two working groups set up by Transport Scotland to consider and progress aspects relating to the Disabled Persons’ Parking Badges Bill.

You have asked us to respond to four specific questions and we would comment on these as follows.

1. In what ways do you consider the Bill will strengthen the existing blue badge scheme? Will it weaken it in any way?

The Blue Badge scheme is vital to the mobility of many disabled people and allows them to lead independent lives. We believe that changes to the scheme in the past couple of years regarding eligibility and administration are already proving to be of significant benefit to those who are entitled to a Badge.

However, enforcement of the Badge remains an issue. We believe that the enforcement issues are exacerbated by two factors - misunderstanding of the purpose of the badge and deliberate abuse of the badge.

Another factor which has to be borne in mind relates to the establishment of the Scotland wide police force, Police Scotland. This has in turn led to a greater emphasis on the need for local authorities to assume civil enforcement powers regarding parking regulations - referred to in Scotland as decriminalised parking enforcement.

The measures outlined in the proposed Bill would address all three factors and give those responsible for enforcement, significant powers to inspect and confiscate the badge where it is suspected of being abused. We welcome this.

We do not see any areas where the blue Badge is likely to be weakened. Rather, by enhancing enforcement and reducing the incidence of abuse, more parking spaces become available for those for whom the Badge is intended.

The successful introduction of these powers will, however, be dependent on at least two other factors.
Just as important as giving the enforcement agencies greater powers, is the need to ensure that Badge holders and their families or carers are fully aware of their obligations. We believe this could be achieved partly through the information issued to Badge holders with their badge when it is issued or renewed and partly through publicity campaigns in the national media.

The other issue relates to the manner in which Badges are now issued. The Blue Badge scheme is a UK wide scheme administered through the Blue Badge Improvement Service (BBIS). Associated with this is the establishment of a complete database of valid badges covering all the badges issued in the UK. However, since the Badges have a validity of three years and the BBIS was only introduced in 2012, we understand that the full and up-to-date database will not be available until at least some time in 2015. This means that for a period of time, there will still be the chance of someone seeking to use a Badge which has been cancelled or replaced because this information is missing from the database. This will have an adverse impact on enforcement in the short term - but we believe it is unlikely to be a significant problem.

2. What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants in uniform?

With the devolution of parking enforcement from Police Scotland to local authorities, it is essential that the powers to confiscate a Blue badge suspected of being used fraudulently should also be devolved. However, it is essential that local authority parking enforcement officers are appropriately trained in dealing with disabled people and that they are aware of the implications for the Badge Holder if the badge is confiscated. Conversely, it is equally important that that Badge Holders and anyone involved in using the Badge are fully aware of the correct use of the Badge.

We accept that effective enforcement of the Blue badge may require covert operations and on the face of it, it seems sensible to allow officers engaged on such operations to be able to confiscate suspect badges. However, because such operations are likely to be conducted by people who are not in uniform, we are concerned that there is the potential for fraudulent activity. It would seem too easy for someone to present what might appear to be a valid form of identity in order to acquire a Badge fraudulently. It is then not too fanciful to imagine this badge being used for criminal purposes.

One option could be that if an undercover employee considered a badge should be confiscated, the enforcement agency would be organised such that the plain clothes employee could quickly call up a uniformed colleague to carry out the actual confiscation. However, we may be unduly pessimistic about the likelihood of fraudulent activity.

3. Are there any other equality issues arising from the proposed Bill?

The prime issue relating to the Bill is to ensure that those who need the Badge are not prejudiced by inappropriate loss of the Badge. If the Badge in question is one which has previously been cancelled this should not be an issue. However, where there is abuse of a valid Badge by a family member or person known to the Badge holder, the Badge holder needs to be made aware of their obligations under the scheme - but the Badge should be returned to the Badge holder as soon as practical.
4. Do you have any other relevant comments or suggestions, in particular are there other proposals which should have been included in the Bill?

We believe that there is much confusion in the minds of the public and even among Blue Badge holders themselves regarding the nature and extent of the Blue Badge scheme. Many of the issues and much of the public concern regarding the enforcement of the Blue Badge actually relates to off street parking areas including privately operated supermarket and out of town shopping centre car parks. The operators of such park areas are obliged under equality legislation to provide parking for disabled customers and they use the Blue Badge as an indicator of eligibility for using such spaces. However, it is essential to note that these areas are currently outwith the scope of the Blue Badge scheme and enforcement of such spaces falls outwith the general scope of the Bill.

This issue is further confused by private off street car park operators who designate spaces for use by either Blue Badge holders or parents with toddlers. This attitude then seems to rub off in other parking areas where there is strict demarcation but where parents with toddlers see no reason why they should not also use disabled parking spaces.

Finally we come to the use of off-street parking areas operated by local authorities. Where the use of such parking areas is controlled by parking charges or limits on maximum length of stay, this will normally be the subject of a Traffic Regulation Order promoted by the local authority under the Road Traffic Regulation Act 1984. So far as we understand, the Police and traffic warden service have not normally been involved in enforcing the use of such areas (only on-street parking regulations) There is, however, no reason why any enforcement officers employed by the local authority should not also enforce parking regulations in off-street car parks. It therefore needs to be clarified whether the proposed powers under the Bill extend to such local authority operated off-street parking areas.
Blue Badge Scheme: Call for evidence on proposed Bill

Purpose of the Bill
The Policy Memorandum which accompanies the Bill states that the principal policy objective of the Bill is to “protect the rights of [blue] badge holders and strengthen the existing framework of the [blue badge] scheme”.

In summary, the Bill seeks to do this by:

Form of badge – amending the principal Act to provide that the form of a blue badge must fulfil any requirements specified in regulations or administratively by Scottish Ministers;

Power to cancel badge – providing a power for local authorities to cancel badges which are no longer held by the person to whom they were issued (either because they have been lost or stolen or for other reasons);

Power to confiscate badge – extending the provision which currently allows a constable or other enforcement officer to examine a blue badge so as to also allow confiscation of the blue badge where it is apparent that the badge should have been returned to the local authority within the requirements of the regulations, or has been cancelled or misused or forged.

Offence of using cancelled badge – provisions relating to the wrongful use of a blue badge while driving or parking a vehicle, making it an offence to use a badge that should have been returned to the local authority as provided for in the regulations. The wrongful use of a badge that has been cancelled by the local authority will be an offence. (This will be liable on summary conviction to a fine not exceeding level 3 on the standard scale);

Enforcement officers – providing a power for local authorities to designate certain persons (other than parking attendants in uniform) to examine and retain badges in pursuance of matters relating to fraud or misuse of a blue badge. Unlike parking attendants, these officers would not be required to wear uniform, but would need to carry identification;

Review of local authority decision – allowing the making of regulations to require that local authorities have a review process in place for applicants who have been refused a blue badge on grounds of eligibility.

North Lanarkshire Council Response

1. In what ways do you consider the Bill will strengthen the existing blue badge scheme? Will it weaken it in any way?

• North Lanarkshire Council is aware that there are many more Blue Badge holders than there are available Disabled Parking spaces and that this could potentially lead to greater misuse of a Blue Badge. Therefore, the increased
powers of inspection and enforcement described would appear to address these issues.

- With regard to a review of decision process for people who are refused a blue badge, the council has operated a system in line with the Code of Practice since it introduced the revised Scheme in January 2012. Where someone is refused a badge, they receive a letter detailing why they have been refused and are given the opportunity to write back within 28 days to explain why they think the decision was wrong and to request a review. This is done by asking either another assessing officer to look at all the paperwork relating to the decision and where required carrying out a second Independent Mobility Assessment, or by a senior officer reviewing all the information to make a judgement on eligibility. This system has worked well to date.

2. What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants in uniform?

- North Lanarkshire Council currently relies on Police Scotland for parking offences including those involving blue badges. We would welcome powers such as these that would assist in addressing abuse of the scheme and misuse of badges. There would however be potential financial implications for us in implementing these powers.

3. Are there any other equality issues arising from the proposed Bill?

North Lanarkshire Council does not foresee any equality issues arising from any of the proposed changes.

4. Do you have any other relevant comments or suggestions?

- It would be helpful if the online application form were more consistent with the paper form in that it would for example force people to either respond to questions or alternatively have to say “not applicable”. We would also welcome guidance around assessment of mobility for a) people whose cognitive difficulty impacts on their ability to walk e.g. someone with severe dementia and b) people who are able to walk following rest periods.
Submission from the Scottish Disability Equality Forum (SDEF)

About us

The Scottish Disability Equality Forum (SDEF) works for social inclusion in Scotland through the removal of barriers to equality and the promotion of independent living for people affected by disability.

We are a membership organisation, representing individuals affected by disability, and organisations and groups who share our values. Our aim is to ensure that the voices of people affected by disability are heard and heeded within their own communities and at a national and political level.

Our responses to the Committee’s questions

1. In what ways do you consider the Bill will strengthen the existing blue badge scheme? Will it weaken it in any way?

SDEF welcomes the recognition of the importance of the blue badge scheme in ‘helping disabled people access jobs, shops and community services’. Our members support the aims of the Bill, as one member succinctly put it ‘the abuse of blue badges has to stop’.

We remain concerned that the necessary balance between enforcement and the protection of rights is not maintained in some parts of the Bill. The wariness expressed by many of SDEF’s members regards the manner in which some proposals will be implemented is evidence of this. Disabled people, who stand to benefit from the Bill, should not be feeling so concerned.

A good example of the seemingly excessive focus on enforcement is the criminalisation of people who wrongfully use a blue badge while driving or parking a vehicle, via Section 4. Two-thirds of disability organisations who responded to the 2013 consultation highlighted either the importance of demonstrating someone had an intent to misuse a badge or the need to allow for honest mistakes.

No change was made to the Bill to address this significant concern. The offence in Section 4 means that people are guilty until proven innocent of misusing a badge. An individual respondent to the 2013 consultation stated ‘In this country a person is presumed innocent until proven guilty, this is the same for blue badge holders’.

The result of this measure would be that a disabled person who reports a badge lost which is cancelled, then finds it again and uses it by mistake will have committed a criminal act. Similarly, a badge holder’s innocent relative or support worker, who has no means of checking whether a badge has been cancelled, could find themselves unintentionally committing a criminal offence just by driving the disabled person.
Local Government and Regeneration Committee
Disabled Persons’ Parking Badges (Scotland) Bill Scrutiny

2. What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants in uniform?

SDEF’s members are divided equally as to whether this is a necessary measure. Concerns have been raised as to whether current enforcement measures are being used effectively and whether adequate training would be given to those empowered. There was also a fear that innocent disabled people could be caught up in over-zealous enforcement, with one member wanting reassurance that ‘genuine users are not targeted just to show numbers’.

There was also a concern about verifying ID for non-uniformed staff. The Bill does not propose a common Scottish ID badge for badge enforcers. A badge user who travels across local authority boundaries will therefore have no easy way of telling whether ID they are shown in different areas is real or not.

SDEF members were concerned that the vulnerability of some badge users and value of their badges could lead to criminal deception. One summed up these worries, highlighting that ‘a [fake] ID card could also be [used by criminals] to get their hands on blue badges.’

Such concerns seem justified. The Policy Memorandum talks of badges being worth up to £6,000 and Aberdeenshire Council highlighted the black market value of badges in their 2013 consultation response.

3. Are there any other equality issues arising from the proposed Bill?

SDEF is not aware of any.

4. Do you have any other relevant comments or suggestions, in particular are there other proposals which should have been included in the Bill?

The proposal to introduce a standardised and publicised review process is a step forward from the current situation where more than a third of council didn’t offer any review of a decision. SDEF does not, however, believe the proposal is either sufficient or compliant with human rights obligations.

SDEF’s members have consistently highlighted the need for an effective appeals process that is independent and can overturn incorrect decisions. As one member put it ‘mistakes are always made and appeals are the only way to correct these. But appeals should be heard by disabled [people].’ Another noted that ‘as the welfare reform means you could lose your blue badge there has to be an appeal’.

An appeal stage is vital for applicants subject to an Independent Mobility Assessment. The Policy Memorandum quotes 79% of those undergoing such an assessment being awarded a badge. Renfrewshire Council’s rate is far lower, at only 37%. Such a large discrepancy is hard to justify, and casts doubt on the suggestion that an appeals process would be ‘unlikely to deliver different outcomes for applicants’.

Comparing an unsuccessful applicant for a blue badge in Edinburgh with an unsuccessful applicant for disability benefits highlights the inadequacy of the Bill proposals. The former
applies but is not awarded a blue badge, valued in the Policy Memorandum at £6,000 per year. The latter claims Personal Independence Payments but is not awarded even the lowest rate worth £4,000 per year.

Both are subject to desk-based and independent mobility assessments. Both can seek a review by another decision maker unrelated to their case. But only the benefit claimant then has a right to an appeal to an independent tribunal, which includes a disabled person, despite the value of their loss being significantly less in this example.

The appeal stage is retained for benefit claimants to ensure compliance with the European Convention of Human Rights\(^6\). It is accepted that the review process for the blue badge is not compliant with this Convention\(^7\). Instead, it is suggested that the existence of judicial review makes it compliant.

Judicial review can only be heard in the Court of Session, Scotland's supreme civil court. To suggest a disabled person could afford or would have the will to take the refusal of a blue badge application to such a court is farcical.

Neither does judicial review constitute an appeal, defined as involving a 're-consideration…of the evidence led, and the legal issues considered by, the court below'\(^8\). As the Scottish Government explains, when hearing a judicial review 'the Court will not consider the merits, or substance, of a decision or substitute it with an alternative decision'\(^9\).

The Policy Memorandum states that ‘The Bill aims to protect the rights of badge holders’\(^10\). We believe it should do so.

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1 Policy Memorandum para 2
2 07-18 Feb 2013-Anon
3 Policy Memorandum, para 30
4 Freedom of Information request reported in Paisley Daily Express, 9 September 2013 http://www.dailymail.co.uk/news/local-news/more-half-blue-badge-applicants-2531389
5 Policy Memorandum, para 109
6 Article 6 – the right to a fair and public hearing by an independent and impartial tribunal
7 Policy Memorandum, para 114
8 The Judiciary of Scotland website glossary states that: ‘A re-hearing means re-consideration by the appellate court of the evidence led and the legal issues considered by the court below.’
9 www.scotland.gov.uk/Topics/Justice/legal/Civil/JudicialReview
10 Policy Memorandum, para 3
Submission from Parkinson’s UK

1. In what ways do you consider the Bill will strengthen the existing blue badge scheme? Will it weaken it in any way?

The blue badge scheme is often described by people with Parkinson’s and their carers as a lifeline, because it has such an impact on people’s ability to retain independence and/or remain part of their communities.

Parkinson’s UK welcomes attempts to reduce the fraudulent use of blue badges, which causes problems with accessing the limited number of disabled parking spaces for disabled people. The public perception that there is a high rate of blue badge fraud may also contribute to people who do not “look” disabled being challenged by members of the public while using their blue badge, and we would hope that reduction in fraud would help to reduce this.

We welcome the Bill’s proposal to introduce a requirement that people will be able to apply for a review of a local authority decision on eligibility for a badge. We are very concerned that many Scottish local authorities have not developed an appeals process as recommended in the current guidance.

Parkinson’s UK Information and Support Workers in Scotland have become involved in a number of cases where people with Parkinson’s have been refused a blue badge, and there has not been a formal and transparent process to appeal the decision. In light of the central importance that disabled people, including people with Parkinson’s, attach to a Blue Badge, we believe that there should be a right to appeal a decision.

However, it is a serious weakness of the bill that the review process is not independent, but will be a “second opinion” carried out by assessors from the same local authority as those making the initial decision. In addition, the terms of this appeals process are yet to be defined and will appear in regulations. We believe that it is essential that any appeals process should be open to anyone who feels that they have been unfairly deemed ineligible for a blue badge.

A crucial weakness of the proposed Bill is that there is no definition of “misuse” of the badge on the face of the Bill. Parkinson’s UK has very serious concerns about the way in which confiscation powers may be used and the potential for there to be unintended consequences for people with fluctuating or invisible disabilities.

Parkinson’s is a fluctuating condition, and a person’s mobility issues may not always be apparent. People’s ability to walk can vary considerably from day to day, hour to hour and even minute to minute.
“My main concern is the variable nature of Parkinson’s, probably more so than in many other conditions. At times I could manage without my badge, but at others, my legs simply don’t want to work, and I’d be lost without it.” – person with Parkinson’s

“My walking ability differs from day to day. Getting started is the worst problem, as my feet feel stuck to the ground. Once in a rhythm, I can walk so long as the path in front of me is clear. If someone walks towards me, I freeze again. No two days are the same as regards distance – sometimes my legs are too painful to walk.” – person with Parkinson’s

Someone with Parkinson’s may be affected by:

- problems initiating or continuing movement. For example, people can “freeze” or medication can “wear off”, making it impossible to move
- high risk of falls, making it dangerous to walk for long distances, especially in poor weather
- shuffling and slowness of movement
- problems in controlling arm movements, making it difficult to operate a parking meter

However, people with Parkinson’s often report that they are challenged by members of the public because they do not “look” disabled, and they may not use a stick, walking aid or wheelchair. This is very stressful for people with Parkinson’s, and fear of being challenged can be a source of considerable anxiety.

“I’ve been told by my consultant to avoid using walking sticks, and to be honest these days my loss of grip means it would be difficult to use one. Instead I rely on support from my wife if I feel I might lose my balance when out. It shouldn’t be assumed that no walking stick means no problems walking.” – Person with Parkinson’s

We believe that misuse warranting confiscation should be specifically restricted to issues relating to the badge itself, and not to the perceived eligibility of the blue badge holder. While we recognise that the intention of the bill is not to police eligibility, we would like to see this made explicit in the bill itself, rather than in the accompanying documents.

Legitimate Blue Badge holders must not be subjected to harassment or confiscation by overzealous enforcers acting on a personal judgement about how disabled a person appears to be, and we believe that an amendment is needed to make this clear.

**2. What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants in uniform?**

Parkinson’s UK is also concerned that officials in plain clothes might be used to challenge individuals. While we recognise that plain clothes may be helpful in surveillance of suspected fraud, and accept assurances from the Bill’s sponsor that the intention is to use these enforcement officers in order to carry out complex longer term investigations, we are
concerned that the Bill itself does not include safeguards to ensure that this is how they are deployed in practice. We would highlight that this must be included in regulations.

Being challenged by someone who looks like a member of the public could be extremely worrying for someone with Parkinson’s, or any other disabled person, especially in the light of the rising incidence of hate crimes and challenges reported by disabled people. Given increasing concerns about blue badge theft, we are concerned that this system could have the unintended consequence of making it easier for fraudsters to pose as officials and steal blue badges.

While the enforcement official would be required carry means of identification, this would be difficult for some disabled people and carers – including people affected by Parkinson’s - to verify. This is particularly likely to be the case in a tense and confrontational situation on the street.

3. Are there any other equality issues arising from the proposed Bill?

4. Do you have any other relevant comments or suggestions, in particular are there other proposals which should have been included in the Bill?

Parkinson’s UK is concerned about unintended breaches of the scheme due to lack of awareness of the rules, and the risks of penalising badge holders for unscrupulous third party abuse of the badge without the knowledge or consent of the badge holder. We believe that confiscation powers should only be used in the most extreme cases, and welcome assurances in the Policy Memorandum that processes will be developed whereby valid badges which have been confiscated from third parties will be returned to the badge holder, unless there has been a previous conviction for misuse, or evidence that the badge holder has transferred the badge to another person. However, we note that these provisions do not appear on the face of the Bill, and are concerned to make sure that they do appear in the accompanying regulations.

We also believe that blue badge holders (particularly those who have had a badge for many years and who may not be aware of recent changes to the scheme) would benefit from receiving very clear information about the main points of the scheme, the definitions of misuse, the potential penalties, and rights to appeal decisions on eligibility and confiscation.

One of the major equality issues arising from the blue badge scheme in general is that it is so much more difficult for people aged over 65 to obtain a blue badge than those of working age.

People who receive higher rate mobility Disability Living Allowance (DLA) or have been allocated the correct number of points in the relevant part(s) of Personal Independence Payment (PIP) assessment are passported to the scheme, whereas those who aren’t eligible for these benefits because they are aged over 65 have to complete a lengthy application form and may have to undergo a face-to-face assessment. People with Parkinson’s who are aged over 65 are sometimes being denied a blue badge despite the fact that they would meet the
relevant criteria under DLA or PIP. The length and complexity of the form can also act as a barrier to people applying for the scheme.

We are also increasingly concerned that the recent changes to the blue badge scheme have led to increasing inequalities in access to blue badges. While some local authorities are using paper based decision making to reduce the numbers of face-to-face assessments that are required, others are calling large number of people in for (re)assessment. This includes people with Parkinson’s who are reapplying for a badge, despite the fact that Parkinson’s is an incurable condition where mobility deteriorates over time. There are very significant issues around delays in issuing Blue Badges in several local authority areas in Scotland.

We have heard that face-to-face assessors in some local authorities are frustrated that they are being asked to assess people who should have been identified as eligible from the forms they have submitted.

Parkinson’s UK members in Aberdeen and Edinburgh have reported that there are significant delays in the independent mobility assessments because of the volume of assessments that are being undertaken. We have heard that people caught in this system have been advised by local authority staff that there is an informal amnesty on using out of date badges pending reassessment despite the fact that:

- the person would be committing a criminal offence by using an out of date blue badge
- even if such an amnesty were applied in the person’s home local authority, the badge would be unusable in another area.

People using an out of date badge would stand the risk of their badge being confiscated and them being fined. We believe that these issues must be resolved before the new bill becomes law to prevent people from being unfairly penalised for assessment issues within their local authority area.

5. About Parkinson’s
About 10,000 people in Scotland people have Parkinson’s.

Parkinson’s is a progressive, fluctuating neurological disorder, which affects all aspects of daily living including talking, walking, swallowing and writing. People with Parkinson’s often find it hard to move freely. There are also other issues such as tiredness, pain, depression, dementia, compulsive behaviours and continence problems which can have a huge impact. The severity of symptoms can fluctuate, both from day to day and with rapid changes in functionality during the course of the day, including sudden ‘freezing’. There is no cure.

The average age of onset of Parkinson’s is between 50-60 years of age, and incidence increases with age. One in twenty people with Parkinson’s is diagnosed before the age of 40.

For further information, please contact Tanith Muller, Parliamentary and Campaigns Manager for Parkinson’s UK in Scotland, tmuller@parkinsons.org.uk, telephone 0844 225 3726.
1. In what ways do you consider the Bill will strengthen the existing blue badge scheme? Will it weaken it in any way?

- Ensuring that a review process is in place will enhance the scheme by ensuring that all applications throughout the country are treated in the same way and there is not a postcode lottery situation.
- The review process can be enhanced further by providing a review process model for best practice to ensure that most local authorities adopt similar approaches. Although one approach may not be suitable for use everywhere.

2. What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants in uniform?

- In principal agree with this inclusion but which local government officers will have these powers?
- Is there going to be more funding made available to local authorities to allow this to happen?

3. Are there any other equality issues arising from the proposed Bill?

- Does not appear to be any equality issues.

4. Do you have any other relevant comments or suggestions; in particular are there other proposals which should have been included in the Bill?

- No

Local Government and Regeneration Committee
Disabled Persons’ Parking Badges (Scotland) Bill Scrutiny

Clerk to the Local Government and Regeneration Committee
Committee Office
Room T3.40
Scottish Parliament
Edinburgh
EH99 1SP

Sent via email to: lgr.committee@scottish.parliament.uk

12th March 2014

Dear Sir/Madam

Local Government and Regeneration Committee: Disabled Persons’ Parking Badges (Scotland) Bill.

The British Parking Association (BPA) welcomes your consultation regarding the Disabled Persons’ Parking Badges (Scotland) Bill. I am pleased to set out below our response made on behalf of the membership of the BPA.

In general we welcome the new proposals in the Bill for better enforcement of blue badges in Scotland. The BPA lobbied for and welcomed the introduction of the new enforcement powers in England in 2013 and we would encourage the Scottish government to introduce common arrangements in Scotland.

The BPA has worked with the Scottish Government and Scottish local authorities in the delivery of the Blue Badge Improvement Service (BBIS) which is delivering fairer and more efficient administration of the Blue Badge Scheme. Improvements to the assessment of eligibility will ensure only those who have genuine need of a Blue Badge have access to designated spaces and facilities. The Scottish Government needs to ensure that Scottish local authorities have appropriate powers to deal with abuse, misuse and fraudulent use of Blue Badges and that landowners have effective powers to deal with abuse of disabled persons’ bays.

As you may know, the British Parking Association (BPA) is the largest professional association in Europe representing organisations in the parking and traffic management sector. These organisations are many and varied and include manufacturers, car park operators, local authorities, health authorities, universities and higher education facilities, airports, railway stations, shopping centres, theme parks, construction companies, learning providers and consultants.

The BPA also manages initiatives for the sector including the Safer Parking Scheme (on behalf of the Associations of Chief Police Officers), the Approved Operator Scheme (for those managing and enforcing parking on private, unregulated land) and the Parking Forum.

For more information regarding us here at the BPA, please click here.
Yours faithfully,

Patrick Troy  
Chief Executive
Submission from Glasgow City Council

1. In what ways do you consider the Bill will strengthen the existing blue badge scheme? Will it weaken it in any way?

Glasgow City Council welcomes the proposed changes to the blue badge scheme. In particular, the confiscation powers it provides front line staff will simultaneously tackle misuse, whilst ensuring adequate parking spaces for legitimate badge holders.

Currently, when suspected of misuse, parking attendants rely upon the public voluntary handing over their blue badges. Allowing for confiscation will contribute to robust enforcement. Alternatively, when misuse is inadvertent or mistaken, it will allow for the further articulation of the rules and regulations governing blue badge holders.

2. What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants in uniform?

Decisions to provide persons other than uniformed parking officers the power to confiscate blue badges, will be dependent upon the financial resources of local authorities throughout the country.

