Passage of the

Disabled Persons’ Parking Places (Scotland) Bill 2008

SPPB 128
Passage of the

Disabled Persons’ Parking Places (Scotland) Bill 2008

SP Bill 10 (Session 3), subsequently 2009 asp 3

SPPB 128

EDINBURGH: APS GROUP SCOTLAND
## Contents

### Foreword

### Introduction of the Bill

- Bill (As Introduced) (SP Bill 10) 1
- Explanatory Notes (and other accompanying documents) (SP Bill 10-EN) 15
- Policy Memorandum (SP Bill 10-PM) 34
- Delegated Powers Memorandum (SP Bill 10-DPM) 53

### Stage 1

- Stage 1 Report, Local Government and Communities Committee 57
- Additional written submissions to the Local Government and Communities Committee 223
- Extract from the Minutes, Finance Committee, 16 September 2008 225
- Official Report, Finance Committee, 16 September 2008 226
- Correspondence from the Local Government and Communities Committee to the Minister for Transport, Infrastructure and Climate Change, 8 October 2008 232
- Correspondence from the Minister for Transport, Infrastructure and Climate Change to the Local Government and Communities Committee, 17 October 2008 237
- Correspondence from the Cabinet Secretary for Finance and Sustainable Growth to Jackie Baillie MSP, 24 November 2008 238
- Extract from the Minutes of the Parliament, 26 November 2008 246
- Official Report, Meeting of the Parliament, 26 November 2008 247

### Stage 2

- Marshalled List of Amendments for Stage 2 (SP Bill 10-ML(Revised)) 269
- Groupings of Amendments for Stage 2 (SP Bill 10-G (Revised)) 271
- Extract from the Minutes, Local Government and Communities Committee, 17 December 2008 272
- Official Report, Local Government and Communities Committee, 17 December 2008 273

- Bill (As Amended at Stage 2) (SP Bill 10A) 277

### Stage 3

- Extract from the Minutes of the Parliament, 26 February 2009 291
- Official Report, Meeting of the Parliament, 26 February 2009 292
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, wherever the linked material remains available, 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 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 Executive 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 Local Government and Communities Committee agreeing that further consultation was not necessary (on the basis that consultation had been conducted in the previous parliamentary session), Jackie Baillie’s final proposal received support from 64 members (including the required degree of cross-party representation). The Scottish Executive did not give an indication as described above. Jackie Baillie, therefore, obtained the right to introduce the Bill which is the subject of this volume.
Two written submissions received by the Local Government and Communities Committee after it had completed its Stage 1 consideration were not included in the Stage 1 Report and are, therefore, included in this volume after the Report.

The report of the Finance Committee on the Financial Memorandum was included in the Local Government and Communities Committee’s Stage 1 Report. The relevant extracts from the Finance Committee’s minutes and Official Report of the evidence taken by it are included in this volume after the Stage 1 Report.

The Marshalled List and groupings of amendments are both marked ‘Revised’. They were re-issued following the agreement of the Convener of the Local Government and Communities Committee under Rule 9.10.6 of Standing Orders that amendment 7 (which was lodged as a manuscript amendment – i.e. after the deadline for lodging amendments) may be moved in Stage 2 proceedings.

A Marshalled List and groupings were not produced for Stage 3 as no amendments were lodged at Stage 3. There was also, therefore, no ‘As Passed’ version of the Bill produced.
Disabled Persons’ Parking Places (Scotland) Bill
[AS INTRODUCED]

CONTENTS

Section

Duty to promote proper use of parking places for disabled persons’ vehicles
1 Duty to promote proper use of parking places for disabled persons’ vehicles

Advisory parking places for disabled persons’ vehicles
2 Limitation of local authorities’ powers in relation to advisory parking places for disabled persons’ vehicles

Duties in relation to certain orders under the 1984 Act
3 Certain orders under the 1984 Act
4 Disabled street parking orders: local authorities’ initial duties
5 Disabled street parking orders: requests by qualifying persons
6 Disabled off-street parking orders: local authorities’ initial duties
7 Disabled off-street parking orders: new development
8 Disabled off-street parking orders: ongoing duties

Further provision about street parking places for disabled persons’ vehicles
9 Designation of a temporary parking place where a request has been made under section 5
10 Duty to keep disabled street parking orders under review

Annual reports on local authorities’ functions in relation to parking places for disabled persons’ vehicles
11 Annual reports by local authorities
12 Annual report by the Scottish Ministers

Final provisions
13 Regulations
14 Interpretation
15 Short title and commencement

Schedule—Annual reports on performance of functions in relation to parking places for disabled persons’ vehicles
   Part 1—Content of annual reports by local authorities
   Part 2—Content of annual report by the Scottish Ministers

SP Bill 10  Session 3 (2008)
Disabled Persons’ Parking Places (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision for the duties of local authorities in relation to parking places for use by disabled persons’ vehicles; and for connected purposes.

Duty to promote proper use of parking places for disabled persons’ vehicles

1 Duty to promote proper use of parking places for disabled persons’ vehicles

A local authority must promote the proper use of parking places in its area that are designated for use only by disabled persons’ vehicles.

Advisory parking places for disabled persons’ vehicles

2 Limitation of local authorities’ powers in relation to advisory parking places for disabled persons’ vehicles

A local authority has no power—

(a) to designate an advisory disabled street parking place, except in accordance with section 9;

(b) to designate an advisory disabled off-street parking place.

Duties in relation to certain orders under the 1984 Act

3 Certain orders under the 1984 Act

(1) Sections 4 to 8 make provision for circumstances in which a local authority must start the statutory procedure for the making of the following kinds of order under the 1984 Act.

(2) In this Act, a “disabled street parking order” is an order made under section 45 of the 1984 Act which—

(a) specifies that a street parking place may be used only by a disabled persons’ vehicle, and

(b) provides that the parking place may be so used without charge.
(3) In this Act, a “disabled off-street parking order” is an order made under section 35 of the 1984 Act which—

(a) specifies that an off-street parking place may be used only by a disabled persons’ vehicle, and

(b) provides that any charge to be paid in connection with such use of the parking place may not be greater than any charge payable (whether by virtue of the order or another order under the 1984 Act) in connection with the use of any other off-street parking place in the same premises.

4 Disabled street parking orders: local authorities’ initial duties

(1) A local authority must identify every street parking place in its area that at the time of the coming into force of this Act is an advisory disabled street parking place.

(2) In relation to each parking place that it so identifies, the authority must decide whether it is a parking place from which there is convenient access to the address of a person who holds a disabled persons’ badge.

(3) If the authority’s decision under subsection (2) is that the parking place is such a parking place, it must either—

(a) decide that, having regard to its duties under section 45(3) and section 122 of the 1984 Act, it has no power to make a disabled street parking order in respect of the parking place, or

(b) start the statutory procedure for the making of such an order.

(4) Subsection (5) applies if—

(a) the authority’s decision under subsection (2) is that a parking place is not a parking place from which there is convenient access to the address of a person who holds a disabled persons’ badge;

(b) the authority makes a decision under subsection (3)(a).

(5) The authority must—

(a) publish its reasons, and

(b) remove any road-markings or sign posts indicating that the parking place is for use only by a disabled persons’ vehicle.

(6) If the authority starts the statutory procedure under subsection (3)(b) and the result of the procedure is that no disabled street parking order is made in respect of the parking place, the authority must remove any road-markings or sign posts indicating that the parking place is for use only by a disabled persons’ vehicle.

(7) The authority must perform its duty under subsection (1) and any duty under subsection (2), (3) or (5) within the period of 12 months beginning with the coming into force of this Act.

5 Disabled street parking orders: requests by qualifying persons

(1) A qualifying person may request a local authority to make a disabled street parking order in respect of a street parking place—

(a) which is in the authority’s area, and

(b) from which there is convenient access to the person’s address.
(2) If it is satisfied that the person making a request under subsection (1) is a qualifying person, the authority must—

(a) decide whether it is possible to identify a suitable street parking place in its area from which there is convenient access to the person’s address, and

(b) if it decides that that is possible, identify such a parking place.

(3) If the authority identifies such a parking place, it must either—

(a) decide that, having regard to its duties under section 45(3) and section 122 of the 1984 Act, it has no power to make a disabled street parking order in respect of the parking place, or

(b) start the statutory procedure for the making of such an order.

(4) Subsection (5) applies if—

(a) the authority is not satisfied that the person making the request is a qualifying person;

(b) the authority’s decision under subsection (2) is that it is not possible to identify a suitable street parking place in its area from which there is convenient access to the person’s address;

(c) the authority makes a decision under subsection (3)(a).

(5) The authority must give the person who made the request under subsection (1) its reasons.

(6) The form and manner in which a request under subsection (1) is to be made—

(a) may be prescribed by regulations made by the Scottish Ministers;

(b) unless regulations made under paragraph (a) are in force, may be specified by the authority.

(7) A request under subsection (1) may be made through another person acting on behalf of the qualifying person.

(8) A “qualifying person” is a person who holds a disabled persons’ badge and whose address—

(a) if the person is an individual, is the same as the registered address of the registered keeper of a vehicle suitable for the carriage of the individual;

(b) if the person is an organisation, is the same as the registered address of the registered keeper of a vehicle used by or on behalf of the organisation to carry disabled persons.

(9) In subsection (8)—

“the registered keeper” of a vehicle is the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994 (c. 22) at the time the request is made;

“the registered address” of the registered keeper is the address recorded at that time in the record kept under that Act with respect to that vehicle as being that person’s address.
6 Disabled off-street parking orders: local authorities' initial duties

(1) A local authority must identify every off-street parking place in its area that at the time of the coming into force of this Act is an advisory disabled off-street parking place.

(2) If a parking place so identified is an eligible parking place the authority must either—

(a) decide that, having regard to its duty under section 122 of the 1984 Act, it has no power to make a disabled off-street parking order in respect of the parking place, or

(b) start the statutory procedure for the making of such an order.

(3) If a parking place identified under subsection (1) is not an eligible parking place, subsection (4) applies.

(4) The authority must decide whether, if the parking place were provided under arrangements under section 33(4) of the 1984 Act, it would have power to make a disabled off-street parking order in respect of the parking place.

(5) In making a decision under subsection (4) the authority must have regard to its duty under section 122 of the 1984 Act.

(6) If the authority’s decision under subsection (4) is that it would have that power, it must seek to make arrangements under section 33(4) of the 1984 Act for the provision of the parking place with a view to being able to make such an order.

(7) If the authority does make such arrangements, it must start the statutory procedure for the making of such an order.

(8) An “eligible parking place” is a parking place that is provided—

(a) by the authority itself under section 32(1)(a) of the 1984 Act, or

(b) under arrangements that the authority has made under section 33(4) of that Act.

(9) The authority must—

(a) perform its duty under subsection (1) and any duty under subsection (2) or (4) within the period of 12 months beginning with the coming into force of this Act, and

(b) start to perform any duty under subsection (6) within that period.

7 Disabled off-street parking orders: new development

(1) This section applies to a local authority which—

(a) in its capacity as a planning authority under the Town and Country Planning (Scotland) Act 1997 (c. 8), grants planning permission for a relevant development;

(b) learns of a relevant development in its area for which planning permission is granted by a development order.

(2) In relation to each advisory disabled off-street parking place included in or, as the case may be, created by a relevant development, subsection (3) applies.

(3) The authority must decide whether, if the parking place were provided under arrangements under section 33(4) of the 1984 Act, it would have power to make a disabled off-street parking order in respect of the parking place.

(4) In making a decision under subsection (3) the authority must have regard to its duty under section 122 of the 1984 Act.
(5) If the authority’s decision under subsection (3) is that it would have that power, it must seek to make arrangements under section 33(4) of the 1984 Act for the provision of the parking place with a view to being able to make such an order.

(6) If the authority does make such arrangements, it must start the statutory procedure for the making of such an order.

(7) The authority must—
   (a) perform its duty under subsection (3) within the relevant period, and
   (b) start to perform any duty under subsection (5) within the relevant period.

(8) In subsection (7), the “relevant period” is the period of three months beginning, as the case may be, with—
   (a) the date on which the authority grants the planning permission, or
   (b) the date on which the authority learns of the relevant development.

(9) A local authority must monitor development in its area with a view to learning of relevant developments for which planning permission is granted by a development order.

8 Disabled off-street parking orders: ongoing duties

(1) The following duties apply to a local authority which has sought unsuccessfully to make arrangements for the provision of a parking place pursuant to a duty under—
   (a) section 6(6);
   (b) section 7(5);
   (c) subsection (4) of this section.

(2) At the end of the relevant period the authority must decide whether, if the parking place were provided under arrangements under section 33(4) of the 1984 Act, it would have power to make a disabled off-street parking order in respect of the parking place.

(3) In making a decision under subsection (2) the authority must have regard to its duty under section 122 of the 1984 Act.

(4) If the authority’s decision under subsection (2) is that it would have that power, it must seek to make arrangements under section 33(4) of the 1984 Act for the provision of the parking place with a view to being able to make such an order.

(5) If the authority does make such arrangements, it must start the statutory procedure for the making of such an order.

(6) The authority must—
   (a) perform its duty under subsection (2) within the period of three months beginning with the last date of the relevant period, and
   (b) start to perform any duty under subsection (4) within that period of three months.

(7) The “relevant period” is the period of two years beginning with the date on which the authority last concluded that it was unable to make arrangements pursuant to a duty listed in subsection (1).
Further provision about street parking places for disabled persons’ vehicles

9 Designation of a temporary parking place where a request has been made under section 5

(1) If a local authority is required by section 5(3)(b) to start the statutory procedure for the making of a disabled street parking order in respect of a parking place, it must as soon as reasonably practicable designate the parking place as being for use only by a disabled persons’ vehicle.

(2) When that statutory procedure ends, the designation of the parking place under subsection (1) is automatically revoked.

(3) If the result of that statutory procedure is that no disabled street parking order is made in respect of the parking place, the authority must remove any road-markings or sign posts indicating that the parking place is for use only by a disabled persons’ vehicle.

10 Duty to keep disabled street parking orders under review

A local authority which has made a disabled street parking order must keep under review the continuing provision of each street parking place in respect of which it made the order.

Annual reports on local authorities’ functions in relation to parking places for disabled persons’ vehicles

11 Annual reports by local authorities

(1) In relation to each reporting period, a local authority must—

(a) prepare a report on its performance of its functions in relation to parking places for disabled persons’ vehicles during the reporting period,

(b) publish the report, and

(c) send a copy of the report to the Scottish Ministers.

(2) Part 1 of the schedule makes provision for the content of a report prepared under subsection (1)(a).

(3) The Scottish Ministers may by regulations make any modification to Part 1 of the schedule that they consider necessary or expedient.

(4) The authority must perform its duties under subsection (1) within the period of three months beginning with the last date of the reporting period.

12 Annual report by the Scottish Ministers

(1) In relation to each reporting period, the Scottish Ministers must—

(a) prepare a report on the performance by the local authorities of their functions in relation to parking places for disabled persons’ vehicles during the reporting period,

(b) publish the report, and

(c) lay a copy of the report before the Scottish Parliament.

(2) Part 2 of the schedule makes provision for the content of a report prepared under subsection (1)(a).
(3) The Scottish Ministers may by regulations make any modification to Part 2 of the schedule that they consider necessary or expedient.

(4) The Scottish Ministers must perform their duties under subsection (1) within the period of six months beginning with the last date of the reporting period.

Final provisions

13 Regulations

(1) Regulations made by the Scottish Ministers under this Act—

(a) must be made by statutory instrument;

(b) may make different provision for different purposes.

(2) A statutory instrument containing regulations under section 5(6)(a) is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(3) A statutory instrument containing regulations under section 11(3) or 12(3) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the Scottish Parliament.

14 Interpretation

(1) In this Act—

“the 1984 Act” means the Road Traffic Regulation Act 1984 (c. 27);

“advisory disabled off-street parking place” means an off-street parking place—

(a) to which the public have access,

(b) which is marked or sign-posted as being for use only by a disabled persons’ vehicle, and

(c) which is not the subject of an order under section 35 of the 1984 Act specifying that it may be used only by a disabled persons’ vehicle;

“advisory disabled street parking place” means a street parking place which—

(a) is marked or sign-posted as being for use only by a disabled persons’ vehicle, and

(b) is not the subject of an order under section 45 of the 1984 Act specifying that it may be used only by a disabled persons’ vehicle;

“development order” has the same meaning as in the Town and Country Planning (Scotland) Act 1997 (c. 8) (see section 30);

“disabled persons’ badge” means—

(a) a badge issued under section 21 of the Chronically Sick and Disabled Persons Act 1970 (c. 44),

(b) a badge issued under a provision of the law of Northern Ireland corresponding to that section, or

(c) a badge issued by any member State other than the United Kingdom for purposes corresponding to the purposes for which badges under that section are issued;
“disabled persons’ vehicle” means a vehicle lawfully displaying a disabled persons’ badge;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);

“planning permission” has the same meaning as in the Town and Country Planning (Scotland) Act 1997 (c. 8) (see section 277);

“premises” includes any land or building;

“relevant development” means—

(a) the construction of premises which include an advisory disabled off-street parking place, or

(b) the creation of an advisory disabled off-street parking place in existing premises;

“reporting period” means—

(a) the period beginning with the date on which this Act comes into force and ending with the second succeeding 31 March, and

(b) each successive financial year;

“road” has the same meaning as in the Roads (Scotland) Act 1984 (c. 54) (see section 151);

“the statutory procedure”, in relation to the making of a disabled off-street parking order or a disabled street parking order, means the procedure to be followed in connection with the making of an order under section 35 or 45 (as the case may be) of the 1984 Act in accordance with regulations made under paragraph 21 of Schedule 9 to that Act;

“street parking place” and “off-street parking place” refer respectively to a parking place on land which does, and which does not, form part of a road.

(2) References in this Act to a person’s address—

(a) in the case of an individual, are references to the address of the individual’s main home;

(b) in the case of an organisation, include a reference to any address at which the organisation has a place of business.

15  Short title and commencement

(1) This Act may be cited as the Disabled Persons’ Parking Places (Scotland) Act 2008.

(2) This Act (except this section) comes into force at the end of the period of six months beginning with the date of Royal Assent.
SCHEDULE
(introduced by sections 11(2) and 12(2))

ANNUAL REPORTS ON PERFORMANCE OF FUNCTIONS IN RELATION TO PARKING PLACES FOR DISABLED PERSONS’ VEHICLES

PART I

CONTENT OF ANNUAL REPORTS BY LOCAL AUTHORITIES

1 A report prepared by a local authority under section 11(1)(a) must contain the following information in respect of the reporting period—

(a) details of the action that it took in fulfillment of its duty under section 1;

(b) the number of parking places designated as being for use only by a disabled persons’ vehicle by virtue of the provisions of this Act (except section 9);

(c) the following information related to its performance of its duties under section 4—

(i) the number of advisory disabled street parking places identified under section 4(1), if any;

(ii) its reasons for any decision under section 4(2) or (3)(a);

(iii) the number of parking places in relation to which it started the statutory procedure under section 4(3)(b), if any;

(d) the following information related to its performance of its duties under section 5—

(i) the number of requests made to it under section 5(1);

(ii) the number of parking places which it identified under section 5(2)(b);

(iii) its reasons for any decision under section 5(3)(a);

(iv) the number of parking places in relation to which it started the statutory procedure under section 5(3)(b);

(v) the period, in each case, between the identification of a parking place under section 5(2)(b) and the starting of the related statutory procedure under section 5(3)(b);

(e) the following information related to its performance of its duties under section 6—

(i) the number of advisory disabled off-street parking places identified under section 6(1), if any;

(ii) its reasons for any decision under section 6(2)(a);

(iii) the number of parking places in relation to which it started the statutory procedure under section 6(2)(b), if any;

(iv) its reasons for any decision under section 6(4) that it would not have power to make a disabled off-street parking order;

(v) the number of premises that include a parking place for the provision of which it sought to make arrangements under section 6(6), if any;
(vi) the reasons why it was unsuccessful in making any such arrangements;

(vii) the number of parking places in relation to which it started the statutory procedure under section 6(7);

(viii) the date by which it performed its duty under section 6(1) and any duties under section 6(2), (4) or (6), relative to the period of twelve months referred to in section 6(9);

(f) the following information related to its performance of its duties under section 7—

(i) the number of relevant developments for which a planning permission mentioned in section 7(1) was granted;

(ii) its reasons for any decision under section 7(3) that it would not have power to make a disabled off-street parking order;

(iii) the number of premises that include a parking place for the provision of which it sought to make arrangements under section 7(5);

(iv) the reasons why it was unsuccessful in making any such arrangements;

(v) the number of parking places in relation to which it started the statutory procedure under section 7(6);

(g) the following information related to its performance of its duties under section 8—

(i) its reasons for any decision under section 8(2) that it would not have power to make a disabled off-street parking order;

(ii) the number of premises that include a parking place for the provision of which it sought to make arrangements under section 8(4);

(iii) the reasons why it was unsuccessful in making any such arrangements;

(iv) the number of parking places in relation to which it started the statutory procedure under section 8(5);

(h) the following information about disabled street parking orders and disabled off-street parking orders—

(i) the number of such orders for the making of which it started the statutory procedure in accordance with this Act;

(ii) the number of parking places designated as being for use only by a disabled persons’ vehicle under such an order;

(iii) in relation to each such order, the period between the start of the statutory procedure and the making of the order;

(iv) in respect of each case in which it started the statutory procedure for the making of such an order but did not make an order, the reasons why not.

A report prepared by a local authority under section 11(1)(a) may contain any other information about its performance of its functions in relation to parking places for disabled persons’ vehicles during the reporting period that the authority considers appropriate.
PART 2

CONTENT OF ANNUAL REPORT BY THE SCOTTISH MINISTERS

3 A report prepared by the Scottish Ministers under section 12(1)(a) must contain the following information in respect of the reporting period—

(a) details of the action that each local authority took in fulfillment of its duty under section 1;

(b) the total number of parking places designated by the local authorities as being for use only by a disabled persons’ vehicle by virtue of the provisions of this Act (except section 9);

(c) for each category of information under paragraph 1 that requires the reporting of a number or a date, a table setting out the number reported by each local authority;

(d) for each category of information under paragraph 1 that requires the reporting of a period, a table setting out the period reported by each local authority;

(e) for each category of information under paragraph 1 that requires the reporting of reasons, a summary of the reasons reported by each local authority.

4 A report prepared by the Scottish Ministers under section 12(1)(a) may contain any other information about the performance by local authorities of their functions in relation to parking places for disabled persons’ vehicles during the reporting period that the Scottish Ministers consider appropriate.
Disabled Persons’ Parking Places (Scotland) Bill
[AS INTRODUCED]

An Act of the Scottish Parliament to make provision for the duties of local authorities in relation to parking places for use by disabled persons’ vehicles; and for connected purposes.

Introduced by: Jackie Baillie
On: 2 June 2008
Bill type: Member’s Bill
These documents relate to the Disabled Persons’ Parking Places (Scotland) Bill (SP Bill 10) as introduced in the Scottish Parliament on 2 June 2008

DISABLED PERSONS’ PARKING PLACES (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Disabled Persons’ Parking Places (Scotland) Bill introduced in the Scottish Parliament on 2 June 2008:
   - Explanatory Notes;
   - a Financial Memorandum; and
   - the Presiding Officer’s Statement on legislative competence.

A Policy Memorandum is printed separately as SP Bill 10–PM.
EXPLANATORY NOTES

INTRODUCTION

2. These Explanatory Notes have been prepared by the Non-Executive Bills Unit on behalf of Jackie Baillie MSP, the member in charge of the Bill. They have been prepared 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.

3. 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 section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

SUMMARY OF AND BACKGROUND TO THE BILL

4. The Bill will lead to all disabled street parking places becoming enforceable. The general approach of the Bill is to impose a duty on local authorities, in particular circumstances, to exercise its power to make a particular kind of order under either section 45 (street parking places) or section 35 (off-street parking places) of the Road Traffic Regulation Act 1984 (the 1984 Act). The Bill does not amend the 1984 Act itself in any way. These kinds of orders which the local authorities are to be required to make are already open to them under the 1984 Act. The powers under the 1984 Act are not affected; rather, this Bill separately imposes a duty to exercise those powers in particular circumstances. Once the duty under this Bill is triggered, the provision as to procedure and enforcement etc. is that applicable under the 1984 Act.

5. The Bill requires local authorities to identify all existing advisory disabled street parking places and, for those still needed, to promote orders. For those that are no longer required then the Bill requires the local authority to remove any road markings or sign posts. In relation to disabled off-street parking, local authorities will be required to promote an order covering the disabled persons’ parking places in its own public car parks. The Bill also requires each local authority to contact and seek to negotiate arrangements with owners of, or person having an interest in, private car parks including supermarkets and out of town retail centres. Securing an arrangement would enable the local authority to promote an order to make the disabled persons’ parking places in private car parks enforceable.

6. The Bill also prevents any further advisory disabled street parking places being created. It enables temporary advisory disabled street parking places to be created while an order is being promoted in relation to that parking place.

7. A requirement is placed on local authorities to report to the Scottish Ministers on their performance in relation to their functions and duties under the Bill. The Scottish Ministers are required to collate this information and report to the Scottish Parliament on the overall performance of local authorities.

1 See paragraphs 12 to 18 of Policy Memorandum
COMMENTARY ON SECTIONS

Section 1: Duty to promote proper use of parking places for disabled persons’ vehicles

8. Section 1 places a duty on local authorities to take steps to promote the proper use of parking places designated only for the use of disabled persons’ vehicles. The Bill does not prescribe what the local authority should do but it is expected that, for example the local authority would undertake public information campaigns and ensure its own staff were made aware of how to prevent abuse of disabled persons’ parking places. More information on steps that local authorities could take is set out at paragraphs 56 to 58 of the Policy Memorandum.

9. Section 14 defines a disabled persons’ vehicle as one that is lawfully displaying a disabled persons’ badge.

10. Section 14 also provides a definition of a disabled persons’ badge commonly known as a “blue badge”. It is a badge that has either been issued by local authorities under section 21 of the Chronically Sick and Disabled Persons Act 1970 (c.44); a badge issued under a similar provision under the law of Northern Ireland or a badge issued by any member State of the EU other than the United Kingdom. It is these badges, when displayed on any vehicle, that give access to disabled persons’ parking places and this will continue under the provisions of this Bill.

Section 2: Limitation of local authorities’ powers in relation to advisory parking places for disabled persons’ vehicles

11. At present local authorities, instead of using their powers under the 1984 Act to designate parking places for disabled persons’ vehicles which are enforceable, will make an advisory street or off-street disabled parking place. Such places are not enforceable and any driver can park in them without sanctions at law being possible.

12. Section 2(a) prevents local authorities in future designating advisory disabled street parking places unless the designation is made in accordance with section 9 of the Bill.

13. Section 2(b) similarly prevents local authorities from designating in future advisory disabled off-street parking places.

14. An “advisory disabled street parking place” is defined in section 14 as one which is marked or sign-posted for use only by a disabled persons’ vehicle and that is not subject to an order made under section 45 of the 1984 Act (see section 3 below). A “street parking place” is also defined in that section as a parking place that is on land that forms part of a road.

15. An “advisory disabled off-street parking place” is defined in section 14 as one to which the public have access, is marked or sign-posted for use only by a disabled persons’ vehicle and is not subject to an order made under section 35 of the 1984 Act (see section 3 below). An “off-street parking place” is defined in that section as a parking place that is on land that does not form part of a road.
Section 3: Certain orders under the 1984 Act

17. Section 3 sets out two kinds of order under the 1984 Act which a local authority must consider making in the circumstances set out by sections 4 to 8 of the Bill. The 1984 Act provides local authorities with the power to make orders in relation to parking places.

18. Subsection (2) introduces the “disabled street parking order” made under section 45 of the 1984 Act. For the purposes of the Bill such an order must specify that the parking places may only be used by a disabled persons’ vehicle and that no charge for parking in the places may be levied.

19. Subsection (3) introduces the “disabled off-street parking order” made under section 35 of the 1984 Act. For the purposes of the Bill such an order must specify the parking places may only be used by a disabled persons’ vehicle and that any parking charge levied may not be higher than the charge payable for ordinary vehicles in the same premises.

20. The making of these orders triggers the relevant current road traffic enforcement provisions. The Bill continues to utilise existing enforcement regimes, including existing levels of fines, issue of penalty notices and appeals processes.

21. In local authority areas where decriminalised parking enforcement is in place enforcement remains the responsibility of the local authority. The local authority will continue to set the level of fines and issue penalty notices. Any appeals in regard to the issue of penalty notices will continue to be heard by the existing established appeals mechanism. The Parking Adjudicator exists statutorily to independently hear such appeals.

22. In other local authority areas enforcement will continue to be the responsibility of the Police and Police Traffic Wardens. Appeals against penalty notices issued by the Police or Police Traffic Wardens continue to be matters for the court system.

Section 4: Disabled street parking orders: local authorities’ initial duties

23. Section 4 places requirements on local authorities in relation to existing advisory disabled street parking places. Subsection (7) provides that these requirements must be completed within 12 months of commencement of the Act. The duties under this section are one off duties, which once completed do not recur.

24. Subsection (1) requires the local authority to identify every advisory disabled street parking place in its area. Subsection (2) requires the local authority to determine if each parking place provides convenient access to the address of a person who holds a disabled persons’ badge. If it does provide convenient access then subsection (3) applies.

---

2 Any way over which there is a public right of passage
3 Decriminalised parking enforcement is explained in paragraphs 21 to 23 of the Policy Memorandum
25. Subsection (3)(a) requires the local authority to determine whether or not it has the power to make a disabled street parking order in respect of the parking place. To do that they must consider their duties under sections 45(3) and 122 of the 1984 Act. These are:

45(3) “In determining what parking places are to be designated under this section the authority concerned shall consider both the interests of traffic and those of the owners and occupiers of adjoining property, and in particular the matters to which that authority shall have regard include:

(a) the need for maintaining the free movement of traffic;
(b) the need for maintaining reasonable access to premises; and
(c) the extent to which off-street parking accommodation, whether in the open or under cover, is available in the neighbourhood or the provision of such parking accommodation is likely to be encouraged there by the designation of parking places under this section.”

and

122: (1) “It shall be the duty of every local authority upon whom functions are conferred by or under this Act, so to exercise the functions conferred on them by this Act as (so far as practicable having regard to the matters specified in subsection (2) below) to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians) and the provision of suitable and adequate parking facilities on and off the highway or, in Scotland the road.

(2) The matters referred to in subsection (1) above as being specified in this subsection are—

(a) the desirability of securing and maintaining reasonable access to premises;
(b) the effect on the amenities of any locality affected and (without prejudice to the generality of this paragraph) the importance of regulating and restricting the use of roads by heavy commercial vehicles, so as to preserve or improve the amenities of the areas through which the roads run;
(bb) the strategy prepared under section 80 of the Environment Act 1995 (national air quality strategy);
(c) the importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles; and
(d) any other matters appearing to the local authority to be relevant.”

26. If the local authority determines that it has power to make a disabled street parking order it is required by subsection (3)(b) to start the statutory procedure. If the outcome of this procedure is that no order is made then subsection (6) requires that the local authority removes any road markings or sign-posts for the advisory disabled street parking place. Subsections (4) and (5) require the local authority to publish reasons whenever it determines that there is no person who holds a disabled persons’ badge with convenient access to an existing advisory disabled street parking place, under subsection (2). The same requirement also applies when the local authority decides that is has no power to make an order under subsection (3)(a). The local
authority must also, in these circumstances, remove any road markings or sign-posts for the advisory disabled street parking place.

Section 5: Disabled street parking orders: requests by qualifying persons

27. Individuals or organisations holding a disabled persons’ badge can apply to the local authority for a disabled persons’ street parking place. Section 5 sets out the local authority’s duties in this respect and provides the process to be followed.

28. Subsection (1) sets out that a qualifying person can apply to a local authority for such a parking place from which there is convenient access to their address. For those living close to local authority boundaries the subsection permits application to any authority in whose area there is a space with convenient access to the applicants address.

29. “Qualifying person” is defined in subsection (8) as one who holds a disabled persons’ badge and has a suitable vehicle registered at their address. Subsection (7) provides that a request may be made through another person who is acting on behalf of the qualifying person. This is to cover circumstances when the disabled badge holder is unable to make the request themselves. Subsection (8)(b) provides that when an application is received from an organisation, they must also have a vehicle registered at their address and that the vehicle should be suitable for use by disabled people. Subsection (9) links the registered keeper to the vehicles’ registration with the Driver and Vehicle Licensing Agency (DVLA) and their registered address.

30. Once satisfied that the person making the application is a qualifying person subsection (2)(a) requires the local authority to decide whether it is possible to identify in their area a suitable street parking place providing convenient access to the address. The conformity of a parking place with any current specifications prescribed in regulations is expected to be one of the factors taken into account by the local authority in determining where a space is “suitable”. If they decide that it is possible then (2)(b) requires them to identify such a parking place.

31. Subsection (3)(a) requires the local authority to determine whether or not it has the power to make a disabled street parking order in respect of the parking place. To do that they must consider their duties under sections 43(5) and 122 of the 1984 Act (see paragraph 25 above).

32. Subsection (4) sets out the circumstances when subsection (5) applies. Subsection (5) applies when the local authority is not satisfied the applicant is a qualifying person, that it is not possible to identify a suitable street parking place that provides convenient access to the address or if the local authority believes it has no power to make such an order.

33. Subsection (5) requires the local authority to provide the person making the application with the reasons for its decision not to proceed with the application under subsections (4)(a), (b) or (c).

34. It is for the local authority to determine the form and manner in which a request under this section should be made unless under subsection (6)(a) the Scottish Ministers prescribe these

---

4 Current regulations are the Traffic Signs Regulations and General Directions 2002 (No 3113)
These documents relate to the Disabled Persons’ Parking Places (Scotland) Bill (SP Bill 10) as introduced in the Scottish Parliament on 2 June 2008

details. Section 13 makes provision for the making of regulations and section 13(2) requires that any made in respect of section 5(6)(a) are subject to negative resolution procedure.

Section 6: Disabled off-street parking orders: local authorities’ initial duties

35. Section 6 makes provision for disabled off-street parking orders. Subsection (1) requires local authorities to identify all advisory disabled off-street parking places in their area.

36. For those parking places identified under subsection (1) which are eligible parking places subsection (2) applies. “Eligible parking places” are defined in subsection (8) as those provided by the local authority under section 32(1)(a) of the 1984 Act or provided under arrangements the local authority has made under section 33(4) of that Act.

37. Under section 32 of the 1984 Act a local authority has power to provide off-street parking places for the purpose of relieving or preventing congestion of traffic. Disabled parking places could be provided within such an off-street area. Section 33(4) of that Act allows a local authority to make arrangements with a private owner for the provision of parking places on such terms as it sees fit.

38. Section 6(2) requires local authorities to start the order making procedure for all eligible parking places that it has identified unless it decides, having regard to its duties under section 122 of the 1984 Act that it has no powers to make the order. Subsection (9) also requires that this duty is started within 12 months of the Act coming into force.

39. Subsections (3) to (7) set out the procedure for advisory disabled off-street parking places which are not eligible parking places. Subsection (4) requires the local authority within 12 months (as per subsection (9)) to decide whether it would have the power to make a disabled off-street parking order should an arrangement under section 33(4) of 1984 Act be in place. Subsection (5) requires that when making its decision under subsection (4) the local authority also has regard to its duties under section 122 of the 1984 Act (see paragraph 25 above).

40. When a local authority decides under subsection (4) that it would have power under section 33(4) of the 1984 Act to make an arrangement then subsection (6) requires the local authority to try to reach such an arrangement with the owner, or person having an interest in the car park. Subsection (7) requires the local authority to start the order making process whenever it has been successful in making such an arrangement.

41. Subsection (9) gives the local authority 12 months from the Act coming into force to start seeking arrangements with private providers.

Section 7: Disabled off-street parking orders: new development

42. Section 7 applies whenever planning permission is granted for the construction of premises which include an advisory disabled persons parking place or the creation of such parking places within existing premises. These are referred to in the section as a “relevant development” and are defined in section 14. Section 14 also defines “premises” to include any land or building.
43. This section only applies when advisory disabled off-street parking places are included within the development. It is anticipated that, given local authorities and developers duties under other statutes and planning guidance, such spaces will be included in every development receiving planning permission which includes provision for public parking.

44. Subsection (1) applies the section to local authorities under certain circumstances. Subsection (1)(a) applies when the local authority as a planning authority grants planning permission in respect of a relevant development; while subsection (1)(b) applies when the local authority learns that planning permission has been granted by way of a development order. Planning permission and development orders are defined in section 14 as having the same meeting as under the Town and Country Planning (Scotland) Act 1997 (c.8).

45. Subsection (3) is applied by subsection (2) to all relevant developments and requires the local authority to decide within three months (see subsection (7) and paragraph 47 below) whether or not it would have the power to make a disabled off-street parking order if arrangements under section 33(4) of the 1984 Act were in place. Subsection (4) ensures that when making its decision under subsection (3) the local authority has regard to its duties under section 122 of the 1984 Act (see paragraph 25).

46. Subsection (5) applies when the local authority decides it would have the power to make an order. The local authority is required to seek to make an arrangement with the owner or person having an interest in the land under section 33(4) of the 1984 Act. Subsection (6) provides that if such arrangements are made then the local authority must start the order making procedure.

47. Subsections (7) and (8) set out and define the timescales within which the local authority must perform its duties under subsections (3) and (5). The decision under (3) must be made within the relevant period of three months and under subsection (5) it must start to seek to make arrangements within the same period. Subsection (8) defines the relevant period as 3 months from the local authority either granting the planning permission or learning that planning permission has been granted by a development order.

48. Subsection (9) requires local authorities to monitor developments in their areas to ensure they are aware of relevant developments granted planning permission by way of development orders.

Section 8: Disabled off-street parking places: ongoing duties

49. Section 8 applies when local authorities have failed to make arrangements under section 33(4) of the 1984 Act in the circumstances set out in sections 6(6), 7(5) and 8(4). The section requires that further attempts to reach agreements and make orders are made every two years.

50. Subsection (7) sets the “relevant period” at two years from the date the local authority last concluded that it could not make an agreement under the above sections. Subsection (6)(a) gives

---

the local authority three months to decide under subsection (2) whether it would have the power to make a disabled off-street parking order if the parking place was provided under agreements made under section 33(4) of the 1984 Act.

51. Subsection (3) repeats the earlier requirements on local authorities when considering if they would have power to make an order, to have regard to their duties under section 122 of the 1984 Act. (see paragraph 25).

52. If the local authority decides it continues to have the power to make an order then subsection (4) requires it to seek to make an arrangement under section 33(4) of the 1984 Act. If the local authority is successful in making such an agreement then subsection (5) requires it to start the statutory order making procedure.

Section 9: Designation of a temporary parking place where a request has been made under section 5

53. Section 2 limits the powers of local authorities to create advisory disabled street parking places except in accordance with the provisions of section 9. Section 9 allows temporary advisory disabled street parking places to be created while the statutory process to promote an order is being undertaken.

54. Subsection (1) applies when a local authority is required by section 5(3)(b) to start the statutory procedure to promote a disabled street parking order. The local authority must, as soon as is reasonably practicable, designate the parking place in question as one that is for use only by a disabled persons’ vehicle. This designation is advisory and as such is unenforceable against use by vehicles other than disabled persons’ vehicles. This designation is created on a temporary basis to provide for disabled persons’ while the statutory procedure is being undertaken.

55. Subsection (2) provides an end date to the temporary designation. When the statutory procedure for making an order ends the designation of the advisory parking place is automatically revoked. If the outcome of the statutory procedure is that no order is made subsection (3) applies. The local authority must remove any road markings or sign-posts placed by the local authority to indicate that the parking place is for use only by a disabled persons’ vehicle.

Section 10: Duty to keep disabled street parking orders under review

56. Section 10 places a general duty on local authorities who have made orders in respect of disabled street parking places to keep the provision of those parking places under continual review.

57. The continuing need for a parking place need not be linked to an original applicant, as any disabled badge holder is able to use any designated parking place. The local authority in exercising this continuing duty will be able to use their discretion, perhaps linked to overall usage, when considering whether or not to vary or revoke the order.
Section 11: Annual reports by local authorities

58. Section 11 requires local authorities to publish an annual report on their performance in relation to parking places for disabled persons’ vehicles. A copy also requires to be sent to the Scottish Ministers.

59. Subsection (2) introduces Part 1 of the schedule to the Bill which specifies what information must be contained in a local authority’s report.

60. Subsection (3) gives power to the Scottish Ministers to make regulations to modify Part 1 of the schedule. Regulations modifying the schedule can include the addition or deletion of information provided the Scottish Ministers consider that the change is necessary or expedient. Any order is subject to affirmative resolution procedure (see section 13(3)).

61. Subsection (4) requires the local authority to perform its duties under subsection (1) within 3 months of the end of the reporting period.

62. The “reporting period” is defined in section 14 as initially being the period between the Act coming into force and the second succeeding 31 March and then subsequently being each successive financial year.

Section 12: Annual report by the Scottish Ministers

63. Section 12 details the reporting requirements applying to the Scottish Ministers under the Bill. Subsection (1) requires that for each reporting period the Scottish Ministers prepare a report on the performance of local authorities in relation to parking places for disabled persons’ vehicles. The Scottish Ministers must publish this report and lay a copy before the Scottish Parliament. Subsection (4) requires the Scottish Ministers to perform these duties within 6 months of the end of the reporting period.

64. Subsection (2) introduces Part 2 of the schedule to the Bill which specifies what information must be contained in the report prepared by the Scottish Ministers.

65. Subsection (3) gives power to the Scottish Ministers to modify Part 2 of the schedule. Regulations modifying the schedule can include the addition or deletion of information provided the Scottish Ministers consider that the change is necessary or expedient. Any order is subject to affirmative resolution procedure (see section 13(3)).

Section 13: Regulations

66. Section 13 provides that any regulations made by the Scottish Ministers under the Bill are to be made by statutory instrument.

67. Subsection (2) provides that any statutory instruments made in respect of the form and manner of applications for disabled street parking orders (section 5(6)(a)) are subject to negative resolution.
68. Subsection (3) provides that any statutory instruments made in respect of the content of annual reports by the local authorities (section 11(3)) or the Scottish Ministers (section 12(3)) are subject to affirmative resolution procedures and may not be laid before a draft has been laid, and approved by, the Scottish Parliament.

Section 14: Interpretation

69. Section 14 contains definitions of terms used throughout the Bill. Most have been referred to earlier in these notes where a reference to their meaning was needed.

Schedule

70. The schedule makes detailed provision concerning the matters which must be contained in the reports required by sections 11 and 12 of the Bill.

Part 1: Content of annual reports by local authorities

71. Part 1 of the schedule specifies the requirement on local authorities. Paragraph 1 contains the detail of the information that is required for each reporting period. Paragraph 2 enables the local authority to provide in the report any other information about the performance of its functions in relation to disabled persons parking places it considers appropriate.

72. Paragraph 1(a) requires details of the action taken by the local authority to meet its duty in section 1 of promoting the proper use of disabled persons’ parking places. Paragraph 1(b) requires the total number of enforceable parking places designated for the use of disabled people under the provisions of the Bill to be provided.

73. Paragraph 1(c) contains requirements that only apply in the first report prepared by each local authority. They are required to state the number of existing advisory disabled street parking places identified under section 4(1); any reasons for decisions made by the local authority under section 4(2) (whether these parking places provided convenient access to the address of a person holding a disabled persons badge) and under section 4(3) (why it believed it had no power to make an order). This paragraph also requires the local authority to provide the number of parking places for which it began the statutory procedure to promote an order.

74. Paragraph 1(d) requires information on applications from disabled persons for disabled street parking (section 5(1)). Information has to be provided on the number of requests that have been received and of these requests how many parking places the local authority identified as being suitable and providing convenient access to the persons address (section 5(2)(b)). If the local authority decides that it has no power to promote an order then its reasons for deciding this must be provided (section 5(3)(a)).

75. The local authority is also required to provide information on how many requests led to the statutory procedure (section 5(3)(b)) to make an order being started and the period of time between identifying each parking place and starting the statutory procedure.
Paragraphs 1(e) and (f) require information in relation to disabled off-street parking orders under sections 6 and 7. Local authorities must provide information on how many parking places it has identified (if any) or learned of (sections 6(1) and 7(1)) and reasons for any decision that it doesn’t have the power to make an order (sections 6(2)(a) and 7(3)). They must also provide the number of section 33(4) arrangements sought to be put in place and the reasons any were unsuccessful. For existing disabled off-street parking places the local authority also must provide the number for which it started the statutory procedure (sections 6(7) and 7(6)). The dates by which each duty is performed under section 6 are also required.

Paragraph 1(g) relates to section 8 where local authorities are required to seek to make section 33(4) arrangements with car park owners. Information must be provided on any reasons the local authority have for believing that it has no power to make an order (section 8(2)), the number of premises it has further sought to make a section 33(4) agreement in respect of (section 8(4)) and if it has been unsuccessful in doing so the reasons why. It must also provide the number of parking places for which it has started the statutory procedure.

Paragraph 1(h) seeks general information on the total number of orders in relation to both disabled street and off-street parking places under the provisions of the Bill. The number of actual parking places may be much higher than the total number of orders if the local authority chooses to promote them in batches, for example one order could cover 100 individual spaces. As well as requiring the total number of orders made the total number of enforceable parking places designated for use by a disabled persons’ vehicle and the time taken to make orders is required. Where an order is not granted reasons are required in the annual report.

Part 2: Content of the annual report by the Scottish Ministers

Part 2 of the schedule specifies the reporting requirements on the Scottish Ministers under section 12. The report must contain details covering each category of information provided by the local authorities under part 1 of the schedule. This will enable the performance of local authorities to be compared.

Paragraph 4 enables the Scottish Ministers to provide in their report any other information about the performance, functions and duties of local authorities in relation to disabled persons’ parking places that they consider appropriate.
These documents relate to the Disabled Persons’ Parking Places (Scotland) Bill (SP Bill 10) as introduced in the Scottish Parliament on 2 June 2008

order\(^6\) for disabled persons’ parking places in its own car parks. The Bill also requires the local authority to contact owners or persons having an interest in private car parks to seek to negotiate an arrangement which would enable the local authority to promote orders for disabled persons’ parking places in those car parks.

83. Increasing enforceability will minimise confusion as to whether disabled persons’ parking places are enforceable which is expected to reduce the amount of abuse of such places. This in turns opens up accessibility for disabled people. The changes produced by the Bill will improve the lives of disabled people by enabling them to carry out day to day activities that non-disabled people take for granted.

84. The costs therefore set out in this memorandum need to be considered in the context that “disabled people in Scotland have an annual spending power of over £5 billion”\(^7\).

**COSTS ON THE SCOTTISH ADMINISTRATION**

85. There will be minimal costs incurred by the Scottish Ministers fulfilling their duty to report to the Scottish Parliament on the performance of local authorities in discharging their duties under the Bill. The staff time involved in collating the information from authorities and drafting text for the report is estimated to be no more than 2 days. These administrative and staff costs constitute such a minimal amount that it is anticipated that they will be able to be absorbed within departmental running costs.

86. There is wide public interest in the policy as measured by both the level of response to the member’s consultation and the scale of current press coverage on the theme of Blue Badge fraud and related issues.\(^8\) General awareness of the impact of the Bill should be high.

87. The Bill does not require any public information campaign by the Scottish Government, however any such campaign drawing attention to the change to the law and publicising the penalties for breaching a relevant order in relation to disabled persons’ parking places would be useful and welcome. The Scottish Government could prioritise any campaign within existing public information budgets.

**COSTS ON LOCAL AUTHORITIES AND OTHER PUBLIC BODIES**

88. Costs falling on local authorities from the provisions of the Bill can be split into two distinct categories: set up costs incurred in year one and ongoing costs in meeting the Bill’s requirements in subsequent years.

---

\(^6\) Order: commonly known as a Traffic Regulation Order

\(^7\) Leonard Cheshire (Scotland), Response to Consultation Paper, 19 January 2007

\(^8\) See paragraphs 99 to 103 of Policy Memorandum
Advisory parking places

Identification and assessment of existing disabled persons’ parking places

89. Local authorities will be required to identify all existing advisory disabled street parking places in their area in order to assess if they are still needed.

90. The information needed to carry out this exercise will already be held by local authorities. Any local authorities not holding the information centrally will hold correspondence and other details arising from the initial application. Local authorities administer the Blue Badge Scheme and it should be possible to cross reference that information with the details on advisory disabled street parking places in order to identify these parking places. The cost of this exercise will vary depending on the number of parking places to be identified but will require staff time to collate.

91. Both identification and assessment will be a one off requirement in the year following commencement and will not require to be repeated in subsequent years.

92. For some authorities this exercise may highlight a few parking places no longer required. The circumstances which normally lead to the removal of disabled street parking places are where the person no longer resides at the address, a blue badge is no longer held, a vehicle is no longer registered at the address or the death of the person who needed the parking place.

93. However, local authorities would not necessarily remove a parking place in these circumstances because it can be used by any Blue Badge holder and the local authority may deem that there is a case for retention. Therefore it is not possible to predict how many parking places would no longer be required. Some local authorities routinely remove such parking places and as such the Bill creates no additional costs in this area.

94. Again this exercise will only incur costs in year one.

Promotion and implementation of an order

95. The principal cost falling on local authorities will arise in promoting orders for those existing disabled persons’ parking places still required. In addition to the administrative costs of promotion there will be costs of altering road markings and signage once the order has been made (or removing existing advisory road markings and signage if the order is unsuccessful). The cost of promoting orders varies from local authority to local authority depending on the administrative procedure. Of the 13 local authorities who have provided information 8 processed orders on an individual basis while 5 processed them in batches.

96. Fife Council estimates the cost of promoting and implementing an order to be in the region of £119 per parking place. The Council has 2527 street advisory parking places and estimates it will cost £300,000 to make these parking places enforceable. To make all its 410 disabled street parking places enforceable cost West Dunbartonshire Council £5000, an average of £12.20 per parking place. However, that local authority estimates that once installation costs and signage requirements are taken into account the average cost per parking place ranges from

---

£100 to £500. It now has no advisory disabled street parking places and undertook this exercise within existing resources.

97. Data covering the number of existing advisory disabled street and off-street parking places across Scotland is not held nationally, nor is any information available on national costs to make a parking order. Twenty local authorities responded to a questionnaire by Jackie Baillie with details of numbers of advisory parking places in their areas disclosing a total of 9383. If that total is extrapolated nationally based on population figures in 2006 this suggests that there are around 14,000 advisory disabled street parking places throughout Scotland.

98. While some parking places in more remote areas will be more costly to create there is support for the Fife Council figure of £119 from the experiences of West Dunbartonshire Council. Taking an average cost slightly higher to provide for remoter locations where there will be fewer parking places of £125 per place suggests a maximum total cost nationally of £1.7 million.

99. As noted in paragraph 96 above, installation and signage has an effect on total cost. Each parking place requires correct road markings and complementary signage. Signage requires to be wall mounted, mounted on an existing pole, or mounted on a new pole. If signage can be wall mounted then the overall costs could be reduced by two-thirds. Further reductions could also be achieved by attaching to existing street furniture.

100. Additional savings would be made if orders for enforcing disabled street and off-street parking places were promoted en bloc along with other parking and traffic measures, for example, restriction of waiting times or residential parking permits areas.

New street parking places

101. There will be ongoing costs for local authorities in relation to applications for new disabled street parking places. The Bill standardises the criteria for applicants who request a parking place. If those criteria are met and the local authority considers that there are no statutory impediments it is required to commence the procedure to make an order. These are not new costs as the local authorities would have been required to undertake broadly the same process to consider applications for advisory disabled persons’ parking places. In some instances significant savings may accrue as a result of the power to enforce the parking places with administrative savings from the number of complaints of abuse of disabled street parking places reducing.

---

10 West Dunbartonshire Council, Letter to Jackie Baillie MSP, 6 October 2006
11 Written Parliamentary Question S3W-4994, Jackie Baillie MSP, 5 November 2007
13 Signage for enforceable disabled persons parking places is set out in Traffic Signs Regulations and General Directions 2002 (No 3113)
Enforcement

102. There will be ongoing costs associated with the enforcement of disabled persons’ parking places. Enforcement will however make a major contribution to improving the quality of life of disabled drivers who are inconvenienced by the abuse of disabled persons’ parking places.

Decriminalised parking areas

103. Six local authorities have used their powers to decriminalise parking which is now enforced by parking attendants. This operates in Edinburgh, Glasgow, Perth and Kinross, Dundee, South Lanarkshire and Aberdeen and covers 35.9% of the Scottish population. In the remaining local authorities parking is enforced by police traffic wardens or if required by the police themselves. It is noted that those local authorities that operate decriminalised parking enforcement retain the income from fines, while in other local authority areas fines income goes to the Treasury.

104. There will be increased enforcement work resulting from the advisory parking places being made enforceable. It is anticipated however that enforcement of residential parking places will be primarily reactive.

Costs

105. Glasgow City Council has operated a decriminalised parking system since 1999. Parking measures are enforced by parking attendants who are employed either directly by or contracted to the local authority

106. The Council income from parking charges for 2003/04 to 2005/06 averages £5.8m. This sum encompasses all parking related fines and not only those pertaining to abuse of disabled parking places. Expenditure for operating their decriminalised parking scheme over the same three year period came to an average of £4.95m leaving a surplus income of £0.85m per annum.¹⁴

107. Figures provided by South Lanarkshire Council show that even in its infancy the system is covering its costs and producing a small amount of surplus income. The income generated through the collection of Penalty Charge Notices for 1 April 2005 to 31 March 2006 was £499,902. The expenditure in operating Decriminalised Parking Enforcement (including enforcement and administration) was for the same period £494,334, leaving surplus income.¹⁵

Other local authority areas

108. Dumfries & Galloway Council advises the average collection levels of income from fixed penalty notices over three years as £103,400 per annum. The local authority keeps 1/10th of each fine for administration costs. Where the fine is not timeously paid, and thus increased, the local authority keeps one-third for administrative purposes. Staff involved with the administration

¹⁴ Glasgow City Council, Letter to Jackie Baillie MSP, 12 September 2006
¹⁵ South Lanarkshire Council, Letter to Jackie Baillie MSP, 29 August 2006
process indicate it is effective. Fine revenue is set at a level which covers administration costs and the Bill does not affect this arrangement. The remainder of revenue is paid to the Treasury.

109. Actual enforcement is carried out by the police and traffic wardens (see paragraph 120 below).

**Off-street car parks**

110. In relation to off-street car parks, local authorities will be required to identify all owners or persons having an interest in the car park. These are generally privately owned car parks to which the public have access, for example, supermarkets or leisure facilities.

111. Local authorities will be required to contact owners or persons having and interest in the car park operators to discuss seeking an arrangement that would enable them to promote an order in respect of disabled off-street parking places. These discussions may result in an order being made under existing powers covering the entire car park. To ensure flexibility the detail of any agreement between the local authority and the owner or operator of the car park is left as a matter for negotiation and not prescribed in any way in the Bill. Costs can be covered as part of the negotiation.

112. The Bill imposes no conditions on local authorities in relation to the terms of any agreement reached. If agreement to promote an order is subsequently reached between the parties, costs of promoting an order, road markings, signage and enforcement could be incorporated within the terms of the agreement.

**Margin of uncertainty**

113. There is a large degree of uncertainty attached to the above total cost for a variety reasons. The number of advisory street parking places in Scotland is unknown. The 14,000 figure used is potentially at the maximum range being extrapolated from information available covering the larger conurbations.

114. There is no cost available for making an order for a space. As explained earlier some Orders are made in batches and others individually. Batched Orders are significantly cheaper. Costs vary across authorities and the basis for the average figure selected is set out in paragraph 98. Costs may be higher but equally could be lower. The only definitive costs available were from West Dunbartonshire (see paragraph 96) but they exclude the cost of signage which varies from location to location.

115. It is considered that the cost given provides the best available estimate utilising the limited information available.

---

Future building developments

116. The Bill requires local authorities to consider future building developments which include relevant car parking open to the public. When the local authority grants planning permission or hears of permission being granted under a Development Order, the local authority is required to discuss with the developer the possibility of seeking an agreement to make an order.

117. Similar to paragraphs 111 and 112 above given the opportunity to recoup any expenditure as part of the agreement no additional costs need arise on local authorities.

General duties

118. Under the Disability Discrimination Act 1995 (the DDA) all public authorities have a duty to promote disability equality. Under the Bill, local authorities have a duty to promote the proper use of all parking places for disabled persons’ vehicles. This provision feeds into the existing requirements placed on local authorities by the 1995 Act to promote disability equality, eliminate discrimination and encourage disabled persons’ participation in public life. As such promotional work undertaken should be carried out within existing resources allocated to meet the requirements of the 1995 Act.

Reporting to Ministers

119. The costs for local authorities of reporting to Ministers will be minor, essentially the staff costs to collate information – much of which they will hold electronically.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

Police and traffic wardens

120. Costs on the police should be minimal. Enforcement of disabled persons’ parking places is expected to be on a reactive basis meaning the parking place would have to be reported as being abused rather than police or traffic wardens routinely patrolling them. The Bill aims to bring about a cultural shift in the way non-disabled drivers view the interests of disabled drivers. Any increased costs are likely therefore to arise, if at all, only in the short term. The positive returns from increased awareness and changed behaviour will lead to reduced general demands around disabled persons’ parking arrangements falling upon police and police traffic wardens’.

Owners of off-street parking

121. The Bill imposes no costs direct or otherwise on private owners or persons having an interest in the car park. Even for those with public parking the Bill imposes no requirements and costs. Any costs that might be incurred will be incurred voluntarily. Any costs thus incurred will be heavily outweighed by the benefits to businesses. Leonard Cheshire (Scotland) illustrates ably this point, stating that “disabled people in Scotland have an annual spending power of over £5 billion…..therefore it would be in the organisations interests to help cater for their customers needs by ensuring that accessible parking is fully enforced.”.

17 Response to Disabled Persons’ Parking (Scotland) Bill: Public Consultation, Jackie Baillie MSP November 2006
PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

122. On 29 May 2008, the Presiding Officer (Alex Fergusson MSP) made the following statement:

“In my view, the provisions of the Disabled Persons’ Parking Places (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”
This document relates to the Disabled Persons’ Parking Places (Scotland) Bill (SP Bill 10) as introduced in the Scottish Parliament on 2 June 2008

DISABLED PERSONS’ PARKING PLACES (SCOTLAND) BILL

POLICY MEMORANDUM

INTRODUCTION

1. This document relates to the Disabled Persons’ Parking Places (Scotland) Bill introduced in the Scottish Parliament on 2 June 2008. It has been prepared by the Non-Executive Bills Unit on behalf of Jackie Baillie MSP, the member in charge of the Bill, to satisfy Rule 9.3.3 A 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 10–EN.

POLICY OBJECTIVES OF THE BILL

2. Currently the majority of parking places designated for use by disabled people are not legally enforceable and are frequently used by unauthorised drivers. The occupation of these parking places by non-disabled people prevents disabled people from being able to access them, which in turn can prevent them from being able to access essential services.

3. The main policy objective of the Bill is to prevent disabled persons’ parking places being occupied by those that are not entitled to use them by seeking to ensure that enforcement action can be taken.

4. The Bill will make all permanent disabled street parking places enforceable. It requires local authorities to identify all existing relevant unenforceable disabled street parking places and promote orders for those still required. For those that are no longer required then the Bill requires the local authority to remove any road markings or sign posts. In relation to off-street parking the local authority will be required to promote an order for disabled persons’ parking places in the public car parks it owns. The Bill also requires the local authority to contact owners or persons having an interest in private car parks including supermarkets and out of town retail centres to seek to negotiate an agreement which would enable the local authority to promote an order to make the disabled persons’ parking places enforceable.

5. Once an order is in place action can be taken against anyone illegally occupying a disabled persons’ parking place covered by it.

1 Street and off-street parking is detailed at paragraph 10
2 Please refer to paragraph 25
BACKGROUND

The importance of disabled persons’ parking places

6. Disabled persons’ parking places play a vital role in enabling disabled people to carry out day-to-day activities that non-disabled people can take for granted. Disabled people often have restricted mobility and designated parking places located in residential areas provide them with access to parking close to their homes. This increases accessibility generally and particularly when leaving home to access shops, services and facilities. The provision of such parking places helps towards enabling disabled people to lead autonomous and independent lives.

7. Disabled persons’ parking places outwith residential areas are generally found close to shops, services and facilities, often in town centres or out of town retail parks. These parking places increase opportunities for disabled people to access shops, services and facilities such as medical practices and health centres. Access is more than just enabling them to do the same things as non-disabled people, it is often vital to their health and well being. For example evidence from Scottish Government research in 2007\(^3\) showed many disabled people missed medical appointments through being unable to access a suitable parking place.

8. The disabled person’s parking places provided near to shops, services and facilities are generally located close to entrances. Many disabled people have difficulty walking and such proximity assists in reducing the required walking distance. Often the parking places are also located so that users don’t have to cross roads or squeeze through rows of parked cars in busy car parks. This particularly assists those disabled people with restricted mobility and generally reduces the risk of accidents for all users. The parking place is also more likely to be located close to dropped kerbs, making it easier for wheelchair users to safely cross roads and access pavements.

9. In addition to location, the size of the parking place is important to disabled people. Many are wider than standard parking places providing more space between vehicles making it easier for disabled people to enter or leave vehicles. This is particularly important for those using wheelchairs or portable medical equipment.

Street and off-street parking

10. Street parking places are situated on public roads in town centres and residential areas. They are the responsibility of the local authority. Off-street parking places are generally in locations such as supermarkets, retail parks, libraries and community centres. They are provided for the use of customers and clients using the facilities and services and are the responsibility of the private owner or person having an interest in the car park or in some instances the local authority.

11. There are two types of parking places provided for disabled people, advisory and enforceable.

\(^3\) Transport Research Series: Tackling the Abuse of Off Street Parking for People with Disabilities in Scotland, Scottish Government, September 2007
Advisory disabled persons’ parking places

12. Most advisory parking places are found in residential areas close to disabled people’s homes. Local authorities respond to requests from disabled people for a parking place outside or close to their home. In order to qualify for such a parking place certain criteria must be met including the provision of convenient access between home and vehicle and the local authority must consider that there are no statutory impediments such as road safety concerns or traffic flow problems.

13. There is an inconsistent approach to the criteria for, and consideration of, advisory parking places in residential areas across Scotland.

14. The application process and criteria currently varies between local authorities. Most require the applicant to hold a Blue Badge (see paragraph 30 to 32 below); they also take into account the availability of local parking and the applicant’s level of disability. Most carry out a site visit; some take into account the level of disability of the applicant and/or link provision to receipt of certain disability benefits. Some consider how far the applicant is able to walk while others require a medical assessment.

15. When the criteria are met a disabled person’s parking place will be granted and the local authority makes arrangements for markings to be painted on the road. The approach to marking out an advisory parking place varies by local authority but generally consists of white or yellow markings being painted on the road. Examples are a wheelchair symbol, the words “disabled” or “keep clear”.

16. Local authorities tend to opt for advisory parking places, particularly in residential areas because they can often be created quickly and are easier to remove should the person move house or the space no longer be required. From information provided in 2006 local authorities indicated that an advisory parking place could be provided and put in place in timescales ranging from 28 days to 6 months. The local authority also avoids the expense of promoting an order (see paragraphs 25 to 27 below).

17. Most disabled persons’ parking places found in private off-street car parks such as supermarkets, out of town retail parks, leisure facilities and medical centres are advisory ones. The importance of these parking places to disabled people is set out in paragraphs 6 to 9 above. These are parking places generally owned either by the company or organisation that owns the land or by the owner of the shop or service. In the cases of community halls, libraries and leisure facilities the owner can be the local authority. Provision of these parking spaces amounts to a reasonable adjustment in its own right under the Disability Discrimination Act 1995 c.50 (DDA). Failure to provide accessible parking facilities has been found to be a breach of the DDA.

18. There are no sanctions that can be imposed against the many “illegal” users of advisory parking places (see paragraphs 34 to 46 for the extent of abuse)

---

Information provided to Member by 26 Local Authorities. February 2006
Enforceable disabled persons' parking places

19. Most enforceable disabled persons' parking places are found in street parking areas. They are enforceable because local authorities have used their powers to promote an order. If the outcome of the order making process is successful then the parking places are marked with yellow paint and display signs indicating that they are only for use by disabled people.

20. It is illegal to park in one of these disabled persons’ parking places without displaying a Blue Badge (or one issued under a similar scheme in Northern Ireland or a Member State of the European Community). They are enforceable by police or by the local authority where they operate a decriminalised parking system.

Parking enforcement in Scotland

Decriminalised parking areas

21. In 1991 provisions were introduced that enabled the decriminalisation of most street parking offences in London and permitted similar arrangements to be introduced elsewhere. The relevant provisions were commenced in Scotland in 1997. It enabled local authorities to apply to the Scottish Ministers for an order to designate either permitted or special parking areas within which most parking offences would be decriminalised.

22. In Scotland 6 local authorities operate a decriminalised parking enforcement (DPE) system. These are Edinburgh, Glasgow, Aberdeen, Dundee, South Lanarkshire and Perth and Kinross.

23. When a decriminalisation order is made parking rules are enforceable by parking attendants employed either directly by or contracted to the local authority. The local authority sets the level of the fine which on average is around £30 rising to £60 if not paid within 21 days. The attendants issue fixed penalty notices for parking offences, enforceable directly by the local authority without recourse to court. Appeals against the issue of these fixed penalty notices are heard by an independent Parking Adjudicator.

Other areas

24. In the remaining local authority areas enforcement is carried out by police and police traffic wardens. Parking offences are enforceable through the courts. Fines for street parking offences attract up to a level 3 summary fine on the standard scale (currently maximum of £1000) and off-street parking offences attract up to a level 2 (currently maximum of £500).

---

5 Road Traffic Regulation Act 1984
6 Signage for enforceable disabled persons parking places is set out in Traffic Signs Regulations and General Directions 2002 (No 3113)
7 The Road Traffic Act 1991 c.40
8 The Road Traffic Act 1991 (Commencement No.13) (Scotland) Order 1997 (No. 1580 (C.65) (S.121))
9 These areas are usually the whole of the local authority
10 Glasgow, Aberdeen and Perth and Kinross have set the fine at £30.
Parking place orders

25. Under the Road Traffic Regulation Act 1984 (c.27) (RTRA) local authorities have power to make orders in relation to parking places. The making of an order brings enforcement powers to the parking places it covers. Local authorities can determine whether or not to start the order making process themselves or they can be directed to do so by the Scottish Ministers. The RTRA also gives the Scottish Ministers powers to directly make orders.\(^{11}\)

26. The procedure for the making of these orders is set out in The Local Authorities’ Traffic Orders (Procedure) (Scotland) Regulations 1999\(^ {12}\). The time taken to promote an order, including advertising and any hearing necessary, ranges from 3 to 24 months.\(^ {13}\) Some local authorities promote orders for individual parking places and others promote them in batches depending on their priorities. The cost of promoting an order varies greatly. Estimated figures\(^ {14}\) from local authorities indicate that it can cost £300,000 to make 2500 individual disabled persons’ parking places enforceable while the cost of one block order covering 410 parking places cost £5000.

27. In answer to a Parliamentary Question\(^ {15}\) the Scottish Government indicated that they were not aware of any significant problems with the current procedures for making orders and they had no plans to review the regulations. They added that the effectiveness of the regulations will be kept under review and if it was found that they were not working as intended then appropriate action would be taken to remedy the situation. Given the disparity in time taken, procedures and costs there is clearly merit in the Scottish Ministers reviewing the order making procedure to allow all local authorities to put in place a process that would enable them to promote orders quickly and at the lowest possible cost.

Orders in private car parks

28. Guidance issued by the Scottish Government in Scottish Planning Policy SPP 17 – Planning for Transport (SPP 17) explains how local authorities can make disabled person’s parking places in private car parks enforceable:

“Our local authorities have powers under The Road Traffic Regulation Act 1984 to designate by an order under The Local Authorities’ Traffic Orders (Procedure) (Scotland) Regulations 1999 spaces for parking for disabled people on private land with the agreement of the land owner. Such designation allows Blue Badge parking for disabled people to be enforced by police, traffic wardens, or in areas with decriminalised parking, parking attendants. Local authorities should consider designation, especially where there is a history of abuse of parking provision for disabled people for example in retail, leisure and recreation developments in the area.”\(^ {16}\)

---

\(^{11}\) To date Scottish Ministers have made no orders

\(^{12}\) The Local Authorities’ Traffic Orders (Procedure) (Scotland) Regulations 1999 No. 614 (S. 38).

\(^{13}\) Information provided to Member by 26 Local Authorities. February 2006

\(^{14}\) Ibid

\(^{15}\) Parliamentary Question S3W - 11113

\(^{16}\) Scottish Planning Policy SPP17 – Planning for Transport. August 2005 (paragraph 63)
29. To date, despite extensive evidence of widespread abuse\(^\text{17}\) of disabled persons’ parking places no such arrangements have been made\(^\text{18}\). The main reason given being that local authorities have not been approached by any car park owners or person having an interest in the car park to come to an arrangement. It appears that local authorities are not proactively using their existing powers and approaching car park owners to seek such agreements.

### The Blue Badge scheme

30. The Blue Badge scheme is a United Kingdom wide local authority administered scheme which provides a range of parking benefits for disabled people who travel in vehicles either as drivers or passengers. These benefits only apply to street parking and include free use of parking meters and pay-and-display bays. In Scotland Blue Badge holders are also able to legally park on single and double yellow lines provided they are not causing an obstruction.

31. The Blue Badge scheme does not apply in off-street car parks, private roads or at most airports. However, many of these places provide parking spaces for disabled people. For example in a private off-street car park disabled persons’ parking places may be provided close to exits and lifts although the disabled person will not generally be entitled to park without charge. However these disabled persons parking places are not enforceable and rely on the courtesy of other drivers not to use them.

32. Blue Badges are issued by the local authority to applicants who meet the eligibility criteria. Provision was made in 2000 on the issue and display of Blue Badges\(^\text{19}\). Following consultation this was amended\(^\text{20}\) in 2007 to widen the eligibility criteria for the Blue Badge Scheme by amending the description of those disabled persons’ who are eligible for a Blue Badge.

33. The Bill makes no changes to the Blue Badge Scheme.

### Abuse of disabled persons’ parking places

34. Surveys consistently highlight a high level of abuse of disabled person’s parking places often resulting in there being no available places for genuine users.

35. While advisory disabled persons’ parking places can be created quicker than enforceable ones, they are not enforceable. Any driver can park in them without the possibility of legal sanctions. They cannot be required to move nor can they be penalised for parking.

36. Advisory bays rely *entirely* upon the good will and courtesy of other drivers. In residential areas they are often abused by neighbours.

---

\(^{17}\) See paragraphs 34 to 55

\(^{18}\) Information provided to Member by 26 Local Authorities. February 2006

\(^{19}\) Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000 No 59 as amended by SSI 2000 No.170.

\(^{20}\) The Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2007 No 162.
37. Anecdotal evidence and responses to the consultation document\textsuperscript{21} indicate the high level of abuse of advisory disabled persons’ parking places by people who do not hold a Blue Badge. Many are neighbours or their visitors, people using the space to pop to the local shops for a few minutes or to use neighbouring facilities. The consultation provided the example of Mrs C, a disabled person to whom the local authority had provided an advisory disabled persons’ parking place. When a new neighbour moved in 4 years ago they consistently parked in the parking place. No action could be taken given the absence of any enforcement powers.

38. Studies by Baywatch, a disability rights organisation with the objective of ending the abuse of disabled persons’ parking places, and the Scottish Government show that abuse of advisory parking places is also a problem in retail parks. More detail on these studies is set out in the following paragraphs.

\textit{Studies by disability rights organisations of abuse}

39. Baywatch aim to change public attitudes through high profile campaigns such as surveys on the parking facilities in the big four UK supermarkets. Volunteers check to see if cars parked in disabled persons’ parking places are displaying a Blue Badge.

40. Their 2005\textsuperscript{22} survey conducted across 600 car parks showed that 1 in 5 (20\%) of disabled persons’ parking bays were occupied by vehicles not displaying a Blue Badge. In 2006 the survey once again found that 20\% of disabled persons’ parking bays were being abused. Only one of the main 4 supermarkets had improved dropping from 19\% of disabled persons’ parking places being abused to just less that 13\%. However in the car parks of 2 of the main supermarkets the situation deteriorated, with an increase in abuse of the disabled persons’ parking places from 21\% to 23\%.

41. The 2006\textsuperscript{23} survey also found that in over a third (33.3\%) of car parks there were no accessible parking places available for disabled shoppers because of abuse, a rise from 28\% in 2005.

42. In 2003, Capability Scotland conducted a mystery shopper survey\textsuperscript{24} visiting 118 stores between 23 August and 8 September. They found that 44\% of disabled persons’ parking places were occupied by vehicles not displaying a Blue Badge.

\textit{Research by the Scottish Government}

43. In September 2007 the Scottish Government published the results of its research into abuse of off-street parking for people with disabilities.\textsuperscript{25} The purpose of the research was to provide advice and assistance to those responsible for the provision of off-street parking in adhering to the guidelines set out in the DDA.

\begin{itemize}
  \item \textsuperscript{21} Disabled Persons Parking (Scotland) Bill: Public Consultation, Jackie Baillie, November 2006  
  \item \textsuperscript{22} http://www.baywatchcampaign.org/PastSurveys.asp  
  \item \textsuperscript{23} http://www.baywatchcampaign.org/LatestNews.asp?ItemId=24  
  \item \textsuperscript{24} Mystery Shopper Survey: Are you being served? Capability Scotland, September 2003  
  \item \textsuperscript{25} Transport Research Series: Tackling the Abuse of Off Street Parking for People with Disabilities in Scotland, Scottish Government, September 2007
\end{itemize}
44. The introduction to the report states:

“One of the most common mobility problems faced by disabled people is the lack of availability of parking spaces in off-street car parks that are located near to their destination, and which have been designated for their use. This is often because they are occupied by cars of drivers for whom they were not intended”.

Who are the abusers?

45. The research identified different groups of people who abuse disabled persons’ parking places along with possible reasons for the abuse. Some abusers are in denial that they abuse the parking places even after initially admitting they have abused them. Whilst others are termed “reluctant abusers” in that they have used disabled persons’ parking places when no others were available, for example, to attend medical appointments or collect heavy goods. Other abusers were categorised as being “justified abusers” using the parking place because the signage was unclear and they were unaware of its purpose. Others abused because they felt they had a need or should be entitled to park there, some because they had a temporary disability or reduced mobility but did not actually qualify for or possess a Blue Badge.

46. Persistent abusers accounted for the majority of abusers, regularly parking in disabled persons’ parking places because the location is convenient or they believe their vehicle will be safer there. The final type of abuser identified were those abusing the Blue Badge Scheme itself.

Factors used to justify abuse

47. Also identified were factors that abuse of disabled persons’ parking places could be attributed to such as social factors, for example seeing others without a disability using the parking places and following their behaviour. The cost of parking was found to make free parking for disabled persons more open to abuse. A further factor behind abuse was lack of enforcement, many of the participants in the research generally did not expect to be penalised for parking in a disabled persons’ parking place, particularly in off-street car parks.

48. Abuse of disabled persons’ parking places occurs more often in heavily used car parks such as at supermarket and retail parks. These are places where demand for use by disabled people is highest. Non-disabled drivers often believe that there are more disabled persons’ parking places than there are disabled people needing them.

Actions by supermarkets and out of town retail centres to tackle abuse

49. Supermarkets are now recognising that abuse of disabled persons’ parking places is a problem for them as well as for disabled customers. Towards the end of 2007 Asda introduced a trial period of enforcing disabled persons’ parking places in their car parks using a private enforcement company. After 3 months the results showed a 60% increase in the number of parking places available for use by disabled persons’. On 10 January 2008 Asda announced it was to roll out the scheme nationwide in recognition of the success of the trial.

This document relates to the Disabled Persons’ Parking Places (Scotland) Bill (SP Bill 10) as introduced in the Scottish Parliament on 2 June 2008

50. Braehead Shopping Centre and Retail Park from 31 March 2008 is now levying a financial penalty against people who park in any of its 387 disabled persons’ parking places without displaying a valid Blue Badge. Last year Braehead had over 20 million customers and is one of the largest shopping and retail parks in Scotland.

51. Leonard Cheshire (Scotland) highlighted that “disabled people in Scotland have an annual spending power of over £5 billion.....therefore it would be in the organisations’ interests to help cater for their customers needs by ensuring that accessible parking is fully enforced.”

52. It is hoped that owners or persons having an interest in private car parks will give serious consideration to the benefits the Bill will provide both to them in meeting their obligations under the DDA and in looking after their customers.

Equal Opportunities Committee inquiry in the Scottish Parliament

53. In Session 2 of the Scottish Parliament, the Equal Opportunities Committee undertook an inquiry into disability issues. Part of the inquiry covered the abuse and enforcement of accessible parking spaces for the use of disabled people. The Committee recognised:

“both the difficulties caused for disabled drivers through the abuse of accessible parking by non-disabled drivers and also the complexities involved in the enforcement of accessible parking”.

54. The Committee recommended that

“.the Scottish Executive develop and promote suitable mechanisms for the effective enforcement of proper use of accessible parking for disabled people wherever it exists including encouraging local authorities to make full use of Traffic Regulation Orders”.

55. This Bill delivers the Committee’s recommendation.

How the Bill will work

Duty to discourage misuse of disabled persons’ parking places

56. The Bill requires local authorities to promote the proper use of disabled persons’ parking places for persons holding Blue Badges.

57. Proactive local authorities already seek to avoid abuse of disabled persons’ parking places in car parks that they own and manage. They do this for example by training staff to make them aware of the issue and providing additional signage. The promotion requirement will necessitate proactive approaches by all. Although the methods are not specified in the Bill this could be achieved perhaps by undertaking advertising or poster campaigns.

27 Response to Disabled Persons Parking (Scotland) Bill: Public Consultation, Jackie Baillie November 2006)
28 Equal Opportunities Committee, 2nd Report 2006: Removing Barriers and Creating Opportunities
29 Ibid paragraph 1259
58. An inexpensive approach could see local authorities encourage people to report instances of abuse and providing contact numbers for those responsible for carrying out local enforcement. Targeting such action to areas where abuse is recurrent could also be encouraged.

**Advisory disabled street parking places**

59. The Bill places initial, one off duties, on local authorities with regard to advisory disabled street parking places. It requires local authorities to identify all advisory disabled street parking places in their area. Once identified the local authority must assess if the parking place is still required having regard to whether there is convenient access to the address of a person or organisation which holds a disabled badge and its existing duties under the 1984 Act.

60. If the parking place is still required, the local authority must commence the existing statutory procedure to make an order making the parking place enforceable.

61. Local authorities must have identified those parking places that are still required and started the procedure to make an orders in respect of them within 12 months of the Act coming into force.

62. If an advisory disabled street parking place is no longer required, or the order is unsuccessful then the markings or sign posts must be removed. This will lead to all disabled street parking places becoming enforceable.

**Applications for disabled street parking places**

63. The Bill also provides standard criteria which applicants must meet when applying to local authorities for disabled street parking places. This will ensure a consistency of approach throughout Scotland. The application should be made by the person (or an organisation) holding a Blue Badge or by someone such as a carer or social worker on behalf of the Blue Badge holder. If the person is an individual, the person’s address must be the same as the registered address of the registered keeper of a vehicle suitable for the carriage of the person. If the applicant is an organisation, the organisation’s address in respect of which the application is made must be the same as the registered address of the registered keeper of a vehicle used by or on behalf of the organisation to carry disabled persons. The local authority has to decide whether it is possible to identify a suitable street parking place in its area which would provide convenient access to the person’s or organisation’s address.

64. If the criteria are met, and having regard to the local authority’s duties under the 1984 Act it considers that it is empowered to do so the local authority identifies a suitable parking place. The local authority is then required to commence the statutory procedure to make an order to make the parking place enforceable and so available for use by any Blue Badge holder. While the procedure to make the order is being processed, the local authority must designate a temporary disabled street parking place which would also be available for use by any Blue Badge holder.

65. If the criteria are not met, then the applicant has to be given the reasons why a disabled street parking place is not being provided.
66. Where a person has more than one home either in the same or a different local authority area, the application criteria could not be met for more than one address under this Bill unless a suitable vehicle were to be registered at each address. However, there would be nothing to stop the local authority considering a situation where there was no vehicle registered at a person’s address on a case by case basis and (if they wished to) provide an enforceable space at such an address using their existing powers under the 1984 Act. The Bill does not prevent them doing this although it does stop them creating an advisory one.

**Off-street car parks**

67. Disabled parking places are found in many off-street car parks in compliance with current planning guidance as well as duties and obligations under the DDA.

68. Where the parking place(s) have been provided either by the local authority or under arrangements made under section 33(4), the local authority, where it considers it has power to do so, must start the statutory procedure to make an order. In so doing they must also take account of their duties under section 122 of the 1984 Act. The local authority has 12 months from the Act coming into force in which to start the statutory process.

69. The local authority also has 12 months from the Act coming into force to identify advisory off-street parking place(s) not provided under arrangements made under section 33(4) of the 1984 Act. The local authority must decide if it would have power to make an order if arrangements could be put in place.

70. For each that it decides that it would have the power they must contact the owners or persons having an interest in the parking place to discuss making arrangements under section 33(4). If arrangements are made the local authority must promote an order to make the disabled persons’ off-street parking place enforceable.

71. SPP 17 sets out guidance on the making of these arrangements. The detail of the arrangements, such as costs and duration are not prescribed in the Bill and are left to parties to agree upon.

72. For off-street disabled parking places provided by the local authority, such as those for libraries or leisure centres, the local authority is required to initiate the statutory procedure to make an order to make any disabled persons’ parking places enforceable.

**Off-street parking within new developments**

73. The Bill also covers new developments that are to have car parks to which the public will have access. Where a local authority has granted planning permission for a development or learns of a development for which planning permission has been granted under a development order, the authority is required to seek to make arrangements under section 33(4) with the developer. Thus enabling them to promote an order to make the disabled persons’ parking places within the new development enforceable.
74. The Bill requires the local authority to decide if it has the power to make a disabled off-street parking order in respect of the parking place(s) within 3 months of planning permission being granted or, in the case of an approval granted by virtue of a general or special development order, within 3 months of the local authority learning of such a development. If the local authority decides that it does have the necessary power, it must begin to seek to make such arrangements within the same period of three months.

75. If arrangements are made between the parties then the local authority will be required to promote an order. It is hoped that local authorities would aim to have the order in place by the time the development is open for use by the public.

Ongoing duties in respect of disabled off-street parking

76. Every two years from the date the local authority concluded it was unable to make arrangements with a car park owner or person having an interest in the car park, the local authority has 3 months to consider whether, having regard to its other duties under the 1984 Act, it would have power to make an order. If it considers that it would have, then the local authority must, within that period of 3 months, start seeking to make arrangements to make an order.

General duty to review disabled street parking

77. Local authorities have a duty to keep under review the provision of enforceable disabled street parking places in their areas.

Reporting

78. Local authorities will be required to provide, in annual reports to the Scottish Ministers, specific information (sometimes with reasons) about how they have implemented their duties under the Bill.

79. The Scottish Ministers must in turn report to the Parliament on the actions taken by local authorities by local authority area. Reporting to the Parliament in this way will ensure that local authorities are accountable to the Parliament through the Scottish Ministers and the transparency of this approach will allow best practices to be highlighted for other authorities to follow.

Who will be able to use these disabled persons’ parking places?

80. Entitlement to use disabled persons’ parking places remains unchanged from the existing position. Holders of valid Blue Badges issued by local authorities in the United Kingdom, Northern Ireland or a comparable badge issued by any other member State of the European Union will continue to be permitted to use a disabled persons’ parking place.

Enforcement and offences

81. The Bill seeks to make all disabled persons’ parking places enforceable so that abuse can be effectively tackled, although its success depends, in part, upon co-operation by private providers of car parks. By increasing awareness that disabled persons’ parking places are enforceable, abusers will be more aware that they will be penalised leading to a reduction in abuse.
82. The Bill continues to utilise existing enforcement regimes, including existing levels of fines, issue of penalty notices and appeals processes. It is hoped that local authorities will encourage the public to report abuse allowing effective enforcement to be targeted.

83. In local authority areas where decriminalised parking enforcement (see paragraphs 21 to 23) is in place, enforcement remains the responsibility of the local authority. The local authority will continue to set the level of fines and issue penalty notices. Any appeals in regard to the issue of penalty notices will continue to be heard by the existing established appeals mechanism. The Parking Adjudicator exists statutorily to independently hear appeals.

84. In other local authority areas enforcement will continue to be the responsibility of the Police and Police Traffic Wardens. Appeals against penalty notices issued by the Police or Police Traffic Wardens continue to be matters for the court system.

Revenue from enforcement
85. In local authority areas where DPE is in place, local authorities retain the money collected from the issue of parking notices.

86. In areas where enforcement is carried out by the Police and Police Traffic Wardens money collected from the issue of the penalty notices will continue to be paid to the Treasury subject to a small deduction for administration charges.

