



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Local Government and Communities Committee

**Wednesday 21 June 2017**

**Session 5**



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**LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE**  
**19<sup>th</sup> Meeting 2017, Session 5**

**CONVENER**

\*Bob Doris (Glasgow Maryhill and Springburn) (SNP)

**DEPUTY CONVENER**

\*Elaine Smith (Central Scotland) (Lab)

**COMMITTEE MEMBERS**

Kenneth Gibson (Cunninghame North) (SNP)

\*Jenny Gilruth (Mid Fife and Glenrothes) (SNP)

\*Graham Simpson (Central Scotland) (Con)

\*Alexander Stewart (Mid Scotland and Fife) (Con)

\*Andy Wightman (Lothian) (Green)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Jackie Baillie (Dumbarton) (Lab)

George Henry (Transport Scotland)

Humza Yousaf (Minister for Transport and the Islands)

**CLERK TO THE COMMITTEE**

Clare Hawthorne

**LOCATION**

The James Clerk Maxwell Room (CR4)



# Scottish Parliament

## Local Government and Communities Committee

Wednesday 21 June 2017

[The Convener opened the meeting at 10:06]

### Subordinate Legislation

#### Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment (No 3) Regulations 2017 (SSI 2017/187)

#### Building (Miscellaneous Amendments) (Scotland) Regulations 2017 (SSI 2017/188)

#### Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2017 (SSI 2017/189)

**The Convener (Bob Doris):** Good morning and welcome to the 19th meeting of the Local Government and Communities Committee in 2017. I remind everyone to turn off mobile phones. As meeting papers are provided in digital format, tablets may be used by members during the meeting. We have received one apology today, as Kenneth Gibson MSP cannot be with us this morning.

We intend to deal with agenda item 2 first, and we will turn to agenda item 1 after that. Agenda item 2 concerns subordinate legislation. The committee will consider SSI 2017/187, SSI 2017/188 and SSI 2017/189. These instruments are laid under the negative procedure, which means that the provisions will come into force unless the Parliament votes to pass a motion to annul them.

The Delegated Powers and Law Reform Committee considered SSI 2017/187 and SSI 2017/189 at its meeting on 13 June 2017 and determined that it did not need to draw the attention of Parliament to the instruments on any grounds within its remit.

As set out in the paper, the Delegated Powers and Law Reform Committee considered SSI 2017/188 at its meeting yesterday, following correspondence between the committee and the Scottish Government in relation to drafting errors in the instrument. The Scottish Government intends to introduce an amending instrument, which the Delegated Powers and Law Reform Committee and this committee will consider. That said, no motions to annul have been laid.

I invite members to comment on any of the instruments.

**Andy Wightman (Lothian) (Green):** I want to make a comment on SSI 2017/188. The instrument includes provisions to enable the building of recreational huts in the countryside, which is a campaign that has been running for a few years. It is very welcome to see the statutory framework for that finally completing its journey.

**The Convener:** Thank you for putting that on the record. As no other members have comments to make on the statutory instruments, I invite the committee to agree that it does not wish to make any recommendations in relation to any of these instruments. Are we agreed?

**Members indicated agreement.**

**The Convener:** Thank you. That ends agenda item 2. We will suspend briefly.

10:08

*Meeting suspended.*

10:10

*On resuming—*

## **Disabled Persons' Parking Places (Scotland) Act 2009**

**The Convener:** Welcome back to the 19th meeting of the Local Government and Communities Committee in 2017. We now move to agenda item 1, which concerns post-legislative scrutiny of the Disabled Persons' Parking Places (Scotland) Act 2009. I welcome Jackie Baillie MSP, who was the member in charge of the bill when it made its course through Parliament successfully. Thank you for joining us this morning, Jackie.

We will now take evidence from Humza Yousaf, the Minister for Transport and the Islands. He is accompanied by officials from Transport Scotland: George Henry, head of road policy; and Sharon Wood, senior road policy officer. You are welcome here this morning. I invite the minister to make an opening statement.

**The Minister for Transport and the Islands (Humza Yousaf):** Good morning and thank you, convener. My apologies for any mix-up with the timing. We are delighted to be here.

Over the years, parking has become an emotive subject, be it on-street, private, footway or disabled parking, and there have been calls to either review or legislate on the matter. It is important to remember that parking can be and is a positive aspect in many people's lives. The provision of disabled parking bays has improved access for disabled people to day-to-day activities that non-disabled people often take for granted. Misusing such bays impacts not just on access but on disabled people's ability to play an active and full role in our society.

As Jackie Baillie MSP explained during the evidence sessions, the Disabled Persons' Parking Places (Scotland) Act 2009 seeks to make all advisory disabled parking bays enforceable, and requires local authorities to promote the proper use of such bays. I believe that the 2009 act has improved the situation by ensuring that all on-street disabled parking bays are enforceable, along with those that are found in local authority off-street car parks. However, I fully acknowledge that the bill has not fully achieved its aims in relation to enforcement of disabled bays in privately owned car parks, such as those controlled by supermarket chains.