The ability to fund plain clothes officers will require the creation of new posts. Although financial restrictions may impact upon this, it is suggested that allowing existing officers to operate on a plain clothes basis, as and when required, would provide both a financially viable and flexible alternative.

3. Are there any other equality issues arising from the proposed Bill?

Although not specifically an equality issue, concerns have been raised in regards to non-uniformed parking officers being able to confiscate blue badges. Current blue badge holders have expressed their unease through consultation with Glasgow City Council.

4. Do you have any other relevant comments or suggestions; in particular are there other proposals which should have been included in the Bill?

A number of areas have been identified as requiring further clarity:

1. Are officers able to cancel blue badges, even if individuals haven’t received a conviction (as per the current regulations)?

2. The need for clarity regarding the wording of the bill has been suggested. In particular, the following phrase leaves challenges and misuse open to interpretation:

   This badge can only be used by the named badge holder, or by a person who has dropped off or is collecting the Badge holder from the place where the vehicle is parked. It is a criminal offence for anyone else to use this Badge in any other circumstances.
It has been noted that when challenged, individuals are simply stating they have either dropped off, or are picking up the named badge holder. It is appreciated that this may be difficult to remedy, however, further clarity of this section may strengthen the bill.

3. If blue badge misuse is identified, will individuals be charged for the reissue of their badge?

4. Is there scope for the introduction of an electronic monitoring system? Similarly to cash-less parking, where users buying parking have to register to park – this process would entail users “registering” their use of blue badge parking at a specific location. Allowing for monitoring, this could help identify fraudulent use (i.e. long periods of parking in the same position, over a concentrated period of time).
Q1. In what ways do you consider the Bill will strengthen the existing blue badge scheme? Will it weaken it in any way?

We consider the Blue Badge scheme to be a valuable support to disabled people. We support the proposed measures as a means of reducing incidences of fraud and misuse of Blue Badges in Scotland and with that enabling disabled people to have greater access to parking facilities. We consider the Bill will strengthen enforcement and surveillance of Blue Badge misuse and do not consider that it will weaken the scheme.

Q2. What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants in uniform?

We agree that powers should be provided under the Bill to enable confiscation of badges by persons other than parking attendants in uniform as we believe this will enable more effective surveillance of badge misuse and a more flexible approach to enforcement. However, we believe that a requirement must be made that any officer, whether police traffic wardens or local authority officers or parking attendants, who has the power to confiscate badges must have received training in relevant legislation, disability equality, adult support and protection and effective communication before being able to undertake this duty.

Q3. Are there any equality issues arising from the propose Bill?

We believe that fairer and better enforcement processes for Blue Badges would have positive implications for disabled people and others affected by the misuse of Blue Badges. As noted above to ensure that enforcement staff are aware of equalities and relevant legislation, we believe that a requirement for training in relevant legislation, disability equality, adult support and protection and effective communication would be beneficial.

Q4. Do you have any other relevant comments or suggestions; in particular are there other proposals which should have been included in the Bill?

Key comments are as follows:

A: Misuse of Blue Badge – There is a risk that blue badge holders may be unfairly penalised where another person is misusing their badge without their knowledge or consent. The Bill should provide clarity that fraud investigators must endeavour to determine if the person was aware that the badge was being misused before taking enforcement actions. We consider the Bill should focus on prosecution of those who misuse badges without the blue badge owner’s knowledge or consent.

B: Risk to Blue Badge Holders/ Adult Support and Protection – Fraud Investigation Officers must be mindful of Local Authority wider duties under Adult Support and Protection and ensure key links and arrangements are in place in particular where potential financial harm is identified during an investigation.

C: Prevention – We believe the Bill should also have a greater focus on prevention of misuse to compliment the increased enforcement powers.
**D: Private Companies** – We consider the Bill should enable private companies to allow enforcement in their parking facilities or private companies to report suspected misuse.

**E: Clock System** – The introduction of a clock system, akin to the approach in England, may enable a time limit to be placed on parking and with that support prevention of misuse.

**D: Corporate Fraud** – We believe this will enhance the ability to take a holistic approach to fraud enforcement and prevention.
13 March 2014

Kevin Stewart MSP
Convener, Local Government and Regeneration Committee
Committee Office
Room T3.40
Scottish Parliament
Edinburgh
EH99 1SP

Dear Convener,

Disabled Persons’ Parking Badges (Scotland) Bill

Please find enclosed a response to the Local Government and Regeneration Committee’s call for written evidence on Disabled Persons’ Parking Badges (Scotland) Bill.

While COSLA welcomes the aims of this Bill, it is important to consider the Bill in a wider context given Police Scotland’s recent withdrawal of its Traffic Warden Service. As outlined below, COSLA continues to explore practical solutions for local authorities facing uncertainty with regard to parking enforcement.

I have copied this response to all members of the Local Government and Regeneration Committee and to members of the Justice Sub-Committee of Policing given the relevance to DCC Fitzpatrick’s appearance in front of that Committee on 20 March. Given the Convener of the Justice Sub-Committee on Policing has declined to invite COSLA to address that Committee, I would welcome the opportunity to represent COSLA’s wider concerns around parking enforcement to you.

As agreed with the Committee Clerk, this evidence is submitted on the morning of Thursday 13 March 2014 to allow me to incorporate views expressed by the COSLA Development, Economy and Sustainability Executive Group on 12 March 2014.

Yours sincerely,

Cllr Stephen Hagan
COSLA Spokesperson
Development, Economy and Sustainability
Response to Local Government and Regeneration Committee’s call for written evidence on Disabled Persons’ Parking Badges (Scotland) Bill

General comments

1. This response reflects the views expressed by the COSLA Development, Economy and Sustainability (DES) Executive Group throughout the development of the Bill and at its most recent meeting on the 12 March 2014. The evidence below supplements COSLA’s response to the Scottish Parliament’s Finance Committee’s call for written views on the Bill’s Financial Memorandum and incorporates the concerns of COSLA Leaders regarding the withdrawal of the Police Scotland Traffic Warden Service.

2. COSLA supports the aims of the Bill and the proposed enforcement powers which we agree will enable local authorities to enforce the scheme more effectively. However, given the scale of concern expressed by COSLA about the consequences of the removal of Police Scotland’s Traffic Warden Service, we would like to ensure that the proposals contained within the Disabled Person’s Parking Bill are considered with this in mind.

3. The withdrawal of the Police Scotland Traffic Warden Service will result in a gap in enforcement of up to two years in councils who have not yet but are seeking to move to Decriminalised Parking Enforcement (DPE) while councils who deem it unfeasible or not cost-effective to move to DPE face total uncertainty. It is our view that the link must be made between the practicability of the provisions set out in this Bill and the need for full and consistent enforcement of parking regulations across Scotland.

4. The questions outlined in the consultation document are addressed below.

“1. In what ways do you consider the Bill will strengthen the existing blue badge scheme? Will it weaken it in any way?”

5. COSLA supports the proposed enforcement powers and agrees that the Bill will enable local authorities to enforce the scheme more effectively. We are however deeply concerned that the good intentions of this Bill risk being undermined by the uncertainty in parking enforcement nationally created by the Police Scotland announcement to withdraw its Traffic Warden Service.

6. Nevertheless, COSLA has also discussed with Police Scotland ways to ensure better, more aligned approaches to confiscation and enforcement of Blue Badges. Our continued dialogue with Police Scotland on behalf of local authorities allows us to explore ways in which to ensure the robustness of the blue badge scheme.

7. Local Government officers have generally commented that for those authorities operating DPE this Bill will be welcomed as it gives councils the full powers they need to properly tackle the fraudulent blue badge issue.

“2. What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants in uniform?”

8. COSLA would stress the need to ensure adequate training for staff given the new powers, in terms of the legislation, disability and diversity issues as well as the potential of dealing with conflict situations arising from the enforcement of the badges.

9. The assumption that this would incur no significant costs to local authorities, appears partly predicated on the continued availability of police traffic wardens for enforcement duties across Scotland, where no DPE is currently in place or proposed. The proposal talks about this activity being effectively a small marginal cost subsumed within their wider parking enforcement duties, but if Police Traffic Wardens are being withdrawn, some form of additional enforcement cost will have to be funded via DPE or from other budgets where DPE is not cost effective.

10. The Financial Memorandum (FM) lays out the £26,000 that reflects the anticipated cost of employing an enforcement officer, but this does not include the total costs, since the person would have to be mobile so there will be transport and IT costs. Neither does the FM mention possible additional costs for legal and management support.

11. The FM recognises that there will be Councils where it does not make financial sense to appoint enforcement officers. Although the Bill would give powers to Councils to undertake this additional enforcement (rather than it be a duty) there is considerable concern that expectation would be placed on all Councils by the public, and in particular disabled drivers, to take on parking enforcement duties. Therefore there could be Councils where the additional costs of the Bill have to be picked up by the local authority, with only small amounts of additional parking income to offset these costs. The margins for covering the costs associated with employing enforcement officers is lower in rural areas, as the larger urban areas are likely to be the places that have the capacity to generate income.

12. In addition, ceasing the misuse of a blue badge would not necessarily lead to a rise in parking charge income to a local authority, certainly not to a level equivalent to that lost through the misuse of the blue badge. The FM states that provision of an enforcement officer would make efficiencies in enforcing the blue badge scheme by freeing up parking attendants’ time to deal with other parking violations, however this scenario is considered to be unrealistic and therefore there are no real savings. Indeed, there is a risk that increased demands to enforce this Bill will redirect other enforcement activity which may result in more parking abuse elsewhere, and therefore less income and less payment and parking compliance from general motorists if they feel reduced enforcement presence.

“3. Are there any other equality issues arising from the proposed Bill?”

13. While no equality issues appear to arise directly from the Bill, COSLA is wary of the equality issues which may arise from the withdrawal of the Police Scotland Traffic Warden Service.
14. Clearly the scope of this Bill does not cover Police Scotland’s level of enforcement of or commitment to enforcing parking regulations but we feel the equality impact of the withdrawal of the Police Scotland Traffic Warden Service cannot be ignored. COSLA had previously expressed concern at Police Scotland’s equality impact assessment (EIA) of the withdrawal of their Traffic Warden Service and, at a meeting with Police officials on 14 February, it was confirmed to COSLA that the EIA only takes into account the equality impact on its workforce rather than on citizens.

15. It is COSLA’s view that this is a grave oversight which, at worst, shows disregard for the Police’s equality duty. We have since been given a commitment by DCC Fitzpatrick that this EIA will be “reviewed” and COSLA officers will monitor the proposed “review” and development of the EIA.

16. If enforcement of parking regulations – including disabled persons’ parking – is not nationally consistent or if there are even areas where there is no enforcement, this would indicate serious equalities issues in terms of temporal or geographical limitations on the enforcement of disabled parking spaces.

“4. Do you have any other relevant comments or suggestions, in particular are there other proposals which should have been included in the Bill?”

17. The COSLA DES Executive Group has agreed to support the general aim of the Bill to enable local authorities to better enforce the use of blue badges and have the power to confiscate badges which they suspect are fraudulent or being misused. Members agreed that all of the suggestions relating to enforcement are common sense, though individual local authorities would have to consider any potential impacts that additional powers may have on resources. COSLA has been working constructively with Police Scotland to find ways to ensure better, more aligned approaches to confiscation and enforcement of blue badges.

18. COSLA Leaders have also mandated COSLA officers to seek mechanisms out with DPE areas and to look at opportunities for better joint working in terms of laying traffic orders or joint enforcement. Senior SCOTS officers have also suggested the Improvement Service Roads Collaboration Unit could be a possible mechanism to tackle issues in parking enforcement. These ideas are in their infancy and, while not within the scope of this Bill, COSLA would welcome constructive approaches along these lines to overcome the challenges faced by councils whose parking enforcement will be affected.

19. COSLA has also established a parking stakeholder working group along with representatives from SCOTS, SOLACE and Transport Scotland to investigate wide range of parking issues and address all issues strategically going forward.

Responsible Parking Bill

20. COSLA would also like to draw out the links between this Bill and the Sandra White MSP Responsible Parking (Scotland) Bill which aims to allow all pedestrians to travel along the pavement and to cross roads free from obstructions caused by parked vehicles. This Responsible Parking Bill has received cross-party support in the Scottish Parliament and contains proposals for a blanket ban on parking at dropped kerbs, on pavements and double parking. While there has been no progress on this Bill since the right to introduce it to Parliament was secured last year, Ms White is likely to pursue this Bill and it would
Local Government and Regeneration Committee
Disabled Persons’ Parking Badges (Scotland) Bill Scrutiny

therefore make sense to anticipate its possible progress. COSLA has previously intimated support for the Responsible Parking Bill.

‘Review of Local Authority Decision to refuse Blue Badge’

21. With regard to proposal 6 ‘Review of Local Authority Decision to refuse Blue Badge’, local government officers have generally commented that for those authorities operating DPE this Bill will be welcomed as it gives councils the full powers they need to properly tackle the fraudulent blue badge issue. However, COSLA had previously expressed the view that it was unnecessary for there to be a “third-stage” statutory appeals mechanism which would lead to increased costs for authorities.

22. These representations were made in the 2013 consultation process of this Bill and COSLA welcomes the fact that Mr Robertson has carefully considered this and asked for civil servants supporting him in the Bill to undertake some research to assess the extent of current levels of appeals following an Independent Mobility Assessment.

23. In this regard, the numbers and costs appear to be small, based on a limited 2 month sample, to implement a further review procedure to the decision to refuse an applicant a Blue Badge either after a desk-based assessment or an Independent Mobility Assessment. Only 118 out of 10000 applications over a 2 month period, 98 requested a review at “first stage” desk-based assessment and a further 20 following a “second stage” IMA.

24. The Financial Memorandum accompanying the Bill, explores the same ratios of requests for a “third stage” review from the 10,000 sample of applications to the 52,235 applications which currently estimated to be subject to further assessment per annum within Scotland. Working on this basis, it is our understanding that there would be approximately 200 (0.4%) requests for a review following an IMA.

25. As a result, the COSLA DES Executive Group has amended its previous position questioning the necessity for the introduction for a statutory appeals mechanism given the current low levels of third-stage appeals and the fact that 20 local authorities already appear to have this stage in place.

Conclusion

26. In conclusion, COSLA welcomes the principles contained within this Bill and no longer objects to the introduction of a statutory “third stage” appeals mechanism. We are however, deeply concerned that the good intentions of this Bill risk being undermined by the uncertainty in parking enforcement nationally created by the Police Scotland announcement to withdraw its Traffic Warden Service.

March 2014

John Wood, Policy Officer
COSLA
Committee's Call for evidence

The Committee invites all interested parties to submit written evidence on the Bill, setting out views on the provisions of the Bill. It would be helpful if written submissions could address the following questions:

1. In what ways do you consider the Bill will strengthen the existing blue badge scheme? Will it weaken it in any way?

   South Ayrshire Council supports the introduction of the new Bill. We agree that the Bill will strengthen the existing Blue Badge Scheme by ensuring consistency across Local Authorities in its administration.

   We agree with the proposal to ensure that all Blue Badges fulfill any requirements specified in regulations or administratively by Scottish Ministers. The new badge format provides more security with the introduction of photographic ID, watermarks and hologram’s making it more difficult to make illegal copies of the badges.

   The data base for collating Blue Badge data nationally is welcomed and will assist Local Authorities to address the fraudulent use of badges and in particular, the use of cancelled badges. It is hoped that new technology will enable bar code readers to be used by Parking Attendants to ensure the quick and effective transfer of data

   We welcome the introduction of the statutory Road Offence for the fraudulent use of a Blue Badge.

2. What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants in uniform?

   We have concerns about this proposal, as it would appear that the officers who would be in the best position to undertake this role would be Occupational Therapists and Social Workers with knowledge of individuals who have a Blue Badge award. We feel that should the circumstance present itself, the non-uniformed officer could be met with aggression; therefore risks to staff could potentially increase.

   Currently staff who observe the misuse of a badge will approach the individual who is known to them and make them aware that they have witnessed the situation, they will then retreat and contact the individual the following day to invite them into the office for further discussion. It is at that point that the staff member will invite the individual to return of the badge. Should they refuse to do so, the matter is reported to the Police.

3. Are there any other equality issues arising from the proposed Bill?

   None noted
4. Do you have any other relevant comments or suggestions; in particular are there other proposals which should have been included in the Bill?

*It would have been helpful to have has a section within the Bill that covered the use of badges from other countries. This is a growing problem and clear guidance is required.*
Supplementary Submission from Inclusion Scotland

Inclusion Scotland thanks the Committee for the opportunity to give oral evidence on 26th March 2013 on Stage 1 of the Disabled Persons’ Parking Badges (Scotland) Bill.

Having reviewed the evidence from witnesses last week, we hope it is helpful to provide the following points of clarification in the form of supplementary evidence.

1. Evidence of Misuse

1.1. Inclusion Scotland does not dispute that blue badges are misused, or that such misuse should not be tackled. Indeed, we welcome the fact that this is to be addressed. However, it is important that figures related to fraudulent usage are based on firm evidence. To rely on headline grabbing figures which have no substantive evidential base risks undermining the credibility of the blue badge scheme, and further adding to the stigmatisation of disabled people.

1.2. Much of the evidence on the alleged extent of misuse of blue badges appears to be at best anecdotal or unsubstantiated. For example, whilst in his evidence Gordon Catchlove said “I maintain that, in Edinburgh, between 52% and 70% of all badges that are on display will be being misused”, no verifiable evidence was provided to substantiate this.

1.3. Regarding her evidence that 80% of the correspondence received by Disability Motoring UK related to the Blue Badge Scheme, Helen Dolphin made it clear that the majority related to the use of disabled parking spaces by people without blue badges, and often related to off-street parking.

1.4. The Bill’s Policy Memorandum refers to the 2012 telephone survey for Transport Scotland. The survey asked as a single question “Have you experienced misuse of the Blue Badges/disabled parking spaces by non-disabled people”. 76% said they had regularly or sometimes experienced misuse. 92% of these reported that this was most likely in a supermarket or private shopping mall car park. However, the survey also indicates that the majority of abuse is people using a disabled person’s parking bay without having a blue badge, rather than the misuse of a blue badge. Only 2% of those surveyed said they had lent their badge to someone else. It is therefore important to be clear about the nature of the abuse that is occurring and which sorts of abuse do and do not fall within the scope of the Bill.
1.5. The Financial Memorandum for the Bill refers to 2008 and 2010 research by the Department of Transport which suggests that fraud levels are between 1-4%, much lower than the 50-70% figures being suggested by some of the evidence.

2. Enforcement Officers:

2.1. Inclusion Scotland is not opposed to the use of non-uniformed enforcement officers for checking the validity of blue badges on display against the national database, or for the investigation of alleged misuse. Our concern relates to non-uniformed officers having the power to confiscate badges, because of concerns about how these officers can be identified and the potential for fraudulent activities.

2.2. We are not alone in having these concerns. They are echoed by other disability organisations that gave written submissions on the Bill, including Scottish Disability Equality Forum, the Mobility Access Panel for Scotland, Ecas and Parkinson’s UK; and also by the Law Society of Scotland.

2.3. It would be helpful to clarify who, from the written evidence, are the “range of other disability organisations” who do not share our concern, referred to by Dennis Robertson in his oral evidence, or the “other groups supportive of the provision” referred to by the Minister in his oral evidence.

2.4. We are unclear why there should be a problem in getting a uniformed officer to attend where there is evidence of misuse and, in any event, as Police Scotland made clear “evidence of misuse does not go away when the vehicle moves”.

2.5. Moreover, while we accept that someone wishing to pose as an inspector could easily enough purchase a uniform, this clearly requires some planning and forethought. It is an offence to impersonate a uniformed officer, and a person wearing a fake uniform is more likely to be spotted by a genuine officer than someone carrying a fake ID card. Our concern is with the considerably greater scope for opportunistic abuse by anyone who happens to be walking down the street in possession of a card that could look official to the uninitiated.

3. Confiscation

3.1. Inclusion Scotland has no concerns regarding the immediate confiscation of invalid badges. However, we are concerned with the proposal to automatically confiscate valid badges where misuse is suspected.

3.2. We would wish to query any assumption that a person misusing a badge will have done so before and will keep on doing so after being caught. Neither would it

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13 Col 3344, Official Report, Local Government and Regeneration Committee, 2 April 2014
14 Ibid, Col 3345,
15 Superintendent Craig Naylor, Police Scotland, Col 3316, Official Report, Local Government and Regeneration Committee, 26 March 2014
necessarily be safe to assume that the badge has been taken by a third party for their own use, depriving the badge holder from using it.

3.3. For example, it may the case that a carer has “taken a chance” and used the blue badge whilst undertaking an errand between dropping-off and collecting the blue badge holder. If the badge is confiscated, the blue badge holder may be unable to use the on-street parking bay provided for them to access their home (for example).

3.4. Confiscation of a valid badge may indeed be reasonable where there is evidence of repeated misuse, or there are reasonable grounds for believing that the badge will not be returned to the badge holder. However, it is important to distinguish between deliberate and repeated abuse, a one-off misuse and an honest mistake.

3.5. People may misuse a blue badge because they believe the chances of being caught are limited, or there is no consequence to being caught. The national register will make it easier to detect invalid badges and valid badges that may be being misused, increasing the likelihood of being caught. The issue of a fixed-penalty notice to those misusing a badge (for the parking offence) would act as a deterrent to casual misuse.

4. Conclusion

4.1. Whilst Inclusion Scotland supports the General Principles of the Bill, we remain concerned about the evidential base behind some of the detailed proposals. We hope that the Committee will recognise this, and also that the Bill does not address what disabled people and blue badge holders have consistently identified as their major concern – people without blue badges parking in disabled parking bays, particularly in supermarket and other off-street car parks – is not addressed by the measures in this Bill.

4.2. The Committee may wish to raise with the Scottish Government what action it can take to encourage the operators of off-street car parks to better enforce the abuse of disabled parking bays by vehicles not displaying a blue badge.
<table>
<thead>
<tr>
<th>Title of Policy</th>
<th>The Disabled Persons (Parking Badges) (Scotland) Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td>Summary of aims and desired outcomes of policy</td>
<td>The Bill aims to strengthen the Blue Badge scheme enforcement powers, including powers to cancel and confiscate badges in certain circumstances and to provide a review process for applicants when their Blue Badge is refused on eligibility grounds.</td>
</tr>
<tr>
<td>Directorate; Division Team</td>
<td>Transport Policy Directorate Transport Accessibility and Road Safety Team</td>
</tr>
</tbody>
</table>

Executive Summary

1. It is proposed to amend the primary legislation in section 21 of the Chronically Sick and Disabled Persons Act 1970 to strengthen administration and enforcement of the Blue Badge scheme. The Bill contains 6 proposals as follows:

- **Section 1 - Form of badge** amends section 21(1A) of the 1970 Act to provide that the form of a blue badge must fulfil any requirements specified in regulations or administratively by Scottish Ministers.

- **Section 2 – Power to cancel badge** provides a power for local authorities to cancel badges which are no longer held by the person to whom they were issued (either because they have been lost or stolen or for other reasons).

- **Section 3 – Power to confiscate badge** extends the provision which currently allows a constable or other enforcement officer to examine a blue badge so as to also allow confiscation of the blue badge where it is apparent that the badge should have been returned to the local authority within the requirements of the regulations, or has been cancelled or misused or forged.

- **Section 4 - Offence of using cancelled badge** makes amendments of section 21(4BZA) of the 1970 Act and section 117(1ZA) of the Road Traffic Regulation Act 1984 Act (“the 1984 Act”). These provisions relate to the wrongful use of a blue badge while driving or parking a vehicle. It is made an offence to use a badge that should have been returned to the local authority as provided for in the regulations. The wrongful use of a badge that has been cancelled by the local authority will also be an offence. (This will be liable on summary conviction to a fine not exceeding level 3 on the standard scale.)

- **Section 5 – Enforcement officers** provides a power for local authorities to designate certain persons (other than parking attendants in uniform) to examine and retain badges in pursuance of matters relating to fraud or misuse of a blue badge. Unlike parking attendants, these officers would not be required to wear uniform, but would need to carry identification.
• **Section 6 – Review of local authority decision** allows the making of regulations to require that a local authority to have a review process in place for applicants who have been refused a blue badge on grounds of eligibility.

2. The Equality Impact Assessment of the Bill proposals has identified that the impacts will be widely positive for disabled people with no negative implications identified for other equality groups. Evidence from the Framing Exercise, Blue Badge research and responses to the Member’s consultation showed that badge holders valued their badges and were concerned about the widespread abuse of the scheme.

3. Although there was general support to tackle the abuse by strengthening enforcement practice, badge holders and disability groups held strong views that responsible badge holders should not be disadvantaged by the proposals.

4. In implementing the legislation, it was recognised that it would be necessary to mitigate the impact of the proposals on the equality groups by:
   - raising general public awareness about the Blue Badge scheme and the impact abuse of the scheme has on disabled people;
   - reminding badge holders about their rights and responsibilities;
   - communicating clearly and in accessible formats, given the wide range of disability groups impacted;
   - ensuring that the local authorities which choose to use the powers make enforcement officers aware of the new legal powers and disability equality issues;
   - providing clear administration and enforcement processes in supporting guidance; and
   - monitoring and quality assuring the changes to ensure that any specific equality group has not been adversely or indirectly affected by the proposals.

**Background**

5. The policy intention is to introduce legislation which will ultimately provide fairer and more equitable arrangements for those disabled people who depend on their Blue Badge to allow them to park close to their destination.

6. A Blue Badge provides valuable parking concessions to disabled people who meet certain prescribed eligibility criteria and who travel as drivers or passengers in a vehicle. It helps people with disabilities to retain their independence by exempting them from normal parking restrictions. They can, for example, park without charge or time limit at on-street parking meters, pay and display bays or designated disabled bays. They can also park on single or double yellow lines unless there are signs indicating that local restrictions apply.