CONSULTATION
87. Jackie Baillie prepared a consultation paper\textsuperscript{30} on her policy objectives which ran from 20 November 2006 until 26 February 2007. Late submissions were accepted and considered.

88. The consultation was issued to 120 interested organisations and individuals. Recipients were encouraged to bring the consultation to the attention of others who they thought might have an interest.

89. A further 80 copies were requested and issued. In addition one copy was supplied in audio format.\textsuperscript{31}

90. The consultation document sought information in support of making all disabled persons’ parking places enforceable. A total of 172 responses were received of which 90.1% (155) supported this policy objective.

\textsuperscript{30} Disabled Persons Parking (Scotland) Bill: Public Consultation, Jackie Baillie November 2006
\textsuperscript{31} The Member wishes to record thanks to Cue and Review Recording Service, Glasgow
Breakdown of responses

<table>
<thead>
<tr>
<th>From</th>
<th>Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Authorities</td>
<td>21</td>
</tr>
<tr>
<td>Individuals</td>
<td>118</td>
</tr>
<tr>
<td>Organisations</td>
<td>32</td>
</tr>
<tr>
<td>MSP</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>172</td>
</tr>
</tbody>
</table>

91. In addition the Transport Working Group (TWG) from Fair Deal\(^{32}\) organised a petition in support of the principles of the proposal and collected over 3000 signatures.

92. Of the 82 respondents who answered the question “what are your views on disabled persons’ parking spaces in private car parks, such as supermarkets, being enforceable?” 91.5% agreed that they should be made enforceable. Many indicated that it was essential that these spaces be included. One respondent concluded that enforcement in these areas is a “key aspect of accessibility”.

93. There was a varied response to the question “What are your views on enforcement issues or do you have any alternatives to the enforcement method proposed?” with 35.3% of those answering supporting the proposed option. Further examination of existing enforcement methods shows that where actively promoted by the police and wardens they work well. These include established tried and tested ticketing procedures and appeal processes.

94. Responses received to other consultation questions show the majority agreeing that local residents must be afforded an opportunity to object to enforceable parking proposals that could affect them. There was a varied response about the appropriate fine level with the majority who indicated a figure suggesting £30 or £60 reducing to £30 for early payment, much in line with existing fine levels. The Bill makes no changes to the current level of fines.

95. A quarter of those who answered the question “Do you have any other comments or views on the issue of making all disabled persons’ parking bays enforceable?” agreed that all bays should be enforceable. Others also agreed, making suggestions about record keeping by local authorities and road markings.

96. Finally, several respondents including local authorities and ACPOS expressed the view that should the Bill become law a high profile public education campaign would be necessary. The campaign should:

- inform the public of changes to the law; and
- highlight the problems caused for disabled people and their carers when there are no available car parking spaces close to amenities.

\(^{32}\) The TWG aims to improve transport for adults and children with disabilities in Glasgow. Fair Deal: Transport Working Group, http://www.fair-deal.org/default.aspx?id=257\&n=223\&cid=0\&rid=0

14
97. As work to develop the Bill has progressed it has become evident that the principal issues in relation to disabled persons’ parking places are:

- Enforcement of advisory spaces
- Places in private car parks such as supermarkets
- A proactive approach to disabled persons parking places by authorities.

98. Having considered the consultation evidence and the existing enforcement mechanisms the Member determined that these are the main areas requiring action in the Bill.

**Abuse of the Blue Badge Scheme**

99. The responses to the consultation document on the proposal for this Bill indicated that there is a strong perception that the Blue Badge Scheme is abused. In particular that it is abused in three main ways; the first by people who have misrepresented their disability to obtain a Blue Badge. Secondly there is the perception of abuse around people who legitimately have a Blue Badge but allow others to use it. Finally abuse in relation to the “market” for fake Blue Badges using stolen or copied ones.

100. The Bill does not seek to make any changes to the administration or enforcement of the Blue Badge scheme, such an approach being outwith the scope of the Member’s proposal. It is recognised that such issues require to be addressed and the following paragraphs set out existing provisions and actions to combat abuse of the Blue Badge Scheme.

101. There are existing powers in place allowing for the inspection of Blue Badges by the Police, Traffic Wardens and Parking Attendants to combat abuse of the Blue Badge Scheme.33 Existing offences are available to deal with the general misuse of Blue Badges34.

102. A review of the Blue Badge Scheme is being carried out by the Department for Transport35 in England and Wales. This review is looking at eligibility, concessions, administration and enforcement as well as making public transport more accessible to disabled people giving them an alternative to the car. In respect of administration and enforcement the review is looking at ways of improving the scheme and reducing opportunities for abuse, in particular the use of lost, stolen, duplicated or forged badges, and the misuse of Blue Badges by relatives and friends.

103. It is anticipated that when the result of the consultation by the Department of Transport is published Scottish Ministers will take cognisance of the outcomes. Action taken may address some of the concerns raised in responses to the consultation on the Bill.

---

33 Section 73 of the Transport (Scotland) Act 2001 (asp 2) which amends the Chronically Sick and Disabled Persons Act 1970 (c.44).
34 section 117 of the Road Traffic Regulation Act 1984 (c.27) as amended by section 35 of the Road Traffic Act 1991 (c.40).
35 Consultation on Developing a Comprehensive Blue Badge (Disabled Parking) Reform Strategy Department of Transport, (24 January 2008)
ALTERNATIVE APPROACHES

104. There were two alternative approaches considered following the results of consultation.

Approach set out in the consultation

105. The consultation suggested simplifying the process by which orders were made and, as a result of which, disabled persons’ parking places were capable of being enforced.

106. Any new statutory process for the creation of parking places would, in order to meet ECHR requirements, inevitably take a similar time to making an order. It would also mean that there would be two separate processes for making parking spaces enforceable, a new one for disabled persons’ parking places and existing orders for other parking places. This would likely cause confusion. By using the existing order making process the Bill is harnessing existing legislation.

107. The responses to the consultation indicated a high level of support for making all disabled persons’ parking places enforceable and the Bill seeks to do this, where the necessary agreements with private providers can be secured. Utilising existing powers and processes that local authorities already have in place provides consequential savings of both time and money.

Retain the status quo

108. The second option was to retain the status quo. Such an approach would be contrary to the wishes of the majority of consultation respondents. All of this evidence set out in paragraphs 34 to 38 on the abuse of disabled persons’ parking places which demonstrates that action to address abuse is urgently required.

109. Existing discretionary powers are available to local authorities through the provisions of the RTRA. The RTRA gives powers to local authorities to promote orders to provide both street and off-street parking places. Where local authorities fail to promote orders, the Scottish Ministers have the powers to make the order themselves.

110. The consultation responses suggest that the discretionary use of RTRA powers are not working. Anecdotal evidence reinforces that impression and there are no official statistics or information that suggest otherwise.36

111. Given the inaction to date it is clear that abuse of disabled persons’ parking places has not been seen as a priority for action by some local authorities or the Scottish Ministers, despite there being ample existing powers.

112. Exceptions include West Dunbartonshire Council and Inverclyde Council37 who took steps to make all advisory disabled persons’ parking places enforceable. West Dunbartonshire

36 Government answers to the Member - PQ’s stating that no information is held centrally (S3W-4992 to SW3-4996)
37 Anecdotal evidence provided to the Member by Inverclyde Council
113. Some consultees expressed a concern that if parking places in private off-street car parks were made enforceable owners or operators would remove them. To do so would in all probability breach planning conditions and disability laws. Recent developments also suggest the opposite approach. More and more supermarkets and owners or operators of private car parks are recognising that the abuse of disabled persons’ parking places is a problem and one they must address. Asda are taking steps to enforce their car parks and more off-street parking providers are considering following suit and introducing enforcement carried out through private companies.

114. The action of these supermarkets and other private owners and operators is to be applauded. However it is not without difficulties and while such action will raise awareness and help prevent abuse of disabled persons’ parking places the enforcement system they are using has neither statutory regulation nor an independent appeals process. The Bill utilises an existing system of regulation used throughout Scotland and other parts of the United Kingdom and in doing so ensures that appeals are heard by either the Courts or statutorily appointed independent adjudicators.

115. The approach taken in the Bill will ensure that disabled persons’ parking places are given increased priority and the needs of disabled people prioritised.

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

Equal opportunities

The disability equality duty

116. The overriding purpose of the Bill is to encourage the observance of equality of opportunity between disabled and non-disabled users of motor vehicles in relation to parking. To a great extent, it requires local authorities to use the existing powers they already have to secure that. Its purpose is not to provide further regulation or prohibition of discrimination by imposing additional duties on service providers to make particular adjustments for disabled people.

117. Regulations made under the DDA require the Scottish Government and all local authorities to demonstrate how they are meeting their duties under the DDA. In effect the DDA’s general duty sets out what authorities have to do; while its specific duty sets out how they do it and what they need to record as evidence of what they have done.

118. The Bill compliments the requirements on local authorities (and Scottish Ministers) under the DDA particularly in relation to promoting disability equality, eliminating discrimination and encouraging disabled people’s participation in public life. The reporting, reviewing and revision

---

38 Information provided to Member by 26 Local Authorities. February 2006
requirements on local authorities’ Disability Equality Schemes will support the Bill’s provisions. The Scottish Parliament will be able to monitor progress and identify best practices through reporting requirements.

119. Local authorities should be able to refer to the work being undertaken as part of their Disability Equality Schemes in relation to these requirements.

**Human rights**

120. The Bill makes provision for matters relating to promoting the proper use of disabled parking places and the regulation of car parking for disabled badge holders. In doing this the Bill neither confers nor removes any rights to the provision of parking spaces for any individual and thus makes no provision that interferes with any person’s rights.

121. The Bill does provide for the removal of existing “advisory” parking places but no person has a “right” to such a parking place. They are currently provided at the discretion of local authorities but the making of a parking place does not confer any rights on the individual who may have applied for it.

122. Consideration was initially given to requiring all off-street parking places under private ownership to be made enforceable. As this would be a deprivation of property the alternative approach set out in the Bill requiring local authorities to seek to make (voluntary) arrangements with private owners was adopted.

**Island communities**

123. There may be less immediate impact on the Western Isles as they have stated\(^{39}\) that they have no residential advisory bays because there is no current demand for them due to availability of parking.

**Local government**

124. Local authorities will be required to draw together information on all street and off-street disabled persons’ parking places although most of this information should be held within departments, as should information on planning applications. The efficient use and sharing of the information they hold is the key to keeping impact down.

125. Local authorities will also be required to seek to make arrangements with owners or persons having an interest in private car parks, this would enable them to make orders in respect of disabled persons’ parking place within these car parks.

126. There will be an impact on local authorities in relation to the number of Orders they are required to promote. However it is noted that West Dunbartonshire Council in 2006 began to make all street disabled persons’ parking places enforceable within existing budgets using

\(^{39}\) Information provided to Member by 26 Local Authorities. February 2006
existing resources. Again it is important that local authorities evaluate/identify the most efficient means of using the order making process and carrying out the installation work.

127. As set out in paragraphs 116 to 119 above compliance with the provisions of the Bill will contribute to the work undertaken by the local authority under their Disability Equality Schemes.

**Sustainable development**

128. The Bill will help towards building a sustainable community working towards ensuring that the community is well served and that it has public, private, community and voluntary services that are appropriate to people’s needs and are accessible to all.

129. In conclusion the Member believes that any impacts of the Bill on all of the above areas are outweighed by the effect it will have on the lives of disabled people.
This document relates to the Disabled Persons' Parking Places (Scotland) Bill (SP Bill 10) as introduced in the Scottish Parliament on 2 June 2008

DISABLED PERSONS’ PARKING PLACES (SCOTLAND) BILL

DELEGATED POWERS MEMORANDUM

PURPOSE

1. This memorandum has been prepared by Jackie Baillie MSP, the Member in charge of the Bill. It has been provided to assist the Subordinate Legislation Committee with their consideration, in accordance with Rule 9.6.2 of the Parliament’s Standing Orders, of provisions in the Disabled Persons’ Parking Places (Scotland) Bill conferring powers to make subordinate legislation. It describes the purpose of each such provision, explains why the matter is to be left to subordinate legislation and explains the choice of procedure.

POLICY CONTEXT

2. The Bill imposes duties on local authorities which will increase the number of enforceable street parking places for disabled persons and provides a mechanism by which it aims to increase the number of enforceable off-street parking places for disabled persons.

3. The Bill’s key objectives are to—
   • Prevent illegal occupation of disabled parking places by those not entitled to use them; and
   • Make such parking places enforceable to allow action to be taken against illegal use.

CONTENT OF THE BILL

4. The Bill—
   • Places a duty on local authorities to promote the proper use of parking places designated for use by disabled persons’ vehicles;
   • Requires local authorities to identify every advisory disabled persons’ parking place in its area and, if it meets certain criteria, start the Order making procedure to make such parking places enforceable;
   • Provides the process for individuals or organisations holding a disabled persons’ badge to apply for a disabled persons’ parking place that will provide convenient access to their address;
This document relates to the Disabled Persons' Parking Places (Scotland) Bill (SP Bill 10) as introduced in the Scottish Parliament on 2 June 2008

- Requires local authorities, in respect of new applications for an enforceable parking place, to create a temporary parking place for disabled persons’ where an Order is to be processed;
- Requires local authorities to identify all advisory disabled off-street parking places in their area and either start the Order making procedure for such spaces in their own car parks or seek agreement to start the Order making procedure for other eligible parking places;
- Requires local authorities to initiate discussion with developers regarding making disabled parking places within a new development enforceable;
- Places a requirement on local authorities to review any disabled persons’ parking places made by Order;
- Requires local authorities to publish an annual report on their performance;
- Requires the Scottish Ministers to publish an annual report on local authorities’ performance and lay a copy before the Scottish Parliament;
- Provides power to the Scottish Ministers to make regulations.

Delegated Powers

5. The Bill confers a total of three powers to make subordinate legislation on the Scottish Ministers. All of the powers are new and no existing powers are being amended or repealed. The powers are explained in detail in the following paragraphs. By virtue of section 13(1) all of the delegated powers under the Bill are exercisable by regulations made by statutory instrument.

Section 5(6) - Requests for disabled street parking orders

Powers conferred on: Scottish Ministers
Powers exercised by: Regulations made by statutory instrument
Parliamentary procedure: Negative resolution of the Scottish Parliament

6. Section 5(1) permits a qualifying person to request a local authority to make a disabled street parking order.

Reason for taking power

7. Section 5(6) relates to the form and manner of requests. The regulation making power contained in this section gives power to the Scottish Ministers to prescribe the form and manner of a request. It is submitted that this is an appropriate matter for subordinate legislation as it allows the Scottish Ministers to prescribe the way in which requests are made to local authorities. If regulations are not made, a local authority may accept requests in whatever form or manner it decides. This could lead to inconsistencies across authorities, therefore Scottish Ministers should have the power to standardise how requests are made to local authorities in light of their experience. It is not thought to be appropriate to prescribe this level of administrative detail in the Bill.
Choice of procedure

8. Given that such an order will be uncontroversial and administrative in nature, negative resolution procedure is therefore considered appropriate and allows for the proper use of Parliamentary time for something of this nature.

Section 11(3) - Changes to local authorities’ annual reports

Power conferred on: Scottish Ministers
Power exercised by: Regulation made by statutory instrument
Parliamentary procedure: Affirmative resolution of the Scottish Parliament

9. Section 11 provides for each local authority to submit to the Scottish Ministers an annual report describing how the powers and duties provided for in the Bill have been exercised. The regulation making powers given to the Scottish Ministers by section 11(3) allow them to modify the information to be contained in the annual report. Regulations could be used either to add to the information currently required under Part 1 of the Schedule or to remove any information which Scottish Ministers consider appropriate. This enables Scottish Ministers to vary the information reported by local authorities to meet their needs. This may be particularly important when the legislation has been in operation for a number of years and the resultant increased awareness and changed behaviour to disabled parking may require a less stringent reporting regime for some matters or different types of information for others.

Reason for taking power

10. It is submitted that this is an appropriate matter for subordinate legislation because the administrative nature of any changes to the detailed information to be collated should not occupy valuable Parliamentary time. Primary legislation is not and should not be used to effect such variations.

Choice of procedure

11. It is considered that this is an appropriate matter for affirmative resolution procedure as any regulations made under the power in 11(3) will amend the reporting requirements provided for in the Bill and could materially affect the level of local authority accountability currently afforded.

Section 12(3) - Changes to the Scottish Ministers’ annual report

Power conferred on: Scottish Ministers
Power exercised by: Regulations made by statutory instrument
Parliamentary procedure: Affirmative resolution of the Scottish Parliament

12. Section 12 requires the Scottish Ministers to publish an annual report on the performance of local authorities in exercise of their duties and powers under the Bill.
Reason for taking power

13. The regulation making powers given to the Scottish Ministers by section 12(3) allows Ministers to modify the information to be contained in their annual report. It is necessary to make this consequential change should the information to be included in local authority reports change.

Choice of procedure

14. It is submitted that this is an appropriate matter for subordinate legislation, for the same reasons given in respect of the power contained in section 11(3), namely that the administrative nature of any changes to the information to be collated should not occupy valuable Parliamentary time. The annual report is the mechanism by which local authorities are held accountable for their performance under the Bill. Therefore the information to be reported should not be altered without the agreement of the Scottish Parliament. Primary legislation is not and should not be used to effect such administrative variations. However, it is considered that this is an appropriate matter for affirmative resolution procedure.
Local Government and Communities Committee

11th Report, 2008 (Session 3)

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

Published by the Scottish Parliament on 13 November 2008
CONTENTS

REMIT AND MEMBERSHIP

REPORT ........................................................................................................................................ 1

ANNEXE A: SUBORDINATE LEGISLATION COMMITTEE REPORT ........ 37

ANNEXE B: FINANCE COMMITTEE REPORT ................................................................. 39

ANNEXE C: EXTRACTS FROM THE MINUTES OF THE LOCAL GOVERNMENT
AND COMMUNITIES COMMITTEE ................................................................................ 53

   18 June (19th Meeting, 2008 (Session 3))
   2 September (21st Meeting, 2008 (Session 3))
   24 September (23rd Meeting, 2008 (Session 3))
   1 October (24th Meeting, 2008 (Session 3))
   8 October (25th Meeting, 2008 (Session 3))
   29 October (26th Meeting, 2008 (Session 3))

ANNEXE D: ORAL EVIDENCE AND ASSOCIATED WRITTEN EVIDENCE...
............................................................................................................................................... 57

2 September, (21st Meeting, 2008 (Session 3))

Written Evidence ................................................................................................................... 57
   Equality and Human Rights Commission

Oral Evidence ........................................................................................................................ 59
   Euan Page, Parliamentary and Government Affairs Manager, Equality and
   Human Rights Commission Scotland

24 September (23rd Meeting, 2008 (Session 3))

Written Evidence ................................................................................................................... 67
   Association of Chief Police Officers in Scotland
   Glasgow City Council
   Highland Council
Inclusion Scotland
Leonard Cheshire Disability
Scottish Disability Equality Forum

Oral Evidence .............................................................................................................. 77
Sergeant John Donaldson, Strathclyde Police Traffic Management, Association of Chief Police Officers in Scotland;
Donald McKinven, Traffic Manager, Glasgow City Council;
Richard Guest, Head of Roads and Community Work, Highland Council;
Dr Ann Wilson, Convener, Inclusion Scotland;
Cllr Jim McLeod, Member, Inclusion Scotland;
Ryan McQuigg, Policy and Parliamentary Officer – Scotland, Leonard Cheshire Disability;
Alex Thorburn, Local Campaigns Co-Ordinator for Scotland, Leonard Cheshire Disability;
Gordon Mungall, Convener, Scottish Disability Equality Forum;
Liz Rowlett, Senior Policy, Information and Parliamentary Officer, Scottish Disability Equality Forum.

1 October (24th Meeting, 2008 (Session 3))

Written Evidence ....................................................................................................... 95
Transport Strategy Division, Scottish Government

Oral Evidence .............................................................................................................. 99
Guy Mason, Public Affairs Manager, ASDA;
Paul Hedley, Customer Service Team, ASDA;
Kelvin Reynolds, Director of Technical Services and Head of Safer Parking Scheme, British Parking Association;
Graeme Taylor, Scottish Regional Manager, National Car Parks Ltd;
Stewart Stevenson MSP, Minister for Transport, Infrastructure and Climate Change, Scottish Government;
Angus MacInnes, Bus, Road Safety and Local Roads Policy and Traffic Branch, Scottish Government;
Bill Brash, Team Leader, MACS and Mobility Team, Scottish Government;
Judith Ballantine, MACS Secretary, Scottish Government.

8 October (25th Meeting, 2008 (Session 3))

Written Evidence ....................................................................................................... 118
Jackie Baillie MSP

Oral Evidence .............................................................................................................. 123
Jackie Baillie MSP
David Cullum, Clerk Team Leader, Non-Executive Bills Unit;
Robert Marr, Assistant Legal Adviser, Directorate of Legal Services.

ANNEXE E: OTHER WRITTEN EVIDENCE ..................................................................... 135

Aberdeenshire Council
Angus Council
Association of British Drivers in Scotland
City of Edinburgh Council
Deanne Wardrope
East Dunbartonshire Council
East Renfrewshire Council
Ecas
Falkirk Council
Glasgow Centre for Inclusive Living
Law Society of Scotland
Midlothian Council
NCH Scotland
North Ayrshire Council
Perth and Kinross Council
PAMIS
South Lanarkshire Council
West Dunbartonshire Council
West Lothian Council
Local Government and Communities Committee

Remit and membership

Remit:

To consider and report on (a) the financing and delivery of local government and local services and planning; and (b) housing, regeneration, anti-poverty measures and other matters (apart from sport) falling within the responsibility of the Minister for Communities and Sport.

Membership:
Alasdair Allan (Deputy Convener)
Bob Doris
Patricia Ferguson
David McLetchie
Duncan McNeil (Convener)
Mary Mulligan
Jim Tolson
John Wilson
Johann Lamont (Member from 13/06/2007 until 01/10/2008)
Kenneth Gibson (Deputy Convener from 20/06/2007 until 26/06/2008, Member from 13/06/2007 until 26/06/2008)

Committee Clerking Team:
Clerk to the Committee
Martin Verity

Senior Assistant Clerk
David McLaren

Assistant Clerk
Ian Cowan

Committee Assistant
Fiona Sinclair
The Committee reports to the Parliament as follows—

INTRODUCTION

Introduction of the Bill

1. The Disabled Persons' Parking Places (Scotland) Bill was introduced as a Member's Bill by Jackie Baillie MSP on Monday 2 June 2008. The Bill was accompanied by a Policy Memorandum and by Explanatory Notes, including a Financial Memorandum. The Parliamentary Bureau, at its meeting on Tuesday 10 June 2008, agreed to recommend to the Parliament that the Local Government and Communities Committee be designated lead committee in consideration of the Bill at Stage 1. This was agreed to by the Parliament on Wednesday 11 June 2008.

2. The Subordinate Legislation Committee considered the Bill at its meeting on 2 September 2008. Its report to this Committee is attached as Annexe A.

3. The Finance Committee considered the Financial Memorandum which accompanied the Bill. It received written evidence and took oral evidence from Jackie Baillie MSP on 16 September 2008. Its report is attached as Annexe B.

4. Twenty eight organisations and individuals responded to the Local Government and Communities Committee’s call for written evidence. The Committee took oral evidence on the Bill from witnesses at its meetings on 2 September, 24 September, 1 October and 8 October 2008. Extracts from the minutes of these meetings are attached at Annexe C and extracts from the Official Reports of those meetings, together with associated written submissions and other written evidence, comprise Annexe D. All other written submissions comprise Annexe E. The Committee wishes to express its thanks to all those who provided written and oral evidence on the Bill.
Aims of the Bill

5. According to the Bill’s Policy Memorandum, the main policy objective of the Bill is to prevent disabled persons’ parking places being occupied by those who are not entitled to use them, by seeking to ensure that enforcement action can be taken.

6. The Policy Memorandum goes on to say that the Bill will make all permanent disabled street parking places enforceable. It requires local authorities to identify all existing relevant unenforceable disabled street parking places and promote orders for those still required. Such orders may be made under the existing Road Traffic Regulations Act 1984 (c.27). For those parking places that are no longer required, then the Bill requires the local authority to remove any road markings or sign posts.

7. In relation to off-street parking the local authority will be required to promote an order to designate enforceable disabled persons’ parking places in the public car parks it owns.

8. The Bill will also require the local authority to contact owners or persons having an interest in private car parks, including supermarkets and out of town retail centres, to seek to negotiate an agreement which would enable the local authority to promote an order to make the disabled persons’ parking places enforceable.

9. Once an order is in place, action can be taken against anyone illegally occupying a disabled persons’ parking place covered by it. Only Blue Badge holders will be permitted to park in such spaces.

Consultation

10. In Session 2 of the Parliament, Jackie Baillie MSP prepared a consultation paper on her proposal for a Bill. The consultation ran from 20 November 2006 until 26 February 2007. The main areas of consultation were:

- a consultation period for new disabled persons’ parking bays being created,
- enforcement in private car parks such as supermarkets,
- who should be responsible for enforcement and
- the level of fines.

11. A total of 172 responses were received of which 21 were from local authorities, 118 were from individuals, 32 were from organisations and one was from an MSP.

---

12. In Session 3, on 16 May 2007, in accordance with Standing Orders, Jackie Baillie MSP lodged a statement of reasons why a further consultation on her proposed Bill was not necessary. She argued that a consultation had been completed within the previous 3 months, that there had been an adequate opportunity for the public to comment on what was being proposed and that further consultation would duplicate effort.

13. The Local Government and Communities Committee, at its meeting on 20 June 2007, considered the statement of reasons from Jackie Baillie and agreed that no further consultation on the draft proposal was required and it could proceed to a final proposal. The Bill was subsequently drafted and introduced.

14. **The Committee is satisfied with the adequacy of the consultation which preceded the introduction of the Bill.**

Policy Memorandum

15. The Bill is accompanied by a Policy Memorandum, prepared by the Parliament's Non-Executive Bills Unit on behalf of Jackie Baillie MSP, which, in accordance with Standing Orders, sets out the policy objectives of the Bill, possible alternative approaches, the consultation process and assessments of the effects on equal opportunities, human rights, island communities, local government and sustainable development.

16. **The Committee notes the contents of the Bill’s Policy Memorandum and is satisfied that it meets the requirements of Standing Orders.**

SUBORDINATE LEGISLATION

17. There are provisions in the Bill which will confer delegated powers to make regulations. As with all bills containing such powers, the Subordinate Legislation Committee considered the provisions and reported to this Committee.

Report of the Subordinate Legislation Committee

18. The Subordinate Legislation Committee considered the Bill at its meeting on 2 September 2008. It agreed to draw the attention of this Committee to one of the provisions to confer delegated powers, contained in section 5(6).

19. Section 5 of the Bill enables a person to request a local authority to make a disabled street parking order. Section 5(6)(a) enables the Minister to make regulations as to the form and manner in which such a request is to be made. If the Minister does not make such regulations, section 5(6)(b) enables the local authority to specify how such a request is to be made.

20. The Subordinate Legislation Committee was concerned that, given that the powers in sections 5(6)(a) and 5(6)(b) are both discretionary, a situation could arise in which neither the Minister nor the local authority specified how a request from an individual should be made. If those circumstances arose, the Bill does not provide for how local authorities will obtain sufficient information which is required to enable them to make a decision.
21. Jackie Baillie MSP, in a letter to the Committee\(^2\), said that the information which was required to be included an application form was clearly specified within the Bill at section 5 and it would be no more than a matter of good administrative practice for the authorities to devise such a form. What had been included was a power for Ministers to prescribe, should they wish to, a power which could be used if there were a lack of consistency across the country.

22. She said, however, that if the Committee were minded to agree with the suggestion of the Subordinate Legislation Committee, a simple solution would be to amend the Bill at Stage 2 to make the requirement on Ministers at section 5(6)(a) a mandatory one.

23. **The Committee believes that it is unlikely that the structure of section 5 of the Bill would be unworkable in practice. It would be open to a member to propose an amendment to this section at Stage 2 of the Bill, if it is thought to be required.**

**FINANCIAL MEMORANDUM**

**Report of the Finance Committee**

24. The Finance Committee, in its report on the Financial Memorandum, agreed to draw a number of matters to the attention of this Committee, as follows.

25. The Finance Committee noted with concern that the possibility of additional funding to local authorities appears not to have been discussed by the member in charge of the Bill with the Scottish Government. The Committee recommended that the lead committee pursue this issue with the Scottish Government and further with the member in charge of the Bill.

26. While the Finance Committee understood that some car park operators have already introduced schemes to make disabled parking bays enforceable, it agreed to encourage the lead committee to pursue this issue during its oral evidence programme.

27. The Finance Committee agreed with Jackie Baillie that, given the lack of available data on the number of existing unenforceable disabled street parking places (“advisory places”) in Scotland, and the wide variety of approaches between different local authorities, there is an unavoidable level of uncertainty surrounding the figures in the Financial Memorandum. However, the Finance Committee considered that a more accurate picture of the potential cost of the Bill could have been provided if, during the consultation, specific questions on the financial implications of the Bill had been asked.

28. On the basis of figures provided to the Finance Committee by Glasgow City Council, the Finance Committee concluded that the overall estimate of £1.7 million for promoting and implementing orders across Scotland is subject to a significant degree of doubt (although it was noted that this was acknowledged both in the Financial Memorandum and in oral evidence by Jackie Baillie). The Finance

---

\(^2\)Jackie Baillie MSP. Letter to the Convener of the Local Government and Communities Committee, 7 October 2008.
Committee was also concerned that both Fife Council and Glasgow City Council had stated that they will need additional funding from the Scottish Government to cover the cost of implementing the Bill. The Finance Committee strongly recommended that the lead committee pursue this issue further.

29. In relation to owners of off-street parking, the Finance Committee was concerned that there does not appear to be much evidence available regarding their willingness to participate in and cover costs for promoting and implementing orders in their car parks. The Finance Committee noted that it is properly the place for the lead committee to consider such issues and the Committee recommended that it did so.

30. The concerns highlighted and the recommendations made by the Finance Committee to this Committee are considered later in this report.

GENERAL PRINCIPLES OF THE BILL

Abuse of disabled persons’ parking places

31. According to the 2001 Scottish Census, 20% of Scotland’s population report having a long-term illness, health problem or disability. A review of NHS wheelchair services in Scotland reported that there are approximately 96,000 registered users of the service. It is unlikely that a fifth of the population will require the use of parking places for disabled people, but certainly a significant proportion will. In addition, the prevalence of disability increases with age, and therefore as the population continues to age, the incidence of disability will continue to grow. Stewart Stevenson MSP, Minister for Transport, Infrastructure and Climate Change, in answer to a parliamentary question, reported that approximately 4.5% of the Scottish population holds a Blue Badge parking permit. Using population estimates as at June 2006, this translates as over 230,000 people in Scotland.3

32. The most recent survey (2007) from the Baywatch Campaign, which aims to put an end to the abuse of disabled persons’ parking places by persons not entitled to use them, indicates that one in five accessible bays in supermarket car parks were being used by people without Blue Badges. This is at the same level as the last survey in 2005. In total, more than a third of car parks were found to have no accessible bays free for disabled shoppers because of such abuse.

33. There are no official figures on the abuse of on-street disabled persons’ parking places.

34. Alex Thorburn of Leonard Cheshire Disability told the Committee:

“I am also vice-chairman of Dumfries and Galloway access panel... I cite the example of parking at Dumfries and Galloway royal infirmary. I have surveyed the parking there several times and have found that, in general, 50 per cent or more of the disabled parking bays are taken up by non-badge holders; on one occasion the figure was 75 per cent. I have missed a hospital

---

appointment because of that, and have heard of other people missing appointments at Dumfries and Galloway royal infirmary because they could not get parked.”

35. In written evidence, the Equality and Human Rights Commission said:

“For someone with an impairment which limits their ability to travel any distance by foot, the abuse of designated parking bays by non-disabled drivers is much more than a minor irritant. It represents a significant barrier to an individual’s ability to undertake the most mundane but essential day to day activities – going to the supermarket, meeting friends and relatives, visiting the library or post office.”

36. In oral evidence, Ryan McQuigg of Leonard Cheshire Disability said:

“In our disability review of the UK last year, 66 per cent of disabled people said that they needed their car because public transport was not accessible, so public transport is creating a barrier too.”

37. A number of witnesses commented that complaints of abuse of disabled persons’ parking places appeared to be at a lower level than the actual number of incidents. Liz Rowlett of the Scottish Disability Equality Forum said:

“Just because you are not hearing complaints does not mean that people do not want to complain. Sometimes, people challenge marked bay abusers only to be met with threats and abuse. I suggest that that is a deterrent to people making complaints. If people wish to complain about a neighbour, they might be deterred from doing so if they have been harassed…Some people might wonder what the point is of making a complaint and putting themselves in a difficult position if the complaint is not going to be followed up.”

38. Councillor Jim McLeod of Inclusion Scotland told the Committee that:

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

5 Written evidence, Equalities and Human Rights Commission
The Blue Badge Scheme

39. The Blue Badge Scheme is a UK wide scheme. It provides parking concessions for disabled people with mobility problems who travel either as drivers or passengers. The scheme is designed to help disabled people travel independently and allow them to park close to their destination. The scheme is administered by local authorities, and eligibility for a blue badge is at their discretion. Appeals against the decision of eligibility must be made only to the local authority concerned. Local authorities also have the option of making a charge to cover administration costs.\(^9\)

40. The former Scottish Executive published guidance on the Blue Badge Scheme in 2007, which indicates where badge holders can park:

- "Badge holders may park free of charge and without time limit at parking meters on-street and ‘pay-and-display’ on-street parking.
- Badge holders may be exempt from time limits imposed on other users.
- Badge holders may usually park on single or double yellow lines in Scotland without any time limit. In England and Northern Ireland, there is a time limit of up to 3 hours."

41. The Minister for Transport, Infrastructure and Climate Change, Stewart Stevenson MSP, told the Committee that the previous administration had undertaken a survey in 2003, which suggested that 44% of designated parking bays were being used by non-blue badge holders.\(^10\)

42. The Equality and Human Rights Commission said:

"We must make a clear policy distinction between the issue of tightening up the blue badge scheme to make it less open to fraud and misuse and dealing with people who persistently make fraudulent use of blue badges, and the issue of people's choices about how and where they live their lives being curtailed because the number of designated parking spaces is inadequate."\(^11\)

43. The UK Department for Transport (DfT) conducted a strategic review of the operation of the Blue Badge Scheme in England between May and September 2007. This was followed by a consultation on the review’s findings in January 2008, which closed in April 2008. Responding to the consultation, the DfT announced on 20 October 2008 that:

"New efforts to fight fraud and abuse of the Blue Badge scheme include:


• Establishing a national system of data sharing (using up to £10 million of
government funds) to identify Blue Badge cheats. We hope to complement
this with new legal powers that will allow parking enforcement officers to
seize lost, stolen and fraudulent Blue Badges.

• Upgrading the Badge security features, as such as barcodes that can be
read through windscreen, to make the Badge harder to forge

• Conducting a national publicity campaign to highlight the Blue Badge
Reform Strategy. This will include messages about the impact that abuse
has on disabled people.

• Supporting the British Retail Consortium to reduce abuse in their
members' off-street car parks, such as supermarket car parks."

44. The DfT also proposes extensions to Blue Badge entitlement, subject to new
legislation, to make more groups eligible for Blue Badges. It plans to enable local
authorities to conduct improved medical assessments of applicants.

45. Stewart Stevenson MSP, Minister for Transport, Infrastructure and Climate
Change, told the Committee in his oral evidence on 1 October 2008 that the
Scottish Government was taking a close interest in the review of the scheme. 13

46. He also told the Committee that:

“A senior policeman said to me, on an informal and off-the-record basis, that
a person who abuses a disabled parking space is four times as likely to have
a criminal conviction as someone who does not. The policeman was
suggesting, in other words, that people who break rules in one part of their
life are likely to break rules in lots of parts of their life.” 14

47. The Committee is aware of a research exercise undertaken at Huddersfield
University in 1999 which showed that drivers who illegally use disabled parking
bays are likely to have committed other offences. By checking car registration
plates, with the police, on the police national computer, the research found that a
third of the illegal parkers had criminal records, half had committed previous road
traffic offences and a fifth were ‘of immediate police interest’ because of suspected
connections with unsolved crime. 15

48. The Committee expresses its concern about the reported level of abuse
of the Blue Badge scheme, which, in addition to the possible fraud involved,
inherently impacts on the availability of parking spaces to those who
genuinely need them.

12 This may be viewed at
http://nds.coi.gov.uk/Content/Detail.asp?ReleaseID=381714&NewsAreaID=2&print=true&fromDate
=toDate=&Department=202&Region=2&selSearchType=&SearchCategoryID=
13 Scottish Parliament Local Government and Communities Committee. Official Report, 1 October
2008, Col 1213.
14 Scottish Parliament Local Government and Communities Committee. Official Report, 1 October
2008, Col 1207.
15 http://www-staff.lboro.ac.uk/~ssgf/KP/1999_DisabledParkingBays.pdf
49. The Committee notes that the operation of the Blue Badge scheme is a UK-wide scheme and that it is not within the scope of this Bill to change it. Nevertheless, it believes that a wider approach to the issue of disabled persons' parking also requires that abuse of the Blue Badge scheme should be tackled. This may indeed have some further benefits in tackling crime generally.

50. The Committee encourages the Scottish Government to consider how best the results of the Department for Transport’s review of the operation of the scheme in England can inform policy in Scotland.

Enforcement

51. The enforcement of the use of designated parking places is either the responsibility of the local authority or the police.

52. Six Scottish local authorities (Aberdeen, Dundee, Edinburgh, Glasgow, Perth and Kinross and South Lanarkshire) operate decriminalised on-street parking enforcement. This means that, under the provisions of the Road Traffic Act 1991 (c. 40) the local authority has assumed control of the enforcement of parking offences within their areas from the police.

53. In these areas, enforcement is carried out by parking attendants employed by the local authority, or a contractor appointed to undertake this task by the authority. Parking attendants can issue fixed penalty notices for parking offences, which are enforceable by the local authority without recourse to the courts. Appeals against fixed penalty notices are heard by an Independent Parking Adjudicator. The level of any fixed penalty is set by the local authority concerned.

54. Outside of the six decriminalised parking enforcement areas, parking offences are still enforced by the police, although the enforcement is normally carried out by traffic wardens employed by the police. Traffic wardens normally deal with parking offences through the issue of fixed penalty notices. In areas where the police are responsible for parking enforcement, offences can be enforced through the courts, normally only after an offender chooses not to pay a fixed penalty notice, and can on conviction be the subject of fines up to level 3 on the summary fine standard scale, i.e. up to £1000.

55. Currently, traffic authorities can designate advisory parking places for disabled people without having to go through any formal approval process. The authority simply creates a space by erecting signs and/or painting a clearly defined disabled parking space on the road. However, due to their informal nature there is no sanction against the use of advisory parking places by non-blue badge holders: rather the authority relies on the goodwill of drivers not to park in the designated space.

56. Enforceable parking places are those which have been formally designated through a designation order made under the Road Traffic Regulations Act 1984. Designation Orders are often referred to as Traffic Regulation Orders (TROs) as they share the same authorisation process as a TRO, promoted by the local
authority. These parking places are marked with paint and display signs indicating that they are for the sole use of disabled people.

57. All those who submitted written evidence recognised the need for disabled persons' parking places, although there are differences in opinion on the designation of disabled persons’ parking spaces and how best to protect them from misuse. Some argue that a process of enforcement is now appropriate, while others support the current approach.

58. Leonard Cheshire Disability in its written evidence illustrated its full support for the Bill by stating:

“For too long disabled people have had to rely on the courtesy and consideration of other drivers not to ‘take’ their reserved parking spaces, but we have all heard and seen news stories which depict the hostility other drivers now show each other when it comes to gaining a parking space. Therefore the age of just relying on politeness has ended and the age of enforcement has come.”

59. In oral evidence, Ryan McQuigg of Leonard Cheshire Disability said:

“By introducing an element of enforcement into parking, which is certainly a major issue, people's mindsets will change and disabled people will have more opportunities.”

60. The Glasgow Centre for Inclusive Living’s written evidence recognised that the Bill will not change the current system of enforcement but that it “…will lead, hopefully, to a reduction in the misuse of these places.”

**On-street disabled persons’ parking places**

61. The key proposals in the Bill regarding on-street disabled persons’ parking places are:

- removal of local authorities’ right to designate permanent advisory disabled persons’ parking places;

- a requirement for each local authority to conduct a one-off audit of existing on-street disabled persons’ parking places, within 12 months from the date of the Act coming into force, to establish whether they are all necessary;

- following the audit those advisory parking places deemed unnecessary would be removed;

- following the audit the local authority would begin the process of obtaining a designation order for all the spaces deemed necessary, with the aim of making them all into enforceable parking places;

---

• following the initial designation of enforceable parking places any blue badge holder owning a suitable vehicle registered at their home address who does not benefit from an enforceable parking place can apply to the relevant local authority for a new on-street disabled persons’ parking place. The local authority would then be required to establish whether the applicant qualifies for a disabled persons’ parking place and, if so, to identify whether there is a suitable space for the creation of an on-street parking place for that applicant; and

• if there is a suitable space then the local authority must apply for a designation order to designate that space as an enforceable parking place. In the meantime the authority can designate the space as a temporary parking place until the designation order is obtained.

Advisory vs. enforceable disabled persons’ parking places

62. A number of local authorities commented in written evidence about the relative merits of advisory and enforceable parking places.

63. North Ayrshire Council noted that the Bill’s proposals would make an impact by responding to concerns raised by disabled drivers and would be welcomed by disabled people in its area. On the other hand, East Renfrewshire Council stated that Blue Badge holders have generally accepted the arrangements for advisory bays and there have been very few complaints.

64. Highland Council believed that existing powers are sufficient and would like the use of these powers to remain optional.

65. Aberdeenshire Council stated that the present system of providing advisory reserved spaces outside the homes of disabled residents who comply with the relevant criteria has worked well for as long as the system has been in place.

66. West Dunbartonshire Council has already obtained orders for all on-street disabled persons’ parking places, estimated at 600 bays. However, to comply with regulations and the requirements for signs, there are additional costs. It also noted that such parking places may only be used for a short duration requiring removal at further additional cost. In its experience, making all disabled persons’ parking places enforceable may not best serve the community. It argued that the flexibility of being able to establish an advisory bay within a few days should not be lost.

67. A number of local authorities also suggested an alternative approach to the proposals in the Bill, and this is considered later in the paper.

Temporary bays as a result of new process for promoting designation orders

68. A number of local authorities, in addition to West Dunbartonshire Council, were in favour of advisory bays because of their flexibility.

69. North Ayrshire Council pointed out that promoting a designation order is a lengthy process, and that “they are therefore not commonly used in quick response situations”.

11
70. East Renfrewshire Council said that instead of waiting a matter of weeks to establish an advisory bay, it would take months before the designation order is made for an enforceable bay. Further, the designation of the bay would be open to public objection and the time taken to process such objections would impact on staff resources to carry out the work. There would be further cost implications to promote the order.

71. Responding to this concern about flexibility, and concerns about the potential impact of applicants waiting longer for a parking place, Jackie Baillie MSP, in a letter to the Committee, told the Committee that:

“The Bill provides for a temporary bay to be put in place as soon as the local authority is required to start the statutory procedure to make an order. Local authorities are therefore able to install such bays in exactly the same timescale as they currently provide advisory ones...Existing advisory bays will remain in place until the end of the order making process, to make them enforceable, unless they are inappropriately sited.”\(^{17}\)

72. Other local authorities raised different concerns regarding the proposal in the Bill to establish temporary bays.

73. Angus Council and the City of Edinburgh Council felt that automatically designating a parking place before the statutory procedure is complete may prejudice the proposed order. Angus Council commented that this could affect valid objections, and further that it could cause distress to the disabled person if an order is denied.

74. Falkirk Council felt that this proposal could lead to confusion over which bays are covered by a designation order and which are not, and that potentially this could make enforcement difficult for traffic wardens and the police.

75. Perth and Kinross Council described this proposal as a contradiction in the Bill, as the temporary bays are essentially advisory bays. It suggested that the establishment of temporary bays goes against the ethos of the Bill, which is to ensure that all bays are enforceable. It argued that there will be advisory bays in existence for up to a year and it may be that if objections are received during the TRO procedure the bay may have to be removed involving further expenditure to the council and angst to the disabled person.

Making all advisory on-street parking places enforceable

76. Some local authorities expressed concern about the Bill’s aim to make all advisory parking places on street, i.e. residential bays, legally enforceable.

77. A number of local authorities commented in written evidence on the practicality of enforcement. Their concerns included:

- raised expectations that all bays would be enforced;
- the difficulty in enforcement given disparate location of bays;

\(^{17}\) Jackie Baillie MSP. Letter to the Convener of the Local Government and Communities Committee, 7 October 2008.
• the potential need for increased resources, in terms of police and traffic wardens, or parking attendants where enforcement has been decriminalised.

78. The City of Edinburgh Council and Glasgow City Council, for example, were concerned about the raised expectations on the part of disabled drivers in relation to enforcement, and that these expectations could not be met from current resources.

79. Highland Council, Perth and Kinross Council and Aberdeenshire Council noted that the geography of their areas would create difficulties in terms of staff being able to enforce bays in residential areas.

80. In addition, North Ayrshire Council and Highland Council indicated that some residents will, over time, move away or die, which would mean that parking places which had been established near their homes would not be available for general parking until the order was revoked. North Ayrshire Council suggested that consideration should be given to limiting the duration of designation orders.

**Auditing existing advisory bays and promoting designation orders**

81. Under the Bill’s provisions, local authorities will be required to carry out an audit of existing advisory parking places and establish whether they are necessary. Those not necessary will be removed, while the process of obtaining a designation order will be commenced for all the parking places found to be necessary.

82. Several local authorities have concerns with this proposal in terms of the scale of the task and the resources it will require.

83. Angus Council suggest that the recording of locations for advisory bays is 'generally patchy', and that identifying all existing advisory on street parking places will have significant resource implications for local authorities. In East Renfrewshire, all but two on street disabled persons' parking places are advisory, and records have only been kept for 12 years. The Council is concerned about the additional costs and staff resources to carry out this task, and state that abuse could continue due to a lack of police enforcement resources. Highland Council argue that making their 300 advisory parking places enforceable, with the associated objections and potential hearings would be a strain on resources which is not justified by the level of abuse.

84. West Lothian Council commented that “this one-off exercise would require the promotion of traffic regulation orders and there is a risk of a significant number of objections to these orders which would slow the process, increase costs and could create a considerable amount of local animosity, to the detriment of existing blue badge holders.”

85. Stewart Stevenson MSP, the Minister for Transport, Infrastructure and Climate Change, in his oral evidence to the Committee, said:

“I sound a cautionary note on identifying advisory bays, however. We need to remember that some of the legislation goes back a considerable period of
time. Several local government reorganisations have also taken place during that time, and, in other policy areas, clear record keeping has not adequately transferred from one local authority to another.”¹⁸

86. The Minister also said:

“My initial reaction—which is not one on which I would take a firm, committed position—is that 12 months is ambitious. I am not just coming at that from a cost point of view as, to be blunt, there is a practical challenge in simply completing the task. That is one of the issues that the committee will consider and that Jackie Baillie, as the sponsor of the bill, will wish to take into account. If Ms Baillie were to consider that a different timescale could be used in the interest of greater flexibility, it is likely that I would be able to support that.”¹⁹

87. The Committee, while taking into account the difficulties which local authorities will have in conducting an audit of their existing advisory disabled persons’ parking bays, nevertheless agrees that a year after the Act comes into force should normally be a reasonable length of time for completion of this exercise.

88. The Committee is of the view that, where exceptional circumstances prevent this exercise being completed in time, then the Minister should be able to approve an extension.

Off-street disabled persons’ parking places

Private car parks

89. Disabled persons’ parking places in private car parks tend to be advisory and are not legally enforceable: their availability to disabled persons depends on the courtesy of other drivers, not to park in them. In privately owned car parks, the use of disabled persons’ parking places is a contractual matter between the provider and user, and the conditions of use and charges must be clearly displayed.²⁰

90. The Local Authorities’ Traffic Regulation Orders (Procedure) (Scotland) Regulations 1999/614 allows local authorities to promote TROs in private car parks at the request of, and in agreement with, the landowner. This allows for the creation of enforceable parking places within private car parks, including disabled persons’ parking places.

91. The Bill would place three distinct duties on local authorities with regards off-street disabled persons’ parking places.

92. Each local authority would be required to identify every advisory off-street disabled persons’ parking place within its area which existed at the date the provisions of the Act came into force. Where such spaces are provided directly by

---

²⁰ SPICe briefing 08/31
the authority, or in car parks managed/provided for the authority by a third party, then they would be required to begin the designation order process within 12 months of the Act coming into force. If the parking places are within a private car park then the local authority would be required to attempt to enter into an agreement with the owner to allow for the creation of enforceable disabled persons’ parking places within the car park. If the owner agrees then the local authority must begin the designation order process.

93. Where local authorities have failed to secure agreement to pursue designation orders for new and existing advisory off-street parking places they must, at least every two years, make another attempt to secure agreement to create enforceable parking places for those sites.

94. Disability organisations, in their written evidence, commented on the importance of enforceable parking places in private car parks.

95. Ecas Ltd said that its clients reported that the misuse of advisory parking places in private car parks is the main barrier to making car journeys, “In our view, the unenforceability of advisory disabled off-street parking places on private land is the key issue for the Bill to address”.

96. Leonard Cheshire Disability stated that if parking spaces are to be enforced, then they must be “universally adopted, including “private” car parks. If these places were not included in the Bill it would add to further social exclusion felt by many disabled people.”

97. A number of local authorities raised concerns about the practicality of identifying private car parks and then entering into negotiations with owners. There were also concerns regarding resources and who will have responsibility for enforcement.

Identifying car parks

98. Highland Council argued in its written evidence that significant resources would be required to audit private car parks, contact owners and agree with them to promote orders.

99. Perth and Kinross Council summed up the situation as follows:

“It appears that councils are expected to send staff out to walk the streets to seek out private car parks: determine if there are any disabled parking places; determine who the owners are (sometimes no mean feat); determine if the public have access to the car park, enter into negotiations to take over enforcement of the disabled space(s) and either promote a TRO or go back to the owners every two years to try to reach an agreement. If an agreement is reached there will be the ongoing enforcement of the bay(s) to consider.”

100. Glasgow City Council stated that it is not in a position to identify all privately owned car parks in Glasgow, and that the staffing and financial resources required to do so would be substantial. It also argued, “given that supermarkets, for example, can already request us to enforce their spaces, we strongly doubt that a
letter from us offering to do so would change their position - unless the enforcement was funded by us, which is clearly outwith our resources.”

101. In her oral evidence, Jackie Baillie MSP said that:

“Turning to the burden that local authorities have identified, I hope to reassure members that it is not a burden at all. The first reason for that is that local authorities can identify private car park owners. Let me be clear—I am talking about private car parks to which the public have access. I have no interest, nor does the bill, in office car parks or car parks solely for employees, which are regulated by the Disability Discrimination Act 1995. We do not propose to change that.”  

102. The Committee agrees that it is reasonable to expect that local authorities will be able to identify owners of private car parks in their areas, to which there is public access.

Negotiating with private car park owners

103. Aberdeenshire Council said in its written evidence that it was unclear what is meant by ‘negotiate arrangements’ with private car park owners. Falkirk Council wished to know whether they would need to negotiate with private car park owners who already have their own enforcement system.

104. West Lothian Council was concerned about the potential wasted effort of negotiating with car park owners when there is little incentive for owners to agree to make bays enforceable. It was concerned about who will be responsible for enforcement, and that the increased number of places would put increased pressure on already stretched enforcement resources.

105. Jackie Baillie MSP, in her oral evidence, said that:

“…the sending out of a letter advising private car park owners that a procedure existed, whereby the local authority could move a traffic regulation order and make their bays enforceable, would satisfy the terms of the bill. However, the bill is not prescriptive—if Asda and other car park operators want to continue to carry out their own enforcement, that is very much a matter for them.”

106. In her letter to the Committee, she clarified that the provisions in the Bill applied only to owners of car parks to which the public have access. It is only these owners that local authorities are required to contact. The Bill is non prescriptive as to the degree of contact required. A simple letter reminding owners of the importance of meeting their disabled customers’ needs, stating that if they want to make their bays enforceable the local authority can help, would suffice. The Bill does not require local authorities to do anything more than this.

23 Letter to Convener from Jackie Baillie 7 October 2008
107. Ryan McQuigg of Leonard Cheshire Disability said, in oral evidence:

“The fact that local authorities do not even seem to know that businesses are willing to carry out enforcement highlights the need for them to talk to those businesses. There is a tipping point in regard to enforcement: if a couple of big businesses do it, the rest will follow.”\textsuperscript{24}

108. The Committee endorses the provisions of the Bill which would require local authorities to seek to negotiate enforceable parking arrangements with owners of private car parks to which the public have access. It is, however, of the view that the procedures for the negotiations should be devised in such a way that they are not unduly burdensome.

\textit{Enforcement by private car park owners}

109. In their written evidence, some local authorities felt that private car park owners should take responsibility for enforcement of disabled persons’ parking places in their car parks.

110. Perth and Kinross Council referred to the fact that many private car parks are already patrolled and enforced by private parking enforcement companies. It suggested it may be better to put the onus of enforcement on car park owners, potentially by existing disability legislation.

111. South Lanarkshire Council suggested that it should be a matter for private car park operators to enforce the restrictions.

112. East Renfrewshire Council suggested that enforceable disabled persons’ parking places in private car parks ‘could be workable but only if the operators are willing to police it themselves and not the Local Authority or Police Force’.

113. In oral evidence to the Committee, supermarkets and car park operators expressed a preference for being able to continue with their own schemes. Graeme Taylor, of National Car Parks Ltd, said:

“As a result of the parking enforcements that we put in place approximately nine months ago, our business has recently noticed a decline in the number of people parking in disabled bays. We do not think that the bill will change the situation. If the council or the police enforced bays…that would have a negative impact on our customers, as we would not be able to control the situation properly within our remit.”\textsuperscript{25}

114. Kelvin Reynolds of the British Parking Association told the Committee:

“In a customer service environment, the landowner is more likely to want to maintain the customer relationship, whereas a local authority will be concerned with traffic management.”26

115. He went on to say:

“The other challenge with local authority enforcement of private car parks is that it would immediately put the whole process into a legislative framework that includes adjudication. The following point has probably been referred to. In that environment, more PCNs are likely to be issued, because discretion does not exist.”27

116. He gave, as an example:

“…Poole, on the south coast, is an example. There is a traffic regulation order on the car park and the whole thing is managed by the local authority, including any disabled spaces.”

“There is often a conflict between the official process of issuing what is now a statutory penalty charge notice and the will of the store manager to treat a customer differently for whatever reason.”

“We find that there is always conflict between the management company that issues the ticket and the local store manager who must deal with the customer.”28

117. Supermarkets and car park operators were not necessarily opposed to the Bill, however. Guy Mason of ASDA told the Committee in oral evidence:

“People with good schemes should say, "I see the point of what the local authority is doing. It will be no additional cost for us, and we should work with the local authority to make things work." The majority of our customers would welcome such an approach.”29

118. He went on to say:

“…it would give local authorities extra resources. They would be able to say that Asda and other supermarkets that follow a code of conduct are dealing with the matter and to target their limited resources at other places that really need it. Such an approach would give us flexibility and return resources to local authorities.”30

119. Graeme Taylor of the NCP stated in oral evidence:

“As an off-street car park operator, we support the bill 100 per cent because it would work in the environment in which we operate”.31

120. Euan Page of the Equality and Human Rights Commission commented that:

“…we are, to some extent, pushing against an open door. There is no resistance to the bill's proposals among many private sector owners of parking spaces who have many disabled customers.”32

Supermarkets - Good practice

121. The Policy Memorandum refers to the success of ASDA which is now enforcing disabled persons’ parking places using a private enforcement company. Guy Mason, public affairs manager, described the scheme to the Committee in oral evidence:

“Asda has approximately 360 stores across the UK, 45 of which are in Scotland. Every week, each store is visited by 60,000 customers, with 40,000 to 50,000 cars passing through.

For quite some time now, customers have been complaining about the abuse of disabled and parent-and-child parking spaces. Estimates suggest that we used to receive 20 recorded complaints a week about those parking spaces. When we took into account comments made to colleagues on the shop floor that are not recorded, the number rose to about 50 to 100 complaints per store per week.

…we put up very clear signs that set out parking terms and conditions and stated that anyone using a disabled bay must clearly display a blue badge in their vehicle and that anyone using a parent-and-child bay should have in their vehicle a child seat or booster seat for children up to 12. Within seven days of putting up the signs and after bringing in attendants who work at each store for 12 hours a month on a rotational basis, we improved the availability of both types of bay by more than 60 per cent. In fact, even though the wardens do not work in our car parks all the time, availability has continued to improve. I suppose that a good analogy is with a public highway; parking attendants do not have to be present all the time to act as a deterrent.

Obviously, as a retailer, we did not want to turn customers off shopping with us by having attendants jumping out of the bushes and issuing parking tickets. We simply wanted to ensure that there was a clear deterrent.

In a major piece of customer perception work that we then carried out, the scheme received a 93 per cent customer endorsement rating, which is

probably one of the higher ratings for any of our trials. It was clear that our customers felt strongly that this was the right thing for Asda to do.

One interesting point is that, with regard to the 60 per cent improvement in the availability of bays, we issue on average only two tickets per store per week across the UK. The figure increases in Scotland to three tickets per store per week, which reflects the fact that, on average, there is slightly more abuse of bays in stores in Scotland than there is in stores in England, Wales or Northern Ireland.

The £60 penalty fine is split 50:50 between Asda and Town and City Parking, and we donate our half to Tommy's campaign and Motability. So far, we have been able to donate £120,000 to those charities through the scheme.

...The scheme costs about £400 to £500 per store per year." 33

...We need to be able to deal with customers on a case-by-case basis, so we would like to keep control over that." 34

...We do not incentivise the attendants for the number of tickets they give out." 35

122. In response to questions from Committee members about the legal status of ASDA’s enforcement methods, its representatives said that the scheme was covered by civil procedure under contract law:

"We take the position that these are penalty notices (rather than fines) levied for breach of conditions of parking which are advertised by signage and which are implicitly accepted by drivers who use the car parks.

We advertise the fact that people should not abuse disabled bays when they enter the car park, and that anyone who parks there accepts that. If they abuse the bays, they will receive what we call a civil penalty notice". 36

123. The British Parking Association’s legal advice was that such notices can be pursued through the courts, and there are examples of that happening in England." 37

124. A number of the written submissions referred to ASDA’s initiative. The City of Edinburgh Council suggested that exploring this approach could be a positive way forward. On the other hand, Leonard Cheshire Disability notes that while ASDA...
Local Government and Communities Committee, 11th Report, 2008 (Session 3)

has led the way, other supermarkets have failed to follow suit and so there is a need for more regulatory powers when it comes to private car parks.

125. Jackie Baillie MSP, in her oral evidence, commented:

“I think that the committee has seen the best examples of people who have taken action; it has not seen those who have done nothing.”

126. The Committee notes the concern of the Finance Committee that there does not appear to be much evidence available regarding the willingness of private car park operators to participate in and cover costs for promoting and implementing orders in their car parks. Nevertheless, the Committee feels that the possibility that such procedures could be used, combined with the benefits to companies of such schemes as the ASDA scheme, indicates that the relevant provisions in the Bill could have a significant effect in reducing the occupation of disabled person’ parking spaces, by drivers who are not entitled to use them, in areas where they are most needed.

Car parks in new developments

127. Under the provisions of the Bill each local authority would be required to begin the designation order process for any disabled persons’ parking places to be created in new developments within their area. The designation order process should be started within three months of the date that the development is granted planning permission, or three months from the date the authority becomes aware of a development if it is permitted through a development order rather than through the direct grant of planning permission. Local authorities would be required to monitor development within their area so they can make timely contact with the developer/owner with a view to seeking agreement to the initiation of the designation order process to secure enforceable disabled persons’ parking places in all new developments where appropriate.

128. This proposal was referred to by a few local authorities in their written evidence. The City of Edinburgh Council wished to see further clarification on procedures which would apply to new developments. Perth and Kinross Council argued that “the requirement to start the TRO procedure for disability bays in a new car park within 3 months of planning permission is at odds with the 5 years which a developer has to start a development. This could involve councils in the promotion of TROs for sites which are not constructed for several years or even abandoned.”

129. The British Parking Association told the Committee:

“The DfT has produced a document called "Inclusive Mobility", which is all about transport provision for people with disabilities. It recommends that 4 to 6 per cent of spaces should be disabled parking bays, but that is only a recommendation.”

---

130. Inclusion Scotland, in its oral evidence, said that:

“Under the disability equality duty, local authorities should include disabled people in their planning processes. It is patently obvious that most local authorities do not do that—if they do, it is in a token way.”\(^{40}\)

131. Jackie Baillie, in her evidence commented that:

“Part III of the DDA, on the provision of access to goods, facilities and services, would obviously cover it. However, when someone seeks planning permission for a new development, should they, as a matter of good practice, engage in a dialogue about disabled parking and making it enforceable? Of course they should.”\(^{41}\)

Costs and resources

132. It is expected that the main costs of the Bill will fall on local authorities. They will face set up costs in the first year of the Bill as they will be required to identify all existing advisory parking places for disabled people. The cost of this work will vary depending on the number of parking places identified. Local authorities will face ongoing costs to meet the requirements of the Bill, which will include implementing designation orders and altering road markings and signage. There may also be limited costs falling on the Scottish Government and the police.

133. The costs of implementing this Bill are difficult to calculate for two main reasons:

- There are no official figures available on the number of existing on-street and off-street advisory parking places. It is therefore not known how many places may require a designation order, or how many advisory places may need to be removed.

- The cost of implementing a designation order may vary between local authorities. There are differences in approach: by either implementing individual orders or by implementing orders in batches. The Financial Memorandum reports estimates from Fife Council that the cost of obtaining a designation order would be around £119 per parking place, and from West Dunbartonshire Council that it would be around £12.20 per parking place.

134. The Financial Memorandum estimates that the total national cost of implementing designation orders for all existing on-street advisory parking places is £1.7 million. This is based on an estimate that there are currently 14,000 on-street advisory parking places, and that an average cost per place might be £125. The Financial Memorandum suggests savings could be made if local authorities promote TROs in batches, rather than individually.


135. In terms of applications for new on-street parking places, costs are difficult to predict. However, the Financial Memorandum states that “these are not new costs as the local authorities would have been required to undertake broadly the same process to consider applications for advisory disabled persons’ parking places.” Additionally there will be ongoing costs with enforcement, but it is anticipated that enforcement will be ‘primarily reactive’.

136. For off-street car parks, where local authorities seek arrangements with owners to implement designation orders, costs may be covered as part of the negotiation.

137. Most local authorities suggested the costs estimated in the Financial Memorandum are an underestimate and that to fulfil the duties required by the Bill, further funding would be required.

City of Edinburgh Council
138. The City of Edinburgh Council suggested in written evidence that the estimated national total of £1.7 million to implement designation orders for all existing advisory parking places could be exceeded in Edinburgh alone.

Dundee City Council
139. Dundee City Council commented that additional resources will be required to enable it to fulfil their duties under the Bill, and this will need to be addressed either in the Bill or by the Scottish Government.

Glasgow City Council
140. Glasgow City Council’s written evidence indicated that it is ‘…extremely concerned at the substantial additional costs to the Council of setting up and enforcing the new arrangements envisaged by the Bill (over £2m in set up costs alone in the first year)’.

141. Glasgow City Council said that to make its 4500 advisory residential parking places enforceable ‘the existing yellow painted bays would require to be removed and replaced with signs and white road markings to Traffic Signs Regulations and General Directions 2002 (TSRGD), at a cost which we have estimated at £2.1 million… We believe it is unreasonable to expect this authority to meet these substantial costs without additional funding from the Scottish Government.’

142. In oral evidence, Donald McKinven of Glasgow City Council explained:

“At the moment, the bays are advisory, and there is a courtesy marking. Providing mandatory bays would require us to remove the 4,500 existing bays and mark the mandatory ones in accordance with the regulations, which includes making the appropriate road marking and installing a pole and a sign. That is where our costs have come from and, as is demonstrated in our previous written evidence, they are a lot higher than was previously thought.”

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

143. In further detail, he said:

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

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

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

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

…That means that we will have to remove the paint that we have used for the temporary bay before we put the mandatory bay in place. There are practical issues that must be dealt with.”

…When we considered the issue of costs for a second time, we looked in detail at the cost of removing the existing advisory bays, which works out at

---

about £113 per bay. The cost of remarking is about £85; the manufacture and siting cost for each sign, foundation and pole is about £260. By multiplying that cost by 4,500, we arrived at the figure of just over £2 million."

144. The Committee notes here the oral evidence of John Donaldson of the Association of Chief Police Officers in Scotland (ACPOS) that there is nothing in the regulations to prevent white paint being used.

Highland Council:
145. Highland Council told the Committee, in its oral evidence:

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

…Doing the measurements across a widespread network will be a much greater burden on staff time than doing them in a compact urban area.

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

Perth and Kinross Council
146. Perth and Kinross Council, in written evidence, stated that the estimated cost of £1.7 million for obtaining designation orders for on-street parking places ‘is not an inconsiderable sum of money for councils to find from already stretched budgets.’

South Lanarkshire Council
147. South Lanarkshire Council’s written evidence states that it has recently carried out surveys which show there are 1000 advisory on-street parking places

---

near individual residential properties, and an estimated 200 advisory off-street council controlled public parking bays.

148. It said that the costs of initial survey work at each individual site, preparation of works instructions and schedules for a TRO, as well as the supply and erection of sign poles and restriction plates, burning out existing road markings and marking the bay in accordance with the prescribed road marking is estimated at over £1m.

**West Dunbartonshire**
149. Jackie Baillie told the Committee in her oral evidence that, in response to her consultation prior to the Bill’s introduction, West Dunbartonshire had said that it had been able to promote orders for 410 advisory bays at a cost of £5,000, i.e. £12.20 per bay.\(^50\)

**West Lothian Council**
150. West Lothian Council’s written evidence stated that it believed the Financial Memorandum significantly underestimates the cost implications of the Bill to local authorities. It estimated that to convert their 700 existing advisory parking places to enforceable ones would cost around £350,000, which could not be met within existing resources. It said, ‘extrapolating this across the whole of Scotland would suggest that the cost of £1.7million for the one-off review exercise quoted in the Financial Memorandum significantly underestimates the true cost by as much as a factor of ten’.

**Other Councils**
151. Some local authorities (North Ayrshire Council, East Renfrewshire Council, Midlothian Council and Falkirk Council) suggested that without additional funding and resources, parking places will not be properly enforced and the abuse of disabled persons’ parking places will continue.

**Other witnesses**
152. The Scottish Disability Equality Forum also reported concerns about costs in its written evidence, stating ‘this area appeared very weak and proved to be a little concerning.’

153. ACPOS expressed concern about the increased burden on police resources in locations where enforcement has not been decriminalised, and referred to East Renfrewshire Council which alone has over 1000 residential bays.

154. In its written submission the Equality and Human Rights Commission (EHRC) argued that there should be no additional administrative burdens on local authorities as a result of the Bill, because this should be part of their ongoing work under the Disability Equality Duty.

155. It said in oral evidence:

designation and enforcement under the bill. We argue that those concerns can be mitigated by development of an approach that prioritises and tackles the most persistent problems.”

…Instead of saying that the issue is entirely separate from the wider job of day-to-day management and enforcement of traffic duties, authorities should ask how much of the cost could be borne by rolling three-year budgets as part of overall traffic management enforcement strategies.”

…”It is surely not a priority for councils to consider immediately removing advisory bays that are being used and not abused. The priority for councils may lie elsewhere—they may want to take action on advisory bays that are being abused by non-disabled drivers.”

Scottish Government
156. Stewart Stevenson MSP, the Minister for Transport, Infrastructure and Climate Change told the Committee in his oral evidence that he shared concerns about the uncertainty of the cost of implementation of the Bill. He indicated that the Scottish Government was not intending to make a commitment to put financial resources into the start-up costs.

157. He said:

“We already provide £11.1 billion to the local authorities. The Government is not only providing record sums to local authorities but allowing them to keep the 2 per cent efficiency savings as an additional source of funding, whereas previously efficiency savings had to be returned to central Government. Therefore, we do not consider at this stage that the bill will change the financial relationship between central Government and local government.”

Member in charge of the Bill
158. Jackie Baillie MSP said in her letter to the Committee:

“The Bill does not prescribe how local authorities should carry out the work, that is left to them to determine. It would indeed make sense for them to begin in areas where abuse is most prevalent.”

57 Letter to Convener from Jackie Baillie 7 October 2008
159. She continued:

“With regard to costs, I would echo the Minister suggesting that the Committee look closely at the costs provided by Glasgow City Council and why Glasgow believe it will cost them so much more per bay than Fife Council anticipate it will cost them. For virtually every activity Glasgow’s costs exceed those of other local authorities provided to me and which I have passed on to the committee.

Under the Bill before you the costs themselves could be spread over 3 years. Year 1 would see administrative costs for identifying the bays; Year 2 would see further administrative costs arising from the promotion of the orders while costs for signage etc could be spread between Year 2 and 3”.

160. The Committee notes that the Financial Memorandum which accompanies the Bill sets out how the estimated costs were arrived at:

“96. Fife Council estimates the cost of promoting and implementing an order to be in the region of £119 per parking place. The Council has 2527 street advisory parking places and estimates it will cost £300,000 to make these parking places enforceable. To make all its 410 disabled street parking places enforceable cost West Dunbartonshire Council £5000, an average of £12.20 per parking place. However, that local authority estimates that once installation costs and signage requirements are taken into account the average cost per parking place ranges from £100 to £500. It now has no advisory disabled street parking places and undertook this exercise within existing resources.

97. Data covering the number of existing advisory disabled street and off-street parking places across Scotland is not held nationally, nor is any information available on national costs to make a parking order. Twenty local authorities responded to a questionnaire by Jackie Baillie with details of numbers of advisory parking places in their areas disclosing a total of 9383. If that total is extrapolated nationally based on population figures in 2006 this suggests that there are around 14,000 advisory disabled street parking places throughout Scotland.

98. While some parking places in more remote areas will be more costly to create there is support for the Fife Council figure of £119 from the experiences of West Dunbartonshire Council. Taking an average cost slightly higher to provide for remoter locations where there will be fewer parking places of £125 per place suggests a maximum total cost nationally of £1.7 million.”

161. Jackie Baillie told that Committee in her oral evidence that:

“We consider our figures to be robust. The financial memorandum states clearly that there is a margin of uncertainty. I have asked the Scottish Government parliamentary questions about the issue ad nauseam, and have

---

58 Letter to Convener from Jackie Baillie 7 October 2008
been met with similar responses—that it does not collect the information centrally.”

162. She said that:

“In August 2006, we wrote to all 32 local authorities in an attempt to ensure that we got accurate information. My view is that the figure of £1.7 million stands. The committee will want to consider the obviously opposite view that has emanated from Glasgow City Council. I simply say that if Dundee City Council thinks that it can convert 1,000 advisory bays into enforceable ones at a cost of £196,000, we must ask why South Lanarkshire Council, which has only 100 more bays than Dundee, thinks it will cost £1 million and why Glasgow City Council, which has 4,500 advisory bays, thinks it will cost £2.1 million. There are huge discrepancies. Local government could learn from best practice.”

163. She went on to say:

“West Dunbartonshire Council took less than a year to identify 410 advisory bays at a cost of £5,000—£12.20 per bay; Glasgow City Council gave the figure of £137,544 to promote orders for 452 bays, which works out at £30.21 per bay. There is a disparity from the start of the process. Perhaps we can learn something from how West Dunbartonshire Council went about identifying its bays, which might make the costs more reasonable for other local authorities. I know that some local authorities, such as West Dunbartonshire Council, batched all the bays in the one order, which is much more cost effective. I think Inverclyde Council does that, too. Perhaps Glasgow City Council dealt with all the bays through separate orders.

I remind you of the example that whereas in Highland it would take two men 12 years to identify their 400 or so bays, in Glasgow it would take two men a year...That is one cost difference; I will explore others. In Glasgow, for example, it is estimated that the removal of existing road markings will cost £113, but that cost is unnecessary and arises only because Glasgow insists on marking advisory bays in yellow paint. There is nothing to prevent it from following other local authorities and marking bays in white. Indeed, one should query why the paint needs to be removed and cannot simply be painted over. Some local authorities paint over existing markings and use temporary markings to complete bays.

Glasgow has said that the paint for repainting will cost £66, whereas in Perth and Kinross Council it will cost £35. I hope that members will forgive me—the cost of paint is not my specialist subject and, try as I might, I cannot explain

---

the wide disparity with regard to Glasgow, but these are the issues that such comparisons throw up."\(^{61}\)

164. In explaining the process which she used to establish costs, Jackie Baillie said:

“Some local authorities had information, others did not. Some had information about the number of advisory bays they had, some were very clear that the figure was an estimate and others said that they could not tell us. We were trying to get the best evidence we could, so that we could arrive at the most reasonable estimate.”\(^{62}\)

165. Discussing the Minister’s comments, Jackie Baillie said:

“The Government is right not to offer a blank cheque and to want to look at the variations between local authorities, and I encourage it to do so. However, it is not for me as the member in charge of the bill to prove the accuracy of the figures; it is for me to prove that I have used a reasonable method in arriving at a calculation of a figure that stands up to scrutiny in the light of day…I would welcome it if the Government opened a dialogue with COSLA, as it does on many occasions, to consider the details of the bill.”\(^{63}\)

166. The Committee is mindful of the views of the Finance Committee that there is an unavoidable level of uncertainty surrounding the figures in the Financial Memorandum. It accepts the view of the Finance Committee that a more accurate picture of the potential costs of the Bill could have been provided if, during the consultation, specific questions on the financial implications of the Bill had been asked. It agrees with the conclusion of the Finance Committee that the overall estimate of £1.7 million for promoting and implementing orders across Scotland is subject to a significant degree of doubt. On the basis of the written and oral evidence which this Committee has received and considered, this Committee agrees with the Finance Committee’s conclusion.

167. The Committee agrees with the member in charge of the Bill that some of the higher estimates of the work and associated costs might be avoided by adopting best practice. Only a thorough examination of the probable costs of implementing the Bill, across all local authorities, could give an accurate picture. The Committee expects that, if the Bill is passed, the Scottish Government will, in conjunction with COSLA, negotiate the costs of implementing its provisions, in such a way that it is not unduly burdensome on local authorities.


Alternative approach

168. In written evidence, East Renfrewshire Council, South Lanarkshire Council, North Ayrshire Council, Perth and Kinross Council, West Dunbartonshire Council, East Lothian Council and Glasgow City Council all argued that a simpler method of legally enforcing all on-street disabled persons’ parking places would be to allow the designation of enforceable disabled persons’ parking places in the manner that Bus Stop Clearways are designated, as set out in Schedule 19 of the Traffic Signs Regulations and General Directions 2002 (TSRGD). According to the local authorities, this would allow local authorities to respond quickly to requests for enforceable parking places outside people’s homes, without the need to promote a designation Order for each location. It is also argued by the above local authorities it would reduce future maintenance costs.

169. Richard Guest of Highland Council explained in oral evidence that:

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

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

170. Glasgow City Council agreed:

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

171. The Committee considered the question of whether this approach would require a change to UK legislation by amending the TSRGD.

172. The member in charge of the Bill was clear that the power to amend regulation 10 of the TSRGD to include different signs etc is a reserved matter. She

advised the Committee that none of the powers under which the 2002 Regulations were made are devolved. Nor have any of the powers been made the subject of an order under section 63 of the Scotland Act. Scottish Ministers therefore have no powers to make such orders instead of the Secretary of State for Transport (as was in 2002) or to make them concurrently or with the agreement of that Minister.66

173. Even if the power to amend the TSRGD was devolved, written evidence from Glasgow City Council suggests that a drawback of this approach would be that parking places could be designated without consultation with local residents.

174. The Committee notes that, irrespective of whether the alternative approach would be viable, the legislative changes which would be required do not fall within the competence of the Scottish Parliament.

Disability discrimination legislation

175. Owners of car parks, whether public authorities or private owners, tend to be service providers, for example the car park may be at a supermarket, public library or hospital. Service providers have duties under Part III of the Disability Discrimination Act 1995 (as amended) to make ‘reasonable adjustments’ to ensure that disabled people can access services. Since 1 October 2004, where a physical feature makes it impossible or unreasonably difficult for disabled people to make use of services, service providers have to take reasonable steps to:

- remove the feature; or
- alter it so that it no longer has that effect; or
- provide a reasonable means of avoiding it; or
- provide a reasonable alternative method of making the services available.

176. If a service provider does not comply with the duty to make reasonable adjustments, and it cannot be justified, the provider will be committing an act of unlawful discrimination. This means a disabled person will be able to make a claim under the Act by bringing civil proceedings through the Sheriff Court. Court action must be brought within six months of the alleged discrimination67.

177. Section 1 of the Bill provides that:

“A local authority must promote proper use of parking places in its area that are designated for use only by disabled persons’ vehicles.”

178. The Policy Memorandum states that this duty will require local authorities proactively to discourage the misuse of disabled persons’ parking places. The Bill

66 Jackie Baillie MSP. Letter to the Convener of the Local Government and Communities Committee, 7 October 2008.
does not specify how local authorities should carry out this duty, but there are some examples cited in the Policy Memorandum. These include:

- training staff to make them aware of the issue;
- additional signage;
- advertising or poster campaigns;
- encouraging people to report instances of abuse and providing contact numbers for law enforcement; and
- targeting areas where abuse of disabled persons’ parking places is most common.

Disability Equality Duty

179. Public bodies in Scotland are also subject to the Disability Equality Duty, which came into effect on 4 December 2006, as a result of the Disability Discrimination Act 2005. The general duty requires all public authorities to actively look at ways of ensuring disabled people are treated equally. Most public authorities are also subject to specific duties which requires them to publish a disability equality scheme and set out how they are going to carry out the general duty.

180. The duty requires that every public authority shall, in carrying out its functions, have due regard to the need to:

- promote equality of opportunity between disabled persons and other persons;
- eliminate discrimination that is unlawful under the Act;
- eliminate harassment of disabled persons that is related to their disabilities;
- promote positive attitudes towards disabled persons;
- encourage participation by disabled persons in public life; and
- take steps to take account of disabled persons’ disabilities, even where that involves treating disabled persons more favourably than other persons.

181. Liz Rowlett of the Scottish Disability Equality Forum said in oral evidence:

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

182. Jackie Baillie told the Committee:

“I would argue that there is not a legislative overlap, and that the bill’s provisions would offer support and encouragement to help owners of private car parks meet their duty under part III of the DDA.”

**Private car parks – organisations**

183. In oral evidence the Equality and Human Rights Commission raised the question of car parks adjoining organisations working with people with disabilities:

“I would not characterise it as a weakness, but since we submitted our written evidence, concern has been expressed to us about section 5. It would be interesting to hear the bill team or others comment on it. The concern is that the definition of “qualifying person” in section 5(8)(b) does not capture advocacy and advice organisations that work principally with disabled people. Such organisations might be concerned about ensuring that there are enough designated parking spaces at the front of their places of business. Examples include the integrated living centres, Govan Law Centre and other organisations that do a lot of work around information and advice.”

184. Jackie Baillie, in her oral evidence, explained to the Committee that:

“…such organisations can apply to their local authority for a designated disabled person’s parking bay. The Bill does not alter that position.

The local authority would be able to provide a bay using existing powers under the 1984 Act. In making their decision the local authority would, amongst other things, consider demand, local parking provision and the nature of the patrons using the facilities in the areas.

If such a car park was off-street and owned by the organisation, under the Bill, the local authority would be required to take the initiative. They are required to contact the organisation to offer to make arrangements that could lead to an enforceable bay being created.”

**CONCLUSION**

**General principles of the Bill**

185. The Equality and Human Rights Commission in its written evidence supported the Bill, indicating that:

---

71 Letter to Convener from Jackie Baillie 7 October 2008
“The Commission believes that the Bill represents a straightforward, practical and cost effective means of making a real difference to the lives of disabled people across Scotland, removing a persistent barrier to disabled people’s participation on society.”

186. It said that:

“The Bill therefore underpins the principle of independent living – that disabled people should have the same autonomy, dignity and choice in where and how they live as non-disabled people.”

187. The Scottish Government in its memorandum to the Committee dated September 2008, said that it supported the objectives of the Bill with the caveat that more discussions will require to be undertaken with COSLA and local authorities to ascertain the level of work required to comply with the Bill’s provisions. The Scottish Government stated that it would want to hear their views about the costs of operating the legislation, whether the 12 months timescale is realistic and about the enforcement of disabled parking places.

188. Jackie Baillie MSP said to the Committee:

“The bill is a simple measure that uses existing road traffic and parking measures. It assists local authorities in their approach to managing disabled parking. It is important to set the proposal in a wider context. We need to improve disabled parking provision by doing three things. The first is to prevent the abuse of disabled parking bays; the second is to reform the blue badge system; the third is to improve the process for local authorities. I have attempted to make a small contribution by delivering on the first of the three, but it is for the Scottish Government and Westminster to deal with the others.”

189. The Committee, on the basis of the above report, recommends to the Parliament that the general principles of the Bill be approved.

---

72 Written evidence, Equality and Human Rights Commission
73 Memorandum by the Scottish Government to the Local Government and Communities Committee. September 2008
ANNEXE A: SUBORDINATE LEGISLATION COMMITTEE REPORT

Subordinate Legislation Committee

Disabled Persons’ Parking Places (Scotland) Bill

The Committee reports to the lead committee as follows—

Introduction

1. At its meeting on 2 September 2008, the Subordinate Legislation Committee considered the delegated powers provisions in the Disabled Persons’ Parking Places (Scotland) Bill at Stage 1. The Committee submits this report to the Local Government and Communities Committee as the lead committee for the Bill, under Rule 9.6.2 of Standing Orders.

2. The Member-in-charge (Jackie Baillie MSP) provided the Parliament with a memorandum on the delegated powers provisions in the Bill.  

Delegated Powers Provisions

3. The Committee considered each of the delegated powers provisions in the Bill. The Committee approves, without further comment, sections 11(3) and 12(3).

Section 5(6) – Disabled street parking orders: form and manner of requests by qualifying persons

4. Section 5(6)(b) confers a delegated power on local authorities, by default, where regulations are not in force, to enable local authorities (individually) to specify the form and manner of requests. Given that local authorities shall have the details of the information they require for this purpose, and that it may be possible that different Councils may require different information or want different methods for making requests, the Committee considers that it appears to be a sensible proposition that where regulations are not in force, this power should be delegated to Councils to specify the requirements.

5. The Committee considers that the delegated powers in section 5(6) are acceptable in principle, and agrees that these should be subject to negative procedure.

6. The Committee also considered the substance of the power in section 5(6)(b), so far as local authorities have a discretion (and not a duty) to specify the form and manner of applications, if regulations are not in force. The Committee notes that a local authority may fail to specify the form and manner of applications, and that such specification is not required in the Bill. It also notes that the method of local authority specification/publication, and to whom, is not prescribed.

---

75 Delegated Powers Provisions

SP Paper 167  
Session 3 (2008)
7. The Committee also notes that under section 5(2), where a Council receives a request, it has duties (a) to decide if the person is “qualifying” (with a disabled persons badge and a suitably registered vehicle); and (b) whether it can identify a suitable street parking place in its area from which there is convenient access to the person’s address. As regards the workability of the power which local authorities have in section 5(6)(b), the Committee is not clear how Councils will be able to implement their obligations to consider these matters, if there is no requirement on Councils (in default of regulations) to prescribe the required form (and through the form, contents) of application with information provided by the applicant. The applicant would need to confirm whether they hold a relevant badge, whether the vehicle requirements are met, and whether there is a convenient street parking place to the relevant address. It appears to the Committee that Councils will require information in practice from the applicants, to be able to meet their duties under section 5(2). This issue does not arise however, if Councils decide to specify the appropriate form and manner of applications.

8. While the Committee is content that the provision in section 5(6)(b) should be expressed as a power to make subordinate legislation, it refers the issues set out above to the lead committee, to explore with the member in charge whether more is required to ensure the proper operation of section 5 (in the absence of any requirement on local authorities to specify the required form and manner of application).

9. The Committee draws this instrument to the attention of the lead committee and Parliament in respect that the power conferred on local authorities in section 5(6)(b) does not provide how the form or manner of a request by a potential applicant under section 5 shall be specified to persons, or published, or to whom the specification should be made.

