



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Wednesday 25 November 2015

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LOCAL GOVERNMENT AND REGENERATION COMMITTEE
27th Meeting 2015, Session 4

CONVENER

*Kevin Stewart (Aberdeen Central) (SNP)

DEPUTY CONVENER

*John Wilson (Central Scotland) (Ind)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)

*Jayne Baxter (Mid Scotland and Fife) (Lab)

*Cameron Buchanan (Lothian) (Con)

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

*Cara Hilton (Dunfermline) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

David Armitage (Aberdeenshire Council and Society of Chief Officers of Transportation in Scotland)

John Binning (Strathclyde Partnership for Transport)

Morven Brooks (Scottish Disability Equality Forum)

Chris Campbell (Road Haulage Association)

Superintendent Fraser Candlish (Police Scotland)

Donald Gibson (South Lanarkshire Council)

Murray Hannah (Fife Council)

Stuart Hay (Living Streets Scotland)

Jane Horsburgh (Guide Dogs Scotland)

David Livey (Sustrans Scotland)

CLERK TO THE COMMITTEE

David Cullum

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Local Government and Regeneration Committee

Wednesday 25 November 2015

[The Convener opened the meeting at 10:00]

Footway Parking and Double Parking (Scotland) Bill: Stage 1

The Convener (Kevin Stewart): Good morning and welcome to the 27th meeting in 2015 of the Local Government and Regeneration Committee. I ask everyone present to switch off mobile phones and other electronic devices, as they interfere with the broadcasting system. Some committee members will consult tablets during the meeting, as we provide papers in digital format. No apologies have been received.

Our first item of business is to take evidence on the Footway Parking and Double Parking (Scotland) Bill. We have two panels giving evidence today. The first panel will give the perspective of pavement and road users and the second will give the perspective of the local authorities and Police Scotland, which will be responsible for implementing and enforcing the bill. For the first panel we have Jane Horsburgh from Guide Dogs Scotland; Stuart Hay from Living Streets Scotland; Chris Campbell from the Road Haulage Association; Morven Brooks from the Scottish Disability Equality Forum; John Binning from Strathclyde partnership for transport; and David Livey from Sustrans Scotland.

I believe that George Adam has something to say at this point.

George Adam (Paisley) (SNP): Yes, convener. I just want members to be aware that I am a patron of the Scottish Disability Equality Forum.

The Convener: Thank you. Do any of the witnesses want to make a brief—and I mean brief—opening statement?

Stuart Hay (Living Streets Scotland): I welcome the fact that the committee has chosen to take evidence on this issue, which is a big issue in the mailbags of all the charities that are represented here. There is a fundamental principle about how we use our streets and what our pavements are for. It is about providing safe passage for pedestrians, particularly vulnerable pedestrians. The principles that we are talking about are sound. The issue is about how we work on a practical basis to manage our streets.

From our perspective, the existing law just is not working. A lot of people contact us out of sheer frustration because they cannot get the council or the police to do anything about the issue. In some cases, vulnerable people cannot get out of their house to go down to the shops or do the things that they want to do. We need to look at the issue, so the bill is a welcome step that the Scottish Parliament is taking.

David Livey (Sustrans Scotland): Sustrans Scotland supports the general principles of the bill. Inconsiderate parking is an issue for pedestrians and cyclists alike. Stuart Hay touched on the way in which it affects pedestrians, so I will focus on its effect on cyclists. In particular, parking in front of dropped kerbs and double parking are big issues for those who choose to make journeys by bike; such parking creates not only an inconvenience but a hazard.

The bill will support Scottish Government policy on active travel. There is a generally positive policy landscape on active travel. Policies such as the cycling action plan for Scotland and the national walking strategy seek to make it safer and more attractive for people to make everyday journeys by foot and bike. The bill supports that general policy landscape.