7. Audit Commission reports have identified how criminals forge Blue Badges or steal valid badges from cars, which are subsequently sold on the black market. It is also common practice for friends or relatives of badge holders to “borrow” a badge to make use of the parking concessions for their own benefit. Badge misuse and fraud consequently
have a cost to the public purse and represent an injustice to those with severe mobility issues who would benefit most from the Blue Badge Scheme.

8. Following a consultation in 2010, the Blue Badge scheme has been subject to a series of reforms which have been implemented by secondary legislation amending the Disabled Persons Parking Badges (Scotland) Regulations 2000. The Disabled Persons’ Parking Badges (Scotland) Bill proposed by Dennis Robertson MSP, and supported by the Scottish Government, will amend section 21 of the Chronically Sick and Disabled Persons Act 1970 to allow for better administration and enforcement of the Blue Badge Scheme.

9. The policy contributes to the following National Outcomes:

- We have tackled the significant inequalities in Scottish society.
- Our people are able to maintain their independence as they get older, and are able to access appropriate support when they need it.
- Our public services are high quality, continually improving, efficient and responsive to local people’s needs.

Scope of the EQIA

10. The Equality Impact Assessment took into account the initial findings of a framing exercise and the work of two multi-agency groups which were set up by Transport Policy Directorate to look at the process underpinning the proposals in the legislation for improved enforcement of the scheme and review of applications for a Blue Badge.

11. Contributors included representatives from local authorities, the police, disability organisations, the Mobility and Access Committee for Scotland, the Crown Office and Transport Scotland policy and analytical services officials. The work of these groups was informed by evidence from the available research literature on the Blue Badge Scheme and the results of the consultation on the Bill proposals. This included:

- The Scottish Household Survey
  
  http://www.scotland.gov.uk/Topics/Statistics/16002

- The Use and Value of the Blue Badge Scheme (ODS Consulting for Transport Scotland, 2012).
  

- Analysis of consultation responses to the Bill
  

Key Findings

12. Disability and age are the main protected characteristics impacted by Blue Badge policy. The other groups (sex, gender reassignment, sexual orientation, race, religion and
belief) will be less obviously impacted. The assumption is that the policy will not impact on men and women in different ways despite there being more women than men who hold a Blue Badge (because they generally live longer and are more likely to present with a disability).

13. There were 263,045 Blue Badges on issue in Scotland as at 31 March 2012 and research by ODS for Transport Scotland, (2012), *The Use and Value of the Blue Badge Scheme* concluded that the Blue Badge plays a vital role in enabling people with mobility problems to live independently and access services in the community.

14. The same research found that 83% of Blue Badge holders in Scotland had experienced misuse of Blue Badges or disabled persons parking spaces and that misuse was seen as a major problem by 52% of badge holders.

15. The Consultation on the Bill concluded that proposals to strengthen enforcement powers were generally supported as it was recognised that tackling the widespread abuse of badges would, in turn, impact positively on responsible badge holders by freeing up parking spaces and allowing them to park closer to their destination.

<table>
<thead>
<tr>
<th>Proposal</th>
<th>Findings</th>
<th>Mitigation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Section 1 - Form of badge</strong>&lt;br&gt;To provide for Scottish Ministers to approve some features of the Blue Badge format administratively rather than prescribing them in legislation.</td>
<td>Supported. No direct impact on disabled people but will tackle abuse of the Blue Badge scheme by ensuring that certain security aspects of the Blue Badge design are not publicly available.</td>
<td>General information about the badge to be retained for public interest purposes as advised by Scottish Information Commissioner.</td>
</tr>
<tr>
<td><strong>Section 2</strong> – To introduce a power to enable a local authority to cancel a Blue Badge which has been reported lost or stolen. &lt;br&gt;&amp; <strong>Section 4</strong> – To introduce a new offence of using a Blue Badge which has been cancelled by a local authority.</td>
<td>Supported. Proposals will have positive impact on disabled people. This will put the status of a cancelled badge beyond doubt should it subsequently be displayed on a vehicle and a report to the Procurator Fiscal is being considered.</td>
<td>Blue Badge holders reporting their badge as lost or stolen can be issued with a replacement badge with a different identifying number. This means they will not be disadvantaged by the lost or stolen badge being cancelled.</td>
</tr>
<tr>
<td><strong>Section 3</strong> – To introduce a power for traffic wardens and local authority parking attendants to confiscate Blue Badges which are being misused.</td>
<td>Supported. Proposal will have positive impact on disabled people. Tackling the widespread need to ensure that disabled people who use their Blue Badge responsibly are not disadvantaged in any way and that enforcement staff are appropriately trained in their new legal powers and disability</td>
<td></td>
</tr>
</tbody>
</table>
abuse of badges will, in turn, impact positively on responsible badge holders by freeing up parking spaces and allowing them to park closer to their destination.

equality awareness.

Need to ensure that badges which are confiscated from third parties are returned quickly to the original badge holder. (Local authorities have the power to withdraw badges where there is a previous conviction for misuse or they are satisfied that the holder has purported to transfer their badge to another person.)

Need to provide reassurance that new powers will not be used indiscriminately or to question a person’s right to a Blue Badge on eligibility grounds. Disabilities are not always clearly visible and not all Blue Badge holders are elderly. Young wheel chair users may also meet the eligibility criterion of being unable to walk or virtually unable to walk and children under 3 who are required to be accompanied by bulky medical equipment are also eligible.

Need to ensure that publicity and information leaflets to increase awareness of badge holders, enforcement staff and wider general public are in accessible formats.

<table>
<thead>
<tr>
<th>Section 5 - To introduce a power for local authorities to appoint persons, other than parking attendants in uniform, to examine and retain Blue Badges in investigation of fraud or misuse of a Blue Badge.</th>
<th>Supported. Proposal will have positive impact on disabled people. This will allow local authorities to put in the appropriate resources to tackle more serious cases of Blue Badge abuse.</th>
<th>Need for training in carrying out duties and to provide reassurance that new investigating officers will not approach responsible Blue Badge holders indiscriminately and will carry full identification if interviewing in the course of their investigations.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 6 - To provide for a regulation making power to require local authorities to</td>
<td>Supported. This will have a positive impact on disabled people by</td>
<td>Key principles e.g. timescales for reviews being completed by local</td>
</tr>
</tbody>
</table>
Conclusions & Recommendations

16. The proposals in the Bill will impact positively on disabled people who are Blue Badge holders. The majority of Blue Badge holders are elderly but age is not in itself a qualification for a Blue Badge. All badge holders must meet the eligibility criteria set in legislation and may be subject to further assessment if it is uncertain whether they are unable or virtually unable to walk.

17. The research findings and responses to the consultation demonstrate how much badge holders value their badges and are supportive of tackling the widespread misuse of the scheme. By strengthening enforcement powers, the valuable parking concessions provided by the Blue Badge scheme will be available to disabled people with the greatest mobility needs and allow them to park close to where they want to go.

18. Whilst the policy intention has not changed, the Equality Impact Assessment has reinforced the need for certain actions to be taken to mitigate the possibility that disabled people might be at a disadvantage from any of the proposals. These include, for example, the need for the local authority to send back a badge which has been confiscated from a third party to the original badge holder as soon as possible. This will ensure they are not disadvantaged by being without their badge for longer than necessary. It is recommended that when badges are confiscated from third parties, processes are put in place to ensure that wherever possible the badge is returned to the badge holder as soon as practicable and timescales for doing so are prescribed in regulations.

19. If there is evidence of previous misuse leading to a relevant conviction or the local authority is satisfied that the badge holder has purported to transfer their badge to another person, the local authority can include a notice requesting return of the badge within a prescribed period and the badge holder has a right of appeal.

20. When local authorities cancel badges which have been reported as lost or stolen, a new badge with a unique identifying number should be issued to the badge holder. The intention behind the power to cancel a badge is not to penalise the badge holder in any way but to clarify that the badge is no longer valid, should it subsequently be displayed on a vehicle.

21. The EQIA also identified a need to raise general awareness of the Blue Badge scheme. This publicity will highlight the intention to strengthen enforcement powers to tackle Blue Badge misuse, whilst increasing the potential of the Bill to succeed in freeing up spaces for those who are entitled to the parking concessions.

22. The Scottish Government is working with the agencies represented on the Enforcement Working Group to develop the necessary tools to assist agencies in raising awareness of the scheme across the population. This will include information for local authority parking enforcement staff on the new legal powers and for Blue Badge holders about their rights and responsibilities under the scheme.
23. Local authorities and the police are responsible for enforcing the Blue Badge scheme and it is recommended that the changes are reflected in training provided by agencies to ensure that enforcement staff are aware of their powers and the processes underpinning the legislation. The working group will ensure that clear guidance is available and the existing Blue Badge Code of Practice is updated for inclusion in the material used for training purposes.

24. The EQIA has concluded that responsible badge holders should not be apprehensive about the new powers being used indiscriminately by enforcement staff, should local authorities choose to adopt them. Badges will only be confiscated where they are forgeries, are being misused by a third party with intent to deceive or the badge holder is using a badge that is invalid because it is damaged, expired or cancelled and does not meet the requirements of the regulations. Badges confiscated from third parties will be sent back to the original badge holder wherever possible. The Police and local authorities will decide on a case by case basis and the evidence available whether further action is required or a report to the Procurator Fiscal is appropriate.

25. Further discussion will take place with the Convention of Scottish Local Authorities (Cosla) as to how local authorities are to monitor the impact of the legislation following implementation.

26. Local authorities will wish to monitor whether the power to confiscate badges impacts on the numbers of badges being misused. They will also wish to monitor whether raising awareness of the scheme changes has been successful. This might be demonstrated by measuring the number of complaints received from the public that enforcement staff are not fully trained in relation to the rights and responsibilities of Blue Badge holders. Local authorities will also wish to record the number of applicants requesting a review of their decision to refuse a badge following an Independent Mobility Assessment as there could potentially be an increase when people are aware that a review process is in place.

27. The Regulations supporting the legislation will prescribe a clear process for applicants to request a review of the local authority decision to refuse a Blue Badge and the key principles which local authorities should comply with in carrying out the reviews, including agreed timescales for completion.

28. In carrying out the EQIA the policy aim is to demonstrate due regard to the needs of the public sector duty to;

- eliminate discrimination;
- advance equality of opportunity; and
- foster good relations.
March 2014

Dear Kevin,

Disabled Persons’ Parking Badges (Scotland) Bill

Thank you for your letter of 4 March. I am happy to accept your invitation to give evidence to the Committee on the Disabled Persons’ Parking Badges (Scotland) Bill at its meeting on 2 April 2014.

I fully support the Bill to strengthen administration and enforcement of the blue badge scheme which follows a programme of reform of the scheme. Scottish Government officials have been working with Dennis Robertson MSP, local authorities and other interested agencies to develop the Bill.

As requested, my responses to the specific questions you have asked are contained in Annex A.

I hope this is helpful.

Kind regards

KEITH BROWN
1. In what way do you consider the Bill will strengthen the existing blue badge scheme? Will it weaken it in any way?

The blue badge scheme has been running since 1971. The aim of the recent Scottish Government reform of the scheme has been to ensure that the scheme remains fit for purpose, providing a concession which enables disabled people to access the community more easily and to help them lead independent lives. Recent improvements to the scheme have included a new badge design and the introduction of the blue badge improvement service (BBiS) database which provides up to date information on badges issued in Scotland, England and Wales. Both initiatives contribute to reducing the propensity for fraud and forgery.

However, more still needs to be done to reduce misuse. Research commissioned by Transport Scotland in 2012 on the Use and Value of the blue badge concluded that badge holders value the parking concessions provided by their blue badge. However many reported that they had also experienced misuse of the scheme.

The Bill responds to the views of badge holders by enhancing the existing powers to enforce the scheme; sending out the message that blue badge misuse is socially unacceptable. The relevant provisions are strong preventative measures. These strengthening powers do not seek to catch many more abusers but rather to discourage and prevent abuse of the system in the first place, thereby saving time and money for enforcement agencies and crucially freeing up spaces to be used by blue badge holders.

I am also pleased that the Bill will further strengthen the scheme by providing a process which will allow persons who have been refused a blue badge on grounds of eligibility to request a review of the decision, providing a more consistent and fair approach across the country.

There is no evidence to suggest that the Bill will weaken the scheme.

2. What are your views on providing powers under the Bill to confiscate badges to persons other than parking attendants in uniform?

The Bill will allow local authorities to choose to appoint enforcement officers, in addition to parking attendants in uniform, to inspect and confiscate badges that are being misused. Currently inspection of badges must be carried out by enforcement staff in uniform which in effect denies local authorities the flexibility of using non uniformed officers for covert operations in cases of widespread abuse.

Local authorities often receive complaints about suspected blue badge misuse from members of the public who rightly expect that their concerns will be treated seriously and the circumstances thoroughly investigated. This might involve targeted surveillance exercises, sometimes in association with the police.

Other cases may be reported by parking attendants who cannot routinely establish a pattern of misuse and therefore further investigation is needed. In these cases it is unlikely that parking attendants can undertake this work as part of routine duties without drawing attention to themselves.
It would not be the intention to use non uniformed officers to approach blue badge holders indiscriminately. I expect that if widespread, organised or persistent misuse is not an issue in a particular area then there will not be a need for such an officer. However, if a local authority determines that there is a need to appoint such an officer then the option is there.

It will be important that non uniformed officers carry identification and are trained in the role. Dennis Robertson MSP is working with Transport Scotland and a multi-agency working group to develop guidance which local authorities can use in training. The same provision was introduced in England and Wales recently and we will seek information on early experience to inform guidance.

3. Are there any other equality issues arising from the proposed Bill?

I do not envisage any other equality issues arising from the Bill. Dennis Robertson MSP worked with Transport Scotland and consulted the Mobility and Access Committee for Scotland (MACS) to identify equality issues. The Equality Impact Assessment results document identified that the impacts from enhanced enforcement will be widely positive for disabled people with no negative implications identified for other equality groups.

4. Do you have any other relevant comments or suggestions; in particular are there other proposals which should have been included in the Bill?

The Bill complements and concludes the reform of the scheme which began in 2010. This is not to say that there would be no further changes in the blue badge scheme in the future, but I would like to see the scheme bed in and monitor these changes, as well as the impact of welfare reform, on the scheme before deciding on further change.

The development of the Bill has identified the need to raise public awareness of the blue badge scheme. Dennis Robertson MSP has raised the profile of the scheme and is working with the multi-agency working group and Transport Scotland to identify what action can be taken to highlight the rules of the scheme and the changes which the Bill will introduce.
Kevin Stewart, MSP  
Convener, Local Government and Regeneration Committee  
The Scottish Parliament  
Edinburgh  
EH99 1SP

05-03-2014

Dear Kevin,

Disabled Persons’ Parking Badges (Scotland) Bill – Update to the Financial Memorandum

I am writing to provide an update to the Financial Memorandum for the Disabled Persons’ Parking Badges (Scotland) Bill; specifically in relation to the estimated costs for the new requirement on local authorities to have in place a process for reviewing decisions to refuse a blue badge (section 6).

As stated in paragraph 16 of the Memorandum, inevitably there is a significant margin of uncertainty around the number of reviews that will be requested each year. A best estimate of 200 per year was given in the Memorandum, with a high-end estimate of 600. The 200 figure was an extrapolation from information provided by 27 local authorities covering the two-month period following the introduction of Independent Mobility Assessments (September to November 2012).

Seven months’ worth of data from 28 local authorities is now available (covering the period 1 September 1 2012 to 31 March 2013). Based on this further data, I now think 400 review requests each year is a better estimate than 200. Applying the average review cost of £19.25 used in the Memorandum, the revised best-estimate for the annual cost across all 32 local authorities is £7,700.

The new best-estimate is of course still within the high-end estimate of 600 review requests each year.
With best wishes.

Yours sincerely,

Dennis Robertson MSP
Aberdeen West
Dear Kevin,

The Finance Committee issued a call for evidence on the Disabled Persons’ Parking Badges (Scotland) Bill’s Financial Memorandum (FM) on 29 January 2014 giving a deadline for responses of 28 February 2014. A total of twelve responses were received and these are attached.

Reviews
One provision which several respondents highlighted was the Bill’s requirement for each local authority to put in place a process to review a decision to refuse an application for a blue badge on eligibility grounds. Whilst some local authorities confirmed that they already had such procedures in place, concerns were raised that the Bill might lead to an increase in requests for such a review to take place.

In its submission, COSLA stated that it considered the estimated cost and number of reviews provided for in the FM (up to 600 reviews per annum costing £19.25 each giving a total annual cost of up to £11,550) to be an underestimate. It gave the example of one unnamed council which had dealt with 46 reviews during the period from July to December 2013 and which estimated its annual costs in relation to reviews to amount to £1,300 per annum.

East Dunbartonshire Council also predicted that the number of reviews could be expected to increase as a result of the Bill and suggested that the average cost per review “would be in the region of £40”.

12 March 2014

Disabled Persons’ Parking Badges (Scotland) Bill: Financial Memorandum
Similarly, North Lanarkshire Council stated that “in relation to the reviews, we consider that the number of reviews per annum is low and also that the overall cost is on the low side.”

Clackmannanshire Council also noted that it used independent mobility assessors to undertake its reviews, at a cost of £70 per review. It indicated that it currently dealt with around ten to twelve such reviews per year.

Stirling Council, however, stated “as we already have a review process in place, I consider we will be able to update our process to accord with the legislation without incurring any significant additional costs.” The Council also expressed its view that if additional costs were to arise as a result of the Bill “these could be met by raising the maximum allowable charge for a blue badge, currently £20.”

Whilst East Ayrshire Council submitted the following statement—

“Costs will be incurred in relation to eligibility reviews, although the anticipated number of these is small and could therefore be accommodated within existing resources. If however, this number was much higher than expected there would require to be a reconsideration of the additional consequential costs. The additional enforcement requirements are NOT mandatory, and as such will be for us as an authority to determine implementation in line with other priorities. As an authority with DPE it is not felt there will be a significant additional financial impact by introduction of these additional measures.”

**Update to Financial Memorandum**

The member in charge wrote to me on 5 March to inform the Committee of a change to the “best estimate” number of reviews quoted in the FM. This letter is attached.

The revised “best estimate” of 400 review requests per annum remains lower than the “high-end estimate” of 600 reviews quoted above.

**Conclusion**

Your committee may wish to consider the above information along with the attached submissions in its evidence session with the Member in charge.

Yours sincerely,

Kenneth Gibson MSP, Convener
Disabled Persons’ Parking Badges (Scotland) Bill: Financial Memorandum

Index of written submissions received by the Finance Committee

- Aberdeenshire Council (195KB pdf)
- Angus Council (197KB pdf)
- Clackmannanshire Council (135KB pdf)
- COSLA (195KB pdf)
- East Ayrshire Council (189KB pdf)
- East Dunbartonshire Council (133KB pdf)
- North Lanarkshire Council (190KB pdf)
- Orkney Islands Council (136KB pdf)
- Police Scotland (152KB pdf)
- Shetland Islands Council (132KB pdf)
- South Lanarkshire Council (152KB pdf)
- Stirling Council (196KB pdf)
FINANCE COMMITTEE CALL FOR EVIDENCE

DISABLED PERSON’S PARKING BADGES (SCOTLAND) BILL: FINANCIAL MEMORANDUM

SUBMISSION FROM ABERDEENSHIRE COUNCIL

Consultation
Did you take part in the consultation exercise which preceded the Bill and, if so, did you comment on the financial assumptions made?
1. Yes Aberdeenshire Council took part in the consultation exercise and we commented on the financial assumptions made.

Do you believe your comments on the financial assumptions have been accurately reflected in the FM?
2. Yes

Did you have sufficient time to contribute to the consultation exercise?
3. Yes

Costs
If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.
4. Yes – refer below

Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?
5. Yes

If relevant, are you content that your organisation can meet the financial costs associated with the Bill which it will incur? If not, how do you think these costs should be met?
6. Enforcement Officers - It is questionable whether recruiting enforcement officers to cover the 3,500 square miles of the Aberdeenshire area would be viable, or cost effective. The charge for the Blue Badge is a minimal cost of £20 which only covers the basic administrative costs of the scheme by the Council.

7. In the Aberdeenshire area, existing parking enforcement officers and Police Scotland Traffic Wardens currently undertake this activity.

8. It is likely that the costs to the Council associated with the bill will be increased if we employ additional enforcement officers, as there is no budget for this. However, if Police Scotland decides to withdraw from the enforcement of parking offences in this area, these additional Enforcement Officer costs could possibly be met by the transfer of the relevant funding from the Police Scotland budget to the Council’s affected. Alternatively Scottish Government funding would be required.

9. Reviews - The current system for reviews in Aberdeenshire is in line with the Transport Scotland Code of Practice. A Senior Occupational Therapist reviews the
BB application and IMA assessment, the applicant is informed throughout the process and given reasons for refusal. We believe this system is transparent and provides a standardised response. We have in place an agreed process for ensuring any updates in the Code of Practice are passed to all staff involved with the scheme which means that the council is able to maintain a high level of consistency within the entire scheme.

Does the FM accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?
10. Yes

Wider Issues
Do you believe that the FM reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?
11. Yes

Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?
12. No
FINANCE COMMITTEE CALL FOR EVIDENCE

DISABLED PERSON’S PARKING BADGES (SCOTLAND) BILL: FINANCIAL MEMORANDUM

SUBMISSION FROM ANGUS COUNCIL

1. At the time of the original consultation Tayside Police provided the traffic warden service and so Angus Council was not in a position to respond on the financial assumptions.

2. With regard to costs for the review process, Angus Council is a member of the Review Working Group. We already have a review process in place which complements what is being proposed. Therefore, the review costs are already being met. The rollout of PIP may result in an increase in applications through the ‘discretionary’ route and so increase the number of reviews which will have an impact on resources.

3. In relation to costs for enforcement, the explanatory note suggests that the FM only applies to local authorities operating Decriminalised Parking Enforcement (DPE) and does not reflect the recent announcement of cessation of police traffic wardens. As Angus Council does not operate DPE it is difficult to respond to the specific questions but our position is outlined below for the Finance Committee’s consideration.

4. The enforcement powers are not duties so it will be up to each local authority to decide whether they want to use them and the FM states that it is likely that local authorities will only appoint where it makes financial sense to do so (in other words, where the cost of appointing someone would not be disproportionate in view of what blue badge misuse is estimated to cost the authority in terms of lost parking revenue — which, for some authorities, can be very significant sums each year).

5. In Angus Council there are no charges for parking. Disabled persons can park without charge or limitation of stay. The numbers of blue badge misuse reported to us are in single figures.

6. There will be substantial initial costs for us to introduce DPE and the longer term balance of cost/income depends on the outcome of the business case for the introduction of DPE. Any increased level of enforcement or provision of hand held devices/central office services would all be at increased cost to the Council.

7. This is all rather new to us as we develop DPE. We do not foresee Angus Council having a full time blue badge officer undertaking enforcement, confiscations etc. This would be undertaken by the parking wardens (and Police) in whatever form they will be.
FINANCE COMMITTEE CALL FOR EVIDENCE

DISABLED PERSON’S PARKING BADGES (SCOTLAND) BILL: FINANCIAL MEMORANDUM

SUBMISSION FROM CLACKMANNANSHIRE COUNCIL

Consultation
Did you take part in the consultation exercise which preceded the Bill and, if so, did you comment on the financial assumptions made?
1. Yes. We responded together with Stirling Council.

Do you believe your comments on the financial assumptions have been accurately reflected in the FM?
2. Yes.

Did you have sufficient time to contribute to the consultation exercise?
3. Yes.

Costs
If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.
4. We use Independent Mobility Assessors (IMA) to carry out our reviews at £70 per review. At present we have 10-12 reviews per year.

Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?
5. See above

If relevant, are you content that your organisation can meet the financial costs associated with the Bill which it will incur? If not, how do you think these costs should be met?
6. At present we can cover the costs, however we predict that the number of applicants seeking reviews will increase as people become more adept at filling in the application forms.

Does the FM accurately reflect the margins of uncertainty associated with the estimates and the time-scales over which such costs would be expected to arise?
7. Yes, at present.

Wider Issues
Do you believe that the FM reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?
8. Yes. Whilst our charge of £20 per application does not cover our cost, we can accommodate the overall cost of the process at present.
Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

9. As people become aware through websites and other social / health-care professionals how to fill out the application forms to increase their chances, we are likely to receive more problematic applications hence more need to go to review.
1. COSLA is the representative voice of all 32 Scottish local authorities and welcomes the opportunity to submit evidence to the Finance Committee in relation to the Financial Memorandum (FM) accompanying the Disabled Person’s Parking Badges (Scotland) Bill (‘the Bill’).

2. COSLA will also be submitting evidence in relation to the Bill to the Local Government and Regeneration Committee by the deadline in mid-March.

**General comments**

3. No doubt the Committee is aware that events have moved on since the publication of the FM, in regard to the removal of the Police Scotland traffic warden service. COSLA has been informed that a letter from Police Scotland to ‘key stakeholders’ was issued on 23 December 2013 confirming that its traffic warden service would be withdrawn on 3 February 2014. This then leaves the position of parking enforcement, and thereby blue badge enforcement, heavily dependent on if a Council has established Decriminalised Parking Enforcement (DPE), as COSLA understands that police will only attend to breaches of parking regulations which are ‘dangerous or cause significant obstruction’. Although it is acknowledged that a limited number of local authorities that have a DPE in place may be able to meet the requirements of the Bill through management of existing resources, the FM assertion that there would be little additional cost to Councils is not correct, particularly for a Council where no DPE is currently in place. To enforce the requirements of the Bill, Councils that do not currently have a DPE in place would need apply for and gain the relevant powers and then employ and train sufficient enforcement officers, all of which has considerable financial implications for those Councils.