10. The Committee also draws this instrument to the attention of the lead committee and Parliament in respect that section 5(6) does not provide for the position if regulations are not brought into force, and a local authority does not specify the form and manner of requests for applications. In this event, the Bill does not provide for how local authorities will obtain sufficient information in relation to a request, to enable them to comply with the duties they have in terms of section 5(2).
ANNEXE B: FINANCE COMMITTEE REPORT

Finance Committee

Report on the Financial Memorandum of the Disabled Persons' Parking Places (Scotland) Bill

The Committee reports to the Local Government and Communities Committee as follows—

INTRODUCTION

1. The Disabled Persons' Parking Places (Scotland) Bill ("the Bill") was introduced in the Parliament on 2 June 2008. The Local Government and Communities Committee has been designated as the lead committee on the Bill at Stage 1. The Bill has been introduced by Jackie Baillie MSP and is the first Members’ Bill to be introduced in the third session of the Parliament. Under Standing Orders Rule 9.6, the lead committee at Stage 1 is required, among other things, to consider and report on the Bill’s Financial Memorandum (FM). In doing so, it is required to consider any views submitted to it by the Finance Committee.

2. At its meeting on 10 June 2008, the Committee agreed to adopt level two scrutiny in relation to the Bill. The Committee received written submissions from the Association of Chief Police Officers in Scotland (ACPOS), Fife Council, Glasgow City Council and the Scottish Government and took oral evidence from Jackie Baillie MSP at its meeting on 16 September 2008. All written evidence received is published as an annexe to this report. The Official Report of the evidence session can be found on the Parliament’s website, at: http://www.scottish.parliament.uk/s3/committees/finance/or-08/fi08-2001.htm

THE BILL

3. The Policy Memorandum states that “the majority of parking places designated for use by disabled people are not legally enforceable and are frequently used by unauthorised drivers.” The Bill therefore is intended to “prevent disabled persons’ parking places being occupied by those that are not entitled to use them by seeking to ensure that enforcement action can be taken.”

4. To achieve this, the Bill places a number of duties on local authorities. These are—

---

76 For information on the Committee’s three-level system of scrutiny for Financial Memoranda, please see http://www.scottish.parliament.uk/s3/committees/finance/financialMemo.htm
77 Disabled Persons Parking Places (Scotland) Bill. Policy Memorandum, paragraph 2.
78 Policy Memorandum, paragraph 3.
• local authorities are required to identify all existing unenforceable disabled street parking places, and promote orders\textsuperscript{79} for those still required;

• if a parking place is no longer required, the local authority must remove any road markings and signage;

• in relation to off-street public car parks that it owns, the local authority will be required to promote an order for disabled persons’ parking places; and

• for those car parks owned and operated privately (e.g. at supermarkets, shopping centres etc), the Bill requires the local authority to contact the owners to negotiate an agreement which will allow them to make disabled persons’ parking places enforceable.

SUMMARY OF COSTS OUTLINED IN THE FINANCIAL MEMORANDUM

Costs and savings on local authorities

5. The FM indicates that the majority of the costs arising from the Bill will fall on local authorities, with minimal costs falling on the Scottish Government and the police.

Assessment of existing parking places

6. As detailed above, local authorities will be required to identify all existing advisory disabled parking places in their area, to assess whether they are still needed. The FM indicates that local authorities should hold this information already, or be able to ascertain it from other sources of information that they hold (e.g. using the Blue Badge Scheme). The FM explains that the cost of this exercise will vary depending on the number of parking places to be identified and will require staff time to collate, but does not give any indicative costs. It should be noted however that this assessment will only have to take place in the year following commencement of the Act.

7. Following this assessment, local authorities may find that some parking places are no longer required. However, because (for a variety of reasons) local authorities may decide to retain the spaces, the FM states that it is impossible to assess how many places will actually be removed. In any case, it states that no additional costs will be incurred as some local authorities routinely remove such places.

Promotion and implementation of an order

8. The main cost for local authorities arising from the Bill will be for the promotion of orders for existing parking places that are deemed to be required following the assessment detailed above. As well as associated administrative costs, local authorities will also have to cover the cost of appropriate road markings and signage. The cost of this varies between local authorities.

\textsuperscript{79} Paragraph 25 of the Policy Memorandum states that under the Road Traffic Regulation Act 1984, local authorities have power to make orders in relation to parking places.
The FM indicates that data is not held on the number of existing advisory parking places nationally, nor is information available on the national cost of making a parking order. Using figures from Fife Council and West Dunbartonshire Council, the FM states that, at an indicative cost of £125 per place, and with an estimated 14,000 relevant parking places across Scotland, the maximum cost nationally will be a one-off cost of £1.7 million.

However, the FM also notes that savings can be made, through mounting signage on existing structures, or through promoting orders “en-bloc”, along with other parking and traffic measures.

**New street parking places**

While the Bill standardises the criteria for applicants who request a disabled parking place, this does not impose new costs on local authorities. The FM indicates that significant savings could be made as it would be expected that the number of complaints of abuse of parking places would fall.

**Enforcement**

The FM states that there will be ongoing costs associated with the enforcement of disabled persons' parking places, but that enforcement of residential parking places will be “primarily reactive”. This is explained later in the FM as meaning that abuse of parking places is expected to be reported, rather than picked up by regular patrols.

Currently six local authorities (covering 35.9% of the Scottish population) operate a decriminalised parking system. With regard to the current costs of enforcement (for all parking fines), the FM indicates that Glasgow City Council’s decriminalised parking scheme leaves them with a surplus income of around £850,000 per annum, and that, although South Lanarkshire Council have only recently started a scheme, they already have some surplus income.

Those local authorities which do not operate a decriminalisation scheme keep 1/10th of each fine (or 1/3rd for fines that are not timeously paid) to cover their administration costs.

**Off-street car parks**

As detailed above, in relation to privately owned car parks, local authorities are required to discuss an arrangement with the owners to enable them to promote an order. However, to ensure flexibility, the FM indicates the details of any agreements have been left off the face of the Bill, and that any costs can be covered in negotiation.

**Costs on the Scottish Government**

The FM anticipates that there will be minimal costs incurred by Scottish Ministers in fulfilling their duty to report to the Parliament on the performance of local authorities in relation to their duties under the Bill. Staff time involved in

---

80 *Disabled Persons Parking Places (Scotland) Bill. Financial Memorandum, paragraphs 96-99.*
collating and drafting the text of the report is estimated at two days, which can be absorbed into existing budgets.

17. Although the Bill does not require a public information campaign, the FM notes that such a campaign would be welcome, but that it would come from existing public information budgets.

**Costs on other bodies, individuals and businesses**

18. The FM states that costs on the police should be minimal, as enforcement of disabled bays is expected to be reactive. In addition, the Bill aims to "bring about a cultural shift in the way non-disabled drivers view the interests of disabled drivers", meaning that any new costs should only arise in the short term.

19. The Bill does not, in itself, impose additional costs on owners of off-street car parks, as any costs incurred through negotiation with local authorities will be voluntary. The FM states that any costs incurred will therefore be outweighed by the benefits to businesses.

**SUMMARY OF EVIDENCE**

**Costs on local authorities**

**Cost of promoting and implementing an Order**

20. It is clear from the Financial Memorandum and from evidence received by the Committee that the costs of making an advisory parking place enforceable vary greatly across local authorities. As outlined above, the FM uses information provided by Fife Council and West Dunbartonshire Council to produce an average total cost of £125 per place (including the cost of the Order and costs of installation, such as signage and painting), which results in an estimated maximum total national cost of £1.7 million.\(^{82}\)

21. However, in written evidence, Glasgow City Council indicated that, to make the 4552 advisory places in its area enforceable would cost £2.1 million. This overall estimate included costs of £113.72 per bay to remove existing markings etc, £65.87 per bay to repaint the bay, and £259.20 per bay for signage.\(^{83}\) During the oral evidence session Jackie Baillie MSP responded that—

“Glasgow's estimated cost is £466 per bay to make each of its 4,500 bays enforceable. How come Fife is doing that for a quarter of the cost of Glasgow? Such wide variation indicates an unintended consequence and important function of the bill, which is that reports will come in centrally and local authorities will be able to learn from one another about the most cost-effective mechanism for implementing the bill. We already have an example of that in applications for traffic regulation orders. While Glasgow applies for

---

81 Financial Memorandum, paragraph 120.
82 Financial Memorandum, paragraphs 96-99.
83 Glasgow City Council. Written submission to the Finance Committee.
the orders individually, other local authorities batch them; for example West Dunbartonshire Council does 400 at a time. There are economies of scale.”84

22. Jackie Baillie went on to state that—

“Dundee City Council said that the cost of making enforceable its 1,100 advisory bays will be £196,000. South Lanarkshire Council indicated that £1 million would be required for its 1,200 bays, with Glasgow City Council saying that £2.1 million would be required. Those figures show the wide disparity between authorities. If Dundee City Council says that the cost will be £196,000, is its information any less valid than that which we received from Glasgow City Council? In bringing together the information for the financial memorandum, we have highlighted the huge disparity between authorities across the country in the cost of organising implementation of the bill.”85

23. In addition to the wide variety of costs outlined by local authorities, it is also clear that there is no definitive information available on the number of advisory parking places in Scotland. Indeed, the first duty placed on local authorities by the Bill is to identify and assess all such parking places in their area. Jackie Baillie confirmed that—

“Arriving at an estimated cost for the implementation of the bill was extremely difficult, given that even the Scottish Government does not hold information on the current number of advisory disabled parking spaces or, indeed, enforceable disabled parking spaces. Further, some local authorities were unable to tell me the number of advisory or enforceable bays in their area. If such statistical information is not available at local or national level, it gives us an unavoidable margin of uncertainty.”86

24. The Committee appreciates the difficulties caused by the lack of data on numbers of parking places and the wide disparity of approach (and associated disparity of cost) between different local authorities, and that this situation gives rise to a large degree of uncertainty around the final cost of the Bill. **However, the Committee is of the view that it would have been appropriate to spell out a range of possible costs in the FM rather than focus on one figure, and that based on evidence from other local authorities, the “maximum total cost nationally of £1.7 million” as outlined in the FM is subject to a significant degree of doubt.**

Consultation

25. In written evidence to the Committee, Glasgow City Council stated that—

“No year one or ongoing costs were sought or given for the Bill during the consultation process.”87

26. In response to this point, Jackie Baillie explained that—

---

87 Glasgow City Council. Written submission to the Finance Committee.
“We asked for information again between November 2006 and February 2007 as part of the consultation. In addition to asking about parking fine levels and enforcement costs, we asked—as you would expect us to do—for any other comments. In answer to that question, some authorities took us through their existing costs. Glasgow City Council did not, but we did not ask specifically for the level of detail that it has subsequently provided. That said, other local authorities provided such detail for us.”

27. The Committee appreciates that some local authorities provided this information without being prompted, however it considers that it would have been useful (and may have led to a more accurate FM) if this information had been specifically requested from local authorities during consultation on the Bill.

Costs on the Scottish Government

28. The FM indicates that there will be minimal costs falling on the Scottish Government for reporting on the performance of local authorities in discharging their duties under the Bill, and that these could be absorbed into existing budgets. In written evidence, officials confirmed this view.

29. However, submissions received from both Fife Council and Glasgow City Council state that they would expect the Scottish Government to provide additional funding to cover the cost of implementing the Bill. Jackie Baillie stated that—

“We argue that existing resources are available to local authorities to implement the bill and that they face duties under the Disability Discrimination Act 2005, which places a responsibility on all public bodies to promote disability equality. On that basis, we think that many local authorities already collect the information required by the bill and provide enforceable parking bays…”

and that—

“I am keen to ensure that local government has sufficient resources to implement the bill, but I think that those resources exist.”

30. The Committee is aware of the duties that local authorities have under the Disability Discrimination Act and that some local authorities, like West Dunbartonshire Council, have already made all of their advisory places enforceable from existing budgets. Indeed, Jackie Baillie stated that the approach taken with the Bill was to—

“…place a duty on local authorities to exercise their existing powers to make orders on disabled persons’ parking places. The bill does not create new systems or procedures. It simply requires local authorities to be more

89 Scottish Government. Written submission to the Finance Committee.
proactive about using the powers that they already have and to use those powers effectively.”

31. However, the Committee notes with concern that the possibility of additional funding to local authorities appears not to have been discussed with the Scottish Government. The Committee recommends that the lead committee pursue this issue with the Scottish Government and further with the Member in charge of the Bill.

Costs on the police

32. The FM notes that costs on the police “should be minimal.” The submission received from ACPOS agrees, stating that—

“...enforcement is expected to be on a reactive basis. In such an event, forces should be able to absorb costs from existing budgets.”

33. In addition, ACPOS is supportive of the margins of uncertainty outlined in the FM—

“Members agree that the margins of uncertainty outlined in the financial memorandum appear reasonable. ACPOS would wish to monitor the volume of related calls and measure the resources required to perform duties under this legislation, whilst maintaining current service levels.”

Costs on owners of off-street parking

34. In relation to privately owned off-street car parks to which the public has access (e.g. at supermarkets and shopping centres), local authorities will be required to contact owners to discuss an arrangement to allow them to promote an order for disabled parking places. In terms of who would cover the costs of this, the FM states—

“To ensure flexibility the detail of any agreement between the local authority and the owner or operator of the car park is left as a matter for negotiation and not prescribed in any way in the Bill. Costs can be covered as part of the negotiation.”

35. Jackie Baillie explained that, as imposing duties on businesses is a reserved matter, it was not possible to put such a duty on the face of the Bill. In terms of evidence from private car park operators as to whether they would be willing to cover these costs, she stated—

---

93 Financial Memorandum, paragraph 120.
94 Association of Chief Police Officers in Scotland (ACPOS). Written submission to the Finance Committee.
95 Association of Chief Police Officers in Scotland (ACPOS). Written submission to the Finance Committee.
96 Financial Memorandum, paragraph 111.
“For example, Asda and Braehead shopping centre undertake their own enforcement of disabled parking spaces. If they are able and willing to pay private enforcement firms, there could be alternative scope for local authorities' costs to be defrayed as part of any arrangement.”

36. While the Committee understands that some car-park operators have already introduced schemes to enforce disabled parking bays, the Committee would encourage the lead committee to pursue this issue during its oral evidence programme.

CONCLUSIONS

37. The Committee agrees with Jackie Baillie that, given the lack of available data on the number of advisory parking places in Scotland, and the wide variety of approach between different local authorities, there is an unavoidable level of uncertainty surrounding the figures in the Financial Memorandum. However, the Committee considers that a more accurate picture of the potential cost of the Bill could have been provided if, during the consultation, specific questions on the financial implications of the Bill had been asked.

38. On the basis of figures provided to the Committee by Glasgow City Council, the Committee can only conclude that the overall estimate of £1.7 million for promoting and implementing orders across Scotland is subject to a significant degree of doubt (although it should be noted that this was acknowledged both in the FM and in oral evidence by Jackie Baillie). The Committee is also concerned that, notwithstanding duties already placed on local authorities by the Disability Discrimination Act, both Fife Council and Glasgow City Council have stated that they will need additional funding from the Scottish Government to cover the cost of implementing the Bill. The Committee strongly recommends that the lead committee pursue this issue further.

39. In relation to owners of off-street parking, the Committee is concerned that there does not appear to be much evidence available regarding their willingness to participate in and cover costs for promoting and implementing Orders in their car parks. It is properly the place for the lead committee to consider such issues and the Committee recommends that it does so.

---

Consultation

Question One. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

ACPOS participated in the consultation exercise and the attached response was submitted to the Scottish Parliament on 14 March 2007. Although comment was made in relation to various aspects of the Bill, including the proposed period of objection and enforcement issues and fines, the financial aspects of the Bill were not commented upon at that time.

Question Two. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

Not applicable.

Question Three. Did you have sufficient time to contribute to the consultation exercise?

The consultation period from November 2006 until February 2007, was considered to be a sufficient period of time.

Costs

Question Four. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

Members agree that the costs for the Police should be minimal with the majority of costs falling to local authorities. It is difficult to quantify such costs until such time as the legislation is implemented and the true cost can be measured.

Question Five. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

The Financial Memorandum identifies that ‘the direct costs of implementing the Act fall upon local authorities with some less significant costs on…the police’ and that enforcement is expected to be on a reactive basis. In such an event, forces should be able to absorb costs from within existing budgets.

Question Six. Does the Financial Memorandum accurately reflect the margins of uncertainty associated with the estimates and the timescales over which such costs would be expected to arise?
Members agree that the margins of uncertainty outlined in the financial memorandum appear reasonable. ACPOS would wish to monitor the volume of related calls and measure the resources required to perform duties under this legislation, whilst maintaining current service levels.

Wider Issues

Question Seven. If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

Not applicable.

Question Eight. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

As previously mentioned, financial implications for Police forces will principally take the form of deployment of staff and attendant costs of processing enforcement. It is therefore anticipated that any future costs associated with the proposed legislation would be of a similar nature.

Harry Bunch
General Secretary
Consultation
1. Fife Council took part in the consultation exercise for the Bill (refer to letters dated September 2006 and February 2007). The financial assumptions were based on evidence provided by Fife Council.

2. Comments made on specific issues by Fife Council have been accurately reflected in the Financial Memorandum.

3. Sufficient time was given.

Costs
4. The costs associated with implementation of TROs for enforceable disabled parking spaces under Fife Council ownership have been reflected.

Fife Constabulary enforce on-street disabled spaces and would probably only react to specific complaints.

With regard to private off-street car parks, the owners/occupiers would be best placed to enforce their bays. This issue is particularly contentious (at locations such as supermarkets and hospitals etc) and would be more sensitively and economically managed if private owners undertook their own enforcement.

Should Local Authorities reach agreement with private owners to implement TROs and manage ongoing enforcement all costs should be met by the owners/occupiers.

5. Fife Council has not included costs to determine enforceable parking places within its current budgets. It is proposed that implementation costs (i.e. those required to determine existing bays) should be met by the Scottish Government.

6. The memorandum accurately reflects the margins of uncertainty in that it states there is a large degree of uncertainty and that some parameters are unknown.

Wider Issues
7. The issue of abuse of the Blue Badge scheme may have a significant effect on this proposal.

8. In the future, there is likely to be greater enforcement costs as the uptake of enforceable disabled parking places is likely to increase.

Dr Bob McLellan
Head of Transportation Services
Fife Council
Thank you for the opportunity to submit evidence in relation to the above Bill. We have also submitted evidence, at their request, to the Local Government and Communities Committee.

While Glasgow City Council is committed to the principles underpinning the Bill, and the relevant road traffic and disability equality duties, we consider that the costs associated with its introduction have been seriously underestimated. We estimate the initial set up costs over the first year would cost this authority over £2,000,000. There are a range of other costs which are difficult to estimate at this stage. We would, therefore, expect the Scottish Government to meet these substantial additional costs should the Bill be passed.

**On street parking places**

Glasgow currently has 4,500 advisory bays, which is 32% of the 14,000 bays that the Bill estimates exist throughout Scotland. To make them enforceable, the existing yellow painted bays would require to be removed and replaced with signs and white road markings to Traffic Signs Regulations and General Directions 2002 (TSRGD) at a considerable cost (see table below).

Notwithstanding the answers to the following questions, Glasgow City Council believes that a more cost effective way to provide enforceable disabled on-street parking bays would be an amendment to the TSRGD, allowing the marking to be enforced without the need for a Traffic Regulation Order. There is precedent for this in recent amendments regarding yellow box junctions and bus stop markings.

The amendment could allow for markings only, negating the need for additional signage that would only add clutter in mainly residential streets. It would also improve accessibility for disabled people and others, and reduce future maintenance costs. There are two drawbacks with this proposal, however; it would require a change in UK legislation, and would not involve consultation with local residents.

Despite the fact that the Bill expects that our role in enforcing these 4,500 parking bays would primarily be reactive, promotion of the new arrangements, by central and/or local government, may well lead to levels of expectation from residents that we are unable to meet from current resources.

**Off-street parking places**

The proposal to place a duty on local authorities to promote an Order that covers off-street car parks, other than those controlled by Glasgow Parking LLP, is substantial, in both financial and staff terms. It is also very difficult to provide a robust estimate of the costs associated with the duties as there is currently no up to date data regarding the number of off-street car parks or the number of associated disabled bays within these car parks. However, an estimate of staffing costs alone to promote new or amend existing orders is in the region of £182,000 per annum.
Questionnaire

Consultation

1. Glasgow City Council (GCC) took part in the Consultation exercise for the Bill. GCC did not make any comment on the financial assumptions made.

2. No. GCC provided costs relating to our de-criminalised parking enforcement regime. No year one or ongoing costs were sought or given for the Bill during the consultation process.

3. GCC considers that it did have sufficient time to contribute to the consultation exercise; however it only provided answers to questions specific to GCC and on the basis of the information provided at that time. It is now clear that the Bill will have wider reaching duties and these have not been considered in detail until now.

Costs

4. The Bill has considerable financial implications for Glasgow City Council. These have not been accurately reflected in the Financial Memorandum (FM). The FM states that the “principal cost falling on local authorities will arise in promoting orders”. This statement is incorrect. The principal cost will be the provision of signs and road markings to TSRGD 2002. The year 1 and ongoing annual costs are set out in the table below.

5. Glasgow City Council’s Land and Environmental Services cannot meet the financial costs associated with the Bill from within existing resources. Additional financial support would be required from the Scottish Government.

6. The Financial Memorandum highlights that costs vary from Council to Council. This Council is only able to estimate costs with accuracy in relation to the set-up costs of the newly enforceable on street parking bays. There is considerable margin of uncertainty with the timescales and costs associated with the making of an Order that will provide enforceable disabled spaces in Council car parks where parking is currently free of charge, and in non-Council car parks.
Table 1
On-Street Parking Bays

<table>
<thead>
<tr>
<th>Year 1 costs</th>
<th>Number of bays</th>
<th>Cost</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing</td>
<td>4552</td>
<td>£113.72</td>
<td>£517,653</td>
</tr>
<tr>
<td>Removal of existing</td>
<td>4552</td>
<td>£65.87</td>
<td>£296,653</td>
</tr>
<tr>
<td>Repaint to TSRGD</td>
<td>4552</td>
<td>£259.20</td>
<td>£1,179,878</td>
</tr>
<tr>
<td>Erect sign to TSRGD</td>
<td>4552</td>
<td>£259.20</td>
<td>£1,179,878</td>
</tr>
</tbody>
</table>

Promote New Order

It is estimated that the work to promote a new Order would be similar to that undertaken recently for mandatory school keep clear markings. Drafting the Articles, schedules and implementing the Order took two Technical staff 26 weeks. There were 188 schools included in the Order and it is estimated that given the number of existing advisory bays this would require 2 Technical and 1 Technical Assistant FTE’s for 52 weeks.

Total Year 1 Costs £2,131,728

Annual Costs

<table>
<thead>
<tr>
<th>New Applications</th>
<th>£325.07</th>
<th>£74,766</th>
</tr>
</thead>
</table>

Amend Order

It is estimated that 0.5 Technical and 0.5 Technical Assistant FTE would be required per annum.

Total Annual Costs £119,091

Notes on costs:

The costs for all works are estimated from the current Glasgow City Council Land and Environmental Services Roads Operations Service Delivery Agreement (ROSDA).

The staff costs are based on the salaries and on-costs of Technician (£27,780 x 1.76) and an Inspector (£22,590).

Dawn Corbett
Head of Corporate Policy
SUBMISSION FROM THE SCOTTISH GOVERNMENT

Consultation
1. Did you take part in the consultation exercise for the Bill, if applicable, and if so did you comment on the financial assumptions made?

No

2. Do you believe your comments on the financial assumptions have been accurately reflected in the Financial Memorandum?

N/A

3. Did you have sufficient time to contribute to the consultation exercise?

N/A

Costs
4. If the Bill has any financial implications for your organisation, do you believe that these have been accurately reflected in the Financial Memorandum? If not, please provide details.

Yes. This exercise can be carried out at Admin level.

5. Are you content that your organisation can meet the financial costs associated with the Bill? If not, how do you think these costs should be met?

Yes. Level of work can be absorbed within staff running costs.

6. Does the Financial Memorandum 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
7. If the Bill is part of a wider policy initiative, do you believe that these associated costs are accurately reflected in the Financial Memorandum?

No

8. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation or more developed guidance? If so, is it possible to quantify these costs?

No

Lynne Duff
Strategy & Policy Branch, Transport Strategy
Scottish Government
ANNEXE C: EXTRACTS FROM THE MINUTES OF THE LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

19th Meeting, 2008 (Session 3), Wednesday 18 June 2008

1. Decision on taking business in private: The Committee agreed to take items 3 and 4 in private.

3. Disabled Persons' Parking Places (Scotland) Bill: The Committee agreed its approach to its Stage 1 consideration of the Bill.

21st Meeting, 2008 (Session 3), Tuesday 2 September 2008

3. Decision on taking business in private: The Committee agreed to take items 6 and 7 in private.

5. Disabled Persons' Parking Places (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

Mr Euan Page, Parliamentary and Government Affairs Manager, Equality and Human Rights Commission Scotland.

6. Disabled Persons' Parking Places (Scotland) Bill (in private): The Committee considered the written evidence received and agreed witnesses for its scrutiny of the Bill at Stage 1.

23rd Meeting, 2008 (Session 3), Wednesday 24 September 2008

Disabled Persons' Parking Places (Scotland) Bill: Jackie Baillie declared an interest as the organiser of a Christmas card competition sponsored by ASDA Dumbarton. The Committee took evidence on the Bill at Stage 1 from—

John Donaldson, Sergeant, Strathclyde Police Traffic Management, ACPOS;

Donald McKinven, Traffic Manager, Glasgow City Council;

Richard Guest, Head of Roads and Community Work, Highland Council;

Dr Ann Wilson, Convener, and Cllr Jim McLeod, Member, Inclusion Scotland;

Ryan McQuigg, Policy and Parliamentary Officer Scotland, and Alex Thorburn, Local Campaigns Co-ordinator for Scotland, Leonard Cheshire Disability;

Gordon Mungall, Convener, and Liz Rowlett, Senior Policy, Information and Parliamentary Officer, Scottish Disability Equality Forum.

24th Meeting, 2008 (Session 3), Wednesday 1 October 2008

Disabled Persons' Parking Places (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

Guy Mason, Public Affairs Manager, and Paul Hedley, Customer Service Team, ASDA;

Kelvin Reynolds, Director of Technical Services and Head of Safer Parking Scheme, British Parking Association;
Graeme Taylor, Scottish Regional Manager, National Car Parks Ltd;

Stewart Stevenson MSP, Minister for Transport, Infrastructure and Climate Change, Angus MacInnes, Branch Head, Local Roads Policy, Traffic Management and Transport Decisions Unit, Bill Brash, Team Leader, PVS, MACS and Mobility Team, and Judith Ballantine, MACS Secretary, Scottish Government.

25th Meeting, 2008 (Session 3), Wednesday 8 October 2008

2. Disabled Persons' Parking Places (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

   Jackie Baillie MSP;

   David Cullum, Clerk Team Leader, Non-Executive Bills Unit, and Robert Marr, Assistant Legal Adviser, Directorate of Legal Services, Scottish Parliament.

4. Decision on taking business in private: The Committee agreed that its consideration of draft reports on the Scottish Government's budget proposals 2009-10 and draft reports on the Disabled Persons' Parking Places (Scotland) Bill at Stage 1 should be taken in private at future meetings.

26th Meeting, 2008 (Session 3), Wednesday 29 October 2008

Disabled Persons' Parking Places (Scotland) Bill (in private): The Committee considered a draft Stage 1 report. Various changes were agreed to and the Committee authorised the Convener and Deputy Convener to approve the final draft.
ANNEXE D: ORAL EVIDENCE AND ASSOCIATED WRITTEN EVIDENCE

SUBMISSION FROM EQUALITY AND HUMAN RIGHTS COMMISSION

Introduction

1. The Equality and Human Rights Commission was established by the Equality Act 2006 and came into being on 1 October 2007. We are the independent advocate for equality and human rights across the three nations of Great Britain, and we work to reduce inequality, eliminate discrimination, strengthen good relations between people, and promote and protect human rights. We enforce equality legislation on age, disability, gender, gender reassignment, race, religion or belief, and sexual orientation and encourage compliance with the Human Rights Act. In Scotland, we co-locate and work in partnership with the Scottish Commission for Human Rights.

2. The Commission welcomes the opportunity to comment at Stage One of the Disabled Persons’ Parking Places (Scotland) Bill. Both the Commission and its predecessor, the Disability rights Commission (DRC) have been active in supporting and advising Jackie Baillie MSP in developing the policy and legal framework for the Bill. The Commission believes that the Bill represents a straightforward, practical and cost effective means of making a real difference to the lives of disabled people across Scotland, removing a persistent barrier to disabled people’s participation in society.

3. The Bill therefore underpins the principle of independent living – that disabled people should have the same autonomy, dignity and choice in where and how they live as non-disabled people. It also fits with the Scottish Government’s recent announcement of funding to identify ways of removing barriers to independent living.

4. In its comments at Stage One, the Commission does not propose to revisit the technicalities of how designation orders would work, nor do we want to address the related but separate issue of abuse of the blue badge scheme. Rather, our comments will focus on the extent and nature of the problem the Bill seeks to address, and will seek to locate the Bill in the wider context of local authorities’ duties under disability discrimination legislation.

The Extent of the Problem

5. For someone with an impairment which limits their ability to travel any distance by foot, the abuse of designated parking bays by non-disabled drivers is much more than a minor irritant. It represents a significant barrier to an individual’s ability to undertake the most mundane but essential day to day activities – going to the supermarket, meeting friends and relatives, visiting the library or post office.

6. Research suggests that a lack of accessible parking spaces for disabled drivers is an important factor in people’s decisions on when, where and whether they decide to travel. The Baywatch campaign in its most recent survey points to one in five designated parking bays in Britain being used by drivers without blue badges, no change on the previous survey in 2005.

7. Non-disabled drivers’ motivations for abusing designated bays appear varied – research commissioned by the Scottish Government in 2007 suggests that bay design, purpose of journey, the offer of free parking and, importantly, the absence of any effective sanctions all play a part in explaining why parking bays are abused.
8. The research suggests that these various motives are combined with a range of behaviours, from denial to aggressive self-justification. The introduction of an unambiguous sanction for abuse of parking bays would appear the most effective way of addressing and changing the motives and behaviour of parking bay abusers.

The Bill and Disability Discrimination Legislation

9. The Policy Memorandum accompanying the Bill briefly sets out some of the links between the Bill and local authorities’ existing duties under the Disability Discrimination Act 2005. Under the Disability Equality Duty provisions of the Act, councils are required to have due regard to:

- promote equality of opportunity between disabled people and other people
- eliminate discrimination that is unlawful under the Disability Discrimination Act
- eliminate harassment of disabled people that is related to their disability
- promote positive attitudes towards disabled people
- encourage participation by disabled people in public life
- take steps to meet disabled people’s needs, even if this requires more favourable treatment.

10. Councils are subject to the specific duty, which requires the publication of a disability equality scheme and action plan, and means Councils must collect evidence of what they have done to meet the six components of the duty listed above. Making new designation orders, monitoring and enforcing parking bays, encouraging the proper use of designated parking bays and reporting to ministers on annual performance in relation to disabled people’s parking bays are all issues which would help councils meet their duties.

11. The Bill does not therefore place additional administrative burdens on councils, but merely builds on one aspect of the kind of evidence which could be gathered by local authorities as part of their ongoing work under the Disability Equality Duty.

Conclusion

12. The Equality and Human Rights Commission strongly supports the Disabled Persons’ Parking Places (Scotland) Bill, and believes that it has the potential to make a positive contribution to the autonomy and independence of many disabled people in Scotland. Most of the reporting and enforcement provisions of the Bill, builds on the work already being undertaken by local authorities in meeting the requirements of the Disability Equality Duty.

Equality and Human Rights Commission
August 2008

References

i http://www.scotland.gov.uk/News/Releases/2008/06/24132802


iii Baywatch 2007 Survey results,

iv Transport & Travel Research Ltd, (2007) Tackling the Abuse of Off-Street Parking for People with Disabilities in Scotland,
www.scotland.gov.uk/Publications/2007/09/07155455/0
Thank you. You mentioned a
In its written evidence,
brief opening statement, after which I will invite
written submissions. I invite Mr Page to give a
opening statement. We should have seen Mr Page's
evidence on the Disabled Persons' Parking
Places (Scotland) Bill. I welcome Euan Page, the
parliamentary and Government affairs manager for
the Equality and Human Rights Commission in
Scotland. Members should have seen Mr Page's
written submissions. I invite Mr Page to give a
brief opening statement, after which I will invite
questions from the members.

Welcome to the committee. We appreciate your
giving us your time this morning and look forward
to hearing your evidence.

Euan Page (Equality and Human Rights
Commission Scotland): In its written evidence,
the Equality and Human Rights Commission has
sought to set out why it supports the policy
intentions behind the Disabled Persons' Parking
Places (Scotland) Bill. In particular, we sketched
out how some of the bill’s main provisions might sit
alongside the existing statutory duties on public
authorities, especially the disability equality duty.

Our submission also touched on the nature of
the problem that the bill seeks to address and the
evidence that points to abuse of disabled parking
bays by non-disabled motorists having a negative
impact on many disabled people’s autonomy. In
seeking to address that barrier to disabled
people’s autonomy, the bill comes under the wider
independent living agenda that is being pursued
by the Scottish Government, following on from the
disability working group report of 2006 and the
Equal Opportunities Committee’s disability inquiry
in the same year.

The commission recognises that some local
authorities have expressed concerns over the
administrative and cost implications attached to
designation and enforcement under the bill. We
argue that those concerns can be mitigated by
development of an approach that prioritises and
tackles the most persistent problems. Neither the
commission nor, we are sure, the bill’s sponsors
are interested in simply imposing another paper
exercise on public authorities; rather, we want the
bill to lead to better outcomes for disabled people.
That means avoiding bureaucratic log-jams and—
through evidence gathering and the involvement of
disabled people—being clear about where and
when designation efforts should be targeted in the
first instance.

Unfortunately, our legal colleagues are not able
to join us today, and there are likely to be specific
points around the commission’s enforcement
strategy for the disability equality duty—the DED—
that I cannot answer. I would, however, be
delighted to provide further written evidence to the
committee if there are questions that I am not able
to answer this morning.

The Convener: Thank you. You mentioned a
major problem that the submissions from local
government raised—particularly in big cities such
as Glasgow and Edinburgh—about identifying
private parking places and the danger of ending
up with nothing more than a bureaucratic exercise.
You also mentioned effective targeting of problem
areas. How would you effectively target such
areas without an audit and overview of the
situation?

Euan Page: The point has been well made that
circumstances will vary widely among local
authorities. The problems that are faced by our
cities, which have very large numbers of private
parking areas, are not those that will be faced in
Shetland or the Western Isles, for example.

There is a useful policy tie-in with work that
should already be under way. Public authorities’
work on the disability equality duty should include
evidence gathering and the involvement of
disabled people in the drawing up of disability
equality schemes and, from that, disability equality
action plans. Authorities should already be getting
a sense of the extent of the problem and of where
it is most acute.

It is encouraging to note North Ayrshire
Council’s reference to its sense of the problem,
which it has gained through involvement with
disabled people in drawing up its disability equality
scheme. There is a growing body of evidence from
public authorities’ work on their disability equality
duty, which should stand authorities in good stead
for drawing up their lists of priorities for
immediately tackling the problem where it is most
persistent.

The Convener: Did you say South Ayrshire?

Euan Page: I said North Ayrshire—I believe that
is right.

The Convener: Is North Ayrshire Council not in
a minority of one? Is it not the exception to the rule
in the work that it has done?

Euan Page: I cannot say. North Ayrshire’s work
was highlighted in the briefing on the bill by the
Scottish Parliament information centre. We would
expect other local authorities to be engaged in the
same kind of process and to be involving disabled
people in drawing up their disability equality
schemes.

The Convener: Do you have any knowledge of
the work that may have been done?
Euan Page: I am afraid that I do not, at the moment.

Jim Tolson (Dunfermline West) (LD): Good morning. I wish to touch on a couple of points regarding the potential workload that could be placed on local authorities and the cost implications of that. The bill that Jackie Baillie has introduced is laudable and there is much sympathy for it throughout the country, but the repercussions of enforcing it seem to be fraught with difficulties, not least with regard to all the existing on-street and off-street parking bays, their designation, the putting in place of enforcement notices and the need to chase people up.

Can you clarify the commission’s view on the possible workload for local authorities in implementing the bill, and comment on the Government’s suggestion that £1.7 million spread throughout Scotland would be sufficient to assist local authorities? Some local authorities, including those that cover the larger cities, feel that they would use almost that amount in their areas and—depending on which estimate is used—the cost could be up to 10 times as much.

Euan Page: I will answer your last point first. There is an issue regarding the marked disparity in estimates for the cost of designation. We need to firm up the figures because we cannot have estimates of £12 for one local authority and more than 10 times that amount for others. It is a similar point to the one that I made in answer to the previous question: if local authorities take the approach that they face an undifferentiated mass of what are currently advisory bays, which have to be assessed and redesignated appropriately, there could be significant administrative burdens.

We need to take a much more focused and targeted approach. What evidence do local authorities have that particular parts of their areas are—to use a phrase from the Convention of Scottish Local Authorities’ evidence—“hotspots”? What evidence do they have from disabled people who have contacted the council to say that they are repeatedly coming home to find that the designated advisory bay has been used by another driver? The system for advisory bays currently depends on the goodwill of individual non-disabled motorists. Where it works, it works well, but where it does not, it can cause enormous problems for people and can have a marked effect on people’s decisions about whether they even leave the house.

The way in should be to say that there is a problem in a certain area, and to target our efforts there in the first instance. The duty to report annually should enable us to see that there has been not just marked progress, in the form of a block-by-block move to designate by geographical area, but evidence of some thought about prioritisation and how to tackle the areas in which a council has evidence of problems or has sought to ascertain whether problems exist. Councils should be doing that anyway under the disability equality duty. There should be a rolling programme rather than a simple bureaucratic block-by-block redesignation, which should help with forward planning and prioritisation.

Jim Tolson: I appreciate that answer. You mentioned a focused and targeted approach, and some practical ways to take that forward stage by stage. However, the commission has missed a point: the bill, if it is approved, will require local authorities to examine not only all the existing parking bays, but to enter into co-operation with private landowners such as supermarkets in order to designate all the other bays over which councils currently have no say or control. The programme will therefore be huge, and will be required to be carried out as soon as possible. Nowhere in the bill is it mentioned that the programme will be carried out stage by stage.

Euan Page: I completely agree. The question of how that prioritisation and flexibility can be built in while still ensuring that the work is done perhaps needs to be put to the bill’s framers. If there is compelling evidence that redesignation cannot not be carried out within the timeframe that the bill suggests, common sense dictates that we go back to the drawing board during the passage of the bill to consider how we can mitigate that. That is a challenge not only for the bill’s framers, but for local authorities in respect of how they would go about the work. They must be willing to consider how they can exploit the evidence that they should be gathering anyway under the disability equality duty, so that they can say, “There’s a problem here, so that’s where we’ll start, and we have a strategy for how we’re going to address it over the coming months and years.”

There is perhaps scope to allow for that through the reporting mechanisms in both the bill and the disability equality duty. Again, we expect Scottish ministers to pick up on the matter under their duty to report every three years on how implementation of the legislation is progressing, and through the problems and successes that local authorities have had.

10:45

David McLetchie (Edinburgh Pentlands) (Con): We have had some indication that, in drafting the bill, a careful course had to be steered in relation to the Parliament’s competency to enact it, given that disability discrimination and most aspects of traffic management are reserved to Westminster. As a result, the bill had to have a relatively narrow focus on the duties of local authorities within that wider framework, and so
perhaps does not include as wide-ranging a set of measures as you would like. Is equivalent legislation being considered elsewhere in the United Kingdom? What is happening outwith Scotland?

**Euan Page:** To the best of my knowledge, Scotland is the only place that is proposing the course of action that is set out in the bill. There are issues around the reserved nature of the Disability Discrimination Act 1995. However, there is a separate governing framework for the disability equality duty in Scotland. We work to a Scottish code of practice and a duty that was specifically designed for Scottish ministers.

I am flying a kite, to an extent, but the advent of the equality bill that the UK Government unveiled in its draft legislative programme earlier this year will present an opportunity to consider any anomalies that arise and any consequential changes that need to be made as a result of the legislation. If any such changes are needed, the commission in Scotland will make that a priority in its lobbying and influencing work around the equality bill, which should begin its passage later in the autumn.

**David McLetchie:** Given the scope of the Disabled Persons’ Parking Places (Scotland) Bill and what it seeks to achieve, what are its weaknesses, from the standpoint of someone who wants to ensure that disabled parking bays are enforceable?

**Euan Page:** We would appreciate greater clarity on a couple of points, but the general point that has come through in our discussions so far is that, as in many other cases, the legislation will be as good as its implementation. There is a challenge in overcoming local authorities’ fears about costs and administrative burdens. However, if we get a shared sense of how we can implement the legislation in a way that does not lead to a bureaucratic paper-chase but actually makes a difference to disabled people’s lives, we will have a shared agenda on which we can work.

I would not characterise it as a weakness, but since we submitted our written evidence, concern has been expressed to us about section 5. It would be interesting to hear the bill team or others comment on it. The concern is that the definition of “qualifying person” in section 5(8)(b) does not capture advocacy and advice organisations that work principally with disabled people. Such organisations might be concerned about ensuring that there are enough designated parking spaces at the front of their places of business. Examples include the integrated living centres, Govan Law Centre and other organisations that do a lot of work around information and advice.

However, the problem is not insurmountable. Such organisations are not covered in the bill as it stands, but they could go back to councils to make the case for their having some kind of designated parking, given the nature of their work and the people whom they seek to help. We would like clarification of the thinking on that, but I would not characterise the bill as being weak or as having many weaknesses.

**David McLetchie:** In your submission, you refer to the baywatch campaign—a more prosaic version of “Baywatch” than many of us are used to. You say that the campaign’s “most recent survey points to one in five designated parking bays in Britain being used by drivers without blue badges” and that the situation has not improved since the previous survey in 2005. That is the peril that the bill is trying to address. However, many representations that I and, I am sure, other members have received suggest that the fraudulent obtaining of blue badges is an abuse that is almost as great, if not greater. Our inability to police the blue badge system has a bearing on enforceability. The bill relates to a step further down the line, but we might be said to be shutting the stable door after the horse has bolted. What is your view on the operation of the blue badge scheme?

**Euan Page:** That point was well made. The commission suggests that the draft bill took the right approach in separating the important—related, but separate—issue of abuse of the blue badge scheme from abuse of designated parking bays. We must make a clear policy distinction between the issue of tightening up the blue badge scheme to make it less open to fraud and misuse and dealing with people who persistently make fraudulent use of blue badges, and the issue of people’s choices about how and where they live their lives being curtailed because the number of designated parking spaces is inadequate. Since the bill was introduced, many people have made the point that we cannot look at issues in isolation and that we need to debate the operation of the blue badge scheme. There are practical steps that we could take to beef up enforcement and to ensure that badges are used solely by the people to whom they have been issued. However, we must not end up punishing by default disabled drivers and limiting their parking options as a result of abuses that take place elsewhere in the system.

**Johann Lamont (Glasgow Pollok) (Lab):** Fraud must be dealt with, but that is not the issue for a disabled person who needs a parking space. If a parking space has been designated for use by disabled people, the fact that someone uses it fraudulently is not an excuse for other people to do the same.
You made the important point that the bill should not be a paper exercise and that you do not want a measure that looks as if it is making an improvement but is not doing so. Is it possible to place the bill in the context of the disability equality duty? Does the commission look at it in those terms? I am concerned that some of the anxieties that have been expressed about the bill—that it will cost a lot of money and will be difficult to enforce—imply that it is a bonus rather than part of the core duty of enforcing disability equality. Is the commission willing to say that meeting the needs of disabled people in relation to parking is part of local authorities’ core responsibility to ensure disability equality? Will it pursue local authorities that fail to act in the proactive way that the bill suggests?

Euan Page: That is an absolutely fundamental point. I was struck by the comments from one local authority, which made the point that it must strike a balance between the needs of disabled people in its area and the needs of wider society. The commission argues that that distinction is entirely false, because just as disability is a normal part of lived experience, so disabled people are part of society. There is no distinction between the needs of person A as a disabled person and those of person B as a non-disabled person. We would not seek to have one set of rules for single mothers, black and minority ethnic people or gay people. We are all different, but we are all part of society. In considering the proposed legislation and the policy implications, it is important that we do not start with irrelevant distinctions between the needs of disabled people and the needs of non-disabled people.

To return to the point about disability being a normal part of lived experience, for the vast majority of disabled people, disability happens during the life process. A minority of disabled people are born with an impairment that carries on through life. As we grow older, we will all acquire an impairment. Further, we live in a rapidly ageing society in Scotland. Those issues are not just abstract public policy challenges; they are of profound importance to everybody in this room and their families. We need to get over the hurdle of thinking that we have to go the extra mile and spend extra money to meet disabled people’s needs. Good public policy means working to ensure that we design and deliver policy that meets the needs of all people in Scotland.

Johann Lamont asked about how the proposals tie in with the disability equality duty. It makes absolute sense to have an annual reporting requirement on the public authorities that are subject to that duty, which includes all local authorities in Scotland. Some local authorities have identified the reporting requirement as an issue, but it need not be an additional burden, because the information and evidence that is required should be gathered anyway. We should consider embedding the bill’s annual reporting requirement within the disability equality duty reporting processes.

Johann Lamont asked about the commission’s role. As with any issue, if we had evidence of a significant problem emerging in one local authority or in various settings throughout Scotland, we might look to work on it. However, as I said, I cannot go into great detail on our enforcement strategy at present, although we can get back to the committee with specifics on it.

Johann Lamont: Without the proposed legislation and on a voluntary basis, if a local authority said that it would not put in place designated enforceable disabled parking spaces because it could not spend a lot of money doing so, would that be a dereliction of the authority’s responsibilities under the disability equality duty?

Euan Page: There is not a yes or no answer to that. The duty makes it clear that cost and resources can be an issue for an authority in identifying priorities in its disability equality scheme. However, those cannot be the excuse of first resort, which has often been the case with public and private sector responses to disability equality legislation.

Johann Lamont: I have two brief final points. First, you say that a local authority can argue that it cannot afford to put in place enforceable parking spaces for disabled people. Would the judgment on that argument take into account what the local authority spends generally on parking enforcement? That does not ever seem to be an issue for local authorities—they seem to spend quite a lot of money on it—so the issue would be about where the authority chooses to spend budgets. Would that be seen as discriminatory?

Secondly—perhaps you will answer the two points together—does the commission take the position that someone with a disability has the same right to access their home and workplace that the rest of us have? If that is defined as a right, surely it should be exercised by way of a designated parking space. In other words, if an authority decides not to provide such a space, the decision would bring it up against the disability equality duty.

11:00

Euan Page: The first point, on how authorities decide on the affordability or otherwise of the measures as a proportion of their overall resource allocation for traffic enforcement, is useful. It would be interesting to see the extent to which decision making is informed by the distinction—which we consider to be false—between the needs of
disabled drivers and the needs of society in general. If an authority makes provision from within the resources that it allocates to observing the 1984 Act and other traffic management priorities, we consider that it is managing things well. As you say, authorities do not seem to find the process of observing that act and related regulations an enormous challenge, although I am sure that they would argue differently.

We need to stop viewing the application of costs that entrench disabled peoples’ rights as separate from the wider policy area in which they are situated. You have raised a useful line of inquiry. Instead of saying that the issue is entirely separate from the wider job of day-to-day management and enforcement of traffic duties, authorities should ask how much of the cost could be borne by rolling three-year budgets as part of overall traffic management enforcement strategies. I return to a point that was made earlier: authorities should prioritise and find where the problems lie. If they do so, they will have the evidence to begin to make that judgment call.

In addressing the second point, I return to something that I said in my opening remarks. The proposals contribute one component to the wider policy challenge of independent living for disabled people. The commission’s end goal is an independent living regime for disabled people in Scotland—if “regime” is the right word. We are under no illusion that that can be achieved in the space of months or even years. However, we need the policy environment to ensure that disabled people can make the same choices as non-disabled people about where and how to live their lives. I am thinking of the major life decisions, such as when and how to get married, have kids or go to university, as well as the mundane things, such as when to go to the shops, visit friends or go to the library. We are talking about embedding the principle in policy making and the decision making on challenges that are involved in designating resources. Authorities should be asking not, “How much do we have to spend on disabled people once we have done all the other core stuff—our day job?” but, “How can we embed the idea of disability equality and independent living for disabled people in everything that we do?” We need to make that step change and mind shift.

The previous Administration did a lot of valuable work through the establishment of the disability working group, which identified independent living as one of three overarching themes to inform public policy in Scotland. The commission is pleased that the current Administration is putting some money into identifying the barriers to independent living. Crucially, organisations of disabled people, such as Inclusion Scotland and the Glasgow Centre for Inclusive Living, are partners with the commission in that project.

The Convener: I seek clarity on the matter. In his questioning, David McLetchie first raised the narrow scope of the bill and issues of competency. In your submission and oral evidence, you talk of the duties that the bill will place on local authorities and the Scottish ministers. If the bill is passed, will additional responsibilities and duties be placed on the Scottish ministers and local authorities?

Euan Page: There are two points to make. First, the bill contains specific provisions to do with the audit and redesignation of advisory parking bays, on which important work is being done. Secondly, there are requirements relating to the reporting duty. The issue is not that things are already being done under other statutes; rather, the bill deals with a specific problem and a tailored solution.

The Convener: There is something that I fail to understand, which may be my fault. You concede that, if we pass the bill, local authorities might find its provisions burdensome and might not need to bother—they can just look at one area as another area. If we pass a bill that does not place on the Scottish ministers and local authorities additional disability equality duties, how will our actions avoid being a bureaucratic exercise that results in a paper-chase that does not achieve anything for disabled people who cannot go about their daily lives?

Euan Page: The point is that we should not end up in an either/or situation in which authorities either do not bother or are immobilised into inaction by the scale of the problem. That takes us back to how local authorities can effectively intervene and prioritise. To help them do so, they should have evidence through their disability equality schemes of where problems are most persistent.

It is clear that fears exist about the burdensome nature of the bill’s requirements, but we must get a much better idea of how public authorities are considering the proposed duties and how they arrived at their cost estimates and views on the bureaucratic nature of the bill. If the bill can be designed in such a way that it will be a useful tool for, in the first instance, targeting action on areas where problems are most persistent, we will go a long way towards reducing the bureaucratic and cost burdens.

I think that Johann Lamont mentioned that councils have month-on-month requirements to review and implement their overall traffic management schemes. That is not a burden on them; rather, it is part of their day-to-day work—it is what they are there to do. The question is how we can better embed the bill’s provisions in local authorities’ overall traffic management work and stop seeing the bill as something that will result in a paper-chase or people simply jumping through hoops.
Alasdair Allan: We have talked about competence, but I will resist pressing you on your views on whether it is daft that certain aspects of parking cars are devolved and certain aspects are reserved. It sounds a bit like devolving vitamins B and C for people ingesting their dinner, but not vitamins A and D.

Other members have raised the issue that I want to raise: enforcement of the bill. How big a task will it be for bigger local authorities in particular to enforce the bill’s provisions, particularly with regard to the owners of private car parks that are used by the public?

Euan Page: There will undoubtedly be challenges for the larger local authorities. I cannot remember the figure, but a daunting estimate has been given for the number of private car parks in the Glasgow City Council area.

At the risk of repeating myself, I would argue that prioritisation is the key. I imagine that work will be being done anyway to look in general at use, traffic flow and the planning implications of where new parking places will be placed. That work should give an indication of where hot spots are likely to emerge. The issue should not be approached as if there is an undifferentiated mass of separate private parking facilities around a city area. I do not seek to downplay the challenges that a large city authority faces. It is about looking at what is happening both within an authority’s disability equality scheme and more generally through the information and data gathering that it does on traffic flow and parking use in different parts of the city and saying, “Clearly, there is a problem here and less of a problem there.” The local authority would not want to spend an awful lot of time chasing up somebody who rents out a bit of derelict land at the back of an office block in the centre of Glasgow for three or four cars. That would not have the same priority as rolling out the kind of system that Braehead shopping centre has in place.

The other point is that we are, to some extent, pushing against an open door. There is no resistance to the bill’s proposals among many private sector owners of parking spaces who have many disabled customers. I was struck by the comments of one local authority, which suggested that private car park owners would remove their parking bays as a result of the bill because they would not want to alienate customers. I have not heard any evidence that that has been the experience at Braehead.

If I can tie that in with the overall requirement to encourage non-disabled motorists not to abuse disabled parking bays, it would appear that there is an enormous amount of good will in parts of the private sector towards being partners in that process. We can look at what local authorities could do in conjunction with supermarkets, retail parks and so forth to drive the message home.

Alasdair Allan: You also mentioned, in relation to section 5, that there might be difficulties in ensuring that groups of disabled people as well as individuals can qualify. Can you elaborate on what solutions there might be to that problem?

Euan Page: My point related more to where an organisation rather than a named individual is the qualifying person. For example, a welfare advice organisation that provides many services to disabled people may be concerned that it does not meet the definition of qualifying person and therefore would not qualify for a designated bay, which would be an enormous help, outside its offices. I am flagging up a potential issue, which I imagine could be rectified. We want to ensure that, as we move from having advisory parking bays to having enforceable bays, we do not leave the door open to fears that the clients of such a welfare advice organisation will not be able to find a suitable parking space to enable them to use its services.

Bob Doris: Can I clarify something? Currently, each local authority has a disability equality duty, which could lead it to use existing powers to enforce disabled parking bays, whether in conjunction with private companies, off-street or outside people’s houses. Local authorities can do that now to meet their obligations under the disability equality duty.

Euan Page: There are currently two classes of parking bay: enforceable and advisory. No enforcement powers are available for advisory bays. A local authority could not currently say that it will enforce a non-enforceable bay under the terms of the disability equality duty. The bill is looking at how we move to a single, enforceable standard for all parking bays.

11:15

Bob Doris: That is not what I was driving at. Currently, there are enforceable and advisory bays and local authorities take the approach that they consider best fits local circumstances. They would argue that, in doing so, they are meeting the disability equality duty. I want to ensure that I understand the matter correctly.

Euan Page: Currently, when a local authority considers designating an advisory bay, it considers whether a case has been made. As a result of information that the authority has received through its consultation and involvement with disabled people in drawing up its disability equality scheme, the lack of advisory bays in area X or Y may have emerged as an issue, so the council may seek to create more advisory bays.
However, the issue is not a cut-and-dried one about whether an authority has fulfilled its duties by doing one thing or has not fulfilled its duties by doing something else. There is a continuum. Local authorities have to consider their policies on the design and placing of designated bays as part of their on-going work to meet the requirements of the disability equality duty, but there is the separate issue of advisory bays being rendered useless for disabled drivers if they are occupied by non-disabled drivers. The point is not that a council would be failing to meet the requirements by providing advisory bays. However, evidence that was gathered by colleagues in SPICe and by Jackie Baillie in taking evidence on the bill reveals a real problem with the abuse of advisory bays, regardless of councils’ efforts to provide those bays.

Bob Doris: That is not what I am driving at, but I probably did not articulate my question very well. I will make this my last point to allow other members to speak. Some councils have enforceable bays—for example, West Dunbartonshire Council has 600 such bays. Even though some local authorities are not keen to use existing powers, West Dunbartonshire Council is happy to do so and would be well placed to fit in with any new statutory obligation that is put on councils. However, the council has stated that it does not want advisory bays to be withdrawn, because they give flexibility. I am curious about why you want all advisory bays to be withdrawn. As I said, West Dunbartonshire Council is happy to do so and would be well placed to fit in with any new statutory obligation that is put on councils. However, the council has stated that it does not want advisory bays to be withdrawn, because they give flexibility. I am curious about why you want all advisory bays to be withdrawn.

Euan Page: I am sorry for misunderstanding the question.

That is another matter that it might be useful for the committee to explore further as it takes evidence. There could be an issue of prioritisation. It is surely not a priority for councils to consider immediately removing advisory bays that are being used and not abused. The priority for councils may lie elsewhere—they may want to take action on advisory bays that are being abused by non-disabled drivers.

One challenge is to ensure that people’s minds are put at rest. The message from the bill should not be that people will have their advisory bays taken away and that they might get an enforceable bay. We must ensure that the process is managed well, so that if people’s parking bays are to change, their minds are put at rest that it will be a change for the better. We do not want any danger that councils might, as part of a rolling programme, create an atmosphere in which people are worried. We do not want people to receive a letter that says that the council is going to take away their advisory bay but that does not say when the council will get round to putting in an enforceable one. That takes us back to the point about the dangers of not prioritising and the need to think through how to manage the provisions. That potential worry must be addressed and I am sure that councils will be alive to that.

John Wilson: I raise a couple of issues to do with the disability equality duty on local authorities—I put my hand up to speak earlier, but Johann Lamont partly covered what I wanted to say. I want to try to draw out Jim Tolson’s point about whether £1.7 million is the cost that would be borne by local authorities—a warning shot has been fired at us in that regard as we consider whether the bill should progress. I understand that there are duties on local authorities to do with how they deal with people with disabilities and other groups in society. Therefore, the £1.7 million might be a figment of someone’s imagination, because the additional cost that it is claimed might be required to carry out work under the bill might already be being covered by the cost of gathering information.

Euan Page: I absolutely agree that we need much more clarity about where the figure came from. We must say to local authorities, “You’ve been subject to the disability equality duty for the past couple of years. As part of that and as part of your overall traffic management strategy, we imagine that you are gathering evidence and thinking about budgets and the resource implications of your approach to the needs of disabled motorists and blue-badge holders.” Costs that would be incurred under the bill should be factored into existing budgets rather than regarded as additional, stand-alone costs that would appear like a bolt from the blue—I agree with your analysis.

John Wilson: I am thinking about the duties under the DDA—part IV, I think. You said that a couple of advice services in Glasgow are afraid that if they applied for enforceable parking bays, they might not get them. However, surely under existing legislation on access to services an organisation such as Govan Law Centre can apply to its local authority for a designated disabled parking bay outside its office. The issue should not be a worry for such organisations, because they could make a case under other legislation to their local authority for designated disabled parking bays.

On a similar note, you gave the interesting example of a private operator who has three parking bays at the rear of their office and does not have to have a disabled parking bay, but
surely an individual could argue that under the DDA their employer should provide a disabled parking bay, to allow a person with a disability fully to participate in employment in that workplace. It could be argued that employers should be providing such facilities as a matter of course, to comply with the legislative requirement to open up employment opportunities to all.

Euan Page: Yes. The provision of a parking space for a disabled employee is a good example of a reasonable adjustment under the DDA and we expect employers to provide such spaces. I was drawing a distinction between encouraging people not to abuse disabled parking spaces and identifying private parking spaces in large local authority areas. It would perhaps be more incumbent on local authorities to start by considering big private parking spaces, where there is a large turnover, rather than take an undifferentiated approach in which they treated a parking space outside a retail park on the outskirts of Glasgow in the same way as they treated a piece of scrubland in the centre of town that is used as a private parking space. It is about how local authorities go about their work.

You make a good point. Under the provisions on access to goods and services and the provisions on employment, which are in part II of the DDA, the provision of disabled parking spaces would be regarded as a reasonable adjustment, which employers and service providers should consider making. Forgive me, but I have forgotten your earlier question.

John Wilson: I have forgotten it, too.

The Convener: If there are no further questions from members, I thank Euan Page for his helpful evidence. As we agreed to do, we move into private to consider items 6 and 7.

11:25

Meeting continued in private until 11:55.
SUBMISSION FROM ASSOCIATION OF CHIEF POLICE OFFICERS IN SCOTLAND

1. I refer to your correspondence dated 10 July 2008, in connection with the above subject, which has been considered by the Road Policing Business Area, and can now offer the following by way of comment.

2. Within some council areas parking offences are dealt with exclusively by council parking wardens and I would strongly recommend that this remains the case to prevent an added burden being placed on operational police officers.

3. There are however council areas where the police do have responsibility for parking enforcement, for example East Renfrewshire Council, which alone has over 1000 disabled parking bays outside homes etc, this could prove a heavy burden on already limited resources.

4. In addition to enforcement, it is proposed that traffic management units visit each proposed new site with the council prior to the bay being approved. This would be manageable if it was applicable only to ‘new sites’ from the induction of the legislation, as retrospective site visits would be considered totally unmanageable.

Harry Bunch
General Secretary
ACPOS Secretariat

5 August 2008

SUBMISSION FROM GLASGOW CITY COUNCIL

Summary

1. Glasgow City Council supports the principles behind the Bill and takes seriously its statutory duties in relation to road traffic and disability equality. We are, however, extremely concerned at the substantial additional costs to the Council of setting up and enforcing the new arrangements envisaged by the Bill (over £2,000,000 in set up costs alone in the first year). We are concerned, in relation to residential parking spaces, that expectations will be raised in relation to enforcement that we will not be in a position to meet from current resources. We also anticipate a range of difficulties with the proposed method of enforcing off street parking spaces, in terms of resources, identification of all appropriate car parks and the willingness of the owners to accept the costs of enforcement. The level of abuse of residential disabled parking spaces reported to us in Glasgow is relatively low. A more pressing problem for disabled people would appear to be that of abuse of parking spaces in off road car parks, such as supermarkets, and we have some misgivings about the ability of the Bill to improve this situation.

On street parking places

2. We have 275 enforceable and 4,500 advisory residential parking spaces in Glasgow. To make the latter enforceable, the existing yellow painted bays would require to be removed and replaced with signs and white road markings to Traffic Signs Regulations and General Directions 2002 (TSRGD), at a cost which we have estimated at £2.1 million (further detail has been provided to the Parliament’s Finance Committee at their request). We believe it is unreasonable to expect this authority to meet these substantial costs without additional funding from the Scottish Government.

3. These costs could be reduced, however, through an alternative and more cost effective way to provide enforceable disabled on-street parking bays, via an amendment to the...
TSRGD, allowing the markings to be enforced without the need for a Traffic Regulation Order. There is precedent for this in recent amendments regarding yellow box junctions and bus stop markings.

4. The amendment could allow for markings only, negating the need for additional signage that would only add clutter in mainly residential streets, where as many as eight signs can be found in one road. It would also improve accessibility for disabled people and others, and reduce future maintenance costs. There are, however, two drawbacks with this approach; it would require a change in UK legislation, and it would not involve consultation with local residents.

5. Despite the fact that the Bill expects that our role in enforcing these 4,500 parking bays would primarily be reactive, promotion of the new arrangements, by central and/or local government, may well lead to levels of expectation from residents about enforcement that we are unable to meet from current resources.

Off street parking places

6. The Bill proposes that we should contact the owners of every off street car park in Glasgow every two years to propose that we negotiate making their parking places enforceable. There are several problems with this proposal. First, we are not in a position to identify all privately owned car parks across Glasgow. Second, the potential staffing and financial resources associated with this task would be substantial. Given that supermarkets, for example, can already request us to enforce their spaces, we strongly doubt that a letter from us offering to do so would change their position - unless the enforcement was funded by us, which is clearly outwith our resources.

7. The Bill would also mean that spaces in non-charging Council car parks would become enforceable, putting additional pressure on limited resources.

Abuse of parking bays and operation of Blue Badge Scheme

8. The level of abuse reported to us in relation to current residential advisory bays in Glasgow is relatively low and in our experience abuse generally takes place where the resident has no outward signs of serious mobility issues. Research has shown that the Blue Badge Scheme is abused in various ways and this in turn encourages abuse of parking bays by non-Badge holders.

Dawn Corbett
Head of Corporate Policy
Glasgow City Council
30 July 2008

SUBMISSION FROM HIGHLAND COUNCIL

1. Highland Council submitted comments in the first consultation on the above bill. The Council was supportive of the aim to improve the access of disabled people to parking and the comments made at that time are still valid. However the bill as published contains significant variations from the original consultation. In particular, the proposal to provide a simplified method of designating enforceable disabled bays is dropped in favour of creating a new duty on authorities to apply the existing legislation for the creation of enforceable bays, by traffic order. The present option of providing advisory bays is removed and replaced by a duty to convert all existing advisory bays to enforceable ones. These changes are of concern.
Local Government and Communities Committee, 11th Report, 2008 (Session 3) – Annexe D

2. There are almost 300 advisory bays at residential addresses in the Highland Council area. Most of these work well. The duty to create traffic orders for all of these, with the associated objections and potential hearings, would be a strain on the resources of the council which would not be justified by the level of abuse of the current designations. A further burden would be the revocation of the orders when disabled people moved house or died. Advisory bays can be removed when no longer required, for minimal cost.

3. Most disabled bays in council owned public car parks and on-street in shopping areas are already covered by traffic orders. There would be no objection to converting the remaining advisory bays in council car parks and on street in shopping areas, to enforceable ones.

4. The number of bays in private car parks is not known. Again, a significant resource would be required to fulfil the new duty to audit them, contact the owners and agree with them to promote traffic orders. The level of abuse is not known, however the owners may be aware of problem areas. The scale of resource needed may be more manageable if the onus was on the owners to request from the council, an order to create enforceable bays. This should result in orders being created only where there was a demonstrable need and would avoid wasting time and money creating orders for bays which are already working well on a voluntary basis.

5. In this area it would be the police and traffic wardens who would be responsible for enforcement. Experience of the present enforcement regime suggests that extra resource would be needed for enforcement for any orders remote from town centres where wardens already operate. The disparate nature of bays in residential areas would make them difficult to police. The work in creating enforceable traffic orders would be wasted if they are not enforced and abuse would continue.

6. Groups representing disabled persons are known to hold strong views on the issue of abuse of both advisory and enforceable disabled person's parking places. The Council is aware of these views through the Local Access Panels. The overall number and distribution of such spaces is also an issue. Through planning conditions the Council insists on disabled spaces in parking associated with new development and developers are invariably cooperative in this. The proposals would be unlikely to increase the number of places available and the added burden of processing traffic orders may even reduce the provision of new spaces.

7. In conclusion, this authority believes that the existing powers are sufficient and wishes to see these powers remaining optional. The cost of complying with the new duties is considered to be excessive in relation to the level of abuse of the advisory bays. However the principal of creation of traffic orders for disabled spaces in council owned public car parks and on street in shopping areas is accepted.

CR Guest
Head of Roads and Community Works
Highland Council
8 August 2008

SUBMISSION FROM INCLUSION SCOTLAND

Background Information

1. Inclusion Scotland (IS) is a consortium of organisations of disabled people and disabled individuals currently funded by the Equalities Unit of the Scottish Government. We aim to draw attention to the physical, social, economic, cultural and attitudinal barriers that affect disabled people’s everyday lives.
2. Inclusion Scotland maintains contact with its membership and other disabled people through our Contact 100 group of volunteers (disabled people with expertise or experience in various areas such as accessible transport, buildings, information etc. who are contactable by e-mail and assist Inclusion Scotland in framing responses to consultations, new legislation etc.), e-news bulletins (weekly), newsletters (monthly) and regular meetings, roadshows etc.

Manifesto for Inclusion extract – “Inclusion Scotland believes that disabled people and others with reduced mobility are entitled to the same level of access to the built environment as that provided to non-disabled people”.

Consultation with disabled people on this issue

3. Inclusion Scotland has consulted widely on the issue of Disabled Persons’ Parking Places over the last 2-3 years via specially convened workshops at our Annual General Meeting and “Roadshow” events throughout Scotland. We have also sought the views of disabled people via a recent electronic consultation (via our Contact 100 volunteers) and an online poll. The matter was also discussed when our membership drew up our “Manifesto for Inclusion” prior to the 2007 Scottish Parliament elections.

4. There is overwhelming support from disabled people and their organisations for the changes proposed in Jackie Baillie’s original consultation paper and the current Bill before the Local Government and Transport Committee.

5. Over 90% of disabled people participating in our online poll supported penalties being imposed on non-Blue Badge holders who parked in “advisory” bays. Virtually no-one participating at workshops, roadshow events and our AGM opposed a change in the law. Instead there was a huge amount of vociferous support from disabled people for penalties being imposed with most favouring harsher fines than the suggested level of £30.

Contact 100 member: “I think a fine should be imposed for the abuse of disabled parking bays and it should be more than £100, to reflect the distress and disruption caused to disabled people”.

6. Disabled people do not view being unable to access their own homes or local shops as a minor inconvenience but as a major barrier to participation in everyday life. They are frustrated with the current situation where non-disabled people flout advisory bays without fear of penalty and find it unacceptable that nothing can be done.

7. Disabled people have made it very clear to us that they want and need effective action to be taken at a national level to provide them with an even playing field where disabled people can be sure that they can access their homes and retail outlets regardless of where they live.

Contact 100 member – “Clearly many other disabled people are also being badly affected by the present situation. It is essential that the Scottish Parliament demonstrates its commitment to the rights of disabled people and changes the law to give us the full legal protection we deserve”. Contact 100 member – “My question is why are they not doing this UK wide”.

Current situation
8. There are over 1 million disabled people in Scotland of which 224,000 are Blue Badge holders; there are 96,000 wheelchair users.

9. The Blue Badge scheme does not apply to town centre retail parking nor advisory disabled parking bays (marked with white lines). No penalty or fine can currently be imposed by local authorities on drivers of cars not displaying a Blue Badge who abuse these bays.

10. The creation of designated disabled parking bays which are “enforceable” is a complicated, time-consuming and costly business for local authorities. It can take up to 2 years to complete the process. This results in local authorities often making disabled parking bays advisory as it is less expensive for them. There is not a standard approach across Scotland and the proportion and number of enforceable and advisory bays varies markedly from one local authority to the next.

11. A survey by Capability Scotland found that 44% of disabled person’s parking bays in town centres and at retail outlets were occupied by vehicles which were not displaying a valid Blue Badge. Similar levels of parking abuse have been discovered by English based organisations.

12. Shop staff who were interviewed as part of the research stated that they were unwilling to challenge non-disabled people who abused advisory parking spaces because they feared losing their custom. This type of response by shop staff is similar to the experience of the disabled people we consulted who confirmed that shop staff were usually reluctant to become involved in tackling abusers. When disabled people confront non-disabled people using advisory bays they are frequently abused and threatened.

Contact 100 member - I have had occasion where a young mother was using a disabled bay as the mother and child bays were full. When I asked her to move I was met with a torrent of abuse and informed that she needed the extra space as much as me as she had a buggy. When I pointed out that I had to have the room for my wheelchair I was told tough first come first served.

Contact 100 member - I and many others have been abused at car parks in shopping centres – people parking in disabled bays when they don’t have a blue badge.

Contact 100 member - “I have multiple sclerosis and have problems with mobility, balance, vision and fatigue. In 2005, a neighbour parked a large transit van outside our house in our advisory parking bay. He refused to shift it, in spite of our request to do so. I contacted our local councillor. He contacted the police on our behalf and a PC called and spoke to our neighbour. Again our neighbour refused to move his vehicle. My neighbour kept his van outside our house for two full months, which had a very adverse on my health and wellbeing. He shifted it eventually, but at any stage, might put it back there, since our parking bay is advisory only”.

Inclusion Scotland individual member – “I returned from work one evening to find a car parked in my bay outside my home. Because the rest of the street was full of parked cars and I am a wheelchair user I had to drive round and round the block until they left and did not get home for over 2 hours”.

13. As most “domestic” disabled person’s parking bays (outside people’s homes) are advisory people with mobility impairments can be denied access to their own homes, or even become trapped within them, when non-disabled people park in their bays. Disabled people also report being unable to shop because disabled people’s parking bays in town centres and at retail outlets are full of non-disabled people’s cars.
14. After a trial at six stores the supermarket chain ASDA have introduced a system of £60 fines for those abusing disabled persons and mother & toddler bays. Far from being unpopular with shoppers an ASDA poll found that 4 out of 5 ASDA customers supported the fines system being extended to all stores: (http://www.baywatchcampaign.org/LatestNews.asp?ItemID=35). A similar system has been adopted at the Braehead out of town shopping centre: (http://www.theherald.co.uk/news/transport/display.var.2141078.0.60_fine_at_Braehead_to_protect_disabled_parking.php) [Link no longer operates]

15. Unfortunately not all supermarkets have adopted this approach meaning disabled people still find advisory spaces being abused at other major chains – Sainsbury’s, Morrison’s, M & S, Safeway’s, Tesco’s etc. - and thus face the uncertainty of whether they will actually be able to shop when they arrive at a store.

16. Uncertainty about whether disabled parking facilities will be available at their intended destination discourages many disabled people from undertaking journeys thus denying them access to services and normal social activities. Thus the current lack of enforcement exposes disabled people to verbal abuse, threats and occasionally physical attacks and acts to increase the social isolation of disabled people from the communities and society they live in.

Opposing arguments

17. Inclusion Scotland understands that some MSPs and local authorities have stated their opposition to the proposed changes because of the possibility of additional policing costs and that the powers already held by local authorities are sufficient to deal with the problem.

18. Inclusion Scotland does not accept that this measure would necessarily cost any more to police. Several local authorities in Scotland already have traffic warden schemes in operation which far from using resources actually act as a revenue stream to fund other services. Why would adding to the potential revenue stream of local authorities cost money?

19. Secondly the existing regulations are too bureaucratic and thus not easily utilised. According to local authorities it can take up to 2 years for an enforceable designated bay to be created and the costs can come to more than a £1,000.

20. As a result 6 out of 7 current on-street and residential disabled parking bays are advisory only and can be used by anyone. That situation is unlikely to change by itself and simply exhorting local authorities to do more without providing new resources will leave disabled people increasingly excluded from everyday society.

21. Finally Parliament regularly introduces new laws which cost more to police and administer yet the only time that the cost of policing seems to be an issue is when the rights and needs of disabled people are at stake.

Conclusion

22. Inclusion Scotland offers its full support for the penalties introduced in Jackie Baillie MSP’s Bill and urges the Local Government Committee and Scottish Parliament to go further in protecting disabled people’s right to participate fully in society.

23. Inclusion Scotland is disappointed that the abuse of parking bays on commercial premises (e.g. out-of-town supermarkets) is not now covered in the proposals before Parliament and would like to see this loophole being addressed.

24. Inclusion Scotland would be happy to provide the Committee with oral testimony from disabled people on how the current situation affects them and limits their participation in everyday life.
SUBMISSION FROM LEONARD CHESIRE DISABILITY

1. Leonard Cheshire Disability welcomes the introduction of this Bill; it is a Bill which is greatly needed. We believe that if the Bill becomes law it will remove a barrier that disabled people face by ensuring that disabled parking spaces are uniformly enforced. This will enable Scottish disabled people to have a greater level of freedom and choice when it comes to shopping, taking part in leisure activities and socialising in general.

2. According to our recent report, ‘Disability review 2007’, 66% of respondents said that they needed a car because of barriers to public transport linked to their impairment. This statistic highlights that having access to a car plays a vital role for disabled people.

3. However having access to a car doesn’t guarantee that disabled people will fully utilise the vehicle, as often, the places where disabled people want to visit may not have adequate accessible parking. And where there is specifically accessible parking reserved for disabled people these spaces can be ‘taken’ by people who do not need them.

4. We recognise that parking is an inconvenient hassle for any driver, but most non-disabled drivers have a wider choice when it comes to looking for a parking space than disabled people. Therefore it should be unacceptable for non-disabled drivers to reduce disabled people’s parking choices even further by taking the selfish decision to park in a disabled bay.

5. For too long disabled people have had to rely on the courtesy and consideration of other drivers not to ‘take’ their reserved parking spaces, but we have all heard and seen news stories which depict the hostility other drivers now show each other when it comes to gaining a parking space. Therefore the age of just relying on politeness has ended and the age of enforcement has come.

6. Leonard Cheshire Disability believes that Jackie Baillie’s Bill will bring about this age of enforcement for disabled parking spaces.

7. Examining the main aims of the Bill, Leonard Cheshire Disability would agree that it would be right for each local authority to carry out an audit of the number of advisory disabled street parking places it has within its locale. Only when we know the true number of these spaces can we access which spaces are still relevant and which require up-grading by Traffic Regulation Orders (TRO).

8. With local authorities having better records it should be easier for them to remove any road markings relating to redundant advisory disabled parking spaces. However local authorities really need to offer better and clearer signage which notifies people about disabled parking spaces.

9. Carrying out this exercise will ensure that parking spaces and targeted to where they are needed most, it will also clear up any ambiguity and ‘wriggle room’ that offenders may cite to defend their parking in these spaces.

10. Leonard Cheshire Disability welcomes the fact that the Bill seeks to make enforcement simplified, standardised and hopefully slimlined. The creation of TRO’s must and should be more cost effective, Leonard Cheshire Disability recognises the benefits of local authorities decriminalising parking, so that they could re-invest monies received from fines back into the community.

11. The standard practice in most of Scotland’s council areas who use Penalty Charge Notice (PCN) is for a fine to start at £60 however if this is paid within 14 days it will be reduced to £30, Leonard Cheshire Disability believes that people have become accustomed to this system and therefore to ease confusion this system should be adopted with relation to the proposed Bill.
Given that back in 2004 over £14 million was raised through parking tickets it highlights that revenue can be raised but this also means that a large proportion of tickets are being issued, and the deterrent factor may have diminished. Therefore Leonard Cheshire Disability believes that repeat offenders should face an increase of the fine each time they park illegally in a disabled parking space.

12. The use of local enforcement officers should be embraced as their knowledge of local problem spots will enable greater clear up rates and mean that people who continually abuse disabled parking spaces will be left with no hiding place.

13. The next main aim of the Bill would see local authorities promote an order covering the disabled persons’ parking places in its own public car parks. Leonard Cheshire Disability believes this should be happening already as the direct result of the Disability Equality Duty. Local authorities now have a ‘due regard’ to promote disability equality, one way of doing this is by making sure their car parks do have disabled parking spaces which are enforced stringently, this would send out the right message to other organisations that have private car parks.

14. This leads on to the aim of the Bill to require local authorities to negotiate with the owners of private car parks to make the same arrangements of enforcement.

15. It would seem that the DDA is not being taken into account by most private car parks. Part III examined the issue of car parking. A key element of Part III is that service providers that operate a car park now have to ‘monitor’ their disabled bays to prevent abuse by non-disabled drivers.

16. Failure to provide monitoring could result in a heavy financial penalty, but we are not aware of any disabled drivers exercising their right to compensation under the terms of the Act. It would seem that it is too difficult and time consuming at present to start proceedings.

17. As an analogy, if we went into a restaurant and saw a reserved table, we wouldn’t just sit at the table knowing full well that we didn’t book the table, it would be socially unacceptable, and also the management of the establishment would ask you to vacate the table. Management do this to protect their valued customers.

18. However it seems that many people have no qualms about using a disabled parking space, these spaces are reserved for the use of disabled people, but on countless occasions, time after time, people who to not require these spaces use them. Their actions deprive these important spaces to those that need them the most.

19. Unfortunately the management of most private car parks do not take action against these perpetrators, even though disabled people in Scotland have an annual spending power of £5 billion, and therefore should also be treated as valued customers, that is why it is vital that this Bill is passed so that local authorities can ensure that private car parks legally enforce disabled parking bays.

20. Asda for example after some earlier trials, have rolled out nationally a system to fine customers £60 for parking in disability bays without a blue parking badge. However while Asda lead the way by unilaterally taking this decision other supermarkets have failed to follow suit, so the need for more regulatory powers when it comes to ‘private’ car parks is clear for all to see.

21. Leonard Cheshire Disability therefore believes it is paramount that if disabled parking spaces are to be enforced then it must be universally adopted, including ‘private’ car parks. If these places were not to be incorporated into the Bill it would further add to the social exclusion felt by many disabled people.

22. It would also send the wrong message out to the public if they knew that private car parks were not to be enforced; as a result people would feel that they had immunity to deprive disabled people of a valued tool which enables them to participate fully in the everyday activities which non-disabled people take for granted.
23. Leonard Cheshire Disability believes that this Bill is long over due; the sad fact is that public transport is one of the problems relayed back to us time and again by our service users. If public transport is not accessible or reliable then for many disabled people their own transport offers them the chance to take part in everyday activities. So when parking bays especially designed for disabled people are abused people need to know that they face real consequences for their inconsiderate and anti-social actions.

24. We believe the Bill would offer local authorities and the Scottish Government the opportunity to educate people and change people’s lack attitude towards disabled parking spaces. If the Bill became law then a Government campaign should be launched to promote the significance of disabled parking spaces and what they mean to people, also the message of taking responsibility for your own actions should be a running theme of any campaign. The ‘no-one uses the spaces anyway’ or ‘what harm I’m I doing’ line of defence won’t work or be tolerated anymore.

25. People that abuse disabled parking spaces might see their actions as little more than a slight transgression, however this ‘slight transgression’ has major ramifications which leads to further social exclusion for those disabled people that can not access their ‘reserved’ parking space.

26. At best these people can be said to be ignorant but at worst they can be said to be deliberately spiteful. This Bill, we believe would lift the ‘veil of ignorance’ from people’s eyes and also punish those that wilfully abuse disabled parking spaces.

27. Leonard Cheshire Disability warmly welcomes the aims of this Bill.

Leonard Cheshire Disability

8 August 2008

SUBMISSION FROM SCOTTISH DISABILITY EQUALITY FORUM

1. I refer to the recent call for evidence regarding the Disabled Persons’ Parking Places (Scotland) Bill and would like to make the following comments:

2. Jackie Baillie states that there will be no need to change anything within the Transport Act 1984. Is this fact? I only ask this as the Road Traffic Regulation Act 1984 under Section 117 states that “misuse of the badge itself by a non disabled person is an offence”

3. Where the Bill mentions “disabled persons’ vehicles” – does it mean vehicles used by disable people (could be many) or is it restricted to vehicles owned/leased by particular people? Under the “qualifying person” clause the Bill states that the person must be a badge holder and that a vehicle’s keeper is registered to that person’s address where the parking space has been requested. However, a person requiring a marked bay is not always the keeper of a vehicle and may rely on transport from a number of people (family, friends and carers etc). If someone requires a bay close to their accommodation or premises they wish to visit in order to get access to transport then it should not matter who owns the vehicle. The disabled parking/Blue Badge travels with the holder. Why has this not been followed through here? There is a wider issue of a general lack of marked bays that should be taken up but does not fall within the scope of this Bill.

4. Another area which needs to be strengthened and clarified is when an individual applies for a disabled parking space in front of their home. At present the space is not solely the use of the person who applied for it. Anyone with a blue badge has the right to park there. This may make sense under normal on-street parking rulings. However, when it is associated with domestic use, there is a need to ensure that it is specific to the person who applied for the order in the first instance. In some cases people applying for a parking place outside their home return home in the evening after work and find another blue badge holder parked there. They then
had to find another parking area a good distance from their home. Surely this defeats the object?

5. When deciding whether a parking space provides “convenient access” the local authority must act in liaison with the person for whom the parking space is intended. Is there guidance on “convenient access”?

6. It may have been helpful to add under the Interpretation section relating to badges issued by other European states that this Bill recognises the Blue Badge as the European Community standardised parking card for people with disabilities. There are also some non-EU states that recognise the Blue Badge and have reciprocal agreements regarding parking.

7. There are concerns over the financial consequences of the Bill. The part headed "Costs". This area appeared very weak and proved to be a little concerning. Especially when it came to examples of how much each parking order would cost. Fife Council stated “£119” whilst West Dunbartonshire Council stated “£12.20”. What a huge differential. Why was there such a huge difference? The whole of the Cost section was very thin with very little evidence of how much all of this would truly cost. This actually weakened the paper's impact and raised more questions.

8. It is disappointing to see in the Financial Memorandum that enforcement is expected to be on a reactive basis as it is felt that more rigorous enforcement will more quickly raise awareness of issues around disability and parking and encourage people not to abuse marked bays.

9. It is good to see the paper use the Disability Discrimination Act regarding this issue. However, as it stands at this time, the Act is very poorly policed and still leaves many disabled people discriminated against, lawful or not. It is still up to individuals to take perpetrators to court and this is usually without financial back up and support. Additionally, the claimant only has six months to get the case heard. Yet more hurdles for people with disabilities. In these cases the local authorities should still be accountable and be responsible for the reinforcement under their Disability Equality Duty. Why? Because they are responsible for issuing goods and service providers with the licence to operate.

Liz Rowlett
Senior Policy, Information and Parliamentary Officer
Scottish Disability Equality Forum
Disabled Persons’ Parking Places (Scotland) Bill: Stage 1

10:45

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Convener: That is what I was talking about.

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

Alasdair Allan: A number of concerns have been expressed about the provision in the bill that would do away with advisory bays, as it is felt that
they have a function that is worth retaining. What are the views of our witnesses?

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

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

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

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


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

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

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

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

Donald McKinven: The task of catering for on-road and off-road situations is monumental. Glasgow’s public charging car parks are already covered by an order and have priority spaces for blue badge holders. It might be possible to enter into arrangements with car park owners that provide charging car parks, such as NCP, and companies and organisations that provide non-charging car parks, such as supermarkets and hospitals, and get agreement to promote an order to make the priority bays mandatory. However, our view is that, even though you might make a great effort, you will not necessarily get that agreement, which means that you will have to repeat the process after two years. Further, if you manage to get that agreement, would the companies and organisations be willing to pay for the cost of the markings and the enforcement? I would have liked to have heard what those organisations have to say about the proposals.