The evidence that has been provided by local authorities in response to the committee's post-legislative scrutiny, and to my officials via the annual reports, calls for changes in a number of areas, including amending section 8 of the act to

remove the need for local authorities to contact landowners and businesses to request agreement to enforce disabled parking bays on landowners' behalf; removing the need for developing, consulting and publishing traffic regulation orders to make disabled parking bays enforceable, which would reduce the cost impact on councils; and making the reporting requirements for local authorities less onerous.

Since receiving powers under the Scotland Act 2016 to legislate on parking, we have been working with representatives from the parking industry, local authorities, disability organisations, the business community and the motoring industry in the development and publication of our public consultation paper.

This is the first time that the Scottish Government has been able to undertake such a detailed review of parking in Scotland. As such, we are using this opportunity to review a range of parking issues—not just the issue of footway parking, which is hugely important, but how parking is managed and enforced across the country, including disabled parking.

As the committee is aware, since the introduction of the 2009 act there has been considerable change in the parking landscape. We now have 18 local authorities in Scotland with decriminalised parking enforcement powers. In addition, there has been legislation to expand the eligibility criteria for a blue badge, as well as powers to tackle misuse of the blue badge scheme. However, I acknowledge that we still have a long way to go to ensure that all disabled parking, on-street or off-street, is managed and enforced in a consistent manner. That is why I am committed to working with local authorities on this issue, as well as with the United Kingdom Government and, if necessary, other devolved Administrations.

10:15

My officials will be setting up a stakeholder working group, consisting of parking managers from all local authorities in Scotland, to explore how we can resolve the issues that have been raised in evidence to the committee. The findings from our own consultation process, which closes at the end of this month, and the committee's post-legislative scrutiny process will help to inform our next steps.

As always, convener, I am happy to take questions.

**The Convener:** Thank you for those opening remarks. We will tease out some of the evidence behind the content of your opening remarks in a structured fashion as we go through the meeting. Alexander Stewart will ask the first question.

**Alexander Stewart (Mid Scotland and Fife)**

**(Con):** You touched on the objectives of the act and how well they are being achieved, and on how the act has been perceived. Carrying on from that, do you believe that the act has achieved most of its objectives, or are there some objectives that still need to be looked at or other things that may come from the act itself?

**Humza Yousaf:** I took great interest in the evidence sessions—I was not able to watch them live, due to other commitments, but I read the *Official Report* of those sessions. I associate myself with the remarks of the Mobility and Access Committee for Scotland, whose view was that the legislation had partially—I think that that is the word that it used—met its aims. I agree with that.

As I said in my opening remarks, there is no doubt that there have been great successes in relation to on-street parking and local authority off-street parking. For example, in 2015-16, the 13 local authorities that we could get data from issued 8,000 penalty charge notices to motorists who were misusing disabled parking bays. We therefore have evidence of success in that regard, but it would be foolish not to recognise the fair criticisms from disability organisations, in particular, about the inconsistency that they perceived between on-street and off-street parking. That was a common thread in the evidence of almost every disability organisation that came before your committee, and I do not take that lightly.

The act has met some of its aims, but we need to go further on others. That is why this post-legislative scrutiny is important, alongside our consultation and the work of the stakeholder management groups.

**Alexander Stewart:** Following on from that is the idea that we have heard from many people about the possibility of having a public awareness campaign to promote some of the issues that the act deals with and identify the problems that the misuse of parking bays can cause for individuals. I would like to tease out whether there is any possibility that the Scottish Government might be prepared to take forward such a campaign, which has been called for by a number of stakeholders and organisations, in order to raise public awareness.

**Humza Yousaf:** The answer is yes—we would be interested in speaking to local authorities and to the police in relation to a hard hitting-campaign on this issue. The suggestion that you alluded to is a good one. People do not, unless they have a disability themselves, understand the impact that not being able to access a disabled parking bay, because someone is misusing it, has on a disabled person. Some people might think that it is all right for them to use a disabled parking bay if

they are just nipping into a shop for 10 minutes or because they have children with them and nobody else is using the bay at that moment.

We will have those discussions with local authorities and police. I would not commit to saying that we will certainly have a public awareness campaign, but it would be right for us to explore what we should do in that respect.

**Graham Simpson (Central Scotland) (Con):** Churchill Insurance did a survey that showed that nearly 12 million drivers across the UK in one year admit to parking where they should not, which is a staggering figure. In a public awareness campaign, we need to get across the idea that, for disabled people, their disability lasts a lifetime. Somebody can park in a disabled parking space for a few minutes; it is only a few minutes to that person, but for the disabled person, there is a lifetime of disability. We need to get that clear message across and we almost need to embarrass people into not parking in disabled spaces. I just make that point, convener.

**The Convener:** That point is important. It has to be culturally unacceptable across the board to use and abuse disabled bays without permission. Does the minister want to add anything?

**Humza Yousaf:** No. I am interested in the Churchill survey, which I have not seen. Maybe my officials could ask you for the detail.

**Graham Simpson:** Sure.

**Humza Yousaf:** The statistic is quite shocking. I have nothing to add other than that I agree with the member.

**Jenny Gilruth (Mid Fife and Glenrothes) (SNP):** In your response to Alexander Stewart's initial question, you spoke about inconsistencies in how the legislation is being applied and about the fact that it has partially achieved its objectives. Does Transport Scotland gather or hold any national statistics on the numbers of enforceable bays or advisory bays?