**Equality issues**

4. Although not directly relevant to the FM, the Committee will want to be aware that COSLA has a considerable concern with regard the impact on the equality of access to parking for disabled persons. In a letter to the Chief Constable of Police Scotland in November 2013, COSLA sought an assurance that a full Equality Impact Assessment (EIA) had been undertaken on the policy related to the withdrawal of the Police Scotland traffic warden service. Police Scotland’s response did not allay these concerns and it is COSLA’s understanding that the EIA only considers the impact of the changes on Police Scotland’s own workforce rather than on citizens. This is an area where COSLA will continue to take an interest.

**Enforcement officers**

5. The Bill enables local authorities to appoint people to act as enforcement officers. Councils would face significant resource implications in relation to the employment and training costs for establishing enforcement provision where not currently provided. The FM lays out the £26,000 that reflects the anticipated cost of employing an enforcement officer, but this does not include the total costs, since the
person would have to be mobile so there will be transport and IT costs. Neither does the FM mention possible additional costs for legal and management support.

6. The FM recognises that there will be Councils where it does not make financial sense to appoint enforcement officers. Although the Bill would give powers to Councils to undertake this additional enforcement (rather than it be a duty) there is considerable concern that public expectation would be placed on all Councils by the public, and in particular disabled drivers, to take on parking enforcement duties. Therefore there could be Councils where the additional costs of the Bill has to be picked up by the local authority, with only small amounts of additional parking income to offset these costs. The margins for covering the costs associated with employing enforcement officers is lower in rural areas, as the larger urban areas are likely to be the places that have the capacity to generate income.

7. In addition, ceasing the misuse of a blue badge would not necessarily lead to a rise in parking charge income to a local authority, certainly not to a level equivalent to that lost through the misuse of the blue badge. The FM states that provision of an enforcement officer would make efficiencies in enforcing the blue badge scheme by freeing up parking attendants’ time to deal with other parking violations, however this scenario is considered to be unrealistic and therefore there are no real savings. Indeed, there is a risk that increased demands to enforce this Bill will redirect other enforcement activity which may result in more parking abuse elsewhere, and therefore less income and less payment and parking compliance from general motorists if they feel reduced enforcement presence.

Local authority reviews
8. It is considered that the numbers of reviews requested may be underestimated in the FM, especially as applicants become aware of the change in regulations. Costs will be determined by numbers of reviews, and may become more significant than reflected in the FM.

9. One Council, for example, arranged 46 reviews over the period July – December 2013. The allocated time for each medical review was 15 minutes and the estimated cost for this service was £550 per annum. However, experience has shown that when a blue badge application is refused, there are additional costs generated as a result of correspondence from the applicant, and inevitably correspondence is received from a Councillor, MSP or MP, which requires investigation and response. Annual investigation and correspondence cost associated with Blue Badge refusals is estimated at £1300 for this one Council. The FM estimates annual costs for all 32 Councils in relation to local authority reviews as just £11550 and therefore we think this is a significant underestimate.
Consultation
Did you take part in the consultation exercise which preceded the Bill and, if so, did you comment on the financial assumptions made?

Do you believe your comments on the financial assumptions have been accurately reflected in the FM?

Did you have sufficient time to contribute to the consultation exercise?

Costs
If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

1. YES

Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

2. YES

If relevant, are you content that your organisation can meet the financial costs associated with the Bill which it will incur? If not, how do you think these costs should be met?

3. YES – costs will be incurred in relation to eligibility reviews, although the anticipated number of these is small and could therefore be accommodated within existing resources. If however, this number was much higher than expected there would require to be a reconsideration of the additional consequential costs. The additional enforcement requirements are NOT mandatory, and as such will be for us as an authority to determine implementation in line with other priorities. As an authority with DPE it is not felt there will be a significant additional financial impact by introduction of these additional measures.

Does the FM accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

4. YES

Wider Issues
Do you believe that the FM reasonably captures costs associated with the Bill?
If not, which other costs might be incurred and by whom?

5. YES
Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

6. NO
Consultation
1. Yes, ED responded to consultation but did not comment on financial assumptions made.

2. Not applicable.

3. Yes there was sufficient time.

Costs
4. EDC considers that the cost of review of decisions would be greater than outlined and would be in the region of £40.

5. EDC does not consider that the costs and savings set out in the FM are accurate.

6. The costs of the regulations under the new legislation already exceed the additional monies granted to the Council.

7. No. The fact that the Council would have to advertise that it will review decisions is likely to increase the incidence of review.

Wider Issues
8. If eligibility is increased to include people with mental health, cognitive or on the autistic spectrum, more specialist professional assessment will be required and could be anticipated to cost more than standard assessment.

9. No.
Consultation
Did you take part in the consultation exercise which preceded the bill and, if so did you comment on the financial assumptions made?
1. Yes we did take part in the consultation exercise. We did not comment on the financial assumptions made.

Do you believe your comments on the financial assumptions have been accurately reflected in the FM?
2. Not applicable.

Did you have sufficient time to contribute to the consultation exercise?
3. Yes we had sufficient time to contribute to the consultation exercise.

Costs
If the bill has any financial implications for your organisations, do you believe that they have been accurately reflected in the FM? If not, please provide details.
4. We believe that the cost implications for our organisation have been accurately reflected in so far as this is possible at this stage in the process. However in relation to the reviews, we consider that the number of reviews per annum is low and also that the overall cost is on the low side. Using the good practice guidance all our reviews are undertaken by Occupational Therapists not involved in the original decision and this may result in an applicant being called in for interview. In addition there is significant administration involved in the review process.

Do you consider that they estimated costs and savings set out in the FM are reasonable and accurate?
5. We note that the costs are estimates and that these will need to be revised and refined as we move forward. However, we consider the current estimates to be a reasonable starting point.

If relevant, are you content that your organisation can meet the financial costs associated with the bill which it will incur? If not, how do you think these costs should be met?
6. These costs represent an additional financial burden on the council in a time of competing financial pressures. These costs will be considered within the Council’s review of parking enforcement, which is currently underway.

Does the FM accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?
7. There are a variety of different approaches being taken by individual councils
and this is itself brings a level of uncertainty to the overall process. However we believe that the level of uncertainty associated with cost will be reduced as the processes become clearer.

**Wider Issues**

*Do you believe that the FM reasonably captures costs associated with the bill? If not, which other costs might be incurred and by whom?*

8. Yes

*Do you believe that there may be future costs associated with the bill, for example through subordinate legislation? If so, is it possible to quantify these costs?*

9. Not currently aware of any likely future costs but as the processes are not mature it’s difficult to predict at this early stage.
Consultation

Did you take part in the consultation exercise which preceded the Bill and, if so, did you comment on the financial assumptions made?

1. No

Do you believe your comments on the financial assumptions have been accurately reflected in the FM?

2. Not applicable

Did you have sufficient time to contribute to the consultation exercise?

3. Not applicable

Costs

If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

4. The Bill does not have any financial implications for Orkney Islands Council as we will not appoint an Enforcement Officer as there is no obligation to do so and we already undertake reviews should one be requested following the refusal of a Blue Badge on eligibility grounds.

Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

5. Yes

If relevant, are you content that your organisation can meet the financial costs associated with the Bill which it will incur? If not, how do you think these costs should be met?

6. As stated above we are currently meeting the costs of reviews.

Does the FM accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?

7. Yes

Wider Issues

Do you believe that the FM reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?

8. Yes
Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

9. Should Local Authorities be mandated to appoint Enforcement Officers then this additional burden should be met by Scottish Government as the Council would be unable to meet these costs
Consultation

Did you take part in the consultation exercise which preceded the Bill and, if so, did you comment on the financial assumptions made?

1. The Association of Chief Police Officers in Scotland was the organisation that represented the views of the 8 Scottish Police Forces at the time of the consultation. ACPOS provided the following comment:

   2. The financial impact is as follows-

   - Training/Awareness/Guidance is required. Who will design this? Pay for the work and ensure that a consistent approach across all agencies across Scotland is taken.

   - Acpos would recommend that a multi-disciplinary communications strategy for the public, blue badge users and enforcement officers is created. This should include posters, television/radio marketing of the scheme and even new road signs.

   - Local Authorities would be required to find funds from existing budgets to enforce the new legislation. The legislation will not be effective is agencies are not going to be in a position to take the most appropriate action (enforcement).

   - Acpos would suggest that enquiry officers are considered but the time spent to conduct investigations by the police, police traffic wardens, LA enforcement officers will have an impact on other areas of business. The impact will be felt if staffs are not free to enforce the legislation and other areas of business have to suffer. Staffing costs are a concern.

Do you believe your comments on the financial assumptions have been accurately reflected in the FM?

3. Yes

Did you have sufficient time to contribute to the consultation exercise?

4. Yes

Costs

If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

5. There are likely to be very few additional costs to Police Scotland from the introduction of the bill. The key aspect of enforcement of breaches of the blue badge
legislation are currently undertaken by and the responsibility of local authorities and there have been very few reports submitted to the Crown Office and procurator Fiscal service in relation to breaches of these provisions.

6. If local authorities do not engage a suitable enforcement officer then any breaches of legislation will either be un-enforced or passed to Police Scotland for attention. The decisions taken by local authorities on how they will enforce this legislation may have unintended consequences for Police Scotland.

**Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?**

7. If the current low rate of prosecution reports submitted to COPFS is maintained then the costs are reasonable. However, if there is a change in approach brought about by changes to legislation and greater awareness of enforcement opportunities then these costs will likely escalate.

**If relevant, are you content that your organisation can meet the financial costs associated with the Bill which it will incur? If not, how do you think these costs should be met?**

8. Yes

**Does the FM accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?**

9. No. There does not appear to have been any form of impact assessment due to the reliance on the current level of enforcement activity. If this changes, which is likely due to the change in legislation making enforcement easier and more clearly defined, then there is a significant risk that the prosecution costs and impact of demand in other organisations will rise.

**Wider Issues**

**Do you believe that the FM reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?**

10. If enforcement and appeals rise then the FM does not reflect the possible picture for the future.

**Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?**

11. No issues.
Did you take part in the consultation exercise which preceded the Bill and, if so, did you comment on the financial assumptions made?
1. No

Do you believe your comments on the financial assumptions have been accurately reflected in the FM?
2. N/A

Did you have sufficient time to contribute to the consultation exercise?
3. N/A

If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not provide details.
4. Yes

Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?
5. Yes

If relevant, are you content that your organisation can meet the financial costs associated with the Bill which it will incur? If not, how do you think these costs should be met?
6. Yes, The implications of the Bill will are minor for Shetland Islands Council and will be accommodated within planned developments in service provision that is taking place anyway.

Does the FM accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?
7. Yes

Do you believe that the FM reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?
8. Yes

Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?
10. Possibly. At the moment we get occasional anecdotal reports of abuse of Blue Badges but complainants are never prepared to submit details. If, as a consequence of this Bill, there is an increase in public expectation that inspection and enforcement
will be carried out then it may require additional resources. We see this as up to £26,000 per annum if a dedicated enforcement officer is required.
FINANCE COMMITTEE CALL FOR EVIDENCE

DISABLED PERSON’S PARKING BADGES (SCOTLAND) BILL: FINANCIAL MEMORANDUM

SUBMISSION FROM SOUTH LANARKSHIRE COUNCIL

Consultation
Did you take part in the consultation exercise which preceded the Bill and, if so, did you comment on the financial assumptions made?
No

Do you believe your comments on the financial assumptions have been accurately reflected in the FM?
SLC are making amendments to SWISplus information system which may result in a cost, we cannot confirm actual costs as associated with this development at present. Yes

Did you have sufficient time to contribute to the consultation exercise?
Yes

Costs
If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.
Yes

Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?
Yes

If relevant, are you content that your organisation can meet the financial costs associated with the Bill which it will incur? If not, how do you think these costs should be met?
Yes

Does the FM accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?
Yes

Wider Issues
Do you believe that the FM reasonably captures costs associated with the Bill?
If not, which other costs might be incurred and by whom?
Yes
Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

Yes
FINANCE COMMITTEE CALL FOR EVIDENCE

DISABLED PERSON’S PARKING BADGES (SCOTLAND) BILL: FINANCIAL MEMORANDUM

SUBMISSION FROM STIRLING COUNCIL

Did you take part in the consultation exercise which preceded the Bill and, if so, did you comment on the financial assumptions made?
1. Stirling Council Officers responded to the consultation, dated Dec 2012, in February 2013. This included a response to a general question related to financial implications. Stirling Council Officers also responded to the consultation “Call for Evidence - Potential Extension to Eligibility Criteria” in December 2013.

Do you believe your comments on the financial assumptions have been accurately reflected in the FM?
2. The FM recognises that there are additional costs associated with enforcement and administering a statutory review process. However it does not reflect that, for many small local authorities, there is no business case for introducing decriminalised parking enforcement (DPE). The current proposals from Police Scotland to withdraw Traffic Wardens, means that Stirling Council will be required to introduce DPE as soon as possible. However DPE is unlikely to be cost neutral.

Did you have sufficient time to contribute to the consultation exercise?
3. Yes

Costs
If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.
4. The FM recognises that the Bill will result in additional duties and responsibilities being placed on Local Authorities, which in turn will result in additional costs.

Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?
5. The FM includes information on the direct annual costs for employing an enforcement Officer, which seem reasonable. However, it does not include the overall costs to small local authorities of establishing and operating DPE. No consideration is given to overhead costs including software, hardware, accommodation, transport, uniforms, line management, training etc.

If relevant, are you content that your organisation can meet the financial costs associated with the Bill which it will incur? If not, how do you think these costs should be met?
6. As there are significant margins of uncertainty around the overall costs for enforcement it is not possible to predict if the Council will incur additional costs related to this part of the Bill. Regarding the establishment of a formal review process, as we already have a review process in place, I consider we will be able to
update our process to accord with the legislation without incurring any significant additional costs.

7. If there are any additional costs, these could be met by raising the maximum allowable charge for a blue badge, currently £20.

**Does the FM accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?**

8. Costs directly associated with the Bill are reasonably captured. Indirectly associated costs, related to DPE are not.

**Wider Issues**

*Do you believe that the FM reasonably captures costs associated with the Bill? If not, which other costs might be incurred and by whom?*

9. The FM does not reflect the margins of uncertainty of the wider issues related to the costs of establishing DPE.

**Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?**

10. Response to previous questions refer.
Delegated Powers and Law Reform Committee

24th Report, 2014 (Session 4)

Disabled Persons' Parking Badges (Scotland) Bill

Published by the Scottish Parliament on 19 March 2014
Delegated Powers and Law Reform Committee

Remit and membership

Remit:

1. The remit of the Delegated Powers and Law Reform Committee is to consider and report on—
   (a) any—
   (i) subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;
   (ii) [deleted]
   (iii) pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;
   (b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;
   (c) general questions relating to powers to make subordinate legislation;
   (d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;
   (e) any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act; and
   (f) proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject.
   (g) any Scottish Law Commission Bill as defined in Rule 9.17A.1; and
   (h) any draft proposal for a Scottish Law Commission Bill as defined in that Rule.

Membership:

Richard Baker
Nigel Don (Convener)
Mike MacKenzie
Margaret McCulloch
Stuart McMillan (Deputy Convener)
John Scott
Stewart Stevenson
Committee Clerking Team:

Clerk to the Committee
Euan Donald

Assistant Clerk
Elizabeth White

Support Manager
Daren Pratt
Delegated Powers and Law Reform Committee

24th Report, 2014 (Session 4)

Disabled Persons' Parking Badges (Scotland) Bill

The Committee reports to the Parliament as follows—

INTRODUCTION

1. At its meetings on 25 February and 18 March 2014 the Delegated Powers and Law Reform Committee considered the delegated powers provisions in the Disabled Persons' Parking Badges (Scotland) Bill at stage 1 ("the Bill"). The Committee submits this report to the lead committee for the Bill under Rule 9.6.2 of Standing Orders.

2. The Member in charge provided the Parliament with a memorandum on the delegated powers provisions in the Bill ("the DPM").

OVERVIEW OF BILL

3. The Bill was introduced in the Scottish Parliament on 17 December 2013. The Bill is a Member's Bill, introduced by Dennis Robertson MSP.

4. The disabled persons' parking badges scheme, or the 'blue badge scheme', permits disabled people who meet the scheme's prescribed eligibility criteria to park in areas where restrictions may otherwise apply. The Bill is being introduced to strengthen the enforcement powers of local authorities to deal with misuse of badges and to require that local authorities have a review process in place for applicants who have been refused a badge on grounds of eligibility.

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1 Disabled Persons' Parking Badges (Scotland) Bill [as introduced] available here: http://www.scottish.parliament.uk/S4_Bills/DisabledPersonsParkingBadges/b44s4introd.pdf

2 Disabled Persons' Parking Badges (Scotland) Bill (Scotland) Bill Delegated Powers Memorandum available here: http://www.scottish.parliament.uk/S4_Bills/Disabled_Persons_Parking_Badges_DPM.pdf
5. The primary legislation for the blue badge scheme is contained in section 21 of the Chronically Sick and Disabled Persons Act 1970 ("the 1970 Act"). The Bill will amend section 21 of that Act along with provisions in the Road Traffic Regulation Act 1984 to extend powers relating to the enforcement of the blue badge scheme, already in force in England and Wales, to local authorities and police in Scotland.

6. Currently, the power to inspect badges can only be exercised by police officers, traffic wardens and local authority parking attendants. The Bill will extend these inspection powers to "enforcement officers" who will include traffic wardens and parking attendants as well as a new class of official. Police constables and enforcement officers will be given the power to confiscate a badge if, on examination, it appears not to have been issued under the 1970 Act, has been cancelled, should have been returned to the local authority, or is being misused.

7. The Bill will give local authorities the power to cancel a badge that is no longer held by the person to whom it was issued, and make it an offence to use a badge which has been cancelled or should have been returned to the local authority. The Bill will also require local authorities to review decisions not to award a badge on the grounds that a person is not eligible for one.

8. Many of the changes made bring the position in Scotland into line with that in England and Wales where changes were recently made by the Disabled Persons’ Parking Badges Act 2013.

DELEGATED POWERS PROVISIONS

1. The Committee considered each of the delegated powers in the Bill. At its first consideration of the Bill, the Committee determined that it did not need to draw the attention of the Parliament to the following delegated powers:

   - Section 3 (power to confiscate badge)
   - Section 7 (commencement)

2. At its meeting of 25 February, the Committee agreed to write to Dennis Robertson MSP to raise questions on the remaining delegated powers in the Bill. This correspondence is reproduced at the Annex.

3. In light of the written responses received by the Committee, it agreed that it did not need to draw the Parliament’s attention to the following delegated powers:

   - Section 1 (form of badge)
   - Section 6 (review of local authority decisions)

4. The Committee therefore reports that it is content with the delegated powers provisions contained in the Bill as introduced
ANNEX

Correspondence with the Member in charge of the Bill

On 25 February, the Committee wrote to Dennis Robertson MSP as follows:

Section 1 (form of badge)

<table>
<thead>
<tr>
<th>Power conferred on:</th>
<th>the Scottish Ministers</th>
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</thead>
<tbody>
<tr>
<td>Power exercisable by:</td>
<td>regulations</td>
</tr>
<tr>
<td>Parliamentary procedure:</td>
<td>negative procedure</td>
</tr>
</tbody>
</table>

1. Section 1 of the Bill amends section 21(1A)(b) of the Chronically Sick and Disabled Persons Act 1970 to provide that the form of a blue badge issued by a local authority in Scotland must fulfil any requirements specified in regulations or administratively by the Scottish Ministers. This will allow some elements of the specification to be published in subordinate legislation and some to be set administratively.

2. The power is broad enough to allow the Scottish Ministers to specify the requirements of the badge entirely administratively, without publishing any details as to the form of the badge in regulations.

3. The Committee asks the member on charge:
   - Why he has decided not to draw this power more narrowly so as to specify generally what requirements are to continue to be prescribed in regulations and what features may be set administratively; and
   - Given that the policy intention is explained in the delegated powers memorandum as including that non-sensitive features of the badge should be published in regulations, why the power is drawn broadly to enable the whole specification of the badge requirements administratively, if desired?

Section 6 (review of local authority decisions)

<table>
<thead>
<tr>
<th>Power conferred on:</th>
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<td>Power exercisable by:</td>
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<tr>
<td>Parliamentary procedure:</td>
<td>negative procedure</td>
</tr>
</tbody>
</table>

4. Section 6 allows the Scottish Ministers to make regulations requiring local authorities to review on request a decision not to award a badge on the grounds that a person is not eligible for one. Eligibility depends on being a disabled person of a description prescribed in regulations.

5. Under section 6(3), regulations may provide that the review requirement does not apply to a decision that a person is not a disabled person (of a description...
prescribed under the Chronically Sick and Disabled Persons Act 1970 and specified in the regulations). The power to exclude certain decisions from review is a wide power that cuts across all decisions on eligibility, yet the Delegated Powers Memorandum does not explain what this power will be used for.

6. The Committee therefore asks the member in charge to explain what the power in section 6(3) of the Bill is intended to achieve and if the power could be used to impose further eligibility criteria for applicants, why is this considered proportionate?

On 28 February, Dennis Robertson MSP responded as follows:

Section 1 (form of badge)
The reasoning behind the approach taken in this section is laid out in the Delegated Powers Memorandum. The proposed amendment to section 21(1A) of the 1970 Act will give Ministers flexibility in exactly how they set down the requirements as to form which a blue badge must meet. I don’t think that it would be easy to be prescriptive as to what elements should be capable of being included in regulations and which should have to be set down administratively and it doesn’t seem to me that there is any particularly good case for attempting to do this.

Section 6 (review of local authority decisions)
Section 6 of my Bill would allow Ministers to make regulations which would require a local authority to have in place a review procedure in relation to any decision by the authority that an applicant for a blue badge is not entitled to one because he or she is not a “disabled” person. A person is not disabled for these purposes if he or she does not fall within one of the descriptions prescribed by regulations. The presently prescribed descriptions are set out in regulation 4 of the Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000 (SSI 2000/59).

All that section 6(3) of the Bill is doing is to give Ministers the power to set out that there could be exceptions to a general right of review. Such exceptions would be framed by reference to a particular prescribed description of disabled person. So, for example, it would be possible to prescribe that there should be no right of review in a case where a person has claimed eligibility for a blue badge by virtue of receiving a mobility supplement under article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 (article 4(2)(d) of SSI 2000/59) and the authority has found that such a supplement is not in payment.

There may be thought to be less need of a review procedure in such a case than there would be in a case where the eligibility decision has been taken following an assessment of the applicant by an independent mobility assessor.

It would be for Ministers to decide whether to make use of the power in section 6(3) and it may well be that they would consider there to be no need to utilise it at the outset of any review regime. But I think that the subsection could prove useful if it transpired that local authorities were being required to conduct a large number of reviews in relation to decisions arrived at by reference to whether certain
benefits are as a matter of fact being received by applicants. Section 6(3) does not in any way allow the imposition of further eligibility criteria for applicants.
EXTRACT FROM THE MINUTES OF PROCEEDINGS

Vol. 4, No. 04 Session 4

Meeting of the Parliament

Thursday 20 May 2014

Note: (DT) signifies a decision taken at Decision Time.

Disability Persons’ Parking Badges (Scotland Bill): Dennis Robertson moved S4M-10076—That the Parliament agrees to the general principles of the Disabled Persons’ Parking Badges (Scotland) Bill.

After debate, the motion was agreed to (DT).
Disabled Persons’ Parking Badges (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Elaine Smith):
The next item of business is a debate in the name of Dennis Robertson, on the Disabled Persons’ Parking Badges (Scotland) Bill.

16:21
Dennis Robertson (Aberdeenshire West) (SNP): It gives me great pleasure this afternoon to come to the chamber to introduce the Disabled Persons’ Parking Badges (Scotland) Bill, which is more commonly known as the blue badges bill.

The bill is designed to strengthen some of the enforcement aspects of the current legislation and to ensure that there is a statutory review in order to ensure that people who are entitled to a blue badge receive one and that people who are using one are legitimately entitled to it.

The badge provides on-street concessions within local authority parking zones and there is sometimes a degree of contention about blue badge spaces. The bill is not concerned with the spaces, however; it deals with how the badge is used and how to tackle its misuse.

I thank the Local Government and Regeneration Committee, which is the lead committee for the bill. I also thank the Delegated Powers and Law Reform Committee and the Finance Committee for their submissions to the Local Government and Regeneration Committee. My thanks also go to the Minister for Transport and Veterans for the support that he gave me in the early stages and to the Government for being supportive of the bill. However, I certainly would not have been able to make progress with the bill without the support of the team from Transport Scotland, which has been excellent in taking me through the process of the bill and providing me with the appropriate guidance.

The Transport Scotland team was also responsible, along with myself, for setting up two review groups. It is important to emphasise that those groups have been influential in shaping the bill. They continue to be involved in the process, and I thank their members for the degree of commitment that they bring to their work, the time that they spend on it and their consideration of the guidance that will underpin the bill.

The bill has six sections. Section 1 concerns the design of the badge. Since it was first introduced, the badge has undergone many changes. To begin with, it was an orange badge, and I remember when that scheme was brought in under section 21 of the Chronically Sick and Disabled Persons Act 1970. Section 1 of the bill...
sets out how the badge will be improved so that it cannot be copied. The current badge can be and is tampered with to alter the expiry date and so on or to remove photographs. People can take a legitimate badge from someone and use it for their own purposes. I will return to that later.

Section 2 will give a local authority the power to cancel a badge that has been reported as lost or stolen. At the moment, that is seldom centrally registered. The blue badge is issued by a central authority in England, the blue badge improvement service, which holds a record of every blue badge issued in Scotland, England and Wales. With each badge comes a unique number for the badge holder so that when a badge is lost or stolen it can be reported and a new badge issued, with a new identification number. That ensures that any badge issued by the BBIS is legitimate and fit for purpose.