Jane Horsburgh (Guide Dogs Scotland): Surveys that we have done have found that parking on pavements is one of the main obstacles that people come up against. We provide people with guide dogs and other forms of mobility aids—we have a charity called Blind Children UK that works with children and young folk to help them with mobility and independence. However, the issue is getting out on the streets and on to transport. If people cannot access their streets well, they cannot join in and take part in their communities and go about their daily business. The problem of parking on pavements and over dropped kerbs is one of the biggest issues that we are dealing with just now, and it seems to be growing. I welcome the fact that the Parliament is considering the issue and I hope that we can take it forward positively.

John Binning (Strathclyde Partnership for Transport): SPT supports the principles of the bill and we acknowledge the difficulties that inconsiderate parking can cause. I echo a number of the comments that have been made.

However, we are concerned that an unintended consequence of the bill could be that it would make it more difficult for buses to navigate their way through narrow roads.

Morven Brooks (Scottish Disability Equality Forum): The Scottish Disability Equality Forum and our members greatly welcome the bill. Disabled people face a widespread problem in

using pavements and dropped kerbs because of drivers blocking them. That has a fundamental impact on disabled people's health and wellbeing, as well as their safety.

The Convener: Mr Campbell, do you want to say anything at this point?

Chris Campbell (Road Haulage Association): No. I am quite happy to sit still and quiet.

The Convener: Grand.

Some people have argued that existing legislation could be used to deal with the difficulties in question. In my experience, as someone who has dealt with footway parking issues over many years as a councillor and now as an MSP, it has been extremely difficult to use existing legislation to do that.

What do you think of the existing legislation? Is it adequate to deal with some of the problems that the bill seeks to address? Who wants to take those questions on?

Stuart Hay: It is interesting that, although in Scotland it is illegal to drive on pavements, people can park on them. Existing legislation is virtually unenforceable. The police have powers in relation to parking on pavements, but it is very difficult for them to use them. We welcome the fact that the police have looked at the bill and think that it will provide a useful set of tools for them to use.

There are powers that local authorities could use, but none of them has chosen to do so. That in itself is proof that the bill is needed. The powers are available and the local authorities know what they are, because over the past three or four years all the local authorities have received a memo from the Scottish Government that explains which powers they could use to tackle the issue. However, those powers are obviously not practical. The bill represents a much simpler and more consistent approach.

The Convener: You said that the existing legislation does not allow folk to drive on pavements. An argument that has been made to me is that, in order to park on the pavement, it is necessary to drive the car on to it. Have you tried using that argument to resolve some of the issues that you have had to deal with? Where did you get with that?

Stuart Hay: That argument has been made, but it just does not work, because the police are not in a position to enforce the powers that they have. The issue comes down to what constitutes an obstruction. Proving that is very difficult. The police have a lot of pressures on them, and they need simple and effective legislation that allows them to identify a problem. Parking on pavements should sit with other parking offences and should

be decriminalised; it should be a fixed-penalty-notice type of offence.

Chris Campbell: A question that I have relates to the fact that the existing legislation allows certain vehicles to load and unload on pavements when necessary. Such a provision might not be included in the bill, and we respectfully request that the facilities that are available under section 19 of the Road Traffic Act 1988 continue to be available. No mention of that is made in section 1 of the bill.

The Convener: The committee might choose to ask the member in charge of the bill, Sandra White, about that when she appears in front of us next week. We will also have the opportunity to raise it with Government ministers next week.

David Livey: I want to go back to dropped kerbs and double parking. Dropped kerbs provide safe access points between cycle tracks and carriageways for people who travel by bike. I understand that, at present, local authorities in Scotland—unlike local authorities in England—cannot take action on parking on dropped kerbs.

Under the Traffic Management Act 2004, local authorities in England and Wales can take action on parking on dropped kerbs in special enforcement zones, but that is not the case in Scotland at present. My understanding is that a traffic regulation order—a TRO—has to be put in place for every dropped kerb. The bill would tidy that up by prohibiting parking at dropped kerbs, rather than requiring local authorities to put in place a TRO for every dropped kerb.