11:00

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

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

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

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

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

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

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

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

Donald McKinven: We compared what we did previously for orders associated with mandatory school keep-clear areas. That work took two officers 26 weeks to carry out. We based the procedure for advisory disabled bays on that model, and worked out that two officers would probably take around a year to prepare the necessary paperwork. Those orders also related to locations in isolated pockets throughout the city. The same approach must be taken with the 4,500 disabled bays.

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

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

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

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

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

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

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

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

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

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

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

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

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

Donald McKinven: Yes.

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

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

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

The Convener: What would your average be?

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

The Convener: Is it that bad, is it?

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

Bob Doris: The issues that have been raised concern not the logic of the bill but the ways in which each local authority will implement the provisions of the bill, which are issues that can be dealt with and do not represent reasons to oppose the bill.
I would like to clarify a few points. Am I right in understanding that, under the provisions of the bill, advisory bays will be deemed to be temporary bays, and it will be up to each local authority to convert them into compulsory bays?

Richard Guest: Yes, that is what I understand.

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

Richard Guest: I believe so.

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

Richard Guest: I think that that is correct.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Rhoda Grant:** I am not 100 per cent sure that you would have to go and try to persuade them; I think that it would be a case of placing an advert to inform them that, if they wanted their bays to be properly designated, they could contact you for that to be done. A business such as Morrisons might decide that the people who policed its parking could police disabled bays better than the public authority could and, therefore, that it had no need for designation. I think that you would have to persuade people only when you were getting lots of complaints from a disabled person who was trying to park in the disabled bays in a business’s car park and could not. In that case, you might go out and ask the business whether it had thought about designation.
Richard Guest: I must say that that is not my reading of the bill. It does not appear to me that advertising every two years would be sufficient to comply with the bill, but we will have to take legal advice on that.

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

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

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

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

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

11:30

Richard Guest: Yes, I am well aware of that, but that approach has difficulties, too. We have established that individual bays are likely to change fairly regularly. If we make one consolidated order covering all the bays, it will have to be changed every time that we want to add or take away a bay. That will mean that the order is in a constant state of change, which may give an enforcement problem. If the police want to enforce an order, they must quote the correct order. However, if the order changes regularly—probably every several months, as bays are added and taken away—it will be difficult for the police to ensure that they have the right order, when several hundred or even several thousand bays are covered. It may be easier in the first instance to create one consolidated order that includes all the bays, but that would be storing up trouble for the future when it had to be changed. It is easier simply to revoke an individual order when it is no longer necessary or to make a new order. The work that is involved in changing an order is at least as onerous as that involved in making a new one.

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

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

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

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

Richard Guest: No.

Jackie Baillie: What about in Glasgow?

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

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

Donald McKinven: Yes.

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

You both express a preference for the approach of amending the Traffic Signs Regulations and General Directions 2002, which is of course reserved legislation, and point out the cost and bureaucracy that are involved in instigating traffic
orders. However, West Dunbartonshire Council’s figures suggest that its approach costs the council £12.20 per bay and that the main cost is really in signage, which would not be escaped, even through an amendment to the Traffic Signs Regulations and General Directions 2002.

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

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

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

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

Jackie Baillie: Well, there you go.

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

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

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

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

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

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

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

Donald McKinven: That is correct.

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

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

John Wilson: It was a rough calculation.

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

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

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

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

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

Jim Tolson: I would like to expand on points that members of the panel have made and to raise a couple of new issues. We have touched on the issue of cost. The financial memorandum estimates a total cost for Scotland of about £1.7 million, but in its written submission Glasgow City Council suggests that the cost for Glasgow alone would be £2 million. We have significant concerns about costs. It may be difficult to get clarity on the
issue—Mr McLetchie and others have tried to do that—but unless we have a clear outline of how the figures were arrived at, it is understandable that there will be large discrepancies. I invite members of the panel to comment further on costs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11:45

**The Convener:** You do not usually bother.

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

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

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

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

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

**Donald McKinven:** I said earlier that if we had to contact all the private car park owners in Glasgow to come to an arrangement, that would
There is no pole for an Over my evidence of abuse of these parking spaces. There We have lots of anecdotal and photographic of complaints that have or have not been received. of that.

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

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

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

11:48
Meeting suspended.

11:50
On resuming—

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

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

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

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

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

Over the years, I have faced personal abuse and, on some occasions, intimidation when I have dared to challenge people. I probably should not say this, given that I got elected last year, but there have been times when I have taken direct action. When I have seen two cars without disabled badges parked side by side in the
hospital car park, I have parked behind them so that their drivers had to sit and wait until I was ready to move. Sadly, disabled people sometimes need to take such action.

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

**The Convener:** Does anyone have a contrary opinion?

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

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

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

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

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

As far as the situation in Glasgow is concerned, the first reason why not many people complain is that they know that because the bays are advisory there is not much point in complaining because they will not get anywhere. I came across a lady who was most distressed about her situation. She was frightened to take the car away from the parking bay outside her house because she knew that when she came back, she would not be able to get in again. That is the sort of situation that I hope the bill will rectify.

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

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

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

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

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

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

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

I ask panel members to give me feedback on the following points. First, I ask for your comments on the view that some local authorities have
expressed that the proposal to designate temporary disabled persons' parking places would prejudice the statutory procedure for a designation order and could cause more distress for disabled persons.

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

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

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

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

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

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

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

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

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

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

**David McLetchie:** I understand that, but many organisations will in a sense sponsor an individual to take a test case. That is the whole point of having a test case. Usually, it will be in the name of an individual, but often it will be funded by a
campaigning organisation to establish a principle on behalf of a group. There is no individual barrier if the resource is provided by the sponsoring organisation.

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

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

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

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

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

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

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

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

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

---

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

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

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

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

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

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

---

12:15

**Dr Wilson:** We in Scotland have taken the lead in other ways, and I see no reason why we should not support Jackie Baillie’s bill and take the lead in
this case. We look to the Scottish Parliament to maintain its good record on equality issues, and it is an equality issue that the bill addresses. I see no reason why we should shrug off the issue and say that it can be better dealt with at Westminster. We should take the lead and show the rest of the United Kingdom how it can be done.

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

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

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

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

The Convener: There is no doubt that we can have an influence. Westminster might be interested to see some of our evidence, and we can certainly get that to the House of Commons Transport Committee and the people who are considering the matter there. The difficult point that we are addressing is that those who are being asked to implement and manage the system have come along with strong evidence about why certain things cannot be done, which needs to be rebutted at a high level. That is the point that Alasdair Allan was making, I think. Do you have any further points to raise at this stage, Alasdair?

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

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

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

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

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

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

Liz Rowlett: The issue is not necessarily about the system. At the end of the day, we want provision of parking spaces that meets the needs of disabled people. This morning, people have seemed occasionally to lose sight of that. For example, it was suggested that, if a person with mobility problems lives in a housing estate far out
of town, abuse of their bay would not be dealt with, because that bay would be viewed as being somehow different from ones in the centre of town and dealing with the abuse would incur a greater cost.

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

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

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

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

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

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

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

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

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

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

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

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

12:30

**Ryan McQuigg:** The fact that local authorities do not even seem to know that businesses are willing to carry out enforcement highlights the need for them to talk to those businesses. There is a tipping point in regard to enforcement: if a
couple of big businesses do it, the rest will follow. The revenue from the six councils that have decriminalised parking offences, from the latest figures available in 2005-06, was £16.8 million, so there is money to be gained.

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

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

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

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

Liz Rowlett: No.

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

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

We do not have that right, but we should have it. If the political will for enforcement exists within local authorities, it will be carried out. Local authorities need to get round the table and sort the problem out, because there is disparity between Highland Council and Glasgow City Council, and various other councils. They need to get together and say, “That works there”, learn from areas in which there is best practice, and share information for the benefit of everyone.

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

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

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

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

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

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

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

Gordon Mungall: The bill would allow disabled people to get full access to local authority services. For example, people who need to get to council offices are quite often unable to park near the main exit or, indeed, to park at all.
Councillor McLeod: It would put a lot of power behind what is presently on paper. So much of our legislation—the DDA, the DES, the DED and so on—is all fine talk, but, as Bob Doris pointed out, this is a human and civil rights issue, and introducing some form of enforcement would send out a loud message that we are not just talking the talk but walking the walk.

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

Jim Tolson: I appreciate that.

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

Meeting closed at 12:40.

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

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

I believe that Jim Tolson has a question.

Jim Tolson: Thank you for your indulgence, convener.

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

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

1. This memorandum has been prepared by the Scottish Government to assist consideration by the Local Government and Communities Committee of the Disabled Persons’ Parking Places (Scotland) Bill, which was introduced by Jackie Baillie MSP on 2 June 2008.

Background

2. The aim of the Bill is to increase the number of disabled persons’ parking places which are brought within and enforceable under the statutory regime applicable to parking. The Bill’s key objectives are to prevent illegal occupation of disabled places by those not entitled to use them and to make such parking places enforceable to allow action to be taken against illegal use.

3. ‘Advisory’ disabled persons’ parking bays in Scotland are not enforceable under the statutory regime applicable to parking. This creates a problem for disabled people as drivers who are not disabled or who do not have a disabled passenger frequently use ‘advisory’ bays.

4. The purpose of the Bill is to put local authorities under a duty, in certain circumstances, to exercise some of their existing powers under the Road Traffic Regulation Act 1984 in relation to disabled parking spaces. The Bill makes no change to the existing enforcement arrangements. Therefore, disabled parking spaces which are currently enforceable will remain enforceable in exactly the same way as at present.

5. The Bill requires local authorities to identify all existing ‘advisory’ disabled street parking places and, for those still required, to promote orders under the Road Traffic Regulation Act 1984. Where an order is made, the parking place will be identified by appropriate signage and road markings as prescribed by the Traffic Signs Regulations and General Directions 2002 (the TSRGD). This may have a significant financial impact for local authorities. The Bill will also impose duties on local authorities in relation to ‘advisory’ off-street parking places.

6. Once in place the parking spaces would be enforceable by parking attendants, police traffic wardens or the police, as appropriate.

Consultation

7. In developing her Bill, Jackie Baillie held a consultation exercise which ran for 12 weeks until 26 February 2007. In total 172 responses were received and of these 90.1% (155) supported the terms of the proposal. The consultation document posed 6 questions focusing on the order process, enforcing disabled parking bays, level of fines for abuse, costs to carry out enforcement, alternative enforcement methods and the Blue Badge scheme.

8. Those who didn’t indicate support for the proposal can be split into 2 categories. Only 2.3% (4) stated that they did not support the proposal. The reasons given included the perception that the Mobility scheme and the Blue Badge scheme are abused and that to enforce disabled parking would effectively increase the benefits to those abusing the system.

9. Other reasons given were that it would discriminate against able-bodied motorists; statutory bodies often only consider you disabled if you are in receipt of certain benefits and that the proposal would exclude people with health problems that restricted their mobility but who were not eligible for benefits. Of the remaining 7.6% (13) it was unclear as to whether they supported the proposal or not, either because their responses were ambiguous or because they mainly referred to the Blue Badge scheme or other disability related issues.

Scottish Government’s Position

10. Despite current legislation being in place to allow parking places for disabled drivers to be enforceable, there is a high level of abuse of disabled persons’ parking places often resulting in...
there being no spaces for genuine users. The main problem appears to be local authorities creating ‘advisory’ spaces which cannot be enforced.

11. We believe that this Bill will put an overlay on the existing legislation which should result in the removal of ‘advisory’ parking places and the operation of the existing statutory regime to enable enforcement of disabled parking places.

12. As stated in the Bill’s Financial Memorandum, the main costs of implementing the Bill will fall upon the local authorities with less significant costs for the Scottish Government and the Police. The costs fall into two categories: set up costs incurred in year one and ongoing costs in meeting the Bill’s requirements in subsequent years.

13. Jackie Baillie issued a questionnaire to authorities asking them to estimate the costs of promoting and implementing an order. Based on returns from 20 of the 32 authorities the Financial Memorandum gives an average cost of £125 per parking place and an estimated number of ‘advisory’ disabled street parking places of around 14,000 resulting in an estimated national cost of around £1.7 million. It was also suggested that these costs may be reduced by promoting the necessary orders on bloc.

14. The Financial Memorandum implies that the ongoing costs associated with the enforcement will be met from within current budgets but that there may be administration costs savings as the number of complaints of abuse of disabled street parking places will reduce. Written evidence from Councils does not support this view as they feel that additional staff will be required to enforce the disabled persons’ parking places. It has to be noted that penalty charges collected from fixed penalty notices, in local authority areas where parking has not been decriminalised, by police traffic wardens and by the police themselves go to the Treasury, less a 10% administration fee.

15. Presently six local authorities: Edinburgh (for on-street parking only), Glasgow, Perth & Kinross, Dundee, South Lanarkshire and Aberdeen (35.9% of the Scottish population) have Designation Orders under Schedule 3 of the Road Traffic Act 1991 to decriminalise parking in their areas.

16. Those authorities that have decriminalised parking use parking attendants and may retain income from the penalty charges issued and once operating costs are removed deliver a surplus, as well as reducing the burden on police officers.

17. The Financial Memorandum does not explore if this method of collection may assist local authorities in bringing down their costs. However written evidence from South Lanarkshire suggests that they will need more income to employ additional parking attendants.

18. The Financial Memorandum states that there is a large degree of uncertainty attached to its cost of implementing the Bill. This is backed up by the written evidence with the City of Edinburgh Council suggesting that their costs will be around £1.7 million.

19. The Bill states that the authorities must perform the duties of identifying every ‘advisory’ disabled street parking place and decide which ones should be retained then either remove markings or start the statutory procedure for making an order within 12 months of the Bill coming into force. Looking at the evidence provided by Falkirk and East Renfrewshire Councils it is apparent both have concerns over the timescale.

20. We would therefore wish to fully examine the costs of implementing the Bill with CoSLA and local authorities to ensure that they have sufficient resources to carry out the implementation within 12 months of the Act coming into force. We would also want to hear what they have to say about the timescales in the Bill.

21. The Bill also requires local authorities to be proactive in working with private car park owners such as supermarkets. We also believe that publicity about the new Bill, if implemented, could assist matters by stressing that it is socially unacceptable for able-bodied drivers to park in disabled spaces.
Conclusion

22. The Scottish Government supports the objectives of the Bill with the caveat that more discussions will require to be undertaken with CoSLA and local authorities to ascertain the level of work required to comply with the Bill’s provisions. We would want to hear their views about the costs of operating the legislation, whether the 12 months timescale is realistic and about the enforcement of disabled parking places.

Transport Strategy Division
Scottish Government

September 2008
Disabled Persons’ Parking Places (Scotland) Bill: Stage 1

10:00

The Convener: Item 2 is further oral evidence on the Disabled Persons’ Parking Places (Scotland) Bill. I welcome to the meeting Guy Mason, public affairs manager, and Paul Hedley, customer services manager, from Asda; Kelvin Reynolds, the British Parking Association’s director of technical services and head of the safer parking scheme; and Graeme Taylor, the Scottish regional manager of National Car Parks Ltd.

If none of you has any introductory remarks to make, I will move directly to questions.

John Wilson (Central Scotland) (SNP): I have the pleasure of firing the opening salvo.

As you are aware, there has been a lot of discussion of and interest in the bill. Although we did not ask you to make any written submissions, we welcome the opportunity to question you as car park operators on any problems that might arise and any actions that you might have to take if you have to provide and enforce the use of disabled persons’ parking bays.

According to written evidence that we have received, Asda has tried to alleviate certain problems that disabled groups and the bill’s promoter, Jackie Baillie, have highlighted with regard to parking bays for disabled people outside supermarkets and major stores. I wonder whether the representatives from Asda will tell us about the measures that have been taken to restrict people’s abuse of such bays. Why, for example, did Asda feel it necessary to introduce such measures?

Guy Mason (Asda): Thank you for inviting us to give evidence. Asda has approximately 360 stores across the UK, 45 of which are in Scotland. Every week, each store is visited by 60,000 customers, with 40,000 to 50,000 cars passing through.

For quite some time now, customers have been complaining about the abuse of disabled and parent-and-child parking spaces. Estimates suggest that we used to receive 20 recorded complaints a week about those parking spaces. When we took into account comments made to colleagues on the shop floor that are not recorded, the number rose to about 50 to 100 complaints per store per week.

Clearly action needed to be taken. We found that we could not tackle the problem simply by getting colleagues to say to customers, “Please don’t abuse those spaces,” and decided that something more needed to be done. We felt that our customers supported such a move; after all,
the majority did not abuse spaces and did not want them to be abused. As a result, we got together with the British Parking Association and came up with a scheme under which a civil penalty notice would be served on customers who abused the spaces.

Paul Hedley will say more about the implementation of the scheme and the trial in Liverpool.

Paul Hedley (Asda): As Guy Mason has pointed out, it was not only the customers who legitimately used disabled or parent-and-child bays but our general population of customers who wanted us to act on the issue. We trialled other schemes to alleviate the problem, such as getting colleagues to patrol the bays and ask customers to move and installing space hogs—which I should explain are electronic devices that sit on the ground and ask people who are not legitimately parked to move their vehicles. Although the measures worked in the short term, their effect soon dwindled as customers realised that there was no element of enforcement.

We decided to trial the civil penalty scheme in Liverpool, simply because the city provides a representative sample of the UK demographic and because we find that if we can make schemes work in that city—which is a particularly difficult area—we can make them work in other areas.

Guy Mason: It is a challenging area.

Paul Hedley: Indeed. Thank you, Guy.

In a scheme that we introduced in conjunction with Town and City Parking Ltd, which manages our parking estate for us, we put up very clear signs that set out parking terms and conditions and stated that anyone using a disabled bay must clearly display a blue badge in their vehicle and that anyone using a parent-and-child bay should have in their vehicle a child seat or booster seat for children up to 12. Within seven days of putting up the signs and after bringing in attendants who work at each store for 12 hours a month, we found that the availability of both types of bay by more than 60 per cent. In fact, even though the wardens do not work in our car parks all the time, availability has continued to improve. I suppose that a good analogy is with a public highway; parking attendants do not have to be present all the time to act as a deterrent.

Obviously, as a retailer, we did not want to turn customers off shopping with us by having attendants jumping out of the bushes and issuing parking tickets. We simply wanted to ensure that there was a clear deterrent.

In a major piece of customer perception work that we then carried out, the scheme received a 93 per cent customer endorsement rating, which is probably one of the higher ratings for any of our trials. It was clear that our customers felt strongly that this was the right thing for Asda to do.

One interesting point is that, with regard to the 60 per cent improvement in the availability of bays, we issue on average only two tickets per store per week across the UK. The figure increases in Scotland to three tickets per store per week, which reflects the fact that, on average, there is slightly more abuse of bays in stores in Scotland than there is in stores in England, Wales or Northern Ireland.

Guy Mason: The £60 penalty fine is split 50:50 between Asda and Town and City Parking, and we donate our half to Tommy’s campaign and Motability. So far, we have been able to donate £120,000 to those charities through the scheme.

John Wilson: I welcome Asda’s comments and actions. However, what about the issue of the cost of enforcement, which other witnesses have highlighted? How does Asda cover the costs of issuing an average of three tickets per store per week? How does the company engage to deliver the scheme, Town and City Parking, operate? I welcome the customer endorsement figures, but can you tell us how regularly the company’s parking attendants visit the stores? Have you experienced any resistance from customers in paying their fines?

Paul Hedley: The scheme costs about £400 to £500 per store per year. Asda funds that centrally out of our budgets, because we see the scheme as a customer service initiative in our stores. Prior to our launching the trial, customer perception was clear—they wanted action. The abuse of disabled and parent-and-child bays rated highly as an issue—it was in the top four issues for customers when visiting an Asda store. Given the number of disabled shoppers and parent-and-child shoppers in our stores, the feedback on the issue was probably disproportionate. Customers who did not fit into either of those categories still expected Asda to take action on the issue.

Attendants are available at our stores for approximately 12 hours per month. The system works on a rotational basis. For example, in Edinburgh, once our new store is built at Leith, the attendant will rotate between the three stores over a month, so that they are at each store at particular trading times, at the weekends, during the week and in the mornings and evenings. However, we monitor closely the number of CPNs that are issued at stores and our complaints system, and if we find a continuing issue at a particular store, we liaise with Town and City Parking and put full-time attendants into the stores for short bursts of a set number of weeks to alleviate the problem. We also consider measures
Currently, my remit covers We pay for the costs of the We have a new system that we Each site is different.
in National Car Parks? questions, but I will give the other witnesses a circumstances were different from normal and that we are prepared to refund the fine or ensure that they do not have to pay it.

We want to ensure that somebody does not pay a fine that is completely unfair because there was a genuine reason why they had to park in the space. That person might say that they will never shop in our stores again, because we were responsible for their being charged £60, which they cannot afford or get back. We need to be able to deal with customers on a case-by-case basis, so we would like to keep control over that.

The Convener: Several other members have questions, but I will give the other witnesses a chance to outline their experience. What happens in National Car Parks?

Graeme Taylor (National Car Parks Ltd): Thank you for inviting us. We appreciate the opportunity to give our point of view.

Last year, NCP split its business into NCP, which operates off-street car parks, and NCP Services, which is now a different company that is owned by 3i and which provides on-street parking services for the City of Edinburgh Council. We see the bill as threefold. Off-street parking is split into two—there are operators such as NCP and APCOA, and the supermarkets. NCP manages and enforces parking restrictions in disabled bays through mobile teams that visit all our sites in Scotland regularly and throughout the day. We actively enforce penalty contravention charge notices, which involve a fine of £50 that is enhanced to £100 if it is not paid within 14 days.

As a result of the parking enforcements that we put in place approximately nine months ago, our business has recently noticed a decline in the number of people parking in disabled bays. We do not think that the bill will change the situation. If the council or the police enforced bays, as the witness from Asda said, that would have a negative impact on our customers, as we would not be able to control the situation properly within our remit. We would also lose revenue. We use the revenue to invest in our car parks and to improve standards and deliver customer service. That is NCP’s view on the bill.

The Convener: I would like to get a comparison between NCP and Asda. What is the level of abuse? Although the abuse is declining, how many fines or tickets are issued?

10:15

Graeme Taylor: Each site is different. Obviously, things depend on the volume of traffic that goes through the site, but we probably issue between 15 and 20 parking contravention charge notices each week to people who have parked in disabled parking bays. There has been an increased focus on the matter, and the number of notices that have been issued has drastically reduced in the past nine months, as I said, so that we probably issue only around three or four a day now. When we initially started, we issued around 50 or 60 notices a week on the sites.

The Convener: So enforcement works.

Graeme Taylor: Definitely, it does.

The Convener: Do you have any figures for the UK organisation to make comparisons? It is interesting that, in Asda’s experience, the abuse of such spaces is worse in Scotland, to our shame.

Graeme Taylor: Currently, my remit covers Lincoln, Nottingham, Wales and Northern Ireland. The abuse that we have seen is consistent.

Jim Tolson (Dunfermline West) (LD): The committee has taken evidence from public and voluntary organisations, and it is interesting to find out the perspective of the private organisations that are represented here today. I am interested in the views of the British Parking Association and NCP on the proposal that there should be a recurring request every two years to get involved in enforcement in parking areas.

Guy Mason touched on the perceptions of customers. Does Asda think that, as a business, it has lost custom from able-bodied customers who are concerned or unhappy that they face such charges? Does it think that it has gained custom from disabled customers because they have easier access to parking bays? Do you know of any other supermarkets that are considering similar disabled and parent-and-child parking schemes?

Guy Mason: We have a new system that we have just started. Through our pulse of the nation index, we can get in touch with 10,000 of our customers by e-mail. We can send them a range of questions about how they feel about themselves, life at the moment and the cost of living. One question that we asked them was whether they are aware that we now monitor disabled parking spaces and issue fines on the back of that monitoring. Almost 45 per cent of them said that they were aware of the scheme.
We then asked whether they felt better or worse about Asda because of it. Some 61 per cent felt more positive about us because of it; 39 per cent felt less positive about us; 26.1 per cent felt some more positive about us; and only 11 per cent felt negative about us. That shows that our customers are behind us. We split mums from everybody else in our survey of 10,000 people, because they are our core shoppers. Some 68.4 per cent of mums said that they felt more positive about us as a result of the scheme; 24.6 per cent felt some more positive about us; and only 5 per cent felt negative about us. Therefore, our customers were overwhelmingly behind us.

I spoke about customers who have said that they cannot afford to pay £60. Very few people say that they will refuse to pay the money. Most people say, “Okay. I understand why the fine was issued and I’ll pay it. I feel it’s a justified fine.” The fact that we give 50 per cent of it to charity makes people feel a bit better and helps them to say, “I understand why I need to pay it and will do so.”

**Jim Tolson:** Is there any evidence of your competitors running similar schemes?

**Paul Hedley:** After the launch of the scheme, Sainsbury’s quickly followed our lead. It is trialling a similar scheme in particular areas of England. Morrisons and Tesco think that their current policies, which involve putting leaflets on windscreens or having colleagues patrolling bays, are effective. However, Mobilise, which is a leading disabled persons’ charity, has received different feedback from its members and the general public and, following the launch of the scheme, we received the Redex trophy from Mobilise for our work to defend disabled parking bays. It is widely noted that it is significantly easier for disabled shoppers to park at an Asda store than at our competitors’ stores.

**Guy Mason:** Paul Hedley touched on the fact that we can now target activity where it is most needed, which makes it particularly effective. We monitor the data from all our stores and the number of complaints that we get in each store, and we can say, “Right, we need to focus on the Chesser store, because it had particularly bad abuse last month.” If parking was under local authority control, we would not be able to target resources in that way.

**Jim Tolson:** Are you suggesting that Asda would rather stick with its private scheme in the long term even if the legislation is passed?

**Guy Mason:** Yes.

**Paul Hedley:** We would prefer to stick with our scheme. As head of customer services at Asda, I have a clear and defined role to protect our customers and ensure that they continue to shop with us and are happy with our levels of service. Often, customers park in disabled parking bays not out of malice or ill intent but because they are just popping in for a pint of milk or running into the store to use the cash machine. All that is required is for an attendant to walk up to the individual and say, “I could issue you with a fixed penalty notice. However, we would prefer you to move your vehicle to another bay.”

When we talk to someone, we record their vehicle’s registration number, so that we can check whether we issue a CPN against the vehicle at a later date, although that is a rare occurrence. Once one of our attendants has asked a customer to move their vehicle, it is rare for us to issue them with a CPN. Our approach has the double benefit of enforcing what we want and preventing abuse of the bays while still delivering a high level of service and allowing our customers to return to shop with us.

**Guy Mason:** It is perhaps important to say that we do not incentivise the attendants for the number of tickets that they give out. That means that they talk to customers first, saying, “You shouldn’t park there. There is a reason why it is a disabled bay. Please don’t park there again. We will make a note of your car registration.” The same thing applies in relation to parent-and-child bays.

**The Convener:** Does Mr Reynolds or Mr Taylor have anything to add?

**Kelvin Reynolds (British Parking Association):** If I may, I will do a bit of scene setting and say who we are. We are not a parking operator per se but the professional body that represents the parking industry. NCP Ltd, NCP Services Ltd and Asda are all members of our association. Asda operates through our approved operator scheme—that product was mentioned earlier—in managing its private off-street parking, which is unregulated in UK law. The management of off-street parking that is not governed by local authority regulation is unregulated—that is an important point.

Professionally, I represent the parking industry as director of technical services at the British Parking Association. Personally, my mother is a blue badge holder, so I have experience of how the system works; I tend to be her chauffeur. I also have a disabled son who does not qualify, so I understand both issues and see it both ways.

I support Asda’s desire to retain its own destiny, if you like, in the matter. In canvassing opinions from our members, we have picked up on the challenge of operating disabled parking bays successfully. There are examples in England—I have not yet found any in Scotland—of local authorities having entered into partnerships with supermarkets whose car parks function as town-
centre car parking. In such cases, if the parking was not managed, there would be a problem for the store. Poole, on the south coast, is an example. There is a traffic regulation order on the car park and the whole thing is managed by the local authority, including any disabled spaces.

There is often a conflict between the official process of issuing what is now a statutory penalty charge notice and the will of the store manager to treat a customer differently for whatever reason. The customer has an expectation that the store manager will be able to do something, but in fact they are trapped in the legal process that the traffic regulation order establishes. That can create conflict. I think that that was what was being referred to with regard to individual bays.

That situation is not specific to supermarkets. Our approved operator scheme has member companies that manage rail stations, DIY stores and so on. We find that there is always conflict between the management company that issues the ticket and the local store manager who must deal with the customer. Experience suggests that it is probably best to leave such issues at the local level, unless a fair adjudication service is in place. That is not the case in the off-street world; as it is unregulated, it does not have an adjudicator. It is a complex area to understand.

Graeme Taylor: From NCP's point of view, we would support Asda in keeping it local, for two reasons. First, we believe that we can control and patrol the bays more regularly than could be done from any other source. Our people visit a site on average once every half hour, so they pass sites in excess of 48 times a day, identifying people who park illegally in bays and applying a penalty contravention charge notice where applicable. Secondly, if Parliament goes down the route of the charge notice and the will of the store manager to treat a customer differently for whatever reason. The customer has an expectation that the store manager will be able to do something, but in fact they are trapped in the legal process that the traffic regulation order establishes. That can create conflict. I think that that was what was being referred to with regard to individual bays.

That situation is not specific to supermarkets. Our approved operator scheme has member companies that manage rail stations, DIY stores and so on. We find that there is always conflict between the management company that issues the ticket and the local store manager who must deal with the customer. Experience suggests that it is probably best to leave such issues at the local level, unless a fair adjudication service is in place. That is not the case in the off-street world; as it is unregulated, it does not have an adjudicator. It is a complex area to understand.

Graeme Taylor: From NCP's point of view, we would support Asda in keeping it local, for two reasons. First, we believe that we can control and patrol the bays more regularly than could be done from any other source. Our people visit a site on average once every half hour, so they pass sites in excess of 48 times a day, identifying people who park illegally in bays and applying a penalty contravention charge notice where applicable. Secondly, if Parliament goes down the route of the council enforcing regulations, there would be a customer service issue.

There are circumstances in which, if there is substantial evidence to support doing so, we will withdraw the notice as a goodwill gesture. We work in partnership with a number of shopping centres, which have now passed over control to us. Previously, they wanted to do something and we wanted to do another thing. Now, we can manage the full situation without too many parties being involved. We can deal with situations quickly and effectively, and ultimately satisfy customers. We can ensure that customers who should not park in bays for disabled people pay for doing so. We can also ensure that disabled people who were prevented from parking in bays by customers not entitled to use them can park there.

Jim Tolson: I have a brief follow-up question. It is clear that the private sector is not looking to enter into a public agreement and that the private agreements that are in place seem to work well. Superstores such as Asda provide free parking spaces for all customers, but the basis of NCP’s and others’ custom is to charge. Do they charge disabled people? If not, does that mean that there is greater pressure on spaces for disabled people in private car parks such as NCP’s? What is the British Parking Association’s view on their clients charging for spaces for disabled people?

Graeme Taylor: NCP currently charges for every space in a car park. There is no free parking on any site, although we work with groups around the UK to offer free parking for particular events, for example. However, on a day-to-day basis, charges apply to all clients who come into the car parks.

10:30

Kelvin Reynolds: It is an interesting one. Perhaps I should preface my answer by saying that the BPA also works with Mobilise, the baywatch campaign and the Department for Transport. We are about to launch a major study across the UK this month, looking at abuse and misuse of spaces and provision of spaces in the off-street environment for people with disabilities. We want to understand the level of provision, the level of proper use and the level of misuse. There is currently no source of such information, so we are working to try to understand the issue.

We need to reach a stage at which unauthorised parking in a disabled bay is socially unacceptable, and we are not there yet. Anything that can be done to encourage that should be done, because it means that, to a large extent, people will self-regulate.

On Jim Tolson’s point about charging, the British Parking Association’s view, which we have given in all the national consultations on the blue badge scheme, is that the blue badge is about convenience rather than price. The point of the blue badge is to ensure convenience for people who need access; it is not about the value of the space. In fact, we have picked up the point that in the on-street world much of the abuse that takes place of the blue badge scheme arises because it offers free parking. If the parking was paid for at the rate that other people pay for their parking, the incentive to cheat in the blue badge scheme would vaporise overnight.

We need to address that issue, and the association is promoting it whenever we have the opportunity. There is massive cheating in the blue badge scheme, which causes distress to the people who genuinely need blue badges. As I said, I have personal experience of that—not because I cheat—but it is not just a personal view; the view of the industry is that the blue badge is about convenience and not price.
Alasdair Allan (Western Isles) (SNP): Some witnesses have mentioned monitoring of existing schemes. Mr Taylor said that attendants checked for abuse of disabled parking every half hour. Is that universal? For example, does every Asda store monitor disabled parking in the same way? To what extent are your existing internally policed schemes policed?

Guy Mason: As Paul Hedley said, it works out that attendants are at the stores for about 12 hours per month, and for 20 minutes on a run. In the same way as NCP works, one attendant will go round several sites—both Asda and non-Asda sites—and turn up at random times. The main point is to ensure that enforcement is random and not, for example, between 3 and 6 o’clock on a Friday every week, in which case people get to know what time the attendants are there. They can appear at any time of the day or night on any day, including at weekends, but they are not there all the time. They work on a rotational basis. The key for us is to ensure that the signage is clear and accurate, that customers understand it and that we back it up with regular patrols.

Kelvin Reynolds: We endorse that. I should make it clear that half the BPA’s members are local authorities, and we have not yet touched on the on-street environment, which is a different ball game.

In any situation, most people comply with rules and regulations; the trick is to tackle those who do not. Random enforcement is the key because it is the most cost-effective. If enforcement is regular and expected, the self-regulation goes away. People not knowing is the key. They think, “Will I get caught? I don’t know, so I won’t take the chance.” Random enforcement is most effective in achieving the objective and it is most cost-effective because it does not have to be done often, as long as it is done randomly. We just need a presence so that people know that enforcement takes place and is totally unexpected.

That is also true of on-street enforcement. Parking attendants regularly walk the streets because their presence is important. People do not know whether the attendants will actually be there, but most are not prepared to take the risk of picking up a parking ticket.

Guy Mason: We say exactly the same about shoplifting from our stores. Ninety-nine per cent of customers are law-abiding citizens and would never dream of taking anything from a store, and it is the same with car parking spaces, in that 99 per cent of people never abuse a disabled space or a mother-and-child space. It is a question of tackling those who do.

Graeme Taylor: I agree. NCP’s challenge is different from that of supermarkets, where people nip in and out for short spells. In NCP car parks, it is likely that people who park in disabled spaces will leave their cars for several hours, which ties up the spaces. All that we can do is issue PCCNs, which we hope will show people out there that we are trying to control the use of bays as best we can. We do not see many repeat offenders after the charge has been acknowledged.

Alasdair Allan: Are you making the case that your existing systems of policing—if you want to use that word—would be more effective than involving local authorities, as proposed in the bill? You have said that your existing systems are better for customer relations, but do you think that they are better or worse for disabled people than what the bill proposes?

Graeme Taylor: NCP believes that it is better that we do the policing. We can make more repeat visits than a council or any other party in the system. Therefore, we want to maintain control over the process.

The Convener: How does policing work in the NCP car parks? Do the people who work there monitor use of disabled bays daily? Is it part of their duties to inspect them every couple of hours?

Graeme Taylor: When our teams drive past every car park, we get them to check the disabled bays. They are all mobile teams in Edinburgh and Glasgow and every time they visit a site, they check the disabled bays.

The Convener: They are not dedicated to any one site.

Graeme Taylor: In Scotland, 50 per cent of the sites are manned and 50 per cent are visited by mobile teams, which go around the sites constantly. On average, the teams visit each site every half hour to deal with any issues that crop up.

Paul Hedley: As part of the trial that we launched in Liverpool, we ran a similar scheme at one of our large supercentres, where we engaged the local authority to manage our site on our behalf. We found that the level of availability of the bays was similar in the site that the local authority managed and the site that Town and City Parking managed—the levels were 59 per cent and 63 per cent respectively. However, we found that a much higher number of civil penalty notices were issued by the local authority. Under local authority management, tickets were issued without question, although we thought that some were questionable in terms of customer relations. We found it much harder to override those tickets with the local authority. If you can deliver the scheme through non-heavy-handed enforcement, so to speak, that would definitely be our preferred option.
Guy Mason: Alasdair Allan asked what is best for disabled customers. The fact that we can target our resources on the worst sites means that we can deliver the best service for disabled customers. If we know that a particular store has had a problem for two months, we can dedicate the majority of resource there for the next month, which tends to clear up the problem. That is what delivers the added benefit to our disabled customers.

Alasdair Allan: One of the concerns about the bill that other witnesses have expressed is that it is possible that private car park owners—I am sure this does not apply to those who are represented here today—would not engage with local authorities and that local authorities would not be able to enforce their will, as it were. I appreciate that you do not want the bill to proceed, but if it does, would you co-operate with local authorities in that way?

Graeme Taylor: Brian Butler, who is in the room today, is part of a team that liaises with councils about business development—he has regular meetings. Our local area managers regularly meet councils from around the UK to build up partnerships. We need a two-way joint venture to ensure that consistency is delivered. We need support from councils to deliver our business plan, too.

Kelvin Reynolds: We worked with colleagues in the Scottish Government on the document, “Safeguarding access to off-street parking facilities for people with disabilities in Scotland”, which contains a lot of good practice and sets out how and why parking could be managed in the kinds of arrangement that we see.

The other challenge with local authority enforcement of private car parks is that it would immediately put the whole process into a legislative framework that includes adjudication. The following point has probably been referred to. In that environment, more PCNs are likely to be issued, because discretion does not exist. Civil enforcement officers—or parking attendants, as they are still known in Scotland—face an objective situation that they deal with by issuing a penalty charge notice. They do not have the opportunity to exercise discretion locally. Once a PCN is issued, it is caught in a statutory regulatory regime that the local authority must follow, in which the ultimate right of appeal is to the adjudicator.

If a genuine blue-badge holder forgets to bring the badge for some reason and is issued with a PCN, he or she can currently pop into a store to tell the store manager that they have a problem, which the store deals with. If that happened in a regulated environment, the store manager would say, “Sorry—there’s nothing I can do about it. You need to write to the local authority that issued the PCN.” The statutory regulatory process would be followed and the local authority would decide whether to withdraw the ticket. If it decided not to, the process could go all the way to the adjudicator.

Guy Mason: Our view is that nothing is ever gained by not co-operating. If the bill was passed and that was Parliament’s will, we would co-operate, because that would be what the Scottish people wanted.

Rhoda Grant (Highlands and Islands) (Lab): The bill does not insist that private car parks become part of the scheme, so nothing would stop any company that has a regime in place continuing to use that regime. One imagines that a local authority would be reasonable and would see that your company was doing a good job. The bill deals more with spaces that are not policed at the moment. If you did not have a regime in place, would the bill interest you for your customers who are car park users? Would other organisations look on it favourably, as it would save them from putting in place a regime?

Graeme Taylor: As an off-street car park operator, we support the bill 100 per cent because it would work in the environment in which we operate. If requested, we would share our experience of the benefits and the customer care that we can provide.

Kelvin Reynolds: I will turn what Rhoda Grant said round. Perhaps the question should have been asked a while ago: why have several operators chosen not to go down the route that is recommended in the bill and not to adopt the regulatory route that has been around for a long time? They might not want their customers to be caught in a process that is driven by the system that I described, in which local authorities issue PCNs. That relies on local authorities exercising discretion on whether to withdraw tickets and can end in the adjudication process. Private sector operators might prefer to control their own destiny. I accept that some operators do little or nothing, but others might worry about the implications of going down the regulatory route, which is why they have not done that.

Does that make sense? I understand that the bill would encourage people—if not force them—to go down an existing route. The legislative power exists to allow local authorities to enter partnerships with operators under the Road Traffic Regulation Act 1984 in order to make enforceable parking bays. Many bigger companies that are customer driven and customer focused have chosen voluntarily to achieve that through their own arrangements. Few—if any—have gone down the regulatory route. We must ask why. The reason might be that they do not want their customers to be caught up in a regulatory process that is completely outside those companies’
control, because it ends with an adjudicator deciding whether a ticket is fair and valid, which is a matter of law. The adjudicator has no discretion to consider whether someone is a good customer whom a company does not want to penalise.

Rhoda Grant: So, the concern is more to do with the handling of whatever regime is in place.

10:45

Kelvin Reynolds: That can be important. In a consumer-driven environment such as a store or a rail station, there is a customer-landowner relationship. That relationship will not apply in a regulated local authority car park or in an on-street situation, where we are talking about traffic management as opposed to customer service. In a customer service environment, the landowner is more likely to want to maintain the customer relationship, whereas a local authority will be concerned with traffic management.

Rhoda Grant: If organisations do not have a regime to protect or even provide disabled places, how does that fit with their obligations under disability discrimination legislation? How do you tell them that they need to value their disabled customers just as highly as they do their able-bodied customers?

Kelvin Reynolds: As Rhoda Grant suggests, other legislation requires that the needs of people with disabilities be met. If that is not happening, that legislation should be used to ensure that it does. We need to reach a point at which self-regulation works because not meeting the needs of people with disabilities has become socially unacceptable. As Guy Mason said, 99 per cent of people comply with disabled places anyway.

Rhoda Grant: When the number of places is small, the 1 per cent who do not comply can cause quite a problem.

Kelvin Reynolds: I agree—they can cause chaos.

Guy Mason: Some extremely good points have been made. People who do not embrace some kind of enforcement over the bays are underestimating the number of non-disabled customers who feel strongly about the issue. Those customers will say, “It’s not just that I agree not to abuse the spaces myself—I also think nobody else should abuse them.” We have heard such opinions from our customers; they are fully behind our scheme and say that it is the right thing to do. They have never abused a space in their lives and will never be fined, and they want to be sure that spaces are kept available for disabled customers. That strength of feeling should not be underestimated.

A local authority might say to people with car parks that their schemes work well and the local authority therefore does not need to get involved. Such people should welcome it if the local authority also says that it is going to tackle other sites where disabled bays are not being protected. It will not cost them any more. For example, we already incur a cost and we would rather pay that cost in order to keep control of our scheme. People with good schemes should say, “I see the point of what the local authority is doing. It will be no additional cost for us, and we should work with the local authority to make things work.” The majority of our customers would welcome such an approach.

David McLetchie (Edinburgh Pentlands) (Con): I would like to explore the legal basis for charges, because I am slightly confused by the terminology. We have heard about penalties, fines, PCNs and PCCNs, and I think that Mr Reynolds said that it was all unregulated. What is the legal basis of the charge, or the demand for payment, on an Asda customer or an NCP customer who parks in a designated disabled bay?

Kelvin Reynolds: That is an interesting question, and one that the BPA is researching at the moment. We have recently taken counsel’s opinion on the law in England and Wales. We have yet to check whether the situation is the same in Scotland, but we suspect that it is.

When I say “unregulated”, what I mean is that the situation is the opposite of on-street, regulated parking, as managed under the Road Traffic Regulation Act 1984, and the opposite of off-street parking that is provided by local authorities and also comes under the 1984 act. Car parks on private land, as provided by major stores and private operators for example, are commercial operations that operate within the law of contract.

I am not a lawyer, but essentially, a motorist who enters that land enters into a contract with regard to the terms and conditions that are established on the signpost or the information that is displayed in the car park. Those terms might state, for example: “This car park is for customers only—you can stay here for three hours, and then you must move on”, or words to that effect. The contract is: “If you enter my land, you must be a customer and you must not stay there for more than three hours. If you breach that contract, I will charge you £60.”

As we understand it, the law of contract is established between the landowner and the driver of the vehicle that enters that land. That is the advice that we are given by barristers, lawyers and counsel. We are currently rewriting the codes for our approved operators scheme to ensure that operators explicitly set that out. It is not that they do not do that at the moment, but in some areas they are perhaps less specific than they need to be in pointing out the arrangement.
When I say that such off-street parking is unregulated, I mean that it is not covered by the 1984 act. However, it is covered, in a sense, by the law of contract and all the vagaries that go with that. It is for the landowner to demonstrate that the contract was broken, and then to impose charges for breach of contract. They can call those charges what they like, because such charges are associated essentially with a breach of contract.

David McLetchie: I accept that you can, privately, call them what you like, but it is important, in order to tease out the differences, that we establish a clear distinction between a penalty and a charge. It is a long time since I have practised law, but in relation to the law on contract, I understand that contracting parties cannot penalise one another.

You can impose a charge for a breach of a contract, which might be a negative thing because someone has broken the contract by parking in a disabled bay, or you can effectively charge people for parking in a disabled bay by saying that there is no charge for people with a blue badge, but a charge of £60 for those without a blue badge. You are not allowed, however, under the law of contract, to impose a penalty or a fine. Is that correct?

Kelvin Reynolds: That is how we understand it, and that is why our code specifically mentions that operators must not call them penalties or fines.

David McLetchie: So there are no notices that state that there is a £60 penalty for parking in a disabled bay? Perhaps the witnesses from Asda or NCP can confirm that.

Guy Mason: Perhaps we should have brought some of the signage with us. We could give you the wording later.

David McLetchie: That would be helpful. It is very important that we get the nomenclature right and establish the legal basis. If we accept that all those cases involve a breach by the parker of a contract that has been entered into when he enters the private land, how does the £60 charge come about?

Guy Mason: For illustration purposes, I will read you a paragraph that was written by one of our lawyers. I am sorry about the acronyms—we are full of acronyms at Asda, including the name Asda. It states:

“We take the position that these are penalty notices (rather than fines) levied for breach of conditions of parking which are advertised by signage and which are implicitly accepted by drivers who use the car parks.”

We advertise the fact that people should not abuse disabled bays when they enter the car park, and that anyone who parks there accepts that. If they abuse the bays, they will receive what we call a civil penalty notice—I will stick to calling them CPNs. The idea is that if they do not pay, they can be pursued through the courts. However, it is extremely expensive to follow somebody through the courts, and we have never yet needed to do so for the £60. We do not know if we would ever do so.

David McLetchie: You have just answered my next question about how many people have been taken to court to enforce such a breach of contract. So the answer is none, anywhere in the UK—not even in Liverpool?

Guy Mason: We have not needed to do that yet.

David McLetchie: I recall that wheel clamping was prevalent a few years ago. Many companies used to go around clamping cars that were illegally parked on private land and charging people large sums of money to release their vehicles. The ability to demand such a payment as a matter of contract was challenged in the courts and, as I understand it, wheel clamping was effectively ruled to be illegal. Not only was the payment of the fine or civil penalty, or whatever it was called, not enforceable, it was a criminal offence for the clumper to appropriate or disable the property of the person who was parked illegally. Given that experience with other methods of controlling parking on private land, what is there to say that the courts would enforce, as a matter of civil law, what has been called a civil penalty notice but is in fact a charge for a breach of a contract?

Guy Mason: It has not been tested yet.

David McLetchie: Mr Reynolds, you said that you were taking legal advice, so what is your legal advice?

Kelvin Reynolds: You made an interesting point about wheel clamping. We introduced our first draft code to attempt to regulate wheel clamping back in 1999 because we were concerned, as an industry, about unscrupulous persons going around appropriating other people’s vehicles by clamping them. We do not take the view that clamping is not a legitimate enforcement tool, but there was a case in Scotland—as Mr McLetchie rightly said—in which it was determined that wheel clamping is unlawful. However, in England and Wales it is not unlawful at present. Our code of practice clearly sets out a modus operandi so that if someone uses the wheel clamping method of enforcement in England and Wales, they should operate according to a set of rules. However, it is a voluntary code. Through our approved operator scheme, around 80 member companies operate in that manner.

The second part of our code covers parking tickets, as we call them, which are effectively notices to the car owner that they are in breach of a contract and owe the operator because of that.
We specifically say in our code that they should not be called fines or penalties, because they are not—they are charges for breach of contract. Our legal advice says that they can be pursued through the courts, and there are examples of that happening in England. On its extent—in terms of volumes and values—and why, I cannot answer, but I can certainly give examples later if you like. However, I know that the charges are pursued through the courts in England.

David McLetchie: By some of your members.

Kelvin Reynolds: Yes.

David McLetchie: But not Asda.

Kelvin Reynolds: Asda operates in a different environment and it is entirely up to it how to proceed. Our code does not say that payment of charges must be pursued through the courts.

David McLetchie: No. I understand that, but I am interested to know whether it has been established that the charges are legally recoverable. The wheel clamping industry in Scotland fell apart on the basis of a successful legal challenge—its end was not much lamented by most motorists, I should say. If we get to a situation whereby a civil court in Scotland—or England for that matter—says that the charges cannot be enforced under the law of contract, where would that leave us?

Graeme Taylor: Currently, we follow through court proceedings. If a parking contravention charge notice has not been paid after 28 days, we pass the matter over to a debt agency specialist who follows the process and goes through the various court mechanisms to recover the costs, including their charges. That process has been tested in courts in Scotland and England. I do not have the exact number of cases to hand, but I can provide them if required.

David McLetchie: That would be helpful—thank you.

Bob Doris (Glasgow) (SNP): Good morning, gentlemen. I was fascinated by the description of the Asda pilot scheme in Liverpool and its roll-out across the UK. I would like to visit one of the Asda stores near me to see how that operates. The closest store to me is in Summerston in north Glasgow. Perhaps I can organise a visit after the meeting; I say to Mr McLetchie that I could even see what the signage said while I was there.

You said that there has been a 60 per cent increase in the availability of disabled and family parking bays and that your approach received a 93 per cent approval rating from your customer base. Does that give Asda a business advantage over its main competitors? Can the advantage be quantified?

Paul Hedley: We cannot quantify the additional footfall from drivers to our stores, but we can say that there has been a significant increase in the number of disabled visitors to our stores as a result of our system. When we monitored customer perception after the system was introduced, the mums among our shopping base told us that during peak trading times they were more likely to visit an Asda store than they were to visit our competitors, because they were finding it easier to park in parent-and-child bays. However, it would be hard to monitor the percentage increase in sales and the overall effect on the business.

Bob Doris: You said that a team of enforcement officers—or whatever you call them—rotates around stores. What evidence do they use to process a penalty or charge? Do they use closed-circuit television footage, take photographs or go round in pairs so that there is a witness who can corroborate the evidence?

Paul Hedley: We issue very few notices in the first place, given how many we could issue. I think that has been clearly demonstrated. We much prefer to advise our customers to park elsewhere in the car park in the first instance. In general, only when a registration number has been noted on a second occasion would we issue a CPN. As I said, on average we issue fewer than three tickets per store per week, which represents a small percentage of shoppers. The attendant makes a visual verification and has the option to get photographic evidence, too.

Bob Doris: Is a photograph usually taken? Without such evidence a motorist could dispute what the warden said.

Paul Hedley: I do not think that the code of practice states that a photograph must be taken; a visual verification would satisfy the terms of the code.

Bob Doris: It appears that by and large you are using enforcement or the threat of enforcement as a tool to change customers’ attitudes, which seems to have been successful.

The committee has talked to representatives of local authorities about their concerns regarding enforcement. Given your track record on the matter in the UK, would Asda and its partners be willing to share with local authorities your expertise and know-how, so that authorities can make schemes work if Jackie Baillie’s bill is passed?

Paul Hedley: We work with Town and City Parking because the company is known to be a reputable car parking provider and has high customer perception ratings. With that in mind, we drew up a code of practice, under which a person...
we must think about the lifetime that follows from what has been. you might think that—i could not. more to the point, it would give the same way.
careful about how we treat our customers. per week on shopping with us. we must be very value to us of a customer, who may spend £100 after looking at it, without taking the matter further? would that allow you to retain flexibility and explain that they could be fined if it happened again. would it be advantageous if the bill provided for such flexibility?

Paul Hedley: very much so. at asda, a parking attendant approaches a person who has parked in the wrong bay and has a one-to-one conversation with them, pointing out that the person’s parking in that bay might mean that a disabled shopper cannot do their weekly food shop. We find that that often pricks the individual’s conscience and that it takes only one such interaction to ensure that they do not park in a disabled bay again. i am sure that the approach could be replicated on the public highways and in other car parks.

Guy Mason: we must think about the lifetime value to us of a customer, who may spend £100 per week on shopping with us. We must be very careful about how we treat our customers. Perhaps local authorities do not always think in the same way.

Bob Doris: are you suggesting that local authorities are not always best at customer relations?

Guy Mason: you might think that—i could not possibly comment.

Bob Doris: my final question concerns the biennial audit of off-street parking that each local authority would have to conduct in its area to find out whether private companies will buy into the new enforcement regime. if a company such as asda has a code of conduct to regulate its off-street parking, would it be simpler for local authorities to give that code the stamp of approval after looking at it, without taking the matter further? Would that allow you to retain flexibility even if the bill is passed?

Guy Mason: more to the point, it would give local authorities extra resources. They would be able to say that asda and other supermarkets that follow a code of conduct are dealing with the matter and to target their limited resources at other places that really need it. such an approach would give us flexibility and return resources to local authorities.

Bob Doris: good retailers would have nothing to fear from the bill, because they are already doing the job. local authorities could say that what retailers are doing is an example of good practice and that it is good enough for them.

Guy Mason: that follows from what has been said.

John Wilson: does the british parking association recommend that a certain percentage of parking bays should be disabled bays? for example, does it suggest that 5 per cent of the bays that are provided should be disabled bays and 5 per cent should be mother-and-child bays? i am aware that there may be differences between asda’s provision and that of ncp.

Kelvin Reynolds: the aim of the research that i described is to establish what provision should be made. the current situation in law, if that is not too strong a word in this case—it may be best to refer to custom and practice—is that the provision of parking in off-street environments is regulated under planning law. Planning law does not say how many spaces should or should not be provided for people with disabilities, although disability discrimination legislation states that some kind of provision should be made. the DfT has produced a document called “inclusive mobility”, which is all about transport provision for people with disabilities. it recommends that 4 to 6 per cent of spaces should be disabled parking bays, but that is only a recommendation.

Individual local authorities produce what in England is called supplementary planning guidance—forgive me if i have used the wrong term—which sits alongside their local interpretation of planning legislation. Many local authorities have adopted the figure of 4 to 6 per cent as a requirement in their supplementary planning guidance, so that tends to be the proportion of disabled parking spaces that is provided. however, the figure is not justified anywhere and tends to be a rule of thumb. in our study, we want to establish whether that figure is right, because in some cases it is too low and in others it is too high.

One of the challenges that we have encountered in anecdotal research—we will address it in our bigger project—is that abuse of disabled persons’ parking spaces takes place because there is too much provision of blue badge space in a particular area at a particular time. if a car park is full, and the only spaces that are available are blue badge spaces, people may decide to take a chance,
because they intend to be there for only 10 minutes. Provision of disabled parking spaces should be better and more appropriate to need—for example, there may be greater need at a hospital than at a swimming pool.

Research that we are doing with the DFT and Mobilise aims to understand appropriate levels of provision, based on the available services that are associated with a car park, rather than assuming a universal level of 4 to 6 per cent. I am happy to supply information to the Scottish Government when we have done the research.

Paul Hedley: We follow the guidance, too. Our rule of thumb is 4 to 6 per cent, depending on guidance from the local authority, plus two extra bays as a minimum. Many Asda stores have larger car parking areas; our stores are predominantly superstores or supercentres, so we tend to have quite a large number of disabled and parent-and-child bays on offer, which does not restrict the overall number of bays for the standard customer.

Graeme Taylor: NCP complies with the guidance for each individual car park. Our provision is reviewed on a monthly basis, not in order to decrease the number of bays but, where demand has been appropriate, to increase the number.

The Convener: Jackie Baillie, who introduced the bill, is with us. I invite her to ask some questions before we close this evidence session.

Jackie Baillie (Dumbarton) (Lab): Thank you, convener.

The committee has examples of industry leaders taking action to protect disabled parking bays. I very much welcome that. You will acknowledge that many organisations do not do so, and that some organisations have not undertaken the same customer surveys that Asda has done. Perhaps it is worth making it absolutely clear that the bill places no new duty on existing businesses. There is nothing to prevent Asda or NCP from continuing their schemes and keeping their arrangements local, if they so wish. That said, do you think that the bill will provide an opportunity to organisations that do not currently see the advantage of enforcing disabled bays in the way that you have done? Will it encourage them to take such measures, either by themselves or with the assistance of local authorities?

Graeme Taylor: NCP welcomes the proposed new provisions for the sake of consistency around on-street and off-street parking facilities. We certainly see the benefits. They should be delivered throughout the country as part of the bigger picture.

Kelvin Reynolds: The objective of any piece of proposed legislation is surely to achieve compliance. It must always be a good thing to encourage people to comply with provisions for people with disabilities. If a piece of legislation encourages people to do things, and if that in turn encourages compliance with the rules, that has to be a good thing.

Guy Mason: If nothing else, the bill brings the subject back into the public domain. It highlights the need to bear in mind an issue that is extremely important, especially for people who have car parks under their control, who should remember that the majority of people who use their car parks want disabled bays to be properly patrolled. Perhaps we need to revisit the matter and remind car park owners that the issue is important for their customers, who feel strongly about it. They should reconsider the issue and not allow a free-for-all at spaces that should be protected for the use of certain members of society.

Jackie Baillie: A local authority might come along to people’s premises every two years; they might just send a letter, which would suffice under the bill. That could give the extra nudge to people who are not currently complying.

Guy Mason: Yes.

The Convener: I thank the witnesses for their attendance and for the evidence that they have provided, which has been helpful and is very much appreciated by the committee.
agree on the detail, but I think that we will be aligned on the objective. I hope that the committee and Ms Baillie feel that that is the right and proper approach for the Government to take to her bill.

Alasdair Allan: Much of the discussion in previous evidence sessions has focused on the potential cost to local government of implementing the bill. Local government appears to be aligned with the aims of the bill, but authorities such as Glasgow City Council have indicated that its implementation would be expensive. Does the Government have a view on that?

Stewart Stevenson: We share concerns about the uncertainty of the cost of implementation. We recognise that the bill's sponsor, who undertook the proper process, received responses in the first instance from 20 out of the 32 councils. We are examining what the City of Edinburgh Council and Glasgow City Council said about the potential cost. However, it is primarily for the bill's sponsor and for Parliament to consider whether the financial information that is provided with the bill, which might be enhanced by the parliamentary process, is sufficient for it to proceed. That is not directly a matter for Government.

Alasdair Allan: One aspect of the bill that has been discussed in the committee is the relationship between local authorities and private car park owners. Does the Government have a view on that issue? We have heard witnesses representing various private car park owners and supermarkets say that they would be very happy to co-operate with local authorities at every stage, but other witnesses have expressed a different point of view. Is the Government confident that the bill contains adequate provision to ensure that there is co-operation between local authorities and private car park owners?

Stewart Stevenson: I would be surprised if the overwhelming majority of private car park operators do not wish to co-operate. They have duties to discharge under the Disability Discrimination Act 1995. I am sure that it will be in their interest to show that they are co-operating as the bill proceeds to the statute book or otherwise. After all, I would have thought that having a regime in which there is clarity about the people who may use disabled parking spaces that are provided privately and about the steps that may be taken to ensure that those private parking places are used by properly entitled people is in the interest of private providers of parking places.

There may be some uncertainty about the extent of the private provision of parking. For example, it would be possible for me to paint a private parking place in my own front yard, but no one would necessarily know about it unless I told them. However, I suspect that that is a trivial issue. The real issues relate to supermarkets and commercial providers of car parking. I would be astonished if they did not all want to be part of the process of making the bill work and would not welcome an improvement in the clarity about how the system should operate.

The Convener: You mentioned the uncertainty of the cost of implementation for local authorities. There is wide variation in the estimates of costs and accusations have been made that, although local authorities may have a case, they have overstated it. Can we take it from your answer to Alasdair Allan's question that cost is primarily a local authority issue and that, irrespective of cost, the Scottish Government's support for the bill would not extend to giving financial assistance to local authorities such as Edinburgh or Glasgow, which may face disproportionate implementation costs?

Stewart Stevenson: We already provide £11.1 billion to the local authorities. In common with most but not all of the major conurbations across Scotland, the city councils in Edinburgh and Glasgow have decriminalised parking. That means that, among other associated issues, the authorities keep the full revenue from any fines that may be enforced; that arrangement will be extended to any additional legally enforceable parking. I suspect that the committee will wish to examine whether the extension of areas where fines can be enforced might be self-financing.

The Government is not only providing record sums to local authorities but allowing them to keep the 2 per cent efficiency savings as an additional source of funding, whereas previously efficiency savings had to be returned to central Government. Therefore, we do not consider at this stage that the bill will change the financial relationship between central Government and local government.

The Convener: I take it that that is a no to any financial commitment from the Government to the start-up costs that may be incurred. I understand the point that, over time, fines will increasingly finance on-going costs. However, the Government is making no commitment to put financial resources into the start-up costs.

Stewart Stevenson: It is not our intention to do that. We will watch the progress of the bill, as I am sure the committee and Parliament will do, and look for further information on the cost of implementing the bill. I hope that greater clarity will be delivered as the bill progresses.

I hope also to see effective scrutiny of some of the detailed information that has been submitted. I am thinking in particular of the evidence from Glasgow City Council. It is not for me to challenge any of the evidence; I am sure that the committee will be highly effective at doing that.
Rhoda Grant: As we have heard, some local authorities are a wee bit concerned about the additional burden of identifying spaces and working with companies to bring their parking under the scope of the legislation. If the bill is passed, could the Government amend national planning policy guidelines to allow local authorities to make planning permission conditional on the applicant adhering to the provisions of the bill? Authorities could manage such parking, or the company could set up a scheme to do that, either of which would comply with authorities’ requirements in this regard.

Stewart Stevenson: At the moment, planning touches quite frequently on this subject. In a development of any scale, whether commercial, retail or office, it is pretty much routine for planning authorities to impose conditions on the provision of disabled parking spaces. Indeed, existing guidelines determine how many spaces should be provided. The planning system, in its operation if not necessarily in the legal sense of the legislation, touches on the subject. There is therefore no reason to believe that local authorities could not extend the range of conditions on future planning applications.

Ms Grant’s question also raises the issue of who enforces disabled parking provision on private property. The question is whether that should be enforced voluntarily by the private provider or enforced by the local authority. At this stage, I remain relatively agnostic on the issue. I will await the outcome of the committee’s examination and exploration of the balance of advantages for the two options. I will therefore not express a Government view on the matter at this stage.

Rhoda Grant: I am not asking the minister to do that. I understand that the bill allows local authorities to approach private businesses and invite them to be part of the scheme. We heard evidence earlier this morning on planning guidelines from companies including Asda, which operates a very good and successful scheme. I imagine that a local authority would look at the Asda scheme in its area and say, “That scheme is fine. We don’t need to become involved or spend money on that one.” The planning guidelines would allow local authorities to say, “You must either comply with our scheme or provide a scheme that we are happy with.” That would allow the likes of Asda to continue to provide their own scheme, but it would almost put the onus on the developer to go and sign things off with the local authority, rather than the local authority having to go and haunt them every two years to ensure compliance.

11:30

Stewart Stevenson: I suspect that it is not at the Asdas of this world that the issue will arise, because they will take a positive and proactive approach. I am not singling out Asda in particular—that is equally true of the other major supermarket chains and other major stores.

I am not going to take a view at the moment. I am genuinely going to remain agnostic, because it is important that the committee has the opportunity to explore the matter and that the sponsor of the bill is in a position to respond without my seeking to tie her hands on the matter—as if I could. It is properly a matter for the Parliament to consider.

I am confident that there is a lot of good will that will cover the overwhelming majority of private parking spaces, which means that anything other than benign persuasion and discussion will not be required. That will remain my view unless the committee, in its deliberations, uncovers evidence to the contrary.

Jim Tolson: Good morning, minister. Like you, I am keen to support Jackie Baillie’s bill, but I have some concerns about the detail of its implementation. Some organisations have suggested that it will place no administrative burden on local authorities, but when we took evidence from local authorities last week, it was evident that they believe that there will be a significant increase in their administrative burden, including perhaps the cost of bringing in extra staff.

Local authorities will be required to audit the existing advisory parking places to establish whether they are necessary. Those that are not necessary will be removed and the process of obtaining a designation order will be commenced for those that are found to be necessary. That might involve tens of thousands of spaces for each of the 32 local authorities. Will the costs of implementation and continuing administration place a significant additional burden on local authorities?

Stewart Stevenson: Mr Tolson highlights the fact that local authorities have a range of views. If I recall the number correctly, Glasgow City Council suggested that it has 4,552 voluntary spaces. I suspect that the actual number might be one or two either way. Clearly, it has a problem of a different character from elsewhere. It is important that the Convention of Scottish Local Authorities plays a role in expressing the generality of local authorities’ views, and perhaps the Society of Local Authority Chief Executives and Senior Managers should also take a role.

It is important to consider how long the work will take. In my previous experience as a back bencher, I was involved in the passage of the Land Reform (Scotland) Bill, which gave local authorities three years to draw up a core paths plan. The problem in that case was probably more
complex than the one that we are considering today, but how long will the work take? The views of those who will have to undertake it are probably paramount in coming to a conclusion about that.

Jim Tolson: That was another non-answer. Thank you, convener.

Bob Doris: Asda gave us some interesting evidence this morning. If someone is in breach of Asda’s enforcement regime, its wardens ensure that that person gets a letter and is asked not to do it again, and, by and large, they do not. That changes the culture within Asda’s car parks. For Asda, the key issue was having flexibility to decide when to serve a charge on customers.

Should local authorities have flexibility in their approach to enforcement in residential areas—not high streets but the schemes in Glasgow, Edinburgh and so on? For example, should they be able to send a warning letter to someone who is abusing a parking bay, rather than immediately imposing a £60 fine?

Stewart Stevenson: Flexibility is likely to be an important part of any successful scheme, particularly in the early days, when the introduction of enforceable parking will be taking place on an unprecedented scale.

A senior policeman said to me, on an informal and off-the-record basis, that a person who abuses a disabled parking space is four times as likely to have a criminal conviction as someone who does not. The policeman was suggesting, in other words, that people who break rules in one part of their life are likely to break rules in lots of parts of their life.

Sending a letter to the people who misuse a disabled parking bay would seem to be a sensible way forward, but we would need to ensure that people do not simply build up a large stock of letters and that, ultimately, we catch the people who are persistently misusing the spaces.

I take note of your report of what Asda told the committee. If that policy is as successful as you were told, that would indicate that we will see similar success with similar approaches elsewhere. Not only does that approach effectively deal with people who might inadvertently or thoughtlessly, but not maliciously, misuse spaces, it is likely to deliver an earlier and more effective result for the people who need disabled parking spaces.

Bob Doris: When we took evidence from local authorities on the cost of implementing the policy, they were all over the place and could not break down what the costs would be. I will not go into that, as I think that the Official Report will be testament enough.

There will, of course, be a cost associated with the introduction of any scheme. The provisions in the bill would result in local authorities having to start, in one year’s time, the statutory procedure to make orders for enforceable bays. Might a relaxation of the timescale and a phased implementation of the scheme ease the burden of cost on local authorities?

Stewart Stevenson: I referred to timescales in one of my earlier answers. My initial reaction—which is not one on which I would take a firm, committed position—is that 12 months is ambitious. I am not just coming at that from a cost point of view as, to be blunt, there is a practical challenge in simply completing the task. That is one of the issues that the committee will consider and that Jackie Baillie, as the sponsor of the bill, will wish to take into account. If Ms Baillie were to consider that a different timescale could be used in the interest of greater flexibility, it is likely that I would be able to support that.

David McLetchie: I want to ask a couple of questions about co-operation with the UK Government, which I know that you are keen on.

It has been suggested that an alternative approach to the one that is taken in the bill might be to use the provision to legalise on-street disabled persons’ parking places through designation under the Traffic Signs Regulations and General Directions 2002. Glasgow City Council said that using that mechanism would require a change in UK legislation, which would mean that we would have to legislate on a UK basis in order to deal with the issue that Jackie Baillie’s bill identifies. Is that a matter that has been raised in ministerial discussions with counterparts down south?

Stewart Stevenson: The 2002 instrument is delegated to Scottish ministers, although that delegation comes from UK legislation. It is one of those legal issues in which there is a shared responsibility between the state and the devolved Administration.

As it happens, in the past hour, I read that instrument, to ensure that I was aware of the issues. The area is highly complex and touches on, for example, the UK Government’s work on the operation of the blue badge scheme. I think that the UK Government is minded to change some aspects of that scheme but is not yet committed to doing so.

We remain in close contact with the UK Government on this issue. I do not see any particular divergence of interest on the matter. There is an interest in our working with the UK Government. Indeed, the 2002 instrument that you referred to makes reference to equivalent blue badge schemes in different areas of the UK. It is
an issue that stretches well beyond the geographical boundaries of the Administration’s competence, and is something on which we wish to work with other Administrations.

**David McLetchie:** I understand that the order-making powers lie with Scottish ministers. However, there is also a division of responsibilities between the two Administrations. Do you have the power to issue a new order that would encompass disabled parking, or does the primary legislation limit your order-making capacity in that regard?

**Stewart Stevenson:** I suspect that we have that power, but I will ask the expert who is sitting on my left to give a more definitive answer.

**Angus MacInnes (Scottish Government Transport Directorate):** The current arrangements allow for that to happen.

**David McLetchie:** If that is correct, would it be fair to say to Jackie Baillie, with all due respect, that we do not need her bill because, using secondary legislation, the Scottish Government can issue an order that would give local authorities the relevant powers?

**Stewart Stevenson:** That is a question that you might more properly direct to the sponsor of the bill. I suspect that she would say that her bill covers issues that are beyond the scope of the 2002 instrument, such as the duty that it would place on local authorities to consult private providers of disabled parking spaces.

We are in complicated legal territory, and I will give you a little example of that. Because the highway code does not describe how a parking place on the public highway that is not subject to enforcement should be painted on the road, you can paint it any way that you like. However, one that is enforced has to be as prescribed in the 2002 instrument. The boundary between different powers can be as narrow as that. The 2002 instrument, which modifies a previous instrument, is a complex document.

An order is required when the enforcement power is used in particular places; this is a complex area. It seems to me that there is scope for at least some of the bill’s provisions to be implemented, even if you were to persuade your colleagues against agreeing to other provisions. That is a matter for the bill’s sponsor.

11:45

**David McLetchie:** Is it correct to say that a substantial part of the bill’s provisions could be implemented through your order-making capacity?

**Stewart Stevenson:** We have the capacity to make orders for every parking place on the public highway; that has been the case for a long time. I do not think that the bill’s sponsor is saying anything other than that. She is saying that local authorities have not exercised that capacity and is seeking to bring them to the table to make them do it. She argues—it is for her to propound the argument more fully than I—that that will benefit users of disabled parking spaces.

**David McLetchie:** We are getting into a circular argument. I understood from local authorities that the 2002 instrument would have to be amended to give them the power to use existing legislation. That is what Glasgow City Council said in its evidence.

**Stewart Stevenson:** Local authorities can request at any time an order to make a parking place on the public highway legally enforceable; that has always been the case. Very few such orders have been made, because very few have been requested.

**David McLetchie:** Does the 2002 instrument about which we have heard in evidence require any amendment to achieve the object of the bill, which is to make bays that are currently advisory enforceable? Does the mechanism about which Glasgow City Council told us exist? What is required to enact it?

**Stewart Stevenson:** I am making a genuine effort to be clear about what I am being asked. If I am being asked whether the framework of the 2002 instrument and the powers that I have to amend it give me the power to require all voluntary parking spaces on the highway to be turned into enforceable spaces, I think that the answer is no; Angus MacInnes has confirmed that that is correct. That is precisely the point that the bill seeks to address.

**David McLetchie:** Is the answer no?

**Stewart Stevenson:** I cannot require that we move from voluntary spaces to enforceable spaces.

**David McLetchie:** That takes us back to my first question. Is a change to primary legislation, which is a UK matter, required to give you the ability to require advisory bays to be made enforceable bays?

**Stewart Stevenson:** Because we are in a devolved situation—we can discuss that point further—the Westminster Government will always be able to legislate in the terms that you request. The sponsor of the bill would argue that we can address the issue through our own primary legislation. The powers that I have under secondary legislation do not give me the ability to require voluntary spaces to be turned into enforceable spaces.

**David McLetchie:** So a change to primary legislation is required to give you such a power. To
return to my initial question, was Glasgow City Council correct to say that a change to UK legislation was required?

Stewart Stevenson: I do not believe that that is necessary.

David McLetchie: I am not asking you whether you believe that it is necessary as a matter of policy. I am asking you whether it is necessary, as a matter of law, in order to implement the alternative approach that has been highlighted to us. Glasgow City Council said that that would require a change to UK legislation. Is that correct?

Stewart Stevenson: My advice is that we can pass primary legislation in the terms that have been set out by the sponsoring member. In accepting the bill, the Presiding Officer has concluded that it is not ultra vires.

David McLetchie: I am not asking about that, minister; I am asking about the existing reserved UK legislation—the alternative approach. I am not suggesting that Ms Baillie’s bill is incompetent. Of course it is not; that is why it has been accepted. What I am saying is that, according to the evidence that we have been given by Glasgow City Council, an alternative approach that would achieve the same result would be a change to the UK primary legislation that gives you the order-making power that we are talking about. Is that correct?

Stewart Stevenson: I hope that I said earlier that, of course, the Westminster Government can legislate—


Stewart Stevenson: That is precisely the point that I am making. If you are asking whether an alternative route to the one that is before the committee is for the Westminster Government to legislate, the answer is yes—even if, politically, I might wish it to be otherwise. De facto, that is the case.

John Wilson: Good morning, minister. I have two questions, the first of which is on advisory versus enforceable parking bays. We have heard from local authorities that transforming the existing advisory on-street parking bays would be a major cost, especially in Glasgow. I have the figure of 4,500 such bays, but you gave a more exact figure for Glasgow. What planning regulations stipulate that local authorities must mark out advisory bays? Are there such planning regulations? If not, why not?

Both England and Wales have decided to review the blue badge scheme and its operation. We have received evidence that there is abuse of that scheme, and we regularly read stories in the Evening Times and the Edinburgh Evening News about people who have been caught using blue badges illegally. My second question is this: has the Scottish Government—or have you, minister—considered reviewing the blue badge scheme?

Stewart Stevenson: I am aware that concerns about the operation of the blue badge scheme vary from concern about fraudulent use of the scheme to concern about inconsistencies in the application of the standards for issuing blue badges. Rosie Winterton, the Minister of State for Transport in England and Wales, has initiated a consultation on the matter. We are waiting to see the results of that, as we have no particular belief at this stage that there are special circumstances. It will be useful to see what comes from the work that is being undertaken by the DFT. That will please Mr McLetchie, in view of his earlier remarks.

The Convener: The bill does not propose any changes to the blue badge scheme, but we have heard evidence that if we are to succeed in this area we will have to make abuse of the scheme socially unacceptable. While what has been described this morning as massive cheating takes place in the blue badge scheme, we will not get other people to respect disabled parking bays.

You seem to say that in Scotland there is no specific interest. Has the Scottish Government looked into misuse of the blue badge scheme here? Has there been no input to the review from a Scottish perspective? Is there any likelihood of future involvement in reviewing the blue badge scheme as applied in Scotland? For example, could you raise awareness of abuse through a public information campaign? Or do you not consider the problem in Scotland to be sufficiently serious?

Stewart Stevenson: Is there interest? Most certainly there is interest—in the effective provision of blue badges; in the effective delivery of parking places for people who properly have a blue badge; and in preventing interference from people who are misusing the scheme. All those interests have driven Rosie Winterton at the Department for Transport in England and Wales to undertake the consultation. That consultation is just starting and I have the document here. We are taking an interest in the work that the Department for Transport is doing, and we want to piggy-back on it.

The blue badge scheme is not a Scottish Government or a Scottish Parliament scheme; it is a UK scheme, originally introduced as the orange badge scheme in 1971. We are taking a close interest in the review of the scheme.

The Convener: Earlier this morning, we heard from representatives of Asda. Their evidence was
that the level of abuse in their car parks in Scotland is higher than average. Is abuse of the blue badge scheme greater here than elsewhere in the UK, or less? Have we no Scottish perspective either on the scale of the problem or on action to pursue it?

We have also heard that initiatives throughout England to ensure enforcement have had some success. Those initiatives have involved local authorities and the police. Has anything similar been considered here in Scotland? For example, have you discussed pilots, enforcement, or hot spots where abuse might be greater?

Stewart Stevenson: The previous Administration undertook a survey in 2003, which suggested that 44 per cent of designated parking bays were being used by non-blue badge holders. That has probably informed Ms Baillie’s efforts to introduce her bill.

I have just been handed a document that, if I am candid, I do not think I have seen before. It is a 2007 transport research document on the subject of tackling the abuse of off-street parking places. It builds on work done in 2003.

This bill is an excellent way of dealing with the issue. I would certainly like, in the first instance, to make progress in the context of the bill.

John Wilson: I asked a two-part question earlier. The first part was about planning regulations for on-street parking, and I asked whether local authorities were required to record where they had installed on-street parking. Can the minister clarify whether local authorities have to do that or not?

Stewart Stevenson: The member uses the word “regulations”, but planning comes in different forms, and planning advice notes are a primary route for local authorities. I do not think that my officials and I can give an immediate answer to the question. If the committee will permit, we will make further inquiries to see whether that requirement exists. Local authorities’ practice, through planning, is to ensure that new developments have adequate parking areas and adequate provision within those areas for disabled users. Whether there is systematic recording of that is perhaps another question. I have some evidence from my constituency that such information is not available in a form that can be provided to disabled people to enable them to work out where there are disabled parking spaces. There may well be room for further improvement. However, that is informal feedback, rather than a fully reasoned piece of feedback.

12:00

The Convener: The committee was interested to hear about the review taking place in England and Wales. There, appropriate or proportionate disabled car parking availability is being considered, which would allow for differences between hospitals and swimming pools, for instance. Is any review taking place along those lines here in Scotland, which would help planners to designate a proportionate and appropriate number of disabled car parking spaces, rather than having a flat line of 4 to 6 per cent?

Stewart Stevenson: Planning advice notes provide guidance as to the appropriate provision of disabled parking in different circumstances. We are not currently considering whether we need to change that. However, if the committee’s deliberations on the bill identify a necessity for us to do that, we would of course be happy to respond.

The Convener: Am I correct in thinking that that discretion is between the levels of 4 and 6 per cent, rather than in relation to the purpose of the building to which the car park is attached? That is not a trick question—I do not understand what the current requirement is.

Stewart Stevenson: I think that you are effectively asking me a slightly more subtle question. The requirements at a supermarket might be different from those outside a school, which might be different from those outside a hospital. I accept that. We are not undertaking any work to revisit existing practice and guidance at the moment, as far as I am aware. However, if the committee, in its deliberations and as part of the peripheral work surrounding its consideration of the bill, identifies the need to do such work, the Government would find that very helpful, and it would inform any further work that is undertaken on the matter.

The Convener: You will have noticed, minister, that Jackie Baillie, who introduced the bill, is here. Now that committee members have had an opportunity to ask questions, she will ask you some questions.

Jackie Baillie: I will slightly abuse the good will of the committee by thanking the minister for his and the Government’s support for the general principles of the bill, which is very welcome. I was blissfully unaware that I was helping to target the criminal fraternity through the measures in the bill.

If there was an easier way of doing this, I would have found it. Local authorities suggested using a process similar to that whereby bus clearways are designated, which does not require a traffic regulation order. However, provisions under the 2002 instrument are reserved—we will check that again, but I am certain that they are reserved. In that respect, the traffic regulation order process is a bit easier, but it costs more as a consequence of signage. Can the minister confirm that, as far as
the Scottish Government is concerned, no power to make parking orders without consultation and without signage exists? That is the situation as far as I am aware.

Stewart Stevenson: I will ask Angus MacInnes to respond.

Angus MacInnes: That is right. It is for the local authority to decide how it wants to handle disabled parking bays. They find it easier and cheaper simply to put down an advisory marking, which is not underpinned by a traffic regulation order. The authority can put either a sign or road markings in place. There is currently no mechanism to make authorities do things the other way—to make the use of the bay enforceable.

Jackie Baillie: My second question relates to the costs and the timescale for converting bays. As other members have said, there is wide variation in costs, from £119 a bay in Fife to £466 in Glasgow. The timescale ranges from two men taking 12 person years in the Highlands to two similar men doing the same job in one year for 4,500 bays in Glasgow, which I think is a number 10 times higher than the number of bays in the Highlands.

Does the minister acknowledge that there is a difference between the timescale in identifying the advisory bays—which local government knows about, given that it designated the bays and administers the blue badge scheme—and that for promoting traffic regulation orders? The bill provides for a time limit in identifying an advisory bay, but does not place a limit on the time an authority is to take in promoting an order. In so doing, it acknowledges the need for local government to have time to promote an order.

Stewart Stevenson: I am happy to acknowledge that; it is self-evidently true. I sound a cautionary note on identifying advisory bays, however. We need to remember that some of the legislation goes back a considerable period of time. Several local government reorganisations have also taken place during that time, and, in other policy areas, clear record keeping has not adequately transferred from one local authority to another. When we come to the policy area underlying the bill, I suspect that it will be found not to be free from similar simple administrative difficulties.

Although I will not try to justify the differences between Highland Council’s and Glasgow City Council’s view on the cost—that is for them to do—I recognise that there will be uncertainties.

Jackie Baillie: Let us look at a real, live example of an order that an authority has just put through. West Dunbartonshire Council’s ability not only to identify the advisory bays in its area but to move the traffic regulation order in the space of a year is a useful guide for other authorities. Is it fair to say that that example should be commended to other local authorities?

Stewart Stevenson: I am always happy to commend good practice to anyone else who may benefit from that commendation, convener.

Jackie Baillie: My final question is based on a question that you asked, convener. If the bill is passed at stage 1, will Government move to lay a financial resolution so that costings become a matter for Government and not the bill sponsor alone?

Stewart Stevenson: That sounds like a slightly unusual process. The member will recall that the financial memorandum is normally passed at stage 3 of a bill. I would not wish to make that commitment at this stage, but I note what she has said.

I am looking to my officials for advice on the matter, but I am getting none.

Jackie Baillie: I will pursue the matter, convener, which will also allow thinking time. When Angus MacKay was the Minister for Finance and Local Government, I recall that he indicated clearly to the Parliament that the Government would respect the wishes of the Parliament in passing a bill at stage 1, whereby agreeing to its general principles, by not using the mechanism of blocking the financial resolution, which it has responsibility for laying and moving, to scupper the bill at a later stage. I hope that that principle, which was agreed on a cross-party basis at the time, continues to be shared by this Government.

Stewart Stevenson: Clearly, I would wish to respect the will of Parliament, but I would also wish to be in a position whereby a robust set of information was made available that would form the basis of any financial resolution. I am not yet clear or persuaded that we are in that position. That leads me to say that the minister, as he properly should do, is therefore neither granting his consent for nor withholding it from the way forward that the member proposes.

I await developments that will enable us to make a judgment on whether an appropriate, defensible and defendable financial resolution emerges.

Jackie Baillie: Thank you, convener.

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

12:09

Meeting suspended.
1. Throughout the Local Government and Communities Committee evidence taking sessions on my Bill, several issues have been raised where clarification has been sought.

2. To assist the Committee I have attempted to provide further information on a number of these issues below.

**Flexibility of approach**

3. Evidence by the Equality and Human Rights Commission (EHRC) suggested that local authorities adopt a flexible approach initially tackling work in areas where abuse was most prevalent.

4. The Bill does not prescribe how local authorities should carry out the work, that is left to them to determine. It would indeed make sense for them to begin in areas where abuse is most prevalent.

5. There are no direct penalties or sanctions applying against local authorities who fail to timeously complete the duties placed on them. They are required to report to Scottish Ministers who in turn must report to Parliament. This report will inevitably highlight those local authorities who have made most progress and highlight those demonstrating best practice.

6. For those performing poorly, the Scottish Ministers, the Parliament and its’ Committees will be able to hold them to account.

**Organisations that do not have a vehicle but who have disabled clients**

7. The EHRC also suggested that some organisations would like to have an enforceable disabled persons’ parking place outside their premises for their clients. The Bill only provides for this where a vehicle is registered at the address.

8. John Wilson highlighted to the Committee on 2 September, that under existing legislation on access to services, such organisations can apply to their local authority for a designated disabled person’s parking bay. The Bill does not alter that position.

9. The local authority would be able to provide a bay using existing powers under the 1984 Act. In making their decision the local authority would, amongst other things, consider demand, local parking provision and the nature of the patrons using the facilities in the areas.

10. If such a car park was off-street and owned by the organisation, under the Bill, the local authority would be required to take the initiative. They are required to contact the organisation to offer to make arrangements that could lead to an enforceable bay being created.

**No advisory bays means applicants waiting longer to get a disabled person’s parking place**

11. Concern was raised both by the Committee and local authorities that currently applicants can get an advisory disabled persons parking place in a matter of weeks and if the Bill is enacted, it may mean that applicants might have to wait several months.

12. Subsequent oral evidence from local authorities has confirmed that the Bill provides for a temporary bay to be put in place as soon as the local authority is required to start the statutory procedure to make an Order. Local authorities are therefore able to install such bays in exactly the same timescale as they currently provide advisory ones.