The issue of confiscation has caused a little debate among some organisations and members have been approached by Inclusion Scotland and the Law Society of Scotland. I want to reassure members that a badge would be confiscated only if it was felt that there was justification to do so. In most cases, an examination of the badge by an enforcement officer would probably determine whether that badge had been tampered with, was legitimate or was the badge of the person in the vehicle at the time. If the badge did not belong to the person in the vehicle, the enforcement officer would want to know where the badge holder was. We hear many stories: the person whose badge it is has just_nipped into a shop and will be back in five minutes; or there has been a mistake and the badge should have been removed, because the driver was just nipping to the shops on an errand for a person with a disability and forgot that the badge was there. We hear many, many excuses.

Confiscation will be carried out sensitively. There is no point in confiscating a badge from a person who has a legitimate right to it. The badge is not just about on-street parking; it is about empowering people to get out and about. It enables people to get out of their homes and pursue leisure or employment, go shopping or visit family. It has an enabling function. At the moment, though, we are aware that it is being misused and abused.

There are some questions around the evidence from Glasgow City Council and the City of Edinburgh Council. The Law Society and Inclusion Scotland have asked for that evidence to be substantiated. I say to both groups that if a blue badge is being used by someone other than the badge holder, that person is denying someone else that disabled parking space. On-street parking can be difficult, especially in town centres.

The measures in the bill are appropriate and proportionate. I am grateful to the Local Government and Regeneration Committee for taking evidence and explaining to the Law Society of Scotland and Inclusion Scotland what it felt were the appropriate measures.

When we gave evidence to the committee at stage 1, the minister and I were questioned on those aspects and I think that we gave the appropriate answers to provide some degree of reassurance—if not total reassurance—to the Law Society of Scotland and Inclusion Scotland.

The other element of the bill that we are looking at is about non-uniformed officers. Again, that relates to the enforcement aspect of the blue badge scheme. Sometimes, what we need is the evidence, as has been called for. We need to ensure that badges are not being misused. At the moment, the intelligence from Glasgow and Edinburgh is that enforcement officers can go out, investigate, take evidence and then maybe make the appropriate approach—again, they could advise the police.

The final aspect of the bill is the review process, which is extremely important. In 2012, we introduced the independent mobility assessment, which lays down the criteria for a person to be given a badge. The measures are there. At the moment, there is no review process in some local authorities, but I am delighted to say that since we started moving forward with the bill, the majority of local authorities have put a review process in place.

I look forward to the debate and I hope that, at the end of it, the bill will be able to move on to the next stage.

I move,

That the Parliament agrees to the general principles of the Disabled Persons’ Parking Badges (Scotland) Bill.

The Deputy Presiding Officer: I call Kevin Stewart to speak on behalf of the Local Government and Regeneration Committee. You have a maximum of seven minutes, Mr Stewart.

16:31

Kevin Stewart (Aberdeen Central) (SNP): Thank you, Presiding Officer. I am delighted to be speaking in this debate on behalf of the Local Government and Regeneration Committee, which scrutinised the bill at stage 1.

Dennis Robertson is to be commended for all his hard work and diligence in producing the bill. He has introduced it and piloted it to this stage. He has a personal interest as a blue badge holder, which I am sure has probably added to the work required of him. In his opening speech, he helpfully set out in general terms what the bill
seeks to achieve.

This member’s bill is small in size, but do not let that fool anybody; it addresses a serious matter and the committee heard some illuminating evidence about the scale of the problems that exist. As with all bills that come before the committee, we initially sought views on its content. We received 27 responses, many of which mirrored comments that Dennis Robertson received in his earlier consultation.

The committee also heard evidence from three panels of witnesses, representing local authorities, third sector bodies including disability organisations, and the police and the Law Society of Scotland. In a departure from our normal approach, we heard evidence from the member in charge, Dennis Robertson, in a panel alongside the minister. That worked extremely well, with the evidence from the member and from the minister dovetailing and complementing one another. It avoided duplication and, of course, reduced the time involved, for which my very busy committee was extremely grateful. I would recommend that other committees consider that approach for bills where the underlying policy is not contentious.

There were some limited disagreements between witnesses, which is to be expected and, of course, is welcome, as it allows the committee to test the policy fully. We are extremely grateful to all those who gave us evidence, be it in written or oral form. Without input from such people, committees and, indeed, the Parliament could not properly and effectively scrutinise legislation.

We heard that some 260,000 individuals in Scotland hold a blue badge, for many of whom the badge provides a lifeline, allowing them to park without charge or time limit in otherwise restricted on-street places. It also allows them to park on single and double yellow lines, with certain restrictions relating to the safety of other road users, and where there are no other restrictions in place. That can allow badge holders to access jobs, shops and other services.

We also heard that people misuse badges for financial gain, either by using fraudulent badges or by using badges when the badge holder is not present. Given that in Glasgow city centre, for example, parking costs £3 an hour, we can see the temptation to abuse badges in that way. The temptation is probably increased because the existing law is weak. The bill will provide additional enforcement powers to local authority officials and police officers; allow badges to be cancelled and confiscated in certain circumstances; and provide increased security features, which should reduce forgeries and other forms of abuse.

The bill will make it a criminal offence to display a badge that is not valid—it might have expired, or it might not be being used properly. As Dennis Robertson mentioned, a person’s nipping out to the shops on behalf of a badge holder, for example, does not entitle them to use the badge and nor does a person’s nipping into the shops when the badge holder is in the car. The purpose is to provide the badge holder, and no one else, with access.

The bill will allow the confiscation of badges that are being improperly used. That provoked a little bit of controversy in the evidence, as the badge holder could be inconvenienced as a result of somebody else’s actions. However, we were reassured that, if the badge was confiscated, it would be returned to the badge holder promptly, thus minimising their time without it. I could go on further about that, but Dennis Robertson gave the Parliament a fair show on it.

We heard interesting evidence from civilian enforcement officers about the problems that they face and how they undertake their jobs. Indeed, I understand that, as a result of that evidence, discussions are now taking place to allow the police access to the existing national database of blue badges. That alone could make a significant difference in tackling abuse and could make the task of detecting abusers more efficient.

The bill will also put in place a requirement for all local authorities to have a review system in place to consider appeals from persons who apply for and are refused a blue badge. That provoked the suggestion from the Law Society of Scotland in its written evidence that the provision is not compliant with human rights legislation. It wants the appeal to be to a sheriff, as an independent tribunal.

The committee discussed the issue in oral evidence and the Law Society conceded that its main concern was about the cost of judicially reviewing a local authority’s decision. It accepted that the existence of judicial review makes the provision compliant with human rights. Curiously perhaps, the Law Society was more concerned with legalistic propositions than with convenience and speed for the individual. The committee was content that the proposals in the bill provide for an independent review, minimise costs all round and satisfy the requirements of the European convention on human rights.

It was clear to the committee that at least some misuse of blue badges was inadvertent. I have given a couple of examples that could fall into that category. We asked witnesses how that misuse could be reduced and how badge holders could be better informed of the dos and don’ts of using their badges. All blue badge holders receive a booklet, but many perhaps either do not read it or do not understand it, or it might not be in the best format for them. A multi-agency working group is looking
I, too, thank the Local Government and Regeneration Committee. I endorse Kevin Stewart’s point about the effectiveness of witnesses giving evidence to the committee at the same time as Dennis Robertson, the bill’s proposer. I also thank the Finance Committee and the Delegated Powers and Law Reform Committee for their consideration of the bill.

We have heard much of the bill’s detail from Dennis Robertson, so I will draw on some of the conclusions of the Local Government and Regeneration Committee’s report. An issue was the difficulty in identifying the level of misuse. It has not been easy for Dennis Robertson in developing the proposals to establish a baseline of evidence for the scale of blue badge scheme misuse. In that context, our thanks must go to the Glasgow City Council and the City of Edinburgh Council, which provided information based on snapshots of blue badge use and misuse in their areas.

I underline Kevin Stewart’s point that a very determined person can save themselves upwards of £6,000 by misusing a blue badge. I also reiterate the point that blue badge misuse is not a victimless crime—or will not be when it becomes a criminal offence. As has been said, a misused badge deprives people of the disabled parking spaces to which they are entitled.

Research findings from Scotland on the use and value of the blue badge and the extrapolation of data from England also contributed to defining as closely as possible the scale of misuse. Paragraph 22 of the Local Government and Regeneration Committee’s stage 1 report gets to the crux of the matter and states:

“While it is unclear how accurate these figures are or indeed whether they refer to overall abuse rates, it is clear from the evidence we received there is a substantial problem which impacts adversely on people’s lives. The Bill aims to address by improving the ability of the enforcement authorities to take action in a number of ways.”

I agree whole-heartedly. That is why it is important that local authorities have powers to act in cases in which it is apparent that a blue badge is not being used in the way that it should be used or by the person whom it is intended to assist.

I also acknowledge Police Scotland’s commitment to enforce the blue badge scheme. As mentioned in the stage 1 report, I confirm that Transport Scotland officials are consulting the blue badge improvement service to facilitate direct access by Police Scotland to the blue badge database. That will give Police Scotland immediate and accurate information on badges issued by local authorities.

While the bill is an improvement on what went before and on the further improvements that we
have made over the past two years following a review of the scheme, it will not provide a quick fix to the misuse of badges. Research on the use and value of the blue badge scheme highlighted gaps in people's understanding of the scheme; that was echoed in responses to Dennis Robertson's consultation on the bill and in the evidence to the Local Government and Regeneration Committee.

As was mentioned, Transport Scotland is working with Dennis Robertson, and a multi-agency working group has been set up to help to inform the policy behind the legislation and to consider wider issues: for example, how better to highlight the role and purpose of the blue badge scheme to badge holders, enforcement officers and the wider public.

The old cliché is not true; one size will not fit all. We need to get the relevant information to the right people. In order to do that, guidance will first be disseminated to all local authorities and to Police Scotland on the changes that the bill will introduce. Local authorities will be able to include that guidance in their existing training arrangements for enforcement officers and appropriate guidance will also be arranged for use by Police Scotland.

Secondly, we will review the current information for badge holders, with the aim of providing more concise messages on the use and care of the blue badge. As Kevin Stewart said, some of the current guidance is perhaps a bit unwieldy. As I said to the committee, work is under way in the multi-agency working group to develop the top 10 tips for use of the blue badge. The aim is to produce something that is easy to read and durable and that can be kept with the blue badge, as a constant reminder of the correct way to use it.

Thirdly, publicity will be developed to deter abuse and to make people aware of the devastating impact of the scheme's abuse on blue badge holders.

The bill is the culmination of a range of measures that have been put in place over the past few years to ensure that people who hold blue badges can benefit from the on-street parking concession that the scheme provides.

I again thank the Local Government and Regeneration Committee for its work, and in particular for considering the range of written and oral evidence that it received and exploring the issues that were raised. The Government will continue to support Dennis Robertson as the bill progresses.

16:45

Mark Griffin (Central Scotland) (Lab): I welcome the opportunity to speak on the Disabled Persons' Parking Badges (Scotland) Bill and I congratulate Dennis Robertson on the progress that he has made.

Labour members support the general principles of the bill and will vote yes at decision time tonight. We welcome the bill's main objective, which is to protect the rights of blue badge holders. We recognise that misuse of blue badges must be tackled, because it can lead to blue badge holders not being able to access a parking space when they need one.

However, we seek reassurance from the Scottish Government that it will work with its multi-agency working group to ensure that blue badge holders are properly educated about how to use their badge, so that disabled people who inadvertently misuse their badge are not penalised under the proposed new approach. I welcome what the minister said about providing more concise information to users.

We also seek reassurance that local government in Scotland will be properly supported and financially resourced to implement the bill's provisions, in particular those on enforcement and review.

This bill follows Jackie Baillie's Disabled Persons' Parking Places (Scotland) Bill, the intention of which was to prevent disabled persons' parking places from being occupied by people who are not entitled to use them, by making disabled parking bays enforceable and ensuring that enforcement action could be taken.

Sandra White quickly followed with a proposal for a responsible parking bill, which would allow freedom of movement for all pedestrians, by restricting parking at dropped kerbs and on pavements and double parking. The issue affects disabled people, who can find it difficult to negotiate their way across pavements and roads if their route is blocked by a parked car.

Sandra White's proposal complements the approach in the Disabled Persons' Parking Places (Scotland) Act 2009. Together, the measures will go a long way towards making our towns and cities more accessible to people who have a disability.

The proposed powers in the bill will be a welcome addition for local authorities as they seek to tackle blue badge misuse and its impact on genuine users, as long as authorities are financially supported to enforce those powers, in particular the power to cancel a badge that is no longer held by the person to whom it was issued.

Constables and enforcement officers will be given the power to confiscate a badge that appears not to have been issued under the Chronically Sick and Disabled Persons Act 1970,
that has been cancelled, that should have been returned to the local authority or that is being misused. It will be an offence to use a cancelled badge and to drive a vehicle while displaying a badge that has been cancelled or should have been returned to the local authority. The proposed powers will be most effective in curbing misuse of the scheme.

Although we support the bill at this stage, we seek assurances that there will be an education campaign to inform genuine blue badge users of exactly what they can and cannot do when they use their badge.

Other issues, which are not covered in the bill, might be worth thinking about in future. Blue badge holders can sometimes park on single or double yellow lines, but they are not allowed to do so if there are additional markings on the kerb. Sometimes it is possible to park, but people cannot find the road sign that lists the prohibited times without walking a long distance and standing in the street to check the restrictions. There appear to be more and more restricted areas and it would be worth while if the minister looked into the upsurge in restrictions.

I will close as I began, by saying that we support the bill's general principles and that we will support them at decision time, with the caveats that I gave on assurances about resourcing and education. I look forward to the bill progressing.

16:50

Cameron Buchanan (Lothian) (Con): I start by declaring an interest as a blue badge holder, as members will know I am from seeing me stagger into the chamber with my two sticks. I have a great interest in the subject.

As a blue badge holder and a fellow MSP, I add my congratulations to Dennis Robertson on introducing the bill. I, too, have suffered from some of the problems that have been described.

From the contributions that have been made and from the evidence, we know that the blue badge scheme needs to be reformed. That reform is definitely overdue. The evidence that was presented to the Local Government and Regeneration Committee showed an overwhelming sense of resentment among blue badge users about the lack of respect that the scheme is shown and the subsequent wide-scale abuse that goes on. Calls were made for greater awareness and investment in education, given the number of blue badges that are being misused unintentionally by family members, for example, as we have heard.

In his evidence, Grahame Lawson of the Mobility and Access Committee for Scotland said that the number of people who take the time to read the booklet on their rights and responsibilities under the scheme is very small. We have touched on that. The booklet is a little complicated. It needs to be simplified and cut down, because people do not read such things.

The staggering scale of intentional and calculated fraud that goes on under the scheme points to a far greater problem, which the bill cannot fully address. The fundamental problem is that too many people do not understand—as I did not—how valuable the scheme is to those who have mobility problems and how much those with a disability are restricted and prevented from going about everyday tasks when they do not have access to designated disabled parking bays. If people understood what a lifeline those bays are, their attitude to the abuse that goes on would be very different. That is why I would welcome a bit more education, which is key.

The fact is that people know that using a disabled parking bay is wrong, but they also tend to think that it is okay to use one if they are running late for an appointment, as we heard from Dennis Robertson, or nipping into the supermarket for something. That is not okay, and we must make it clear to people why it is not okay. We must challenge the notion that it is somehow acceptable to abuse such schemes in the right circumstances.

We blue badge holders have a critical role in the drive for greater awareness. We should be aware of our rights and responsibilities, as the likes of Helen Dolphin from Disabled Motoring UK argued in her evidence. One of the biggest misunderstandings is about a friend or relative borrowing our blue badge to run an errand on our behalf. That is a definite misuse, although many people do not regard it as such. In theory, the badge is valid only when the badge holder is in the vehicle concerned. I am not sure whether the badge holder must be getting out of the vehicle; sometimes, I have been caught in that way.

Raising awareness and challenging false perceptions are an important part of tackling the problem. Improving enforcement is also a critical element, which has long been missing. That is the strength in Dennis Robertson’s bill. New laws are often passed when better enforcement of existing legislation would be just as—if not more—effective. The bill focuses on how we improve the workings of the blue badge scheme, and central to that is enforcement.

Most telling is the fact that many witnesses told the committee time and again that misuse rates are high—they are estimated to be between 52 and 70 per cent in Edinburgh—because those who commit the offence are confident that they will not be caught. Local authority officers’ contributions were interesting. There was broad agreement that
blue badge fraud is in many cases viewed as a cheap alternative to car parking charges, although we heard that only 30 cases of common-law fraud were recorded in relation to blue badges. We must more readily prosecute those who abuse the system routinely and deter people who see abusing the scheme as an easy option.

I am a bit worried about the confiscation of badges. I make a particular point about that because confiscating a badge deprives somebody of it. It is crucial that confiscated badges are returned quickly to holders who are not guilty.

The new criminal offence that the bill proposes and the powers of confiscation are welcome, but that is not really an end to the process. It is obvious from our evidence gathering that there is work to be done on data sharing and the design of the badge.

I, too, support the bill.

The Deputy Presiding Officer: We move to the open debate. If members keep their speeches to a maximum of four minutes, I should be able to call everyone who wants to speak.

16:55

Sandra White (Glasgow Kelvin) (SNP): I congratulate my colleague Dennis Robertson on introducing the bill. I fully agree with the bill’s policy objectives of protecting the rights of badge holders and strengthening the existing framework of the scheme. I also agree that, without the blue badge, many disabled people would be confined to their homes, as members have mentioned.

For me, that is central to the bill’s objectives and resonates well with my proposed responsible parking bill, whose policy objectives are to allow freedom of movement for all pedestrians by restricting parking at dropped kerbs, parking on pavements and double parking. It seems to me that those two bills and the act that Jackie Baillie introduced, which Mark Griffin mentioned, complement one another. Irresponsible parking affects the ability of people—especially the disabled, the elderly and those with visual impairments—to get around, to access local services and to otherwise enjoy the freedom of movement that many of us take for granted.

Unfortunately, unlike the bill that we are debating, my proposed bill appears to have fallen foul of parliamentary process and has not moved forward at the same speed, even though it was lodged some months earlier. I am obviously frustrated by that, as are many members of the public across the country, judging by the correspondence that I have received regarding my bill. Perhaps Dennis Robertson could give me some sage advice on the best way to move forward my proposed responsible parking bill. I will have a chat with him after the debate.

The committee’s report states:

“On-street parking enforcement is the responsibility of the police and local authorities. The police are responsible where parking remains criminalised ... and Police Scotland use police officers or police traffic wardens to enforce parking restrictions. Local authorities are responsible in areas where parking has been decriminalised”.

In giving evidence to the committee on behalf of Police Scotland, Assistant Chief Constable Wayne Mawson stated:

“We are changing the way in which we conduct parking enforcement by removing the traffic warden role. However, we are committed to tackling dangerous or obstructive parking and the misuse of blue badges, including parking in disabled bays. That commitment will remain after the traffic warden service ceases.”

I welcome that. However, his colleague Superintendent Craig Naylor went on to say:

“Some of the paperwork that”

has been

“pulled together mentions that people say that it is hard to get in touch with a police officer to deal with abuses”.—[Official Report, Local Government and Regeneration Committee, 26 March 2014; c 3308, 3316.]

People can dial 101 to contact the police, which Police Scotland says is a good way to go about reporting abuses, but many of my constituents tell me—I presume that other members hear the same from their constituents—that that is not the case in dealing with parking offences. They are informed that many parking offences are under the control of local authorities, although that is clearly not the case. We need some information and clarity on the issue. As others have stated, the police have responsibility for such issues. I would like some clarity on the matter—perhaps I should write to Police Scotland myself. The Convention of Scottish Local Authorities also highlighted its concerns about enforcement in its submission to the committee.

I agree with Kevin Stewart, the minister and Mark Griffin that we need multi-agency working, more information and more education to ensure that people know exactly who is responsible. There is much confusion over who is responsible for what and over where people can and cannot park—for example, there is confusion about parking on yellow lines, as Mark Griffin mentioned. I would welcome the opportunity to look at the issues and concerns around parking and enforcement with a view to adopting a consistent approach to achieving the bill’s aims.

In conclusion, I echo Dennis Robertson: the bill is about not just parking, but enabling people to have a life. I fully support the bill.
16:59

**Liam McArthur (Orkney Islands) (LD):** I join others in warmly congratulating Dennis Robertson on the progress that he has made with the bill so far. All the speakers have rightly pointed out that although it is a small bill, its significance should not be underestimated. I thank the Local Government and Regeneration Committee for its work to date on the bill.

Mark Griffin was right to set the bill in a wider context. I certainly understand Sandra White’s frustrations over her bill. I know that a precursor to her bill was brought forward by my colleague Ross Finnie, so the issue has been in the pipeline for some time. Jackie Baillie’s efforts in relation to the misuse of disabled parking bays are also worth noting in the context of this debate.

I was not involved in the committee’s deliberations on the bill, but I welcome, from two perspectives, the chance to participate in this debate. The first perspective is that of personal interest, as I am the brother of a wheelchair user who is a blue badge holder. I recognise very much the frustrations that Cameron Buchanan, Dennis Robertson and others have outlined about the abuse of blue badges and the impact that that has on the individual blue badge holder.

The second perspective is that of my constituency casework, from which I know about the issues that can arise with the malfunctioning of the current system and the need for improvements of the sort that Dennis Robertson is bringing forward in his bill and the proposals that Sandra White has under review.

I was very grateful to the minister for his response when I raised the issue of the administration of the current scheme. I know that a number of constituents are concerned about the 20-page form and the possible half-hour assessment that are involved in securing a blue badge. One constituent approached me on behalf of her parents, who are over 80. She made it clear that

“it is hugely stressful to get through all these procedures, so much so that they would rather forfeit their badge than go through all of this.”

She went on to ask whether a more streamlined process might be possible when eligibility is obviously not in question and is supported—as happens in some cases—by evidence from general practitioners and nurses. I put on record my gratitude to Orkney Islands Council for the way in which it has responded to the concerns that I have raised, but there seems to be a case for more discretion or a fast-track process in some instances.

On the enforcement provisions to which other members have referred, I am aware of COSLA’s evidence. Like others, I have concerns about the withdrawal of traffic wardens in my area, and about the possible implications for already stretched police resources. I think that the issue will have to be looked at in more detail at stage 2. Likewise, in relation to the confiscation of badges, I recognise that there is a balance to be struck when we try to bear down on fraud, but if we are at risk of creating additional problems for those who rely heavily on their blue badge, we might need to look again at confiscation. I note the comments that have been made about the speed of redress when mistakes have been made but, in light of Inclusion Scotland’s evidence, I think that more work needs to be done in that area.

As I said, this is a small bill but it is hugely significant for those who rely on blue badges, which enable people to lead more independent lives. I welcome the progress that has been made on the bill and I wish Dennis Robertson all the luck in the world as the bill proceeds through stages 2 and 3.

I confirm that the Liberal Democrats will support the bill at decision time.

17:03

**John Wilson (Central Scotland) (SNP):** I come to the debate as a member of the Local Government and Regeneration Committee and as a member, in the previous parliamentary session, of the Local Government and Communities Committee, which examined Jackie Baillie’s Disabled Persons’ Parking Places (Scotland) Bill. I therefore have some knowledge of the issues that are presented in Dennis Robertson’s bill.

Although legislation already exists for many parts of the blue badge scheme, anyone with even basic knowledge of the subject knows that there are on-going problems with the scheme, particularly in relation to its abuse. Dennis Robertson’s bill seeks to enhance the rights of blue badge holders. We must recognise that that is what it is about.

The Local Government and Regeneration Committee’s stage 1 report, which was published this month, is supportive in principle of the bill and its general intentions. That is not to say that the evidence presented to the committee showed that organisations did not have some concerns about the bill. For example, we heard concerns from the Law Society of Scotland and Inclusion Scotland about its implementation.

The blue badge scheme is, in essence, about assisting disabled people to live independent lives. During the committee’s evidence-taking sessions, it was suggested that blue badge abuse tends to occur most frequently in supermarket car parks. We have no legislation on such areas, and people...
must be aware that private car parks such as supermarket car parks are not covered by the bill. We need to examine that area further.

The committee also heard evidence about the levels of abuse of blue badges. Gordon Catchlove of the City of Edinburgh Council gave detailed figures, and said that 52 to 70 per cent of the blue badges that are on display in Edinburgh at any one time are being misused. However, we must recognise that even disabled people can hold down jobs and that they depend on the blue badge scheme to get to and from work, so some of the badges that are on display may belong to genuine blue badge holders who are carrying out full-time employment to their benefit.

That leads me to the area of enforcement. On-street parking is the responsibility of the police or local authorities, as other members have said. I hope that we have resolved that issue, given the evidence that we received at committee. There is clear guidance on who is responsible for enforcement in relation to the misuse or abuse of blue badges.

**The Deputy Presiding Officer:** You are in your final minute.

**John Wilson:** Both the member in charge of the bill, Dennis Robertson MSP, and the minister said that many disability organisations do not share the concerns that have been expressed by Inclusion Scotland. The debate that is taking place within the disability movement is to be welcomed by everyone as it will enable us to be clear about how we move forward.

I thank Dennis Robertson for bringing his bill to the Parliament, and I thank everyone who has given evidence to the committee. I hope that we as Parliament will achieve legislation that helps disabled people to fulfil their lives and participate as fully as possible in the activities that they want to engage in. We have to ensure that action will be taken, and to get a clear message to those people who misuse or abuse the blue badge scheme.

I congratulate Dennis Robertson on getting to this stage and look forward to the bill becoming an act at a later date.

**The Deputy Presiding Officer:** We now turn to the closing speeches. I remind members who have participated in the debate that they should be in the chamber for the closing speeches.

07:17

**Cameron Buchanan:** It seems only a minute—or maybe it was four—since I gave my opening speech. Still, what the debate lacked in longevity, it more than made up in its succinct, constructive and supportive tone in favour of Dennis Robertson’s bill.