Double parking can force people who are travelling by bike further into the carriageway and sometimes on to the other side of the road; it is obviously not just an inconvenience but a hazard. My understanding, which is based on the evidence from Police Scotland, is that at present the powers that deal with such offences have to concentrate on obstruction, but it is not clear what constitutes an obstruction. The bill defines double parking as when a vehicle is parked more than 50cm from the edge of a carriageway. That is quite specific and it would make enforcement easier. At present, the powers to deal with an obstruction do not extend to local authorities; the bill would extend them to local authorities.

Jane Horsburgh: If the existing legislation was working, we would not have the issue that is hitting all our mailbags just now. Reporting a parking obstruction is not a priority for people. If they come up against an obstacle and report it to the police, they then have to wait for the police to come, and then the police have to form an opinion on whether it is an obstruction. Reporting an obstruction is quite a difficult thing to do; most people would probably not be willing to do it.

I want to focus on the fact that there is currently no definition of what an obstruction is; it is very vague and is left to the opinion of the responding officer. We have discussed how having a definition would make enforcement easier. The bill would make it clearer to society that such parking is not allowed because it causes an obstruction. That sort of education is required, because people sometimes do not realise the impact of parking over a dropped kerb or on a pavement. The bill gives a clear statement on that as well as helping with enforcement. Police Scotland has said that it welcomes the fact that the bill addresses the weaknesses in the current piecemeal legislation.

The Convener: The bill as it stands omits A and B roads and private roads. What are your views on that? Do you think that A and B roads and private roads should be included?

Stuart Hay: That would be useful. There are probably a small number of rural settlements that have such roads running through them where that will be an issue. As I understand it, the bill as drafted focuses pretty much on urban areas, which are defined by the presence of street lighting. The omission is a slight anomaly that it would be useful to tidy up.

The Convener: Does anyone else have a comment on that?

Chris Campbell: I understand fully the standard of the bill and the objectives that it is trying to achieve, but as far as the road freight logistics sector is concerned, our job is to deliver the goods whether we like it or not. Yes, we must comply with the regulations, but we are not in favour of any further regulations that would make life more difficult and make it more expensive for us to carry out our work. If it can be proved that our sector is causing all these problems with dropped-kerb parking, double parking and parking on kerbs in towns and villages and through all the A and B routes, that is fair enough. If not, the bill should apply only to urban areas—the towns and cities.

The Convener: I do not think that anyone is accusing the road haulage industry of causing all the problems in that regard, Mr Campbell. The issue goes far beyond the road haulage industry.

10:15

John Wilson (Central Scotland) (Ind): Living Streets has made a comment regarding the exemption for residential dropped kerbs, rather than designated dropped kerbs. Should the bill have designated dropped kerbs? In carrying out streetscaping, many local authorities have put dropped kerbs in town centres to allow wheelchair and mobility scooter users to cross the road safely. However, there might be issues if we try to enforce a prohibition on parking over dropped

kerbs outside residential properties, particularly where the residents have off-street parking outside their house and have paid for a dropped kerb to be put in to allow them to access that. How do we define a dropped kerb, and which dropped kerbs should be exempt from potential legislation on the matter?

Stuart Hay: More work is needed on the bill in relation to that point. From the perspective of Living Streets and colleagues in other charities, the issue is about defined dropped kerbs that councils have put in place to help people to cross the road. The councils should know where those are. Some of them will already be lined, but the bill would protect all of them automatically. Obviously, those dropped kerbs come in pairs, on either side of the road, and they are different from dropped kerbs in a residential area. I think that those are called crossovers, which is where people can cross the pavement to enter a driveway. There are two issues, but our focus is on the dropped kerbs that are there for people with mobility issues.

Chris Campbell: I absolutely agree on that.

We notice that, in section 3(2), the dropped kerb exception would apply

“for no longer than is necessary and for no more than 20 minutes”.