---

99 Column 1076, Local Government and Communities Committee, Official Report 2 September 2008
Advisory Bays no longer required or appropriate

13. Concern was also raised that existing advisory bays in residential areas would automatically be removed. In relation to existing on-street disabled persons’ parking places the Bill does not require that advisory bays be automatically removed.

14. If the local authority determines that the bay is still required and that it has the power to make the parking place enforceable because it does not breach conditions under section 45(3) and 122 of the 1984 Act (such as traffic flow, access, and pedestrian safety) then it would be required to start the Order making process to make the bay enforceable. However if it was breaching such conditions then the parking place is clearly in an inappropriate location and should be removed.

15. Existing advisory bays will remain in place until the end of the Order making process, to make them enforceable, unless they are inappropriately sited.

Private Roads

16. Section 14 of the Bill defines a “street parking place” as “a parking place on land which does …form part of a road.” and also defines “road” as having the same meaning as in the Roads (Scotland) Act 1984, section 151.

17. Section 45 of the Road Traffic Regulation Act 1984 contains the regulation making power which the Bill links into, to designate parking places on roads in Scotland. Section 142 of that Act also defines “road” as having the same meaning as in the Roads (Scotland) Act 1984.

18. The result is that the Bill does not change the kinds of road in respect of which an order can be made. The essential part of the definition of “road” in the Roads (Scotland) Act is that it is “any way …..over which there is a public right of passage…”

19. Thus there is no impediment to making a parking order on a private road to which the public has right of access even although it has not been adopted by the local authority.

Changes to the Traffic Signs, Regulations, and General Directions

20. Amending the Traffic Signs, Regulations and General Directions Order 2002 in the same way as was done for bus stop clearways, i.e. without the need for a Traffic Regulation Order was raised by local authorities and touched on when the Minister gave evidence. I have checked the status of the powers and can advise the definitive position as follows.

21. Section 36 of the Road Traffic Act 1988 provides that where a traffic sign has been lawfully placed on a road, failure to comply with it is an offence. A sign may be lawfully placed by it being expressly provided for by or under any provision of the “Traffic Acts” (as opposed to being placed in consequence of an Order having been made). Regulation 10 of the 2002 Regulations is such a provision because the Regulations were made under Acts which fall within the definition contained in the Road Traffic Act 1988 of the “Traffic Acts”.

22. Regulation 10 lists a number of traffic signs, road markings and light signals by reference to their particular diagram numbers and provides that section 36 of the Road Traffic Act applies to them. The diagram numbers allotted to particular signs, markings etc are found in Schedule 2 of the 2002 Regulations. The particular signs/markings which relate to disabled parking places are identified by the following references: Sign diagram number 661A, Road marking diagram numbers 1028.3, 1032 and 1033. None of these diagram numbers is to be found in regulation 10. Therefore, section 36 does not apply to them. That reflects the evidence statements of local authorities such as the City of Glasgow Council that it is UK legislation that would require amendment.

23. The power to amend regulation 10 to include different signs etc is reserved. None of the powers under which the 2002 Regulations were made are devolved. Nor have any of the powers been made the subject of an Order under section 63 of the Scotland Act. }

Scottish
Ministers therefore have no powers to make such Orders instead of the Secretary of State for Transport (as was in 2002) or to make them concurrently or with the agreement of that Minister.

Contact with Owners of private car parks

24. Some of the evidence provided by local authorities indicated that this was too large and burdensome a task to undertake.

25. The provisions in the Bill apply only to owners of car parks to which the public have access. It is only these that local authorities are required to contact.

26. The Bill is non prescriptive as to the degree of contact required. A simple letter reminding owners of the importance of meeting their disabled customers’ needs, stating that if they want to make their bays enforceable the local authority can help would suffice. The Bill does not require local authorities to do anything more than this. If the owner does not wish to take up the offer or would prefer to engage their own enforcement then there is nothing further the local authority need do. The limited requirement to make a follow up inquiry every two years reflects that perceptions of need and desirability alter with time, and owner’s change as do people’s views.

Interest and take up by owners of car parks

27. Both the Finance Committee and Local Authorities raised the question on how much interest and ‘take up’ there would be from owners of car parks. In my Policy Memorandum I set out evidence covering individual retailers who have already taken steps to tackle abuse of disabled persons parking places.

28. The Minister has stated he would be surprised if owners did not wish to co-operate. Both ASDA and the car parking operators agreed that owners without their own enforcement regime would have nothing to gain by not co-operating and they should really welcome local authority involvement and work with them. The EHRC also gave evidence saying that this would be ‘like pushing against an open door’ and that there is an “enormous amount of goodwill in parts of the private sector”.

Costs and Timings

29. With regard to costs, I would echo the Minister suggesting that the Committee look closely at the costs provided by Glasgow City Council and why Glasgow believe it will cost them so much more per bay than Fife Council anticipate it will cost them. For virtually every activity Glasgow’s costs exceed those of other local authorities provided to me and which I have passed on to the committee.

30. Under the Bill before you the costs themselves could be spread over 3 years. Year 1 would see administrative costs for identifying the bays; Year 2 would see further administrative costs arising from the promotion of the Orders while costs for signage etc could be spread between Year 2 and 3.

Enforcement

31. Evidence from local authorities expresses concerns that the Bill will be costly to enforce. It has always been the expectation of all, including I understand the evidence from the bodies representing disability interests, that enforcement will be reactive and targeted at areas where most abuse occurs. You received written evidence relating to a Police officer telling a disabled driver they were unable to ask a driver not displaying a Blue Badge to remove his car from a disabled persons parking place because the bay was advisory. The police have no power to take any action against such drivers. My Bill will help ensure that in future that power exists.
32. ASDA have shown in their evidence that reactive and random enforcement works well – as little as 12 hours per month per store and by targeting stores where reports of abuse are high. They believe that people’s attitudes have been changed simply by the existence of penalties.

Subordinate Legislation Issues

33. The subordinate legislation at paragraph 10 of their report made the following comment:

“The Committee also draws this instrument to the attention of the lead committee and Parliament in respect that section 5(6) does not provide for the position if regulations are not brought into force, and a local authority does not specify the form and manner of requests for applications. In this event, the Bill does not provide for how local authorities will obtain sufficient information in relation to a request, to enable them to comply with the duties they have in terms of section 5(2).”

34. The comment from the SLC explicitly suggests that local authorities are incapable of implementing their obligations under section 5(2) of the Bill without a form being provided for them. The information required of an application form is clearly specified within the Bill at section 5 and would be no more than a matter of good administrative practice for the authorities to undertake.

35. The Committee may be surprised that the SLC would be advocating such a centralised approach which could be construed as contrary to the Government’s policy of leaving such matters to be determined locally.

36. It has not been the practice previously in members’ bills to provide forms for all activities leaving local authorities free to devise their own type of forms. Such an approach builds in a degree of flexibility to meet local and personal situations. It is also not the practice in members’ bills to impose any requirement on Ministers, which if not implemented would prevent the operation of the Bill. I would be surprised if in previous bills this Parliament has sought to fetter local discretion in administrative matters.

37. What has been included is a power for Ministers to prescribe, should they wish to, a power which could be used if there were unforeseen problems or a lack of consistency across the country.

38. If however the Committee were minded to agree with the suggestion of the SLC a “simple” solution would be to amend the Bill at stage 2 to make the requirement on Ministers at section 5(6)(a) a mandatory one. Changing “may” to “must” would suffice. Perhaps if the Minister were minded to bring forward such an amendment it could be accompanied by an undertaking to timeously make the necessary Order.

Jackie Baillie MSP
The Scottish Parliament
7 October 2008
10:00

**The Convener:** Agenda item 2 is oral evidence on the Disabled Persons’ Parking Places (Scotland) Bill at stage 1. I welcome our witnesses this morning: Jackie Baillie MSP; David Cullum, clerk team leader at the Parliament’s non-Executive bills unit; and Robert Marr, assistant legal adviser in the Scottish Parliament directorate of legal services.

I invite Jackie Baillie to make a brief opening statement, then the committee may ask questions.

**Jackie Baillie (Dumbarton) (Lab):** I am very grateful to the committee for giving me the opportunity to attend today to speak about my bill. I also thank you for the time that you have already spent scrutinising it.

As you will be aware, the main policy objective and general principle of my bill is to prevent disabled persons’ parking places being occupied by those who are not entitled to use them. My bill does that by seeking to ensure that enforcement action can be taken. It is worth putting the proposals in context—there are 1 million people in Scotland who would consider themselves to be disabled. Of that number, about 250,000 people are entitled to a disabled person’s parking place, of whom 96,000 are wheelchair users. It is not a marginal issue.

According to a baywatch survey in 2006, no accessible parking places were available for disabled shoppers in more than a third of car parks because of the abuse of such spaces. That was a rise of about 28 per cent from the 2005 figure. Capability Scotland conducted a mystery shopper survey in 2003. The mystery shoppers visited 118 stores in just over two weeks and found that 44 per cent of disabled persons’ parking places were occupied by vehicles in which a blue badge was not displayed.

The bill is a simple measure that uses existing road traffic and parking measures. It assists local authorities in their approach to managing disabled parking. It is important to set the proposal in a wider context. We need to improve disabled parking provision by doing three things. The first is to prevent the abuse of disabled parking bays; the second is to reform the blue badge system; the third is to improve the process for local authorities. I have attempted to make a small contribution by delivering on the first of the three, but it is for the Scottish Government and Westminster to deal with the others.
At the moment, the majority of disabled parking places are advisory, particularly in residential areas, and advisory bays are not legally enforceable. As the committee has heard from all witnesses, particularly from the representatives of disability groups, the spaces are frequently used by unauthorised drivers, which prevents disabled people from being able to access them. In turn, it prevents them from being able to access essential services. You have heard about the scale of the abuse of on-street and off-street parking places from the disability groups and from Asda. Recent Government research highlights the problem in relation to off-street parking.

The Government’s helpful memorandum states at paragraph 10:

“Despite current legislation being in place to allow parking places for disabled drivers to be enforceable, there is a high level of abuse ... resulting in there being no spaces for genuine users. The main problem appears to be local authorities creating ‘advisory’ spaces”.

In respect of the abuse of the blue badge scheme, you heard from the Equality and Human Rights Commission that

“the draft bill took the right approach in separating the important—related, but separate—issue of abuse of the blue badge scheme from abuse of designated parking bays.”

I am sure that you will agree with this:

“we must not end up punishing by default disabled drivers and limiting their parking options as a result of abuses that take place elsewhere in the system.”—[Official Report, Local Government and Communities Committee, 2 September 2008; c 1068.]

I have made abundantly clear my desire for the blue badge scheme to be reformed, but that is more appropriately undertaken by Government than through a member’s bill.

I note from his evidence last week that the Minister for Transport, Infrastructure and Climate Change will take note of any suitable action points that come out of the Department for Transport’s review of the blue badge scheme in England and Wales. I also note that it is open to the Scottish ministers to take action themselves.

Like the minister, I suggest that the committee look closely at the costings that have been provided by local authorities and consider why Glasgow City Council believes that the scheme will cost so much more per bay than Fife Council expects it to cost. At no point in the financial memorandum do I state that the cost could or should be found from existing budgets, although I make the point that West Dunbartonshire Council obviously feels that the issue is serious enough to have done so. Under the bill as currently drafted, the costs could be split over three years. Year 1 would see the administrative costs from identifying the bays; year 2 would see further administrative costs arising from the promotion of the orders; and costs for signage would be covered in years 2 and 3.

Some evidence from local authorities has suggested that contacting owners of car parks to persuade them to make their disabled bays enforceable would be too time consuming. I make it clear that councils would be required to contact only the owners of car parks to which the public have access. All the bill requires them to do is make contact. It would be sufficient for them simply to send a letter to the car park owners, reminding them of the importance of meeting their disabled customers’ needs and stating that if they wanted to make their bays enforceable, the local authority could assist. The bill would not require them to do anything more than that. If the owner did not want to take up the offer or preferred to undertake their own enforcement, so be it.

The limited requirement to write a further letter every two years is included in the bill because perceptions alter with time and owners change, as do people’s views. The minister has stated that he would be surprised if car park owners did not want to co-operate. Asda and the car parking operators have all said that owners without their own regime would have nothing to gain by not co-operating and that they should really welcome local authorities’ involvement and work with them. The Equality and Human Rights Commission has said that the scheme would be like pushing against an open door and that there is an enormous amount of good will towards it in parts of the private sector.

Evidence from local authorities suggests that the bill will be costly to enforce. It has always been the intention that enforcement, particularly in residential areas, will be reactive and targeted at the areas that experience the most abuse. The committee received written evidence that a police officer told a disabled driver that they were unable to ask a driver who was not displaying a blue badge to remove his car from a disabled parking place because the bay was only advisory. The bill will ensure that the police have the necessary power to do that.

Asda has shown, in its evidence, that reactive and random enforcement works well. It commits 12 hours a month per store for that, targeting stores where the number of reports of abuse is high. Asda believes that people’s attitudes have been seen to change when they know that they risk a penalty, too.

Asda has stated that its enforcement scheme allows flexibility, on a case-by-case basis, to deal with those who park without displaying a blue badge. Although I see the attraction of such flexibility, the danger may be a lack of consistency in the application of that enforcement. It was suggested last week that it would be useful if
enforcement under the bill could be similarly flexible, but I stress that the bill would not alter current enforcement regimes at all. I am sure that the police, traffic wardens and parking attendants would be able to ask people to move their vehicle rather than issue a ticket in the first instance if they wished to do so or were so instructed by the relevant authority.

The difference is that tried and tested statutory appeal mechanisms are in place to hear appeals via the courts or the parking adjudicator. As the committee heard last week—a point in which David McLetchie was very interested—unregulated civil enforcement has no such statutory mechanism. In fact, judging by the evidence that has been obtained by the committee, legal opinion is still being sought on the basis of the charges that are issued in that way.

I have written to the convener with clarification on other issues that have arisen during the taking of evidence, and my letter has been circulated to members. I hope that that is helpful. I hope that, in coming to a conclusion not just today but after your consideration in the weeks to come, the committee recognises the small but significant difference that the bill could make to the lives of disabled people. I am happy to answer any questions that members may have.

Bob Doris (Glasgow) (SNP): I want to ask about the costings and the possible financial pressures that the bill could place on local authorities. You said that you do not expect the money to come from existing budgets. Given the timescale for implementation of the bill, is it fair to say that we are talking about a future spending review, future single outcome agreements and future financial settlements for local authorities? We are not talking about putting under pressure the £35 billion that the 32 local authorities are currently receiving to provide existing services.

Jackie Baillie: We should acknowledge that some local authorities are already making provision. The one that I quote most often is West Dunbartonshire Council, which has said that because the matter was so serious in its area, it wanted to move ahead, identify all the bays and then start and complete the process of a traffic regulation order using its own budget. It did so not knowing whether the bill would appear and in the full knowledge that it would be responsible for the costs of installation. Some local authorities are doing that within their own budgets.

I will take a little time to explain how we arrived at the figure of £1.7 million that is in the financial memorandum. We spent a lot of time considering the costs. Fife Council identified a comprehensive cost of £119 per bay, which covered everything from the processing of the regulation order right through to the installation of the bay. Glasgow City Council says that a similar process would cost £466. A real issue exists about the wide disparity throughout Scotland. We therefore used the real-time figures from West Dunbartonshire Council, which has designated 410 bays at a cost of £5,000—so £12.20 per bay—and the costs that Fife Council gave, which it subsequently confirmed were accurate. It is for the committee and, with respect, ministers to understand why that huge disparity exists. The bill may have the unintended consequences of driving down costs and showing a need for local authorities to learn from one another about best practice so that we have much more efficiency in the system.

You ask about phasing. The requirement in the bill is that, by the first year, local authorities will have identified where their advisory bays are and started the order-making process. It is therefore likely that the order-making process would not be only in year 1, but would also fall into year 2. We anticipate that the installation costs would then fall between years 2 and 3. Therefore, local authorities could spread the cost. I understand that authorities want to plan for the capital and revenue costs that will be incurred.

We consider our figures to be robust. The financial memorandum states clearly that there is a margin of uncertainty. I have asked the Scottish Government parliamentary questions about the issue ad nauseam, and have been met with similar responses—that it does not collect the information centrally. As we are not clear about the number of advisory bays and enforceable bays and as we cannot tell the actual costs because there are such huge variations, there is bound to be a margin of uncertainty. We have highlighted that to the Finance Committee.

In August 2006, we wrote to all 32 local authorities in an attempt to ensure that we got accurate information. My view is that the figure of £1.7 million stands. The committee will want to consider the obviously opposite view that has emanated from Glasgow City Council. I simply say that if Dundee City Council thinks that it can convert 1,000 advisory bays into enforceable ones at a cost of £196,000, we must ask why South Lanarkshire Council, which has only 100 more bays than Dundee, thinks it will cost £1 million and why Glasgow City Council, which has 4,500 advisory bays, thinks it will cost £2.1 million. There are huge discrepancies. Local government could learn from best practice.

Bob Doris: I agree that there are unreliable figures that must be tested and put under more scrutiny. I was not making a judgment on the figures that you have provided to the committee; my question was about what happens when we come up with a set of robust figures. You talk
about existing budgets, but if the bill would be heavy on local authorities’ capital expenditure in year 2 or 3 rather than year 1—when they would just identify where the advisory bays are—I want to know when year 2 or year 3 would be. Where do you see it in the timeline? We are now scrutinising your bill, but when would year 2 kick in? I am trying to tease out whether we are talking about local authorities’ future existing budgets or their current money. Are we talking about three or four years in the future? What is the timescale?

10:15

Jackie Baillie: The timescale would be three years; I do not envisage it going much beyond that. I think that the figure we have provided—£1.7 million—is robust. You need to reassure yourselves why it costs so much more to paint a disabled parking bay in one area of Scotland than in another, given that the cost of labour and paint and the measurement of the bay are fairly standard. There might be lessons to learn across the board.

I am looking for the minister to move a financial resolution in respect of the bill, as is customary. The standing orders of the Parliament provide that if a bill is passed at stage 1, the Government is required—or not, as the case may be—to move a financial resolution. At last week’s meeting, I reminded the Minister for Transport, Infrastructure and Climate Change of the commitment that Angus MacKay made in the first session of the Parliament—I suspect that it was in relation to the Abolition of Poindings and Warrant Sales Bill, which was before the Parliament at the time—that if a bill were passed at stage 1, the Scottish Executive would move a financial resolution in respect of the costs of it and that it would not go against the will of Parliament. I hope that the minister will reflect on that. He certainly seemed to acknowledge it in his evidence to the committee last week.

Bob Doris: The minister certainly said that he would reflect on the comments that you made about that.

We are living in a new world in which we are scrutinising the first wave of single outcome agreements. Do you think that single outcome agreements have a role in respect of the Scottish ministers reviewing with local authorities how they are progressing with new statutory obligations, should the bill be successful?

Jackie Baillie: Single outcome agreements present one opportunity for that. As we start to see those agreements emerge throughout Scotland, there might be stark variations in what local authorities think is important in their area and what is contained in their agreements, which might include specific local projects. The bill would require local authorities to report to ministers annually on progress made, such as the number of advisory bays and all the other issues that we regard as important in enabling us to measure progress.

Alasdair Allan (Western Isles) (SNP): As you can probably tell, there is broad sympathy in the committee for the aims of your bill, but we are keen to find out more about local authority involvement. Bob Doris referred to Glasgow City Council. I appreciate that you are not here to speak for Glasgow City Council, but it is difficult for us to overlook the fact that the figure that that council came up with is greater than what you have allocated to implement the bill nationally. Are you able to shed any light on how the council came up with its figure? Why, in your view, is it wrong?

Jackie Baillie: I can only make assumptions about the figures that Glasgow City Council has provided and make comparisons with other local authorities.

West Dunbartonshire Council took less than a year to identify 410 advisory bays at a cost of £5,000—£12.20 per bay. Glasgow City Council gave the figure of £137,544 to promote orders for 452 bays, which works out at £30.21 per bay. There is a disparity from the start of the process. Perhaps we can learn something from how West Dunbartonshire Council went about identifying its bays, which might make the costs more reasonable for other local authorities. I know that some local authorities, such as West Dunbartonshire Council, batched all the bays in the one order, which is much more cost effective. I think Inverclyde Council does that, too. Perhaps Glasgow City Council dealt with all the bays through separate orders.

I remind you of the example that whereas in Highland it would take two men 12 years to identify their 400 or so bays, in Glasgow it would take two men a year. Perhaps there is something different about men in the Highlands—I do not think that for a minute. That is one cost difference; I will explore others. In Glasgow, for example, it is estimated that the removal of existing road markings will cost £113, but that cost is unnecessary and arises only because Glasgow insists on marking advisory bays in yellow paint. There is nothing to prevent it from following other local authorities and marking bays in white. Indeed, one should query why the paint needs to be removed and cannot simply be painted over. Some local authorities paint over existing markings and use temporary markings to complete bays.

Glasgow has said that the paint for repainting will cost £66, whereas in Perth and Kinross
Council it will cost £35. I hope that members will forgive me—the cost of paint is not my specialist subject and, try as I might, I cannot explain the wide disparity with regard to Glasgow, but these are the issues that such comparisons throw up.

I should point out that we carried out a two-stage consultation with the 32 local authorities. We first contacted them in August 2006 to shape the consultation that we then carried out and to get their response to a number of general questions. My view is that this is a matter for Glasgow; we think that our figures are robust and I am sticking to them.

**Alasdair Allan:** I am not here to defend Highland Council, but it might have a point in highlighting the complications that might arise from, for example, someone having to drive a van from Inverness to Portree and back again just to paint one parking space.

On the suggestion of doing a batch of 450 in one order to minimise administration costs, I can understand the idea behind bringing applications together in one group at the very outset. How would such an approach work? After all, you might have to wait a considerable time between groups of applications.

**Jackie Baillie:** You would not have to wait a considerable time. I know that that has happened in some areas where local authorities have carried out batching, but the bill provides for the designation of temporary bays. When an application for a disabled parking bay is received, a local authority will embark on the statutory process of making an order. There are advantages to batching, which is why the bill provides for temporary bays to be placed outside people’s homes.

Some people might argue that such a provision is still not enforceable, but it will be. The process of passing the bill and education on this issue should lead people who—unwittingly, perhaps—abuse disabled bays to stop the practice, because they will realise that doing so will prove expensive. I hope that that answers your question.

**Alasdair Allan:** In your consultation, what information on expected costs did you gather from local authorities? Some councils have given evidence to the committee on this question, but all local authorities are asked to justify costs. How widely did they vary?

**Jackie Baillie:** We had in our minds an idea about how we wanted to proceed with the bill. Our first port of call was to write to all 32 local authorities. As a result, in August 2006, before I had even put pen to paper on the bill proposal, I informed councils that I was thinking about introducing a bill and asked them to tell me about their various processes and the costs of enforcement. I was also keen to know how the councils that operated decriminalised parking systems did so and whether they ran at a surplus or at a loss—I did not want to place on them additional duties that they could not meet. I should note that all the local authorities that operate a decriminalised system for parking bays are running at a surplus.

In other council areas, the police ticket those who abuse bays; the local authority administers the ticketing system and retains 10 per cent of the value of the ticket to cover administrative costs. We asked councils a number of questions about their operations but, of course, that was before I had put together the proposal.

At the second stage, when we went out to consult—from November 2006 to February 2007; it seems a long time ago now—on the basis of the 20 responses to the earlier consultation, we asked questions about enforcement. There was also a general question at the end about whether people had any other information to give, based on an outline of the proposal we wanted. We also considered other options.

Some local authorities had information, others did not. Some had information about the number of advisory bays they had, some were very clear that the figure was an estimate and others said that they could not tell us. We were trying to get the best evidence we could, so that we could arrive at the most reasonable estimate.

I should also point out that I had a small steering group to help at various stages along the way. We involved the Convention of Scottish Local Authorities and a councillor from West Dunbartonshire Council in the process. If there were substantive issues, I hope that they would have been flagged up at that juncture.

**The Convener:** We can debate the cost of paint in the Highlands as against that in Glasgow and ask whether we need to repaint at all, but there is no doubt that the financial burden of the bill’s proposals will fall on local authorities.

Glasgow has 32 per cent of Scotland’s parking bays. To meet the bill’s objective of preventing abuse, will the issue not be much wider than tins of paint? It involves the laying of a new order, the planning process and enforcement.

Although we—I should not say “we” because the committee has not yet come to a decision—might feel that some of the costs that your evidence has highlighted might have exaggerated the lower-level problems, a significant financial burden will still be laid on local authorities as a consequence of the bill being passed.

**Jackie Baillie:** You are right to say that the burden will fall on local authorities, but I part
company with you slightly when you say that the burden will be significant. In the context of a £35 billion Scottish Government budget, £1.7 million is not a huge amount.

You are quite right: we need to understand better the variations between Fife, Glasgow and Highland. I want to ensure—as I am sure you do, convener—that the bill succeeds. To do so, we need to ensure that people are adequately resourced.

The figures that we have provided are robust. I acknowledge that there is a margin of uncertainty. As the Finance Committee might have said in its report, there is an issue around whether the minister should discuss those margins with COSLA and decide what they are. The Government regularly negotiates budget settlements with COSLA and all 32 local authorities, and I would have thought that, as we get down to the costs and the variations and come to understand them, they would form part of any future budget discussions, but I am clear that the bill's proposals can be implemented for £1.7 million.

The Convener: Do you agree with Fife Council that the proposed cost of implementation should be met by the Scottish Government?

Jackie Baillie: Yes, and the financial memorandum says very clearly that we anticipate that additional cost to be £1.7 million. In his evidence to the committee, the minister initially anticipated that implementation would be within budget, but I got the sense that his later response was more about not wanting to provide a blank cheque, although he recognised that costs are involved.

10:30

John Wilson (Central Scotland) (SNP): I want to separate out two aspects of the Disabled Persons' Parking Places (Scotland) Bill. One is enforcement of disabled parking in town centres, supermarkets and out-of-town shopping centres. We heard evidence from disabled groups that raised real concerns about access to retail and other facilities in town centres.

However, I want to concentrate on the issue of the enforceability of residential disabled parking bays. Can you clarify the situation with regard to requests to designate disabled parking bays in residential areas? I understand that an individual who is a blue badge holder can apply to a local authority to have a disabled parking bay designated just outside their house, flat or residence. However, when the bay is designated, it is not for the sole use of that blue badge holder—any other blue badge holder who is resident in or visiting the area can use the bay. Could that situation give rise to confusion or animosity? Would it raise issues regarding the identity of the designated user of the bay?

Jackie Baillie: John Wilson's understanding of the position is absolutely correct. If a blue badge holder applies for a disabled parking bay to be designated outside their home, it is not a named bay and does not belong to that person. Some would prefer that it did, but it would place an undue burden on local authorities to require them to deliver bays associated with named individuals. Under the bill, other blue badge holders will continue to be entitled to park in the bay outside a person's home; we are not changing that provision. In reality, that does not happen often. When it does, the house of the person concerned tends to be near a train station, shop, public library or other facility. In such cases, we would like local authorities—as they have done elsewhere—to ensure that there are an ample number of bays at the train station, library or other public setting in question, to prevent the disabled person's parking bay from being used by other blue badge holders. Designating bays for named persons would give individuals control of part of the public highway. I suspect that that would be difficult under the Road Traffic Regulation Act 1984.

It would be unreasonable to have proactive enforcement in residential areas. Enforcement should be reactive and targeted, because the majority of abuse of disabled bays takes place around town centres. In their evidence to both the Finance Committee and this committee, the police argued that enforcement should be proportionate. They said that if called to attend to an obvious incident they would do so, but that they would prioritise their efforts—if something more pressing was happening, that might be a priority for them. In its evidence to the committee, Asda said that the mere existence of a sanction had a huge effect on people's behaviour. Irrespective of whether enforcement is reactive or proactive, a number of people will be educated if the committee supports the bill and penalties can be applied.

John Wilson: The issue of how we monitor the number of residential disabled parking bays that are allocated has been raised. What onus will be placed on local authorities to oversee the appropriate use of such bays when a resident who has applied for a residential disabled parking bay under the blue badge scheme moves elsewhere or leaves the area?

Jackie Baillie: It is good practice for a local authority to monitor that. The bill would require local authorities to report to the Scottish ministers on the number of bays and other matters. I am not clear about whether the number of applications
and how local authorities have monitored and removed bays will be covered, but I will be advised about that.

Under the disability equality duty, local authorities are required to deal with the matter—[Interuption.] I have just been passed a note. As I suspect John Wilson knows, local authorities should do such work under the disability equality duty. In its evidence, the Equality and Human Rights Commission said that the bill does not “place additional administrative burdens on councils, but merely builds on one aspect of the kind of evidence which could be gathered by local authorities as part of their ongoing work under the Disability Equality Duty.” If a local authority was performing well, it would do such work.

Section 10 would place a duty on local authorities to keep disabled street parking orders under review. The monitoring that John Wilson expects would be caught not just by the bill, but by the disability equality duty.

David McLetchie (Edinburgh Pentlands) (Con): You will recall our discussion last week with the minister and his officials about the Traffic Signs Regulations and General Directions 2002. In the letter that you sent the committee as a follow-up to that and as a preface to your evidence, you say helpfully that you “have checked the status of the powers and can advise the definitive position as follows.”

Is it fair to say that the definitive position as set out in your letter contradicts the evidence that the minister and his advisers gave the committee last week?

Jackie Baillie: You are trying to entice me on to dangerous territory.

David McLetchie: I am just asking whether your definitive position is definitively correct and whether the minister’s evidence was definitively wrong.

Jackie Baillie: We tried to help the committee by setting out the position in an incredibly complex area. I considered whether we could make such changes to simplify the process, only to discover—some way down the line—that the matter was substantially reserved and that we could do nothing. As the matter is reserved, we adopted a different approach to the same problem. We have checked and double-checked the position. Members can imagine that, if an easy route existed, I would have found it. Our ability to amend the Traffic Signs Regulations and General Directions 2002 is severely limited.

Rather than have a non-lawyer such as me explain to a lawyer how the law works, may I invite Robert Marr to speak?
as an additional and, in administrative terms, quite onerous burden as regards private car parks.

Jackie Baillie: First, it is not a burden; I will explain why. Secondly, if you talk to disabled people, particularly blue badge holders, they will tell you—and the surveys show this—that much of the abuse occurs in private car parks rather than on the public highway. Someone might be prevented from parking outside their local supermarket or their retail centre and have to keep driving round before they can get a suitable parking place.

A positive development is that many private car park owners are realising the value of taking action on enforcement. The committee took evidence from Asda. Like Asda, Braehead shopping centre has gone for voluntary enforcement and what a difference it has made—I confess to being a regular visitor to Braehead shopping centre. Suddenly, car parking spaces that were always full are not being abused and are available for disabled people. We are beginning to understand that the retail sector accepts the need to do something about enforcement. A survey by Leonard Cheshire identified that the spending power of disabled people is £5 billion annually, so as customers, never mind anything else, they matter to many of the companies that have private car parks.

Turning to the burden that local authorities have identified, I hope to reassure members that it is not a burden at all. The first reason for that is that local authorities can identify private car park owners. Let me be clear—I am talking about private car parks to which the public have access. I have no interest, nor does the bill, in office car parks or car parks solely for employees, which are regulated by the Disability Discrimination Act 1995. We do not propose to change that. Many off-street car parks, such as those outside libraries and sports facilities, are managed by local authorities, so they already have records of them. Local authorities have records from their business rates, and when it comes to new developments and planning permission, they have the ability to tackle the issue at the outset of a project. They also have an awareness of what new developments are happening on their patch. Therefore, it should not be onerous for local authorities to identify private car park owners.

Secondly, as I said in my opening statement, the sending out of a letter advising private car park owners that a procedure existed, whereby the local authority could move a traffic regulation order and make their bays enforceable, would satisfy the terms of the bill. However, the bill is not prescriptive—if Asda and other car park operators want to continue to carry out their own enforcement, that is very much a matter for them.

My primary purpose is to ensure that disabled parking spaces are enforceable and are not abused. I do not much care how that aim is approached, provided that we allow people to be flexible. The proposal to go back to people every couple of years with a letter—nothing more than that—which simply reminds them of what can be done reflects the fact that people’s perceptions change. People’s views of what their competitors are doing can change. If a Morrisons store was next to an Asda store, people in the Morrisons store might want to reflect on what Asda was doing and do likewise. At the least, private car park owners would be encouraged to do the right thing.

10:45

The committee should consider the evidence from the Equality and Human Rights Commission Scotland, which said that we are

“pushing against an open door.”—[Official Report, Local Government and Communities Committee, 2 September 2008; c 1073.]

There is incredible good will towards the proposals among private car park owners. The measures are not burdensome or irrelevant; rather, they are essential.

David McLetchie: But Asda and others told us last week that they want to maintain their successful voluntary approach and that they would not welcome a statutory enforcement regime. The EHRC bodies have recognised that Asda and others are making substantial progress, so why do we not simply let the private sector—Morrisons, Sainsbury’s and all the others—get on with things and build on the success and achievements that have been demonstrated to the committee? We could then consider the situation in another couple of years without placing a further responsibility on local authorities in the intervening period.

Jackie Baillie: Some private car park owners have shown a very responsible attitude and have recognised and responded to the needs of their disabled customers, but not all private car park owners have done so, unfortunately. I think that the committee has seen the best examples of people who have taken action; it has not seen those who have done nothing. We have been told time and again that voluntary measures do not work. I do not want to place an undue responsibility on businesses—we cannot do that, as the matter is reserved—or an undue burden on local authorities, but if most of the abuse takes place in the private sector, it is not unreasonable to encourage it to do the best that it can for disabled people in our community. The bill is one way of doing so.
I hesitate to say what I am about to say, because I suspect that, as a lawyer, David McLetchie knows far more than I do about the subject that I am about to raise. There are, of course, issues—which he identified at the previous meeting—to do with the legal basis of some enforcement. I am not an expert on contract law, and hesitate to speak about the matter, but with your permission, I invite David Cullum to address it.

David Cullum (Scottish Parliament Clerking and Reporting Directorate): I make it clear at the outset that I am not a lawyer either.

I will not comment on Mr McLetchie’s exchanges last week, but it has occurred to me that the fundamental problem that private car park owners have is identifying the driver of a vehicle that is illegally parked—if I may use that phrase—in one of their spaces. Within the statutory regime, there is a power under the Road Traffic Regulation Act 1984 to require the identification of the vehicle’s driver. The failure to identify the driver of the vehicle is a separate offence. Private enforcers can identify only the vehicle’s owner—its registered keeper—using the Driver and Vehicle Licensing Agency database and can send a letter to them that says that their car was parked in a space of theirs and that they must pay them a fine, please. The database will not say whether the person was the driver of the car and it will have no information about who the offender was, if I may again use a criminal word in a civil context. There is no way in law in which that information can be accessed unless the person writes back and says, “It was me. Sorry.” A fundamental problem exists in trying to identify who is at fault, and I am sure that people are aware of that.

David McLetchie: I take your point because, effectively, a deemed person is involved in the statutory regime, whereas there must be an actual breach of the contract in the civil regime.

It was interesting to see in Jackie Baillie’s letter that Asda and other owners of car parks who have voluntary schemes agreed that others who do not “would have nothing to gain by not co-operating”. Does that not strike you as a slightly curious double negative? Those people are saying, “Well, we actually think it’s a bad idea for us, but our competitors will undoubtedly think it’s a good one.”

Jackie Baillie: Far be it from me to paraphrase what Asda or the other car park owners said, but when I asked them at the end of last week’s evidence session whether they thought there was value in what the bill proposes, particularly in encouraging other car park owners to go down the same route either by voluntary enforcement or by engaging the local authority to undertake enforcement for them, they all said yes.

The clear signal from that is that, whether the car park owners provide enforcement themselves with the kind of flexibility that they want, or whether they get the local authority to enforce their parking regime—decriminalised or otherwise—the disabled parking bays should not be abused and they should be enforced, which is the net effect that I want to achieve. I do not much care whether the private car park owner or the local authority does the enforcement, as long as it is done.

David McLetchie: You believe that it would be better to have a local authority that would be required to give a nudge doing so, as opposed to the current situation of the law in relation to disability discrimination, access to services and so on, whereby a Government body reminds car park owners that they have responsibilities under the DDA and that they should do something about them.

Jackie Baillie: Part III of the DDA, on the provision of access to goods, facilities and services, would obviously cover it. However, when someone seeks planning permission for a new development, should they, as a matter of good practice, engage in a dialogue about disabled parking and making it enforceable? Of course they should. It is about joined-up government and making things work at a local level. I do not regard the bill’s proposals as an additional burden. I believe that they are about encouragement. We must acknowledge that the outcome that we seek is not about putting additional pressures or duties on people; it is about encouraging them to do what should be best practice. Indeed, some in the field already do that.

John Wilson: I have an additional point on that. David McLetchie is trying to make an important distinction about the provision of car parking spaces in supermarkets and other establishments. As Ms Baillie rightly identified, there is a burden under the goods and services provision in part III of the DDA on the owners of car parks to ensure that there is access for disabled users. My understanding is that the supermarkets and other car park owners are accountable in that respect and could be challenged in the courts for not delivering disabled car parking spaces. Therefore, if the bill was enacted as it stands, there would be an additional burden on the owners of those car parks to ensure that there was adequate provision in the car parks for disabled users. There might be an overlap between part III of the DDA and what the bill proposes with regard to supermarkets and other car park owners in city centres.

Jackie Baillie: It is not intended that there should be a legislative overlap. We acknowledge the effect of the provisions in part III of the DDA. John Wilson is right that owners of car parks are accountable for delivery under those provisions.
However, we want to ensure that we do not just leave it to those provisions. We want to encourage, through the local authority, a natural planning process that ensures that disabled car parking spaces are made available. I would argue that there is not a legislative overlap, and that the bill’s provisions would offer support and encouragement to help owners of private car parks meet their duty under part III of the DDA.

Jim Tolson (Dunfermline West) (LD): I will return to the issue of costs, Ms Baillie. I am sure that you are absolutely sincere when you suggest that the figure of £1.7 million that is given is robust. That is perfectly fine, but you, I and millions of other Scots know full well that the projected costs for major public projects in Scotland and elsewhere are often quite different from the end costs, and that is a concern. You are also quite right to point out the significant differences between, for example, Glasgow and Fife. I would like to know, I am sure that the committee would like to know, and it is important for the Parliament to know whether like-for-like comparisons are being made. It is important that we have assurances about the costs, so that we better understand the likely outturn costs and know whether £1.7 million will be enough—if indeed the Government agrees to put that money in to cover the costs.

I am sure that you are aware that local authorities are concerned that any burden over and above that will fall on them. You have partly agreed that that will be the case both for the initial costs in relation to existing parking places and particularly for the on-going costs in relation to new parking places that will be designated in the coming years. I ask you to consider carefully whether your costings really are robust, or whether they are flexible.

Mr McLetchie mentioned the large private car parks, but I ask you to consider the small private car parks. Plumbers, bakers and hairdressers might not have the financial ability to take part in some of the larger schemes that large supermarkets can, and they might also feel that the burden of making adequate provision under the local authority could be fairly significant for a small business. How do you think that small businesses will cope if the bill is enacted?

The committee has taken a significant amount of evidence during the past weeks. However, some people believe that, even though it might be significant for a small number of people, the bill will have a minimal impact in the Scottish context, and that the advisory bays are perfectly suitable. Several people have also expressed their concern at the expense—I have relayed that to you today—and at the reels of red tape that could be created, as there seem to be major disparities in the administrative and cost burdens from one local authority to another. We have to look at that more carefully and make sure that we tie down the facts more closely before the bill moves on in the Parliament.

Jackie Baillie: I will deal with those points in turn.

When we arrived at the figure of £1.7 million in the financial memorandum, we acknowledged—and I still acknowledge—that it contains a margin of uncertainty. I would like to be able to give you the absolute assurances that you are seeking, but I suspect that neither local government nor the minister could do that. There are wide variations in practice and costing in the local authorities across Scotland. The Government talks to COSLA regularly and we have gone one better by trying to speak to each of the 32 local authorities, although the information that has come back is a bit inconsistent. The Government is right not to offer a blank cheque and to want to look at the variations between local authorities, and I encourage it to do so.

However, it is not for me as the member in charge of the bill to prove the accuracy of the figures; it is for me to prove that I have used a reasonable method in arriving at a calculation of a figure that stands up to scrutiny in the light of day. Mr Tolson does not doubt my sincerity; I do not doubt Fife Council’s sincerity when it says that the costs are £119 per bay. As someone who is interested in efficiency, whether it be at national or local government level, I am slightly troubled that there are such disparities in the costs. Lessons need to be learned, and there might well be an easier way of doing things. I would welcome it if the Government opened a dialogue with COSLA, as it does on many occasions, to consider the details of the bill.

I hear exactly what Mr Tolson is saying about plumbers, hairdressers and other small businesses. However, thinking about my local town, I would say that very few plumbers and hairdressers have bespoke car parks.

Jim Tolson: I know quite a few who do.

Jackie Baillie: That is interesting. I know that some have car parking spaces for their employees but not for the public. We are trying to encourage them to make provision, but there is no requirement on them to do so. I am also keen that local authorities are able to recover a degree of the costs. It may well be difficult to make provision in some smaller car parks for financial reasons. Of course, part III of the DDA applies, and people need to fulfil their duties under that legislation. My bill does not force them to make provision but encourages them and provides an opportunity and a mechanism through the local authority.
Finally, you talked about the expense. Although £1.7 million might be a huge amount to the ordinary person in the street, I do not think that it is significant as a percentage of the local authority budget, never mind as a percentage of the Scottish Government's budget. I have explained how I think the costs can be spread over three years, which is important in relation to local government planning. I do not agree that the bill will create a huge administrative burden or is overly bureaucratic. As somebody who used to work in local government, I am always keen to reduce bureaucracy.

I remind the committee that the disability equality duty applies and that local government has to consider how to meet that duty. By happy coincidence, the bill will help it to do that. The process in the bill is no different from the TRO process that local government is required to carry out at present, except in relation to signage and enforcement.

Jim Tolson: That is helpful. I just hope that, if and when the bill proceeds, I am proved wrong and you are proved right. It is important that we understand the impact on small businesses, on individuals and particularly on disabled people themselves. I hope that the detail that we are getting stands the test of time as your bill proceeds. I wish you well.

Jackie Baillie: Thank you.

Mary Mulligan: Good morning. You will appreciate that I am coming late to the bill, but I am learning quickly, particularly from the informed questions that we have heard this morning.

You answered a number of questions on enforcement, but I am happy to give you an opportunity to add anything else that you want to say about that. It seems to me that the bill will raise people's expectations that disabled parking bays will be provided and enforced. One way in which we can ensure that that happens—other than by rigorous enforcement—is to educate people so that they are aware of the bays and what they mean. People will then be able to adhere to the intention of your bill in their own actions. How will the education process be carried forward?

Jackie Baillie: Enforcement strikes at the heart of the matter. We have created a distinction—quite rightly, in my view—between town and city centres, where there is much more proactive enforcement, and residential areas, where traffic wardens and police officers do not patrol each day. In that way, we will target the places where abuse is most likely to happen. Far be it from me to point out the number of traffic wardens in Glasgow or Edinburgh, but I seem to find one on every street corner. That is right and proper, but given that there is no shortage of them, putting a parking ticket on a car that has overstayed its welcome at a meter is not substantially different from giving a parking ticket to somebody who has parked in a disabled parking bay, so I believe that the proposal can be accommodated within existing resources.

I like the quote from the Glasgow Centre for Inclusive Living the best, because it makes it clear that disabled people are not unrealistic and do not expect immediate enforcement outside their homes. It states:

"Although the Bill will not change the current system of parking enforcement, the fact that all relevant parking places are designated enforceable, with attendant penalties, will lead, hopefully, to a reduction in the misuse of these places once this fact is more widely publicised."

That brings me neatly to the second matter that you raised. I anticipate that the education or publicity will operate at a number of levels. I have no doubt that the publicity about the bill has already made a positive contribution to changes on the ground and people's expectations. I also believe that local authorities will want to advertise it in their local area, using their own newspapers. They do not have to do anything new such as take out adverts, as they already have channels of communication and it is proper that they use them for issues such as this.

Many of the disability groups that operate in the field will advertise the legislation, to ensure that people know about it. I have made it clear that I would positively welcome the Scottish Government doing something. It has an advertising budget that has promoted a number of social aspects of government and the delivery of services over the years, so I look to it to run an advertising campaign.

I have always maintained that the enforcement effort is needed in the initial years after the legislation comes into effect, as thereafter people will become used to the fact that the bays are enforceable and that there will be a penalty if they park in them inappropriately. The majority of sensible drivers do not have such deep pockets that they would want to continue abusing disabled parking bays.

Mary Mulligan: I appreciate your response on education. I hope that each of those avenues will be taken up, because they can be effective. I am interested in your original point about enforcement. There are four towns in my constituency, one of which I know has one traffic warden for a couple of days a week—although we are never sure which couple of days it will be—so I am aware of the challenges that are faced. It is clear that there is a need to balance enforcement...
with education to get the message across, and I hope that that will be successful.

Jackie Baillie: It certainly can be—I am thinking principally of two things. Asda said in its evidence to the committee that it employs Town and City Parking Ltd to patrol its stores for as little as 12 hours per month per store, but that is on a reactive basis. The company targets hot spots and moves from store to store, just as wardens could move from town to town, provided that they are not always in the same place at the same time. That seems to be particularly effective.

I come to the discussion—this is how the bill came about—from the position of seeing a neighbour deliberately abusing a disabled parking space because he happened to have fallen out with another neighbour. To cut a long story short, I contacted the police and the council, but there was nothing that they could do because the space was an advisory bay. I put the neighbour’s face on the front page of my local newspaper for two weeks running, but he was prepared to do nothing to change his behaviour. We need enforceable bays—in residential areas in that case—because we need the power to stop that kind of deliberate abuse.

The Convener: Thank you. That concludes our questions. In relation to the exchange with David McLetchie about reserved and devolved matters, the committee will write to the minister to seek clarification.
ANNEXE E: OTHER WRITTEN EVIDENCE

SUBMISSION FROM ABERDEENSHIRE COUNCIL

1. Aberdeenshire is a very rural area with a mix of larger towns and small villages. The larger towns typically have formal on-street waiting restrictions and off-street “Pay & Display” car parks within the town centres. The on-street waiting restrictions generally include disabled parking spaces that are enforced by Grampian Police; the off-street car parks include disabled parking spaces that are enforced by the Council’s car park operatives. Aberdeenshire Council, like the majority of Council’s, is not subject to decriminalised parking. The villages frequently don’t have any formal on-street waiting restrictions or off-street “Pay & Display” car parks. However, it should be noted that advisory parking spaces exist within both larger towns and small villages. These advisory disabled spaces are provided on the public road adjacent to the home of a disabled resident who has applied for a reserved space and who complies with the relevant criteria.

2. In principle, Aberdeenshire Council does not have a problem with on-street and off-street disabled parking spaces being subject to a formal traffic order that can be legally enforced. However, in practice, there are some fundamental problems with the introduction of a traffic order for reserved spaces for disabled residents. For example, if a disabled resident presently applies for a reserved on-street space outside his/her home, it can take up to six weeks to undertake the assessment and confirm whether or not a reserved space (advisory) is justified. In future, if the reserved space is to be subject to a formal traffic order then it could easily take an additional six months to undertake the required procedures before a space could be provided. This timescale would be totally unacceptable to the resident. In our smaller villages, where there might currently be no formal waiting restrictions, we would have to introduce an order where one presently doesn’t exist, and Grampian Police would be expected to send Traffic Wardens into these villages to enforce a small number of reserved spaces outside some disabled residents’ homes. It is unlikely that the Police will consider this to be a priority without an increase in resources. The present system of providing advisory reserved spaces outside the homes of disabled residents who comply with the relevant criteria has worked well for as long as the system has been in place.

3. Your guidelines indicate that local authorities would be required to contact and seek to negotiate arrangements with owners of, or persons having an interest in, private car parks including supermarkets and out of town retail centres. It is not clear what is meant by “negotiate arrangements”. If it is intended that any disabled spaces within private car parks be enforced by the Council as Road Authority, this could not be done without a change to current legislation, as no powers currently exist that would allow this to be enforced. There would also be significant financial implications in the enforcement of private car parks, unlikely to be recouped through penalties.

4. Your correspondence also sought views on a list of other matters and I would comment as follows:-
   - The policy memorandum was useful but I did not receive a copy of the financial memorandum
   - The financial consequences of the Bill are not at all clear
   - The effects of the Bill on issues such as equal opportunities are not clear
   - I have no comments to make on the consultation the Member carried out prior to the introduction of the Bill.

Ken Morrison
Head of Roads
Aberdeenshire Council

15 July 2008
SUBMISSION FROM ANGUS COUNCIL

1. Angus Council currently provides parking bays under the advisory classification for adults with disabilities, who meet a strict eligibility criteria, to be able to park outside their home. These bays are not enforceable and any holder of a blue badge can park in a designated bay even if they do not meet Angus Council’s eligibility criteria.

2. Therefore, there is general support for making parking bays enforceable to ensure that the person with the assessed need is able to use it. However, it is predicted that the introduction of enforceable parking bays will aggravate neighbour disputes unless there is a public awareness campaign. The public will need to understand the difference between advisory and enforceable bays.

3. If this Bill is introduced it is suggested that a review of every parking bay (and the assessed individual) will need to take place to ensure that the assessed person still meets the eligibility criteria. Assessed individuals may no longer live in the property or may have died. However, before Council’s make bays enforceable this information will be required and procedures established to monitor continued use. This will have major resource implications for Occupational Therapy services and Roads Departments.

4. It is indicated that a temporary advisory bay can be provided while an Order is being promoted. If the Order is not successful presumably the bay will require to be removed. This will in some ways prejudice the proposed Order and may discourage valid objections. Also where an Order is objected to and upheld then the removal of a bay which a person with disabilities may have used for a number of months may be of significant distress to the user.

5. Any Traffic Order relating to the enforcement of individual parking bays would require almost continuous variation as requests for new bays are approved or bays are removed when the person with the assessed need moves house or dies, etc.

6. The Bill will require Local Authorities to identify all existing advisory disabled persons street parking places. The current recording of locations etc. of advisory bays is generally patchy. The identifying of all existing advisory bays and the checking whether each of these bays are still required will have significant resource implications for Local Authorities.

R Peat
Director of Social Work and Health
Angus Council
7 August 2008

SUBMISSION FROM ASSOCIATION OF BRITISH DRIVERS IN SCOTLAND

1. I am a retired Police Officer, having spent most of my service in Traffic Duties including a period of some 7 years in the Strathclyde Police Fixed Penalty Office (albeit some 20 odd years ago). My wife has suffered from Multiple Sclerosis for some 25 years and has possessed a Disabled Persons Badge for around 17 years. I have been diagnosed as suffering from Osteoarthritis of the spine, hips and knees and my own Disabled Persons Badge has been applied for with the support of my General Practitioner. I feel I can comment with some knowledge on the above Bill.

2. The Bill is well presented and covers the situation exceptionally well. I had difficulty establishing how Off-Street Parking was going to be enforced but found reference to that in the accompanying notes.
3. It is essential for the well being of Disabled People that they have space reserved for them close to entrances to their homes, business, shops, shopping malls and Local Authority and other Public Buildings. There is a requirement placed on business and public bodies under EEC Regulation to afford where possible access to Disabled Persons.

4. At the present time there are often insufficient spaces reserved for the Disabled. One tends to speak from local knowledge and for many years I have taken my wife to East Kilbride Town Centre generally parking in the Disabled Parking Bays adjacent to The Plaza and directly above "Birthdays" shop. There is an adjacent lift which takes one down to the shopping area. A number of years ago there were 8 Disabled Bays situated here however when it became fashionable to provide "Mother and Child" Bays this was altered to 4 "Mother and Child" Bays and 4 Disabled Bays. The outcome of this was of course that some Disabled People parked in any available Mother and Child bays – the mothers thought they could operate the system in reverse and the end product is that there is seldom space for ANY Disabled Persons. It should be borne in mind that having a child is not a disability – it is, perhaps, a self inflicted injury!! While most Disabled People would agree that young mothers do require extra space to put infants in vehicles they do not require Bays situated adjacent to entrances.

5. A local Aldi supermarket near to me actually has Mother and Child Bays closer to the entrance than the Disabled Bays!!

6. Sadly in this day and age courtesy and discretion are words which do not apply to our selfish society. So Bays which rely on courtesy and discretion fail miserably. A great many motorists know that the use of the bay is not legally enforceable and take liberties by abusing the use of the bay. I have seen Disabled People retaliate by placing or even sticking a notice to the abuser’s car with a message along the lines of “You have my parking space – would you like my disability to go along with it?” On one occasion, again in East Kilbride, I came across a Disabled Parking Bay with an able bodied man in the process of parking in it. I also saw two Police Officers across the road. I asked them to move the man on so that I might park my car to afford my wife access to a restaurant and was totally taken aback when they refused on the grounds that use of the bay was discretionary. Perhaps a throw back to my old City of Glasgow Police days but to me, at the very least, there was a case of “Behaviour likely to provoke a Breach of the Peace” in the parking of the vehicle and the Police could have used common sense in taking some action. Anything which is unenforceable can and will only lead to argument and trouble. From years of experience I would endorse Baywatch’s findings from their surveys.

7. Disabled People have their pride and my wife, despite now being badly disabled, still refuses to make use of a wheelchair or electric buggy but prefers to use a 4 wheeled walking frame. At times it is heartbreaking to see her struggle to go somewhere while an able bodied person is occupying a Disabled Parking Bay.

8. In short, Ms Baillie’s Bill must be commended for making use of existing legislation and highlighting powers already available to Local Authorities. I would very much doubt if financially it will actually cost anything to implement and would believe, if it were properly enforced, it would wash its face. It will provide better and more available access for Disabled People and hopefully will prevent other drivers, especially mothers with infants, from abusing the system. As far as abuse by apparent Badge Holders of the system is concerned perhaps it would help if the holders photograph appeared on the front of the badge rather than on the back.

I would ask you and indeed plead with you to support this Bill.

John Baird
Administrator
Association of British Drivers in Scotland

12 July 2008
1. The City of Edinburgh Council supports the principles behind the Bill as a way of promoting statutory duties in relation to road traffic and disability equality and welcomes the opportunity to provide evidence.

2. In addition to comment on the specific proposals of this Bill, there are issues that are relevant not just to this proposed legislation, but also apply across a range of existing transport regulations and wider concerns. These concerns relate to:-

- enforcement issues in relation not just to disabled parking, but also to double parking and footway parking
- simplifying signage as a way of reducing costs/improving enforcement and improving the city landscape so that it complements our World Heritage Site status
- a general comment that legislation and regulations, over the course of time, have developed into a complex and layered statutory framework. This framework could benefit from a fresh approach that considered the advantages of simplification.

3. In relation to the proposed legislation, there are concerns about:-

- costs, and whether the total national cost of implementing Designation Orders for all existing advisory disabled persons’ parking places on-street, estimated at £1.7 million, is realistic. Potentially, this figure could be exceeded in Edinburgh alone
- raised expectations, in relation to the enforcement of disabled persons’ parking places that cannot be met from current resources
- an anticipated range of difficulties in terms of resources; identification of all appropriate car parks and willingness of the owners to accept the costs of enforcement.

**On street parking places**

4. There are large numbers of enforceable and advisory disabled persons’ parking spaces in Edinburgh. To make the latter enforceable could only be achieved at a substantial cost and these costs cannot be met without additional funding.

5. Allowing the enforcement of disabled persons’ parking places without the need for signage would cut costs substantially and reduce associated maintenance.

6. The Financial Memorandum states that the local authorities’ enforcement role will be ‘primarily reactive’, but the expectations for proactive enforcement could be driven by publicity regarding new arrangements. These are unlikely to be met using current resources. Realistic costs associated with this Bill need to be identified and how these costs will be met requires further negotiation.

**Off street parking places**

7. The Bill indicates that, every two years, the Council should negotiate with all owners of off street car parks in Edinburgh in regard to making their disabled persons’ parking places enforceable by the local authority. Within Edinburgh, a number of issues have been identified in relation to this proposal:-

- The task of identifying all privately owned car parks, which may not be possible, will involve substantial resources
- Many private operators will not be willing to finance enforcement of their car parks. It is already the case that supermarkets could ask for disabled persons’ parking places to be enforced, but none have done so as they refuse to pay for the service. Placing the onus
on private operators to approach local authorities would be more cost effective

- Given the evidence in the Policy Memorandum of Asda’s success with enforcing disabled parking bays, exploring this precedent could be a positive way forward

- Dealing with offending vehicles in some off-street car parks (such as multi-storey car parks and those with barriers) may not be possible with removal lorries

- Section 11 of the Bill sets outs that each local authority reports annually on their performance with regard to the enforcement of bays. Annual reporting could usefully be extended to private operators providing parking facilities.

Statutory Process

8. The Bill proposes that where a location for a mandatory disabled persons’ parking place has been identified, the statutory process to introduce that bay should be initiated. The Bill also implies that road markings and signs should be provided as soon as possible after the process has been initiated (i.e. before the completion of the legal process) (Disabled Parking (Scotland) Bill Section 9 (1)). This approach clearly pre-judges the outcome of a legal process which involves consultation and allows those with an interest to make comment. The resulting implication is that local authorities are being provided with the power to effectively circumvent a process put in place to protect the rights of the public and this could lead to legal challenges.

Controlled Parking Zones

9. Edinburgh has an extensive area (known as Controlled Parking Zones), primarily in the city centre and its environs, where on-street parking is managed to meet the needs of many different types of user and maximise the number of available parking places. In order to maintain the greatest accessibility, the Council has determined that advisory disabled persons’ parking places were inappropriate within these zones. However, the Council promotes the interests of disabled persons in Controlled Parking Zones by providing exemptions including free permits.

10. With a recently approved Council proposal to transfer a significant proportion of the on-street parking provision to shared-use parking, any requirement to provide mandatory disabled persons’ parking places without any recognition of pre-existing restrictions or arrangements would impact on the overall flexibility of such schemes. Whilst supporting the principles of the Bill to provide disabled persons’ parking, this generic approach could result in under-utilisation of parking capacity in areas of high demand.

Abuse of parking bays and operation of Blue Badge Scheme

11. The level of abuse reported within Edinburgh in relation to current advisory disabled persons’ parking places is relatively low and experience shows that abuse generally takes place where the resident has no outward signs of serious mobility issues. Detailed information about abuse of advisory disabled persons’ parking places is not available because they are not enforced by the local authority.

12. It is the view of this Council that a review of the operation of the disabled persons’ Blue Badge Scheme is required to ensure that limited numbers of disabled persons’ parking places are available to those who really need them. This would underpin the credibility of the scheme and support strong enforcement.

13. The Bill, like much legislation before it, does not completely deal with the misuse of disabled persons’ parking places and does not give any additional powers to local authorities to deal decisively with the problem. The issue is divided between local authorities and off-street organisations with no clear responsibility for either to ensure the Bill achieves its objectives.

14. Currently there is no legislation in Scotland giving Local Authorities additional powers to deal with disabled persons’ blue badge misuse efficiently and effectively. For those local authorities
operating decriminalised parking enforcement, such as Edinburgh, the right to inspect blue badges is limited to Parking Attendants and is contained under Section 73 of the Transport (Scotland) Act. Edinburgh has a dedicated team of disabled persons’ blue badge fraud investigators who have little or no authority/powers to assist them in their role.

15. Investigators have the right to question and caution subjects as long as it is corroborated. It could be a major development if they were granted additional powers such as the power to seize badges found being misused in disabled persons’ parking places. This seizure would inevitably lead to prosecution.

Key Points

- The Bill does not change the system for designating enforceable parking places or the current parking enforcement system. Changes to these regulations, with a view to simplification, would make the Bill more effective in terms of costs and outcomes.
- The proposed costs to implement this legislation have been underestimated.
- The Bill places a duty on every local authority to enter into negotiations with the owners of existing off-street car parks containing disabled persons’ parking places. This proposal could potentially result in using resources to no practical effect. Putting the onus on owners of existing off-street car parks to contact local authorities to undertake disabled parking enforcement would maximise use of resources.
- In relation to Section 7 Disabled off-street parking orders: new development, further clarification is required.
- More rigorous enforcement of the disabled persons’ Blue Badge scheme would strengthen proposals to enforce disabled parking bays.
- Disability Discrimination legislation requires service providers to make ‘reasonable adjustments’ to ensure disabled people can access their services, and requires public bodies to build disability equality into everything that they do. Clarification about costs borne by local authorities and private providers is required.
- Current proposals make enforcement of disabled parking places in private car parks dependent on the owner, with little evidence that they would undertake this responsibility voluntarily. Further discussion about enforcement in private car parks, in line with Asda’s experience at Braehead would be welcome.

Marshall Poulton
Head of Transport
The City of Edinburgh Council

8 August 2008

SUBMISSION FROM DEANNE WARDROPE

1. At a disability conference which I attended, one of the speakers, an MP who was sympathizing with disabled drivers on the abuse of disabled parking bays, told the conference that she only used her mother’s badge while delivering her laundry to her at her flat! More needs to be done to educate people on disability equality.

2. I witnessed at my local authority parking area for elected members and officers that there was a car parked (without a badge) in the space between two parking bays, thus obstructing a wheelchair user from accessing her car. This happened on more than one occasion.

3. An advertising campaign is needed to ensure that everyone, including disabled drivers and their assistants, know what is permitted. I have often been unable to get a parking space because cars with badges are sitting in a disabled bay with the driver at the wheel.
4. Parking bays should be marked out to a standard which actually allows impaired people to use them. So many of them are useless to some people because the hatched section is only on one side or the bay has no hatched area or is too small.

5. Different grades of parking bays may be useful to people such as those who have adapted vehicles which require more space adjacent to the vehicle in order to access it, or having enough space for their vehicle.

6. It is important to consider the positioning of parking bays in relation to buildings, entrances and exits (which are sometimes separate) and access roads. Extra care should be taken when considering sloping sites.

7. Parking at hospitals can be particularly difficult. My local hospital is a new building but only about a dozen disabled spaces are available for visitors, A&E department and out-patient clinics, while there are huge areas of hard and soft landscaping which are obstacles for visually impaired people.

8. My health centre for GP and clinic facilities has four disabled bays which have recently been marked out to an increased size, but they are still not big enough for some disabled people. There is only one disabled space for staff and it has a hatched area on only one side.

9. The health centre is being renovated and scaffolding has been erected in the disabled bays. Two ordinary bays, and the staff disabled bay have been substituted. I cannot use any of them.

10. There needs to be effective reinforcement for the providers of parking to ensure that they provide sufficient numbers of spaces and that they conform to sufficient standards, perhaps by a regulatory body. Policing of the use of the bays needs to be swift and effective in order to be an effective deterrent to those who use and misuse the disabled bays.

11. The Disability Equality Duty (see points 2, 7 and 8 above) could be strengthened and reinforced with regard to disabled parking. Unfortunately, there is no rigorous method of monitoring and enforcement of the DED.

Deanne Wardrope

8 August 2008

SUBMISSION FROM EAST DUNBARTONSHIRE COUNCIL

1. Following your call for views on the Disabled Persons’ Parking Places (Scotland) Bill I would like to advise you of the support of East Dunbartonshire Council for this bill.

2. This bill will benefit all drivers as it will remove advisory bays thus reducing the current level of confusion amongst some drivers as to the status of disabled bays.

3. With proper enforcement the measures contained within SP-Bill 10 will reduce abuse of disabled parking bays and rationalise a very valuable resource for disabled persons.

4. This Council is currently seeking as one of the key aims of East Dunbartonshire’s recent Parking Strategy to maximise the availability of disabled parking spaces and to ensure that these are not abused by other drivers.

5. As such East Dunbartonshire Council support the measures that the Disabled Persons’ Parking Places (Scotland) Bill proposes.
SUBMISSION FROM EAST RENFREWSHIRE COUNCIL

1. Whilst I am generally supportive of the principle of the Bill I do not wish to have a system implemented which unnecessarily burdens this Council service when alternatives are available. Unfortunately the Bill, as it stands, would add significantly to this Service’s workload for probably very little gain by the disabled drivers that it is trying to assist.

2. Within East Renfrewshire all but 2 disabled persons on street parking spaces are advisory spaces. Records showing the location of these advisory spaces have only been kept by this authority for 12 years. Therefore a specific exercise will be required to visit every street in East Renfrewshire to ascertain whether a disabled persons parking space has been marked.

3. At the present time advisory disabled persons spaces are marked in response to applications from Blue Badge Holders who meet certain criteria but it is stressed to the applicant that the bay is not for their exclusive use and may be used by any blue badge holder. Non Blue Badge holders have generally accepted these arrangements and we have received very few complaints.

4. The proposed restriction on doing this will mean that instead of waiting a matter of weeks to have the bay marked it will take months before the TRO is made. In addition the bay will have to be described in the Order so the flexibility to move the bay for some unforeseen circumstance arising will be very limited and the marking of the bay will be open to public objection which is not presently the case.

5. Traffic Regulation Orders are legal documents and the procedures that have to be adhered to means that they can take 9 months minimum to promote and as they are open to public objection can result in the PLI having to be called. This will impact on the staff resources available to carry out this work and will have a cost implication, as each Order could range from £600 to £1500 to promote, as they must be advertised.

6. Many of the applications we receive are from residents who find it impossible to park near their house due to the volume of cars. The installation of disabled bays is often met with vocal objections from able-bodied residents. If immediate neighbours were to be consulted then objections would be almost guaranteed, would have to be considered as part of the TRO process and may result in the marking of the bay being refused. This would also escalate the cost to the highest end of the range.

7. It should be noted that the Police would remain the enforcing authority under the proposed arrangements. However, where abuse of disabled bays takes place, this will continue regardless of them being enforceable through the TRO due to the lack of Police enforcement resources.

8. The Department for Transport has recognised that it is time consuming to promote TROs over and over again. Therefore It has been suggested by us and a number of other authorities that rather than requiring us to promote TROs we are permitted to sign and line the disabled persons parking bays in a manner that meets the requirements of Section 36 of the Road Traffic Act 1988. A precedent for this has already been established through the use of lining and signing to control bus stop clearways. Here reference is made to Section 10(1) of the Traffic Signs Regulations and General Directions 2002 and the Road Traffic Act 1988 Section 36 which negates the requirement to promote traffic regulation orders with the associated consultation, inquiries and irresolvable objection issues.

9. The audit of off street car parks that we will be required to carry out will not be a one-off as suggested by the information supporting the Bill if we have to also keep track of all privately operated off street car parking spaces; especially if there has to be renegotiation every 2 years.

10. Enforceable disabled spaces in private car parks could be workable but only if the operators are willing to police it themselves and not the Local Authority or Police Force. Private car park operators already have the ability to enforce parking regulations within their car parks but choose not to take up this option.
11. It would be ultra vires to impose any condition to control disabled persons parking on planning consents as the legislation states that the conditions must not take the place or pre-empt other more appropriate legislation.

Joseph Devine
Head of Roads Planning & Transportation Services
East Renfrewshire Council
8 August 2008

SUBMISSION FROM ECAS

1. This is a response, on behalf of Ecas Ltd, to the call for evidence on the Disabled Persons’ Parking Places (Scotland) Bill. Ecas is an Edinburgh charity which has been representing the interests of disabled people since 1902, provides a number of grants and services, and has specific research and campaigns expertise in the field of transport.

2. Ecas welcomes the publication of the Bill and commends Jackie Baillie MSP for introducing the Bill. We agree with the intention of the Bill to make disabled persons’ parking places legally enforceable, preventing the misuse of such parking places by those not entitled to use them.

3. Ecas is well aware of the reported widespread abuse of disabled parking places by those who do not qualify to use them. We believe that by making such parking places legally enforceable the level of misuse is likely to be reduced, freeing up spaces for disabled users who need them most. Section 1 of the Bill helps to further this aim by providing a duty that: “A local authority must promote proper use of parking places in its area that are designated for use only by disabled persons’ vehicles”.

4. We also believe that it is necessary to ensure that there is accurate and frequent reporting on the performance of local authorities in the provision of parking places. Section 11 of the Bill provides that local authorities must prepare annual reports on the provision of disabled parking places; and section 12 requires the Scottish Ministers to publish an annual report on how well local authorities have performed. We believe this is a sensible mechanism which should allow disabled people, and those who represent their interests, to monitor the provision of parking places.

5. However, Ecas has some concerns that, under the Bill, disabled persons’ parking places should be used exclusively by blue badge holders. There are some circumstances in which individuals may have severe mobility impairments which are insufficiently long term to satisfy the criteria for a blue badge. For example, an individual might have a broken leg, which prevents her from walking without support for a period less than twelve months (making her ineligible for a blue badge). In these circumstances, it might seem reasonable to allow her to make use of a free disabled persons’ parking place. We therefore suggest that the Bill should encourage an element of discretion on the part of those responsible for enforcing the parking places.

6. Ecas’ clients often report individually that it is the misuse of advisory parking places on private land which acts as the main barrier to making car journeys. The anecdotal evidence is that such parking places are routinely misused, making it very hard for disabled drivers to predict, before arrival, that they will be able to park safely and conveniently. The measures in the Bill which address this widespread problem are very welcome.

7. In our view, the unenforceability of advisory disabled off-street parking places on private land is the key issue for the Bill to address. In order to successfully combat misuse there must be a strong mechanism for encouraging both the owners of premises and also local authority
officers to proactively ensure that the majority of advisory disabled parking places are converted to enforceable parking places, by means of designation orders. (We do accept, however, that this may not be possible in a minority of cases where traffic flow and vehicle access may be at issue.)

8. The Bill provides that even if a local authority has sought unsuccessfully to make arrangements for the provision of an enforceable off-street parking place, then it still has ongoing duties to renew its efforts to make such arrangements after the ‘relevant period’. Section 8(7) says the ‘relevant period’ is the period of two years beginning with the date on which the authority last concluded that it was unable to make such arrangements. Ecas would suggest that the relevant period should be reduced to one year in order to provide more sustained encouragement to premises’ owners to agree to the local authority designating the parking place as enforceable. This period would also correlate with the requirement to produce annual reports, making it easier to monitor annual changes.

9. We also suggest that enforceable parking places should be fully marked and signposted to provide clarity to all road users and to deter potential misuse. It should be explicitly stated at each site that the parking place is enforceable, rather than advisory, making it clear that those abusing the designation are breaking the law. Maximum penalties for misuse should be clearly displayed. The impact of this legislation should be clear to all in order to achieve a culture of wide compliance.

Samuel Condry
Research and Campaigning Officer
Ecas
5 August 2008

SUBMISSION FROM FALKIRK COUNCIL

1. Development Services administers disabled spaces on behalf of Falkirk Council. Spaces provided in regulated car parks are provided under Section 35 of the Road Traffic Regulation Act. Street disabled spaces are only provided under Section 45 of the Road Traffic Regulation Act 1984. Falkirk Council does not currently provide advisory street disabled spaces since this is not permitted in accordance with the Traffic Signs Regulations and General Directions 2002.

2. In principle, Development Services welcomes the intentions expressed in the Bill. Effective control of Off-street Disabled Persons’ Parking Places (hereinafter referred to as ‘disabled spaces’) is much needed in non-regulated car parks.

3. There are a number of practical issues which require to be addressed.

Comments regarding general issues

4. The word ‘promote’ in section 1 of the Bill is vague in terms of the duties and responsibilities it places on local authorities. A definition is required.

Comments regarding Off-street issues

5. May it be assumed that, if car park owners had set up or set up control regimes for their disabled spaces, the Council would have no right to comment on the efficacy of such schemes and would, in any case be absolved from initial negotiations, and further negotiations on the two-yearly basis?
6. There appears to be nothing in the Bill to deal with the situation where a car park owner agrees for the disabled spaces to be regulated but refuses to meet any (reasonable) costs of the scheme. Is the Council obliged to go ahead without any recompense?

7. What costs are referred to in any case? Set-up costs including those for the Order? And ‘running’ costs for attendance, transport, back office administration of the scheme itself and the administration costs of reaching agreements, setting up invoices, receiving payments etc?

8. Guidance on elements to be charged if not actual charges is required to allow a national charging system. Otherwise car park owners like supermarkets which have a presence in virtually every Council area will play one off against the others as a time waster or to get a better deal. Again much Council staff time could be wasted across Scotland.

9. A national form of legal agreement is probably necessary to allow the Councils to be assured that all legal issues are covered and, again, to avoid differing agreements springing up across the country.

10. In this connection, it is essential that by agreeing to carry out the work involved no responsibility whatsoever for the parking space whether in respect of maintenance or of any other aspect or the vehicles or persons using them devolves on the Council or may be implied to do so.

11. In the experience of this Council, the costs of promoting an Order are much greater than the two quoted in the briefing papers.

12. If car park owners are paying the Council for the service or, at least, meeting costs whatever they are, does the Council retain income from Excess Charge Notices arising from these car parks or does the value require to be remitted back to the owners?

13. There is a serious staffing issue. It is estimated that, in Falkirk, with a current Car Park Attendant staff of five with one van for transport to remote Council car parks, at least four more attendants and two more vans would be required to ensure a perhaps twice or three times weekly attendance at each of the car parks which may fall into the scheme. Even this frequency is unsatisfactory both from the point of view of the Council and, presumably, from the point of view of those car park owners who adopt the scheme enthusiastically.

14. The minimum gross costs to the Council of these additional attendants and vans would therefore be in the order of £100,000 per annum. Such additional costs would not be recovered from the scheme ECN income. The implications for costs to be recovered from car park owners are such that few are likely to enter into any agreements.

15. There could be difficulties with the time scales proposed. If agreements are hard to come by, time could drag on before the Council is fully aware which car parks require to be covered for disabled space supervision. Only then could it make an Order as it is not contemplated that individual Orders will be entered into due to costs and staff resources required to promote multiple Orders. Until that single Order has passed all its stages and is effectively made (minimum of eight weeks for the process alone), the Council will not be certain that it would have a definite requirement for the additional attendants. Therefore, only then could the process of recruitment begin. The result is that actual implementing the Act could be more than twelve months from commencement.

16. Indeed, to complicate the foregoing and to extend the necessary time required to implement, only when the Act’s Commencement Order came through could the Council move to free up or, worse, acquire if necessary, the management staff to lead the fairly extensive setting up programme and the considerable negotiations envisaged.

17. Are non-Council commercial car parks covered by the Act? It is reported that certain private, barriered, pay-on-foot car parks in Falkirk do not adequately supervise disabled spaces.
Comments regarding street issues

18. Falkirk Council’s Development Services believes the provisions of section 9 would lead to confusion over which bays are covered by a TRO and which are not. Advisory street parking places are not permitted in the TSRGD. This would make the enforcement of all disabled street parking places a difficult prospect for the Police and Traffic Wardens.

19. Development Services believes it a necessity that street parking places be provided only for persons that hold and display in a conspicuous place, a disabled persons’ badge. Development Services believes that criteria, other than the requirement to hold a disabled persons’ badge, must also form part of the considerations when deciding if a suitable street parking place can be identified, for example access to off-street parking should be considered. Development Services believes that these criteria should not be overly onerous and be set by each local authority in light of those issues that are relevant in the area.

20. Development Services does not agree with the requirement to provide an annual report on its performance with respect to its duties under this Bill. The Bill, if ratified, will constitute one of many statutory documents that places duties and responsibilities upon the Council and should be treated as any other Act.

21. Development Services agree with the requirement to keep under review the provision of each street parking place. It is suggested that each parking place should be reviewed every 3 years in line with the current replacement period of a disabled persons’ badge.

Robert McMaster
Acting Head of Roads and Design
Falkirk Council
8 August 2008

SUBMISSION FROM GLASGOW CENTRE FOR INCLUSIVE LIVING

1. We consider that it is essential that all disabled persons parking places, both on-street and off-street, are made enforceable to enable disabled people to have equality of access to the built environment.

2. Parking places that are designed for disabled people are larger than standard parking places as many disabled people need to be able to open car doors to their full extent to allow easy egress and access. This is necessary as a result of limitations to an individual’s movement or to allow a wheelchair to be taken from the interior of the car and placed on the ground. In addition, some disabled people use wheelchair-accessible vehicles with side or rear mounted lifts or ramps and these also require larger parking spaces.

3. In addition, there is a requirement that these parking places are located close to the entrance to a building, usually within 50 metres, to avoid disabled people having to travel a distance through a busy car park. This is particularly important for those who use walking aids and find it difficult to travel greater distances.

4. Unfortunately, the location of these parking places close to a building tends to attract those who are perfectly capable of using a standard space but are too lazy to walk the greater distance to the building. The excuses given are usually a variation of the following – “I didn’t know it was a disabled space” or “I’ll just be a minute”.

5. There is also a certain type of person who knows what they are doing but just doesn’t care. Unfortunately, with this type of person the only method that is effective is to penalise them and this cannot be done when the parking space is advisory.
6. As a result of the specific design of these parking spaces any abuse by people who do not have a Blue Badge has a considerable impact on disabled people. If they cannot access one of these spaces then they do not have the option of using a standard space but have to cancel their trip and return home. This can have financial implications, such as the cost of missing a dental appointment.

7. A further factor that tends to be overlooked is the number of disabled people who have parking spaces outside their homes and who are also affected by the issues raised above. A local authority can provide a parking space on the public highway outside a disabled person’s home but if the space is provided on an advisory basis then it has no protection from abuse. One disabled person in Glasgow found that the parking space outside his house was being used by a local driving school.

8. The situation becomes even more of a problem at evenings and weekends. It is almost impossible to find on-street parking in many towns and cities in the evening, not because of a lack of suitable parking, but as a result of the selfish attitude of many non-disabled people. The result is that disabled people can find it difficult to enjoy a social life, to go to the cinema, to the theatre, to a concert or go out for a meal.

9. Similar difficulties arise in both public and private car parks and often staff members are unwilling to intervene in such situations. Ultimately, it is left to the disabled person to try and deal with the matter, with the attendant risk of being verbally, or physically, abused by the offending party. We have even encountered a case where car park staff members were discouraged by their employer from dealing with drivers who regularly park in designated places and who do not display a Blue Badge. This attitude hardly encourages disabled people to put their faith in the current system.

10. Although the Bill will not change the current system of parking enforcement, the fact that all relevant parking places are designated enforceable, with attendant penalties, will lead, hopefully, to a reduction in the misuse of these places one this fact is more widely publicised.

Explanatory Note

11. Glasgow Centre for Inclusive Living (GCIL) provides information, advice and training so that disabled people can organise their own lives and any support they need for themselves. We strongly believe that disability is caused by the barriers that people with impairments meet in everyday life. This belief is central to everything that we do.

12. Based in Bridgeton, Glasgow our team of around 30 staff provides a wide range of services for disabled people both to improve everyday living and to enable full integration into society. A Board of Directors, drawn from members, manages GCIL. We are genuinely user-led and three quarters of our staff and directors are disabled people.

13. GCIL provides a variety of services to directly support disabled people in Glasgow. This work is based on the principle that the user chooses the support they want rather than having to take what is offered to them and includes: information, advice and assistance for people managing their own support arrangements using direct payments; training for personal assistants and their employers; housing information, advice and advocacy; and employment and training opportunities for disabled people. Services are funded through a mixture of contracts, short-term grants and self-generated funds.

Donald Anderson
Inclusive Living Adviser & Information Co-ordinator
Glasgow Centre for Inclusive Living

8 August 2008
SUBMISSION FROM THE LAW SOCIETY OF SCOTLAND

1. The Mental Health and Disability Sub-Committee of the Law Society of Scotland has reviewed the provisions of the Disabled Persons’ Parking Places (Scotland) Bill and would like to express its support for the Bill.

2. The Committee recognises the challenges faced by disabled people if disabled parking is inadequate or poorly enforced. We would therefore particularly like to express our support for measures that will impose duties on local authorities to ensure disabled parking spaces are monitored, are enforceable and their proper use is promoted.

Erin Drover
Law Reform Assistant
The Law Society of Scotland

6 August 2008

SUBMISSION FROM MIDLOTHIAN COUNCIL

1. Within the Midlothian Council area only the Police and Traffic Wardens currently have the authority to enforce disabled parking and only where the disabled parking bay is covered by Traffic Regulation Order.

2. If all disabled parking bays were to be made enforceable by Traffic Order this would place a potentially disproportionate burden on the police. The financial implications to Midlothian Council would include the cost of processing the Traffic Orders for existing bays and new bay requests, the cost of new signage if the current regulations remain and the cost of day to day operation.

3. The estimated cost of legalising our current 1000+ non-enforceable disabled bays including signage is estimated to be about £250,000 including the cost of surveying, preparation of plans and the statutory legal process. This excludes the cost of dealing with potential objections to any Traffic Orders.

To sum up:

- It is unlikely the Council in the current financial climate would be able to legalise its non enforceable disabled bays without additional funding.

- The cost of laying the disabled sign and marking as prescribed in the TSRGD is substantially more than the current cost of laying just a parking bay with a disabled symbol, ie £250 as opposed to £40. Additional funding would have to be made available to take account of this.

- Enforcement of the new enforceable bays may not be as successful as is anticipated given the priorities of the Police and our 3 Traffic Wardens. The majority of parking problems in residential areas tend to occur in the evening when the Police have other priorities. It is essential that the enforcement issue is clarified and an enforcement regime established.

Mike Berry
Consultant Engineer
Roads Services
Midlothian Council
14 August 2008

SUBMISSION FROM NCH SCOTLAND

1. NCH Scotland notes that the Local Government and Communities Committee is currently considering Jackie Baillie MSP’s Private Members’ Bill, the Disabled Persons’ Parking Places (Scotland) Bill. I am writing to express NCH Scotland’s support for the proposed legislation.

2. From our experience of working with children and young people with disabilities and their families across Scotland, we are fully aware of the importance of disabled people having better access to parking. We believe that the Disabled Persons’ Parking Places (Scotland) Bill could, if passed by the Scottish Parliament, make a significant contribution to help enable disabled people who drive to lead more autonomous and independent lives. The provisions of the Bill will also assist organisations holding Blue Badges on the basis of their work with children and young people with disabilities, which is to be welcomed.

3. NCH Scotland hopes that the Bill will attract cross party support, and that sufficient parliamentary time is made available to ensure the legislation is passed.

SUBMISSION FROM NORTH AYRSHIRE COUNCIL

1. I would confirm that North Ayrshire Council supports the general principle of the Bill which would make all disabled persons parking bays legally enforceable so that anyone caught abusing these bays could be fined. The proposals contained in the Bill would make a considerable impact in responding to concerns raised by disabled drivers and would be very much welcomed by disabled people in North Ayrshire.

2. I hope that the attached comments are of assistance and can be considered during the present consultation process.

R Small
Head of Infrastructure & Design Services
North Ayrshire Council

7 August 2008

SUBMISSION FROM PERTH AND KINROSS COUNCIL

1. Scottish Local Authorities have been invited to submit comments on the Disabled Persons’ Parking Places (Scotland) Bill which is currently at an early stage of consideration by the Scottish Parliament. Perth and Kinross Council (PKC) commented on proposals at an early stage in the preparation of the Bill. The following are comments by PKC on the Draft Bill.

2. As far as council controlled car parking is concerned the Draft Bill requires Local Authorities to undertake an audit of all on-street and off-street disabled persons’ parking places and promote Traffic Regulation Orders (TROs) to convert all advisory disabled persons’ parking places into enforceable parking places.

3. In the PKC area the main issue in relation to council controlled parking is the advisory residential bays at people’s homes. All but a very small number of town centre on-street bays and all council controlled off-street bays are already covered by TROs.

4. Councils will be required to compile a register of existing bays, determine if the bays are still required, i.e. that the person who requested the bays still resides at that location or that the bay...
is being used by another legitimate user and then promote a TRO to cover the bay. There will also be an ongoing requirement to deal with new requests.

5. Although there is no comprehensive up to date record available it is estimated that there are currently over 300 advisory residential bays in the PKC area. However, the number of requests for these bays has risen considerably recently as pressure on parking areas in residential areas has increased. A total of 43 bays were provided last year compared with only 11 in the previous year.

6. The promotion of TROs for disability bays will raise an expectation that these bays will be patrolled and enforced on a regular basis. Those for whom bays have been provided will expect an instant response to the abuse of “their bay”. By their nature most of the advisory disability bays are in residential areas where there are little or no other restrictions and as a result these areas are not on any current rota for enforcement.

7. PKC operates a Decriminalised Parking Enforcement system by the use of an in-house team of Parking Attendants (PAs). The number of PAs which can be employed is limited by the financial scale of the operation and as a result the level of enforcement which can be achieved is also limited. Due to the limited enforcement resources available and the relative remoteness of the bays it will be very difficult to provide any significant level of enforcement. Time spent on this task would impact on the ability of the Parking Service to patrol other more strategic locations.

8. The Bill appears to be very prescriptive in terms of timescales for various actions to be taken by councils and in general terms the timescales given in the Bill are considered to be unrealistically short. Several tasks have to be carried out within 3 months and this will be very challenging, if not impossible.