In my opening remarks, I outlined why I support the bill, which will bring much-needed improvement to the administration of the blue badge scheme. However, I am aware that there are still some concerns over some of the finer details. For instance, there are a range of views on non-uniformed enforcement officers. I am a bit wary of that issue, the crux of which is the striking of a balance between the most effective way of enforcing the legislation and showing an appropriate level of sensitivity to blue badge users and their personal circumstances. Very quickly, we centred on how officers will be identified and whether that will give assurances to the likes of Inclusion Scotland. There is clearly a need for some further discussion on the point, probably at stage 2.

Liam McArthur mentioned the hoops that people need to go through to get a blue badge. That is not covered in the bill, but it is a difficult, complicated process. I know that, as I have gone through it. I sent in a picture of me limping along a pavement because I could not show them that I am disabled.

The Law Society of Scotland highlighted its concerns about the inclusion in the bill of strict criminal liability relating to the use of a badge once it has been cancelled, and other evidence was given to the committee about the potential for people to commit offences inadvertently. We heard concerns about what would happen where vulnerable badge holders were aware of abuse but had limited options due to their reliance on others around them. Along with the enforcement issue that I mentioned earlier, that highlights an important aspect of the enforcement of the legislation, namely that it will require local authority officers and the police, where appropriate, to exercise their duties with a good deal of care and sensitivity.

Although we agree that, in clear-cut cases of fraud, we expect the perpetrator to be prosecuted, we would all expect a certain flexibility and discretion to be shown in the more complex areas that there will undoubtedly be. We do not want genuine mistakes to be met with punitive fines.

If we are to have well-trained enforcement officers on the ground, we will need the money to fund them, which brings me to the vexed issue of funding and resources. Happily, a number of local authorities have officers in place who are able to tackle the matter at present, but they would have to monitor the working of the bill in practice. Perhaps that is something that we can deal with at stage 2. We also heard that there was anecdotal evidence of unofficial amnesties on expired blue badges where councils had a backlog in the administrative processing of appeals. The system must be properly funded if it is to work, and
greater funding will be required for the process of reviewing decisions.

In areas where the police are responsible for enforcement, resources will have to be put in place. I was pleased to hear the assurances that were given at the committee, but we must monitor the situation in that regard.

I am sure that all the issues that I have mentioned can be highlighted at stage 2, but we must not lose sight of the fact that, at its core, the bill gives local authorities and police sensible powers—powers that they have long sought—to challenge the widespread abuse of the blue badge scheme. Therefore, I support the bill.

17:11
Anne McTaggart (Glasgow) (Lab): As a member of the Local Government and Regeneration Committee, I have had the opportunity to consider in some detail the proposal contained in the bill and its likely effects. I thank Dennis Robertson MSP for bringing an important issue to the attention of the Scottish Parliament, and I commend his efforts in raising awareness of the very real consequences of blue badge misuse in towns and cities across Scotland.

I fully support the bill's broad aims. I acknowledge that it can often be challenging for disabled people to find accessible parking spaces and that blue badges go some way towards addressing the difficulties that badge holders experience in reaching their destination safely. I was initially surprised to learn that more than half of all blue badge holders believe that misuse of badges is a major problem. Despite realising that disabled parking badges were too often open to misuse, I had not appreciated the scale of the problem that local authorities face in distinguishing between genuine and fraudulent badge holders.

I feel strongly that the Scottish Government should seek to work with key stakeholders to ensure that all blue badge holders are properly educated on the use of the badge. I appreciate the minister's comments about the top 10 tips that people will easily understand, which sounds like an excellent idea. That would provide reassurance that disabled people who inadvertently misuse their badge will not be penalised under the bill's provisions.

I recognise concerns raised by the Law Society of Scotland that the introduction of new criminal offences—of driving a motor vehicle while displaying a cancelled badge and of wrongful use of a blue badge—are simply duplications of the existing common-law offence of fraud. However, I believe that the incorporation of those offences in statutory form will raise awareness of the seriousness of blue badge misuse and will send a clear message that those who deprive genuinely disabled people of accessible parking spaces will be punished.

However, I share the concern that the bill does not contain a right of appeal to an impartial body after a blue badge application has been reviewed and rejected by a local authority. I believe that there should be an external appeals process—one that is resourced—that reviews the rejection of applications by local authorities, and that that external process should have the power to overturn the original decision if there is evidence to justify an appeal. I also believe that, as Cameron Buchanan said in his closing speech, local authorities should be fully resourced to implement the provisions of the bill, including in relation to enforcement and the review elements of the blue badge application process.

Notwithstanding those observations, I am delighted to confirm my support for the aims of the proposed legislation, and I look forward to considering the issues in greater detail with my constituents as the bill progresses.

17:15
Keith Brown: I will try to cover and respond to some of the points that have been raised in the debate.

John Wilson talked about enforcement in private car parks, and he was quite right to say that that does not fall within our jurisdiction. I have written to the Scottish Retail Consortium to highlight the importance of the issue and the need for disabled people to have close access to shops. I hope that the passing of the bill will raise retailers' awareness of the importance of managing disabled bays in shopping centres. If necessary, I will be more than happy to write to the SRC again once the legislation has commenced.

Anne McTaggart raised the issue brought up by the Law Society of Scotland about the offence of duplication of a blue badge. It is already an offence to misuse a blue badge. By introducing an offence of using a cancelled badge, section 4 of the bill is amending the existing law to include provision that it is also an offence to drive or to park a vehicle that is displaying a badge that has been cancelled or that should have been returned to the issuing authority. I am no lawyer, but I think that it is true that we have a general presumption in law against theft, but there are many aspects of theft that we describe as an offence in law, and this is, to my mind, similar.

To return to the point that Cameron Buchanan made about being sensitive about these things, we would not expect action to be taken if a person who had previously reported their badge as having been lost then found it again and inadvertently
used it instead of the replacement. The same situation would have to apply to a carer who transports a badge holder and is unlikely to be unaware that the badge holder is using a cancelled badge. It is quite right to say that we should be sensitive about such things. Every case should be treated on its own merits, which is why we are working with the agencies that are involved, including the Crown Office and Procurator Fiscal Service and the police, to ensure that guidance to local authorities is in place to allow agencies to take a pragmatic approach to enforcement.

It is not really part of this bill, but mention was made of the application for blue badges. Local authorities should and do provide assistance to those who are going through that process. It is also true to say that the code of practice gives guidance to local authorities on the application process, and it recommends that, if a person is clearly eligible and their condition is unlikely to change, the blue badge improvement service can be notified so that no independent mobility assessment will be required in the future when a person is reapplying for a badge. That is helpful to people in those circumstances. Many local authorities operate in that way.

To go back to the point about being sensitive in these cases, I note that, even if a case is referred to the procurator fiscal, it is its role, on receipt of reports about crimes from the police and other reporting agencies, to decide what action to take, including whether to prosecute someone. That step provides a further check.

Kevin Stewart: I thank the minister for giving way, and I note that he and I are wearing twin ties for Enable Scotland.

The minister mentioned changes to welfare in his response to Liam McArthur earlier, and the move from disability living allowing to personal independence payments might cause some difficulties. Can the minister ensure that the expert groups that he has set up will do everything that they can to iron out those difficulties to make sure that folks who need blue badges will get them?

Keith Brown: It is a very good point. I noticed that Kenneth Gibson was also wearing the same tie for Enable Scotland. This is an enabling bill for those who have disabilities, so it is quite appropriate.

On welfare reform, our guiding approach so far has been to maximise the number of people who will passport automatically because they were previously eligible. We have tried to minimise the changes that will take effect in Scotland by keeping an eye on those who have blue badges and making it as straightforward as possible for them to continue to use them when they are eligible. That will be the approach that we will continue to take in future.

Enforcement officers and the question of legal recompense to local authorities were mentioned. The bill confers powers, not duties, so it is up to local authorities to decide how to use the powers. They can help to fund additional officers—if that is what they choose to do—by using the money that they can take under the bill. As I said earlier, someone in Glasgow or Edinburgh who misuses a badge can gain up to £6,000 a year. That money is lost to the local authorities. If they can get that money back in, it can help them to pay for their enforcement services, but that would be the choice of the local authorities.

The one place where there will be an additional cost is the review process. I note the point that Anne McTaggart raised about an independent and perhaps external review process. We looked at such a process and, although I am not afraid to look at it again, we have taken local authorities at their word that they can manage—as they do in many other respects—an internal review process. Of course, outwith that, people have recourse to the ombudsman and, as I said earlier, to the legal process, so there are adequate means of redress.

On a related point, there is a good reason why the process to get a blue badge can be quite complex: to protect the interests of blue badge holders. The process is complex right across the UK—the Scottish Government has not done this alone—whether regarding the database or the new process. The reason is to minimise the number of people who should not have a badge who do. The number of spaces is limited, so it is very important that we protect the interests of those who need them most. That is one reason why the form, as Cameron Buchanan mentioned, is quite complex.

I mentioned that we will put in place the review process, which builds on the introduction of independent mobility assessments, carried out by occupational therapists. It will no longer be for personal GPs or nurses to make assessments; rather, there will be independent mobility assessments. That was what the UK-wide review came back with.

The existing legislation is clear that the assessment will be carried out by an independent health professional with the correct skills and experience to determine a person’s functional mobility, which is the crucial criterion for the awarding of a blue badge. The implementation of IMAs is being closely monitored, particularly in light of the recent welfare changes.

The Scottish Government is pleased with the Local Government and Regeneration Committee’s report. The provisions will provide local authorities
with powers that they can use as part of their existing arrangements for parking enforcement and apply as they consider necessary. Importantly, the bill responds to the views of badge holders. Once again, I congratulate Dennis Robertson on the work that he has done so far.

Dennis Robertson: I thank members for taking part in the debate, and I thank the minister for responding to some of the issues that members raised.

I can offer some degree of reassurance on the sensitivity of confiscations, which we discussed quite a lot with the review group. I have been reassured that training already exists in local authorities, such as disability awareness training and training on engaging with the public in areas of conflict. I am quite content with the training that is in place.

Confiscation of any blue badge will be done only as a last resort. Whether a badge is confiscated by the police or an enforcement officer, that will happen only if the confiscator is absolutely sure that the badge has been tampered with, has been used fraudulently, or is in the possession of someone who should not have it.

Training and information for blue badge holders was also raised by members. Cameron Buchanan is absolutely right about the booklet that goes with the blue badge. I think that, when the majority of people get a blue badge, they look at the blue badge and put the information booklet in the drawer. They are not really aware of all the responsibilities that they have as a blue badge holder, and we need to ensure that they are aware of those responsibilities. The top 10 tips, which we are looking to produce, will be produced with the enforcement and review group that we are working with.

Kevin Stewart: It was suggested during evidence taking that it may be an idea to get folk to sign and say that they have understood the guidance. Will the review group look to see whether that is possible and whether it would work?

Dennis Robertson: Mr Stewart makes a valid point, and it is certainly something that the review group will consider. That is perhaps one aspect of trying to ensure that badge holders are aware of their responsibilities.

I started on this journey about 18 months ago and in the time since then I have travelled across the country to engage with various groups, people with disabilities and COSLA representatives. People with disabilities who are badge holders are saying that they require a change in the current legislation. I believe that, to an extent, they are content with the proposals, because the current enforcement powers are not sufficient. At the moment, a traffic warden or enforcement officer can approach someone and ask to see their badge, but if that warden or officer believes that the badge is being used fraudulently, they cannot confiscate it. Instead, they actually have to wait for a police officer to arrive, by which time the driver might have driven off. Surely that is wrong. We need the new powers in the bill to ensure that, when we are absolutely convinced that badges are being misused, they can be withdrawn.

Cameron Buchanan said that he is slightly concerned about aspects of identification with regard to non-uniformed officers, but I do not believe that that presents a problem. I sometimes think that being approached by someone in uniform can raise greater anxiety among some members of the public. In any event, someone who is not in uniform can provide the appropriate identification. If a person is concerned, they can ask for further identification. As far as I am aware, most enforcement officers have a radio with them and can probably call a central office to provide confirmation of identification.

I believe that the steps in the bill are proportionate and appropriate. I believe that the review process, which has been mentioned, is the right thing to do. At present, there is no statutory provision for a review although, since we started on this journey, the majority of local authorities have introduced a review process. If a person has been denied a badge, they will be able to appeal. I am not concerned that the appeal will be to the same local authority, because it will go to a different person in the authority—perhaps the line manager of the person who made the original decision or someone else. The decision will be based on criteria and guidance and, if a person does not meet the criteria for having a blue badge, their application will be denied. We also need to ensure that those who can be passported into the blue badge system know about that.

There are many stories of misuse, but the one that probably angers me more than any other is about a person who had a blue badge and who was housebound but whose family members used the badge without ever taking the badge holder out. That might be an extreme case, but we need to ensure that badges are used appropriately. Third-party misuse is not acceptable. We should say that it is not acceptable to misuse a blue badge.

Cameron Buchanan mentioned people just nipping out to the shop and inadvertently leaving a blue badge on the dashboard. That is fine but, with the central database system, we have a method of recording the incidents that take place so, if there
is persistent misuse, the enforcement officer or police officer will have that information to hand.

I believe that the Parliament wants the bill to progress. It has been my absolute pleasure to bring this debate to the chamber. I thank the team from Transport Scotland, the Local Government and Regeneration Committee and the minister, and I ask members to support the motion in my name.
Disabled Persons’ Parking Badges (Scotland) Bill

Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

<table>
<thead>
<tr>
<th>Sections</th>
<th>Long Title</th>
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<tbody>
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<td>1 to 8</td>
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Amendments marked * are new (including manuscript amendments) or have been altered.

**Section 3**

**John Wilson**

1  In section 3, page 1, line 15, at end insert <, ( ) in paragraph (b)—
   (i) after sub-paragraph (i) there is inserted “or”;
   (ii) sub-paragraph (iii) and the word “or” immediately preceding that sub-paragraph are repealed.>

**Section 4**

**John Wilson**

2  In section 4, page 1, line 18, at end insert <,
   ( ) after the words “an offence if” there is inserted “at the time that person had cause to know that”.>

**John Wilson**

3  In section 4, page 1, line 19, leave out subsection (2)

**John Wilson**

4  Leave out section 4

**Section 5**

**John Wilson**

5  In section 5, page 2, line 5, leave out subsection (3)

**John Wilson**

6  In section 5, page 2, leave out lines 19 to 24

**After section 6**

**John Wilson**

7  After section 6, insert—

SP Bill 44-ML 1  Session 4 (2014)
<Guidance
(1) The Scottish Ministers may issue guidance on the implementation of this Act.
(2) Local authorities must have regard to any guidance issued under subsection (1).>
Disabled Persons’ Parking Badges (Scotland) Bill

Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. In this case, the information provided consists solely of the list of groupings (that is, the order in which the amendments will be debated). The text of the amendments set out in the order in which they will be debated is not attached on this occasion as the debating order is the same as the order in which the amendments appear in the Marshalled List.

Groupings of amendments

Limitation on power to confiscate badge
1

Offence of using badge that is no longer valid
2, 3, 4

Persons entitled to act as enforcement officers
5, 6

Scottish Ministers: power to issue guidance
7
Disabled Persons' Parking Badges (Scotland) Bill: The Committee considered the Bill at Stage 2.

The following amendments were moved and, no member having objected, withdrawn: 1, 2, 5 and 7.

The following amendments were not moved: 3, 4 and 6.

The following provisions were agreed to without amendment: sections 1, 2, 3, 4, 5, 6, 7 and 8, and the long title.

The Committee completed Stage 2 consideration of the Bill.
On resuming—

Disabled Persons’ Parking Badges (Scotland) Bill: Stage 2

The Convener: Our next item of business is stage 2 consideration of the Disabled Persons’ Parking Badges (Scotland) Bill. I welcome Dennis Robertson, the member in charge of the bill; Stewart Stevenson, who has been designated as member in charge of the bill for the purposes of stage 2; and Keith Brown, Minister for Transport and Veterans, who has portfolio responsibility for the bill’s subject matter.

Everyone should have with them a copy of the bill as introduced, the marshalled list of amendments and the groupings of amendments. I remind members of our stage 1 report on the bill as it relates to the subject matter of the amendments that are before us.

There will be one debate on each group of amendments. I will call the member who lodged the first amendment in each group to speak to and move their amendment and to speak to the other amendments in the group. Members who have not lodged amendments in the group and who want to speak should indicate that to me. If Mr Robertson wants to contribute to the debate on a group of amendments, he should indicate that to me. If they have not already spoken on the group, I will invite the minister and then Mr Stevenson, as the designated member in charge, to contribute to the debate.

I will conclude the debate on each group by inviting the member who moved the first amendment in the group to wind up. I will then ask whether the member wants to press their amendment to a vote or withdraw it. If they want to press the amendment, I will put the question. If a member wants to withdraw their amendment after it has been moved, they must seek the committee’s agreement to do so. If any committee member objects, the committee must immediately move to a vote on the amendment.

If a member does not want to move their amendment when I call it, they should say, “Not moved.” Please remember that any other member of the Scottish Parliament may move such an amendment. If no one moves the amendment, I will immediately call the next amendment on the marshalled list.

Only MSPs are allowed to participate in debates on amendments, and only committee members are allowed to vote at stage 2. Voting is by show of hands. It is important that members keep their hands clearly raised until the clerk has recorded
the vote. I will put a question on each section at the appropriate point.

Before I move on to the amendments, does any member of the panel want to make general remarks?

**Dennis Robertson (Aberdeen West) (SNP):** I thank the committee for its consideration of the bill at stage 1 and I thank members who took part in the stage 1 debate, after which the Parliament agreed to the general principles of the bill. I also thank the minister for supporting the bill and for answering many of the questions that were asked during the debate on 20 May.

This is a small bill. It looks at enforcement of the blue badge scheme with a view to tackling misuse. I think that the approach that it takes is proportionate and appropriate, so I hope that members will accept the bill as it is.

**The Convener:** Thank you. 
*Sections 1 and 2 agreed to.*

**Section 3—Power to confiscate badge**

**The Convener:** Amendment 1, in the name of John Wilson, is in a group on its own.

**John Wilson:** I make clear to the committee that the amendments that I have lodged were suggested by Inclusion Scotland, from which the committee took evidence during stage 1. Inclusion Scotland thought it necessary that amendments be lodged to highlight some of its concerns.

There is no issue with or objection to the confiscation of blue badges that have been cancelled or made invalid. However, there is concern that the confiscation of a valid badge might have serious consequences for a disabled person, with an impact on their right to live independently.

We would like section 3 to be amended to restrict the power to confiscate badges and cancel invalid or fraudulent badges. The confiscation of a valid badge in effect imposes a penalty without there being a right of appeal. The appropriate penalty is a fixed-penalty notice for the parking offence, which can be appealed, or, in the case of systematic or repeated abuse, prosecution through the courts.

The purpose of amendment 1 is therefore to limit the power to confiscate so that it applies only to blue badges that are not valid, for example because they have been cancelled, should have been returned to the issuing authority, have been tampered with or are fake. It should be possible for enforcement officers quickly to establish whether a badge is invalid, by checking the serial number against the national database. If a valid badge has been misused, it should not be assumed that the misuse will continue or that the badge will not be returned to the badge holder by the person who allegedly misused it.

Guidance can be established for a process for informing the badge holder of the alleged misuse, requiring the badge holder to confirm that the badge has been returned to them and warning that its future misuse may lead to the badge being withdrawn.

I move amendment 1.

**The Minister for Transport and Veterans (Keith Brown):** Third-party misuse of blue badges is a problem on which I have received correspondence from constituents and from the wider public during the course of scrutiny of the bill. The provisions in the bill as currently constituted would allow confiscation of a badge from third parties who have no entitlement to use that badge. That is an important point, as it sends out the message that blue badge misuse is socially unacceptable.

The provision to confiscate badges that are being misused is intended to discourage and prevent abuse of the system. Removing that provision would, in my view, weaken the enforcement of the blue badge scheme. To be clear, the end result of confiscating badges from third parties is that valuable parking spaces will be freed up for use by blue badge holders, who need those spaces the most. For those reasons, I support the provisions in Dennis Robertson’s bill.

**The Convener:** We will hear first from Mr Stevenson, as the designated member in charge of the bill. I will take Mr Robertson after that.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** Amendment 1 seeks to remove the power of a constable or enforcement officer in Scotland to confiscate a badge that has been issued under section 21 of the Chronically Sick and Disabled Persons Act 1970 but which is not being displayed on the vehicle as prescribed by the regulations of the scheme.

I am concerned that the amendment would weaken the powers of local authorities to confiscate badges. It would mean that confiscation would be limited to badges that have been cancelled, for example because they had been reported lost or stolen or because they should have been returned to the local authority under the requirements of the regulations, for instance if the badge holder was deceased.

Significantly, amendment 1 would remove the power for constables or local authorities to confiscate a valid badge from a third party who had no right to use that badge. The third party might be a friend or relative of a badge holder, who is using the badge for their own benefit to
gain free parking. It might also be an individual who has stolen the blue badge.

To remove the power to confiscate in those circumstances would mean that that abuse by the third party could continue unhindered. That disadvantages not only the person to whom the badge was issued but the many other disabled people—there are 263,045 blue badge holders as of 31 March 2012—who would be deprived of parking in disabled bays and of the independence that that provides.

Concerns have been raised during the passage of the bill that confiscation would deprive badge holders of their freedom. I wish to reassure members that blue badges will be confiscated only when there is justification to do so. It has been made clear that, when a valid badge is confiscated from a third party, it will be returned to the badge holder. It will be accompanied by a letter reminding the badge holder of their rights and responsibilities under the blue badge scheme. That protects badge holders, whether it is from inadvertent or unscrupulous misuse.

Regulations will require local authorities to return the badge as soon as is practical, and in any event no later than 14 days after confiscation. Local authorities have told us that they have no reason to hold on to badges and, as happens currently, every effort will be made to return the badge to the holder quickly.

The power to confiscate is intended to protect badge holders, to raise awareness of the value of the blue badge and to reduce the propensity for future misuse. We need to get to the stage where blue badge misuse is seen by everybody as socially unacceptable.

I therefore invite John Wilson to seek the committee’s agreement to withdraw amendment 1.

Dennis Robertson: The point has been well verbalised by Stewart Stevenson. We are trying to get the badges that are being misused off the streets. That misuse disadvantages people who are blue badge holders.

Someone who has a badge in a case of third-party misuse is denying someone else a parking space. In relation to amendment 1, the serious consequences for the disabled person involve the misuse of the badge by others. It is not about the confiscation. The confiscation will be done only when there are justifiable reasons for removing the badge. It is the justifiable reasons that we need to focus on. Badges will not be removed if it is felt that there is some degree of ambiguity. However, a badge will be removed and confiscated if the officer removing the badge is absolutely certain that it is being misused. The badge will be returned to the badge holder with an explanatory letter.

John Wilson: I welcome the statement by Mr Stevenson that a blue badge will be returned to the rightful owner if it is a legitimate blue badge. Based on his assurances, I withdraw amendment 1.

Amendment 1, by agreement, withdrawn.

Section 3 agreed to.

Section 4—Offence of using cancelled badge

The Convener: Amendment 2, in the name of John Wilson, is grouped with amendments 3 and 4.

John Wilson: Inclusion Scotland and other organisations representing disabled people have expressed concern that a disabled person or a carer may be criminalised if they inadvertently use a blue badge that has been cancelled—for example, if it has been reported lost but is found before a replacement is received.

It is appreciated that section 4 amends United Kingdom legislation to bring Scotland into line with amendments that were made in England and Wales in 2013, but we would like the bill to be amended to delete section 4, as the Law Society of Scotland has indicated that it is not necessary. If the committee is not minded to delete the entire section, we would like section 4 to be amended to prevent people from being criminalised for inadvertently using a badge that is not valid—for example, if a carer uses a badge not knowing that it has been reported lost or stolen.

Amendment 3 deletes subsection (2) of the bill, which amends section 117 of the Road Traffic Regulation Act 1984, as the 1984 act already refers to section 21 of the Chronically Sick and Disabled Persons Act 1970. Subsection (2) appears to add an unnecessary additional reference.

I move amendment 2.

The Convener: Thank you. Maybe in your summing up, Mr Wilson, you could tell us what other organisations backed Inclusion Scotland, as you said that Inclusion Scotland and other organisations had expressed concerns.

Keith Brown: I do not support the amendments. In my view, there has to be adequate redress for those who use cancelled badges or who use badges that should have been returned under the regulations. That is part of the teeth of the bill. That does not mean to say, of course, that the circumstances of each case will not be considered closely.

Dennis Robertson has taken steps to ensure that the guidance highlights that care needs to be taken by enforcement officers in identifying the circumstances under which badges are used. That
includes the use of cancelled badges or those which should have been returned. As with the previous amendment, removing powers to take action against those who deliberately misuse the badges will not, in my view, reduce or encourage the reduction of deliberate misuse.

**Stewart Stevenson:** Amendment 2 provides that a person would only be guilty of an offence under section 21(4BZA) of the Chronically Sick and Disabled Persons Act 1970 if that person had cause to know that they were using a cancelled badge or a badge that should have been returned to the issuing authority under the regulations. That would mean that an element of knowledge would need to be proved by the prosecutor.

I oppose the amendment as it introduces an unnecessary complication and would make it very difficult to obtain convictions against those abusing the scheme. This is an area where it would be exceedingly difficult to frame an offence so as to leave reasonable prospect of convicting those who should be convicted while ruling out completely the possibility of action against an innocent party who uses a cancelled badge inadvertently.

As the law stands, each case has to be treated on its own merits. Not all cases will be considered appropriate for report to the procurator fiscal. When cases are reported by the police or a local authority, the procurator fiscal will decide what action to take and whether prosecuting someone would be in the public interest.

We would not expect action to be taken if a person who had reported their badge lost found it and inadvertently used it instead of their replacement badge. The same situation would apply to a carer who transported a badge holder and was unlikely to be aware that the badge holder was using a cancelled badge.

12:45

Those examples are identified in the guidance to support the bill that the multi-agency working group, which I understand includes Inclusion Scotland, is developing. That guidance also highlights the need for a pragmatic approach.