That would give our sector problems, because it can take longer than 20 minutes to do a house removal, for example. Indeed, with internet shopping nowadays, the lorry driver not only delivers a television or fridge; he has to go into the house and connect it up, which probably takes more than 20 minutes. Therefore, we are concerned by the 20-minute limit.

Morven Brooks: Our members, who are disabled people across Scotland, will be concerned if the measure, especially on dropped kerbs, is not introduced and enforced. The issue affects disabled people's lives on a daily basis. When they leave their home in the morning, they have to think about how they are going to reach their destination. If there is an area that is well known for double parking or parking over dropped kerbs, that obstructs their onward journey. Likewise, when they get to their destination and then have to go back, they have to think about the issue again. The issue affects their health. Their stress levels will rise if they have to take a diversion in their journey. The issue has a fundamental impact in every way on a disabled person's life if they have mobility problems.

The Convener: Do such situations affect wheelchair users only or is it folks with other disabilities and who are not necessarily wheelchair bound?

Morven Brooks: It is not necessarily wheelchair users. It could be people who use mobility scooters or anybody with a walking aid. Obviously, such people struggle with walking long distances but, even in walking a short distance, their way could be obstructed because of the selfish act of parking over a dropped kerb or double parking.

Jane Horsburgh: I echo Stuart Hay's point that the issue is about accessibility. That is our focus. Dropped kerbs, or areas in which the road has been raised to meet the pavement to create a level area to make a technical crossing point, are not used only by people in wheelchairs or on mobility scooters. Those crossings tend to be in desired walking lines, so if someone is walking along the pavement, they are liable to come across one. Therefore, folk who can see will also use them. In theory, they should be clear on each side. If someone cannot see and they use one of those, they will walk straight across the road and they will not know whether there is a small vehicle, let alone something larger, parked on the other side. If there is something there, the person will have to walk up the road, feeling along the vehicle, to try to find a safe place to get back on to the pavement.

If someone feels that they have to park over a dropped kerb or on one of the technical crossing points as a last resort, we hope that they will do so for the minimum amount of time possible. If that means that they stop after they have finished offloading and take the vehicle somewhere else, so be it. The issue is accessibility. I know someone who was stuck for three quarters of an hour. They were blocked in by a white van—sorry about the colour—stuck on a pavement and someone who had parked over a dropped kerb. They had an alternative route to get home—it was four times longer than their normal route—but they could not use it because it was blocked at either end.

John Binning: Dropped kerbs are also useful for people with children and buggies or pushchairs. In addition, there are occasions when it can be useful for cycle paths to have dropped kerbs or even level areas on to the roadway, as that can allow cyclists to cross the roadway safely.

John Wilson: Thank you for the clarification. I am trying to distinguish between what Ms Horsburgh described as a technical crossing point and a kerb that a resident has had lowered.

Someone mentioned that there are places where a dropped kerb at a designated or technical crossing point has not been lined or otherwise identified by the local authority. In the area where I live, the local authority spent lots of money on streetscaping and putting in dropped kerbs, but there is no signage to indicate to car users that they are technical crossing points. The argument

is that the cost to local authorities of putting up signage and marking the roads might be prohibitive, particularly in a time of austerity and when local authorities are being asked to declutter the streetscape.

How do we get round the issue of designating technical crossing points? How can local authorities clearly identify them so that motor vehicle users such as lorry users are aware that they are designated crossing points for users of pavements?

Stuart Hay: We are discussing an important part of the bill, which is about coming to some common definitions of such pieces of infrastructure. A lot of education is necessary so that motorists understand what such crossing points are and who benefits from them. If many people understand that, they will be less likely to park across them. The bill is a bridge to start educating people; the enforcement comes way down the line.