9. Section 6 requires councils to start TRO procedures for disability bays within 12 months of the Act coming into force. This means that councils will have 12 months to carry out surveys, identify and assess all disability bays and submit a report to Committee for approval as the first step in the TRO procedure. This timescale will be very challenging for council controlled car parking but the requirement to start negotiations with the owners of all privately owned car parks within the same timescale is considered to be totally unrealistic.

10. In general terms the Bill appears to lack understanding of the enormity of the implications for local authorities with regard to time, resources, costs and enforcement. It is very unlikely that many councils will be able to afford to recruit additional staff to deal with the requirements of this Bill. As a result the tasks will have to be carried out by existing staff as an addition to their existing workload.

11. The Bill does seem to contradict itself by stating that no further advisory bays must be provided but then going on to say that temporary advisory bays must be provided until such time as the bay can be included in a TRO. This seems to go against the whole ethos of the Bill which is to ensure that all bays are enforceable. This will lead to a continuation of the current confusion with regard to enforcement of the bays and make the local authority appear to be inconsistent and unfair in its enforcement of these bays.

12. There will be advisory bays in existence for up to a year and it may be that if objections are received during the TRO procedure the bay may have to be removed involving further expenditure to the council and angst to the disabled person.

13. An alternative and apparently simpler method of legalising all on-street disability bays would be to give the appropriate road markings the same status as Bus Stop Clearway markings in the Traffic Signs Regulations and General Directions 2002. This would allow councils to quickly provide legally enforceable bays at peoples homes without having to go through the TRO procedure.

14. The Bill does not appear to be particularly clear on how councils are to identify which private car parks they should be looking to negotiate enforcement agreements for and it is considered
that the scale of the task may have been underestimated. The time and resources needed to complete this requirement is impossible to gauge and attempting to contact all owners/people having an interest in private car parks, could take several years rather than the one year allowed.

15. Whilst the larger car parks at supermarkets and retail parks are relatively easy to identify there are many smaller private car parks at offices and businesses where one or more bays have been marked for use by disabled persons. It is assumed that these are also covered by the Bill.

16. It appears that councils are expected to send staff out to walk the streets to seek out private car parks: determine if there are any disabled parking places; determine who the owners are (sometimes no mean feat); determine if the public have access to the car park, enter into negotiations to take over enforcement of the disabled space(s) and either promote a TRO or go back to the owners every two years to try to reach an agreement. If an agreement is reached there will be the ongoing enforcement of the bay(s) to consider.

17. All of the above and in particular the initial identification of car parks and the establishment of ownership, will be extremely time consuming for councils.

18. The Bill appears to ignore the fact that many private car parks at supermarkets, retail parks etc. are already patrolled and enforced by private parking enforcement companies, working under agreements with the owners of the car parks. The Bill would appear to require councils to continue to approach the owners every two years to try to persuade them to allow the council to take over the control of at least the disabled spaces within their car parks despite the fact these are already being enforced, presumably to a level acceptable to the management.

19. In a similar way the Bill does not appear to explain how privately owned public car parks currently being operated by private enforcement companies are to be dealt with. Disability spaces within these car parks are already being enforced with Civil Penalties but the Bill would again appear to require councils to enter into negotiations to try to persuade the owners to allow the council to enforce the disability bays under a TRO.

20. The requirement for councils to prepare an annual report to the Scottish Ministers appears to add a time consuming and unnecessary layer of bureaucracy to what is already going to be a very time consuming exercise for councils. It appears that the Scottish Ministers do not trust councils to implement the requirements of the Bill and are asking for annual reports as a means of checking whether or not the councils are carrying out their responsibilities as set out in the legislation.

21. The Notes to the Bill try to give a view on the financial implications for councils. However, this is based on examples from two councils which give widely differing views on costs. At the end of the day the costs will obviously vary from council to council and depend on a multitude of variables particular to each council. Even if the estimated cost of £1.7million pounds for the whole country is correct this is a not inconsiderable sum of money for councils to find from already stretched budgets.

22. The assumption that councils who operate DPE will be able fund the various requirement from the profits on their DPE accounts is naïve as all councils will have already have committed this funding in setting their budgets.

23. The requirement to promote TROs for disability bays in car parks provided as part of new developments will be yet another issue to be dealt with during the processing of a Planning Application and could impact on targets for dealing with applications.

24. The requirement to start the TRO procedure for disability bays in a new car park within 3 months of planning permission is at odds with the 5 years which a developer has to start a development. This could involve councils in the promotion of TROs for sites which are not constructed for several years or even abandoned.
25. In summary this Bill appears to be a heavy handed effort to force councils to deal with the issue of disabled persons’ parking places. As far as council controlled parking is concerned it would seem that a directive from the Scottish Parliament advising all councils that advisory disability bays should not be provided and that all council controlled disability bays should be included in TROs within a fixed period of say 5 years would probably achieve the same result but within a more manageable timescale for most councils.

26. The issue of bays in private car parks is more difficult to deal with but getting councils to negotiate agreements with car park owners on a one by one basis will be very cumbersome and time consuming. Perhaps it would be better to put the onus for enforcement directly on the owners of the car parks possibly, through disability legislation. Councils are not the only bodies with powers to enforce parking as there are many private companies who successfully enforce in privately owned car parks using Civil Penalties.

Frank Will
Senior Engineer Parking Policy
Traffic and Road Safety Group.
Perth and Kinross Council
8th August 2008

SUBMISSION FROM PAMIS

1. PAMIS supports families and carers of people with profound and multiple learning disabilities. Disabled parking is one of the most uppermost concerns of the carers we support.

2. As an organisation we totally support the Disabled Persons’ Parking Places (Scotland) Bill.

3. It is very important that the confusion currently in place is resolved. A straightforward, uniform system throughout Scotland is imperative.

4. We fully support that both disabled parking spaces on and off road are legally enforceable.

5. No mention is made in the proposal on the size of the parking bays. This may be in other legislation, but the bays need to accommodate not only the vehicle and the ramp but sufficient space to come off the ramp at the bottom. Many of our carers use larger vehicles to accommodate wheelchairs and medical equipment and access can be either from the side of the vehicle or at the back. Problems occur when other cars park too close to the back of the vehicle.

Policy and Financial Memorandums:

- How Helpful do you find these documents? – These documents are extremely helpful and the information is presented clearly and effectively. The information explaining the difference between Advisory Parking Places and Enforceable Parking Places is especially useful.
- Are the Financial consequences of the Bill sufficiently clear? – Yes, the information is presented clearly.
- Are the effects of the Bill on issues such as equal opportunities accurately and clearly described? – Again the information in this section of the document is very clear.
- Do you have any comments on the consultation the Member carried out prior to the introduction of the Bill? – The consultation process was well planned and reported issues of possible concern as well as highlighting the benefits of the Bill, e.g. the financial implications of increased provision.

PAMIS welcomes and fully supports the aims of this Bill.
SUBMISSION FROM SOUTH LANARKSHIRE COUNCIL

General

1. The council supports the aims and objectives of the Bill.

2. Within South Lanarkshire on-street parking offences have been decriminalised and council staff would require to enforce any restrictions introduced as a result of this Bill.

Practical Aspects / Cost of Enforcement

3. Surveys over the past 2 months have shown that there are 1000 advisory on-street parking bays associated with individual residential properties and an estimated 200 advisory off-street council controlled public parking bays. The costs of initial survey work at each individual site, preparation of works instructions and schedules for a TRO, as well as the supply and erection of sign poles and restriction plates, burning out existing road markings and marking the bay in accordance with the prescribed road marking is estimated at over £1m. Who would pay these costs?

4. There would be ongoing costs associated with the addition and removal of bays, estimated at £50k per annum.

5. At present, in South Lanarkshire, 14 parking attendants cover the period between 8am and 6pm, Monday to Saturday, with a restricted service on a Sundays. The cost of enforcing a further 1200 plus sites would require additional resources. The cost would be greater should enforcement be required out-with these times. It is estimated that the cost of providing basic reactive enforcement, between 8am and 6pm, Monday to Saturday, would be in excess of £100k per annum.

6. In these days of increasing financial restraints this council no longer has the flexibility to fund such a scheme as that proposed.

7. It should be a matter for private car park operators to enforce the restrictions within their own car parks.

Proposed Simple Legal Solution

8. It is suggested that the Scottish Government investigates the feasibility of providing legislation, similar to that contained within Schedule 19 of the Traffic Signs Regulations and General Directions 2002 (TSRGD) relating to bus stops and box junctions. This could allow for the worded message, disabled, as contained within Diagram 1033 of the TSRGD or the wheelchair symbol which is commonly used, to indicate a regulated disabled persons parking bay without the need for an individual TRO for each location.

SUBMISSION FROM WEST DUNBARTONSHIRE COUNCIL

1. During the inception and progress of this Bill, West Dunbartonshire Council has fully supported its aims and has provided considerable background information. The misuse of designated parking bays is widespread and is requiring urgent action to provide the much needed assistance to many of our vulnerable citizens.

2. Fundamental to the changes needed is the need to reduce the bureaucracy, time and cost associated with producing the legislative support to designated parking bays for disabled persons. Whilst councils have the ability to promote the necessary orders under current legislation the process is lengthy, requires extensive consultation and eventually signs and roadmarkings.
3. Given the serious nature of the problem we have already produced Orders for all on-street designated bays in West Dunbartonshire and have now started the installations of signs and markings. However, to comply with the current Traffic Signs Regulations and General Directions (TSRGD) the requirement for signs is resulting in an additional cost per bay of some £200. These bays can sometimes be temporary or for relatively short duration, requiring removal at additional cost. Signage also increases street clutter. We have some 600 bays in West Dunbartonshire, and typically around 2 new bays are being provided every week.

4. We believe that changing the TSRGD would provide an opportunity to eliminate the need to promote a traffic regulation order similar to the current status of bus stop clearways under Schedule 19 / Regulation 29. If this mechanism was available significant time and associated costs savings would be achieved.

5. We carry out verification of entitlement and need for bays (due to changes in circumstances of a householder or people moving house etc) every two years. Considerable flexibility is therefore needed but this comes at a cost both in time and physical works.

6. It has been hoped that the procedures to implement orders for disabled bays would be streamlined, not least the consultation (and objection) procedures, as it is expected that neighbour disputes could lead to bays being prevented in some locations even though the Council has approved their location.

7. Our experience of following through with these orders to implementation is that enforceable bays may not be appropriate for all situations, especially relating to short-term entitlement. There will remain a role for advisory bays in certain circumstances, so the proposal to require all bays to be enforceable, may not in fact best serve our communities’ needs. In addition, where short term bays are required due to certain medical conditions, there should be no delay in providing this assistance. Currently advisory bays can be placed within a few days of being approved.

8. In relation to public car parks, we endorse the proposal to make all designated spaces enforceable by Order. However, we have encountered some difficulty with Police enforcement as we have still have a criminalised parking regime. Where Councils have decriminalised their parking operations then enforcement may be easier. The distinction of parking regime in each Council area therefore needs to be considered and will have an impact on the success or otherwise of enforcement.

9. For private car parks e.g. supermarkets, Councils are already able to promote Orders to allow enforcement of designated parking, but typically issues of enforcement again seems to form a barrier to this taking place. We are unsure what is meant by “negotiate arrangements” with landowners. Whilst the council can assist with the Order process, it is unclear what more action Councils can reasonably take on private property. Further explanation of this proposal should be sought.

10. In conclusion, whilst West Dunbartonshire Council frilly supports the introduction of measures to assist the enforcement and reduce misuse of, designated disabled parking bays. However, the proposals are currently over-prescriptive and do not allow the necessary flexibility to deal with local difficult areas. The proposals also do not streamline the current processes which are lengthy and costly. It is requested that these issues are reconsidered again.

SUBMISSION FROM WEST LOTHIAN COUNCIL

Summary

1. The following represents the views of officers but due to timescales and the summer recess has not be endorsed at the political level in time for submission.

2. West Lothian Council supports the principle of providing legally enforceable disabled persons’ parking places at appropriate locations.
3. However, the Bill as proposed does not address some key issues raised by West Lothian Council in the initial consultation by Jackie Baillie MSP, the member in charge of the Bill, namely:

- Enforcement powers in off-street car parks
- How enforcement will be funded outside the six authorities operating decriminalised parking
- Effects on on-street parking capacity

4. In addition, it is our officers’ opinion that the Bill as proposed will place an undue burden on local authorities, particularly those which do not operate decriminalised parking, and will not achieve a workable system with enough flexibility for local decision making.

5. Recent local consultation with the Police and groups representing disabled people indicates that the current system of advisory spaces in residential area is strongly preferred and the evidence in West Lothian is that our scheme works well at achieving a fair balance between giving priority to the most vulnerable disabled people and maintaining respect for the scheme amongst the general population.

6. Finally, it is our officers’ opinion that the consequences presented in the Financial Memorandum significantly underestimate the cost implications to local authorities arising from the Bill.

7. On this basis, West Lothian Council cannot support the aspects of the Bill as proposed which relate to on-street parking. Much of the concern could be addressed by a commitment to fully fund the implications of the Bill from the Scottish Government although as stated above, we believe the costs have not been fully appreciated.

8. As our main concerns relate to the on-street parking proposals, the focus of this paper is on that aspect.

Detailed comments

On-street spaces

9. Since 1999, West Lothian Council has operated a scheme for providing on-street parking places for disabled people. The scheme has two distinct strands:

- Residential disabled persons’ parking places – advisory bays provided, on application, to blue badge holders who are assessed on need.
- Community disabled persons’ parking places – enforceable bays in town centres and near public buildings, backed by a Designation Order made under Section 45 of the Road Traffic Regulation Act 1984.

Residential disabled persons’ parking places scheme

10. Since 1999 we have installed approximately 700 advisory bays in residential areas to help the most vulnerable blue badge holders have access to a parking space near to their home.

11. The scheme was developed after extensive consultation with the police, local representatives of disability groups and various council services.

12. At the time of the scheme’s inception, it was agreed that it would neither be appropriate nor necessary for all blue badge holders to be eligible for a marked parking place near to their home.

13. Therefore, a set of criteria was developed, as follows:

- The blue badge holder must be the driver of the vehicle.
- The blue badge holder must not have adequate off-street parking available to them.
• The blue badge holder must have difficulty in walking to the nearest on-road parking.

14. The scheme provides advisory parking places which are marked on the carriageway in yellow with the wheelchair symbol. No signs are provided, which keeps costs to a minimum. This clearly differentiates these bays from the enforceable parking places which are signed and marked in accordance with Traffic Signs Regulations and General Directions.

15. The provision of an individual advisory parking place, including all staff time to process and assess the application and the physical marking of the bay is estimated to be around £500. We currently deal with around 150 applications per year, of which around 70 are approved.

16. We have recently reviewed this scheme and consulted again with the police and Disability West Lothian. The consensus view from all representatives was that the scheme should continue to operate in its current form for several reasons.

17. There was concern that opening up the existing scheme to any blue badge holder (including passengers) would lead to a massive increase in the numbers of applications received. With over 9,000 blue badge holders currently residing in West Lothian and this figure increasing (a 28% increase between 2002 and 2006), current resources could not cope with such an increase.

18. The police expressed concerns about making the existing bays enforceable due to the increased expectation of enforcement and the subsequent pressure on valuable resources. The police cited the fact that they had no recorded incidents of neighbour disputes in relation to the provision of disabled parking bays as evidence that the advisory scheme worked.

19. The local disability group, Disability West Lothian expressed concern that disabled persons’ parking places could be abused further if there is a significant increase in provision with an attendant detrimental effect on all blue badge holders. This is because there would be the potential for local disputes and animosity if local parking were reduced further with the provision of additional disabled bays, making local disabled drivers more vulnerable.

20. Council officers believe that for any scheme to work, the wider community must perceive that the scheme is fair and that the bays are provided on need. There is anecdotal evidence which suggests that this is particularly important in residential areas where neighbour disputes can escalate significantly if there is a belief that the blue badge holder is abusing the privilege.

Effects of the Bill as proposed

21. The Bill as proposed would explicitly remove the ability of West Lothian Council to provide advisory parking places and would force the council to convert all of its existing 700 or so advisory bays to enforceable bays.

One-off conversion of advisory bays to enforceable bays

22. We estimate that to convert all of the 700 existing advisory bays to enforceable bays would cost around £350,000 assuming a cost of £500 per bay. This could not be met within existing resources, especially as the timescale required by the Bill as proposed is one year. Extrapolating this across the whole of Scotland would suggest that the cost of £1.7million for the one-off review exercise quoted in the Financial Memorandum significantly underestimates the true cost by as much as a factor of ten.

23. In addition, this one-off exercise would require the promotion of traffic regulation orders and there is a risk of a significant number of objections to these orders which would slow the process, increase costs and could create a considerable amount of local animosity, to the detriment of existing blue badge holders.

Ongoing costs associated with provision of enforceable bays

24. There are several consequences of the Bill as proposed which would increase the ongoing cost of providing residential spaces in West Lothian. The main issues are:

• The need to promote traffic regulation orders and deal with objections
• The need to provide signs and posts, involving excavation, notifications under the Transport Scotland Act 2005 and liaison with public utility companies
• The need to revoke traffic orders and remove signs when the parking place is no longer required
• Additional pressure on enforcement

25. Whilst some savings could be made by streamlining the assessment process, the largest cost element would come from the additional requirement to provide signs. These will often need to be mounted on new posts and could add around £300 to the cost of an individual bay. Our experience suggests that disabled people often require the bay to be as near to their home as possible and there often is not a suitable wall or lamp column at the precise location of the desired bay. Therefore, we believe that the assumption that using such existing street furniture could significantly reduce the overall cost is not valid.

Potential increased number of bays
26. Finally, the Bill as proposed appears to open up the provision of residential disabled bays to any blue badge holder, regardless of whether they have adequate off-street parking or whether they are the driver of the vehicle. This could substantially increase the numbers of disabled persons parking places available with the consequent loss of on-street parking for the wider community and the increased costs which could not be met from existing resources.

27. This could be particularly acute in certain types of housing areas. For example, in West Lothian, we have streets where it is physically impossible to provide sufficient marked disabled persons bays for the number of blue badge holders resident in the street. The Bill as proposed could result in us having to mark enforceable bays along the entire length of the street to the detriment of other residents and visitors.

Continued monitoring of bay requirements
28. The Bill as proposed would impose a duty to regularly review the bays provided, assess if they are still necessary and remove those which are deemed to be unnecessary. There is no indication given as to how this can practically be achieved or how a bay can be deemed unnecessary.

Off-street parking
29. Whilst we generally support the principles contained in the Bill as proposed with regard to off-street parking, we have some concerns.

Duty to identify and negotiate with off-street car park owners
30. We believe that local authorities could be usefully given a duty to identify owners of publicly available off-street car parks and to try to negotiate agreements to introduce enforceable disabled persons parking places in such car parks. However, we would have concerns if this duty extended to all off-street car parks – for example those serving private employers.

31. In addition, we have concerns about the potential wasted effort of negotiating with car park owners when there is little incentive for owners to agree to making bays enforceable. The main reasons for this are that:

• Enforcement is not guaranteed and indeed is questionable (see below)
• The owner will have to meet the costs of making the bays enforceable
• There are other mechanisms by which off-street car parks can be controlled (civil penalties)

Enforcement in off-street car parks
32. The issue of who will carry out enforcement in such car parks is questionable. Whilst the Policy Memorandum accompanying the Bill suggests that the police and traffic wardens can enforce such restrictions, local experience suggests that the police are reluctant to prioritise such enforcement. In addition, the Bill as proposed would result in a significant increase in the number of enforceable off-street places and this would put increasing pressure on already stretched enforcement resources. This will be particularly evident in areas where de-
criminalised parking is not in operation and there is no income stream to support enhanced enforcement.

33. This last point is particularly relevant to West Lothian as we have a very modest income from parking as we have only one council owned off-street car park where charges are levied and no income at all from on-street parking enforcement.

Graeme Malcolm,
Transportation Manager
West Lothian Council

Kevin Hamilton,
Team Leader – Road Safety and Traffic Management
West Lothian Council

7 August 2008
SUBMISSION FROM DUNDEE CITY COUNCIL

Please note that my Council supports the principles and ideas behind the Bill. However, my Council's principal concerns relate to the financial memorandum which accompanies the Bill. It is true that the direct costs of implementing the Act would fall primarily on local authorities. Our view is that the impact on Council resources would be significantly greater than suggested in the financial memorandum or even taking into account paragraphs 113-115 on the "margin of uncertainty".

As far as my Council is concerned, we have approximately 1100 advisory spaces and we have estimated that the capital costs of amending lining/signing to change from advisory to enforceable status is in the region of £190,000. We also assess that the additional revenue costs of enforcement, assuming additional working hours and resultant shift patterns will require an additional 6 parking attendants and on licensed vehicle, is approximately £140,000 pa.

All this ie before the costs of (1) promoting and making TRO's and (ii) additional income survey work, is taken into account.

These costs far exceed available budgets for this matter and could not be met from any anticipated increase in income from further enforcement activity.

The issue of the additional resources required by Council to enable them to carry out their new duties under the Act requires to be addressed by the Bill/Government.

David Barrie
Dundee City Council
SUBMISSION FROM EAST LOTHIAN COUNCIL

Please accept the below response to the call for evidence on the Disabled Person's Parking Place Bill from East Lothian Council.

The proposals in their current form have changed considerably from the first suggestions. The new bill would not make it any less onerous to introduce (or remove) enforceable bays - it would probably make it harder for the public to get one, as we would have so much more work to do.

There isn't proper recognition of the difficulties in following the current legislation. These problems have led some authorities to use "advisory" signs and markings. The advisory markings have no legal backing and are probably illegal. I think it would be better and nationally more consistent if the correct signs & markings are used, with legal sanctions possible against those who abuse the spaces.

East Lothian's view is that the current law should be amended to allow local authorities to introduce and remove spaces much more easily. One way to do this would be if disabled bays had the same status as bus stop clearways under Schedule 19/Regulation 29 of the Traffic Signs Regulations and General Directions.

The Bill

- does not change the system for designating enforceable parking places or the current parking enforcement system.
- requires every local authority to undertake a one-off audit of all disabled persons' parking places within their area.
- places a duty on every local authority to convert all appropriate advisory on-street disabled persons' parking places into enforceable parking places.
- places a duty on every local authority to enter into negotiations with the owners of existing off-street car parks containing disabled persons' parking places with a view to making them enforceable parking places and, where they cannot initially obtain such agreement, to continue to seek such agreement at least once every two years.
- requires local authorities to monitor developments granted planning permission which contain an element of disabled persons' parking, with a view to entering into negotiations to make these enforceable parking places. It is difficult to predict the costs of implementing this Bill, but it is expected that the costs will be significant and fall on local authorities.

Colin Baird
Area Network Officer
East Lothian Council
Disabled Persons' Parking Places (Scotland) Bill: The Committee took evidence on the Financial Memorandum of the Disabled Persons' Parking Places (Scotland) Bill from—

Jackie Baillie MSP;

David Cullum, Head of the Non-Executive Bills Unit, Scottish Parliament.
Scottish Parliament
Finance Committee
Tuesday 16 September 2008

[THE CONVENER opened the meeting at 14:02]

Disabled Persons’ Parking Places (Scotland) Bill: Financial Memorandum

The Convener (Andrew Welsh): Good afternoon and welcome to the 20th meeting in 2008 of the Finance Committee, in the third session of the Scottish Parliament. Please will all members, witnesses and members of the public turn off any mobile phones or pagers, as they interfere with the broadcasting system.

Agenda item 1 is evidence on the Disabled Persons’ Parking Places (Scotland) Bill, which is a member’s bill. I welcome to the committee Jackie Baillie, who introduced the bill. With her is David Cullum, the head of the non-Executive bills unit. You are both welcome.

The committee agreed to adopt level 2 scrutiny for the bill, which involves sending a standard questionnaire to bodies on which costs will fall. Members have copies of the submissions that we have received.

Would Jackie Baillie like to make a short opening statement?

Jackie Baillie (Dumbarton) (Lab): I would, indeed. I thank you, convener, for this opportunity to speak to the committee about my bill. I suspect that it will be more fun on your side of the table than it is for me, sitting here as a witness.

The bill’s main policy objective is to prevent disabled persons’ parking places from being occupied by those who are not entitled to use them. It seeks to ensure that enforcement action can be taken. It is, essentially, a simple bill that utilises existing road traffic and parking procedures and requires local authorities to be proactive in their approach to the management of disabled parking.

Currently, the majority of parking places that are designated for use by disabled people are advisory, particularly in residential areas; as a consequence, they are not legally enforceable. Such spaces are frequently used by unauthorised drivers—I am sure that all members have stories from their mailbags to back up that statement. The occupation of the parking places by non-disabled people prevents disabled people from being able to access them. In turn, more seriously, that can prevent disabled people from being able to access essential services that you and I take for granted.

I sought a great deal of financial and statistical information from key stakeholders to arrive at the estimated cost of implementation of the bill. I also lodged several written parliamentary questions to identify the number of advisory bays, the number of enforceable disabled parking bays, enforcement costs, the number of traffic regulation orders promoted and whether there are plans to simplify the order-making process.

The responses indicated a complete lack of centralised information, so I wrote to local authorities in August 2006 asking for information on the number of advisory parking places and enforceable bays, the application process, the decision-making process on whether a bay is deemed advisory or made enforceable, and enforcement costs. My consultation paper, which was issued in November 2006, asked a specific question on the costs of enforcement and invited any other comments on the proposal.

In considering the costs that are associated with the bill, it is important to remember that the general approach is to place a duty on local authorities to exercise their existing powers to make orders on disabled persons’ parking places. The bill does not create new systems or procedures. It simply requires local authorities to be more proactive about using the powers that they already have and to use those powers effectively.

Let me give the committee an example. Local authorities already have order-making powers to make parking bays enforceable. They already have powers to enter into arrangements with private owners to enable enforcement to take place in private car parks. The bill continues to utilise those existing enforcement regimes, including existing levels of fines, issue of penalty notices and appeals processes. It does not alter provision in any of those areas.

The bill also continues to use the existing arrangements for the blue badge scheme, and it makes no change to the scheme. Let me deviate slightly to say that I appreciate and share the desire to tackle abuse of the blue badge scheme. I know that that is shared by many members, and I would encourage the Government to take that on. We would then have a truly comprehensive package of measures that was designed to ensure that only those who need disabled parking actually get it.

Members are aware of the Disability Discrimination Act 2005. It introduced the disability equality duty, which is aimed at ensuring that public bodies build disability equality into everything that they do. That requires local
authorities to promote equality of opportunity for disabled people, taking steps to take account of disabled people’s disabilities. The duty builds on existing reserved discrimination duties by requiring authorities to consider the outcomes that disabled people experience in each area of responsibility and to take steps to reduce any disadvantage. It is clear that it is a disadvantage if a disabled person is unable to access a disabled parking bay.

Finally, if the committee does not believe me about the value of the bill—although I would find that hard to believe—I draw its attention to the words of Euan Page of the Equality and Human Rights Commission Scotland. He pointed out that “for the vast majority of disabled people, disability happens during the life process … we live in a rapidly ageing society in Scotland. Those issues are not just abstract public policy challenges; they are of profound importance to everybody in this room and their families.”—[Official Report, Local Government and Communities Committee, 2 September 2008; c 1069.]

I could not have put it better myself. I am happy to answer any questions.

The Convener: The committee’s focus is obviously on the financial aspects of the bill. I remind the committee that Tom McCabe and I have been designated to take the lead in questions, but members have simply to catch my eye if they want to intervene.

The financial memorandum indicates that some costs will arise—mostly involving staff time—in the identification and assessment of existing disabled persons’ parking spaces, but it does not give any figures. According to the financial memorandum, the main cost of the bill will involve promoting and implementing “orders for those disabled persons’ parking places still required.”

Using figures from Fife Council and West Dunbartonshire Council, you produce an estimate of the maximum total cost nationally being £1.7 million, not including costs for installation and signage.

In evidence, Glasgow City Council indicates that initial set-up costs for its parking spaces alone would be more than £2 million, mainly as a result of the need to replace existing bays with those that comply with the Traffic Sign Regulations and General Directions 2002. In that light, does the estimate of £1.7 million not look inadequate?

Jackie Baillie: Not at all. I will deal with the margin of uncertainty before moving on to the specific comments from Glasgow.

There is, of course, a degree of uncertainty attached to the total cost of £1.7 million. Arriving at an estimated cost for the implementation of the bill was extremely difficult, given that even the Scottish Government does not hold information on the current number of advisory disabled parking spaces or, indeed, enforceable disabled parking spaces. Further, some local authorities were unable to tell me the number of advisory or enforceable bays in their area. If such statistical information is not available at local or national level, it gives us an unavoidable margin of uncertainty.

The situation was further compounded by the enormous differentials in the costs that were provided by authorities for two separate issues: promoting orders and installation costs. Until local authorities have completed their review of what is there, we will not know the accurate figures. I have made my best attempt to secure all the information that would be required. As I said, I lodged a number of parliamentary questions and we have written twice to each of the 32 local authorities, first in a direct letter in August 2006, and then at the start of the consultation process in November 2006. The consultation process lasted until February 2007. Twenty local authorities chose to respond initially; more responded during the consultation period, including Glasgow City Council, which at that stage did not provide information on the costs relevant to making the bays enforceable. It has since done so to the Finance Committee. Using all the information available to us, I have done my utmost to ensure that the bill is accurate. It is our best endeavour to supply an estimate of the overall cost.

I did not just go with the Fife Council figure. West Dunbartonshire came forward with a cost of £12.20 for each space for the process of establishing a traffic regulation order. Fife gave us a total figure of £119 per bay, which covered the process of getting the traffic regulation order and the costs of installation, such as signage and painting. Fife confirmed in evidence to the committee that its figure is accurate; we were therefore correct and reasonable to use it. We allowed for a little rounding up, acknowledging that in remoter areas, the cost was likely to be higher. However, we had the benefit of West Dunbartonshire Council having done its exercise in real time. It had literally just designated its 410 advisory bays as enforceable bays. The process was undertaken within the council’s existing budget and, irrespective of the bill, the signage and installation would be undertaken within its existing budget. Many councils were proceeding to implement the policy without incurring additional costs.

The committee can see from the paperwork the wide variation in costs. I draw the committee’s attention to the fact that while painting a bay in Perth and Kinross costs £35, paint is evidently more expensive in Glasgow because it comes in at £65.
Alex Neil (Central Scotland) (SNP): That is because Perth and Kinross is a good Scottish National Party council.

Jackie Baillie: I am being heckled here, convener.

I recognise that local authorities will have a crucial role in implementing the bill and that most of the costs will fall on them. Glasgow provided the committee with a breakdown to illustrate how it arrived at a cost of £2.1 million. I have explained what happened in West Dunbartonshire, and in Fife, where the cost is £119 per bay. Glasgow's estimated cost is £466 per bay to make each of its 4,500 bays enforceable. How come Fife is doing that for a quarter of the cost of Glasgow? Such wide variation indicates an unintended consequence and important function of the bill, which is that reports will come in centrally and local authorities will be able to learn from one another about the most cost-effective mechanism for implementing the bill. We already have an example of that in applications for traffic regulation orders. While Glasgow applies for the orders individually, other local authorities batch them; for example West Dunbartonshire Council does 400 at a time. There are economies of scale.

We should not forget the existing duties under traffic and disability discrimination legislation on Glasgow City Council—and on every other council in Scotland. The costs that are shown in the financial memorandum are not new costs as such; they cover things that authorities should be doing in any case. I hope that that answers your question, convener.

14:15

The Convener: The problem for the committee is that, although the estimates are vague, the expenditure that results from the bill will not be vague at all. We need to relate the estimates to that eventual expenditure. There seems to be a discrepancy between the £1.7 million and the eventual expenditure.

Glasgow City Council has 4,500 advisory bays, which is about 32 per cent of the 14,000 bays that you estimate are to be found across the country. We are concerned that higher costs may accrue in other cities, too. At least Glasgow City Council stated the basis for its estimates. I want to see clarity and not vagueness in the estimates. We need to get down to what the accurate figure could and should be.

Jackie Baillie: I would absolutely love to provide you with the clarity that you seek, convener. We have been seeking exactly that degree of clarity.

For example, Dundee City Council said that the cost of making enforceable its 1,100 advisory bays will be £196,000. South Lanarkshire Council indicated that £1 million would be required for its 1,200 bays, with Glasgow City Council saying that £2.1 million would be required. Those figures show the wide disparity between authorities. If Dundee City Council says that the cost will be £196,000, is its information any less valid than that which we received from Glasgow City Council? In bringing together the information for the financial memorandum, we have highlighted the huge disparity between authorities across the country in the cost of organising implementation of the bill.

As I said, some authorities batch applications whereas others deal with them individually. For some authorities, the cost of erecting a sign on a pole is £256 and yet the City of Edinburgh Council attaches signs to existing street furniture—we see that outside this very Parliament—thereby reducing cost. It is clear that there is no uniform system; had there been such a system, I could have provided the committee with absolute certainty on all the figures. In the absence of such clarity, I have set out the circumstances and lack of information. I have tried to arrive at sensible conclusions; I hope that the committee will acknowledge them as such.

The Convener: How detailed and clear were the estimates that you received?

Jackie Baillie: They were very clear. They pointed up substantial anomalies. We have been back in touch with some authorities. For example, Perth and Kinross Council operates its traffic regulation orders in a way that is quite different from the system that other authorities operate. Aberdeenshire Council seems to have picked up on that practice. The consistent view, however, is that there is no consistency in how all this is applied on the ground. Indeed, in its submission, Fife Council confirmed the figure that we used as the basis of our calculations.

The Convener: So, what are we to make of the £1.7 million?

Jackie Baillie: We are saying that, based on the information that we sought and which was made available to us, the figure is accurate. Unfortunately, a margin of uncertainty is unavoidable; the information that we wanted to make available does not exist.

The Convener: The financial memorandum states:

"The principal cost falling on local authorities will arise in promoting orders".

However, Glasgow City Council says in its submission:
“This statement is incorrect. The principal cost will be the provision of signs and road markings to TSRGD 2002.”

In preparing the financial memorandum, did you take account of the cost implications of compliance with the Traffic Sign Regulations and General Directions 2002? If so, how?

Jackie Baillie: Yes, we did.

As I outlined, we extended an invitation to all key stakeholders to submit information as part of the two-phase consultation. Certainly, during that time, we asked for, and received, enforcement costings. Fife Council gave us a figure, as did other authorities. We took on board what we knew about the process at West Dunbartonshire Council, whereby it applied to make one traffic regulation order for all its advisory bays. We were fairly confident about those figures, as we were about the figure that Fife Council gave us; Fife Council confirmed that figure in its evidence to the committee.

The Convener: Could you make the figures available to the committee?

Jackie Baillie: Indeed.

Tom McCabe (Hamilton South) (Lab): It has been asserted that

“No year one or ongoing costs were sought or given … during the consultation process.”

If I interpreted your opening statement correctly, you disagree with that assertion. If that is the case, why has such a fundamental difference arisen?

Jackie Baillie: I will reiterate what we did during the consultation because I appreciate how the difference could have arisen. When we sent our letter to all local authorities in August 2006, I was unashamedly on a fishing expedition to find out how they worked so that the bill that we proposed would add to the current process rather than detract from it. In that letter, we asked for information on advisory bays, enforceable bays, the cost of enforcement and fine levels. We also asked whether there was decriminalised parking. It is interesting to note that councils such as Glasgow City Council, the City of Edinburgh Council and Perth and Kinross Council have decriminalised their parking and make surpluses on it, so any proposal could be self-financing.

We asked for information again between November 2006 and February 2007 as part of the consultation. In addition to asking about parking fine levels and enforcement costs, we asked—as you would expect us to do—for any other comments. In answer to that question, some authorities took us through their existing costs. Glasgow City Council did not, but we did not ask specifically for the level of detail that it has subsequently provided. That said, other local authorities provided such detail for us.

If the bill is agreed to, the first year of its operation will be about local authorities considering what their existing parking provision is, where the advisory bays are and what requires to be done. The bill requires that, in those 12 months, local authorities should identify all the bays; it does not require them to make traffic regulation orders or put up the required signs or street furniture in that year. Traffic regulation orders are likely to be laid in the following financial year. West Dunbartonshire Council started the process some time ago and has yet to put its signs up. That demonstrates that it would be possible to spread the cost over not only one financial year but two or three. I understand how important that is for local authority planning.

Tom McCabe: Glasgow City Council and Fife Council have said that they cannot cover the additional costs arising from the bill and, perhaps not surprisingly, have suggested that the Scottish Government should do so. As yet, there seems to be no indication from the Scottish Government that it is prepared to do that. Do you have any further information?

Jackie Baillie: No. We have identified the costs to the Scottish Government as marginal and, in its submission to the committee, it has agreed with that assessment. We argue that existing resources are available to local authorities to implement the bill and that they face duties under the Disability Discrimination Act 2005, which places a responsibility on all public bodies to promote disability equality. On that basis, we think that many local authorities already collect the information required by the bill and provide enforceable parking bays.

Tom McCabe: I agree with a lot of what you say. I would not be minded to accuse Glasgow City Council of being against, or putting barriers in the way of, the creation of disabled parking spaces, but it has expressed some pretty strong views about costs.

Jackie Baillie: I would always acknowledge the costs of providing services in local government. This is set against the backdrop of the Government providing local authorities with a record level of resources. I am keen to ensure that local government has sufficient resources to implement the bill, but I think that those resources exist.

Tom McCabe: Making arrangements for privately owned off-street car parks will undoubtedly require local authorities to undertake additional work because they would be required to negotiate and agree the orders that they would promote. The financial memorandum indicates that the costs of such arrangements would fall to the private operators. However, Glasgow City Council has suggested that staff costs alone would
be around £180,000 and that there would be other costs. Do you agree with the council’s estimate of costs? Do you have evidence that the private sector will co-operate in identifying the spaces?

**Jackie Baillie:** We have evidence that the private sector would be willing to do that. Let me just take you through our thinking. We started with section 33(4) of the Road Traffic Regulation Act 1984, which allows local authorities to make arrangements with a private owner for the provision of parking places, so that power is not new. However, nobody has yet entered into such an arrangement, which is disappointing.

We did not seek to impose legislation on owners of private car parks because we could not place a duty on businesses—that is a reserved matter. We felt that local authorities were ideally placed to identify owners of car parks because they have access to information on business rates and planning applications that have been granted, so it is reasonable to think that they can identify owners from information that they hold.

Confusion perhaps arises around owned car parks to which the public have access. It is not necessary to contact owners of private car parks for offices and businesses to which the public have no access. However, the public obviously have access to car parks at places such as Asda or the Braehead shopping centre. For office-block car parks that are simply for employees, though, separate provision is made under the 2005 act with regard to employers’ responsibilities towards their employees, which are outwith the bill’s scope.

Let me give you another example. The Scottish Widows building, which is not too far from where we sit, has an underground car park for employees, to which I understand there is no public access. The bill’s provisions would not apply to such a car park. However, the public do have access to visitor parking there that is part of a privately owned car park, so the bill’s provisions could apply to that. That kind of information is already available to local authorities.

The bill is at pains not to stipulate the nature of arrangements because we anticipate that there will be local circumstances that will need to be reflected. However, it would be for both parties to agree. Arrangements could cover, for example, staff costs for the promotion of the order and costs for amendments, signage and enforcement, on which most arrangements tend to focus.

There is scope to do what is required. For example, Asda and Braehead shopping centre undertake their own enforcement of disabled parking spaces. If they are able and willing to pay private enforcement firms, there could be alternative scope for local authorities’ costs to be defrayed as part of any arrangement.

I am fond of quoting people, convener. When Euan Page appeared before the Local Government and Communities Committee, he said that we were pushing at an open door in terms of the private sector’s willingness to engage with our proposal—sorry, the actual quote is:

“It would appear that there is an enormous amount of goodwill in parts of the private sector towards being partners in that process. We can look at what local authorities could do in conjunction with supermarkets, retail parks and so forth to drive the message home.”—[Official Report, Local Government and Communities Committee, 2 September 2008; c 1073.]

I think that he is right and that we are pushing at an open door.

Equally, if we want to come down to the commercial bottom line, Leonard Cheshire Disability reminds us that the spending power of people who have a disability is approximately £5 billion annually. They are consumers, too, and I think that businesses recognise that.

**Tom McCabe:** Do you think that the lack of detail in the bill on arrangements for enforcement could lead to differing standards of enforcement and provision across the country?

**Jackie Baillie:** There already are differing standards of enforcement and provision. Currently, local authorities that have decriminalised their parking enforce it differently from those that have not done that. Glasgow and Edinburgh use a separate system of traffic wardens, whereas the rest of the local authorities rely on the police and their traffic wardens to enforce parking. Therefore, differences exist already.

The issue is not about lack of detail in the bill or financial memorandum. There is a willingness to do what the bill seeks. I am reminded that the issue is similar to the question of yellow lines and double-yellow lines in outlying areas and across our cities, for which there are varying standards of enforcement. The issue is about prioritising certain areas. We anticipate that there will be proactive enforcement in our town and city centres, where there are hot spots, if you like, but we expect enforcement in quieter residential areas to be reactive rather than proactive.

**14:30**

**The Convener:** Fife Council’s submission states that costs should be met by owner-occupiers, by private owners who undertake their own enforcement, and by the Scottish Government. It seems that costs are being shuffled off in all directions and there is no certainty that owner-occupiers or Fife Council will take them up. Have you had any indication that they will do so? It seems that unknown costs are being shuffled towards the Scottish Government.
Jackie Baillie: Not at all. Far be it from me to shuffle unknown costs to the Scottish Government. Local authorities will invite owner-occupiers to enter into partnership arrangements, but they must both agree. If there is no agreement, the local authority will not be required to bear any costs. The matter will be entirely one for the private car park owner, who will bear all the costs. We did not include that in the bill because local arrangements will differ from place to place. Many areas will opt for local authority enforcement costs, but others will prefer to make their own private arrangements. We need to reflect on that.

Fife Council acknowledges that the average cost will be £119 per bay. I recognise its desire for more resources to do all its bays. We think that we have come up with a reasonable estimate of the actual cost but, as the committee has noted this afternoon, there is wide variation. We want to ensure that there are sufficient resources in the system for the bill to be successful, because it will make a difference to an awful lot of people who cannot access disabled parking bays at present.

The Convener: Thank you. The committee looks forward to receiving the details that you promised us. Do you wish to make a further statement to finish?

Jackie Baillie: I think that you have heard enough from me, convener. I would not want to test your good nature.

The Convener: I thank Jackie Baillie and David Cullum for being present today and for the information that they have given us.
Dear Stewart,

**Disabled Persons' Parking Places (Scotland) Bill**

The Committee has asked me to seek clarification on whether you have powers to amend the Traffic Signs, Regulations and General Directions Order 2002.

You will recall that, in written evidence to the Committee, a number of local authorities suggested that an alternative means of enforcing on-street disabled persons' parking places would be to designate them under the above instrument.

In your oral evidence to the Committee on 1 October, it was not clear to the Committee whether Scottish Ministers had the power to do so. I enclose an extract from the official report of the meeting of the discussion on this point.

The Committee took further oral evidence on the Bill at its meeting today from the member in charge. In Jackie Baillie’s letter to the Committee of 7 October, she set out her understanding of the position as follows –

Amending the Traffic Signs, Regulations and General Directions Order 2002 in the same way as was done for bus stop clearways, i.e. without the need for a Traffic Regulation Order was raised by local authorities and touched on when the Minister gave evidence. I have checked the status of the powers and can advise the definitive position as follows.

Section 36 of the Road Traffic Act 1988 provides that where a traffic sign has been lawfully placed on a road, failure to comply with it is an offence. A sign may be lawfully placed by it being expressly provided for by or under any provision of the “Traffic Acts” (as opposed to being placed in consequence of an Order having been made). Regulation 10 of the 2002 Regulations is such a
provision because the Regulations were made under Acts which fall within the
definition contained in the Road Traffic Act 1988 of the “Traffic Acts”.

Regulation 10 lists a number of traffic signs, road markings and light signals
by reference to their particular diagram numbers and provides that section 36
of the Road Traffic Act applies to them. The diagram numbers allotted to
particular signs, markings etc are found in Schedule 2 of the 2002
Regulations. The particular signs/markings which relate to disabled parking
places are identified by the following references: Sign diagram number 661A,
Road marking diagram numbers 1028.3, 1032 and 1033. None of these
diagram numbers is to be found in regulation 10. Therefore, section 36 does
not apply to them. That reflects the evidence statements of local authorities
such as the City of Glasgow Council that it is UK legislation that would require
amendment.

The power to amend regulation 10 to include different signs etc is reserved.
None of the powers under which the 2002 Regulations were made are
devolved. Nor have any of the powers been made the subject of an Order
under section 63 of the Scotland Act. **Scottish Ministers therefore have no powers to make such Orders** instead of the Secretary of State for Transport
(as was in 2002) or to make them concurrently or with the agreement of that
Minister.

The Committee would welcome your views on the position as set out by Jackie
Baillie, and confirmation of whether or not Scottish Ministers have powers to amend
the Traffic Signs, Regulations and General Directions Order 2002.

**In view of the tight timescales in which the Committee has to consider and publish its
report on the general principles of the Bill, I would welcome a response from you by 17 October 2008.**

With best wishes,

Yours sincerely,

Duncan McNeil
Convener
Local Government and Communities Committee
David McLetchie: I want to ask a couple of questions about co-operation with the UK Government, which I know that you are keen on.

It has been suggested that an alternative approach to the one that is taken in the bill might be to use the provision to legalise on-street disabled persons’ parking places through designation under the Traffic Signs Regulations and General Directions 2002. Glasgow City Council said that using that mechanism would require a change in UK legislation, which would mean that we would have to legislate on a UK basis in order to deal with the issue that Jackie Baillie’s bill identifies. Is that a matter that has been raised in ministerial discussions with counterparts down south?

Stewart Stevenson: The 2002 instrument is delegated to Scottish ministers, although that delegation comes from UK legislation. It is one of those legal issues in which there is a shared responsibility between the state and the devolved Administration.

As it happens, in the past hour, I read that instrument, to ensure that I was aware of the issues. The area is highly complex and touches on, for example, the UK Government’s work on the operation of the blue badge scheme. I think that the UK Government is minded to change some aspects of that scheme but is not yet committed to doing so.

We remain in close contact with the UK Government on this issue. I do not see any particular divergence of interest on the matter. There is an interest in our working with the UK Government. Indeed, the 2002 instrument that you referred to makes reference to equivalent blue badge schemes in different areas of the UK. It is an issue that stretches well beyond the geographical boundaries of the Administration’s competence, and is something on which we wish to work with other Administrations.

David McLetchie: I understand that the order-making powers lie with Scottish ministers. However, there is also a division of responsibilities between the two Administrations. Do you have the power to issue a new order that would encompass disabled parking, or does the primary legislation limit your order-making capacity in that regard?

Stewart Stevenson: I suspect that we have that power, but I will ask the expert who is sitting on my left to give a more definitive answer.

Angus MacInnes (Scottish Government Transport Directorate): The current arrangements allow for that to happen.

David McLetchie: If that is correct, would it be fair to say to Jackie Baillie, with all due respect, that we do not need her bill because, using secondary legislation, the Scottish Government can issue an order that would give local authorities the relevant powers?
Stewart Stevenson: That is a question that you might more properly direct to the sponsor of the bill. I suspect that she would say that her bill covers issues that are beyond the scope of the 2002 instrument, such as the duty that it would place on local authorities to consult private providers of disabled parking spaces.

We are in complicated legal territory, and I will give you a little example of that. Because the highway code does not describe how a parking place on the public highway that is not subject to enforcement should be painted on the road, you can paint it any way that you like. However, one that is enforced has to be as prescribed in the 2002 instrument. The boundary between different powers can be as narrow as that. The 2002 instrument, which modifies a previous instrument, is a complex document.

An order is required when the enforcement power is used in particular places; this is a complex area. It seems to me that there is scope for at least some of the bill's provisions to be implemented, even if you were to persuade your colleagues against agreeing to other provisions. That is a matter for the bill's sponsor.

David McLetchie: Is it correct to say that a substantial part of the bill's provisions could be implemented through your order-making capacity?

Stewart Stevenson: We have the capacity to make orders for every parking place on the public highway; that has been the case for a long time. I do not think that the bill's sponsor is saying anything other than that. She is saying that local authorities have not exercised that capacity and is seeking to bring them to the table to make them do it. She argues—it is for her to propound the argument more fully than I—that that will benefit users of disabled parking spaces.

David McLetchie: We are getting into a circular argument. I understood from local authorities that the 2002 instrument would have to be amended to give them the power to use existing legislation. That is what Glasgow City Council said in its evidence.

Stewart Stevenson: Local authorities can request at any time an order to make a parking place on the public highway legally enforceable; that has always been the case. Very few such orders have been made, because very few have been requested.

David McLetchie: Does the 2002 instrument about which we have heard in evidence require any amendment to achieve the object of the bill, which is to make bays that are currently advisory enforceable? Does the mechanism about which Glasgow City Council told us exist? What is required to enact it?

Stewart Stevenson: I am making a genuine effort to be clear about what I am being asked. If I am being asked whether the framework of the 2002 instrument and the powers that I have to amend it give me the power to require all voluntary parking spaces on the highway to be turned into enforceable spaces, I think that the answer is no; Angus MacInnes has confirmed that that is correct. That is precisely the point that the bill seeks to address.

David McLetchie: Is the answer no?
Stewart Stevenson: I cannot require that we move from voluntary spaces to enforceable spaces.

David McLetchie: That takes us back to my first question. Is a change to primary legislation, which is a UK matter, required to give you the ability to require advisory bays to be made enforceable bays?

Stewart Stevenson: Because we are in a devolved situation—we can discuss that point further—the Westminster Government will always be able to legislate in the terms that you request.

Col 1211

The sponsor of the bill would argue that we can address the issue through our own primary legislation. The powers that I have under secondary legislation do not give me the ability to require voluntary spaces to be turned into enforceable spaces.

David McLetchie: So a change to primary legislation is required to give you such a power. To return to my initial question, was Glasgow City Council correct to say that a change to UK legislation was required?

Stewart Stevenson: I do not believe that that is necessary.

David McLetchie: I am not asking you whether you believe that it is necessary as a matter of policy. I am asking you whether it is necessary, as a matter of law, in order to implement the alternative approach that has been highlighted to us. Glasgow City Council said that that would require a change to UK legislation. Is that correct?

Stewart Stevenson: My advice is that we can pass primary legislation in the terms that have been set out by the sponsoring member. In accepting the bill, the Presiding Officer has concluded that it is not ultra vires.

David McLetchie: I am not asking about that, minister; I am asking about the existing reserved UK legislation—the alternative approach. I am not suggesting that Ms Baillie’s bill is incompetent. Of course it is not; that is why it has been accepted. What I am saying is that, according to the evidence that we have been given by Glasgow City Council, an alternative approach that would achieve the same result would be a change to the UK primary legislation that gives you the order-making power that we are talking about. Is that correct?

Stewart Stevenson: I hope that I said earlier that, of course, the Westminster Government can legislate—


Stewart Stevenson: That is precisely the point that I am making. If you are asking whether an alternative route to the one that is before the committee is for the Westminster Government to legislate, the answer is yes—even if, politically, I might wish it to be otherwise. De facto, that is the case.
Mr Duncan McNeil MSP,
Convener,
Local Government and Communities Committee,
Room TG3.40,
The Scottish Parliament,
Edinburgh,
EH99 1SP

17 October 2008

Dear Duncan

I refer to your letter dated 8 October 2008 regarding my appearance in front of the Local Government and Communities Committee to discuss the Disabled Persons’ Parking Places (Scotland) Bill on 1 October.

I am grateful for the opportunity to clarify the position relating to powers to amend the Traffic Signs Regulations and General Directions 2002 and welcomed sight of Jackie Baillie’s understanding of the powers.

Having checked the legislation, I can confirm that the enabling powers to make the regulations contained in the Traffic Signs Regulations and General Directions 2002 are indeed ones of the Secretary of State (being matters which are reserved by Section E1 of Schedule 5 of the Scotland Act 1998) and therefore the Scottish Ministers could not modify that instrument.

I apologise for the misinformation and for the resulting confusion that it caused to the Committee and hope that my clarification will allow the Committee to concentrate on Jackie Baillie’s Bill.

STEWART STEVENSON
Thank you for your letter of 30 October referring to the Disabled Persons' Parking Places (Scotland) Bill and the Presiding Officer's decision that a financial resolution will be required under rule 9.12 of the Parliament's Standing Orders.

I should say that the Scottish Government supports the Bill in principle. We know that there are instances where those who require to use disabled parking bays are disadvantaged due to misuse of the bays. We are keen that this is addressed and acknowledge that the provisions in the Bill do so.

I note what you say about the estimated costs to local authorities associated with implementing the provisions of the Bill, as well as your statement that the Scottish Government will only have to bear minimum costs. It would appear from the evidence submitted by local authorities and other stakeholders to both the Local Government and Communities Committee and to the Finance Committee, that there is some ambiguity surrounding the estimated costs.

I note your estimate of total costs of £1.7 million for all local authorities, however several local authorities implied in their written evidence that the costs would be higher. Enclosed with this letter is a paper produced by the Society of Chief Officers of Transportation in Scotland (SCOTS) which estimates that the costs will be significantly higher than those quoted in the Financial Memorandum. I realise that you will wish to study the evidence in the paper as it does cast some doubt on the original figure of £1.7 million.

Notwithstanding these concerns I am sufficiently persuaded by the aims of the Bill to agree to lay the Financial Resolution for the Stage 1 debate, but do so in the expectation that you work with COSLA in order to arrive at a figure which is more robust in time for Stage 3 consideration. The Scottish Government would be happy to facilitate those discussions if necessary.
I am copying this letter to the Presiding Officer, the Convener of the Local Government & Communities Committee, the Convener of the Finance Committee and to the Minister for Parliamentary Business.

Yours sincerely,

JOHN SWINNEY
SOCIETY OF CHIEF OFFICERS OF TRANSPORTATION IN SCOTLAND (SCOTS)

DISABLED PARKING PLACES (SCOTLAND) BILL

SUMMARY OF VIEWS FROM LOCAL ROAD AUTHORITIES

1 Background

1.1 Following a meeting on Tuesday 21 October 2008 between Councillor Alison Hay, Chair Regeneration and Sustainable Development Executive Group COSLA and Stewart Stevenson the Minister for Transport, Infrastructure and Climate Change, at which the Chair of SCOTS was present as an adviser to COSLA all local authorities were contacted via their SCOTS member to determine an accurate overview of the implications of the proposed legislation.

Although Councils were only given three working days to respond, over 20 responses were received. A summary of the responses is attached.

1.2 There are three different types of parking areas covered by the legislation. These are as follows:-

1. On-street parking on public roads.
2. Off-street parking in parking areas owned or controlled by local authorities.
3. Off-street parking under private control (e.g. retail centres, entertainment centres etc).

Comments and implications for Councils have been grouped to cover these three scenarios.

2 On-street parking on public roads

2.1 In almost all Council areas, advisory disabled parking bays are provided where a need is established out with areas covered by parking controlled by a Traffic Regulation Order (TRO). Although most of these spaces are advisory, there is little evidence to suggest that there is much abuse. To make these advisory spaces legal and enforceable at the moment will require the following:-

- Promotion of a TRO.
- Burn off existing marking. (In about 40% of council areas.)
- Mark space in accordance with Traffic Signs Regulations and General Directions TSRGD.
- Provide sign in accordance with TSRGD.

2.2 It should be noted that in all but 6 Councils where parking has been decriminalised (Glasgow, Edinburgh, Aberdeen, Perth and Kinross, South Lanarkshire and Dundee), enforcement will be by the Police. ACPOS in their formal reply to the consultation to the Bill, commented that this “could prove to be a heavy burden on already limited resources”. Where parking is decriminalised, the “heavy burden” of additional enforcement will fall on the local authority. Introducing the TRO process to the provision of a disabled bay will also significantly increase the time required to provide a new disabled space.
2.3 Costs

Some work has already been done by West Dunbartonshire which confirms that where existing markings already comply, the TRO process and then signing of a space will be on average around £150/space. The recent survey indicates that it could be slightly higher at £180 per space.

If the road markings require to be replaced the additional cost per space will be £190 (£370 in total). From the survey of Councils, this is the position in a significant number of Councils (around 40%). This would mean there could be around 15,000 spaces to be changed from advisory to mandatory and 7500 spaces to be partly changed. This would give a projected cost across Scotland of around £6million.

Promotion of the TRO, involves surveying and dimensioning each space on site, accurately scheduling each space, advertising, statutory consultation and costs can vary considerably depending on existing records, size of authority etc. Based on the responses received from the survey of all authorities, the estimated cost per council will vary between £16,000 and £200,000. From this work the total cost for Councils across Scotland to promote the necessary TRO would be around £4million.

The projected capital cost across Scotland for the changes would be of the order of £10million. The vast majority of Councils have indicated that they have no funding available. There will also be ongoing costs each year for Enforcement and this is projected to be £1million and there would be requests or alterations for disabled spaces which would require ongoing TROs which would result in additional costs which have not been quantified.

2.4 In summary advisory spaces are provided at a reasonable cost and there is little evidence to suggest they are being widely abused. Spaces within areas already covered by On-street TRO are already being enforced.

2.5 Recommendation

2.5.1 System of advisory spaces should be continued and expanded where not already widely used.

2.5.2 Councils should be encouraged to increase the number of marked DISABLED spaces within areas already covered by a TRO.

3 Off-Street Parking on Council owned or run car parks

3.1 Off-Street Car Park Orders already make it an offence to park in a disabled space without the required Blue Badge on display, and there is clear evidence that this is already being enforced by Council’s.

3.2 Recommendation

3.2.1 All councils should be encouraged to promote Off-Street Car Park Orders where none exist, to allow enforcement of misuse of disabled spaces.

4 Off-Street Car Parks – Private

4.1 It is the view of SCOTTS members and several groups who gave evidence to the recent Local Government and Communities Committee that this is the area where there is the greatest abuse of disabled spaces. In general disabled spaces are very
clearly marked at these developments and the number of spaces are in line with Council recommendations. However, very often the markings do not comply with TSRGD and tend to use coloured lines and surfacings. It is a significant and very expensive task to promote a TRO to cover these car parks and amend all the markings to comply with the TRO/TSRGD. Councils would need to be reimbursed for any costs associated with this work if it fell on them to progress and the private sector would be unlikely to want to finance the changes in the current financial climate. Enforcement of parking in these car parks would also be an ongoing revenue cost, unlikely to be met by income from penalties for misuse. Again councils should expect to be reimbursed for any net revenue implications.

4.2 There are examples of developments enforcing parking using the “Law of Contract” where the penalty for misuse (eg £60) is clearly advertised and enforced by the retailer. It is suggested that if the major retailers and entertainment groups (eg Tesco, Asda, Odeon, Cineworld) were to collectively introduce enforcement of this type it could be done at minimal cost with major retailers using any income from penalties to support costs of on site enforcement. A high level meeting between the Minister and major retailers/developers could facilitate a voluntary code as described, with the threat of legislation if agreement is not reached.

4.3 Recommendation

4.3.1 The Minister has a meeting at an early date with major retailers/developers to discuss the option of a voluntary code to enforce misuse of disabled bays.

5 General Comment

5.1 The Department for Transport announced on 20 October 2008 a major review of the Blue Badge scheme. It should be noted that the proposals on the Department for Transport website includes the following:-

“We will work with the owners of private car parks to try and make sure these disabled parking spaces are only used by people with a Blue Badge”.

This is in line with the SCOTS recommendation for Scotland.

5.2 Another issue which the Department for Transport can be asked to consider is a change to the TSRGD, allowing the marking to be enforced without the need to promote a Traffic Regulation Order. The change could also allow for markings only, negating the need for additional signage that would reduce sign clutter in mainly residential areas, reduce installation costs and future maintenance costs. This would be similar to the recent changes regarding yellow box junction markings and bus stop markings. These markings can now be applied without a site specific TRO. A similar initiative could be promoted for disabled spaces. Although the foregoing would reduce the considerable burden involved in promoting TRO’s for both establishing and revoking mandatory disabled bays it would not remove the burden associated with enforcing them.

5.3 Recommendations

On-Street Parking

5.3.1 The current system of advisory Disabled Parking Bays (DPB) works well and is cost effective, and there is little evidence of significant abuse of the system, and should
remain in place. Councils who do not currently operate a scheme should consider introducing a scheme.

5.3.2 The number of designated DPB’s covered by a Traffic Regulation Order (TRO) in areas controlled by a TRO, (eg town centres) should be increased to represent the local need.

5.3.3 The work currently being done by West Dunbartonshire Council to change all advisory DPB’s to bays covered by a TRO should be reviewed after a full year in operation to determine the improvement in service provision for the disabled and the cost of this service including enforcement.

5.4 Off-Street Parking (council controlled)

5.4.1 Through promotion of an Off-Street Parking Order under the Road Traffic Regulation Act 1984, all councils should ensure that there are sufficient spaces marked out for the disabled, and that there should be a system of enforcement in place with financial penalties for abuse of the spaces rigorously enforced.

5.5 Off-Street Parking (Private)

5.5.1 A meeting is arranged at an early date between the Minister for Transport, Infrastructure and Climate Change and major retailers to investigate establishment of a code for the enforcement of the misuse of disabled parking bays.

5.6 Department for Transport

5.6.1 Representation should be made to the Department for Transport to consider the following changes in legislation as part of the recently announced review of the Blue Badge scheme in England.

(1) Consider allowing Disabled Parking Bays, both on and off-road, to be covered by a blanket order, through an amendment to the TSRGD, similar to that currently applicable for bus stops and box junctions.

(2) Review the requirement to sign mandatory disabled bays.

(3) Review the type of lining permissible to indicate a legally enforceable disabled parking bay, to allow where required, enforcement of all different types of parking bays provided for the disabled.

Ken Morrison
Chair of SCOTS Roads Group

30 October 2008
## SUMMARY OF RESPONSES RECEIVED (21 COUNCILS)

<table>
<thead>
<tr>
<th></th>
<th>No. of existing “Disabled” Bays</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>a) On-Street</td>
<td>a) AVERAGE 863/council</td>
</tr>
<tr>
<td></td>
<td>b) Off-Street</td>
<td>b) AVERAGE 144/council</td>
</tr>
<tr>
<td>2</td>
<td>Do current on-street markings comply with TSRGD, figure 1028.3? (If some do – give an estimate of the number).</td>
<td>7 NO</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9 YES</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5 PARTLY</td>
</tr>
<tr>
<td>3</td>
<td>Are bays covered by an existing Traffic Regulations Order?</td>
<td>13 NO</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5 YES</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3 PARTLY</td>
</tr>
<tr>
<td>4</td>
<td>Estimate of how many “disabled” bays are within non-council owned/run car parks eg retail outlets, sports and leisure clubs, entertainment outlets etc within your area.</td>
<td>AVERAGE 330/COUNCIL</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6 DON’T KNOW</td>
</tr>
<tr>
<td>5</td>
<td>Is parking “decriminalised” in your area.</td>
<td>4 YES</td>
</tr>
<tr>
<td></td>
<td></td>
<td>17 NO</td>
</tr>
<tr>
<td>6</td>
<td>If the proposed legislation is implemented in its current form, do you have the funding and resources to implement, maintain and enforce?</td>
<td>20 NO</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 YES</td>
</tr>
<tr>
<td>7</td>
<td>What do you consider would be a reasonable timescale for implementing the proposed measures?</td>
<td>RESPONSES VARIED FROM 1 TO 5 YEARS</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6 – 1 YR</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2 – 1.5 YRS</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4 – 2 YRS</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 – 2.5 YRS</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5 – 3YRS</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 – 4 YRS</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2 – 5YRS</td>
</tr>
<tr>
<td>8</td>
<td>Would you support a change to the TSRGD to remove the requirement to sign Disabled Bays, and permit a wider range of acceptable marking in terms of dimension and colour?</td>
<td>13 YES</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5 NO</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2 DON’T KNOW</td>
</tr>
<tr>
<td></td>
<td></td>
<td>SEVERAL COMMENTS AGAINST WIDER RANGE OF ACCEPTABLE MARKINGS</td>
</tr>
</tbody>
</table>
Do you consider there will be problems with enforcement of private car parks (eg supermarkets), if this is to be done by local authorities? If so, some comment on this is welcome.

17 YES
2 NO
2 DON’T KNOW

Estimated costs of various operations associated with this are as follows. Please indicate if you agree or disagree with these costs and provide your estimate of enforcement costs.

- Burn off existing markings - £120
- Mark Standard bay (figure 1028.3) - £70
- Provide and erect sign (figure 661A) - £150
- Promote Traffic Order to cover all bays in council area - £137,000
- Enforce misuse of all disabled bays, in both council and private parking - £?/annum

8 COUNCILS AGREED WITH FIGURES OPPOSITE. SOME GAVE HIGHER AND SOME LOWER ESTIMATES. AVERAGE AS FOLLOWS:-

- BURN OFF £113/bay
- MARK £87/bay
- SIGN £181/bay
- PROMOTE ORDER £115,000/Council
- ENFORCE £32,000/ANNUM/Council

Notes:

1. The numbers requested in 1 above are a) only on the public road or b) in Council owned/run off-street car parks.

2. The number requested in 4 can only be a very rough estimate as Council’s are unlikely to keep records of this, but an indication may be that 5% of all available parking should be marked for exclusive disabled use.

3. TSRGD is The Traffic Signs Regulations and General Directions 2002.

Return to ken.morrison@aberdeenshire.gov.uk by Tuesday 28 October 2008.
Note: (DT) signifies a decision taken at Decision Time.

Disabled Persons’ Parking Places (Scotland) Bill: Jackie Baillie moved S3M-2691—That the Parliament agrees to the general principles of the Disabled Persons’ Parking Places (Scotland) Bill.

After debate, the motion was agreed to (DT).


The motion was agreed to (DT).
Disability Persons’ Parking Places (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S3M-2691, in the name of Jackie Baillie, on the Disabled Persons’ Parking Places (Scotland) Bill.

14:50

Jackie Baillie (Dumbarton) (Lab): It gives me great pleasure to open the stage 1 debate on the Disabled Persons’ Parking Places (Scotland) Bill. I refer members to my entry in the register of members’ interests, because Asda, which I will mention later, has sponsored Christmas card competitions for me.

The long journey to get to where we are today started with a constituency case more than four years ago. My constituent was a disabled driver who, due to the nature of his disability, required to park in the marked disabled bay outside his front door in order to access his home. Let me introduce you to his neighbour—a man who, for reasons best known to himself, decided that he should regularly park in the disabled bay. He caused untold misery for my constituent, who became afraid to leave his home in case his bay had been taken by the time he got back.

Naturally, I asked the council to help, but there was nothing it could do. I asked the police to help, but equally there was nothing they could do. The bay was advisory, so they were unable to enforce it. Not one to be deterred, I put the neighbour on the front page of the local newspaper for two weeks running, but still he would not move. Clearly, it was time for something else to be done.

Throughout the time I was making inquiries, and during the consultation on and the development of the bill, I was inundated with people’s stories and experiences. I will share just two of them, or we will be here all night, but the two stories are indicative of the problems that disabled drivers face. They come from Nan McMurdo, whose husband Ian is a former colleague.

Nan is about to park in the last remaining disabled parking bay outside Tesco. A young guy shoots into the space in his bright red BMW. She lowers her window as the young lad sprints gleefully from his Beemer, and she explains that she really needs his space, to which the lad responds with the quite magnificent, cheery expression, “Sorry, missus. I’ll no be a minute. I’m just going for a loaf.”

The next story is on Nan’s birthday. They have arrived at a local hotel to celebrate. The only disabled parking space at the front door is
occupied by a big, flash car, and the nearest available space is some 200m away. Ian goes into the hotel to ask politely whether the car could be moved. The hotel receptionist replies, “Aw naw, sir. That’s the manager’s motor. Did ye no recognise the number plate?”

Hugh Henry (Paisley South) (Lab): I understand perfectly Jackie Baillie’s desire to ensure that disabled people are treated fairly and I fully support what she is trying to do. Will she reflect—and encourage planning authorities to reflect—on the fact that appropriate numbers of parking bays should be allocated for disabled people when new retail developments are built? To allocate too many can encourage the type of activity that Jackie Baillie describes, particularly if people see a large number of empty bays in an otherwise full car park.

Jackie Baillie: I am happy to take that point on board. I agree up to a point. However, at the moment, it is clear that there are not too many disabled parking bays, because disabled people are not able to park in designated bays. If we have a new culture that ensures that there is enforcement, perhaps spare places will indeed be available.

We often see people jumping into the supermarket just to collect a paper. When it is raining, we see people trying to get as close as possible to the door so that they do not get wet. Whatever the reason, the consequences for a disabled person of not being able to access a suitable parking space can be severe. As Eleanor Hind from the Fair Deal transport working group put it quite succinctly to me, “If you want my disabled parking space, please have my disability too.”

Some have suggested that the problem is really quite marginal. One comment that I confess left me slightly bemused was in a paper to the Scottish Government by the Society of Chief Officers of Transportation, which said:

> “the current system of advisory disabled parking bays works well and is cost effective and there is little evidence of significant abuse of the system”.

That, however, is not the real, everyday experience of disabled people.

Let us consider some of the evidence. In a recent survey, the baywatch campaign found that one in five disabled bays in supermarkets was being abused; a mystery shopper exercise conducted by Capability Scotland put the figure higher, at 44 per cent; and a survey conducted by the previous Scottish Executive suggested that 44 per cent of all designated parking bays were being abused.

This is therefore not a marginal issue. Of the 1 million disabled people resident in Scotland, 96,000 are registered wheelchair users and almost 230,000 are registered blue badge holders. At present, almost 85 per cent of disabled parking bays are advisory, which means that anyone can park in them without risk of being penalised. Local authorities simply rely on other drivers’ goodwill not to park in designated places.

This essentially simple bill, which aims to prevent parking places for disabled people from being occupied by those who do not need them and are not entitled to use them, draws on existing road traffic and parking procedures and requires councils to be proactive in their approach to managing disabled parking. It is important to set the proposal in a wider context. Disabled parking provision must be improved in three ways: first, by preventing the abuse of disabled parking bays; secondly, by reforming the blue badge system to stop its abuse; and, thirdly, by improving the process for local authorities. The bill attempts to make a small contribution by delivering on the first of those three counts, but it is for the Scottish Government and the UK Government to deal with the other two. Frankly, such matters are too complex for the stuff of a member’s bill.

The clear and simple fact is that the abuse of disabled parking is a quality-of-life issue. The problem is profoundly upsetting for the disabled people who experience it and we can—and must—solve it. We can no longer ignore the overwhelming sense of injustice, frustration, powerlessness and, yes, anger that is out there.

That sense comes not just from the disabled community. As a result of the volume of weekly customer complaints that it was receiving about disabled parking abuse, Asda was spurred on to set up its own enforcement regime, which duly received an unprecedented 93 per cent approval rating. Customers were telling Asda, “It’s not just that I agree not to abuse the spaces—I also think nobody else should abuse them”.

How would members feel if the disabled space in front of their house were continually blocked by a driving instructor who was using it to let clients practise their reversing? Is that a hypothetical example? I think not. What of the frustration—fast becoming fury—that they would feel if their space were to be pinched by an able-bodied neighbour and they were forced to drive around for two hours before a spot near enough to home came up? The extent of this problem is well documented.

In all, the bill does 10 basic things that link directly to the right of disabled people to be treated equally. It places a duty on councils to promote proper use of disabled parking places; it prevents them from creating more unenforceable on-street places; and it requires them to identify all on-street disabled places and assess whether they are suitable to be made enforceable.
The bill also standardises the application process for new on-street disabled bays across Scotland and requires councils to identify all off-street disabled parking places that they manage and, where appropriate, to begin the process of making them enforceable. In many ways, that is the nub of the issue. What is the point of Designating spaces for disabled people if there is no power to enforce them? The Local Government and Communities Committee heard evidence of the scale of the abuse that, as a result of which, Leonard Cheshire Disability concluded:

“the age of just relying on politeness has ended and the age of enforcement has come.”

The bill also stipulates that councils proactively contact car park owners to seek an arrangement to promote enforceability. It requires councils to contact developers of land to seek such an arrangement where new parking is planned. If the owners do not want to come under the local authority’s enforcement powers at that point, the council must make contact again in two years to encourage them to adopt enforcement measures. In addition, the bill requires councils to report to ministers on their performance under the legislation and, in turn, it requires ministers to report to the Parliament.

Will the bill work? Yes, because, in short, it introduces enforceability to the overwhelming majority of disabled parking places when 85 per cent are currently unenforceable. So the driving instructor, the thoughtless neighbour and those who are determined to abuse those parking places should watch out.

Enforcement is the key. The bill is that simple. It will use existing enforcement regimes—civil and criminal. Whether it is enforced by the police or by local authority traffic wardens does not really matter, because it will be enforced. People’s attitudes change when education and awareness-raising alert them to the consequence that their actions have for disabled people. For those who persist, a fine will change their behaviour.

The recent and rapid success of Asda’s scheme, and schemes such as the one at Braehead shopping centre, are testament to what we can achieve. Within a week of Asda commencing its enforcement regime, it reported a 60 per cent improvement in the availability of disabled bays. Frankly, that is astonishing.

Let me touch briefly on finance—I am sure that I should say that I enjoyed our sessions, but I did. Of course, I also thank the non-executive bills unit, which has held my hand throughout the process—do not let go, because it is not over yet. Finally, I thank my staff and my two interns, Scott Smith and Julia Floren, who have vanished under the sea of postcards that people who are determined to abuse those parking places should watch out.

Enforcement is the key. The bill is that simple. It will use existing enforcement regimes—civil and criminal. Whether it is enforced by the police or by local authority traffic wardens does not really matter, because it will be enforced. People’s attitudes change when education and awareness-raising alert them to the consequence that their actions have for disabled people. For those who persist, a fine will change their behaviour.

The recent and rapid success of Asda’s scheme, and schemes such as the one at Braehead shopping centre, are testament to what we can achieve. Within a week of Asda commencing its enforcement regime, it reported a 60 per cent improvement in the availability of disabled bays. Frankly, that is astonishing.

Let me touch briefly on finance—I am sure that I will have to return to it. I am content with the committee’s recommendation that, should my bill be passed, the Scottish Government will negotiate with the Convention of Scottish Local Authorities over the costs of implementing the provisions. I stand by the robustness of the £1.7 million figure, based on the information supplied by local authorities. I invite the chamber to consider some of the wide disparities in costings, and I will give two examples. Highland Council indicated that it would take two men 12 years to identify where its 400 or so disabled parking spaces are and to promote a traffic regulation order, yet it would take two men from Glasgow one year to do over 4,000 spaces. Perhaps it is something in the water.

Why does the process of designating a bay cost £119 in Fife and £466 in Glasgow? I confess that the higher cost of paint in Glasgow remains a mystery worthy of Arthur C Clarke. There is clearly much to be gained from sharing good practice to secure best value.

Before I finish, I express my gratitude to all the organisations that have supported my bill. Given that I am running out of time, I will not thank them individually. I also thank the many individuals, disabled or not, who have voiced their support and flooded my constituency office with postcards.

I thank in particular the people who have helped me from the start of the process: Liz Rowlett of the Scottish Disability Equality Forum; Alistair Watson of Strathclyde partnership for transport; Jim MacLeod of Inclusion Scotland; and Euan Page of the Equality and Human Rights Commission. They have helped to shape the bill.

I thank the Local Government and Communities Committee, which gave robust scrutiny to the bill. I am not sure that I should say that I enjoyed our sessions, but I did. Of course, I also thank the non-executive bills unit, which has held my hand throughout the process—do not let go, because it is not over yet. Finally, I thank my staff and my two interns, Scott Smith and Julia Floren, who have vanished under the sea of postcards that people have sent in.

Let me draw to a close with the words of the Equality and Human Rights Commission, which wrote in evidence to the committee that the bill “represents a straightforward, practical and cost effective means of making a real difference to the lives of disabled people across Scotland, removing a persistent barrier to disabled people’s participation in society.”

In other words, this is unambiguously the right thing to do. Such opportunities are rare in politics and ought not to be missed. I hope that, come decision time, the whole chamber will unite so that we can take a small but important step in the right direction for disabled people in Scotland.

I move.

That the Parliament agrees to the general principles of the Disabled Persons’ Parking Places (Scotland) Bill.

15:04

Duncan McNeil (Greenock and Inverclyde) (Lab): The Disabled Persons’ Parking Places
(Scotland) Bill was introduced by Jackie Baillie MSP on Monday 2 June 2008. The Local Government and Communities Committee was confirmed as the lead committee in consideration of the bill at stage 1 by vote of the Parliament on Wednesday 11 June 2008.

In all, 28 individuals and organisations responded to the committee’s call for written evidence. The committee took oral evidence on the bill from witnesses at meetings in September and October 2008. Extracts from the Official Reports of the meetings and the associated written submissions are before members today in the committee’s report. On behalf of the committee, I thank all those who willingly gave their time to give evidence and to participate in the process. I hope that I will be allowed to make a particular reference to the committee clerk, Martin Verity, who has prepared his last stage 1 report, as he will retire later this year. I am sure that all members wish him a happy and long retirement. [Applause.]

The evidence that we received showed that approximately 4.5 per cent of the Scottish population hold a blue badge parking permit, which translates into 230,000 people. As has been mentioned and I am sure will be mentioned again, the baywatch campaign in its most recent survey found that one in five parking bays is being used by drivers without a blue badge. That figure has remained depressingly constant over the years. The same survey found that more than a third of car parks have no accessible bays free for disabled shoppers because of the level of abuse. In evidence to the committee, Alex Thorburn of the Dumfries and Galloway access panel reported that his surveys of the local hospital car park regularly found that 50 per cent of accessible bays were taken up by non-badge holders. On one occasion, the figure rose to 75 per cent.

For someone with an impairment, the situation is more than an irritant and inconvenience; it represents a significant obstacle to undertaking the most mundane but important tasks, such as going to the shops, visiting the post office or attending the hospital. The need to act is outlined clearly in the evidence that the committee received. Jackie Baillie mentioned the written evidence from Leonard Cheshire Disability, which illustrated the organisation’s full support for the bill. It stated:

“For too long disabled people have had to rely on the courtesy and consideration of other drivers not to ‘take’ their reserved parking spaces, but we have all heard and seen news stories which depict the hostility other drivers now show each other when it comes to gaining a parking space.”

We also heard from Jackie Baillie about that. The submission concluded:

“Therefore the age of just relying on politeness has ended and the age of enforcement has come.”

The committee, while noting that the blue badge scheme is a United Kingdom scheme and is not within the scope of the bill, nevertheless believes that a wider approach to the issue of disabled persons’ parking is required and that abuse of the blue badge scheme should be tackled. That may have further benefits in tackling crime generally. The evidence that was presented to the committee confirmed that people who break the rules in one part of their life are likely to break rules in other illegal ways. Research shows that those who are careless and thoughtless enough to take up a disabled parking bay are more likely to have a criminal record and that about 50 per cent of them have a history of traffic violations. Of the cars found abusing disabled spaces, one in 10 were in an illegal condition, whether through defective tyres or outdated road tax. That being the case, enforcement of disabled parking spaces may be an efficient and cost-effective way of targeting active offenders and illegal vehicles. Consequently, the committee calls on the Scottish Government to consider how the results of the Department for Transport’s review of the operation of the scheme in England can best inform policy in Scotland.

One key proposal of the bill regarding on-street disabled persons’ parking places that resulted in significant responses in evidence and subsequent debate is the requirement for each local authority to conduct a one-off audit of existing disabled parking spaces within 12 months of the act coming into force. There was wide variation in the estimated scale of the task and the possible resources required, perhaps reflecting the diversity of the local authorities that gave responses. While taking into account the difficulties that local authorities have in conducting an audit of their existing advisory disabled persons’ parking bays, the committee agrees that a year after the act comes into force would normally be a reasonable length of time in which to have completed that exercise. The committee is also of the view that where exceptional circumstances prevent such an exercise being completed in time, the minister should be able to approve an extension.

The bill would require local authorities to seek to negotiate enforceable parking arrangements with owners of private car parks to which the public have access. It is the committee’s view that the procedures for such negotiations should not result in an undue burden on those involved. The committee believes that working in partnership could bring benefits to those companies and have a significant effect on reducing the abuse of disabled parking bays. The evidence that we heard from Asda, mentioned earlier by Jackie Baillie, gave an insight into what can be achieved.
It would be fair to say that Asda is leading the way on that front with an enforcement scheme that has increased the availability of disabled parking spaces by 60 per cent. It has achieved that by introducing part-time parking attendants who can ask motorists to move on from disabled bays if they are not eligible to use them.

Sandra White (Glasgow) (SNP): Duncan McNeil makes interesting comments about Asda. Does he agree that the similar scheme at Braehead is fantastic? The profit that it makes goes into communities in Renfrewshire. We could look at schemes such as that in future.

Duncan McNeil: I am sure that it is a commendable scheme and I have relatives who have benefited from disabled parking there. However, we did not take evidence from Braehead; we took it from Asda. I do not mean to exclude or offend anybody, but I mentioned Asda because it is in our committee report.

Although Asda takes a softly-softly approach, if people persist in offending behaviour, the wardens have the ability to issue a £60 penalty to motorists who do not comply. Just like at Braehead, Asda shares the income from penalties with local charities.

There are lessons in expense to be learned. Asda claims that the scheme costs £500 per store per year. More important, rather than being viewed as a nuisance by customers, the enforcement schemes have received a 93 per cent customer endorsement rating. I see no reason why other supermarket chains are not following Asda’s example. What are they waiting for?

The committee accepts the Finance Committee’s view that more accurate costs could have been provided for the bill. We also endorse that committee’s view that the overall estimate of £1.7 million for promoting and implementing orders throughout Scotland is subject to significant doubt. The committee heard evidence about a wide range of costs associated with the implementation of the bill’s provisions. Dundee City Council reported that it could convert 1,000 advisory bays into enforceable ones at a cost of £196,000, while South Lanarkshire, with just 100 more bays than Dundee, believed that conversion would cost £1 million. Glasgow City Council, which has 4,500 advisory bays, thinks that it will cost it £2.1 million.

The committee agrees with the member in charge of the bill that some of the higher estimates of the work and associated costs might be avoided by adopting best practice. Only a thorough examination of the probable cost of implementing the bill across local authorities could give an accurate picture. If the bill is passed, the committee expects that the Scottish Government will, in conjunction with COSLA, negotiate the costs of implementing the bill’s provisions, in a way that does not place an undue burden on local authorities.

On the basis of the report before Parliament, the committee recommends that the general principles of the bill be approved.

15:14

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): I congratulate Jackie Baillie on the progress that she has made with the Disabled Persons’ Parking Places (Scotland) Bill to date. I am grateful for the opportunity to put forward the Government’s position on the bill.

We welcome the bill, because we, like everyone who has spoken so far—and, I expect, everyone who will speak—in the debate take the issue of the abuse of disabled parking bays extremely seriously. We share Ms Baillie’s commitment to helping disabled people throughout Scotland to have access to parking.

Following a request from Ms Baillie, my colleague the Cabinet Secretary for Finance and Sustainable Growth has lodged a financial resolution, which, if agreed to, will allow the bill to progress to stage 2.

Although the bill does not affect blue badge regulations, it does affect blue badge holders. It should make it easier for them to park in disabled parking spaces, as it will ensure that on-road disabled parking spaces are enforceable, which should discourage abuse of them.

Hugh Henry: I share the concerns that Jackie Baillie and Duncan McNeil raised about the abuse of the blue badge scheme. We need to take action to identify the abuse, to confiscate badges where there is abuse and to publicise the disabled parking strategy. I do not want that to be left to a UK initiative. Will the minister specify what the Government will do to tackle abuse of the blue badge scheme in Scotland?

Stewart Stevenson: At this stage, it might be helpful if I say that, although the blue badge scheme is a UK scheme, we have the powers to create the regulations that apply in Scotland. It is not our immediate intention to have a radically different regime in Scotland, but I hope that, as the bill progresses through Parliament, Hugh Henry will see that we are committed to not just talking the talk, but walking the walk.

To that end, we are working closely with the Department for Transport. Officials, along with colleagues from the Welsh Assembly and key stakeholders, will be taking part in a steering committee set up by the DFT on the
comprehensive blue badge reform strategy. I hope that that gives some early earnest of our sincerity on the matter. My officials will also ask that a representative of the Mobility and Access Committee for Scotland be invited on to the group. We hope to learn from the review, and we will cooperate to ensure that the arrangements on both sides of the border are complementary.

I note from the committee’s report several references to possible minor amendments. One of those relates to the timetable for reviewing advisory spaces within each local authority. Although the committee feels that the timetable is reasonable, it suggests that, in exceptional circumstances, ministers could approve an extension. Should Ms Baillie wish to lodge an enabling amendment, it is likely to receive Government support.

I note, too, that the report clarifies that the proposed changes to the Traffic Signs Regulations and General Directions 2002 (SI 2002/3113) are reserved and, therefore, do not fall strictly within our legislative competence. However, I think that there are issues there that we can examine further.