Amendment 3 would remove section 4(2), which amends section 117 of the Road Traffic Regulation Act 1984 to make it an offence to display on a parked vehicle a badge that has been cancelled or which should have been returned to the issuing authority under regulations. I oppose the amendment for exactly the same reasons as I opposed amendment 2.

Amendment 4 would remove section 4, which would mean that neither section 21 of the 1970 act nor section 117 of the 1984 act would provide for it to be an offence to use a badge that has been cancelled or which should have been returned under regulations. Section 2 of the bill gives local authorities the statutory power to cancel badges that are reported as lost or stolen or which should have been returned under regulations. If such a badge is subsequently found to be in use—particularly by a person to whom the badge was not issued—it is logical that that misuse should constitute an offence.

I ask John Wilson to seek the committee’s agreement to withdraw amendment 2 and I ask him not to move amendments 3 and 4.

**Dennis Robertson:** I have little to add. If a badge is lost and then found but another badge has been issued, that could involve a mix-up, which will be taken into account. Everything will be proportionate; I believe that the guidance will illustrate that.

We need to ensure that any badge that is reported as lost does not find its way out into the wider public for use. If an officer finds such a badge in use, it should be confiscated and the person involved should be prosecuted.

**John Wilson:** I will respond to the convener’s question. As he knows, Inclusion Scotland is a national network of disabled people’s organisations and individual disabled people. I do not have to hand the names of the organisations to answer the convener’s question.

In response to what the minister and Mr Stevenson said about the amendments, I am minded to accept Mr Stevenson’s comments that not every case will be the subject of a prosecution, that the system will provide discretion on whether to report cases to the procurator fiscal and that the public interest test will apply, which will ensure that there are no unnecessary prosecutions of individuals who have inadvertently fallen foul of the legislation. I ask to withdraw amendment 2.

Amendment 2, by agreement, withdrawn.

Amendments 3 and 4 not moved.

Section 4 agreed to.

**Section 5—Enforcement officers**

**The Convener:** Amendment 5, in the name of John Wilson, is grouped with amendment 6.

**John Wilson:** Concern remains about the use of non-uniformed enforcement officers for inspection and confiscation of badges. There is no objection to non-uniformed officers undertaking surveillance and checking that badges are displayed on parked vehicles, but for reasons that I have set out we think that only uniformed officers should have the powers to require that a badge be produced, and to confiscate a badge.
The key point is that enforcement officers must be unambiguously identifiable in order to prevent fraud and abuse of vulnerable people. Amendment 6 would remove the provision that will allow deployment of non-uniformed enforcement officers, but would not prevent local authorities from continuing to employ non-uniformed officers to carry out investigatory activity including surveillance and checking the validity of displayed badges against the national database. Amendment 5 is consequential on agreement to amendment 6.

I move amendment 5.

Cameron Buchanan: It does not matter whether officers are non-uniformed; as long as they have the right identification, it should be okay. It will waste officers’ time if a non-uniformed officer who sees a badge has to call for a uniformed officer. By the time that officer arrives, the person will have moved away.

I do not see a particular problem with using non-uniformed officers. It was mooted that disabled people, in particular, will be upset if someone who is not in uniform enforces the scheme, but surely they will not be upset if the enforcement officer shows valid ID. We should give non-uniformed officers the power to confiscate badges. Misuse must be seen as a criminal offence.

Keith Brown: I agree with Cameron Buchanan. Cases of suspected fraud or persistent misuse of a blue badge often require longer-term surveillance and investigation than can be carried out by a parking attendant in the course of their daily duties. Authorities that choose to employ enforcement officers—who may or may not be in uniform—will be able to take a more proactive approach to tackling blue badge misuse through investigations and targeted surveillance, which could result in confiscation of a badge. That is a pragmatic response to blue badge misuse, which I think is Dennis Robertson’s intention. Blue badge holders who comply with the scheme will have absolutely nothing to fear.

It would not be good use of a local authority’s scarce resources if officers were to approach blue badge holders indiscriminately on the street, as has been suggested they might.

When they carry out their duties, enforcement officers need not be in uniform, but they will be required to carry appropriate ID and authorisation, as Cameron Buchanan said.

For those reasons, I support the provision whereby local authorities will have the power to appoint non-uniformed staff to investigate abuse of the blue badge scheme and to inspect and confiscate badges, where that is appropriate.

Stewart Stevenson: Amendment 6 would delete the provision that will enable local authorities to appoint a new class of officer, who might or might not operate in uniform, to enforce the blue badge scheme. Amendment 5 is consequential on amendment 6, because if the new class of enforcement officer cannot be used by a local authority there will be no need for the provision in section 5(3) whereby it will not be an offence to refuse to allow a badge to be examined if “the officer does not produce appropriate evidence of the officer’s authority to exercise the power”.

I oppose amendments 5 and 6, because they would restrict local authorities’ power to take a proactive approach to blue badge misuse. Cases of systematic fraud and misuse cannot always be dealt with at the time by parking attendants, who have wider duties to carry out. Such cases might need longer-term surveillance and investigation.

In addition, when members of the public report cases of suspected fraud or persistent misuse of a blue badge to their local authority, they quite rightly expect that their concerns will be taken seriously and fully investigated.

Local authorities that choose to employ enforcement officers will be able to take a more proactive approach to blue badge misuse. As the minister said, parking attendants, who have wider responsibilities, will not always be able to follow up cases with the longer-term surveillance that might be required to establish a pattern of misuse over time, and to gather supporting evidence.

Of course, all areas of the country might not experience the same level of blue badge abuse, particularly where parking is free.

Misuse and, more seriously, abuse of blue badges could lead to the more than a quarter of a million people who have a genuine need being deprived of access to their parking places, so it should be understood that gathering information and evidence will be a necessary part of tackling the issue. Having the option to deploy plain-clothes staff to undertake enforcement duties is necessary, as it is with plain-clothes police, to support surveillance activities and to protect staff in what may be challenging circumstances. Where local authorities face particular challenges, that option could increase effectiveness and improve outcomes for badge holders.

Like all enforcement staff, those who carry out their duties in plain clothes have a requirement to carry appropriate identification and authorisation—particularly when they approach members of the public. In that respect, they are like any other public official. There is no more potential for fraudulent impersonation of such staff than is the case for other authority holders. I therefore...
request that John Wilson seek the committee’s approval to withdraw amendment 5, and ask him not to move amendment 6.

Dennis Robertson: I concur with Cameron Buchanan’s statement. A valid badge holder has nothing to fear at any time when producing that badge, whether the official is in uniform or not.

The Convener: I invite John Wilson to wind up and to indicate whether he intends to press or withdraw amendment 5.

John Wilson: I welcome the assurances that I have received from the minister and from Stewart Stevenson, particularly in relation to the ID that would be issued to any officer who was appointed by the council to carry out enforcement on its behalf. Although I do not intend to press amendment 5, I hope that the minister and the member in charge of the bill will consider holding discussions with local authorities to ensure that a standardised ID card is issued, which would avoid confusion when they travel from one local authority area to another.

Amendment 5, by agreement, withdrawn.

Amendment 6 not moved.

Section 5 agreed to.

Section 6 agreed to.

After section 6

The Convener: Amendment 7, in the name of John Wilson, is in a group on its own.

John Wilson: As Stewart Stevenson has already said, Inclusion Scotland is a member of the blue badge enforcement working group. I welcome the progress that the group is making on developing a code of practice and guidance that take account of many of the concerns that have been raised. The guidance will cover, for example, circumstances in which a badge can be confiscated, the procedure for returning a confiscated badge, and identification of enforcement officers. It would be helpful if the bill were amended to give statutory backing to that guidance, so amendment 7 seeks to give powers to Scottish ministers to issue guidance and would require authorities to “have regard to” that guidance.

I move amendment 7.

Keith Brown: Amendment 7, as we have heard, seeks to ensure that “Local authorities must have regard to” that guidance. In other words, it seeks to provide statutory underpinning for any guidance that is issued. The committee will be aware from previous discussions that two multi-agency working groups are developing good practice guidance on the bill, which will, in turn, be issued to local authorities and the police. However, I do not think that statutory underpinning of the guidance is required, and I want to assure members that, in respect of parts of the bill that will require that specific detailed provisions be complied with, those provisions will be set down in the regulations. For example, the timescales for return of valid badges to badge holders will be in regulations, as will the requirement on an individual to specify grounds for requesting a review of a local authority decision to refuse a badge.

The policy memorandum and the delegated powers memorandum set out the basis on which certain matters were to be covered by regulations. The Delegated Powers and Law Reform Committee has not raised any concerns about the general approach on delegated powers.

Guidance is just that; it should provide good practice advice on administering and enforcing the blue badge scheme, which local authorities can adapt to suit local circumstances. It has been, and will continue to be, the practice of the Scottish Government to update the guidance on operation of the scheme. Any significant changes are to be made through consultation with the working group; it is important that the guidance can be used flexibly by local authorities in order to fit it in with local arrangements. For those reasons, I do not see the need to provide statutory underpinning for any guidance that is issued in relation to the bill, and I ask John Wilson to seek to withdraw amendment 7.

13:00

Stewart Stevenson: Amendment 7 seeks to provide statutory underpinning for any guidance that is issued in respect of the provisions of the bill. I entirely agree with the views of Keith Brown, the Minister for Transport and Veterans, on that issue. Guidance is under development, and the important thing is that the areas where there is a need to comply with specific regulations will be prescribed in the regulations that will support the bill.

Subsection (2) of amendment 7 states:

“Local authorities must have regard to any guidance issued”.

John Wilson said, helpfully, that authorities are required to “have regard to” any guidance. The phrasing carries with it the danger of converting a power that any local authority “may” use into one
that it “must” use. For that reason, and for all the other reasons that have been expressed, I ask John Wilson to seek the committee’s permission to withdraw the amendment.

**Dennis Robertson:** The minister referred to the two multi-agency working groups. I attend those groups, as does Inclusion Scotland. During the meetings we have worked closely with Inclusion Scotland and other members, and Inclusion Scotland has welcomed the tone of the guidance that is being developed at those meetings. We took on board the comments from the committee at stage 1, and we will ensure that the guidance is appropriate and that it covers the top 10 aspects of the scheme for blue badge holders at any given time.

At stage 1, Cameron Buchanan made reference to the guidance leaflets being very large and far too complex in their layout, so we are working hard with the multi-agency groups to ensure that the guidance is in a format that is appropriate for the badge holder. I believe that the guidance is being developed with the groups, including Inclusion Scotland.

**The Convener:** I invite John Wilson to wind up and to indicate whether he wishes to press or withdraw amendment 7.

**John Wilson:** I take cognisance of the comments that have been made by the minister, and by Stewart Stevenson and Dennis Robertson, about the on-going work that is being carried out by the blue badge enforcement working group and by the other working group to ensure that workable guidance can be developed with the consent of the individuals involved and of the organisations that rely on the blue badge scheme for their members. I therefore seek leave to withdraw amendment 7.

*Amendment 7, by agreement, withdrawn.*

*Sections 7 and 8 agreed to.*

*Long title agreed to.*

**The Convener:** That concludes stage 2. Parliament has not yet determined the date on which stage 3 will take place, but members can lodge stage 3 amendments at any time, with the legislation team. I thank Dennis Robertson, Stewart Stevenson and the Minister for Transport and Veterans for attending this morning, and I thank members for their participation.
Disabled Persons’ Parking Badges (Scotland) Bill - Stage 3: Dennis Robertson moved S4M-10783—That the Parliament agrees that the Disabled Persons’ Parking Badges (Scotland) Bill be passed.

After debate, the motion was agreed to (DT).
Disabled Persons’ Parking Badges (Scotland) Bill: Stage 3

The Deputy Presiding Officer (Elaine Smith): The next item of business is a debate on motion S4M-10783, in the name of Dennis Robertson, on the Disabled Persons’ Parking Badges (Scotland) Bill.

16:42

Dennis Robertson (Aberdeenshire West) (SNP): It has been a great privilege for me to have been able to take forward the Disabled Persons’ Parking Badges (Scotland) Bill as a member’s bill. I would like to begin by inviting members who believe that they might not get an opportunity to participate in the debate to feel free to intervene on me if they have a specific question.

The Disabled Persons’ Parking Badges (Scotland) Bill is an empowering bill: it will empower our people with disabilities to lead full and fulfilling lives by enabling them to exercise their right to use the blue badge to which they are entitled to find legitimate parking spaces in our towns and cities.

I am very grateful to the Local Government and Regeneration Committee for scrutinising the bill at stages 1 and 2. I believe that the scrutiny that it undertook was fair, transparent and just. It considered in great depth questions that many people have been asking for quite some time. Why are we only now trying to ensure that people who have a blue badge can use it in a manner that gives them the freedom that I mentioned?

At stage 2, Inclusion Scotland lodged some amendments, and I am grateful to the committee for scrutinising them and giving them a great deal of consideration. I think that the conclusion was that, during the consultation process, people with disabilities believed that proceeding to enact the bill was the right and proper thing to do.

The consultation allowed me to listen to people with disabilities across Scotland. In the consultation meetings that we had in Aberdeen, Glasgow and here in Edinburgh, people with disabilities and organisations representing them were afforded the opportunity to ask important and appropriate questions about what was being proposed to ensure that we took forward what the bill was intended to achieve.

Under the Chronically Sick and Disabled Persons Act 1970, which introduced what was then the orange badge, people with disabilities were for the first time given concessions with regard to parking rights. However, it quickly became clear that the system was open to abuse. People came up with counterfeit badges, badges
were being openly transferred, and third-party misuse was rife. It was felt that the legislation needed to be tightened up, and steps in that direction have been taken throughout the years. I now believe that the current badge system is robust, and, because of the unique number that each badge has, there should be little or no opportunity for fraudulent behaviour or copying.

In fact, the badge’s unique number is very important, because it will enable those who look at it, whether they be the police, traffic wardens or other local authority representatives who are charged with enforcing the system, to find out the badge’s legitimate owner. If they suspect that a badge is being misused, they can run a check. If, for example, the person using the vehicle is in their early 20s and the badge has been issued to someone in their 80s, the people who enforce the system will have every right to approach the person in question and ask whether the badge is legitimate or whether it is being misappropriated.

It is already illegal to use a badge that should have been returned because, for example, of the owner’s death, or to use a badge that has been lost or stolen, so people must be made aware that such actions are criminal offences. Indeed, it is only right and proper that people with disabilities themselves take some responsibility for their blue badges. During the consultation process, it became very clear that many people who have a blue badge were not aware of the rules and regulations about their use. One of the biggest complaints that we hear is that people think that third-party misuse is okay because the person who is using the badge is, say, going to the shops on behalf of the person with the disability. Of course, that is not the purpose of the badge, but if people with disabilities think that that sort of thing is okay, that suggests that we need to think about educating those people about the use of badges.

During the consultation process, we decided that it would be in the best interests of people with disabilities to set up two working groups. Those groups include representation from Police Scotland, local authorities and people with disabilities, and we are looking at producing for those who are issued with a blue badge something that will be an easy read that will make things clear and which will give, say, the top 10 tips for its use.

My thanks go to people with disabilities because, without the consultation process and their guidance, we would not be at the stage that we are at today.

Why do we need the bill? We need it because people think that it is okay to park in disabled parking spaces without a blue badge. As I said, people also think that third-party misuse of a blue badge is okay, although it is not. We as a society should not tolerate that. We should look at the impact of such misuse on people with disabilities. When someone misuses a badge, they do not just take a parking space; they also deny a parking space to someone with a disability. When that person is denied a parking space, they might have to return home and might not be able to do what they went into town for, whether that be leisure, pleasure or business—it makes no difference. People need to understand that they are not just taking a parking space that was available; they are denying a parking space to someone with a disability who is looking for one.

Just the other week, someone said to me, “I know it’s wrong, but I was in a hurry—I was going to be late for work. I couldn’t find a parking space, so I just parked in the blue badge space.” Such excuses should not be acceptable to us. They are not acceptable to me and I do not think that they are acceptable to the Parliament. I sincerely hope that we will hear other examples this afternoon that show why we need to pass the bill.

I move,

That the Parliament agrees that the Disabled Persons’ Parking Badges (Scotland) Bill be passed.

16:52

The Minister for Transport and Veterans (Keith Brown): I am pleased to support Dennis Robertson and to commend him for the work that he has undertaken in developing the bill.

I thank the Local Government and Regeneration Committee, the Finance Committee and the Delegated Powers and Law Reform Committee for considering the bill and the evidence from the agencies with an interest in the blue badge scheme’s operation—particularly disability groups, which Dennis Robertson mentioned.

The bill takes a number of steps to strengthen enforcement powers for local authorities when dealing with blue badge misuse. It will allow the confiscation of badges that are no longer valid or which are being misused by third parties; make the use of a cancelled badge or one that should have been returned to the issuing authority under the blue badge regulations an offence that sits alongside the existing statutory offence of misuse of a blue badge; allow local authorities, should they choose to do so, to use plain-clothes officers who are carrying identification and authorisation to inspect and confiscate badges; and introduce an important requirement for local authorities to have in place a review process for applicants who have been refused a blue badge.

On the surface, elements of the bill might appear punitive. However, its aim is to protect the rights of disabled blue badge holders and it responds to calls from badge holders for better
enforcement of the scheme. Concerns have been expressed—primarily by Inclusion Scotland—about the confiscation of badges from third parties and the use of plain-clothes officers, but Dennis Robertson has been thorough in his consideration of and consultation on the issue. He has sought to protect badge holders by ensuring that all valid badges that have been confiscated will be returned to the badge holder as soon as is practicable.

In turn, local authorities want to ensure that badge holders can use their badges, whether as a driver or a passenger, for the intended purpose and within the scheme’s rules. The scheme provides street parking concessions to assist badge holders to live independent lives.

In response to the concern that Inclusion Scotland raised that plain-clothes officers will cause fear and alarm to badge holders or that such officers might be impersonated for fraudulent purposes, I agree with the conclusions that the Local Government and Regeneration Committee reached in its stage 1 report. Non-uniformed council officers already operate in a range of areas across Scotland without the difficulties that Inclusion Scotland suggested. The intention behind the bill is that non-uniformed officers will improve enforcement of the blue badge scheme by carrying out surveillance and gathering information and evidence on the systematic abuse of blue badges.

It is worth bearing in mind that someone misusing a blue badge or someone using a blue badge that is not rightfully theirs can save many thousands of pounds a year in certain parts of the country. Abuse of the scheme often involves the use of a person’s badge by a friend, family member or carer for their own benefit but it can extend beyond that. I understand that there is also a relatively lucrative trade in forged badges. The lure of free parking is a temptation that some people cannot refuse.

The bill also extends powers to the police and to traffic wardens to confiscate badges. I am happy to say that we are working with local authorities and Police Scotland to provide the police with access to the blue badge national database, which means that they will be able to check the status of blue badges anywhere in the country.

The bill is designed to fit in with existing powers and practices. Dennis Robertson has not been working in isolation. As we heard, he has been working closely with two working groups that have representation from local authorities, Police Scotland and third sector organisations to ensure that the bill translates and can easily work alongside current processes.

The provisions will be supported by guidance that will be developed by those multi-agency groups to address the requirements of the legislation. The guidance will also take into account the need for sensitivity and proportionality, which concerns were expressed about at stage 2.

Dennis Robertson’s work has been the catalyst in identifying a need to raise awareness of the blue badge scheme’s rules and regulations among badge holders, their families, carers and the wider public. I am pleased that that work is being progressed through those working groups.

The intention is to identify ways to clarify the purpose of the blue badge scheme and the impact of misuse on disabled people. I am sure that local authorities and the third sector will assist in getting across the messages about the scheme to the wider public.

I am pleased to say that Transport Scotland has commissioned work to test the understanding of blue badge holders of the proposed top 10 tips for using a blue badge. The tips are intended to act as an aide-memoire for badge holders, their relatives and carers on the dos and don’ts when using a blue badge. That concept was supported—perhaps even initiated to some extent—by the Local Government and Regeneration Committee.

Although the bill is primarily about increasing enforcement powers in practice, it will also send out a strong message to those who might think about using someone else’s badge for their own gain. I hope that it will make them think again about doing that. Misuse of a badge should be not only illegal but socially unacceptable.

Each time a blue badge is used for anything other than the purpose for which it was issued, not just one badge holder but many are prevented from getting on with their lives because they are prohibited from accessing the parking concessions to which they are entitled.

I thank Dennis Robertson for his work so far. The Scottish Government is very supportive of the bill.

16:57

Mark Griffin (Central Scotland) (Lab): I welcome the opportunity to speak on the Disabled Persons’ Parking Badges (Scotland) Bill at stage 3, and I congratulate Dennis Robertson on the progress that he has made so far. I know how much hard work goes into a member’s bill and I know how hard Mr Robertson must have worked, even with Government support, to get to this stage. I hope that his hard work is paid off with the passing of the bill. I am sure that it will be, since
Labour is supportive and Labour members will be voting in support of the bill at decision time.

We welcome the bill’s main objective to protect the rights of blue badge holders. We recognise that misuse of blue badges must be tackled because it can lead to blue badge holders not being able to access a parking space when they need it—and they need those spaces more than anyone else—and to a reduction in revenue for local authorities. Misuse also contributes to a public feeling of animosity towards badge holders when people see blue badges being used fraudulently.

We continue to seek assurances from the Scottish Government that it will work with its multi-agency group to ensure that blue badge holders are properly educated on how their badges can be used so that disabled people who inadvertently misuse their badges are not penalised by the bill’s provisions. I welcome the minister’s comments on the advice and guidance that will be given to genuine blue badge users.

We look to see that local government in Scotland will be properly supported and financially resourced to implement the bill’s provisions, in particular in relation to enforcement. The Convention of Scottish Local Authorities is relaxed on the financial impact of the review of provisions and it is comfortable with those measures.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): Can local government officers enforce in places such as supermarket car parks or private car parks where there might be an abuse, or can they do so only in public places? I am curious about that, because I do not know the answer.

Mark Griffin: My understanding is that private operators would need to come to some sort of agreement with local authorities or the police to enforce the provisions in a private area and that the proposals apply only to public car parking spaces.

The bill is designed to strengthen some of the enforcement aspects of the current legislation and ensure that there is a statutory review in order to ensure that people who are entitled to a blue badge receive one and that people who use a blue badge are legitimately entitled to it.

At stage 1, I said:

“This bill follows Jackie Baillie’s Disabled Persons’ Parking Places (Scotland) Bill, the intention of which was to prevent disabled persons’ parking places from being occupied by people who are not entitled to use them, by making disabled parking bays enforceable and ensuring that enforcement action”

against those who use them without a blue badge “could be taken.” —[Official Report, 20 May 2014; c 31210.]

Sandra White’s proposed bill on responsible parking quickly followed. Sandra White is not in the chamber, but I recall her being frustrated that Dennis Robertson’s bill had overtaken hers in the parliamentary process. I am sure that she will have been in touch with the Minister for Parliamentary Business about that. Her bill aims to allow freedom of movement for all pedestrians by restricting parking at dropped kerbs and on pavements and double parking. That affects disabled people, as they may find it difficult to negotiate wheelchairs on pavements or across roads if the way is blocked by a parked car.

To me, those three pieces of legislation complement one other well. Combined, they will go a long way towards making our towns and cities much more accessible to people who have a disability.

The proposed powers in the bill will be a welcome addition to local authorities’ powers in tackling blue badge misuse and its impact on genuine users, as long as they are supported financially to enforce the powers. In particular, local authorities will have the power to cancel a badge that is no longer held by the person to whom it was issued to combat badges being passed on to other people. As the minister said, that seems to be quite a lucrative trade. The savings that someone could make by parking in Glasgow city centre, for example, run into thousands of pounds. Local authorities will welcome that power.

As I said at the outset, we support the bill. We will support it in the vote, and we look forward to its becoming an act and improving the lives of genuine blue badge holders across Scotland.

17:03

Cameron Buchanan (Lothian) (Con): I should start by redeclaring an interest as a blue badge holder. As a blue badge holder and a fellow MSP, I reiterate my congratulations to Dennis Robertson on bringing forward the bill and I express my whole-hearted support for it.

To respond to Christine Grahame’s question about supermarkets, there cannot be parking enforcement there because the ground is private, but it is hoped that the word “shame” will come into things and that the public will eventually realise that what happens is simply not acceptable. However, I am afraid that there is nothing that we can currently do about private parking spaces.

In the earlier stages, I outlined why I supported the bill. It brings a much-needed improvement in the administration and enforcement of the blue badge scheme as well as wider recognition of its importance. It is crucial that any update to the
scheme brings tangible benefits to blue badge holders without placing undue burdens or legal concerns on them. The bill strikes that balance.

I strongly support highlighting the reliance of blue badge users on the scheme to freely carry out everyday tasks, as well as the need to close the gap in perception between those who believe that occasional misuse is acceptable and legitimate users who greatly depend on its benefits being available.

I highlighted previously a number of finer points that had yet to be discussed adequately in the bill's early stages, including the issues of non-uniformed enforcement officers, penalties and the powers of confiscation. Amendments covering those issues were lodged and, although later withdrawn, led to constructive discussion, and I am pleased to say that I continue to support the bill in its entirety.

A range of views were expressed on the role of non-uniformed enforcement officers. Along with others, I was lobbied by Inclusion Scotland. It expressed the view that enforcement officers should be uniformed. However, we reached agreement in the Local Government and Regeneration Committee that the bill's provision for non-uniformed enforcement officers would benefit the scheme and could be implemented smoothly.

The main issue is to pass a bill that strikes the balance between the most effective way of enforcing the legislation and showing—this is very important—an appropriate level of sensitivity to blue badge users and their personal circumstances. We rightly focused on how officers would be identified to users and how assurances could be given to organisations such as Inclusion Scotland. The committee was reassured that all officers would carry identification cards. The bill therefore strikes that balance.