**Humza Yousaf:** I asked that question of Transport Scotland when we were in a pre-meeting this week. We do not have those statistics, because the legislation does not require local authorities to tell us how many bays they have, whether those bays are enforceable or advisory. Members can imagine that the figure probably changes week by week. Somebody who had a stable bay in a street might pass away, unfortunately, and there are new developments and so on.

That is not to say that we could not have a rolling or revolving document or spreadsheet to provide those statistics. We do not have the information, but we are more than happy for officials to ask local authorities for it. Not every

local authority will necessarily have all of it—particularly on advisory bays—but I am more than happy to ask the question and report back to the committee. We do not hold the information and it is not a requirement to have it.

**Jenny Gilruth:** Has Transport Scotland taken any action recently to improve the availability and enforcement of disabled parking places? If it has not, could that link to Alexander Stewart's second question, which was about a public awareness campaign?

**Humza Yousaf:** The biggest change in the landscape over the past few years has been decriminalised parking enforcement, which I have referred to. There has been huge take-up of that by local authorities—18 have it and three are in the process of adopting it, and I think that others that can afford to do so will come on board. I can perhaps come back to that later. DPE has been the biggest thing. Transport Scotland has been encouraging local authorities to go down that route where they can, and I have done so as the minister.

We are looking at what will come out of the committee's evidence sessions because, as with the improving parking in Scotland consultation, that will affect what we do next. We recognise that we can do more. That is why the consultation is wide ranging and is not just about the enforcement of disabled parking; footway parking and other issues are part of it, as members may be aware. The consultation period ends on 30 June, although I think that, because of the local authority elections, it has been extended for local authorities until the end of August.

Given the use of DPE, alongside any measures that come out of the consultation, the timing of the committee's evidence sessions is pretty good. The work will help to inform our next steps. In relation to running a public awareness campaign, which I mentioned, Jenny Gilruth's suggestion is eminently sensible. We will wait to see the evidence that comes forward from the consultation and the committee and we may tailor a campaign around the most pertinent issues.

**Elaine Smith (Central Scotland) (Lab):** Are you satisfied that local authorities have taken sufficient action to convert advisory bays into enforceable bays for on-street disabled parking places?

**Humza Yousaf:** The short answer is yes. The 18 local authorities that have DPE and the three that are going through the application process are absolutely moving forward. I understand that not every local authority feels that it can make the financial case for going through the DPE process. There is a bit of work for us in the Government to do in talking to local authorities about sharing

services with neighbouring local authorities that have DPE. I can come back to that later.

Local authorities are doing a good job with on-street parking, which the member referred to. The evidence sessions have generally reflected that. There were still criticisms of local authorities from some organisations, but my view is that generally local authorities are taking sufficient action, which is what the member asked about.

**Elaine Smith:** The second page of your submission says:

"It has become clear from the responses and information provided by local authorities that their statutory obligations in providing enforceable disabled persons' parking places are placing considerable demands on their resources."

Will you expand a bit on that? Has the Scottish Government provided any financial or practical support for the tasks of identifying and converting advisory bays into enforceable bays?

**Humza Yousaf:** That is a good question. The legislation was passed in 2009. Every piece of legislation comes with a financial memorandum, and these things tend to be done in conjunction with local authorities when they are affected—that is how Gillian Martin took forward the Seat Belts on School Transport (Scotland) Bill. The conversation will take place with the Convention of Scottish Local Authorities; there will be a negotiation and discussion about what authorities think the cost impact will be.

When the act went through, the cost implications for local authorities were to be met from existing budgets. However, some local authorities feel that going down the DPE route does not stack up financially for them. That is where we have to do a bit of work, so perhaps we should explore with local authorities—we have done this to an extent—whether they could partner or have some sort of service level agreement with neighbouring local authorities that have DPE and how they could share some of, which would lessen the financial burden that some local authorities feel that DPE could place on them if they had to set up everything themselves.

I am happy to explore that. My officials will take forward that approach in a bit more detail with stakeholders, including COSLA and the Society of Chief Officers of Transportation in Scotland, as part of the stakeholder group that I spoke about in my opening remarks.

It is worth stressing that the whole point for any local authority that implements DPE is that it is meant to be self-financing—that is one of the criteria. As far as it possibly can, the proposal should stack up.

**Elaine Smith:** To take that a bit further, have the cuts to local authority budgets had an impact

on achieving the original proposals in the legislation? You talked about the stakeholder group, which takes me back to the bill's author, who is sitting around the table with us. I know that she would be too shy and retiring to put this to you, but was she asked whether she wanted to be included in the stakeholder group, which might help to inform the process?

**The Convener:** For the record, our deputy convener is referring to Jackie Baillie.

**Humza Yousaf:** For the record, everybody had a wry smile on their faces when Jackie Baillie was described as "shy and retiring".

**Jackie Baillie (Dumbarton) (Lab):** Excuse me.

**Humza Yousaf:** I will not comment on why that was the case.

I do not want to end up getting into a bit of a to-and-fro with any members about local authorities' budget settlements. I make the point that they have more spending power than they had previously.

10:30

That does not take away from the fact that I absolutely understand that, for some local authorities, going down the DPE route does not stack up financially and is too difficult. There is a responsibility on the Government to work with local authorities to find a solution to that, whether it involves a hybrid DPE or sharing services or having a service level agreement with neighbouring local authorities.