The report comments:

“The Committee agrees that it is reasonable to expect that local authorities will be able to identify owners of private car parks”.

I would be astonished if the overwhelming majority of owners of such car parks did not wish to cooperate. In any event, they have duties to discharge under the Disability Discrimination Act 1995. A regime in which there is clarity about who may use disabled parking spaces in privately owned car parks and about the steps that may be taken to ensure that those spaces are used by entitled people is in the interests of car park owners as well as disabled people.

The bill would require authorities to produce annual reports. I believe that that introduces necessary transparency.

As the financial memorandum makes clear, information is not currently being collated or is not widely publicised in a number of areas. As I have said, I share the Finance Committee’s concerns about the degree of uncertainty in the financial memorandum, to which others have referred. I understand why Ms Baillie has robustly defended her estimate of £1.7 million. I recently passed on to her a copy of a paper by the Society of Chief Officers of Transportation in Scotland, which also argues that that figure is very uncertain.

Several references have been made to the discrepancy in the figures. We cannot ignore that, but the Government will provide all possible and reasonable support to the bill’s promoter, who has the ultimate responsibility to ensure that Parliament has an adequate and much firmer understanding of the cost of implementing the bill before we complete stage 3. If Ms Baillie wants specific help—we have thoughts about how we can help—I hope that she will work closely with us to ensure that we deliver for disabled people throughout Scotland.

15:21

Mary Mulligan (Linlithgow) (Lab): I am pleased to participate in the debate. I am sure that members who follow me will join me in congratulating Jackie Baillie on introducing the bill and on all the work that she has done to bring the bill to this stage. I thank her particularly for giving the Parliament a piece of legislation to deal with. Legislating is one of our central reasons for being here and sometimes I wonder why the Government is strangely reluctant to put its policies to the legislative test. However, today we are dealing with legislation, which I will discuss.

I thank all the people who contributed to the Local Government and Communities Committee’s consideration of the bill by providing written and oral evidence. I joined the committee after it began taking evidence, but reading the written submissions and the Official Reports of meetings brought me quickly to the salient points that needed to be addressed.

Before examining specific issues, I will consider the bill’s aim. As we have heard, the bill’s policy memorandum tells us that

“The main policy objective of the Bill is to prevent disabled persons’ parking places being occupied by those that are not entitled to use them by seeking to ensure that enforcement action can be taken.”

I suspect that, after hearing that, any reasonable person might ask why we need legislation to provide what appears to be a small benefit to disabled people. However, the benefit is not small—it is critical to many disabled people’s lives. From Leonard Cheshire Disability’s briefing, we learn that 66 per cent of respondents to its Disability Review 2007 survey

“said that they needed a car because of barriers to public transport linked to their impairment.”

Having a car is important, but so are being able to use it and finding an accessible parking space.

The Leonard Cheshire briefing tells us that disabled people do not fully use their cars because they cannot always find an accessible parking space. Too often, that is because people who have no blue badge abuse the spaces that are made available. Jackie Baillie gave us examples, and all of us have heard people say, “I’ll be only a few minutes,” “My shopping was heavy,” or “It was raining.” It is unfortunate that such people do not realise that making life a bit easier for them makes
everyday jobs impossible for people who need those parking spaces. I must agree with Leonard Cheshire—Jackie Baillie said this, but it deserves repeating—that the age of relying on politeness has, unfortunately, ended and the age of enforcement is upon us. The policy memorandum says:

“The Bill will make all permanent disabled street parking places enforceable.”

The bill’s main burdens will fall on local authorities. We should not apologise for that. I am sure that I am not the only MSP who has consistently been approached by constituents who have difficulties in accessing disabled parking places. Sometimes the problem is that a council is reluctant to designate a disabled parking place, because it knows that the disabled bay will be difficult to enforce. The bill would remove that concern.

If I have time, I will come back to enforcement, but first I will say more about the role of local authorities. The bill would require local authorities to conduct an audit of all disabled parking places in their area, to ascertain whether the places are still needed, before beginning the process of obtaining an order to make legally enforceable all the spaces that are deemed necessary. Local authorities would be able to remove spaces that are no longer needed. As the minister said, the committee agreed that it would be reasonable to expect that work to be carried out within 12 months of the bill’s enactment but thought that the bill should be amended to allow ministers to oversee an extension if there was a particular reason why a local authority could not carry out the work within 12 months. That indicates the reasonableness of the committee and of the member who introduced the bill. I accept that the whole exercise would never have been high on a local authority’s agenda. However, authorities should have been paying attention to disabled parking, so the issue should not be entirely new to them.

Perhaps the most contentious issue in the bill is finance, in particular the costs on local authorities. Like Jackie Baillie and the minister, I find it difficult to understand why local authorities quoted such wide variations in the cost of establishing a disabled parking bay. The oft-quoted West Dunbartonshire Council said that it would cost £12.20, whereas Fife Council said that the cost would be £119. The committee did not get to the bottom of those discrepancies, but perhaps an unintended consequence of the bill will be the sharing of good practice among local authorities, which might help councils to save money.

The bill responds to the needs of a significant number of people in Scotland. It has great support from parliamentary committees and from many constituents—I thank Jackie Baillie for updating us on people who have contacted her about the bill. I am sure that the Parliament will agree with the conclusions in the stage 1 report and allow the bill to pass to its next stage.

15:27

David McLetchie (Edinburgh Pentlands) (Con): I commend Jackie Baillie for her sterling efforts to introduce the bill in the Parliament and for addressing an issue that is of importance and concern not just to people with disabilities, who are directly affected by the problems that she identified, but to all of us who sign up to the promotion of an inclusive Scotland and the lowering or elimination of barriers to participation in our society for all citizens.

In an ideal world the bill would not be necessary. If common courtesy, respect and sensitivity to people’s needs were more prevalent in society we would not need laws to enforce disabled parking bays or spaces, and social norms and peer pressure would combine to ensure that disabled parking facilities were not abused.

There are voices that want Parliaments and Governments to legislate for and regulate every conceivable circumstance in every aspect of our lives, but such an approach is neither morally superior nor practically effective. One of this Parliament’s weaknesses has been the temptation to fall into the something must be done trap and the indulgence of using legislation to send a message. I am one of those people who think that if we want to send a message we should use the Royal Mail and not waste a Parliament’s time.

Accordingly, and irrespective of sentiment, we have a responsibility to judge legislative proposals entirely on their merits. In making such a judgment I always ask myself three questions. First, does the problem justify legislative intervention? Secondly, are the proposed measures likely to achieve the desired result in practice? Thirdly, is the likely cost of the measures proportionate to the benefits that they will bring?

On balance, there is justification for legislative intervention in the matter that we are considering, although not necessarily or exactly in the manner that is proposed in the bill, which could be fine tuned at a later stage.

As we heard from Jackie Baillie, there are about 230,000 blue badge holders and 96,000 wheelchair users in Scotland. We know from survey evidence and anecdotal evidence from the individuals and organisations that appeared before the committee that statutory provisions are required. Therefore, I am satisfied that the bill meets the first test of justified legislative intervention, although, in relation to specific
proposals, I am not so satisfied that all the alternatives have been properly examined.

There was an unsatisfactory evidence session with the minister and his officials at which it was put to him, in accordance with the evidence presented by several local authorities, that an alternative and more cost-effective approach to enforcement would be to amend the Traffic Signs Regulations and General Directions 2002 to allow councils to designate enforceable disabled persons’ parking places in the same manner as bus stop clearways are designated. That would require legislation at United Kingdom level.

It is fair to say that the minister’s desire to promote a Scotland-first solution rather got in the way of reasoned judgment, and the committee was duly grateful to Jackie Baillie and her advisers for untangling his legal knots and making it clear that the matter was indeed reserved. Having finally established that, I am inclined to the view—like several councils that gave evidence—that a UK-wide reform would be preferable, but I recognise that that is not on the table and that it would be unfair to delay or defer action in Scotland indefinitely.

We then come to the issue of private car parks to which the public have access, principally those operated by supermarkets and shopping centres. We heard evidence from Asda and others about the initiatives that have been taken to use the civil law of contract to create for their car parks an enforcement regime that does not involve the statutory designation of bays in a way that would give rise to fines and penalties. Although it appeared that the legality of the rights of recovery using that mechanism has not been fully tested in the civil courts—members will be aware that in Scotland the wheel clamping of cars on private land has been ruled illegal—it is fair to say that such voluntary measures have proved effective and acceptable to customers, as Duncan McNeil pointed out. Indeed, Asda went out of its way to emphasise that it much preferred to manage parking problems with its customers without involving the civil authorities.

Although there is no compulsion on supermarkets and other car park operators to designate their bays as enforceable bays, the bill requires councils to identify all such car parks and to write to their operators at regular intervals to invite them to participate in a designation process.

I thought that the evidence on the merit of that approach was equivocal. On the one hand, the importance of disabled bays at supermarkets and shopping centres was rightly stressed. On the other, Jackie Baillie sought to minimise the impact of the obligation on councils, saying that it did not amount to much—just a couple of letters every few years. I am somewhat sceptical about that. Once we place a statutory obligation on councils, they will inevitably be under pressure to take a positive and interventionist approach that goes well beyond letter writing. I wonder whether that is an aspect of the bill for which a deferred commencement date might be appropriate, so that we can judge what further progress is made on a voluntary basis by operators such as Asda before we introduce the full panoply of the law. Therefore, on my second test, I think that the measures can be effective for on-street parking bays, but I am less convinced about provisions in relation to off-street parking.

Finally, we come to the third of my tests: is the benefit of improved access to disabled bays proportionate to the cost to the public purse? Frankly, the evidence on that question was all over the place. I am not entirely convinced by Jackie Baillie’s figure of £1.7 million; equally, I am in no doubt that some councils substantially overegged the pudding in their cost estimates and, in doing so, did the argument on costs no favours at all. I hope that the matter can be resolved and that we can be given more robust figures and estimates in later stages of the bill.

We all know that public finance is about making judgments about priorities. Mr Swinney may have to say no to councils’ demands for more money for the bill because it is one of the uncosted funding pressures not referred to in the historic concordat for which he will be expected to stump up. Some people think that it is more important to provide free school meals to the children of people who can well afford to feed them than to provide 230,000 disabled badge holders with proper access to parking places. No doubt we will hear more of that tomorrow. On balance, the jury is still out on costs, about which we will hear more later. However, I will vote for the bill at stage 1 and recommend that my Conservative colleagues do the same.

A number of important questions remain to be answered before the bill is finalised, but I end on a positive note by welcoming it in principle and by welcoming the steps that are being taken to address a serious problem. I hope that we will end up with a piece of legislation that will improve quality of life for many disabled people in Scotland.

15:36

Jim Tolson (Dunfermline West) (LD): I am pleased to open the debate on behalf of the Liberal Democrat group and to support the general principles of the Disabled Persons’ Parking Places (Scotland) Bill. As a member of the Local Government and Communities Committee, I have had the opportunity to consider the bill in detail over the past 18 months. In fact, the committee
took evidence from Jackie Baillie at its first meeting in the Parliament’s third session. The Liberal Democrats congratulate her on introducing the bill and strongly agree with its principles. However, we have great concerns about the wildly varying cost estimates and about the administrative burden of implementation.

Approximately 4.5 per cent of the Scottish population—in other words, more than 230,000 people—hold a blue badge parking permit. Disabled persons’ parking places enable disabled people to carry out day-to-day activities and to maintain independence. Being able to park near their homes and facilities and services is essential for daily living and life fulfilment. Without easy access to supermarkets, libraries and health centres, disabled people can feel isolated and excluded from society.

There are no official figures on the abuse of on-street disabled persons’ parking spaces, so we can only guess at the scale of the problem. Those in private car parks tend to be advisory and not legally enforceable, so availability is dependent on the courtesy and consideration of other drivers. As we heard in committee, Asda is leading the way in the private sector and is helping its disabled customers by enforcing disabled parking spaces. It was clear that Asda’s customers support that action. Of course, larger organisations can enforce disabled parking spaces, but smaller organisations often lack the resources to take such action.

The aim of the bill is to make on-street and off-street disabled persons’ parking places legally enforceable, which will prevent their misuse by drivers who are not entitled to use them. Currently, local authorities have the right to designate permanent advisory disabled persons’ parking spaces. In the majority of cases, that has proven to be satisfactory but, unfortunately, it has failed in others.

The bill will require each local authority to conduct, within a year of its enactment, a one-off audit of existing on-street disabled persons’ parking places to establish whether they are all necessary. Each local authority will also be required to identify every advisory off-street disabled persons’ parking place within its area and begin to prepare designation orders. In addition, every two years, local authorities will have to make attempts to secure agreement to the creation of enforceable parking places. Those could turn out to be huge and bureaucratic tasks, particularly in the first year of implementation. Witnesses who gave evidence to the Local Government and Communities Committee had various views on that point. Disability campaign groups thought that the bureaucracy would be nil or negligible, but local authorities expressed their concerns about the significant levels of work that would be needed to implement the bill’s requirements.

**Jackie Baillie:** Does Jim Tolson accept that Glasgow City Council probably has the most advisory disabled parking bays and already has a database that identifies where they all are?

**Jim Tolson:** That may be the case, but the evidence varies widely and, in many cases, the true picture may not be ascertained until after the bill is enacted. That is not helpful at this stage of the discussion. However, wherever the truth lies, there can be no doubt that the additional administrative burden gives real cause for concern.

I am also rather concerned about what the financial consequences for each authority of implementing the bill’s provisions would be at a time when finances are already severely stretched by this Government. The main costs are expected to fall on local authorities. There will be significant set-up costs in the first year, when local authorities will be required to identify all existing on-street and off-street advisory parking places for disabled people. The costs of that exercise will depend on the number of places that are identified. That will be followed by the on-going costs of meeting the bill’s requirements, which include implementing designation orders and altering road markings and signage.

The total national cost of implementing designation orders for all existing advisory on-street parking places in Scotland is estimated to be £1.7 million, based on an estimated number of parking places and on an average cost of £125 per place. The sum of £125 is little different from Fife Council’s figure of £119, which Jackie Baillie mentioned earlier, but both figures are way short of a £200-plus estimate that we heard at committee, so the total cost could be grossly underestimated. The Finance Committee and the Local Government and Communities Committee concluded that the total figure

“is subject to a significant degree of doubt.”

Glasgow City Council’s written evidence indicated that it might have

“over £2,000,000 in set up costs alone”.

West Lothian Council stated that it believed that it would not be able to meet the costs from “within existing resources” and that the true costs have been significantly underestimated

“by as much as a factor of ten.”

The City of Edinburgh Council suggested that

“the total … cost of implementing Designation Orders … estimated at £1.7 million … could be exceeded in Edinburgh alone”.

Dr Cameron: The bill will require each local authority to designate their on-street parking places.

**Jackie Baillie:** Does Jim Tolson accept that Glasgow City Council probably has the most advisory disabled parking bays and already has a database that identifies where they all are?

**Jim Tolson:** That may be the case, but the evidence varies widely and, in many cases, the true picture may not be ascertained until after the bill is enacted. That is not helpful at this stage of the discussion. However, wherever the truth lies, there can be no doubt that the additional administrative burden gives real cause for concern.

I am also rather concerned about what the financial consequences for each authority of implementing the bill’s provisions would be at a time when finances are already severely stretched by this Government. The main costs are expected to fall on local authorities. There will be significant set-up costs in the first year, when local authorities will be required to identify all existing on-street and off-street advisory parking places for disabled people. The costs of that exercise will depend on the number of places that are identified. That will be followed by the on-going costs of meeting the bill’s requirements, which include implementing designation orders and altering road markings and signage.

The total national cost of implementing designation orders for all existing advisory on-street parking places in Scotland is estimated to be £1.7 million, based on an estimated number of parking places and on an average cost of £125 per place. The sum of £125 is little different from Fife Council’s figure of £119, which Jackie Baillie mentioned earlier, but both figures are way short of a £200-plus estimate that we heard at committee, so the total cost could be grossly underestimated. The Finance Committee and the Local Government and Communities Committee concluded that the total figure

“is subject to a significant degree of doubt.”

Glasgow City Council’s written evidence indicated that it might have

“over £2,000,000 in set up costs alone”.

West Lothian Council stated that it believed that it would not be able to meet the costs from “within existing resources” and that the true costs have been significantly underestimated

“by as much as a factor of ten.”

The City of Edinburgh Council suggested that

“the total … cost of implementing Designation Orders … estimated at £1.7 million … could be exceeded in Edinburgh alone”.

Dr Cameron: The bill will require each local authority to designate their on-street parking places.
After listening to the evidence and questioning the witnesses who were brought before the committee—including Jackie Baillie—I am content that the Disabled Persons' Parking Places (Scotland) Bill is worthy of continuing on to stage 2, and I look forward to taking further evidence at committee. I assure Miss Baillie and other members that the Liberal Democrats will support her member’s bill at stage 1 today.

**The Deputy Presiding Officer:** We now move to the open debate, in which we will have speeches of a tight six minutes.

**15:42**

**John Wilson (Central Scotland) (SNP):** In evaluating the stage 1 debate on this member’s bill, it is important that I acknowledge—as other members have—Jackie Baillie’s contribution in championing the key principles behind the bill. It is worth reinforcing the point, as other members have, that Jackie Baillie deserves credit for her substantial work in introducing the Disabled Persons’ Parking Places (Scotland) Bill.

My role, as a member of the Local Government and Communities Committee—which I joined in September 2008—has been to examine the proposals, especially with respect to the evidence-gathering sessions. I will talk in depth later about the committee report’s detailed findings. It is important that we look carefully at the reasons for introducing the bill. Anyone who has even scant knowledge of the issue knows that there has been an on-going problem with the blue badge scheme because non-badge holders abuse disabled parking places. However, as the committee report states, there are no official figures on abuse of on-street disabled persons’ parking places. The blue badge scheme is all about assisting disabled people to travel independently, but the baywatch campaign found that one in five disabled parking spaces is abused by non-disabled drivers.

In evidence, supermarkets and private car park operators said that they are not opposed to the bill. As other members have mentioned, Asda has led the way by introducing a fines system for people who abuse disabled persons’ bays. Far from the system being unpopular, Mr Mason of Asda highlighted in his evidence, as other members have mentioned, that 93 per cent of Asda’s customers support the system of fines being extended.

The committee report details clearly that there is an on-going debate about advisory versus enforceable disabled parking bays. There is also a debate about issues around the costs of the proposed legislation. The committee notes in paragraph 87 of the report the difficulty that local authorities throughout Scotland face...
abstract. The bill is not some glib and well-meaning statement of intent. The Equality and Human Rights Commission’s written submission gets to the heart of the matter. It states that the bill will help by

“removing a persistent barrier to disabled people’s participation in society.”

I welcome the general principles of the bill and the Local Government and Communities Committee’s stage 1 report. I thank the committee members, clerks, those who provided written and oral evidence and all those who have tried to ensure that the bill makes a meaningful contribution to tackling this area of social exclusion.

In concluding, I welcome the fact that the Government is in favour of the general principles of the bill. I urge all members to assist the bill’s passage through Parliament and I look forward to its becoming an act.

15:48

Patricia Ferguson (Glasgow Maryhill) (Lab): I add my thanks and congratulate Jackie Baillie both on introducing the bill and on the progress that it has made so far.

Many of us will have had a feeling of déjà vu when Jackie Baillie described the cases that first got her interested in the issue. Many members will have shared my experience of having constituents come to their surgeries to tell about the difficulties that they or their families have had in using disabled parking bays. Sometimes those difficulties have occurred when they have been out shopping. However, as Jackie Baillie said, often they occur when they return home and attempt to park in the advisory parking bay outside their house only to find that it is occupied by someone who has no right to be there. Therefore, the bill is indeed welcome.

I had the opportunity to discuss the bill proposal with users of the Possil and Milton Forum on Disability, which has a long name and an even longer track record of working with and enhancing the lives of disabled people in my constituency and across the north of the city of Glasgow. The meeting was well attended by people of varying ages and with a wide spectrum of disabilities. All of them were extremely supportive of Jackie Baillie’s proposals and made a number of suggestions that they feel would help to make their daily lives a little bit easier as car users and people whose families help to transport them. The group supports the inclusion in the proposed legislation of private car parks, especially at supermarkets, and wonders whether there could also be guidance or legislation that would set a minimum size for such parking bays wherever they are, so that wheelchair users could easily access their cars without having to seek assistance or to wait for another driver to depart.

In addition—perhaps in conflict with my colleague Hugh Henry—the group suggested that there should be guidance on the number of disabled parking bays that a supermarket or store is required to provide. My constituents said that although supermarket car parks often have hundreds of parking spaces, the proportion that is allocated to disabled shoppers is sometimes inadequate. They are particularly concerned about that because they feel that the more unscrupulous retailers would use implementation of the legislation as a rationale for reducing the size of the disabled parking bays that they provide so that they do not take up more space. Of course, my constituents might be wrong about that.

On a slightly more contentious note, my constituents also feel that the proposed £30 penalty for inappropriate parking is too little, and that a more appropriate fine would be £60. They suggest that the fine should increase every 21 days if it is not paid immediately, although that might be taking it too far. They agree that the money that is raised by fines that are issued by local authorities should be retained by local authorities and used to implement further work for disabled people.

My constituents identified one more issue, although it might be a matter for the Government rather than for the bill. They said that a high-visibility advertising campaign should accompany the introduction of enforcement so that, from the outset, all drivers will be aware of the new rules and of how they apply to them. My constituents also take the view that, in time, the measure would become self-policing, so the enforcement element would fall by the wayside.

As members will have gathered, my constituents gave serious consideration to the consultation and the processes that are involved in a bill. Although some of their suggestions fall outwith the bill’s scope, they are a fair representation of their views.

I was interested to read about the costs and difficulties that some local authorities predict if the bill is passed. I am sure that more work will have to be done in connection with that evidence so that the bill can receive substantial and robust financial backing. I can speak only of my experience of my local authority in connection with traffic regulation orders, where the promotion of TROs—particularly for controlled parking zones—has been pursued with what can only be described as zeal. A great deal of money has been spent on consultation of the local communities, some of which have rejected the proposals outright. As I said, that was in connection with metered parking bays. That argument probably needs to be continued, and I
do not believe that using TROs for disabled parking would be any more expensive than helping to provide those us of who live in tenements in Glasgow with parking closer to our homes. I look forward to the bill’s being passed, as it will improve the lives of many people, including the users of the Possil and Milton Forum on Disability, who look forward to it and to the protection that it will give them.

Another important element of the bill is the clarity that it will bring: it will mean that a common approach will be taken throughout the country, and that those who claim ignorance will no longer be able to do so. The legislation will be clear, consistent and, above all else, enforceable.

15:54

Bill Kidd (Glasgow) (SNP): I thank Jackie Baillie for introducing the bill for Parliament’s consideration. I am happy to participate in the debate as an MSP, as a councillor on Glasgow City Council and as the disability reporter to the Parliament’s Equal Opportunities Committee.

Legislation on disabled people’s parking places is long overdue. Reliance by local authorities and other public bodies on the courtesy and consideration of non-disabled drivers not to take reserved parking spaces could be seen as a basic abrogation of their DDA duties. It should be redundant to say that disability is not a lifestyle choice. For many people, the use of a car is the only way in which they can access education and employment. For people in rural areas who do not have regular and reliable access to public transport, it is often the only way of reaching shops and ensuring continued social contact.

Therefore, abuse of disabled parking spaces by non-disabled drivers is an abuse of disabled people themselves. Such abuse is most often carried out by people who, in a non-driving situation, would be horrified to have it pointed out to them that they were behaving in a discriminatory manner. However, until everyone can be trusted not to indulge in the—shall we say—slight transgression of stopping a wee bit closer to the shops because they have a lot of bags to carry or have children with them, or because it is raining, we must protect disabled parking spaces, because there are disabled people who have all those reasons for parking closer to the shops, as well as a disability to manage.

That being the case, we must consider legislation that will protect the rights of disabled people to use designated parking facilities and which will impose penalties on those who abuse those facilities. The only way of doing that is to create enforceable bays, that are cost effective to implement and operate. Many calls are made on local authorities’ finances for delivery of a wide range of services, but their service-provision duties are to all their citizens, both those who are able bodied and those who have disabilities. It is therefore incumbent on our councils to work together to establish best practice in areas such as the one that we are debating.

The estimated costs of creating cost-effective and enforceable parking bays that are patrolled by local enforcement officers who have specific knowledge of areas where non-disabled drivers abuse such spaces should not vary as widely as they do—from £12.20, which is the figure that West Dunbartonshire Council quotes, to £400 in Glasgow. To ensure compliance with the Disability Discrimination Act 1995 and effective mainstreaming of opportunity for disabled people in the general population, our councils must actively co-operate in addressing such wildly varying quotations for the implementation of viable and enforced disabled parking bays in our cities, towns and villages.

Emphasis must be placed on councils’ duty to deliver on the disability equality scheme and on their action plans to meet it. No additional administrative burdens are being imposed. Councils already have a disability equality duty, as well as a duty to demonstrate their delivery of it. There needs to be a standardisation of enforceable disabled parking bays, as the complex system of advisory bays has failed to deliver and proved to be open to abuse.

As the debate has demonstrated, there is good will on all sides to deliver a legally enforceable system. I understand that some of the costs and operational figures that have been presented might make some members balk but, in some cases, the figures are because the necessary will is lacking among the people who made the estimates.

It will be up to us to promote a legislative agenda that will result in the publicly funded bodies in question delivering on their duty to all our citizens, both those who are able bodied and those who have disabilities. We are all aware that the financial consequences of implementing the proposals have not yet been fully evaluated, but I wish to register my support for the aims of a much-needed bill.

15:59

Johann Lamont (Glasgow Pollok) (Lab): It is a privilege to participate in the debate. Like other members, I congratulate Jackie Baillie on her commitment to delivering the bill, on her tenacity, compassion and humanity and—critically—on her absolute understanding that we need to commit
ourselves not only to tackling inequality, but to spending time understanding the challenges and then working on the solutions, detail by grinding detail. We need not only to look for headlines, but to make significant headway. When it comes to the capacity to understand the issue and then address the details, Jackie Baillie has it in spades.

I also congratulate the visitors to the gallery, including the disability groups that have come to listen to the debate—a debate that has been shaped by their campaigning on the issue. Just as important, they have contributed to a greater understanding of how disability is experienced, how services for people with disabilities do not fully meet their needs and how those services should be better organised in order to meet those needs.

On a personal note, I particularly congratulate the parallel transport liaison group from Glasgow, whose representatives are here today. It is a group with a challenging name but a powerful message. It brings together users, carers and Glasgow City Council, and is supported by the voluntary organisation Fair Deal. PTLG provides a forum that liberates people who have learning disabilities to speak for themselves on the issues. When, as a fresh-faced younger MSP—not the haggard old hulk members see before them today—I was asked to chair that group, I found myself in a rigorous and refreshing place: a place where the fact that I cared was not the issue; what I could do to promote PTLG’s agenda on transport issues was what mattered. However, I am troubled that in these financially difficult times, an organisation such as PTLG may have its funding cut. We must understand that addressing the needs of disability is about not just service provision, but about support for those who tell us what that service provision should be. I urge the minister, in considering the financial concordat, to reflect on that and to enter into dialogue on those softer budget areas that may become vulnerable in hard times.

The issue of disabled parking spaces seems so simple: people lack mobility and need to park close to the shop, the doctor’s surgery, the hospital, their homes and so on. We create spaces for people who have disabilities and no mobility in the expectation that those who are blessed with mobility will not use them. It should be simple and for many people it is. It is a simple rule: no ifs, no buts, no maybes—people who are not disabled should not park in those spaces. I remember the bemusement and shock I felt when a member of the PTLG described to me not just being unable to get a parking space, but the hostility and harassment that they experienced when they asked to have their space back. It is not as simple as it seems.

The need for legislation exposes, at best, a lack of awareness about the challenge that faces people who lack of mobility and why disabled parking spaces are needed and, at worst, a cavalier and distressing indifference—if not hostility—to the people who are entitled to such spaces. It is as if it is perceived that people in wheelchairs have stolen a march on those who have no mobility problems. We need to reflect on what that attitude says about our society.

Although the legislation is small in the order of things, and will not do everything, it will make a significant change. We ought not to make good the enemy of excellence in dealing with the legislation. The need for it speaks of something troubling and selfish in our society. It appears that those who choose to be selfish want to rationalise and justify the legislation away by talking not about their actions but about abuse of the blue badge scheme. Of course, if there is abuse of the blue badge scheme, it impacts most on those who are disabled, so it should be dealt with. Such abuse should certainly not be a cover for people who believe that their need to park is more important than the needs of others. I look for agreement from the minister that his Administration understands its responsibility for tackling that broader and disturbing attitude to disability.

The practical steps to address inequality are not what we do when everything else is done. It is not just what we care about, but where money is spent. I accept that resources and funding decisions are critical. We need clarification from the minister on the importance of equality impact assessments of the single outcome agreements, which shape and determine local government priorities—

The Deputy Presiding Officer (Alasdair Morgan): Order. The member should address the bill that we are discussing today and relate her remarks to that bill.

Johann Lamont: I am, fundamentally, making a point about the bill—we must will the resources to deliver on our aspirations. I ask the minister to clarify whether equality impact assessments are necessary for single outcome agreements, as Mr Swinney has said, or whether they are not, as local authorities have said. With regard to our equality duties, the concordat must not—whatever approach is taken—signal deprioritisation by local government of its equality responsibilities.

Finally, the bill is testimony to those who have shaped it, but it is also testimony to this Parliament. Its being passed would confirm that it is possible for people in our communities to pose challenges, identify problems, offer solutions and demand that we act. In this small bill, we are being true to our belief that active engagement in our
communities is the real politics to which we aspire. I urge members to support the bill at 5 o’clock.

16:05

Michael Matheson (Falkirk West) (SNP): I, too, congratulate Jackie Baillie on progressing her bill so far. Any member who has pursued a member’s bill will know that it is a long journey simply to reach the point of committee scrutiny, never mind a parliamentary debate at stage 1. I believe that the principles of the bill deserve to be commended, and I hope that all members will find it in themselves to support it this evening.

As other members do, I regularly receive complaints from constituents about misuse and abuse of disabled parking bays. I agree with Jackie Baillie that the issue is about quality of life. Although I have received many complaints over the years, it has been only in the past couple of years—since my mum became a blue badge holder—that I have appreciated the impact that abuse of spaces can have on a person’s quality of life. She has benefited from the scheme when I have been taking her to places. The extra provisions that the bill will make for protection of disabled parking bays is extremely important.

I will raise three issues, which I hope will contribute to improving the overall provision of disabled parking bays for individuals and the specific impact that the bill will have. There appears to be a lack of logic in relation to how local authorities currently apply advisory restrictions to the use of disabled parking bays. In my constituency, Falkirk Council applies an advisory notice—in particular to on-street parking in the town centre—that applies only from Monday to Saturday. As one of my constituents put it to me, his disability lasts seven days a week, not six. Consequently, when he is shopping in the town centre on a Sunday, most of the disabled parking bays are taken up by individuals who do not qualify for a blue badge.

I am sure that members will appreciate that at this time of year, Sunday is a normal trading day in most town centres. Interestingly, Audit Scotland recently advised Falkirk Council that it should charge for its parking areas on a Sunday because it is a normal trading day. There is an issue of consistency with regard to how authorities apply advisory notices, so we need to ensure that legislation allows local authorities to deal with such matters consistently. Disability is not something that an individual has part-time, so it is reasonable to expect that disabled parking bays will not operate part-time.

The second issue is linked to the bill itself—it concerns the random approach that appears to be taken in deciding how many disabled parking bays there should be within local authority-owned parking areas. I will give an example from my constituency. The car park in Meeks Road has 337 spaces, five of which are designated for disabled people. Close by, in Melville Street, there are 67 spaces, five of which are designated for disabled people. Clearly, the Melville Street car park has a much higher proportion of spaces for disabled people. When the matter has been pursued with the council, however, there appears to be no logic in how it decides how many disabled parking bays to provide. If we are to provide that disabled parking bays can be enforced so that they are not abused, we also need clearer guidance on how local authorities determine how many disabled parking bays should be provided in car parks.

If the legislation is to be effective, a further point needs to be addressed on which I will give an illustration from my constituency. One of my constituents qualifies for a blue badge and qualifies under the local authority’s scheme to provide a designated disabled parking bay outside their house. Another constituent moves into the street who also has a blue badge and qualifies for parking under that criterion, but does not meet the council’s criteria for having a disabled parking bay outside their house. Inevitably, we end up with a fight over the disabled parking bay. The council is unprepared to address the matter, and the police cannot address it because, as far as they are concerned, even though there is an advisory notice, any blue badge holder can use the space.

That problem illustrates the disjointed way in which we decide whether people can have a blue badge and whether they should be able to get a designated disabled parking bay through their local authority. Greater consistency in how local authorities address such issues will help to improve the provision of parking bays for disabled people throughout Scotland.

16:12

Charlie Gordon (Glasgow Cathcart) (Lab): I support the general principles of the Disabled Persons’ Parking Places (Scotland) Bill and I congratulate Jackie Baillie on introducing it. I am glad that the Scottish Government supports the bill’s general principles. I commend the lead committee and the two other parliamentary committees for their scrutiny of the bill thus far.

When I read the evidence that was considered in committee, I was struck by several aspects. First, Glasgow City Council stated in evidence that it receives only about 100 complaints a year from disabled drivers about abuse of advisory disabled parking bays by able-bodied drivers. I find that figure surprisingly low, given that I have received such complaints regularly in my three years as an
MSP and my 18 years as a councillor in Glasgow. Perhaps the number of complaints is low not due to a low incidence of abuse of bays but because injured parties see no point in complaining, given the absence of enforcement.

The quantity of complaints from disabled drivers about the abuse of advisory bays by non-disabled drivers is one thing, but the quality of such cases can be distressing. One of a number of my constituents who await the enactment of the bill is a single parent of two severely disabled children. Her neighbours constantly park in her advisory bay, often leaving her to park several hundred yards away. I will not tell members my opinion of that family’s neighbours because I do not want to resort to unparliamentary language, but the case raises another point that requires clarification as the bill proceeds. The single mother is not a blue badge holder. Glasgow City Council’s social work department approved her request for an advisory bay due to her children’s disabilities, and rightly so. I hope that the bill will accommodate the retention of such local discretion.

The main message is that, because so many of our fellow citizens are so selfish about advisory and indeed mandatory disabled parking bays, the age of enforcement has come.

I turn to the implementation costs that councils will face. I read Glasgow City Council’s evidence on the matter and, given my personal experience, I am not surprised by its estimate of the cost of implementing the bill in the first year, which is £2.1 million. Even if that supposedly high figure is prorated across Scotland, in which case councils’ set-up costs for implementing the bill might come to about £5 million, that would be a price well worth paying. In any case, a large proportion of the costs—principally set-up costs—could be non-recurring after the first year and could be capitalised to a great degree.

To be fair, Glasgow City Council supports the general principles of the bill. As David McLetchie mentioned, some councils—including Glasgow City Council—suggested a cheaper and easier way of achieving some of the bill’s requirements, albeit with the use of reserved legislation. However, we should not be doctrinaire about how best to right long-standing wrongs.

I hope that Parliament approves the general principles of the bill tonight and that we subsequently use the remaining parliamentary processes associated with the bill as an opportunity to forge it into a genuine force for social justice.

16:16

Bob Doris (Glasgow) (SNP): For me, the bill is about ensuring that everyone in Scottish society is treated with the same respect and dignity, no matter who they are. If a person found it more difficult to access or leave their home, to use local facilities, to visit local shops or to go and see their friends simply because of the colour of their skin, their sex or their religion, the Parliament would rightly be outraged. We should not stand for it. It should be no different for people with mobility issues, and the bill addresses equality of access for those in our society who are disabled. For that reason, I will support the Disabled Persons’ Parking Places (Scotland) Bill later this afternoon. I commend Jackie Baillie for the bill.

My comments are based on my experience as a member of the Local Government and Communities Committee, which took evidence on Jackie Baillie’s bill. On the cost of the obligations that will be placed on local authorities should the bill be passed, the financial memorandum says that £1.7 million is required to implement designation orders on existing disabled bays throughout Scotland. However, as we have heard, Glasgow City Council estimates that around £2 million will be required in set-up costs alone, with £2.1 million required to repaint its 4,500 advisory bays. I am not sure where Glasgow City Council is getting its paint from, but the figure suggests that it does not exactly drive the best deal for my constituents and hard-pressed council tax payers. Perhaps the paint is purchased from the home decoration department of Harrods—along with some gold-handled paint-brushes—or perhaps the costs have simply been inflated. John Wilson made some pointed remarks about that, with which I associate myself.

If the bill is to progress, it is vital that we get some more robust figures from local authorities, so that the obligations that are placed on them can be properly costed and planned for. As is noted in the committee’s report, Euan Page of the Equality and Human Rights Commission stated:

there should be no additional administrative burdens on local authorities as a result of the Bill, because this should be part of their ongoing work under the Disability Equality Duty.

If authorities have not been doing that work, why not? If legislation is needed, it is because it is time for legislation.

On enforcement, I too will mention Asda—we have heard a few people mention Asda today; I promise that none of us is sponsored by it. It gave us evidence on how it enforces disabled parking bays in its car parks. Asda works with Town and City Parking and adopts a light-touch approach to enforcement, as we heard from my committee convener, Duncan McNeil. It is important to note that, for Asda, light touch does not mean soft touch. With a small team of wardens moving between stores, basing themselves where they
believe the biggest problems are, Asda has achieved a dramatic effect in freeing up disabled spaces, as we have heard. For Asda, a light touch means changing the attitudes of customers, rather than unduly charging them. By asking drivers to move on, Asda has changed attitudes without alienating its customers. Where necessary, it also issues fines.

After Asda gave evidence to the committee, I took the opportunity to meet Asda and Town and City Parking at one of Asda’s Glasgow stores. I saw a system that was operating very well. In the first 10 months of 2008, Asda fined a total of 185 motorists among its five Glasgow stores. That model may be a template for the owners of other private car parks in responding to the new obligations that the bill will place on local authorities to contact the owners of private car parks with a view to enforcing disabled bays.

On on-street parking and enforcement, it is important to ensure that people know that the bill will not mean that there is a police officer or warden lurking around every corner. However, it should be easier to enforce the legislation in town centres and on high streets, if that is appropriate, given the likelihood that police officers and wardens will be present anyway. When the legislation is abused, I expect it to be routinely enforced and fines levied.

The situation is more difficult in remote and rural areas. It is also unrealistic to expect there to be a warden or a police officer lurking around every corner if a bay is abused on housing estates and schemes throughout Scotland. Therefore, it is important that the general thrust of the legislation is about not only access and equality for disabled individuals but changing people’s attitudes and behaviour.

We need more idea of the guidance that will be given to those who will enforce the disabled parking scheme. For example, in local communities, might a sensible way ahead be for a community warden to chap at the door of someone who parks in a disabled bay, to warn them that they could be fined in future, rather than levying a fine there and then? We must ensure that light-touch enforcement is used when that is appropriate and that firm enforcement is used when that is appropriate. We must get the balance right.

I would like to hear more about what guidance will be issued but, all in all, I am happy to agree to the general principles of the bill.

16:22

Hugh O'Donnell (Central Scotland) (LD): As I expected, the debate has produced a great deal of consensus among all the parties and the members who have spoken. I, too, congratulate Jackie Baillie on introducing the bill.

We all have anecdotal tales from our constituencies and regions of the serious inconvenience that the problem has caused constituents. Duncan McNeil commented on the selfishness that exists in our society. Some of that is based on people thinking that someone is not disabled unless they can see a disability. When, despite the presence of a blue badge, apparently able-bodied people are seen using disabled parking spaces, it is assumed that they are misusing the service—I have seen that happen, in particular to my own late parents. We need to find a way of changing our attitudes towards what constitutes “disabled”. For the most part, it is our society that disables people. People may be differently abled, but what causes major problems is the way in which our society is structured.

To return specifically to the bill, the variable cost issue, which several members have mentioned, reminds me of an incident in my own region when an individual with a parking bay outside their house who asked for it to be repainted was offered the paint to do it themselves, because the council had neither the time nor the enthusiasm to provide someone to do it. It is not clear what the councils are doing. Bob Doris made some telling remarks about the cost of paint—it is clear that B&Q is not a popular destination for Glasgow City Council.

Patricia Ferguson referred to vehicle sizes. Many privately owned car parks have wider spaces, but many of them do not take into account the fact that, often, the people using them are not transferring from their wheelchair to a car; they are in a wheelchair and have another driver. It is common for vehicles with drop-down tails to be boxed in by inconsiderate able-bodied drivers, to the extent that people cannot get back into their vehicle. We need consistency in the size of spaces. There should be an obligatory standard size—I include in that width and length—because the sizes of bays cause major problems. In fact, not far away from Ms Ferguson’s constituency office, considerable problems have been caused— I speak from personal knowledge.

I am pleased that, in general, the minister supports the bill. We need to clarify the costs. Many members spoke in support of Asda’s approach, which is good, although we would be naïve if we did not consider a couple of related issues. Many private car parks now place restrictions on the length of time for which people can use parking places and use the law of contract to which Mr McLetchie referred as a mechanism for leveraging money out of people. People who are physically disabled may take longer to do their shopping in such environments, whether or not they have support. For example, it may take
longer to get to the individual stores in shopping centres. We must be careful not to put pressure on disabled people. Even though they use a designated space, they could be fined for running over their time. That is a complex issue to do with access to facilities for disabled people. I do not know whether it fits with the general provisions of Jackie Baillie’s bill, but it must be addressed.

As my colleague Jim Tolson rightly pointed out, the Liberal Democrats fully support the general principles of the bill, although we have concerns about the variability in the financial estimates. I will not take up any more of the Parliament’s time reiterating points that other members have made. The issue has been well discussed and many good points have been raised. I congratulate Jackie Baillie on introducing any kind of legislation. As her colleague Mary Mulligan mentioned, we have had a legislation-light session of Parliament. I am sure that some new members have been here for 18 months and are not entirely familiar with the bill process. I thank Jackie Baillie for making progress on that, at least. However, I qualify that statement by suggesting to the Government that returning to the approach that the Labour Party took in the first two sessions might be a slight overreaction.

I welcome the bill. As I am not a member of the Local Government and Communities Committee and did not go through the evidence until I read the committee’s report, I have been informed by today’s debate. One of the more interesting figures that we have heard is that 4.5 per cent of the population of Scotland hold a blue badge. That figure is much higher than I expected it to be—it means that all of us will know someone who has a blue badge and many of us will be related to someone who has one. The issue touches us all in many ways.

Some time ago, my mother, who is now a blue badge holder, found out about the misuse of parking restrictions when she and my daughter went shopping—as it happens, at an Asda store. They used a mother-and-child parking space, and my mother was horrified because my daughter was driving the car. That indicates that we have a problem with getting some younger members of society to take such restrictions seriously.

An early part of the debate centred on the abuse of disabled parking spaces and why legislation has become necessary. I was interested in Jackie Baillie’s story about a young man driving a red BMW, and equally interested in Hugh Henry’s speed in jumping in to intervene, which made me wonder whether he owns a red BMW too. However, he made a sensible point. Perhaps there are too many disabled spaces in some modern supermarket car parks. A problem may exist if that causes people to take a blasé approach and abuse such spaces. I do not support Hugh Henry’s position, but there is an issue that should be addressed.

Duncan McNeil’s extremely well-researched speech has been the most informative and interesting in the debate. He spoke about the problem of the obvious abuse of disabled parking spaces and used a phrase that will stick in my memory and which has already been repeated: he said that the age of courtesy or politeness is over and that the age of enforcement has begun.

The Conservatives firmly believe that the bill is necessary. Of course, we are the party that habitually believes that legislation should not be the first port of call and should not be used unnecessarily to force people to behave in a particular way. However, we have had disabled parking spaces and blue badges that show that a person is entitled to use a disabled parking space for a long time. The experiment has now run its course; the time for legislation has come.

I was interested in Duncan McNeil’s suggestion that evidence that has been presented may show that those who abuse disabled parking spaces are more likely to offend in other ways. That indicates to me that we have a broader problem in Scotland. The failure to enforce what we may see as relatively trivial legislation simply encourages people to take a poor attitude towards observing the law at any level, which does not serve our society at all. For that reason, I support what has been proposed.

David McLetchie set out the Conservatives’ position and his three tests. His first test was whether the problem justifies legislative intervention. What I have said so far indicates that we believe that legislation is appropriate. However, he qualified what he said by saying that amendments to the bill may be necessary to ensure that things are dealt with in an appropriate way.

David McLetchie’s second test was whether the proposals are likely to achieve the desired practical result. He showed that there are alternative ways of achieving such aims, including going down the route of United Kingdom-wide legislation. However, as we have heard, the only opportunity to introduce legislation through the Scottish Parliament may be the course that has been taken so far. For that reason, I am willing to support the route that is being taken.
The final test is the cost of the proposed remedy. We must consider the costs in detail, as they are a problem. Several members have discussed the wide range of estimated costs to local authorities. There is an expectation that something to deal with the abuse of disabled parking spaces can be achieved legislatively at a reasonable cost throughout Scotland, but a problem must be addressed, as different local authorities have come up with wildly differing cost estimates. As the bill progresses towards stages 2 and 3, the Conservatives will need to have a much clearer view of what the costs will be. We look forward to those costs being discussed in another forum.

In conclusion, the Conservatives accept that the bill is justified and so will agree to its general principles at 5 o’clock.

16:34

Mary Mulligan: As expected, the debate has been well informed. Members have emphasised why we need to pass the bill, the uncertainty in our discussions about finances, what the bill will do, and, of course, what it will not do. I will return to the uncertainty about finances.

I refer back to the issue of enforcement. It is clear that although many local authorities have been happy to establish disabled parking bays—both on-street and off-street—it has been impossible to enforce them without having recourse to a penalty. The bill provides for that enforcement. That is the right and logical thing to do, given that we have seen clearly the abuse of parking spaces that has occurred because there has been no enforcement. However, I am sure that there will need to be further discussion of Patricia Ferguson’s point that, as her constituents commented, perhaps a £30 fine is not sufficient penalty. Perhaps we will return to that point.

The debate covered private car park owners being encouraged to designate and enforce disabled parking places. The committee heard from Graeme Taylor of National Car Parks Ltd that NCP supports the principles of the bill 100 per cent. The committee also heard from Asda about its good practice in relation to enforcement, to which other members have referred. Any suggestion that the bill is failing because it does not include private parking facilities has clearly been rebuffed by that evidence. It is to be hoped that others will follow that good practice, if only because it will benefit their business. Disabled drivers make up a proportion of their custom and, like everyone else, they will go to the businesses that best provide for their needs; that includes the provision of disabled parking places.

I return to the issue of finance. As expected, many members have said that it was difficult to get a handle on exactly how much the bill would cost, because of the differences in the submissions from local authorities throughout Scotland. Without wishing to appear profligate—excuse my pronunciation of that; I knew that I should not attempt to say it, but members know what I mean—I must agree with Charlie Gordon that the bill is the right piece of legislation and we should support it whatever it costs us. It will not be an enormous amount and it will be worth every penny that we spend.

David McLetchie asked whether it would have been better if the measures in the bill had been part of UK legislation. I suspect that, on this occasion, I will agree with him. That probably would have been better, but there is no opportunity for us to take forward the measures as part of UK legislation. I do not think that people in Scotland would forgive us if we were to miss the opportunity to pass a piece of legislation that can make a difference to their lives. I appreciate that David McLetchie has agreed, too, that we should go our own way on this occasion and proceed with the bill.

Patricia Ferguson made the telling point that it is all very well for us to debate the bill and go through the various stages, but without the necessary publicity to ensure that people in our communities know what we are doing, the bill will not be worth the paper that it is written on. I ask the minister and the member in charge of the bill to say in their winding-up speeches how they envisage that message being taken out to communities throughout Scotland to ensure that people know that enforcement is possible and that there will be retribution should they park in spaces in which they are not entitled to park. It is important that we make that as clear as possible to as many people as possible.

A number of members stressed the need to standardise the approach to disabled parking bays. Bill Kidd and Michael Matheson said that there is inconsistency in the way in which local authorities have identified parking bays and sought to ensure that they are reserved. One of the advantages of the bill is that it should bring about standardisation, so that, no matter where people are in Scotland, it will be easy for them to understand the regulations before them.

Jim Tolson mentioned the administrative burden on local authorities, which we should not dismiss. We should recognise that, given the disability equality duty, there is already an onus on local authorities, so part of the administrative burden should, if anything, be reduced. The Equality and Human Rights Commission provided information to members about the requirements that the
disability equality duty places on local authorities, which include several steps to ensure that opportunities are made available to people with disabilities. The bill sits nicely alongside the duties that local authorities already have.

No one has spoken against the bill today. Across the parties, we have recognised the bill’s moral substance. Even our legislative sceptic, Mr McLetchie, acknowledges that we need legislation to enforce the obligation. Given that, I am safe to say that the bill will pass stage 1. I look forward to reflecting on all the issues that members have raised in this constructive debate as the Local Government and Communities Committee considers the bill further at stage 2.

16:41

Stewart Stevenson: The debate started with exactly the right tone: Jackie Baillie related her bill to the interests not of parliamentarians, but of disabled constituents, who led her to intervene by introducing the bill. She referred provocatively to big flash cars. If only big flash cars committed the offence that we wish to eliminate, we would be on our way. We could just persuade our colleagues at Westminster—the consensus among the parties on my left and my right is clear about seeking support there—and ban all big flash cars. As the minister with responsibility for climate change, I might have something to say about that another time. That homes in on the point that the bill is not dry; it is about the lives of people—as we heard, 4.5 per cent of people in our population have a blue badge. I guess that, as our population is likely to age, that proportion will increase rather than decrease. The bill raises an important matter for Parliament and for legislation.

Every member who participated said something relevant and interesting. One or two comments might have stretched the debate’s boundaries, but that will not prevent me and the Government from noting them in other places and considering appropriate responses beyond what the bill requires.

Hugh Henry did not receive universal support for what he said, but we might think about the number of disabled parking places that should be available as a proportion of places at an appropriate time.

Various members quoted the statement in the committee’s report that politeness needs to be replaced by enforcement. It is a great sorrow to wrinklies such as me that politeness has been replaced by ill manners and unpreparedness among too many people in our society to acknowledge others’ needs.

Johann Lamont was correct to challenge the minister but, in reality, she challenged us all to say that we are determined to deal with disability issues. All levels of government of all political persuasions are committed to engaging on such matters and to addressing the needs of people with disabilities.

David McLetchie made the familiar point—it is familiar to me because I, too, have made it from time to time—that legislation ain’t always the answer. It is more important to make changes in the operation of society and less the case that changing laws in itself delivers such changes. The two aspects must go hand in hand when appropriate, but the test is whether we change the experience of the relevant people.

The ever-festive Michael Matheson made an interesting point, which was timely and relevant in the context of the upcoming Christmas season, when he talked about the six-day bays in Falkirk. He drew well on the experience of his constituents. I think that Mary Mulligan talked about inconsistency throughout Scotland; the example from Falkirk Council perhaps demonstrates an incoherent rather than an inconsistent approach. Perhaps I have not heard the whole story; there might be more to it than we heard in the debate.

Charlie Gordon made an interesting point about youngsters with particular needs who have able-bodied parents. There is something quite important in what he said; I cannot pretend to understand fully how the blue badge scheme works in that regard, but I will take the matter away and think about it.

A number of members said that people who abuse disabled parking bays are more likely to be criminals. In that context, I was particularly interested in Alex Johnstone’s speech and I hope that his sister is not of that character—if I understood him correctly, he was talking about his mother’s daughter—

Alex Johnstone: No, my daughter.

Stewart Stevenson: In any event, Alex Johnstone will be answerable for his remarks to a higher authority—a woman.

I reiterate the Government’s warm welcome for the initiative, and to all members who spoke in the debate I give thanks. Some technical issues remain to be considered. For example, under section 4, disabled parking places in, for example, shopping streets that are not necessarily adjacent to a blue badge holder’s location might have to be removed. If that would be an effect of the bill, we should perhaps consider the issue. Of course, regardless of the bill, local authorities will continue to have powers under section 45 of the Road Traffic Regulation Act 1984 to designate parking places. However, I hope that the review of existing discretionary parking spaces would not lead to local authorities failing to promote orders for such
places. One or two wee questions need to be considered at stages 2 and 3—I have given one example.

We heard that there is a high cost per bay in Glasgow, which seemed counterintuitive, because we would expect that in an area where there was greater density of bays the amount of walking—to put it crudely—that the man or woman who inspected the bays needed to do would be less than would be the case in, for example, Aberdeenshire, where I live, which is one of the most rural areas of Scotland. However, sometimes intuition does not work. It might be that the estimated costs are high because it is thought that it will be necessary to make a single order for every space. That will probably not be the case. I hope that there will be a good exchange of best practice between councils, to ensure that we secure not only a more robust understanding of the costs but costs that are much more acceptable to us.

Hugh O’Donnell made me think about the word “disability”. The debate is not about disability. Rather than focusing on that rather negative word, we are talking about enabling people and restoring abilities through positive action; given the opportunity to do that, it would be grotesque and unfair if we were to deny an ability to someone who is capable of benefiting from our making access to it possible. I wish the member good speed.

16:49

Jackie Baillie: I start by thanking all members for their contributions to the debate and for their kind comments.

The issue has been one not just for me but for several members before me. I recall Duncan McNeil holding a members’ business debate on baywatch—the campaign and not the television programme, I hasten to add, although we were slightly confused for a few minutes when he announced it. I also recall the Equal Opportunities Committee inquiry in 2006 into disability and transport, education and lifelong learning. We have done the work together as a Parliament, rather than it being just about me.

I will try to pick up on all of the points in the debate, although I apologise in advance if I do not manage to cover them all. I am happy to talk to members in the days and weeks to come.

I associate myself entirely with Johann Lamont’s remarks about why we should pass the bill and, in particular, on the funding of organisations such as Fair Deal. They have campaigned long and hard for the rights of disabled people, not just in a philosophical way but in a practical way that has made a real difference to them. It would be a shame if their funding was threatened.

Let me proceed to the substantive points that members have made. Duncan McNeil, John Wilson and several others mentioned the blue badge scheme. I am pleased to note that the UK Government has announced an overhaul of the scheme in England. Measures include the immediate confiscation of misused badges, a £10 million data-sharing system to crack down on badges that have been stolen or forged, and the use of new technologies, such as barcodes, from which I believe we could learn.

However, we should not conflate the two issues of the blue badge scheme and the abuse of disabled parking. Rather than attempt to explain that myself, I will quote directly from the evidence to the committee of the Equality and Human Rights Commission:

“We must make a clear policy distinction between the issue of tightening up the blue badge scheme to make it less open to fraud and misuse and dealing with people who persistently make fraudulent use of blue badges, and the issue of people’s choices about how and where they live their lives being curtailed because the number of designated parking spaces is inadequate.”—[Official Report, Local Government and Communities Committee, 2 September 2008; c 1068.]

I recognise that there is abuse of the blue badge scheme, and members throughout the chamber will welcome the minister’s comments about working alongside the UK Government to ensure that we crack down on that abuse in Scotland.

I thank the minister for the Government’s support. Regrettably, the bill does not ban big, flash cars. The minister may want to consider amending the bill at stage 2 to do that, but the bill currently unites the chamber and I would not want him to upset the nice balance that we have achieved.

A couple of aspects of the paper from the Society of Chief Officers of Transportation in Scotland suggest to me that the paper is perhaps not as robust as we need. I will deal with cost and—if I dare—I will start with the painting of lines. For Perth and Kinross Council, that costs about £30, compared with Glasgow City Council, which gave evidence to the committee that it costs £66 to paint lines. That figure has now risen to £87 per bay in the SCOTS paper—I offer to procure paint for local authorities as they are clearly being overcharged.

Equally, the paper makes no mention of income. We know that enforcement in decriminalised areas generates a surplus, so we need to treat the latest piece of information with the critical capacity that members have. It would be easy for me as an Opposition member to tell the Government to give councils a blank cheque, but I think that it is
incumbent on the Parliament to secure value for money, so we should be critical in our approach.

Like David McLetchie, I believe that councils should take a positive approach to encouraging private car park owners, but contacting the owners by letter is our minimum expectation. I take as a compliment the fact that the minister believes that I alone can negotiate with COSLA on the Government’s behalf. However, the Scottish Government is the paymaster and has thousands of civil servants who are much more skilled than I am, so I respectfully suggest that it take the lead, as the committee recommended. I am more than happy to work with it to ensure that we drive down the figures so that they are more robust.

Stewart Stevenson: We will not differ on where we are going, but the division of responsibility is clear. As the promoter of the bill, Jackie Baillie is ultimately responsible for the financial memorandum but, of course, we will provide as much support as we reasonably can because we are on the same side.

Jackie Baillie: I have no doubt that we are on the same side but, as I said, I take it as a compliment that the minister thinks that I am more able to negotiate with COSLA than the entire Scottish Government and all its civil servants. I do not want us to divide on that, but it merits further discussion on how to move forward.

I will stick with costs for a moment, because many members raised that issue. The example from Fife is not imaginary; it is a real cost of £119. Fife Council subsequently confirmed it again. Therefore, members must ask themselves why there is such a disparity. If Fife Council can create a disabled parking space for £119, we need to understand why other local authorities cannot. David McLetchie gently suggested that some were perhaps overegging the pudding. I ask members to remember the claim that it would take two men in Highland Council 12 years to identify their 400-odd bays as opposed to two men in Glasgow one year to do 4,500. The Parliament needs to examine carefully what it is being told.

Patricia Ferguson mentioned the size of bays. When they become enforceable, bays will be subject to minimum standards, which is a helpful consequence of the bill.

On fines, we are using the existing enforcement regime, which is a matter for the local authorities and courts. In the main, fines are £60 but reduce to £30 if paid within two weeks. It is worth pointing out that, under the legislation that provides for those fines, the courts can apply penalties of up to £1,000.

Mary Mulligan and Patricia Ferguson discussed awareness. I agree with them on that and I hope that the Government will run a public information campaign, as it does for many other issues. I am happy to discuss with the minister how best we do that.

I will reflect on Michael Matheson’s comments about consistency of approach. He is right about that. He will be pleased to know that the bill will deal with Falkirk Council’s restrictions on advisory bays and that regulations will apply at all times.

I was going to say that I was conscious of time, but I have more time, so I will keep going.

The Presiding Officer (Alex Fergusson): You do not have much.

Jackie Baillie: Thank you, Presiding Officer.

Michael Matheson highlighted two constituents of his who are both blue badge holders but only one of whom is getting a disabled bay. I know from casework that that happens elsewhere and am keen to promote consistency, so I would be happy to discuss the matter with him.

Bob Doris raised the expectation that there will be reactive enforcement in residential areas but rightly pointed out that there would be proactive enforcement in public areas.

I thank the non-Executive bills unit, which does a lot of work behind the scenes that helps members’ bills get this far. I also thank all the organisations that helped to shape the bill but that I did not have time to mention earlier: Inclusion Scotland, Leonard Cheshire Disability, Fair Deal, the Profound and Multiple Impairment Service, COSLA, various councils, including West Dunbartonshire, which have shaped much of my thinking, Asda, the Braehead shopping centre, National Car Parks and many more besides.

The bill is a simple measure with the potential to make a huge difference to the lives of disabled people. I hope that, tonight, the Parliament will take an important step forward for disabled people in Scotland by agreeing to the general principles of the bill.
Disabled Persons’ Parking Places (Scotland) Bill: Financial Resolution

16:59

The Presiding Officer (Alex Fergusson): The next item of business is consideration of motion S3M-2950, in the name of John Swinney, on the financial resolution to the Disabled Persons’ Parking Places (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Disabled Persons’ Parking Places (Scotland) Bill, agrees to any increase in expenditure of a kind referred to in paragraph 3(b)(iii) of Rule 9.12 of the Parliament’s Standing Orders arising in consequence of the Act.—[Stewart Stevenson.]

The Presiding Officer: The question on the motion will be put at decision time.
Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 12  Schedule
Sections 13 to 15  Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 1

Jackie Baillie

1  In section 1, page 1, line 6, after <designated> insert <or provided>

Section 3

Jackie Baillie

7* In section 3, page 2, line 3, leave out <specifies> and insert <provides>

Section 9

Jackie Baillie

2  In section 9, page 6, line 6, leave out from <being> to end of line 7 and insert <an advisory disabled street parking place>

After section 12

Patricia Ferguson

3  After section 12, insert—

<Public information campaign

Duty to undertake a public information campaign

The Scottish Ministers must, prior to sections 1 to 12 coming into force, undertake a public information campaign on those provisions.>

Section 14

Jackie Baillie

4  In section 14, page 7, line 23, leave out <specifying> and insert <providing>
Jackie Baillie
5 In section 14, page 7, line 27, leave out <45 of the 1984 Act specifying> and insert <35 or 45 of the 1984 Act specifying or providing>

Section 15

Patricia Ferguson
6 In section 15, page 8, line 33, after <section> insert <and section (Duty to undertake a public information campaign)>
Disabled Persons’ Parking Places (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. The information provided is as follows:

• the list of groupings (that is, the order in which amendments will be debated).

Groupings of amendments

Meaning of “advisory disabled street parking place” etc.
1, 7, 4, 5

Designation of temporary parking places
2

Public information campaign
3, 6
Present:
Alasdair Allan (Deputy Convener) Bob Doris
Patricia Ferguson David McLetchie
Duncan McNeil (Convener) Mary Mulligan
Jim Tolson John Wilson

Also present: Jackie Baillie MSP, Stewart Stevenson (Minister for Transport, Infrastructure and Climate Change)

**Disabled Persons' Parking Places (Scotland) Bill:** The Committee considered the Bill at Stage 2.

The following amendments were agreed to (without division): 1, 7, 2, 4 and 5.

Amendment 3 was moved and, with the agreement of the Committee, withdrawn.

Amendment 6 was not moved.

Sections 2, 4, 5, 6, 7, 8, 10,11 and 12, the schedule, sections 13 and 15 and the long title were agreed to without amendment.

Sections 1, 3, 9 and 14 were agreed to as amended.

The Committee completed Stage 2 consideration of the Bill.
Disabled Persons’ Parking Places (Scotland) Bill: Stage 2

The Convener: Agenda item 2 is consideration of the Disabled Persons’ Parking Places (Scotland) Bill at stage 2. We welcome to the meeting Jackie Baillie MSP, Robert Marr and David Cullum. We also welcome Stewart Stevenson, the Minister for Transport, Infrastructure and Climate Change, and Government officials Bill Brash, team leader in the Government’s transport strategy division, and Andrew Brown, senior principal legal officer and solicitor in the transport, culture and procurement division.

Section 1—Duty to promote proper use of parking places for disabled persons’ vehicles

The Convener: Amendment 1, in the name of Jackie Baillie, is grouped with amendments 7, 4 and 5.

Jackie Baillie (Dumbarton) (Lab): I have the pleasure of moving this group of amendments, which make certain that the terminology of the Road Traffic Regulation Act 1984 is reflected in the bill and that the meaning of “advisory disabled street parking place” excludes spaces made enforceable by an order under section 35 of the 1984 act.

Amendments 4 and 5 ensure that the definitions of “advisory disabled off-street parking place” and “advisory disabled street parking place” reflect the terminology used in the 1984 act.

Amendment 5 clarifies the definition of an advisory disabled street parking place, to ensure that enforceable spaces made under either section 35 or section 45 of the 1984 act are excluded from the definition. That ensures that the definition, and thus the requirements of the bill, attach only to parking spaces that are advisory and not to parking places that have been either specified or provided for use by disabled persons’ vehicles under sections 35 or 45 of the 1984 act.

Amendments 4 and 5 ensure that the definitions of “advisory disabled off-street parking place” and “advisory disabled street parking place” reflect the terminology used in the 1984 act.

Amendment 5 clarifies the definition of an advisory disabled street parking place, to ensure that enforceable spaces made under either section 35 or section 45 of the 1984 act are excluded from the definition. That ensures that the definition, and thus the requirements of the bill, attach only to parking spaces that are advisory and not to parking places that have been either specified or provided for use by disabled persons’ vehicles under sections 35 or 45 of the 1984 act.

The bill’s definition currently uses the word “specifying”, which is appropriate for the reference to section 45. However, section 35 of the 1984 act uses the terms “providing” and “makes provision as to”. While the bill’s use of “specifying” conveys the meaning intended, the word “providing” more appropriately reflects the language of the 1984 act in consequence of the new reference to section 35.

Amendment 4 makes a similar terminology change, substituting “providing” for “specifying” in the definition of an advisory disabled off-street parking place, because of the reference to that definition in section 35 of the 1984 act.
Amendment 1 is a consequential amendment, members will be pleased to hear, which follows from the changes to the definitions.

I am grateful to you, convener, for allowing me to lodge a manuscript amendment to section 3. Amendment 7, which is entirely technical, follows as a consequence of the changes to definitions proposed in amendments 4 and 5 and keeps the bill’s language consistent with that of the 1984 act. I am very grateful to Government officials for pointing out that the amendment would be desirable to keep the bill’s terminology consistent throughout.

As members will have gathered, these are essentially tidying-up amendments.

I move amendment 1.

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): Although we feel that a reasonable interpretation of section 1 would apply the duty to those disabled parking places provided under section 35 of the 1984 act as well as to those designated under section 45 of the 1984 act, the amendment puts that beyond any doubt. We are therefore happy for the committee to agree to this amendment, if it so chooses.

Amendment 1 agreed to.

Section 1, as amended, agreed to.

Section 2 agreed to.

Section 3—Certain orders under the 1984 Act

Amendment 7 moved—[Jackie Baillie]—and agreed to.

Section 3, as amended, agreed to.

Sections 4 to 8 agreed to.

Section 9—Designation of a temporary parking place where a request has been made under section 5

The Convener: Amendment 2, in the name of Jackie Baillie, is in a group on its own.

Jackie Baillie: The phrase “advisory disabled street parking place” which is used throughout the bill is defined in section 14 as one that “is marked or sign-posted as being for use only by a disabled persons’ vehicle and … which is not subject to an order made under section 45 of the 1984 Act specifying that it may be used only by a disabled persons’ vehicle.”

Such a space is not enforceable. However, one of the bill’s main objectives is to ensure that all disabled persons’ parking spaces can be enforced.

Section 9 creates an exception to the enforceability rule by allowing local authorities to create a temporary advisory parking place while they process a request for a street parking place by a qualifying person. The section ensures that a parking place, albeit an advisory one, can be provided quickly while the necessary order-making processes are undertaken. As soon as those processes are completed, the temporary parking place will be replaced by a permanent enforceable one, unless of course it is determined that the provision of any parking place is inappropriate for whatever reason. In that case, it will be removed.

Section 9(1) provides for the creation of the temporary parking place and amendment 2, which is purely technical, replaces the current description of the temporary parking place with the phrase “advisory disabled street parking place”, which is used throughout the bill.

I move amendment 2.

Stewart Stevenson: Given that amendment 2 is a technical amendment designed to ensure that phrasing throughout the bill is consistent, we are entirely content for the committee to agree to it.

Amendment 2 agreed to.

Section 9, as amended, agreed to.

Sections 10 to 12 agreed to.

After section 12

The Convener: Amendment 3, in the name of Patricia Ferguson, is grouped with amendment 6.

Patricia Ferguson (Glasgow Maryhill) (Lab): I have very little to say on amendment 3, except to make it clear that it seeks to ensure that, before Jackie Baillie’s bill comes into effect, the widest possible public information campaign takes place. After all, people will have to understand exactly what this legislation does and the changes that it makes if they are to avoid being penalised. Similarly, disabled people who wish to use these parking places will have to have the widest possible knowledge about their availability. The necessity of such an approach was forcibly brought home to me by my constituents, and is the reason why I have lodged the amendment.

I move amendment 3.

Alasdair Allan (Western Isles) (SNP): I have a question about the plans that appear to be inferred. It seems to be implied that the Government should spend money on an information campaign. I support the bill’s aims, but I am not clear how such costs would impinge, if at all, on the overall costs of the proposals as shown in the financial memorandum.
Patricia Ferguson: That is a matter for the Government and those who produced the financial memorandum. The intention of my amendment is to ensure that a public information campaign takes place.

Alasdair Allan: I am conscious that, in dealing with other legislation, many members have made robust arguments about the wisdom of public information campaigns. I am all in favour of providing information to the public, but I wonder whether the amendment would create difficulties for the bill that do not need to be created.

Patricia Ferguson: I do not think that it would. More difficulties could be caused by not providing proper information about the bill’s impact to disabled users of car parking spaces and those who currently unfairly use designated spaces that they do not have the right to use. It would be wise to undertake a public information campaign.

Bob Doris (Glasgow) (SNP): I am glad that Patricia Ferguson lodged amendment 3, because there must be a public information campaign and local authorities in local areas and, of course, the national Government should be responsible for progressing it. I am not sure that the matter should be included in primary legislation, but it is important that Patricia Ferguson has drawn the committee’s attention to the need for a public information campaign.

I am not overly sure how the proposal would impinge on the financial memorandum. If it has a cost element, would a fixed price be put on future public information campaigns? I would prefer to keep the matter open ended and leave it to the Government’s best judgment. There are other issues to do with the financial memorandum and local authorities’ costings, and we should not add further uncertainty. If the minister gives an assurance that there will be a public information campaign, I would not feel the need to agree to the amendment; that would be unnecessary in view of the ends that it is trying to achieve. However, I thank Patricia Ferguson for lodging it.

David McLetchie (Edinburgh Pentlands) (Con): I share Bob Doris’s scepticism about the requirement to include the proposal in the bill. The information that is put into the public domain should be at the discretion of the Government and local authorities. If there is to be a public information campaign, it seems to me that it should be orientated towards getting people to respect parking facilities for disabled people generally, as opposed to dealing with the specifics of the new legislation in order to try to modify behaviours and tackle the abuses that have been highlighted in evidence that has been taken on the bill.

Obviously, I am also sceptical because of the costs that would be involved. We know that the infamous home reports public information campaign has cost £700,000. I think that the proposer of the Disabled Persons’ Parking Places (Scotland) Bill, Jackie Baillie, estimated that total expenditure on it would be less than £2 million. We should consider the extravagant scale of home reports. The Disabled Persons’ Parking Places (Scotland) Bill is, of course, much more important than the useless home reports, but total public expenditure on it could soar.

The bill will extend the enforceability of bays or convert advisory bays into enforceable bays. Enforceable parking bays and their associated signage are already well understood. The number of enforceable parking bays will significantly increase once the bill’s provisions come into effect, but publicity material relating to a bay should be exhibited on the spot to demonstrate that it is enforceable. The information that members of the public need—which, as I say, needs to be on the spot—is that they cannot park in the bay unless they have a disabled badge. Therefore, there will be quite a lot of public information at the specific locations of the bays, which is how things should be. An enforceable bay is not a new concept. Members of the public are familiar with enforceable bays, so we do not need to tell them that disabled parking bays are enforceable; rather, we need to ensure that disabled parking bays are properly identified as such at all the new locations.

10:15

Stewart Stevenson: We support the sentiment of Patricia Ferguson’s amendment 3. It is our intention to ensure that appropriate publicity is given to the provisions.

Some members’ contributions have drawn out the fact that there are two facets to the issue. Mr McLetchie, full of festive cheer as ever, suggested that when one approaches a disabled bay it is marked and is clearly reserved for the use of disabled people, so perhaps in that context publicity is not required. Nonetheless, there will be a general requirement to make people aware of the change in the status of disabled parking bays and to reach disabled people so that they understand what is happening. To that end, it is my intention that in developing our communication strategy we involve the Mobility and Access Committee for Scotland. It is important to say that any publicity campaign that we undertake—I give the assurance that we will undertake such a campaign—would, of course, be focused on the social unacceptability of people abusing bays that are set aside for people who have a range of disabilities.
Comments have been made about the financial memorandum, which is the member’s responsibility rather than the Government’s. The Government is, of course, responsible for the financial resolution, which gives force to the provision of finance. Ms Baillie and I are continuing to work on some aspects of the information in the financial memorandum. I am reasonably content that we will bottom out some of the issues.

I invite Ms Ferguson to seek to withdraw amendment 3, which I do not think is necessary. I hope that she will take in good spirit and good faith my commitment to undertake appropriate public information campaigns and step back from the need to write into the bill a duty on Government to run a public information campaign, which would be a somewhat unusual step.

Jackie Baillie: I welcome the intention behind Patricia Ferguson’s amendments 3 and 6. I have mentioned in the past the desirability of a public awareness campaign, because enforcement needs to be coupled with general education, and that is certainly the intention behind those amendments. That said, I am delighted with the minister’s commitment to run a general information campaign and to involve others in shaping it, because Governments have a duty to facilitate public awareness. They currently do so on issues ranging from domestic abuse to drink driving to telling people—if they are of a certain age, convener—that it is time for them to come and get their flu jab. However, a duty on Government to run a public information campaign is not ordinarily in a bill, so I hope that, in light of the minister’s commitment, Patricia Ferguson is minded to withdraw amendment 3 and not move amendment 6.

Patricia Ferguson: To answer Mr McLetchie and Mr Doris’s questions, I had deliberately not indicated a financial package—I wanted to leave it to the Government to decide what would be appropriate.

The minister’s comments are reassuring. I was aware when I drafted the amendment that the financial memorandum refers to an awareness campaign, but it is helpful that the minister has spelled out exactly what, in his mind, that would be. On that basis, I am happy to withdraw amendment 3.

Amendment 3, by agreement, withdrawn.

Schedule agreed to.

Section 13 agreed to.

Section 14—Interpretation

Amendments 4 and 5 moved—[Jackie Baillie]—and agreed to.
Disabled Persons’ Parking Places (Scotland) Bill
[AS AMENDED AT STAGE 2]

CONTENTS

Section

Duty to promote proper use of parking places for disabled persons’ vehicles
1 Duty to promote proper use of parking places for disabled persons’ vehicles

Advisory parking places for disabled persons’ vehicles
2 Limitation of local authorities’ powers in relation to advisory parking places for disabled persons’ vehicles

Duties in relation to certain orders under the 1984 Act
3 Certain orders under the 1984 Act
4 Disabled street parking orders: local authorities’ initial duties
5 Disabled street parking orders: requests by qualifying persons
6 Disabled off-street parking orders: local authorities’ initial duties
7 Disabled off-street parking orders: new development
8 Disabled off-street parking orders: ongoing duties

Further provision about street parking places for disabled persons’ vehicles
9 Designation of a temporary parking place where a request has been made under section 5
10 Duty to keep disabled street parking orders under review

Annual reports on local authorities’ functions in relation to parking places for disabled persons’ vehicles
11 Annual reports by local authorities
12 Annual report by the Scottish Ministers

Final provisions
13 Regulations
14 Interpretation
15 Short title and commencement

Schedule—Annual reports on performance of functions in relation to parking places for disabled persons’ vehicles
Disabled Persons’ Parking Places (Scotland) Bill

[AS AMENDED AT STAGE 2]

An Act of the Scottish Parliament to make provision for the duties of local authorities in relation to parking places for use by disabled persons’ vehicles; and for connected purposes.

Duty to promote proper use of parking places for disabled persons’ vehicles

1 Duty to promote proper use of parking places for disabled persons’ vehicles

A local authority must promote the proper use of parking places in its area that are designated or provided for use only by disabled persons’ vehicles.

Advisory parking places for disabled persons’ vehicles

2 Limitation of local authorities’ powers in relation to advisory parking places for disabled persons’ vehicles

A local authority has no power—

(a) to designate an advisory disabled street parking place, except in accordance with section 9;

(b) to designate an advisory disabled off-street parking place.

Duties in relation to certain orders under the 1984 Act

3 Certain orders under the 1984 Act

(1) Sections 4 to 8 make provision for circumstances in which a local authority must start the statutory procedure for the making of the following kinds of order under the 1984 Act.

(2) In this Act, a “disabled street parking order” is an order made under section 45 of the 1984 Act which—

(a) specifies that a street parking place may be used only by a disabled persons’ vehicle, and

(b) provides that the parking place may be so used without charge.
In this Act, a “disabled off-street parking order” is an order made under section 35 of the 1984 Act which—
(a) provides that an off-street parking place may be used only by a disabled persons’ vehicle, and
(b) provides that any charge to be paid in connection with such use of the parking place may not be greater than any charge payable (whether by virtue of the order or another order under the 1984 Act) in connection with the use of any other off-street parking place in the same premises.

Disabled street parking orders: local authorities’ initial duties

A local authority must identify every street parking place in its area that at the time of the coming into force of this Act is an advisory disabled street parking place.

In relation to each parking place that it so identifies, the authority must decide whether it is a parking place from which there is convenient access to the address of a person who holds a disabled persons’ badge.

If the authority’s decision under subsection (2) is that the parking place is such a parking place, it must either—
(a) decide that, having regard to its duties under section 45(3) and section 122 of the 1984 Act, it has no power to make a disabled street parking order in respect of the parking place, or
(b) start the statutory procedure for the making of such an order.

Subsection (5) applies if—
(a) the authority’s decision under subsection (2) is that a parking place is not a parking place from which there is convenient access to the address of a person who holds a disabled persons’ badge;
(b) the authority makes a decision under subsection (3)(a).

The authority must—
(a) publish its reasons, and
(b) remove any road-markings or sign posts indicating that the parking place is for use only by a disabled persons’ vehicle.

If the authority starts the statutory procedure under subsection (3)(b) and the result of the procedure is that no disabled street parking order is made in respect of the parking place, the authority must remove any road-markings or sign posts indicating that the parking place is for use only by a disabled persons’ vehicle.

The authority must perform its duty under subsection (1) and any duty under subsection (2), (3) or (5) within the period of 12 months beginning with the coming into force of this Act.

Disabled street parking orders: requests by qualifying persons

A qualifying person may request a local authority to make a disabled street parking order in respect of a street parking place—
(a) which is in the authority’s area, and
(b) from which there is convenient access to the person’s address.
(2) If it is satisfied that the person making a request under subsection (1) is a qualifying person, the authority must—

(a) decide whether it is possible to identify a suitable street parking place in its area from which there is convenient access to the person’s address, and

(b) if it decides that that is possible, identify such a parking place.

(3) If the authority identifies such a parking place, it must either—

(a) decide that, having regard to its duties under section 45(3) and section 122 of the 1984 Act, it has no power to make a disabled street parking order in respect of the parking place, or

(b) start the statutory procedure for the making of such an order.

(4) Subsection (5) applies if—

(a) the authority is not satisfied that the person making the request is a qualifying person;

(b) the authority’s decision under subsection (2) is that it is not possible to identify a suitable street parking place in its area from which there is convenient access to the person’s address;

(c) the authority makes a decision under subsection (3)(a).

(5) The authority must give the person who made the request under subsection (1) its reasons.

(6) The form and manner in which a request under subsection (1) is to be made—

(a) may be prescribed by regulations made by the Scottish Ministers;

(b) unless regulations made under paragraph (a) are in force, may be specified by the authority.

(7) A request under subsection (1) may be made through another person acting on behalf of the qualifying person.

(8) A “qualifying person” is a person who holds a disabled persons’ badge and whose address—

(a) if the person is an individual, is the same as the registered address of the registered keeper of a vehicle suitable for the carriage of the individual;

(b) if the person is an organisation, is the same as the registered address of the registered keeper of a vehicle used by or on behalf of the organisation to carry disabled persons.

(9) In subsection (8)—

“the registered keeper” of a vehicle is the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994 (c. 22) at the time the request is made;

“the registered address” of the registered keeper is the address recorded at that time in the record kept under that Act with respect to that vehicle as being that person’s address.
6 Disabled off-street parking orders: local authorities’ initial duties

(1) A local authority must identify every off-street parking place in its area that at the time of the coming into force of this Act is an advisory disabled off-street parking place.

(2) If a parking place so identified is an eligible parking place the authority must either—

(a) decide that, having regard to its duty under section 122 of the 1984 Act, it has no power to make a disabled off-street parking order in respect of the parking place, or

(b) start the statutory procedure for the making of such an order.

(3) If a parking place identified under subsection (1) is not an eligible parking place, subsection (4) applies.

(4) The authority must decide whether, if the parking place were provided under arrangements under section 33(4) of the 1984 Act, it would have power to make a disabled off-street parking order in respect of the parking place.

(5) In making a decision under subsection (4) the authority must have regard to its duty under section 122 of the 1984 Act.

(6) If the authority’s decision under subsection (4) is that it would have that power, it must seek to make arrangements under section 33(4) of the 1984 Act for the provision of the parking place with a view to being able to make such an order.

(7) If the authority does make such arrangements, it must start the statutory procedure for the making of such an order.

(8) An “eligible parking place” is a parking place that is provided—

(a) by the authority itself under section 32(1)(a) of the 1984 Act, or

(b) under arrangements that the authority has made under section 33(4) of that Act.

(9) The authority must—

(a) perform its duty under subsection (1) and any duty under subsection (2) or (4) within the period of 12 months beginning with the coming into force of this Act, and

(b) start to perform any duty under subsection (6) within that period.

7 Disabled off-street parking orders: new development

(1) This section applies to a local authority which—

(a) in its capacity as a planning authority under the Town and Country Planning (Scotland) Act 1997 (c. 8), grants planning permission for a relevant development; and

(b) learns of a relevant development in its area for which planning permission is granted by a development order.

(2) In relation to each advisory disabled off-street parking place included in or, as the case may be, created by a relevant development, subsection (3) applies.

(3) The authority must decide whether, if the parking place were provided under arrangements under section 33(4) of the 1984 Act, it would have power to make a disabled off-street parking order in respect of the parking place.

(4) In making a decision under subsection (3) the authority must have regard to its duty under section 122 of the 1984 Act.
(5) If the authority’s decision under subsection (3) is that it would have that power, it must seek to make arrangements under section 33(4) of the 1984 Act for the provision of the parking place with a view to being able to make such an order.

(6) If the authority does make such arrangements, it must start the statutory procedure for the making of such an order.

(7) The authority must—
   (a) perform its duty under subsection (3) within the relevant period, and
   (b) start to perform any duty under subsection (5) within the relevant period.

(8) In subsection (7), the “relevant period” is the period of three months beginning, as the case may be, with—
   (a) the date on which the authority grants the planning permission, or
   (b) the date on which the authority learns of the relevant development.

(9) A local authority must monitor development in its area with a view to learning of relevant developments for which planning permission is granted by a development order.

8 Disabled off-street parking orders: ongoing duties

(1) The following duties apply to a local authority which has sought unsuccessfully to make arrangements for the provision of a parking place pursuant to a duty under—
   (a) section 6(6);
   (b) section 7(5);
   (c) subsection (4) of this section.

(2) At the end of the relevant period the authority must decide whether, if the parking place were provided under arrangements under section 33(4) of the 1984 Act, it would have power to make a disabled off-street parking order in respect of the parking place.

(3) In making a decision under subsection (2) the authority must have regard to its duty under section 122 of the 1984 Act.

(4) If the authority’s decision under subsection (2) is that it would have that power, it must seek to make arrangements under section 33(4) of the 1984 Act for the provision of the parking place with a view to being able to make such an order.

(5) If the authority does make such arrangements, it must start the statutory procedure for the making of such an order.

(6) The authority must—
   (a) perform its duty under subsection (2) within the period of three months beginning with the last date of the relevant period, and
   (b) start to perform any duty under subsection (4) within that period of three months.

(7) The “relevant period” is the period of two years beginning with the date on which the authority last concluded that it was unable to make arrangements pursuant to a duty listed in subsection (1).
Further provision about street parking places for disabled persons’ vehicles

9 Designation of a temporary parking place where a request has been made under section 5

(1) If a local authority is required by section 5(3)(b) to start the statutory procedure for the making of a disabled street parking order in respect of a parking place, it must as soon as reasonably practicable designate the parking place as an advisory disabled street parking place.

(2) When that statutory procedure ends, the designation of the parking place under subsection (1) is automatically revoked.

(3) If the result of that statutory procedure is that no disabled street parking order is made in respect of the parking place, the authority must remove any road-markings or sign posts indicating that the parking place is for use only by a disabled persons’ vehicle.

10 Duty to keep disabled street parking orders under review

A local authority which has made a disabled street parking order must keep under review the continuing provision of each street parking place in respect of which it made the order.

Annual reports on local authorities’ functions in relation to parking places for disabled persons’ vehicles

11 Annual reports by local authorities

(1) In relation to each reporting period, a local authority must—

   (a) prepare a report on its performance of its functions in relation to parking places for disabled persons’ vehicles during the reporting period,

   (b) publish the report, and

   (c) send a copy of the report to the Scottish Ministers.

(2) Part 1 of the schedule makes provision for the content of a report prepared under subsection (1)(a).

(3) The Scottish Ministers may by regulations make any modification to Part 1 of the schedule that they consider necessary or expedient.

(4) The authority must perform its duties under subsection (1) within the period of three months beginning with the last date of the reporting period.

12 Annual report by the Scottish Ministers

(1) In relation to each reporting period, the Scottish Ministers must—

   (a) prepare a report on the performance by the local authorities of their functions in relation to parking places for disabled persons’ vehicles during the reporting period,

   (b) publish the report, and

   (c) lay a copy of the report before the Scottish Parliament.