Under the bill as it is drafted, all such points will be protected automatically. That means that each crossing point will not need to be signed and lined individually, which is where the problem lies at the moment. That is why the bill seeks to take a universal, consistent approach across Scotland. That will make it possible to do the education. If we leave it down to individual local authorities, it becomes a bit of a hotchpotch and the situation becomes much more challenging, because individual traffic regulation orders have to be issued.

Under the bill's provisions on footway parking, there will be only a reasonably small number of exempt streets. That means that the local authorities will have to do less work, although they will have to take on some extra duties initially in identifying those streets where parking might be permissible, where the pavement will not be damaged by parking and where the width of the pavement is sensible and will allow people to get by. It might turn out that there is no viable alternative—for example, up a back lane—in which case it would not be sensible to ban parking on a pavement. The local authorities will have a bit of work to do initially, but once that has been done, the law will be clear and everyone will know where they stand.

David Livey: I want to pick up on what Mr Hay said. As an organisation, we are generally supportive of the exemptions, but to achieve consistency across different local authority areas and tie-in with the emergency services and other interested parties, I think that it would be useful for national guidance to be provided. That would ensure that the bill's overall objectives were not undermined.

John Wilson: In response to what Mr Hay said, I welcome the initiative to achieve consistency across Scotland. At the moment, we know that enforcement is not consistent. Some local authorities have no traffic wardens, so there is no monitoring of street parking, and we have heard complaints that in some areas the police do not enforce the existing legislation. How confident is the panel that if the bill is passed we will have a consistent approach throughout Scotland, particularly in council areas where there are no traffic enforcement officers? We have 32 local authorities, which have different policies. Who will enforce the new laws?

Jane Horsburgh: The bill aims to provide a framework for enforcement, so it is quite enabling in that regard. In the proposed framework, either the police or the local authority will be able to enforce the law. I think that under current legislation some of the responsibility for enforcement lies just with the police, so the bill takes things forward.

Local authorities decide how to manage their streets, and we hope that they will work with communities, perhaps through community planning forums, to consider how they want their streets managed, where the hotspots are and so on. The bill provides a framework that will enable such discussion to take place. It will be interesting to see how local authorities respond to the points that you made.

Chris Campbell: What we are trying to say is that when we operate in relation to freight logistics, we are not parking, as such—I know that sounds peculiar—but stopping to carry out loading and unloading, and then moving on. It is quite simple; if we are not turning the wheels we are not earning money, so we do not want to hang about in cities and restricted areas.

Enforcement of parking rules is a different matter. If our drivers are parking up their lorries and then leaving them and spending two or three hours having lunch—I hope they are not doing that—or if they are parking up overnight, that is a different set of conditions. Under the traffic commissioner regulations, the lorry driver and the vehicle can be moved. For example, if someone has parked overnight outside someone's house, the traffic commissioner has powers to move the vehicle and hold the employer to account. Fairly strict enforcement powers are available for incorrect parking, such as long-term or overnight parking, of commercial vehicles that are bigger than transit vans.

The Convener: That is some job, if people get a two or three-hour lunch break.

Chris Campbell: I know.

The Convener: I think that some of your members will be wondering what you were talking about there.

Chris Campbell: With respect, convener, sometimes we have to stop, to comply with the complex European rules on drivers' hours.

John Binning: For councils that introduced decriminalised parking enforcement, the bill will present an issue for stretched resources, as was acknowledged in a number of written responses to the committee. I reiterate that SPT is a partnership of 12 local authorities in the west of Scotland, a number of which have expressed concern about resourcing. It is inevitable that councils will have priorities in relation to how legislation is enacted. That is understandable, given their stretched resources.

The Convener: How many of the 12 local authorities operate decriminalised parking enforcement?

John Binning: I do not know the precise number, but I think that the majority have done so.

Cara Hilton (Dunfermline) (Lab): I am sympathetic to the aims of the bill, but I want to consider it from a road user's perspective. John Binning referred to the implications for bus drivers, and Jane Horsburgh and Stuart Hay talked about education. I agree that education is a factor, but the reality in quite a lot of new-build and council estates is that residents simply have no option other than to park on the pavement. In parts of my constituency, people park on both sides of the road, and if they were not parked on the pavement the buses would not get down the roads—drivers are almost going in single file as it is.