It is for local authority parking managers—as opposed to MSPs or any other elected members, such as councillors—to come round the table and be part of the parking managers group to inform what we are doing. If an approach came from any member, I would look at it, but the stakeholder group is particularly for parking managers.

Of course, Jackie Baillie, Elaine Smith or any other member could write to me or my officials and have regular input. I am genuinely open-minded on the issue, because we have a shared aim, which is to ensure that people do not misuse disabled parking bays and that our services are as accessible as possible to everybody, whether they are disabled or able-bodied.

**The Convener:** I am sure that those comments will help to build Ms Baillie's confidence in approaching you.

**Andy Wightman:** We have heard concerns from disability organisations about inconsistent enforcement by different local authorities. Do you have any views on that and particularly on the organisations' concerns about what they regard as

minimal enforcement where Police Scotland remains responsible for parking enforcement?

**Humza Yousaf:** On the point about Police Scotland's ability to address misuse of parking bays, we only have to look at the incidents across the UK in the past couple of months to realise how stretched the police are. They face a number of threats and priorities and, understandably, misuse of a parking bay would not be top of a policeman's priorities as an emergency or a crisis.

That is not to take away from the impact that such misuse would have on somebody with a disability, which is why we encourage local authorities to go through the process to decriminalise parking enforcement in their areas. In the *Official Report* of one of the committee's evidence sessions, I read that a police officer said that they would love councils to take on the responsibility of parking enforcement, because that frees up the police to do other things.

Where local authorities have not gone through the DPE process, it is not acceptable to have a level of inconsistency at which disability organisations are telling the committee and me and my officials that they feel that enforcement is not getting the priority that it should. We are trying to understand both sides.

The evidence that comes out of the committee's scrutiny and the responses that we get to our consultation on improving parking will help to inform our next steps. One of the challenges arises when a local authority cannot make a DPE stack up financially; at the same time, we have to ensure that authorities do not fall behind in parking enforcement, particularly when it comes to addressing the misuse of disabled parking bays. That is some of the work that we will take forward.

**Andy Wightman:** You mentioned the stakeholder group. Are disabled people's organisations represented on that?

**Humza Yousaf:** At the moment, the stakeholders are local authority parking managers, but it would be sensible for us to reflect on those parking managers having a session with disability groups, including many that gave evidence to the committee. I will reflect with those organisations on whether they should be represented on the group.

I ask George Henry, who has been leading on some of the work, to come in.

**George Henry (Transport Scotland):** Disability groups have been part of the improving parking in Scotland consultation stakeholder working group, so we have liaised with them in developing the consultation document. We also have the roads for all forum, which discusses a number of issues

about our road network, and disability groups feature in that.

**Andy Wightman:** That is helpful, because a lot of nuanced issues that are often not easily articulated or heard in public life came to us when we heard evidence from those groups.

Minister, you mentioned the financial challenges to the ability of some local authorities to adopt decriminalised parking enforcement systems. Are there any other ways in which the Scottish Government could assist them to take on enforcement?

**Humza Yousaf:** There is what I have mentioned before. We have an obligation to work with the remaining local authorities. There are 18 that have adopted DPE, plus three that are going through the process. Others might indicate that they have an interest, but some will probably not go down that route because of the cost implications. There is an obligation on us to work with those local authorities on whether we can get a hybrid solution whereby they partner with neighbouring local authorities. That might make sense for some local authorities. Others might have more of a service level agreement whereby they share facilities and the cost of enforcement—I think that one or two local authorities have arrangements in place so that one provides back-office support to another at a cost, which is way less than the cost of setting up everything from scratch.

That is probably the route that we would go down in the first instance, but we will also work with COSLA and SCOTS to explore in a bit more detail what the financial burdens are and what is restricting or prohibiting local authorities from going down the DPE route. We will work closely with authorities as part of the parking managers stakeholder group.

**Graham Simpson:** We have heard that private car park operators have been reluctant to make their bays enforceable. Do you have any views on that?

**Humza Yousaf:** I noted the evidence from some local authorities and from some of the groups that represent people with a disability, but I also found the evidence that the committee took from Tesco and NCP very interesting. Tesco is one of the best in its practices and I was encouraged by what it said about the technology that it is bringing in. Its representative spoke about number-plate recognition and even about bringing operations in-house. Tesco articulated well the fact that, ultimately, it wants as many people as possible to come to its supermarkets, so making the experience as positive as possible for those with a disability is absolutely in Tesco's interest.

It would be wrong to tar every business with the same brush because there are a few bad apples

that are not doing enforcement properly. Where we can assist local authorities in their conversations with private businesses or landowners and where we can make the system less onerous, we should certainly look to do that. However, where good practice is going on—I thought that Tesco demonstrated in its evidence that it follows good practice—we should ensure that local authorities let those businesses get on with it. There is no point in draining local authority resource when it could be used to deal with on-street parking or other off-street parking; that is not best practice. We will continue to speak to and engage with local authorities, but I caveat all that by saying that it is clear from the evidence that the committee took that good practice is going on.