(2) Part 2 of the schedule makes provision for the content of a report prepared under subsection (1)(a).
(3) The Scottish Ministers may by regulations make any modification to Part 2 of the schedule that they consider necessary or expedient.

(4) The Scottish Ministers must perform their duties under subsection (1) within the period of six months beginning with the last date of the reporting period.

Final provisions

13 Regulations

(1) Regulations made by the Scottish Ministers under this Act—

(a) must be made by statutory instrument;

(b) may make different provision for different purposes.

(2) A statutory instrument containing regulations under section 5(6)(a) is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(3) A statutory instrument containing regulations under section 11(3) or 12(3) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the Scottish Parliament.

14 Interpretation

(1) In this Act—

“the 1984 Act” means the Road Traffic Regulation Act 1984 (c. 27);

“advisory disabled off-street parking place” means an off-street parking place—

(a) to which the public have access,

(b) which is marked or sign-posted as being for use only by a disabled persons’ vehicle, and

(c) which is not the subject of an order under section 35 of the 1984 Act providing that it may be used only by a disabled persons’ vehicle;

“advisory disabled street parking place” means a street parking place which—

(a) is marked or sign-posted as being for use only by a disabled persons’ vehicle, and

(b) is not the subject of an order under section 35 or 45 of the 1984 Act specifying or providing that it may be used only by a disabled persons’ vehicle;

“development order” has the same meaning as in the Town and Country Planning (Scotland) Act 1997 (c. 8) (see section 30);

“disabled persons’ badge” means—

(a) a badge issued under section 21 of the Chronically Sick and Disabled Persons Act 1970 (c. 44),

(b) a badge issued under a provision of the law of Northern Ireland corresponding to that section, or

(c) a badge issued by any member State other than the United Kingdom for purposes corresponding to the purposes for which badges under that section are issued;
“disabled persons’ vehicle” means a vehicle lawfully displaying a disabled persons’ badge;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);

“planning permission” has the same meaning as in the Town and Country Planning (Scotland) Act 1997 (c. 8) (see section 277);

“premises” includes any land or building;

“relevant development” means—

(a) the construction of premises which include an advisory disabled off-street parking place, or

(b) the creation of an advisory disabled off-street parking place in existing premises;

“reporting period” means—

(a) the period beginning with the date on which this Act comes into force and ending with the second succeeding 31 March, and

(b) each successive financial year;

“road” has the same meaning as in the Roads (Scotland) Act 1984 (c. 54) (see section 151);

“the statutory procedure”, in relation to the making of a disabled off-street parking order or a disabled street parking order, means the procedure to be followed in connection with the making of an order under section 35 or 45 (as the case may be) of the 1984 Act in accordance with regulations made under paragraph 21 of Schedule 9 to that Act;

“street parking place” and “off-street parking place” refer respectively to a parking place on land which does, and which does not, form part of a road.

(2) References in this Act to a person’s address—

(a) in the case of an individual, are references to the address of the individual’s main home;

(b) in the case of an organisation, include a reference to any address at which the organisation has a place of business.

15 Short title and commencement

(1) This Act may be cited as the Disabled Persons’ Parking Places (Scotland) Act 2008.

(2) This Act (except this section) comes into force at the end of the period of six months beginning with the date of Royal Assent.
SCHEDULE
(introduced by sections 11(2) and 12(2))

ANNUAL REPORTS ON PERFORMANCE OF FUNCTIONS IN RELATION TO PARKING PLACES FOR DISABLED PERSONS’ VEHICLES

PART 1

CONTENT OF ANNUAL REPORTS BY LOCAL AUTHORITIES

1 A report prepared by a local authority under section 11(1)(a) must contain the following information in respect of the reporting period—
   (a) details of the action that it took in fulfilment of its duty under section 1;
   (b) the number of parking places designated as being for use only by a disabled persons’ vehicle by virtue of the provisions of this Act (except section 9);
   (c) the following information related to its performance of its duties under section 4—
      (i) the number of advisory disabled street parking places identified under section 4(1), if any;
      (ii) its reasons for any decision under section 4(2) or (3)(a);
      (iii) the number of parking places in relation to which it started the statutory procedure under section 4(3)(b), if any;
   (d) the following information related to its performance of its duties under section 5—
      (i) the number of requests made to it under section 5(1);
      (ii) the number of parking places which it identified under section 5(2)(b);
      (iii) its reasons for any decision under section 5(3)(a);
      (iv) the number of parking places in relation to which it started the statutory procedure under section 5(3)(b);
      (v) the period, in each case, between the identification of a parking place under section 5(2)(b) and the starting of the related statutory procedure under section 5(3)(b);
   (e) the following information related to its performance of its duties under section 6—
      (i) the number of advisory disabled off-street parking places identified under section 6(1), if any;
      (ii) its reasons for any decision under section 6(2)(a);
      (iii) the number of parking places in relation to which it started the statutory procedure under section 6(2)(b), if any;
      (iv) its reasons for any decision under section 6(4) that it would not have power to make a disabled off-street parking order;
      (v) the number of premises that include a parking place for the provision of which it sought to make arrangements under section 6(6), if any;
Schedule—Annual reports on performance of functions in relation to parking places for disabled persons’ vehicles

Part 1—Content of annual reports by local authorities

(vi) the reasons why it was unsuccessful in making any such arrangements;

(vii) the number of parking places in relation to which it started the statutory procedure under section 6(7);

(viii) the date by which it performed its duty under section 6(1) and any duties under section 6(2), (4) or (6), relative to the period of twelve months referred to in section 6(9);

(f) the following information related to its performance of its duties under section 7—

(i) the number of relevant developments for which a planning permission mentioned in section 7(1) was granted;

(ii) its reasons for any decision under section 7(3) that it would not have power to make a disabled off-street parking order;

(iii) the number of premises that include a parking place for the provision of which it sought to make arrangements under section 7(5);

(iv) the reasons why it was unsuccessful in making any such arrangements;

(v) the number of parking places in relation to which it started the statutory procedure under section 7(6);

(g) the following information related to its performance of its duties under section 8—

(i) its reasons for any decision under section 8(2) that it would not have power to make a disabled off-street parking order;

(ii) the number of premises that include a parking place for the provision of which it sought to make arrangements under section 8(4);

(iii) the reasons why it was unsuccessful in making any such arrangements;

(iv) the number of parking places in relation to which it started the statutory procedure under section 8(5);

(h) the following information about disabled street parking orders and disabled off-street parking orders—

(i) the number of such orders for the making of which it started the statutory procedure in accordance with this Act;

(ii) the number of parking places designated as being for use only by a disabled persons’ vehicle under such an order;

(iii) in relation to each such order, the period between the start of the statutory procedure and the making of the order;

(iv) in respect of each case in which it started the statutory procedure for the making of such an order but did not make an order, the reasons why not.

A report prepared by a local authority under section 11(1)(a) may contain any other information about its performance of its functions in relation to parking places for disabled persons’ vehicles during the reporting period that the authority considers appropriate.
PART 2

CONTENT OF ANNUAL REPORT BY THE SCOTTISH MINISTERS

3 A report prepared by the Scottish Ministers under section 12(1)(a) must contain the following information in respect of the reporting period—

(a) details of the action that each local authority took in fulfilment of its duty under section 1;

(b) the total number of parking places designated by the local authorities as being for use only by a disabled persons’ vehicle by virtue of the provisions of this Act (except section 9);

(c) for each category of information under paragraph 1 that requires the reporting of a number or a date, a table setting out the number reported by each local authority;

(d) for each category of information under paragraph 1 that requires the reporting of a period, a table setting out the period reported by each local authority;

(e) for each category of information under paragraph 1 that requires the reporting of reasons, a summary of the reasons reported by each local authority.

4 A report prepared by the Scottish Ministers under section 12(1)(a) may contain any other information about the performance by local authorities of their functions in relation to parking places for disabled persons’ vehicles during the reporting period that the Scottish Ministers consider appropriate.
Disabled Persons’ Parking Places (Scotland) Bill
[AS AMENDED AT STAGE 2]

An Act of the Scottish Parliament to make provision for the duties of local authorities in relation to parking places for use by disabled persons’ vehicles; and for connected purposes.

Introduced by: Jackie Baillie
On: 2 June 2008
Bill type: Member’s Bill
Note: (DT) signifies a decision taken at Decision Time.

Disabled Persons’ Parking Places (Scotland) Bill: Karen Gillon moved S3M-3128—That the Parliament agrees that the Disabled Persons’ Parking Places (Scotland) Bill be passed.

After debate, the motion was agreed to (DT).
Disabled Persons’ Parking Places (Scotland) Bill: Stage 3

The Presiding Officer (Alex Fergusson): The next item of business is a debate on motion S3M-3128, in the name of Jackie Baillie, on the Disabled Persons’ Parking Places (Scotland) Bill.

09:36
Karen Gillon (Clydesdale) (Lab): It is with great pleasure that I open today’s debate. I begin by paying tribute to my colleague Jackie Baillie, whose unstinting commitment to this cause has brought us to this stage. She has ensured that Parliament takes the needs of disabled people seriously. Members of all parties will no doubt want to echo those thanks in sending Jackie Baillie our best wishes at this difficult time for her and her family.

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): I take this opportunity to echo that support for Jackie Baillie at this difficult time. I hope that there is the best possible outcome to the circumstances in which she finds herself.

Karen Gillon: I thank the minister for that.

Scotland has more than 230,000 blue badge holders, all of whom I imagine have faced difficulty at one time or another in accessing a disabled parking space to carry out day-to-day activities. I make no apologies for using the words of the Equalities and Human Rights Commission’s Euan Page, who said:

“for the vast majority of disabled people, disability happens during the life process ... we live in a rapidly ageing society in Scotland.”

The changes that the Parliament will make through the bill

“are of profound importance to everybody ... and their families.”—[Official Report, Local Government and Communities Committee, 2 September 2008; c 1069.]

During the stage 1 debate, David McLetchie summed up what we can achieve today. He said that the legislation

“will improve quality of life for many disabled people in Scotland.”—[Official Report, 26 November 2008; c 12750.]

As others have stated, the bill will bring about that improvement by

“removing a persistent barrier to disabled people’s participation in society.”

Throughout the passage of the bill, we have learnt many things, not least of which is the priority that we should give to the issue. Enforcing disabled parking places is the number 1 issue that is discussed when disabled people gather, and the issue is top of the list of what disabled people consider are barriers to their getting out and living a life in Scotland in the same way as everyone else. This short member’s bill can, and will, have a profound effect on people’s lives.

When scrutinising the bill, the Local Government and Communities Committee heard time and again that action is now needed:

“the age of just relying on politeness has ended and the age of enforcement has come.”

Members from all parties have indicated that the issue continually appears in their postbags—I certainly agree—and Parliament can rightly congratulate itself on taking the issue forward by putting into law, as I trust will happen later today, a bill that will improve the lot of so many people.

The bill’s main policy objective is to prevent disabled parking places from being used by those who are not entitled to use them by providing the means and encouragement to make those places enforceable. The bill will provide the means to make enforceable all disabled street parking places that are required for disabled residents. We need to do that not only to deter those who are not entitled to park in bays reserved for disabled persons from doing so but to impose financial penalties on persistent abusers. Only in that way will a strong message be sent and a fairer society emerge.

I have seen many reports and photographs of abuse. It is clear that disabled persons parking bays are fair game across the board, even for a prominent human rights lawyer—indeed, even a ministerial Mondeo and police Panda cars have been spotted in those parking bays. People clearly deem their needs to be greater and more urgent than those of a disabled person.

As the unanimous support for the bill at stage 1 demonstrated, few would disagree that the aim of the bill is worthy, but some have queried the cost of implementation. I will take a few minutes to set the record straight. Some disquiet was expressed at the figures in the financial memorandum, and I think that it is fair to say that the comments were made in the face of a number of uncosted and unsubstantiated submissions from local authorities.

As requested, Jackie Baillie engaged with the Convention of Scottish Local Authorities in an attempt to identify the actual costs. The Scottish Parliament information centre undertook research on the private sector and English local authorities. COSLA was extremely helpful, and through SCOTS—the Society of Chief Officers of Transportation in Scotland—Jackie Baillie endeavoured to obtain the relevant information. Every local authority was surveyed to seek its costing of the component parts of the work that
would be required to convert bays. Although few authorities could provide accurate figures, many produced estimates, most of which were based on the cost of converting a single bay. A few authorities did better and produced clear and precise figures.

I make it clear that the earlier costings and all the revised costings that were discussed with COSLA derived directly from information and costings produced by local authorities. The figures in the policy memorandum were provided to Jackie Baillie by Fife Council and West Dunbartonshire Council, but SCOTS advised that the figures were incorrect. Following the SCOTS survey, revised figures were produced, some of which were used to produce new costings. When faced with the figures, SCOTS indicated that the information that Jackie Baillie had selected—which it had supplied—was incorrect. SCOTS supplied further figures, which—as members may already have guessed—it went on to say were incorrect.

What SCOTS did not do at any stage, but what Jackie Baillie did consistently with all the figures that she produced, was to apply a Scotland-wide best-practice and best-value approach. For example, if an authority quotes the cost of line painting at £50 and the private sector quote is as low as £25, it is clear that the maximum cost cannot be anywhere near the average cost of £108 that SCOTS produced. Indeed, 13 authorities claimed that line painting would cost £130, which was—coincidentally—the figure in the SCOTS survey.

A similar best-value approach was taken for all the component costs. Again based on figures that the local authorities provided, the unit cost was calculated to be £209. The figure covers the cost of promoting an order, removing existing lines, remarking, and erecting signs. The following example shows the variation in the cost of promoting an order that SCOTS produced, with the figure ranging from £19 in Fife to £1,342 in East Renfrewshire. SCOTS subsequently indicated that the Fife figure was incorrect—perhaps the East Renfrewshire figure also needs further work.

Given that 45 per cent of disabled persons parking bays are appropriately marked, COSLA agreed that only 55 per cent of bays require all such work to be done. Again, based on a best-value approach and using the best figures that the local authorities supplied, Jackie Baillie calculated the unit cost for conversion at £119. The private sector and authorities south of the border have verified the figure as achievable, but SCOTS maintains that the information that it received from the authorities down south that it contacted is incorrect.

Doubt remains over the total number of disabled persons parking bays. We accept that there will be a year-on-year increase on the original 14,000 estimate. The figure was obtained directly from local authorities using freedom of information inquiries, but SCOTS maintains that the information supplied as a result of those inquiries is incorrect.

Less clear is the situation for the number of redundant bays. Again, revised figures were produced, although only a few can be relied on. After they were compared with the figures that resulted from the FOI inquiries—which, under FOI, are required to be accurate—it was estimated that there are perhaps 15,000 bays. Cutting to the bottom line, on a best-value basis, Jackie Baillie calculated the likely cost at around £2.5 million. Allowing for a reasonable margin of error of 20 per cent, we expect the cost to be no more than £3 million, although we expect the figure to reduce further if economies can be made. COSLA has indicated that no additional costs will arise for enforcement.

The SCOTS approach of averaging costs that the local authorities supplied has produced a figure greatly in excess of our calculations. We maintain our position that the SCOTS approach is fundamentally incorrect, given that it takes absolutely no regard of best practice or best value. In addition, we understand that in Northern Ireland all spaces were converted using existing budgets and without the need for additional central funding.

The minister was closely involved in the discussions with COSLA, either directly or through his officials, and we are indebted to him and his officials for their support. If Parliament passes the bill today, it will have agreed a financial resolution that sets out the necessary expenditure, and it will then fall to the minister to agree who gets what.

Concern was expressed at stage 1 that the timetable for implementation would place an excessive burden on local authorities, but the bill is not highly prescriptive. It requires authorities to identify in the first year existing advisory disabled street parking places in their area and start, but not complete, the process. Councils therefore have 12 months to identify existing bays that they themselves have installed. In reality, and if they start promptly once the bill receives royal assent, councils will have 18 months to do that. The timetable also has the positive impact of enabling authorities to spread costs across three financial years. I welcome the commitment that the minister made at stage 2 to take forward a public information campaign to ensure that people are aware of the new legislation.

The bill goes as far as possible to cover private car parks such those at supermarkets, sports facilities and other shopping complexes. In such
places, the local authority is required to offer its services to make disabled persons parking bays enforceable but not to enforce the bays itself. Today, Asda celebrates a year of voluntarily enforcing disabled persons parking places, which it did in response to a growing number of complaints from customers and having exhausted its efforts to effect change through information campaigns. Asda says that the new scheme has resulted in a 60 per cent increase in the availability of disabled persons parking places at its stores. Having issued 1,400 penalty notices, Asda has raised £70,000 for charities. The will to make the system work exists in the private sector; it is now up to local authorities to work with it.

I assure members that the bill need not cost local authorities a penny. We believe that we are pushing at an open door and, through negotiations with private owners, the costs of implementation and enforcement should be covered—the example of Asda is there for all to see. As long as the abuse of disabled persons parking places is enforced and abusers are dissuaded, it is largely irrelevant who undertakes the enforcement.

On behalf of Jackie Baillie, I give special thanks to her staff and to Jillian Merchant in particular for their work, including the processing of 17,000 postcards in support of the bill. We thank the staff in the Parliament’s non-Executive bills unit and David Cullum in particular for his attention to detail. My personal thanks are due to them for the full briefing that they have given me over the past few days.

As Hugh O’Donnell reminded members in the stage 1 debate, in the main it is society that disables people. I urge all members to follow the minister’s example in supporting the bill. We want the Scottish Parliament to be recognised for taking the lead in making it clear that attitudes must change. Success for the bill will be measured not in the number of penalties that are imposed but in increased access for those in need. By passing the bill, the Parliament will remove “a persistent barrier to disabled people’s participation in society”.

The ultimate goal is no abuse. I say to those who take a disabled person’s parking place that, if they want to do that, they must take their disability, too. I have much pleasure in moving the motion in Jackie Baillie’s name.

I move,

That the Parliament agrees that the Disabled Persons’ Parking Places (Scotland) bill be passed.

The Presiding Officer: Given that virtually no additional time is available in the debate, I ask members to stick strictly to the guidance that is given to them.
The bill will require local authorities to prepare annual reports on their performance in relation to their functions on parking places for disabled persons’ vehicles. The reports will include details of the action that local authorities have taken in fulfilling their duties under the bill, and I will ask my officials to consult local authorities on the drafting of guidance on the completion of annual reports. The adoption of a consistent approach will assist my officials in drawing up the Government’s annual report, which is another requirement of the bill.

As we said in the stage 1 debate, the Government’s position has always been one of support for the bill on the understanding that implementation costs are required that are more robust than the estimates in Jackie Baillie’s financial memorandum. During that debate, I informed Parliament that my officials would facilitate meetings between Jackie Baillie and COSLA. Those meetings have taken place over the past few months, and I have attended several of them. My intention in doing so was to enforce the view that is shared by the Government and the member in charge of the bill that it is important for local authorities to engage seriously and robustly in the process of working out the costs involved.

It is obvious that a large amount of work was required to obtain a robust figure. As has been expressed several times, there is a lack of raw data to provide an instant figure. On previous occasions, Ms Baillie has mentioned that there are varying costs for the different elements of the work that is required to turn an advisory disabled parking place into an enforceable space as set out in the Traffic Signs Regulations and General Directions 2002.

Jackie Baillie agreed that her figure of £1.7 million was somewhat historical, and we have heard from Karen Gillon that the true figure is likely to be nearer £3 million. The local authorities still consider that to be on the low side and feel that, once geographic and regional variations are taken into account, the figure is more likely to be around £6 million. I am sure that Ms Gillon and Ms Baillie will agree that further work needs to be done to obtain an accurate figure for the number of spaces involved, including the number that will have to be removed. I am confident that further savings will be made through careful planning of the one-off national implementation programme.

To that effect, in the aftermath of today’s debate and this evening’s vote, in which I expect the bill to be passed, I will instruct my officials to continue to liaise with local authorities. They will ask the Society of Chief Officers of Transportation in Scotland to address the issue of how to take account of economies of scale and best value as the implementation programme is progressed.

At stage 1, Parliament not only supported the general principles of the bill but agreed to the financial resolution that my colleague Mr Swinney laid. Given that that happened in the context of the numbers that were incorporated in Ms Baillie’s financial memorandum, I would not expect the funding that the Government will make available in due course to depart radically from the numbers that the bill’s sponsor has put forward, but I will not name a particular figure until further work has been done.

One of the first duties that the bill places on local authorities is to carry out an audit of all the advisory disabled parking places in their areas. The uncertainty that we have heard about justifies that action—indeed, it justifies the passing of the bill—and the bill gives local authorities a year to carry out the audit. Once it has been completed, we will have a better idea of the number of spaces that require to be made enforceable.

Some suggestion has been made that the bill does not go far enough in that it does not tackle the abuse of the blue badge scheme by amending the blue badge regulations. The tight scope of the bill would not allow it to cover such matters, but members will be aware that the Department for Transport recently reviewed the blue badge scheme in England. That review will result in the making of changes over the next five years that will radically improve the scheme and provide a better service for severely disabled people. I can reassure members that my officials are working closely with colleagues in the DFT and that, with colleagues from the National Assembly for Wales and other key stakeholders, they will take part in a steering committee that the DFT has set up.

I know that the sponsoring of the bill has taken Ms Baillie on a long and sometimes interesting journey, on which she has travelled to places that she probably did not imagine that she would reach. I believe that she will think that it was worth the effort and that the bill will get not just the Government’s backing but the full support of Parliament in this evening’s vote. That vote should bring an end to the beginning of the process, but a lot of work has still to be done. I ask members to inform their constituents that changes will come, but not overnight. I commend the motion to Parliament.

09:58

Des McNulty (Clydebank and Milngavie) (Lab): I state for the record that Labour fully supports Jackie Baillie’s Disabled Persons’ Parking Places (Scotland) Bill and that we are grateful for the co-operation that Jackie Baillie has received from the minister and his civil servants. We are delighted that the bill has secured
overwhelming support from all sides, which means that it will be passed this evening.

The process of bringing a member’s bill to fruition—which not many members have achieved—is arduous and requires a great deal of work by the member in charge of the bill and their staff, so it is entirely appropriate, as Karen Gillon did, to congratulate Jackie Baillie and her staff on their achievement. It is also appropriate to thank the non-Executive bills unit, the committee clerks and the many others who have helped during the passage of the bill.

The key people whom we must acknowledge are the disability groups and the individuals with disabilities who have campaigned over the years for something to be done about the difficulties that they and their families have faced in using disabled persons parking bays. They identified a series of problems that they had experienced at first hand: misuse of advisory parking bays outside residential property by people who have no right to use them; the lack of disabled persons bays in many locations, including shopping centres and workplaces; the unsuitability of the size of some bays for people who need equipment such as wheelchairs to allow them to get about; and the lack of enforcement, even in circumstances in which bays are statutory rather than advisory.

Jackie Baillie was able to marshal the information that was provided by groups and individuals, based on their direct experience, into an overwhelming case for change, which she was able to set out not just in the thorough consultation exercise before the bill was launched, but in her contributions at the various stages of its passage. Because the blue badge scheme and traffic regulation are reserved matters, the bill has had to exercise before the bill was launched, but in her contributions at the various stages of its passage. Because the blue badge scheme and traffic regulation are reserved matters, the bill has had to be sure that we are being fully inclusive. People are the disability groups and the individuals with disabilities who have overcome many of the barriers that are consequent on their disability, and that there was considerable local publicity for her efforts, although the responses came from all over Scotland. Many colleagues in different parts of Scotland were contacted by constituents, who were keen to emphasise that the problems that the bill addresses require to be tackled and that thousands of disabled people throughout Scotland will be helped once the bill is passed.

At stage 1, David McLetchie said:

“If common courtesy, respect and sensitivity to people’s needs were more prevalent in society we would not need laws to enforce disabled parking bays or spaces, and social norms and peer pressure would combine to ensure that disabled parking facilities were not abused.”—[Official Report, 26 November 2008: c 12748.]

Regrettably, moral pressure to be a good citizen has not worked as well as it should, and we need to take steps on behalf of disabled people to ensure that their rights as citizens—the right of access to shops and workplaces and the right to conveniently drive to and from their own homes without undue inconvenience—are protected.

There are concerns about costs, which, as a former convener of the Finance Committee, I am clear should never be forgotten about. It is of concern that there was so much variation in the estimated costs. Although we have more information now than was available at stage 1, the range of estimates is still uncomfortably wide. We have already heard from Karen Gillon and the minister, as well as from local government, on that subject. I hope that the range of cost estimates will be significantly reduced as the provisions of the bill are implemented.

I am reminded, however, of a comment that was made to me by one of my constituents, Jackie Maciera. Jackie has been a wheelchair user for most of his life, but his determination to live a normal life despite his disability is deeply impressive. He said that dealing with his disability is partly a matter of overcoming the physical limitations with which he has to contend, but that it is also a matter of dealing with the behaviour of other people when they thoughtlessly, or sometimes deliberately, make things more difficult for him as a disabled person. He has learned to live with his disability and accepts that it is permanent, but it disappoints him when people make it more difficult for him to overcome the consequences of his disability, when it would be just as easy for them to be considerate.

A non-disabled person using a marked parking space outside the home of a disabled person, or the failure to provide for disabled people to go to the shops, the cinema or any other public facility by making enforced spaces available, is something that we need to address in order for us to be sure that we are being fully inclusive. People such as Jackie Maciera have overcome many of the barriers that are consequent on their disability, but we in Parliament can help him and people like him by approving the legislation.

Ultimately, the test of the legislation will be whether we do the right thing by some of the most
vulnerable people in society—whether we do something that will improve their lives and assist them in making their individual contributions in whatever spheres they choose. Restrictions on mobility exist because of the abuses that were referred to in the consultation and evidence to the committee, but those abuses can be reduced by more effective enforcement and a more responsible approach by non-disabled drivers and local authorities. There is a need for the legislation to secure those improvements. On that basis, Labour supports the bill and looks forward to its being passed at decision time.

10:04

David McLetchie (Edinburgh Pentlands) (Con): As I said at stage 1, it is a poor reflection on our society that legislation to deal with the problem of the abuse of parking bays should be considered necessary at all. Common courtesy and good manners should apply so that we treat people with disabilities with respect and consideration, and so that parking spaces that are designated for their exclusive use are not abused by the rest of us. Sadly, that is not the case, and the evidence that was presented to Parliament justifies legislative intervention. We have to conclude that if people will not behave in a considerate manner, the state—Parliament—has no option but to intervene to ensure that all our citizens are fairly treated and are not victims of the selfish or thoughtless behaviour of others.

That is why, like other members, I congratulate Jackie Baillie on championing this particular cause and on seeing the bill through to its final stage, at which it will have the support of Conservative members. As many members have noted, a lot of time and effort goes into a member’s bill, so I commend Jackie Baillie and her team for their persistence and dedication in bringing the bill to this stage. I will, however, spare her further blushes, because a Conservative heaping praise on a Labour member is not the sort of testimonial that is highly sought after in her party.

There is one aspect of the bill of which I remain critical and that is its financial implications, which have already been discussed by members today. Members will recall the wide variation in the estimates of the costs that will fall on councils as a result of the measure. At one stage, the level of detailed scrutiny got down to the cost and colour of the paint that would be necessary to designate an enforceable parking bay. Ms Baillie and then the financial memorandum estimated that the cost throughout Scotland would be £1.7 million. That was based on estimates that Ms Baillie obtained from Fife and West Dunbartonshire councils. However, other councils, particularly Edinburgh and Glasgow, said that it would cost that much to do their cities alone, never mind the rest of the country. Highland Council seemed to think that it would take 12 person years of staff time to deal with the estimated 300 advisory bays in its area. That does not strike me as the greatest advertisement for the productivity of labour in the Highland Council area, but there it is.

More seriously, however, those disparities were supposed to be resolved in discussions between the member in charge of the bill—Jackie Baillie—the Scottish Government and the Convention of Scottish Local Authorities in the period since Parliament approved the bill at stage 1. Unfortunately, as far as I am concerned—I am not much more enlightened following the speeches so far—we are not a great deal further forward in that regard.

Those discussions took place against the backdrop of the minister’s statement to the Local Government and Communities Committee that the Scottish Government did not intend to make a commitment to put financial resources into the start-up costs. Further, as the minister reminded us, he said in the stage 1 debate that it was up to Jackie Baillie to negotiate with COSLA on the financial impact. It may be up to Jackie Baillie, as the member in charge of the bill, to ascertain further information for the enlightenment of members at later stages of the bill’s parliamentary progress—we heard from Karen Gillon about the considerable efforts that were made to find further information—but it is not up to Jackie Baillie to fund the bill’s cost. That is the responsibility of the individual councils on which those duties are being placed, and of the Scottish Government as the major provider of finance to our councils. As Des McNulty correctly said, the range of estimates of the cost of implementation of the bill remains “uncomfortably wide”.

In that context, I note that the historic concordat recognises that in some instances—whether through the development of policy initiatives or for other reasons—there may be exceptional funding pressures that local authorities are unable to meet. In the honeyed obfuscations of the concordat, such difficulties are supposed to be “addressed jointly” as part of a “developing mature relationship” and so on and so forth. However, beneath all the blandness, the reality is that Parliament is placing further obligations on our councils, and those obligations have financial implications. Over the past nine years, when there have been rising levels of grants to councils in real terms, such obligations would have been much easier to absorb. However, they arise now against a backdrop in which funding for councils is likely to fall in real terms or may, at best, plateau. The implementation of the bill will not be pain-free, but that is not a reason to reject the bill. Equity may demand that it be part of the matrix of obligations...
that our councils have to meet, but we should recognise that there is a cost.

Some years ago, I went with a parliamentary delegation to the United States, where we discussed relationships between Governments, states and municipalities. A key issue was unfunded mandates. An unfunded mandate arises when the federal Government passes a law that has financial implications for the states but fails to provide the additional federal funding to the states so that they can meet the costs of implementation. That situation is analogous to our situation with our councils. On a point of principle, we have to be very chary of situations in which we will a particular end but do not provide the means of implementing it. Over the next few years, we will have to be careful about not placing additional burdens on our councils.

I will end on a positive, rather than gloomy, note: I reiterate our support for the bill. I regret that legislation is necessary, and I regret that uncertainties remain over the cost, but I very much welcome the contribution that the bill will make to building an inclusive Scotland by improving the quality of life for people with disabilities.

10:11

**Jim Tolson (Dunfermline West) (LD):** I am pleased to open on behalf of the Liberal Democrat group in support of the Disabled Persons’ Parking Places (Scotland) Bill. As a member of the Local Government and Communities committee, I have had the opportunity to look at the bill in detail over the past 20 months or so.

All our thoughts are with Jackie Baillie and her family at this most difficult of times. The Liberal Democrats congratulate her on bringing the bill forward, and we strongly agree with the principle behind it. The hard work that Ms Baillie and her staff have put in to bring the bill to fruition during this session of Parliament has been significant, as has been widely acknowledged throughout the chamber.

However, we have some concerns about the wildly varying estimates of the cost and administrative burden of the bill in terms of both on-street and off-street disabled persons parking bays. Others have expressed the same concern. The administrative burden on local authorities will prove to be significant, especially in the first year. All local authorities will be required to contact owners of private car parks, including supermarkets and out-of-town retail centres, to negotiate agreements to enable local authorities to promote orders that will make parking places for disabled persons enforceable. It is not clear from the evidence that was taken at committee whether that contact would simply be a couple of letters to each private company, or whether it would be a series of letters, visits and discussions.

Each local authority will be required to identify within its area every advisory off-street disabled persons parking space that exists on the date on which the provisions of the act come into force. Where such spaces are provided directly by the local authority, or are in car parks that are managed or provided for the local authority by a third party, the local authority will be required to begin the designation order process within 12 months of the act coming into force. Given the large administrative burden, that seems to be a very ambitious deadline indeed. Urban and rural local authorities that gave evidence to the committee expressed concerns about the requirement.

Each local authority will also be required, within three months of planning permission being granted, to begin the designation order process for any disabled persons parking places that are to be created in new developments in its area. Where local authorities have failed to secure agreement to pursue designation orders for new and existing off-street parking places they must, at least every two years, make another attempt to secure agreement to create enforceable parking places for those sites. Although the administrative burden would be most significant in the first year of the act coming into force, the on-going burden will not exactly be insignificant, either.

Another concern is about costs. It is estimated that the total national cost of implementing designation orders for all existing advisory on-street parking places is £1.75 million. That figure was based on an estimate of 14,000 advisory parking places with an average cost of £125. The Finance Committee concluded that the overall estimate of £1.75 million for promoting and implementing orders across Scotland is subject to significant doubt, which has been expressed this morning.

Glasgow City Council’s written evidence indicated that it is "extremely concerned at the substantial additional costs to the Council of setting up and enforcing the new arrangements envisaged by the Bill".

It estimates that there would be more than £2 million in set-up costs alone in the first year.

**Karen Gillon:** I understand Jim Tolson’s concern about costs, but will he explain why his local authority—Fife Council—estimates that an enforced bay will cost £19, while East Renfrewshire Council estimates that it will cost £1,342? The member has experience of local authorities. Does he not feel that the gap seems to be wide and unreasonable?
Jim Tolson: I certainly agree with Karen Gillon that the gap is wide. I cannot speak for Fife Council, or for any other local authority, on how the figures have been arrived at, but the wide gap in estimates causes us all concern. We have to be concerned about taxpayers’ money.

West Lothian Council said in its written evidence that the financial memorandum significantly underestimates the bill’s cost implications for local authorities. It estimated that converting its 700 existing advisory places to enforceable ones would cost around £350,000. That is a unit cost of £500 for each place—not the £125 that I mentioned earlier. The council feels that such costs could not be met from within its existing resources.

On a more positive note, good practice was highlighted by Asda. For the past year, it has engaged private monitoring of its car parks and fines offenders £60 for misusing disabled persons parking spaces. Cynics may say that that is a money-making ploy by Asda, but according to David Paterson, its Scottish corporate affairs manager, Asda’s policy has resulted in a 60 per cent increase in the availability of disabled persons parking spaces at its stores. After covering the running costs of its scheme, Asda has donated £70,000 to two United Kingdom charities. That is a good example—one that I hope other organisations will follow.

Although the Scottish Government has indicated that it will contribute to a public information campaign on the change in legislation, it must also clarify whether it will assist in funding the bill’s implementation costs and, if so, to what extent. I will be grateful if the minister can give some reassurances that he will not leave local authorities in the lurch over either the cost or the administrative burden.

Despite some concerns, the Liberal Democrats look forward to successful implementation of the bill, which will make such a difference to the lives of nearly a quarter of a million Scots.

The Deputy Presiding Officer (Trish Godman): After the opening speeches, we now move to the debate. Speakers will be allowed a very tight six minutes.

10:17

Patricia Ferguson (Glasgow Maryhill) (Lab): I add my congratulations to those that have already been offered to Jackie Baillie. Her hard work and determination have brought the bill to this point. I regret that she is, for understandable reasons, unable to be here to lead today’s debate.

As we have heard, the bill is relatively small, but will make a significant difference to the lives of people with disabilities. Of course, the bill should not be necessary. Most people respect bays that are clearly marked as being intended for citizens with disabilities, but the actions of a small minority of drivers who, often wilfully, disregard such bays have meant that the time has come when protection in law is necessary.

I am sure that all members have been visited by constituents who have shared their experiences of these issues. A constituent of mine is often afraid to leave home, because he knows that a neighbour will park in the disabled bay if it is left empty. Another constituent challenged another driver at a supermarket, only to be told, “It’s raining, so first come, first served.” Such constituents are the people who need the protection that the bill will undoubtedly provide.

This debate is not really about disability; it is about the prevention of an abuse. In the stage 1 debate, I raised the issue of the size of parking bays, which is of real concern because many disabled people must transfer to a wheelchair when they leave their cars and so need that little bit of extra space to transfer safely. That is one reason why bays for disabled people need to be protected. A system that makes bays enforceable will help to ensure that the spaces are of adequate size and are located appropriately.

As we know, the bill will require local authorities to pursue the owners of private car parks and attempt to reach agreement with them about providing bays for disabled people. In case any private operator should think that that will present them with a major problem, let me outline the experience of one company: Asda, as we have heard, has had a scheme up and running for over a year now. The store in my constituency, like other Asda stores, has the system of enforcement in place. The manager at Asda in Maryhill tells me that, for the first few months, they had to spend extra time and effort explaining that the bays were designated and why. However, they now find that the scheme enforces itself. Many shoppers have complimented the store on its approach, and it has not yet had to enforce the bays with fines. Car park operators should follow Asda’s approach and be proactive, rather than wait for their local authority to get in touch. That might even win them more customers.

At stage 1, I also mentioned the consultation exercise that I conducted with the disability forum in my constituency. It has since had a name change, but it continues to do excellent work in the north of Glasgow. I am indebted to the forum for the insight that it has given me on this and many other subjects. It pointed out that it was one thing for us to pass legislation, but it asked how people were to find out about what it means for them. As the minister knows, I raised the idea of an
awareness-raising campaign by means of an amendment at stage 2. I was happy to withdraw the amendment, given the minister’s assurance that a communication plan would be drawn up, so I would be grateful if, in closing, he would tell us what the Government is planning in that respect. I am sure he agrees that, as my local Asda store has shown, good information is key to making the legislation work.

Also in the stage 1 debate, my colleague Mary Mulligan made the point that Parliament has as one of its central purposes the power and, indeed, the duty to legislate, although it is fair to say that we have been slightly legislation light in the past two years. One of Parliament’s strengths is that members have the opportunity to introduce legislation that directly reflects their constituents’ problems and experiences. The bill had its genesis in the experiences of Jackie Baillie’s constituents in Dumbarton, but it will offer protection to citizens throughout Scotland—to other members’ constituents and mine. For that, we owe Jackie Baillie and her staff our support for the bill, along with our thanks for it and for all the hard work that was involved. As David McLetchie correctly said, the bill will help to make Scotland a more inclusive country, which is surely one of Parliament’s aims.

10:22

Bob Doris (Glasgow) (SNP): It is a pity that Jackie Baillie cannot be with us today, when all her hard work and that of her team will, we hope, come to fruition. I send my best wishes to Jackie and her family.

My part in the passage of the Disabled Persons’ Parking Places (Scotland) Bill has been both formal and personal. I will return to the personal aspect a little later. My formal role was as a member of the Local Government and Communities Committee, which was the lead committee for the bill—we have already heard from other members of the committee today—and as a speaker in the stage 1 debate. We hope that the bill will be passed into law following today’s stage 3 debate.

Both in the Local Government and Communities Committee—which is known for robust exchanges at times—and in the debates in the chamber, we saw Parliament at its best, in our coming together across party divisions and providing effective and positive scrutiny. That is something that the new Parliament was established to do when it was reconvened in 1999, and I believe that today’s passage of the bill into law is a part of achieving that. Looking back at the Official Report of stage 1, I am struck again by the amount of consensus on the issue.

At stage 1, I discussed the proposed fines for abusing bays and spoke of the light-touch rather than soft-touch enforcement by Asda stores and, hence, the 93 per cent approval rating from its customers. I whole-heartedly agree with Patricia Ferguson’s comments on the Asda store in Maryhill. I, too, have visited that store—a remarkable job has been done there.

At stage 1, I also spoke of the need for routine enforcement in high streets throughout Scotland to ensure that there is equal access for people with special mobility needs. The aim of the enforcement measures in the bill is not just to levy fines but to achieve equality. Fines are needed as a tool, but let us not forget that the principle is not about charging motorists but about changing attitudes to achieve equality. The charge is merely a tool to be used to that end.

I said that I wanted to touch on a personal aspect in relation to the bill. My father is a blue badge holder and in the past couple of years his mobility has gone from bad to worse, quite frankly. Although he used to get out quite often using the blue badge, he now gets out maybe once or twice a month. His experience is that, if he cannot find a space when he goes to a store to go about his personal business, he has to park further away. He can use his walking stick to get into the store and spend five or 10 minutes there before returning to his car and his house, but people do not see the invisible side of such mobility issues. When someone sees a blue badge holder going about their business, they might question whether that person needs a blue badge, but they do not see the person in pain the next day, and perhaps in bed, because they have pushed themselves to do more than they are physically capable of doing. If the bill is passed today, my father and others like him will benefit.

Let us hope that the bill will change attitudes and banish ignorance. I consistently hear about cases—we have heard examples today—in which someone has used a disabled persons parking bay when they have just popped into the shop for a pint of milk or a newspaper, or are visiting a neighbour for a short while. At the same time, it could be my father or someone like him who is popping in for a pint of milk, to pay a bill, or to visit a relative. Blue badge holders do not want to be prisoners in their houses, but having a Motability car and the blue badge scheme could make them prisoners in their cars if they cannot get out. We must take that on board. I hope that, as well as the publicity campaign to ensure that people are aware of the new law, there will be a public information campaign to tackle ignorance of the mobility needs of blue badge holders and the unseen side of their disability.
Other members have spoken about the costs. I will not go into that in great detail as I mentioned it at stage 1, but I hope that the absurdity of some local authorities' costings will focus their minds and encourage them to give us some real figures. There are serious concerns that some local authorities have inflated the costs to avoid a statutory obligation to enforce bays. If that is the case, they should be ashamed of themselves. The Equality and Human Rights Commission said:

"there should be no additional administrative burdens on local authorities as a result of the Bill, because this should be part of their ongoing work under the Disability Equality Duty."

It is clear that that has not always been understood. It is time for local authorities to step up to the plate.

I finish by quoting the comments that I made at the beginning of my speech in the stage 1 debate, because they sum up how I feel about the bill.

"For me, the bill is about ensuring that everyone in Scottish society is treated with the same respect and dignity, no matter who they are. If a person found it more difficult to access or leave their home, to use local facilities, to visit local shops or to go and see their friends simply because of the colour of their skin, their sex or their religion, the Parliament would rightly be outraged. We should not stand for it."—[Official Report, 26 November 2008; c 12764.]

If the bill is passed today, we will ensure that people with special mobility needs are treated in the same way as others.

10:28

Charlie Gordon (Glasgow Cathcart) (Lab): I welcome the opportunity to speak in support of the Disabled Persons’ Parking Places (Scotland) Bill at stage 3, having spoken in support of its general principles at stage 1. I congratulate Jackie Baillie on her diligence in developing the bill. Today should have been her day. It has turned out to be quite a different day for her, and our thoughts are with her.

Credit is also due to the parliamentary committees that scrutinised the bill, and to the Scottish Government for endorsing its general principles and—I hope and expect—agreeing to resource a public information campaign in the run-up to its implementation. The Scottish Government is right to recognise that the issue is not party political and that the improved quality of life that the bill will bring to families who cope with disabilities is strongly supported throughout the Parliament.

In the stage 1 debate, I said that, whatever the number of complaints local authorities receive about the abuse of existing advisory disabled parking bays, in my experience, such antisocial behaviour—to give it its proper name—can drive affected families to distraction. In that debate, I gave an example that bears repetition today of a constituent of mine with two disabled children whose neighbours park in her bay. It is time that the law of Scotland put an end to such rotten behaviour.

Within 18 months to two years of the bill’s enactment, it is possible that such abuse will be extremely rare and will not go unpunished. Much of the focus in the debate has been on on-street parking in a residential context, but the bill’s coverage of off-street parking has been welcomed as well, and not just by MSPs and disabled drivers but, rather gratifyingly, by private sector car park operators. Graeme Taylor of National Car Parks said:

"As an off-street car park operator, we support the bill 100 per cent because it would work in the environment in which we operate."—[Official Report, Local Government and Communities Committee, 1 October 2008; c 1192.]

Some local government officials have expressed concerns that the costs of implementing the bill might have been underestimated. I think that they are doing their job when they express such concerns, but they should see their job through to completion by coming up with some accurate estimates.

That is a tricky area because, although it is possible to benchmark the operational costs of physically signing and lining the new generation of enforceable parking bays, it is more difficult to estimate the emerging administrative costs of dealing with the objections that will be lodged to the traffic regulation orders that councils will use to create the new bays and make existing bays enforceable. Jackie Baillie’s latest gross cost estimate is around £3 million. In the stage 1 debate, I suggested that the outturn cost in the first full year of operation, when there will be set-up costs and capital costs, might be as high as £5 million, but I still regard that as money well spent. A pound per head from every Scot to improve the quality of life of hundreds of thousands of disabled Scots—that is what I call best value.

10:32

Ian McKee (Lothians) (SNP): I hope that members will forgive me if, like Bob Doris, I share with the chamber a family anecdote. My mother—who, sadly, died last year—was a keen driver for all her adult life. She was taught to drive by an early boyfriend—so long ago that the driving test had not yet been introduced. Her father drove her to the licensing authority when she reached the age of 17, and she drove the car back on the journey home. Fortunately, there were not many other road users in those days.
As my mother grew older and more physically disabled, the car became a more important part of her life. It kept her mobile, and she was able to fulfil the role of named driver for a group of her contemporaries in their 80s who met regularly for lunch in various local pubs. The car enabled her to go to bridge sessions, to shop and, occasionally, to travel further afield, such as when she made the journey from her home on Tyneside to visit me in Edinburgh.

It gradually became obvious to family members that mother’s personal mobility was failing fast and we suggested that she apply for a blue badge. Like many folk of her generation, she was at first reluctant to accept that she required any form of help at all. However, a combination of pressure from her family and her general practitioner, as well as the pressure of circumstances, prevailed and she was accepted into the scheme. That was a godsend because it extended her liberty and sense of independence for several more years.

However, as mother’s physical mobility deteriorated still further, another problem arose. By now she needed to park very near indeed to any intended destination, but it was often impossible to find an unoccupied disabled parking place, and many of the spaces that were already occupied contained cars that were driven by folk with no disability whatsoever. On one occasion, as she was parking at the supermarket, a car drew up in the next door space—the only one vacant—and her young next-door neighbour jumped out. “But you aren’t disabled,” said my mother. “Oh, don’t be old fashioned, Marjory,” the neighbour said, “It’s everyone for themselves these days,” and, with that, she strutted into the shop.

My mother’s experiences illustrated graphically for me two important issues. The first is the extreme value of enabling someone who is disabled in any way to continue to live life as normally as possible. Had my mum not been able to get out and about as she did, I am sure that she would have become less fit, depressed and a burden on society, rather than being able to contribute to society as she did, and she would not have been able to support her peers. The possession of a blue badge contributed to that enablement.

The second issue is the way in which disabled parking places are regarded by some members of the fit community. I have been tempted myself, when car parking spaces have been in short supply, by that welcoming space by the door of the shop or theatre, and we know that many people do not resist that temptation.

Research that was commissioned by the previous Administration showed that many abusers are in denial about the fact that they are doing something wrong. They invent justifications, such as shortage of time or the fact that they have young children, or they have a temporary physical impairment. Persistent offenders or those who fraudulently use someone else’s blue badge need to feel the full weight of the law, but the others I have just mentioned are likely to be deterred if they are brought face to face with reality by the presence of legislation, which will cause them to think twice before breaking the law. That is why I strongly support the bill. Disabled drivers need that protection.

I am aware that many potential supporters have some justifiable reservations. It is true that there is a cost implication, that the law will not apply to private parking areas, and that many local authorities do not even know how many disabled parking bays they have. However, those are obstacles that can and must be overcome. In the greater scheme of things, the cost is not likely to be huge, reluctant private companies can be cajoled or shamed, and a proper audit of disabled parking places is long overdue. The welfare of disabled people is easily worth that effort.

I cannot finish without congratulating Jackie Baillie on her tenacity in progressing the bill. I have a tongue-in-cheek nickname for her, and I am sorry that I am not able to tell her what it is to her face today—with her sense of humour, I am sure that she would have enjoyed hearing it. I call her the smiling assassin because of the charming way in which she smiles sweetly at her opponents, including me, as she skilfully plunges in the political stiletto. She is a most skilful operator—not that Karen Gillon is a novice in that respect. What a pleasure it is to be on the same side as Jackie Baillie for once, and how sad it is that family circumstances prevent her from being present at this most important point in the progress of her bill. I join others in the chamber in wishing her well.

10:38

**Duncan McNeil (Greenock and Inverclyde) (Lab):** I became convinced of the need for action on disabled persons parking places after a conversation with a constituent of mine, a young woman who is a full-time carer for her elderly mother. She described to me in graphic terms the amount of time, energy, physical effort and planning that was involved in taking her mother on her weekly outing to the local supermarket, and she told me of the anger and frustration that she felt when she was denied a parking space there by an inconsiderate able-bodied person. For someone with an impairment, that is not simply an inconvenience. Only a carer can truly know how difficult and undignified it is to manoeuvre someone into a wheelchair in a standard car-parking space. Even the most mundane but important task, such as going to the shops, the
post office, the GP or the hospital, can be a real challenge.

Evidence that was presented to the Local Government and Communities Committee confirmed the scale of the problem. One in five disabled parking bays is used by drivers without a blue badge. More than a third of our car parks have no accessible bays free for disabled people because of the level of abuse. Some 85 per cent of disabled spaces are not enforceable in law. A survey in Dumfries and Galloway found that 50 per cent of bays in hospital car parks were taken by drivers who did not have a disabled badge.

Amidst the gloom, there are notable exceptions, as we have heard. Asda, which gave good evidence to the committee, is leading the way with an enforcement scheme that has increased the availability of disabled parking spaces at its stores by 60 per cent. That evidence gave us an insight into what the bill can achieve. Sadly, others stores have not followed Asda’s example. It pains me to say it, but a scant inspection this week of supermarket car parks in my constituency that are not part of the Asda chain—whose inspection officer is in the public gallery today—found many disabled car parking spaces that were occupied by people who were not displaying a blue badge, apparently fearless of challenge. We accept that there will be an implementation stage, as the minister said, but I suggest that, once the bill is passed, stores that do not already reach the Asda mark should not hang around much longer. They should listen to the message and act to achieve what Asda has already achieved.

For too long, disabled people have had to rely on other drivers not to take reserved parking spaces out of courtesy and consideration. The committee heard evidence that, sadly, when disabled people complain to drivers who abuse disabled spaces, the complainers can receive abuse and even threats of violence. Therefore, as has been said today and in evidence to the committee:

“the age of relying on politeness has ended and the age of enforcement has come.”

That is welcome and long overdue.

Although the bill will in due course change the quality of life of many Scots, it is worth mentioning that the benefits may be wider than the mobility benefits for disabled people. Evidence to the committee confirmed that people who break rules in one part of their lives are likely to break rules in other illegal ways. Research shows that those who are careless and thoughtless enough to take up disabled parking bays are more likely to have a criminal record, and that 50 per cent of them have a history of traffic violations. One in 10 cars that are found abusing disabled parking spaces is in an illegal condition. The top criminologist Sylvia Chenery of University College London’s Jill Dando institute of crime science supports the bill and says that a crackdown on the abuse of disabled parking spaces could nail some of our most wanted criminals. She has reminded us that the Yorkshire ripper was caught because he had a dodgy licence plate. Perhaps the minister can discuss that issue with his colleagues. Enforcement of disabled parking spaces might be an efficient way in which to target active criminals and offenders, as well as illegal vehicles.

Today is a day to celebrate all the efforts of disability campaigners over many years, including those involved in the eye-catching campaigns such as the space invaders and baywatch campaigns. A lot of work has gone on for a long time. My committee colleagues will take pleasure in the passage of the bill. Those campaigners have had their concerns listened to and, more important, acted on. There is no doubt that the change will improve the lives of many Scots. The campaigners are also to be congratulated on recognising that, in Jackie Baillie, they found a politician who shared their concerns and their determination to change things for the better. As has been acknowledged today, she is a politician with all the necessary skills to ensure the safe passage of the bill without amendment, with the support of the Government and, I hope, with the unanimous support of the Parliament. That is a commendation of her work and effort. We are all sad that she is not here to share today’s events.

10:45

John Wilson (Central Scotland) (SNP): As members have said, in this stage 3 debate, it is important to acknowledge Jackie Baillie’s contribution in championing the key principles of her member’s bill. Members have already stated—but it is worth reinforcing—that Jackie Baillie and her staff deserve credit for their work on the Disabled Persons’ Parking Places (Scotland) Bill. My role in the proposed legislation has been to examine the proposals as a member of the Local Government and Communities Committee, particularly through the evidence-gathering sessions. I have taken an active interest in the bill.

I will touch on the committee’s findings in its report on the proposed legislation. It is important that we examine carefully the context and background of the bill and the reasons for its introduction. Anyone with even a passing knowledge of the issue knows about the on-going problems with the blue badge scheme and the abuse of disabled parking bays by non-blue badge holders. In essence, the scheme is about assisting disabled people to travel and live their lives independently. It is worth reinforcing the point that
I made in the stage 1 debate that it is more than a pity that no in-depth research on the issue has been commissioned by any governmental agency. For far too long, not enough has been done to tackle what amounts to no less than a flagrant abuse of disabled people’s rights.

Members have referred to the baywatch campaign, which found that at least one in five disabled parking spaces is abused by non-blue badge drivers. Supermarkets and private car park operators have not been opposed to the bill at any stage of its progress through the Parliament. In fact, as members have said, Asda has led the way by introducing a fine system for those who abuse disabled persons bays. Mr Guy Mason from Asda highlighted the fact that four out of five customers support the system of fines. However, as the Local Government and Communities Committee detailed clearly in its report, there is an on-going debate about advisory versus enforceable disabled persons parking bays, which in turn has followed through into a debate on the costs associated with the proposed legislation. The committee recognises the difficulty that local authorities throughout Scotland face in conducting an audit of existing advisory disabled persons parking bays, but it agrees that a period of a year after the act comes into force is a reasonable timeframe for completion of the exercise.

The evidence-gathering sessions were a more-than-useful exercise in fleshing out important points about the proposed legislation that need to be addressed. Today and in the stage 1 debate, we have had much discussion of the associated costs, particularly in relation to the figures that the Parliament’s Finance Committee identified. I reinforce the assertion that I made in the stage 1 debate that we need more clarification of the matter from the Convention of Scottish Local Authorities and local authorities. As I have argued previously, local authority budgets should be prioritised better to take account of established best practice in relation to existing disability discrimination legislation. Bearing in mind that there are 32 local authorities in Scotland, it was not an especially helpful response rate for only 21 of them to respond to the member’s consultation.

**Margo MacDonald (Lothians) (Ind):** I declare an interest as a blue badge holder.

What comparison has been made with other European countries as regards compliance with the blue badge legislation? From personal experience, I believe that our compliance is probably greater than that in other countries, such as Portugal, where Jackie Baillie is just now.

**John Wilson:** I cannot possibly answer Margo MacDonald’s question, but I am sure that she can take it up with others.

Although authorities responded on the issue of the costs associated with implementing the bill, there was significant variation in those costs. The Local Government and Communities Committee states clearly in its stage 1 report that the overall estimate of £1.7 million to implement the bill is “subject to a significant degree of doubt”.

The argument made by one local authority seemed to be more about the potential for more funding—in anticipation of a one-off cost—rather than service delivery for disabled people in the community.

As witnesses stated in the evidence-gathering sessions, which have had an impact on the wider debate inside and outside the Parliament, there is significant crossover between the committee’s report and the research that has been conducted by other organisations in relation to the Disability Discrimination Act 2005 and the disability equality duty on local authorities.

In its submission, Leonard Cheshire Disability noted that, in undertaking their functions, public bodies in Scotland should have due regard to promoting equality of opportunity for disabled persons and other persons. Under the existing legislation, there is a duty on public bodies to encourage participation by disabled persons in public life.

The bill underpins the concept of independent living in a practical sense, not just in the abstract. In getting to the heart of the matter, one has only to examine the Equality and Human Rights Commission’s submission, which states that the bill will remove “a persistent barrier to disabled people’s participation in society.”

I welcome the bill and support its general principles. When it is enacted, it will make a meaningful contribution to tackling social exclusion for disabled individuals who rely on the blue badge scheme to be active citizens.

**The Deputy Presiding Officer (Alasdair Morgan):** The member should really conclude now.

**John Wilson:** Sorry, Presiding Officer. I want to comment finally on the consensual manner in which members of all parties have dealt with the bill, despite some reservations. That highlights the work that we can do together to benefit vulnerable and disadvantaged groups in Scotland.

10:52

**Michael McMahon (Hamilton North and Bellshill) (Lab):** I am delighted to take part in the debate. On behalf of the many disabled people who will benefit from the bill, I thank Jackie Baillie
for introducing it. I share others’ sadness that she is not here today to see the bill being passed, given the hard work that she has put in. I am not sure that she would agree with Dr McKee’s representation of her. I am confident that Karen Gillon, who is a fellow Lanarkshire politician, would not agree with the suggestion that a stiletto would be among the armoury that we would use on our political opponents—that is an insult! [Laughter.]

As the convener of the cross-party group on disability and the father of a disabled daughter, I know only too well the problems that disabled people experience when they try to find a suitable parking space. Not only do they often have a battle to get a car that suits them in the first place, but they then have to battle to park it—something that so many of us take for granted.

I have yet to meet a person who will admit to using a disabled parking bay to which they are not entitled, but the problem is widespread. As Duncan McNeil and John Wilson said, the baywatch campaign found that one in five disabled parking bays in Britain are used by drivers who do not have a blue badge.

I believe that people who misuse disabled parking bays know that they are doing something wrong but do not want others to think badly of them, which is why they are reluctant to confess to their inconsiderate behaviour. Passing the bill is the right thing to do for its own sake, but if the bill also makes people take note of the impact that their selfishness has on others, and on disabled people in particular, it will be a success in more ways than one.

We have all seen the selfish driver parking in a disabled spot outside the supermarket and jumping out of their car without putting a blue badge in the window. We all know that the space should be used for the benefit of the disabled, who are rightly entitled to park there. As others have said, it is regrettable that we have to legislate to enforce the necessary consideration that everyone else takes for granted.

There are more than 1 million disabled people in Scotland, of whom more than 225,000 are blue badge holders and 96,000 are wheelchair users. Nearly a quarter of the total population of Scotland are disabled and yet they have to fight their way into a parking space when carrying out a daily chore, such as visiting the supermarket.

We know that the blue badge scheme can be abused. However, people who use a blue badge might not be the stereotypical disabled person that we would recognise. I am sure that we have all made a comment or two about the selfish driver who parks in a disabled parking bay, but I urge everyone not to be too quick to judge. We must always be careful to look at the disabled person. I concur with the personal perspective that Bob Doris outlined. I have lost count of the number of disabled people who have told me that they are often glared at if they park in a disabled bay because they can walk unaided.

Equally, the available figures tell us that not all disabled people use the blue badge scheme, but they do not tell us the reasons for that. Some disabled people say that they have not applied for the badge because they do not want to use it to take the space of someone more deserving. My daughter, who drives a Motability adapted car, does not have a blue badge, because she believes that the space that she could use should go to someone more in need. That does not make her any less disabled; it indicates her independent judgment on the issue.

For some disabled people, their car is their lifeline; it is not something that they use as a status symbol, as so many people do. Too often, public transport is not an effective option for disabled people. Leonard Cheshire Disability found that 70 per cent of disabled people state that they cannot rely on public transport. For them, the car is the only way that they can access what we take for granted. The Parliament must continue to address that issue, but, for now, we should support the only bill that promotes the rights of disabled drivers in Scotland. I commend Jackie Baillie, and all the disabled groups that have fought so hard, for making the bill possible.

10:57

Sandra White (Glasgow) (SNP): My thoughts are with Jackie Baillie and her family at this very sad time. I pay tribute to Jackie Baillie for her tenacity in pursuing the issue of parking bays for disabled people vigorously and I thank the many people from throughout Scotland who came to the Parliament to lobby for action. The passing of the bill today will be a victory for all the people in Scotland who have actively pursued the issue.

Disabled parking has always been close to my heart, having had an aunt who was disabled for many years and an elderly mother who could not get about in her later years. I would have liked the bill to look at the blue badge scheme as a whole and at extending it to deliver a range of other concessions, for example in relation to off-street parking. However, I realise that the scheme is a reserved issue. Perhaps we can look at it again at some other time, if we get the powers to do so. If the scheme was extended to cover off-street parking, it would be much more enforceable. Perhaps the minister will address that point in his summing up.

Parking for disabled people has been the subject of a parliamentary debate and numerous
petitions to the Public Petitions Committee, of which I was a member when they were lodged. I remember when the committee met in Dunfermline in the middle of winter. People from disability action groups came all the way from Glasgow and Greenock in their cars to speak to their petition—that is how strongly they felt about the issue.

The subject was also discussed in the previous Equal Opportunities Committee. I see Cathy Peattie here, who was the convener of the committee when the subject was covered in our report “Removing Barriers and Creating Opportunities”, which stated:

“The Committee also recommends that the Scottish Executive develop and promote suitable mechanisms for the effective enforcement of proper use of accessible parking for disabled people wherever it exists including encouraging local authorities to make full use of Traffic Regulation Orders.”

The bill will confirm that statement. I am pleased to support the bill in its entirety.

Like other members, Karen Gillon mentioned the variation in costs, which go from the extremes of the sublime to the ridiculous. Glasgow’s costs seem to be rocketing all the time. We must examine that and ask local authorities what their costs are. The costs that COSLA and local authorities have provided vary so much that it is not possible to say whether they are correct.

As Charlie Gordon said, financial costs should not take precedence over the human costs to people with disabilities. We cannot consider simply finance; we must look at the issue in the round and consider the human rights of disabled people. Financial costs are secondary to enabling people to live active lives.

What are the costs of being unable to park? Let us consider what we can do. Blue badge holders or members of other disability schemes who cannot park cannot, unlike us, get about and perform daily tasks such as going to the doctor, going shopping or attending appointments. They cannot get about socially to go to the theatre or the cinema, and they cannot participate in all the activities that we take for granted, because of the actions of selfish people. As David McLetchie said, if people will not behave considerately, we must, unfortunately, have enforceable legislation. It is unfortunate that, in this day and age, people do not treat others with humility and in the same manner in which they expect others to treat them.

I welcome the bill, which will be passed with the Parliament’s full support. It will go some way towards ensuring that we strive to achieve a fully inclusive Scotland.

11:02

Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): As the husband of a disabled person, I am pleased to participate in the debate. I am sure that Jackie Baillie and her family are in all our thoughts.

Karen Gillon said that “the age of relying on politeness” was over, which is a theme of the debate. I thank her for her full explanation and for her contribution to the debate. Other members have commented on the style of the debate: Bob Doris’s speech caught the tone of it. Ten years on, if anyone asks us what the point of the Scottish Parliament is, we have the answer in today’s debate, which reaches out to people who are in need.

The minister, Stewart Stevenson, and David McLetchie referred to costs, on which we have gone back and forth. However, the point is that the bill is a step in what we are united in saying is the right direction.

I compliment Patricia Ferguson on a very good speech. Like my colleague Jim Tolson, she referred to the Asda experience. As other members have said, the fact that Asda is making contributions to charity shows us what can be done. The onus is on other supermarkets, to which I shall refer in a minute or two, to follow that example.

Members have not touched on parking at hospitals. I have had lengthy discussions with people at Caithness general hospital in Wick, which is in my constituency, about parking, which is a big problem for the hospital. The parking spaces for disabled people are clearly marked and signposted, yet many other visitors use them, despite being urged not to. Hospital staff receive many complaints about that. An example of the impact is that the hospital has a disabled member of staff who often cannot find a space and must park her car on the lawn beside the hospital.

The hospital is making an effort to deal with the situation. For instance, it tried putting stickers on the windows of cars that were not entitled to be parked in disabled spaces, but people complained that the stickers would not come off the cars, so the hospital stopped that practice. Wee tickets that say, “These spaces are for disabled people. Please park at the back of the building,” are now put under windscreen wipers. Staff have been told to keep an eye on the situation, but there is only so much that they can do. Is it right that their time should be diverted to such operations when they should be focusing on their main role—the delivery of health services to my constituents? Staff have told me that the bill will alleviate many struggles for them and for disabled people at the hospital, which is welcome.
I will give my experience from my area of Tain. I am the husband of a disabled person. Like Duncan McNeil and Michael McMahon, I have known the irritation of finding that all the disabled spaces are taken. What do we do? We have to park somewhere that is further away. Okay, that is fair enough, but if it is snowing or sleet ing it is not funny for the disabled person. We choose our space carefully, because it must be wide enough—the width of spaces has been mentioned. We have all experienced coming back to our car with our messages to find that somebody has parked about a foot away from the passenger side of our car, which is no good, so the car must be reversed out before the passenger can enter. That is all extremely undignified for the person concerned.

Members all know what an angry Jamie Stone looks like. I have seen myself stalking up and down the disabled bays at Raigmore hospital noting that some of the cars displayed no blue badge. That is the case almost every time I am at Caithness general hospital and Raigmore hospital.

I will name check a man who will welcome the bill—Mr Herbie Giles. He is in charge of the car park at Tain Co-op. He told me this week that he will be absolutely delighted when the bill is passed. It is not his job to police the situation and, as we have heard, people can be quite unpleasant in the circumstances.

Stewart Stevenson, the minister, said that change is coming, but not overnight. The point is that change is coming, which is welcome to people such as me and my constituents. I think—in fact, I have no doubt and am perfectly certain—that the bill will be warmly welcomed the length and breadth of my constituency. As an MSP, an individual and a citizen of this country, I will do everything in my power to make the legislation work.

This is a great day for Jackie Baillie and it is an enormous shame that she cannot be with us. She can hold her head up high, because she has done something that will be hugely important to some of the most disadvantaged people in our society, whom we have a responsibility to look after. I warmly support the bill, as does my party.

11:07

Jackson Carlaw (West of Scotland) (Con): The debate marks the culmination for Jackie Baillie of a hard-fought campaign, on which I congratulate her. I send her my best wishes. I congratulate Karen Gillon, too, on standing in Jackie Baillie’s shoes adeptly in her opening speech.

I support the bill, but I will draw the Parliament’s attention to a concern of mine that arose during my career with the Scottish retail motor industry. The issue is not so much the securing of dedicated parking places as the eligibility to use those places.

People who are entitled to use disabled persons parking spaces are registered blue badge drivers, the vast majority of whom benefit from the United Kingdom Motability car purchase scheme. The scheme’s history is worth recalling. Most members of a certain age will remember—perhaps with some affection—the old rather lurid turquoise three-wheeled Reliant Robin motor vehicle that was made available to severely disabled people to give them essential mobility by car. As a teenager, I probably smirked at those cars as I drove about but, as an employer in my 20s, I most certainly did not smirk, because I had an employee for whom the car was a lifeline. [Interrupti on.] That might be my phone. The car gave him an opportunity to participate in the world of work and to engage. I recognised what an important aspect of his life that car became.

However, to be frank, the Robin outlived its usefulness, although its users treasured it to the end. It was determined during the tenure of a Conservative Government that, rather than create a replacement vehicle, a scheme should apply general discounts to and waive VAT on whatever motor vehicles manufacturers wished to make available through the scheme. Initially—and on the basis that those who were awarded and persevered with the Reliant Robin had shown a determined need—demand for the product remained stable. In the early days, most of the cars that we supplied under the scheme were entry-level models—the Ford Escort Popular was the most in demand.

It is crucial to note that a significant number of the vehicles that initially were supplied were adapted to reflect the driver’s physical disability. However, something happened after then. Demand exploded as those who were eligible for the benefit but who had not fancied a Reliant Robin—many had been able to purchase an alternative—discovered that the benefit applied to any make or model of vehicle, subject to the manufacturer making it available under the scheme. At one point in the 1990s, before substantial European Union enlargement, and as a direct result of the substantial taxpayer-funded subsidy, the scheme had grown to the point that more people were registered on the UK Motability disabled driver scheme than were registered as disabled drivers in all the other EU countries put together. Perhaps that addresses in part the point that Margo MacDonald made.

Moreover, less than 2 per cent of the vehicles supplied were adapted in any way whatever. I am not suggesting that only people with a physical
disability should be eligible for the Motability scheme, but it is right to ask why the figure for adaptations has gone from a substantial number to less than 2 per cent. When I left the industry, 10 per cent of the UK market—200,000 vehicles—was being supplied annually under the scheme, subsidised by the taxpayer. I regret to say that, in some instances, I was aware of deliberate abuse and the frankly ridiculous—the customer who was eligible for the benefit because he was diagnosed as clinically bald, or the man who freely admitted to my salesman—

The Deputy Presiding Officer: Order. The member should get back to the bill or relate his remarks to it.

Jackson Carlaw: A man freely admitted to my salesman that he drove from Glasgow to Ayr on a cold day with his leg stuck out of the window before a doctor’s appointment confirmed poor circulation, entitling him to the benefit.

I am concerned about the number of people who are using disabled spaces and the public subsidy that underpins the scheme, in relation to the essential need of the people who must use such spaces and may be denied the opportunity to do so. It is a serious matter, because taxpayers are now subsidising not just entry models but Mercedes, Audis and even more luxurious models. I contrast that situation with the injustice that is meted out to those who need an appropriate wheelchair—an issue that has concerned me since I was elected to the Parliament. By definition, every wheelchair user has a physical disability, so access to an appropriate chair is an even more essential lifeline. Although it is true that some also have access to a motor vehicle, only 2 per cent of cars are adapted. The amount of public money that is spent on wheelchair users is relatively pathetic. I am not making a party-political point, but I point to the contrast between spending on the essential transport and mobility needs of wheelchair users and the huge public subsidy that we provide for motor vehicles.

I do not wish to take away the incredible liberation and lifeline that are offered to people who rightly enjoy vehicles under the Motability scheme, or to detract from the screaming frustration that they can feel when they try to park and find that spaces have selfishly been blocked by others who are too lazy to park elsewhere. Des McNulty detailed the many and varied examples of that problem and the other difficulties that disabled drivers face. However, there are others who find on-street parking difficult but are not entitled to use reserved spaces. Ian McKee touched on the situation of elderly drivers whose joints are not as flexible as they once were and who appreciate the opportunity to park in end bays, as they find it difficult to negotiate the dimensions of mid-row parking bays. Some get blue badges, but others do not actively think of doing so and give up driving, because they think that it will be too difficult. Ian McKee reflected the sentiments of many of those people. Michael McMahon reflected the sentiments of many people who feel that, even though they have a disability, spaces should be reserved for other people to use.

David McLetchie dealt in detail with the substantive concerns that we and others have expressed about the continued uncertainty about the funding that will be necessary to implement the bill. In his conclusion that we are placing a further cost obligation on our councils, the funding of which remains uncertain and has wider margins than we would wish, he spoke a candid truth. Although that is regrettable, we will not allow it to prevent us from lending our support to the bill at decision time. This is an important bill that will make the lives of many people better. However, we all want to ensure that it will be available to those people who most desperately need to use it.

11:13

Mary Mulligan (Linlithgow) (Lab): After such a positive and consensual debate, it is difficult to know what one can add. I start by putting on record how pleased I am to have contributed to this small but perfectly formed bill. I join other MSPs in congratulating the bill’s sponsor, Jackie Baillie. I am sorry that she cannot be with us today, but she has already demonstrated ably why we are here. She saw a problem, recognised that some of the most vulnerable people were being disadvantaged and set about changing that situation. Those of us who know Jackie Baillie know not to stand in her way, whether she is smiling or otherwise. On this occasion, we are all willing accomplices, but the fact that today we will have a piece of legislation that will do what many of us want to do—make life better for people—is down to her. Given all the warm words and compliments that have been offered—some from unusual places—it is probably just as well that she is not with us today.

As a member of the Local Government and Communities Committee, I join others in thanking those who gave written and oral evidence on the bill. Although I joined the committee after it had started taking evidence, it was easy to identify the crucial issues. Like Des McNulty, I thank the disability groups and individuals who progressed the legislation.

Probably the most contentious aspect of the bill was the financial memorandum. Members such as David McLetchie, Jim Tolson and, in particular, Karen Gillon, in her opening speech, have mentioned it again today. The main difficulty that the proposer faced in producing a cost for the bill
was that local authorities—which we might have thought were best placed to say how much it would cost them—made a variety of statements on cost. Some of the variation could be explained by the different ways in which local authorities processed applications, but that did not provide the whole answer. The unanswered part of the question caused concern in both the Local Government and Communities Committee and the Finance Committee.

Members can have more confidence in the reassessment that Karen Gillon has provided today, which puts the cost of the bill at around £3 million. It will be for the Scottish Government and COSLA to oversee costs. I am glad that the minister has indicated that meetings are taking place to resolve the issue, but more work needs to be done if local authorities are not to be left with what David McLetchie termed an “unfunded mandate”. However, I agree with my colleague Charlie Gordon that the money will be well spent.

It is clear that responsibility for delivering the legislation will fall most heavily on local authorities. Given that they already have a disability equality duty, the added responsibility should not be too onerous. However, the intention to allow local authorities 12 months from the date of enactment of the legislation in which to conduct an audit of current spaces and to obtain orders to make enforceable those that are deemed necessary is reasonable. I sincerely hope that local authorities will avail themselves of best practice when carrying out their responsibilities. That will clearly make a difference not just to the cost but to the efficiency of establishing enforceable spaces.

Margo MacDonald: In terms of overall cost and cost benefit, would it be sensible for the Government to undertake an information and education campaign before the legislation comes into force? If people understand the legislation from all different points of view, the amount of work that local authorities will have to do when implementing it may be reduced.

Mary Mulligan: Margo MacDonald makes an interesting point. I was about to say that local authorities and the Scottish Government need to recognise that publicity and education will be required if the legislation is to work. That point was strongly and ably put by my colleague Patricia Ferguson. Although I am sure that it will be taken forward in joint meetings, the minister may want to respond to Patricia Ferguson’s invitation to say a little more about his intentions in that regard.

This has been a consensual debate. When that happens, it is sometimes easy to miss how important an issue is. The bill really has the potential to improve the quality of life of the almost 230,000 blue badge holders. They should not have to think twice about going out, either because they cannot find a vacant space at their destination or because they cannot find a space close to home when they return. The bill covers public space but places a duty on local authorities to make contact with private car park owners. I urge those businesses that operate car parks to follow many of the examples about which we have heard today, especially in relation to Asda, and to make their spaces enforceable. That is the right thing to do. As other members have said, I am sure that it will also benefit them commercially.

Today is one of those days in the Parliament when we can all feel good about what we have done.

11:19

Stewart Stevenson: I thank Jackie Baillie for introducing the bill and I thank her alter ego—or doppelgänger, as Dr McKee might say—Karen Gillon, for so ably filling the breach. I also thank Mary Mulligan for the support that she provided. Jackie Baillie and members of all parties are aware that the Scottish Government is committed to the principles behind the bill.

I take the opportunity to thank all the members who contributed to the debate, which has been interesting and indicative of the Parliament’s engagement on supporting people with disabilities. I think that every member who spoke made a useful contribution, but I single out Patricia Ferguson, who made a particularly thoughtful and informative speech.

Thanks are also due to the Society of Chief Officers of Transportation in Scotland, COSLA and the non-Executive bills unit for their work in trying to obtain robust implementation costs. The task is not yet complete, but there has been honest endeavour, and at official and ministerial level we will continue to work in partnership with COSLA and local authorities to ensure that best value is achieved in the one-off national implementation exercise. Estimates of the likely cost appear to be coalescing around £3 million. That figure does not unduly alarm me.

A tangible result of the process will be the annual reports that local authorities and the Government produce. The reports will provide openness and transparency on the processes that surround the provision and enforcement of disabled parking bays and will let the public know whether local authorities are carrying out their duties in relation to the bill. I thank the Mobility and Access Committee for Scotland for its advice on the bill. I am sure that it is one of many organisations that will scrutinise the annual reports.

Patricia Ferguson said that the debate is not about disability, which was spot on. The reality is
that the debate is about changing the attitudes and behaviour of the able bodied, because only when that happens will we deliver for the disabled. That should perhaps be our primary focus. At stage 2, Patricia Ferguson asked about an information campaign and I confirmed that we will mount such a campaign. We will liaise with local authorities and other stakeholders in early course, to ensure that people have the good information that is necessary if the bill is to be a success.

Patricia Ferguson also said that the Parliament has been rather “legislation light” during the past two years. The Government is always happy to work with other parties in the Parliament to build consensus for legislation. The bill, which was introduced from the Labour benches, provides a good model for the work that can be done to build consensus before debates take place in the Parliament. It is clear from today’s debate that the consensus that has been built will endure beyond decision time tonight.

Many members drew on familial experience. Bob Doris described his father’s experiences. Of course, a charge or fine—whatever we call it—will be a mark of the system’s failure; a mark of its success will be the change of behaviour that we all seek.

Charlie Gordon talked about disabled drivers. We should remember that not just drivers but passengers might be disabled. There are many blue badge holders who have not learned to drive or are unable to do so. We are talking about a wider community.

Ian McKee said that his mother drove without having passed the driving test. I am familiar with that situation, because my father drove on the roads without having taken the test. On many occasions I rather wished that he had had to go through the rigour of a test. Indeed, when, in his later years, he worked as a driver for the Women’s Royal Voluntary Services, his passengers occasionally wished that, too.

My mother, Helen Mary Berry MacGregor, walked on sticks almost all her adult life—she could walk only from her knees—but when she was in a car she was a different animal altogether. She had the 47th Mini Cooper S to be built in 1962. That was before Barbara Castle introduced the national speed limit, and I recall being with my mother as she drove along the Baiglie straight towards Bridge of Earn at 100mph, although when she reached the supermarket car park her speed was down to about half a mile per hour. For disabled people, the mobility that cars deliver is a significant part of their lives.

Duncan McNeil said that stores need not wait to follow Asda’s example. I am not entirely sure whether it was Abraham Lincoln who said, “The early bird gets the worm; the late bird eats the dirt.” People who play catch-up play a dangerous game; people who show leadership often achieve commercial success, while supporting corporate social responsibility aims.

Duncan McNeil also talked about criminality in the context of the abuse of parking spaces. A chief constable told me that in his experience a person who abuses a disabled parking space is four times as likely to have a criminal conviction as a person who does not abuse such a space. A general pattern of disobeying society’s rules and laws can often be illuminated by a person’s willingness to break the rules about disabled parking spaces. Police forces have told me about the success that they have had in relation to criminal justice in general when they have focused on people who abuse parking spaces. To people who think of abusing disabled parking spaces, I say, “Think on this: you will be thought to be a criminal from the outset.”

Michael McMahon’s speech reminded me that cars can be status symbols, and Jackson Carlaw said that Mercedes and Audis are being converted under the Motability scheme. One of my aunts—she was called Stewart, too—had one of the three-wheelers that Jackson Carlaw mentioned. On one occasion she drove it into a ditch, and because it was so light helpful passing motorists were able to lift it out and put it back on the road for her. That would not have been possible if she had been driving a Mercedes ML55, so there were significant advantages to the three-wheelers—I do not think that my aunt Stewart would have been able to afford a Mercedes anyway.

Over the years, successive Administrations have sought to support people who have difficulty with mobility. The bill takes us further forward. Sandra White suggested that we consider extending the options for blue badge holders. We are working with the UK Government on the issue and we will continue to engage actively on it. In Scotland we are responsible for some of the regulations to do with the basic structure of the blue badge system, which was introduced to follow the orange badge system—my mother had an orange badge on her Mini Cooper S more than 40 years ago.

The bill will give dignity to people who have restricted mobility. It will give opportunity to disabled people. It is an earnest mark of the Parliament’s commitment to people who suffer a degree of disadvantage in our society. I will take great pleasure in pressing the “yes” button when I am invited to vote for the bill at decision time at 5 o’clock.

11:30

Johann Lamont (Glasgow Pollok) (Lab): It
falls to me to speak for 10 minutes in a consensual debate.

The Deputy Presiding Officer: It is not compulsory.

Johann Lamont: It is challenging for me to speak consensually for more than two minutes, but I shall do my best.

I pay tribute to Jackie Baillie. I hope that other members will allow the Labour Party a little pride in our sister who has brought the bill to this stage. It is a regret that she is not with us today. We have long known her charms and persuasive abilities. She has shown in equal measure two qualities that were critical to taking the bill through: passion and persistence. That is why we have a bill that works and an underpinning policy and political commitment that have created support across the Parliament.

I thank Jackie Baillie’s staff, NEBU, SPICe, Stewart Stevenson and his officials. They have all contributed to ensuring that we were happily able to get to this stage. I also commend the campaigning groups that identified the problem, shared their experiences and captured the challenge that faced us as legislators in solving it. As Duncan McNeil said, the impact of constituents coming to individual MSPs’ surgeries to describe their experience and demand that we take action was probably as powerful as the campaigning groups’ work. That connection is a measure of the important work that the Parliament can do.

The bill is a practical measure on an issue that requires a practical approach. It addresses a specific problem. It does not do everything, but it ought not to be judged as if it should. I have long taken the view that it is correct to win hearts and minds but that, while we wait for hearts and minds to be won, we can take enforcement action. We must take that approach to equality because the bill is created and shaped by attitudes of hostility and discrimination the eradication of which will require more than a practical approach.

We should remind ourselves of the appalling context: disabled people are berated and insulted by able-bodied drivers; their carers are threatened; and they are denied access to the parking spaces they need simply because there are drivers who are so selfish or indolent that they treat disabled people as if they are swindling them to create a benefit for themselves. That is why we need action. Some drivers are so unembarrassable and display attitudes that are so blatant that we can feel overwhelmed and that it is not possible to address the problem. We cannot allow ourselves to be overwhelmed, because we are dealing with basic rights. It is necessary to confront the attitudes that are driven by such hostility and discrimination.

We should think of the bill as a mark of two things. First, it is a mark of the failure to change attitudes; it is evidence of real discrimination—it is not just theoretical and in politicians’ heads—that is lived daily. Secondly, it is an acknowledgement of the need to drive further down into equality and equal opportunity and understand properly how discrimination operates. That is not an indulgence; it must be central to our work because it defines life chances. Understanding how people’s life chances are shaped by their disabilities and the discrimination of the communities in which they live is not a party-political issue, but it is a deeply political issue.

Margo MacDonald made a point about the level of blue badge holding and compliance abroad. NEBU understands that the blue badge is recognised internationally and that a badge that is issued in another EU country is valid for use in Scotland and vice versa. I hope that that responds to that point.

Margo MacDonald: I have a point of information on compliance with the regulations. Some European countries—I instanced Portugal because of Jackie Baillie’s connection with the country—have reserved blue badge parking not only for people with disabilities, but for expectant mothers and people who walk with sticks. They grade the disabilities and, therefore, the use to which the parking might be put. That was part of Michael McMahon’s point.

Johann Lamont: The debate provides an opportunity to explore those further issues. There is always opportunity to develop understanding of how people with disabilities are affected and what rights and entitlements they should have. That does not take anything away from what we are attempting to do with the bill.

We must reflect on the cost of inhibiting people with disabilities from working, participating in society and being involved in their communities. Excluding people in that way involves a huge cost not only to those individuals and their families, but to broader society. I concur with the point, which Charlie Gordon made forcibly, that even if the bill costs £1 per Scot to implement, it will be good value and the mark of a decent society.

I also concur with John Wilson’s point that the bill is about the core business of local authorities in fulfilling their duties to people with disabilities. If people are not able to participate in society because the parking bay system is not working, it is part of local government’s core business to address that and it represents a necessary cost, not an additional one.

Jim Tolson mentioned the gap in the figures. The fact that a gap exists calls into question the seriousness with which the figures were
established. I would not define as a robust assessment figures that show such a difference between two local authorities. If there is an issue, local authorities and the minister must address it seriously together by understanding the real cost. Local authorities should not create the impression that implementing the bill is a luxury, a bonus or an imposition; it is a necessary part of the individual rights of people who live in their areas and pay council tax, as others do. I urge the minister to commit to continuing dialogue on that. The bill must not fail because we have been unable to agree an absolute cost. The cost must follow the political commitment to disabled individuals.

No battle against discrimination or inequality was ever won easily. There will always be doubters and easy opportunities to knock down individual cases, but we would never have secured any entitlements for disabled people—no rights to employment or access to mainstream education—if we had started from the point of view that it was too difficult. Winning the battle against discrimination is about taking practical measures and being optimistic about our capacity to deliver rights for people in our communities. A good example of that is blue badge abuse. I have been amazed at the extent to which normal, rational human beings would justify using disabled parking spaces, even though they were not themselves disabled, because they think that some people might be abusing the system; they discriminate against the people who are legally entitled to blue badges on the basis that somebody else is playing the system.

How come the person with a disadvantage suffers because somebody somewhere else is abusing the system? We must challenge that attitude. The matter is simple: a driver should not use a disabled space if they do not have a disability and they should demand that the authorities deal with the people who hold blue badges illegally. We will always find reasons for doing things for our own convenience. The challenge is to create legislation and an enforcement process that allow that attitude to be tackled.

I congratulate and thank all the members who have spoken in the debate and everyone who created the political context for the bill by understanding the need for particular measures. The fact that we take an individual experience from a local community, understand the general causes of it and address it politically is an expression of a key role of the Parliament. We do not often get the opportunity to feel proud of our Parliament, but the debate is rooted in an understanding that we work best when we give priority to the challenge of people’s life experiences as they describe them rather than as we imagine them to be.

I commend everyone who has brought us to this point. I thank Karen Gillon for opening the debate on Jackie Baillie’s behalf. It is a privilege for me to play my small part. The next test is to ensure that this little bit of legislation delivers the things that we aspire to deliver through it.