That leads me on to a similar point with regard to penalties. The Law Society of Scotland highlighted concerns over the inclusion of a criminal strict liability offence for using a badge once cancelled and, in doing so, it used the sledgehammer-to-crack-a-nut analogy. However, the committee also considered Police Scotland’s views. It raised strong points in favour of the bill’s existing penalty provisions. Our task was to ensure that the bill struck an ideal balance between delivering improvements to the scheme and protecting its users. Fortunately, the views of Police Scotland prevailed.

On that point, it was mentioned that penalties imposed after unintentional misuse could hurt vulnerable users. Although an amendment motivated by such concerns was lodged, we were reassured that a person could be found guilty of an offence only if a level of knowledge or intent could be proven. Despite that, it is apparent that the enforcement of the legislation will require local authority officers and the police, where appropriate, to exercise their duties with a good deal of care and sensitivity.

Although we were agreed that in clear-cut cases of fraud we expect the perpetrator to be prosecuted, we would all expect discretion to be shown in the more complex cases that will undoubtedly arise. The bill allows for such flexibility and will minimise incidents of innocent misuse through clearer communication to blue badge holders. The proposed 10-point card will answer any questions in that regard. For example, the current instructions are too complicated and everyone who receives them—me included—simply flings them in the drawer.

For similar reasons, it is important that we consider carefully the implications of any new powers granted to the enforcement officers. With that in mind, we had a necessary discussion on the extension of powers to confiscate badges. Although a fellow committee member lodged an amendment to limit the proposed powers to non-valid badges only and not third-party use, it was agreed that the existing powers would substantially benefit genuine users, because abuse would be discouraged and parking spaces would therefore be freed up. Furthermore, reassurances were given that badges would be confiscated only for justifiable reasons and that valid badges would be returned within a maximum of 14 days, which is also important.

In previous debates, I touched on funding, which is an issue that is necessary to consider. However, the bill is proportionate in its resource requirements, and it will be manageable to enforce. The sensible decision against establishing an external review process is an example of that.

I am pleased to note that the bill’s implications have been discussed extensively and properly considered. As I have highlighted, the main consideration throughout has been to ensure that the ideal balance is struck between delivering scheme improvements and protecting its users. The bill achieves that balance, and it will bring benefits to the genuine blue badge scheme users, including myself. As a result, I am delighted to support the bill.

The Deputy Presiding Officer: Before we move on to the open debate, I am minded to accept a motion without notice on behalf of the Parliamentary Bureau.

Motion moved,

That, under Rule 11.2.4, Decision Time be brought forward to 5.50 pm.—[Joe FitzPatrick.]
Motion agreed to.

17:09

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): Like others, I congratulate Dennis Robertson on bringing forward the bill, which I am sure is going to be successful at 17:50.

As a bill, it is perhaps a return to the way in which the old Scots Parliament legislated. The Common Good Act 1491 was a mere four lines long. Dennis Robertson’s bill has the clarity in conception, the purity of purpose and the economy of expression that is contained in a mere four lines in the Common Good Act. Of course, the member’s bill process in this Parliament lends itself to tightly focused and clearly expressed and articulated pieces of legislation. I think that others might usefully learn from that process, which is open to all, even if Sandra White may be one of those who are disappointed.

The core of the Disabled Persons’ Parking Badges (Scotland) Bill is to improve life for people with some disability that requires them to have help with parking. We need to think in terms of the dignity of the people who have a disability. My experience of that was in the early 1970s when a couple of colleagues who were blind were able, for the very first time, to receive their bank statements in Braille. Up to that point other people had had to read their bank statements to them, and that was a loss of dignity because their confidential information had perforce to be shared with others.

By the same token, when we ensure that there is adequate parking at the end of what may be an essential journey or a leisure journey—it is not for us to decide—and an actual parking place for someone who needs it because they are disabled, we confer upon that person the dignity that we are all entitled to expect. I think that the bill is excellent because it ensures that we share more widely the dignity to which we are all entitled.

There has been a bit of discussion about the powers of the enforcement officers and the matter of a uniform. In 1968, my summer job as a student was as a water bailiff. I had a warrant card, I could arrest people and I had the untrammelled right of entry into any premises without cause shown, but I had no uniform. That had been the case for water bailiffs for a very long time. Such people can have powers without having a uniform and they can be justly provided, and people were used to the idea that water bailiffs did not have uniforms. The difference in this case, of course, is that enforcement officers will be new. We therefore need to have some tact and diplomacy in the early days in which they operate.

Quite properly, Inclusion Scotland has focused on the potential for enforcement officers, traffic wardens and policemen to confiscate blue badges unnecessarily and inappropriately. I think that Inclusion Scotland has a valid point. That is why, in the introduction of an enforcement regime that will contribute enormously to people with disabilities, we need to be careful how we do it.

People who have disabilities do not necessarily see themselves as other parts of society might see them. For example, my mother was 4 foot 10 and a half and she walked with elbow crutches for most of her adult life, but it was different when she got behind the wheel of the Mini Cooper S that she drove. I remember being with her in the car—before Barbara Castle introduced the universal speed limit—as she did 100mph down the Baiglie straight.

Transport can sometimes be transformative; it was for my mother. Let us make sure that in providing parking at the end of the journey—people should not travel at 100mph as it diminishes the chance of getting there—we will enhance the lives of certain people and give them the dignity that they deserve.

17:13

Anne McTaggart (Glasgow) (Lab): As a member of the Local Government and Regeneration Committee, I have had ample opportunity to consider in detail the proposals in the bill and the subsequent amendments to it. I would once again like to thank Dennis Robertson for bringing this important issue to the attention of the Scottish Parliament, and I commend his efforts in raising awareness of the damaging consequences of the misuse of our blue badge scheme. I reiterate that I support his member’s bill and I acknowledge that it is likely to deliver a reduction in disabled parking badge fraud. I am hopeful that that will lead to an increase in the number of parking spaces that are available to genuinely disabled people, and that that will, as a consequence, improve the quality of life of those who suffer mobility issues.

Local authorities face a significant problem in distinguishing between genuine and fraudulent badge holders. I have learned through the evidence that the Local Government and Regeneration Committee gathered through the progress of the bill that nearly 80 per cent of blue badge holders have directly experienced abuse of the system. The bill has the potential to reduce substantially the inconvenience that that causes disabled drivers.

My support for the bill arises from the conviction that those who are entitled to a blue badge should be able to access disabled parking bays when they need to. The availability of accessible spaces should never be compromised by the self-interest
of those who use blue badges for convenience alone.

I believe strongly that the Scottish Government should seek to work with key stakeholders, including local authorities, to ensure that the bill is implemented consistently across the country and does not cause unnecessary confusion among genuine badge holders. I continue to believe that badge holders should be provided with comprehensive and accessible information on how their badges can be used. That would provide reassurance that disabled people who inadvertently misuse their badges are not penalised by the provisions of the bill.

I acknowledge Inclusion Scotland’s concerns that a disabled person or a carer may be criminalised when they inadvertently use a badge that has been cancelled—for example, if it has been reported lost, and has subsequently been found before the replacement has been issued. I am therefore grateful for recent assurances that no action will be taken against individuals in those circumstances. I am confident that that commonsense approach will be maintained after the bill’s implementation, and I anticipate that genuine badge holders will benefit from the policy.

Local authorities should be fully resourced to implement the bill’s provisions, including both the enforcement and review elements of the blue badge application process. I would be concerned if local authorities were tasked with implementing the new assessment and enforcement provisions without the appropriate level of funding to allow council officers to carry out their duties effectively.

Notwithstanding that concern, I am delighted to confirm my support for the bill, and I look forward to my disabled constituents receiving the benefit of an increased number of accessible parking spaces across their city. I thank Dennis Robertson and the Scottish Government civil servants for their hard work, at every stage, in bringing the bill to Parliament.

17:18

Jim Hume (South Scotland) (LD): I welcome the opportunity to participate in the final stage of the bill, and I congratulate Dennis Robertson on all his good work in bringing the bill this far. I look forward to the bill being passed later today.

The blue badge scheme is an extremely important tool to enable the independence and lifestyles of those with mobility issues who would otherwise face unacceptable difficulties in maintaining regular day-to-day activities. The scheme must be preserved and protected from those who would abuse it. Each time a blue badge is misused on a car that is parked in an area where only those who hold valid blue badges are allowed to park, genuine blue badge users are denied use of a space. That is particularly problematic in city centres, where parking charges can be quite prohibitive and have led to people abusing blue badges to try to park on the cheap.

According to an officer from the City of Edinburgh Council:

“between 52 and 70 percent of all badges that are on display will be being misused.”—[Official Report, Local Government and Regeneration Committee, 26 March 2014; c 3278.]

That is a staggering figure, although I understand that there are some—Inclusion Scotland, for example—who have reservations over the veracity of that claim. Nonetheless, badges are being abused and that must be tackled.

During stage 2, John Wilson lodged a number of amendments on behalf of Inclusion Scotland, due to some concerns over the bill that they shared. I had some sympathy with John Wilson’s amendment 1, which sought to limit the power of confiscation so that only non-valid badges could be confiscated. Like other members, I worry that eligible badge holders might have their badges confiscated due to the actions of third parties and then be left to face the consequences. I accept that the power is important if we are to discourage abuse and free up spaces for people who genuinely need them, but I do not want people who desperately need their badges to go without them for any length of time.

I was satisfied with the reassurance that was given to the committee that valid badges will be returned to holders within 14 days of confiscation, along with an explanatory letter that reminds the holder of their responsibilities. That approach is proportionate. However, I expect the Scottish Government to monitor whether holders routinely get their badges back within two weeks.

Given that a new strict liability offence will be created, it will be important for all badge holders to be aware of their responsibilities, to ensure that they do not inadvertently misuse their badges. The booklet that is currently distributed to holders is certainly a bit clunky, as Scottish Government officials acknowledged when they gave evidence, so I welcome officials’ work to produce a more appropriate document.

I welcome the good progress that the blue badge reform working group is making towards developing a code of practice. A key element of that guidance will be about ensuring that enforcement officers always deal with people sensitively. Disability equality awareness should be a focal point of guidance and should be uppermost in the minds of officers on duty. That is extremely important.
The bill aims to strengthen the existing framework and to safeguard the rights of disabled people. Dennis Robertson must be congratulated. He was right to introduce the bill; I look forward to supporting it later this afternoon.

17:21

Kevin Stewart (Aberdeen Central) (SNP): I pay tribute to Dennis Robertson for introducing the bill, which I hope will receive unanimous support. Like many other members, I realise that it is not always easy to steer a member’s bill through Parliament. As well as paying tribute to Mr Robertson, we should acknowledge the work that his staff have done in getting the bill to this stage.

I thank my colleagues on the Local Government and Regeneration Committee for being as assiduous and collegiate as they normally are, and I thank all the folks who gave evidence and took part in the written consultations and the events in Aberdeen, Edinburgh and Glasgow.

We should also recognise the efforts of the Transport Scotland officials who have been working on the issue, and who brought a huge amount of common sense and gumption to the task of achieving an entirely workable approach. Many members, particularly those who have served on local authorities, know how difficult it can be to deal with blue badge issues. The bill will strengthen our hand and ensure that we have a much fairer system.

Mr Robertson’s proposal was for

“a Bill to strengthen the Blue Badge Scheme enforcement powers, including powers to cancel and confiscate badges in certain circumstances, and to provide an appeals process for applicants when their Blue Badge application is refused on eligibility grounds.”

The commonsense proposal was supported by 41 members of the Scottish Parliament: 33 Scottish National Party members, seven Labour members and Jean Urquhart MSP. I hope that members who could not sign the proposal or who chose not to do so will unite behind a bill that has been pretty well scrutinised and has produced good options.

Mr Robertson’s proposal was for

“The Deputy Presiding Officer (John Scott): I call Cameron Buchanan. You have a generous four minutes, Mr Buchanan.

17:26

Cameron Buchanan: There are still many anomalies with blue badge parking that we need to consider. For example, holders sometimes have to pay parking fees and there is an issue about whether people can park to unload on single and double yellow lines. When I was in London recently visiting Westminster, I found that people have to pay for parking even in blue badge areas. However, that was not clearly indicated, so I actually got a parking fine.

Surprisingly, one of the countries on the continent with the harshest penalties is Italy. The disabled parking spaces there are rarely abused, because the penalties are so harsh. One would not normally think that.

I cannot add much more, having had the history lesson from Stewart Stevenson, the eloquence of Anne McTaggart, the usual reasonableness of Jim Hume and the congratulatory messages from Kevin Stewart. We all agree, so I really do not need to say more. As members will gather, I am very supportive of the bill.

The Deputy Presiding Officer: I call Mark Griffin. You have an even more generous four minutes, Mr Griffin.

17:27

Mark Griffin: The debate has been relatively short, and that was certainly a short speech from Cameron Buchanan. Mine will not be quite so short.

The debate has been consensual, and there have been no amendments to consider at stage 3, which reflects the general support from witnesses and from the Local Government and Regeneration Committee. All that is testament to the hard work that Dennis Robertson has carried out with the steering groups that were set up, and to the work that has been done with local authorities, the police and Transport Scotland.
In my opening speech, I outlined why we support the bill, which will bring much-needed improvement to administration of the blue badge scheme. During the stage 1 debate, the minister pointed out that a particularly determined individual could save about £6,000 a year in parking charges by fraudulently using a blue badge in one of our city centres. In itself, that is a shocking misuse, but it is compounded by the fact that the parking spaces are no longer available to genuine badge holders.

We have concerns about the financial impact on local authorities. We have been reassured that they can cope with the additional costs of review, but we still have questions about their ability to resource the enforcement aspect meaningfully. Regardless of that question, the bill should, we hope, result in increased revenue to councils, as misuse of blue badges is reduced from the current level.

I mentioned in my opening speech that there is a great deal of synergy between the bill, other legislation that has been enacted—Jackie Baillie’s Disabled Persons’ Parking Places (Scotland) Bill—and a bill that is in the pipeline: Sandra White’s proposed responsible parking bill. Those three combine well to improve the situation for disabled people and will go a long way towards making our towns and cities much more accessible to people who have a disability.

Section 1 of the bill sets out how the badge will be improved. That should address the issue with people tampering with an expired badge to extend the expiry date or by changing the photo. Some of the evidence that has been given indicates that the tampering and misuse of badges in that way can be fairly lucrative, with free parking on offer in many areas where it is expensive to park without the badge. Section 1 should reduce the costs of that lost revenue to local authorities and open up spaces for use by genuine badge holders.

The measures in the bill will be a welcome addition to local authorities’ powers to tackle blue badge misuse and the impact that it has on genuine users, as long as they are supported financially to enforce the measures.

Although we have always been supportive of the bill, we seek assurances that there will be an education campaign to inform genuine blue badge users of exactly what they can and cannot do with their badges. I welcome the minister’s comments on the guidance that will be issued to resolve some of the issues on that.

We will support the bill at decision time and look forward to it becoming an act and improving the lives of genuine blue badge users across Scotland.

The Deputy Presiding Officer: I call the minister, Keith Brown, to wind up the debate on behalf of the Government. Minister, you have a very generous six minutes.

17:31

Keith Brown: Thank you very much, Presiding Officer.

I thank members for an informed and interesting debate. There has been a degree of consensus—not entirely by accident: the work that Dennis Robertson did in the earlier stages of the bill, both in the Parliament and with the interested parties who have been involved, led to some of the earlier concerns and proposed amendments being dealt with effectively, so much of the credit goes to him. Once again, I commend him for his work on taking forward the Disabled Persons’ Parking Badges (Scotland) Bill.

I also reiterate my thanks to the two multi-agency working groups for their work in support of the bill. I echo the points that Kevin Stewart made about the work done both by Dennis Robertson’s staff and by officials in Transport Scotland, who have been effective in providing support through the process.

Kevin Stewart: The minister again mentioned the two working groups that are considering various aspects. Will the Parliament have an opportunity to consider and help improve the guidance? The best things about the process have included the level of input from various folks and, as I said earlier, the fact that common sense has been applied at every stage.

Keith Brown: I am happy to give the undertaking that we will look into how best we can involve the Parliament in that process, not least because the Local Government and Regeneration Committee made a suggestion about trying to simplify things. We will consider how best we can consult the committee and others.

The bill should not be seen in isolation. It complements a number of reforms that have been made to the scheme over recent years with the aim of providing a parking concession that enables disabled people who could not otherwise do so to have access to the day-to-day things that most people take for granted, such as healthcare, work and social activities.

The Scottish Government is continuing with that intention through the way in which it has been tackling the impact of the UK Government’s welfare reform programme. I will give some detail about that because, although the issue has not been raised to a huge extent so far, it provides the context for the proposed changes, and the time
that we have available provides us with a chance to examine it further.

It is clear that the UK Government’s changes to the welfare system—including, crucially, the change from disability living allowance to the personal independence payment—are causing significant anxiety and distress to people in Scotland. I have had members from all round the chamber write to me about individual cases to do with blue badges over recent months.

It is completely unacceptable that some of the most vulnerable in our society are not getting the support that they need. However, our work has gone far beyond the steps that have been taken to protect blue badge holders in England and Wales. Of course, we believe that the best solution is for the Scottish Parliament to have control over welfare matters.

Last year, in establishing arrangements to allow those who receive the personal independence payment to passport automatically to the scheme, we recognised the potential impact of the decision to tighten the threshold that must be passed in order to receive the highest rate of PIP. That is why the passporting arrangements for PIP extend to those who receive the standard rate at 8 points or more for the “moving around” activity. That measure, which was taken by the Scottish Government, ensured that the passporting arrangements for PIP and disability living allowance were as equivalent as possible.

Obviously, we continue to monitor other proposed changes. We have also taken further action to mitigate the potential effects of PIP by including two further eligibility criteria to cover those people who passported under DLA but who do not receive PIP at a rate that enables them to passport following reassessment for the new welfare benefit.

Kevin Stewart: Like the minister, I would like to see the demise of personal independence payments, which are really frightening some folk. I am pleased that the Scottish Government has made moves to ensure that as many folk as possible still qualify for passported benefits. One of the things that I come across—as do others, I am sure—is the fact that information about those moves is not getting out. Could the minister commit to contacting some of the relevant charities about what the Scottish Government has done?

Keith Brown: I am more than happy to consider that further. We have done a great deal of work, because we know how important the issue is. To put the matter in plain terms, some people who were eligible for the blue badge scheme and could passport into it automatically have been affected by the decisions and are asking why they have to be reassessed, for example. If there is anything further that we can do to ensure that the message is spread, we will certainly do it.

The first of the new criteria that we have included applies to those who do not receive PIP at the passporting rate and who are challenging that decision with the Department for Work and Pensions. The second new criterion ensures that those who were in receipt of a lifetime or indefinite higher-rate DLA award will continue to retain passporting entitlement to a blue badge, irrespective of the outcome of the PIP application.

In addition, we have also mitigated the well-reported delays to the PIP assessment process by ensuring that those who have applied for PIP but have not received their PIP decision by the time that their higher-rate DLA ends will continue to passport to the blue badge scheme.

In the white paper, we have made it clear that, if we are elected as the first Government of an independent Scotland, we will halt the further roll-out of personal independence payments. That will allow the first Government of an independent Scotland to design a welfare system that meets Scotland’s needs—especially the needs of the people who need to access the blue badge scheme.

We want the right people to have a badge. We also want a scheme that is fit for purpose. To go back to Dennis Robertson’s speech, without the strengthened enforcement powers that the bill provides, disabled badge holders might not reap the benefits to which they are entitled. That is the real point at issue. We need to ensure that those who need a blue badge are the ones who get it.

Christine Grahame raised an issue about supermarkets. As Mark Griffin rightly says, the Government has no control over that, as those car parks are private spaces. However, I wrote to the supermarkets some months ago to ask them to look into the matter to see what more they could do to protect the rights of people with disabilities. I think that we have all had the experience of going to a supermarket whose disabled bays are completely full and seeing someone with a disability having to struggle further than they should have to, given that it was perfectly clear that some people who were using those bays did not require them. If, as I suspect that it will be, the bill is passed, I undertake to write again to the supermarkets to draw their attention to what we have done and to see whether there is any way in which we can strengthen the situation in that regard.

Once again, I thank Dennis Robertson for the work that he has done and the way in which he has brought people together and dealt with the
concerns that have been evident throughout the process.

**Stewart Stevenson:** Before the minister finishes, will he take an intervention?

**Keith Brown:** As long as it is not an application to be a non-uniformed officer.

**The Deputy Presiding Officer:** Anything is possible with Mr Stevenson.

**Stewart Stevenson:** Will the minister inform us a little bit about the enforcement process when badges are validated? We heard in the debate that the enforcement officer would recognise that a badge was for somebody who was 75, whereas the person in the vehicle was 40. In designing the badge and the enforcement system, how are we going to reconcile the need for privacy for the badge holder—I understand that we are not putting photographs on the badge for that reason—with the need for accurate information?

My driving licence—and everyone else’s—has a coded six-digit number that gives my birth date and gender, but the encoding is so crude that it can be broken in 3.5 seconds. How is the Government going to take forward protecting people’s right to privacy while ensuring that we have a clear and unambiguous means by which those who are enforcing the use of badges can do so appropriately?

**Keith Brown:** I would not want to steal Dennis Robertson’s thunder—he might want to respond to those points—but some of those challenges have been dealt with in the most recent reforms to the blue badge scheme, whereby the security of both the database and the badge itself has been upgraded. I have said that we are in discussions with Police Scotland to allow the police to access the database. That should be the means by which we make sure that we get the system right, so that those who are challenging people are aware that a particular badge plainly does not belong to the person using it. The unique identifier that Dennis Robertson mentioned will help in that regard. Perhaps he will want to say more about that in his closing speech.

I am convinced that the changes that we have made recently and the ones that Dennis Robertson has proposed have bolstered a very secure system. The bottom line is that it should ensure that disabled people’s parking spaces—of course, the blue badge also gives people a wider discretion to park elsewhere—are used only by those who are parking there legitimately and who want and need to do so, and that we try to eradicate the practice of people using them who are not entitled to do so. If we do that, it will be a real achievement for Dennis Robertson’s bill.

**The Presiding Officer (Tricia Marwick):** I call Dennis Robertson to wind up the debate. Mr Robertson, you have eight minutes.

17:42

**Dennis Robertson:** In winding up, I first extend my sincere thanks to those who managed to speak during this short, but very important, debate. I also offer my genuine thanks to the minister for supporting me through the process and to the team from Transport Scotland, without whose guidance I think I would have found it virtually impossible to take the bill forward. They were absolutely fantastic at guiding me through the process. As Kevin Stewart rightly said, thanks should also go to my own staff, who have been extremely supportive. I also extend my thanks to the Local Government and Regeneration Committee for its scrutiny of the bill at stages 1 and 2. Stewart Stevenson was appointed at stage 2 to enable the process to meet the requirements of Parliament, so I extend my sincere thanks to him for assisting me in the process at stage 2.

As we have said before, the bill is small, but it will have a significant impact for people with disabilities, given the powers that we are looking to provide to local authorities. It is about enforcement. As has already been said, any enforcement will be done sensitively and in a manner that will not cause anxiety to badge holders.

I thank the minister for addressing most of the points that Stewart Stevenson raised in his intervention. All blue badges will continue to have a photograph, but it is at the request of people with disabilities themselves that the badge will remain face down. It is the unique identification number on each badge that will ensure that the badge holder will be identified in any enforcement process.

Cameron Buchanan mentioned the analogy of taking a sledgehammer to crack a nut. There is no intention of doing that—there will be no need to, because we will have the information on the database. We will not go to every blue badge holder and investigate, because there is no reason to. What we are trying to do is to establish the evidence of a pattern of misuse. Gordon Catchlove does that in Edinburgh. When he gave evidence to the Local Government and Regeneration Committee at stage 1 he explained how he goes about his function. It is at that point that we can determine whether a badge is being misused.

The bill represents a review process. Since the new criteria came about, the right of review if their application is turned down has not been afforded to a person with a disability. Their application will
now be looked at again and the criteria examined to ensure that, if the person genuinely requires a blue badge, they will be afforded one.

At stage 1 of the bill, only 20 local authorities had a review process; I can confirm that all 32 local authorities have now put one in place. That is progress, and the local authorities are to be commended.

We have come a long way on this journey, but we still have a long way to go. Will the introduction of the bill stop universal misuse? I believe not. Will it prick the consciences of those who are determined to misuse the badge? I believe not. What it has done and will do is to raise awareness, not just through the media but among badge holders themselves.

Cameron Buchanan said that the guidelines that we give people when we issue a blue badge are important. Cameron admitted that when he received the regulations, he took one look at them and put them in a drawer. I sincerely hope that, through common sense and use of his blue badge, he has not had a parking ticket—apart from the time in London that he mentioned. It is not just about blue badge spaces; it is about using the blue badge to ensure that if there is a single yellow line or a double yellow line, someone can park appropriately, provided that there are no other restrictions.

Christine Grahame mentioned private car parks. Like the minister, I wrote to the supermarket chains and the retail outlets asking them what they had done to monitor use of blue badge spaces. I give an undertaking to Parliament today to write once again to the supermarket chains and retail outlets to ask them to step up to the plate and—on the back of the bill, if it is passed this afternoon, which I sincerely hope it will be—to look at ways of enforcing the use of the blue badge spaces within those private areas.

It is important to ensure that our health boards step up to the plate, too. They already have the means to monitor blue badge spaces and to ensure that they are appropriately used. I will be asking the health boards to ensure that—again, on the back of the bill—they, too, look at ways in which they can enforce use of their disabled parking spaces.

It has been an enjoyable if lengthy process. My thanks go to all those who participated in the consultation and all those who want a bill that will give them better use of their blue badge. I hope that it is a bill that will prick the consciences of people who have misused badges. It will also give us the guidelines that we so desperately need to try to ensure that a person with a disability can use their badge appropriately and without confusion.

I thank Parliament and every member who has participated in the process—through stages 1 and 2 and in this afternoon’s short but concise debate—for offering sincere assurances that they will support the bill through to the end of the process this afternoon.