**Graham Simpson:** There is good practice, but there are also car parks where non-disabled people are routinely parking in disabled spaces and getting away with it because it is not enforceable. That is a particular issue in city centres. Given that 42 per cent of disabled people are in employment—not all of them will drive, of course, but a good number may well do—they need to be able to get to work and we need to have spaces for them. Very often, they will be using private car parks, so it is important that those spaces are available and are not being used by people who are not entitled to use them. Should we go further by making those bays enforceable?

**Humza Yousaf:** There is a lot of evidence that we have to sift through and we have to explore how we make enforcement better. Enforcement is different from making bays enforceable, but we must look at how we make enforcement better. I am not averse at all to looking at the issue with the parking managers stakeholder group. We also have another stakeholder group on the specific issue of private parking, which is an issue that is raised with me by many MSPs from across the country. Most recently, I had a meeting with Murdo Fraser MSP on it. We are taking forward some of the issues that have been raised in a way that does not necessarily require legislation at this stage. For example, we are looking at a single code of practice that is agreed by the two major parking bodies, the British Parking Association and the International Parking Community. We are also looking at whether there is a need for a single appeals process or an independent appeals process.

A power of work is going on and we will take on a power of work after the committee's report comes out and our consultation is done. From the evidence sessions that you have had, it is clear that there is an issue of off-street private parking not being enforced to the level that people with disabilities expect. It is incumbent on us not to

close our minds to any of the options that could improve that situation.

**Graham Simpson:** Just for clarity, are you saying that you have a separate group looking at private parking?

**Humza Yousaf:** Yes. That group has been running for a while, because MSPs raised a number of issues with me and my predecessor. There are differences in the approach to private parking in England and Wales and the approach in Scotland. There may be moves by the UK Government to look at private parking. We have the Queen's speech coming up today, which will be dominated by other issues. However, before the election, we were told that there might be moves to look at the issue from a legislative point of view. Now that we are post the election, I do not know what will happen, and we will wait to see, but we will work closely on the issue with the UK Government and with our private parking stakeholder group.

The general feeling was that we should come together on a unified code of practice, which includes signage, enforcement and other such things, and give it a trial period. If that code of practice does not reassure people, we should look at other measures. As I say, we are even exploring the issues of an independent appeals process within that.

**Graham Simpson:** Councils have an on-going duty to contact private car park operators every two years, but we have heard evidence that they get very little response and sometimes no response. Should we remove that duty?

**Humza Yousaf:** Section 8 got quite an airing at the committee and it would be wrong of us not to look at that issue. We will look at it specifically through the parking managers working group that I spoke about. That is one of the issues that the group will look at and we will have consultation on, because I recognise what some of the local authorities have said. There may be smarter or other ways in which local authorities can contact businesses that are less financially onerous or burdensome on them. We will listen to local authorities on that and we are not closed-minded to exploring whatever suggestions they have. We are cognisant of the issue and aware that the revoking of section 8 got quite a lot of airing at the committee.

10:45

**The Convener:** I want to explore that a bit further. I take on board the points that have been made about councils having to contact private operators of car parks every two years, but my concern is that, if that obligation—as imperfect as it is and as patchy as implementation of it is—is

withdrawn, that could send out a message that local authorities no longer have to try to have that partnership approach. There is a slight nervousness on that, although I take on board the points that you have made.

Your comments on a code of practice are well made. I suppose that my constituents, and maybe all our constituents, would like to see a code of practice, but I think that they would be just as interested in the idea of a compliance statement from private car park operators. A code of practice is set as something to aspire to. What we really need to know is that private car park operators are moving from a code of practice to compliance with the code of practice. That narrative is quite important, so would you consider that approach?

**Humza Yousaf:** I share your concerns that, if section 8 was revoked, there may be unintended consequences. We share that view, which is why I would not commit to revoking it. We are simply having the conversation with local authorities to see how we can make things less onerous and burdensome for them.

You are right that language is important and we will certainly reflect on that. However, the clear message to private car park owners will be that there are challenges and issues and if they do not step up to meet them, we are not opposed to exploring the possibility of bringing in legislation. That message has gone out to private car park owners and they understand our seriousness on it. As I say, the UK Government may well legislate on the issue. I do not know for sure, but certainly there has been some talk of that. Where we can, we will look to dovetail our work on the issue with that of the UK Government.

**The Convener:** That is helpful. If we get to the point of a code of practice, should there be a monitoring process and some form of compliance statement for private car park operators at local level rather than corporate or national level? That would be important for my constituents. How would we recognise or reward best practice? In days gone by, we would be talking about quality-standard marks or kite marks. We would need a monitoring process somewhere along the line, which could be done by the local authority or another organisation. That is not just about a stick to beat those who are not providing what they should be doing under the equalities legislation; it is about recognising best practice. A quality-standard mark that was perhaps recognised by a third sector disability group could help to form some of the thinking on that and to recognise best practice.

It is just as important that there is some form of light-touch monitoring regime across the country. That would not be about monitoring every car park all the time; it would just be so that operators would know that occasionally someone could pop

in and say, "Are you doing what it says on the tin in terms of the code of practice and compliance statement?"

**Humza Yousaf:** The wider point is a good one. As well as there being a disincentive, we should incentivise those who demonstrate good practice and best practice. We will reflect on that point, which mirrors my thinking. I would add a couple of things to that. Monitoring of the private parking standard or code of practice that we are developing with private parking stakeholders will be absolutely essential and has to be a part of that. There is no point in having a code of practice without any monitoring, because we simply would not know whether it was working and whether it was effective. Once we develop that in a bit more detail, we will make sure that the committee is kept up to date on it.

I have not had a conversation with my officials on a quality-standard mark for parking, particularly on the disability bays issue. However, I am more than happy to take that away from the session. I do not know whether my officials have anything to add to that, but I will have a conversation with them on it. I have not done that, but the idea is a good one.

**George Henry:** When we look at the code of practice and better regulation of private parking operators, that includes our looking at standard signs and what private parking operators are charging individuals. We will look at that. We want standard signs. We want standardisation across all car parks so that individuals are aware of the terms and conditions of the car parks that they park in and those are easy to understand.

**The Convener:** I have one final question, after which I will pass over to Jackie Baillie, who I am sure will want to pick through a number of items of evidence that have come up.

There quite often seems to be a lack of clarity about the legal position of fines imposed by supermarkets and private car park operators. I do not want to set hares running, because we just want people not to abuse disabled bays—as far as I am concerned, hell mend them if they do so and they should just pay their fine—but there has to be certainty in the law on the issue. Would the minister be minded to look at certainty in law in relation to that?

**Humza Yousaf:** George Henry has reminded me that contract law is, of course, reserved, which is why we are working with the UK Government on that. It is an issue and I heard the concern being raised in your evidence sessions. I think that Elaine Smith raised it, although I will correct the record if I am wrong. If someone is not a serial offender but has offended once and gets a ticket slapped on their windscreen, they might just put it in the bin because they do a Google search, weigh

up whether the supermarket will take them to court and then choose to ignore it. That is where the public awareness campaign that was mentioned could play a part, by letting people know that parking in those spaces potentially has a profound effect on a disabled person, and by shaming people in that regard.

Notwithstanding that, where we can bolster enforcement and make it more robust, it is incumbent on the Government to consider doing that, and that may be in conjunction with the UK Government. Under contract law, people consensually enter into a contract when they go to the supermarket, or indeed any private car park. We can most certainly have a conversation with the UK Government on that. We continue to do so and we have a good relationship with the UK Government on that issue—there is an open exchange of views and information. However, the point is well made and is not lost on us.

**The Convener:** We appreciate that, minister. I am going to let Ms Baillie in now. I notice there are a couple of questions that we might have to mop up towards the end, but you have been very patient, Ms Baillie. We will let you in at this point.

**Jackie Baillie:** It is in my nature to be patient, but there you go. Could I set this in a bit of context? There is the act, and then there is the context in which the act sits. I am very conscious that what we have been exploring in part is the context rather than the act itself. Would it be fair to say that the benefit of hindsight tells us that the bill was future proofed so that whatever the legislative context is—enforcement, traffic regulations or anything like that—that can change, because the act sits within whatever that legislative framework is? Would you agree with that proposition?

**Humza Yousaf:** As you say, the bill is to an extent future proofed, but you have an act and then you have the practical application of that act. What we are seeing here is the practical application; the expectation that people had of it is not practically being realised to the extent and with the consistency that I would want and I suspect members around this table would want. You are right in the sense that, come further devolution, with bills that come forward from either the UK Government or the Scottish Government, the parking landscape and the powers that exist could change, but the aim of the bill to make disabled parking bays enforceable should withstand all of the changes that take place—if that is the thrust of your question.

**Jackie Baillie:** Yes, that is what I wanted to tease out. You are absolutely right to say that the bill was about making advisory bays on the street enforceable. It did not touch on the mechanism of enforcement or cover decriminalised parking, which I know you are spending quite a bit of time and energy on. The bill sought to do only a very

small thing and relied on other things that were the responsibility of the Government or local authorities, or whatever, to happen.

Let me focus on off-street parking, because that is where there has been a degree of debate. The minister will be aware that legislation on private businesses and private parking is reserved. I would be delighted if we saw measures on that in the Queen's speech. The bill adopted the approach of using local authorities to encourage because we could not legislate directly. I think that I am right in saying that there is no current legislative remedy for this other than good practice codes.

I come back to a point that the convener made. If you remove section 8 in its entirety, what would you put in its place? The danger is that you send the wrong signal about intentions. Could I pursue this further? It has been suggested to me that, although local authorities will contact private businesses and car parks, private businesses and car parks want to enforce disabled parking themselves rather than relying on the local authority to do it for them. That contact may have prompted, as the act did, a flurry of private businesses such as supermarkets saying, "Yes, we will do this," almost as a point of competition with other businesses. That has been prompted by the act and by local authority contact. Has there been any way of measuring or capturing that?

**Humza Yousaf:** That is a good question. There is quite a lot in Ms Baillie's question, so I will try to pick it up, and if I miss anything just come back. As I have already said, she is absolutely right that contract laws are reserved. When you take your car into a private car park, you are entering into a contract with the owner of that private car park. Therefore, what we in the Scottish Government can do is somewhat limited, but I reiterate my point that the conversations with the UK Government on this have been positive. That is good, and we will continue that. Notwithstanding what may or may not be in the Queen's speech, or may come forward from the UK Government, we would certainly encourage it to work with us. It has indicated that it would be willing to have an exchange of information with us if it chooses to move down a legislative path when it comes to contract law on the issue of private parking. We welcome that and we will certainly keep an eye on it.

Ms Baillie's own word was "limited" and she is absolutely correct that what we can do on this is limited. That is why things such as public campaigns are very important, but codes of practice with some teeth attached to them—as far as possible—are important. That is why we are taking the parking bodies, the BPA and the IPC, on the journey with us, because they have been part of the collaboration and the discussions. In

fairness to the BPA and the IPC, they also want to see the misuse stamped out. It gives their car parks and their industry a very bad name, but they also recognise that it is not being done.

I share Ms Baillie's concern that—I said this to the convener as well—if we revoke section 8, the signal that it could send out could be dangerous. Not that I think at all for a second that local authorities take this issue lightly, and I know that they undoubtedly have competing priorities. I recognise that some view the contact every two years as being financially burdensome and onerous, but I also agree with the member. That is why working with them with our working group of parking managers is essential and important.

Ms Baillie mentioned the good practice that is being done by some of the larger supermarket chains. There is an element of competition and, "We are better than you," and so on. That is good and well and to be welcomed. Some of the difficulty may be with slightly smaller businesses. Larger businesses have the resource to do some of this, particularly where technology is involved—number-plate recognition cameras are not cheap—whereas smaller businesses may not put the priority on this that we would like to see. What we do in that regard is where we should focus our attention. On her question about whether we monitor what business does, to my knowledge, other than the reports that we get from local authorities, there is not enough information on what private business is doing. That is something that we should reflect on on the back of the evidence sessions that have taken place.

**Jackie Baillie:** That would be very helpful, because the measure of success for local authorities, if you listen to them, is that they have written out and nobody has responded to them. They do not measure whether that has had an impact on the business enforcing disabled parking itself or making any changes, as supermarkets, for example, clearly did during the passage of the bill.

My recollection of section 8 is that we do not prescribe how the contact should be made, simply the frequency. I invite the minister to look at other examples, as he has suggested that he will do. Fife Council gave evidence to us about an approach that did not wait for two years; the council simply put it up on its website and used planning as a mechanism to do that.

11:00

Can I move on to the new powers that you have, which I think would improve the impact of the act? You have new powers over traffic regulations that, as I understand them, may or may not remove the need for TROs; will certainly remove the need for signs and street furniture, should you choose to act on that; and potentially make life easier for

local authorities and enable bays to be designated more quickly. I think that the problem arose because TROs are such a complicated process that, instead of going through it, local authorities simply designated bays as advisory. I would be keen to explore with the minister whether he is minded to use the new powers that he has now to simplify the process and remove that particular burden from local authorities.

**Humza Yousaf:** I am always happy to look at how we simplify the process. I would not commit to removing the need for a TRO and I would like to explore what may be the unintended consequences. I am dealing with a TRO in my own constituency; I will not say too much on it, but I know that it has some complexities attached to it. The positive of a TRO is that it allows for consultation and allows the public to be consulted and to express support for or object to the TRO. That element of consultation is quite important and the TRO helps to facilitate that. Could we have a consultation process minus the TRO? Of course, we absolutely could. Can I look into that and give a commitment to explore it but not give you a commitment of whether I would revoke or remove that particular criterion?

On the wider powers that we may have, the member probably knows that, since the Scotland Act 2016 came in, we have had more powers over signage, for example. That is something that I am keen to explore, but I go back to the point that I have just made that we have to be cognisant of unintended consequences. If we simplify the signage process so that it is less financially onerous on local authorities, what we do not want to do is make disabled parking bays less visible. That would be the wrong thing to do. Finding that balance is important, but the commitment to look at both the TRO process and signage is something that we are exploring with the working group and having internal discussions about in the Government.

**Jackie Baillie:** May I turn to enforcement, convener?

**The Convener:** Ms Baillie, if you will indulge me slightly on TROs; I will let you back in immediately after this, but it is a final little thing on TROs that I had left for us to mop up, as a committee. Ms Baillie makes a really good point in relation to TROs. I deal with them in my constituency as well, minister. Invariably, each time I request that something happen on parking restrictions—it does not have to be an enforceable parking bay; it can be single or double yellow lines or whatever restrictions need a designation order enforced—the local authority tends to say, “These are expensive to do. They take a long time. We will wait until we have a cluster of potential work in an individual area, and then we will wrap it all together, we will cluster it together, and we will consult on that as the one TRO.” That can lead to

lengthy delays and complete uncertainty as to when relevant restrictions or alterations of restrictions come into place in my constituency.

When you look at the new powers that the Government has for these designation orders, do you look wider than just disabled parking bays? I think there is a wider issue. It is a constituency interest of mine, and other members may have had similar experiences. It sounds, minister, as if perhaps you have had a similar experience in your constituency.

**Humza Yousaf:** Yes, it has come up. I would not say it fills my postbag, by any stretch of the imagination, but it has been raised on a number of occasions with me that the TRO process could be simplified, could be more transparent and is not understood well by the public because it is not articulated well. On your point that this is not necessarily just about disabled parking bays—although that is a very important part and obviously the reason why we are here having this evidence session—there is a much wider issue around TROs. I am happy to have conversations with officials, COSLA or local authorities about how they feel the TRO process works and whether they are comfortable with it, but also we can have a wider look at whether there is more that we can do on that. I am looking at TROs as well as TSRGD, now that we have devolved responsibility for the signage as well.

**The Convener:** You have lost me with your acronyms there, minister, but I will gloss over that and pass back to Ms Baillie.

**Jackie Baillie:** Can I turn to enforcement? I heard a lot of what you said and was encouraged by the advance of decriminalised parking. In my local area, or at least one of them, the local authority is very efficient at issuing fixed-penalty notices, and I suspect a lot of authorities do generate some income from it. Leaving that to one side, however, at the start of the bill process I had anticipated a reactive enforcement regime, recognising that city centres would invariably demand more activity than, for example, residential areas. Is coupling this with public awareness something that the minister would also consider with his officials, because enforcement and public awareness absolutely go together?

I am very conscious that the police run occasional campaigns on seatbelt compliance, mobile phone usage and so on. To do it that way would be quite proactive and I think would be welcomed, but it is key to do it alongside public awareness. Eight years ago I asked the then minister, Stewart Stevenson, to run a public awareness campaign. He said he would go away and take a look at it. Unfortunately, nothing happened. It needs to be a nationally led campaign and, by all means, local authorities, police and others should support that. Would the

minister consider that being a national campaign? It is about changing attitudes, and you do that across Scotland not just at an individual local authority level.

**Humza Yousaf:** Yes. I should say, for the convener's sake and others, sorry, we do often get lost in acronyms. TSRGD—Traffic Signs Regulations and General Directions 2016—is a manual that covers signage.

**The Convener:** I knew that, really, minister. I was covering for my colleagues.

**Humza Yousaf:** You are as kind as you are generous, convener, in that respect. Jackie Baillie's point is well made: I just took part in a photo call for a mobile phone awareness campaign that we are doing. People taking a look at their mobile phones, whether on hands-free or otherwise, can have fatal consequences in some cases. We are signed up to the importance of awareness campaigns on a national level. I do not want to give her an answer that simply says, "I will go away and look at it, and we will explore it". She understands that there are competing priorities for national campaigns, and all have merit.

What I will do is come back to the member on this, having reflected, perhaps after the recess, to say either, "I am afraid other priorities have taken over" or, "Yes, this is something we will definitely do". I will not give a commitment either way here but I will certainly look at it, because there is merit in this issue. I have to weigh it up against other priorities—behaviours that are literally killing people on our roads. Our focus is on the safety message.

That is not to say that a national campaign on this issue does not have merit, because I absolutely see that it does. It is just about weighing it up with the other campaigns that all come attached with resource and financial implications. I will certainly come back to her at some point after the recess, because I want the consultation to be complete. We extended it to 31 August for local authorities. I am looking forward to the report from this committee and then, after reflection on that, I will convey my thoughts on an awareness campaign to Ms Baillie, and to the wider committee as well.

**Jackie Baillie:** I have one final question and that is on the stakeholder group. I notice the minister's reluctance to have me along, but could I offer him the slogan, "Nothing about us without us" that is used widely in the disability movement? Having taken the bill through, I am reminded of the particular views of parking managers. They have their perspective on the issue, and the disabled person's perspective might be quite different. Hence, I would encourage him to invite, if not me, somebody from a disability group directly on to not another group, but the parking group that is going to make decisions about this.

**Humza Yousaf:** First, Ms Baillie should not take anything I said personally in the slightest. She knows that I have only the highest regard for her, and she can put that in her election leaflet in the future if she wishes.

**Jackie Baillie:** That might not help me.

**Humza Yousaf:** That is a point well made. I go back to what George Henry said: that disability groups and organisations are on a number of our stakeholder groups. The parking managers' working group is specifically looking at the local authority barriers or restrictions, as it perceives it, in respect of this legislation. Notwithstanding that, her point about how we engage disability groups is an important one. That slogan, "Nothing about us without us", is an anti-apartheid slogan, now adopted by many organisations, but one that rings true for disability organisations and groups. It is one that we should be cognisant of and aware of.

Disability groups are part of a number of working groups, particularly on improving parking and on stakeholder engagement. We can reflect on including them in wider conversations, but the parking managers' working group—I am getting myself lost here in the wording of these working groups—is specifically looking at local authority issues in the application of this legislation.

**Jackie Baillie:** Thank you very much, convener.

**The Convener:** Does any other member wish to ask a question before we wrap things up for agenda item 1?

Minister, just before we close this agenda item, the committee is very keen for you to come back to Ms Baillie with additional information, but we would also point out that it is this committee that is doing the post-legislative scrutiny. If you could, please make sure you direct your correspondence in relation to this in the first instance to the committee, and of course to Ms Baillie and other members of the Parliament. We are doing a body of work, and it is important and only right that we get that information. It has been a really informative evidence session, as the members will agree. The Government would appear to be in listening mode, so we thank you and your officials very much for your thoughtful answers this morning.

That concludes agenda item 1. Given that agenda item 2 is already disposed of, we will now move to agenda item 3 on our work programme. As previously agreed, we now move into private session.

11:12

*Meeting continued in private until 12:40.*



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