What alternative solutions could be introduced to accommodate any displaced cars that would result from a parking ban? Basically, where should residents park their cars instead of on the pavements?

10:30

The Convener: Who will take on that question? It is a difficult one to answer.

John Binning: That is a very good point. We have expressed our concern about the bill's unintended consequences. We support the principles of the bill, of course, and we understand the problems that inconsiderate parking can cause. I know that traffic reduction orders have been referred to before and that there are difficulties with them, but we hope that some discretion could be given in the bill to local authorities, particularly on pre-war and post-war council estates, which were never intended to accommodate the current level of parking. We hope that local authorities will continue to have

discretion in those areas, because we recognise that there is not sufficient overspill parking in them or enough driveways to accommodate all the vehicles.

Stuart Hay: There are powers to exempt certain areas. In a lot of those estates, the pavements can be quite wide and the kerbs can be quite low, so the resulting damage from parking will not be as big an issue. That is one stage. Ultimately, however, the local authorities in some areas will have to choose between the rights of people to park outside their houses and the rights of disabled people to go about their daily lives. We cannot get away from that.

There are wider questions about how we look at transport policy. We are here basically because, as a country for the past 40 years, we have failed to manage traffic in urban areas. We need to start to look at that. Disabled or visually impaired people should not pay the price for that failure, but ultimately that is what we are saying. In some areas, people who have particular access issues will drive the issue and force the agenda on enforcement. In areas where nobody is being obstructed, the pressure on local authorities to do anything will be much less, but where there is a need for fair access to pavements, the local authorities should have the ability to deal with it.

John Binning: SPT operates MyBus services, which are intended to support more vulnerable transport users who find using mainstream buses challenging.

The Convener: I do not want us to get on to other subjects, Mr Binning. Although your other policies may be really exciting and interesting, I want to stick with the bill.

Morven Brooks: Many of our members have made comments about the fact that, obviously, enforcement is difficult and probably will still be difficult if the bill is passed. I highlight the fact that there are 46 access panels throughout Scotland. To reiterate what the other panel members have said, the local authorities could work more closely with their local communities. The access panels are an ideal route by which to do that. They look at accessibility issues, whether they are building or pavement parking issues. I am sure that each access panel would welcome such a relationship with their local authority to move matters forward.

Cara Hilton: I still think that it is a grey area and we do not have an answer to where residents with displaced cars would park. We would have to consider that further.

Cameron Buchanan (Lothian) (Con): I want to pick up on Chris Campbell's point about removals. I had understood that local authorities could be applied to for a permit when a removal was taking place and that there would be no need for a

special exemption for waits of under four hours. Is that correct?

Chris Campbell: That may well be correct, but my point was that the bill does not say that, so technically we could end up in miles of red tape if we had to get a permit or get someone to give us permission every time we do a delivery. It seems that that would be the case for parking our lorries on pavements when we have to do so. There is an application by which we can ask for special permission, but our vehicles are not like buses that run regular services; they are in different places every day, and it is impossible to predict deliveries.

At this point, I will refer to the photographic evidence. The driver of the vehicle in the top left-hand corner of picture 1 has had to park on the pavement because of the black car that is parked in the loading bay and would therefore be committing an offence under the bill. The driver would get his £100 fine, which would, under operator licensing procedures, all feed back to the employer. As you will see in the next photograph, the lorry has then moved into the loading bay, but because the bay is at an old property, the vehicle cannot go back any further and the front of it is now sitting on the kerb. As a result, the driver would have committed a second offence and would receive a second £100 fine, and the matter would go to the Traffic Commissioners for Great Britain. You might suggest that we could get a permit, but we do not know when that lorry will be back there next. It might be next week or whenever, or a different supplier or haulage contractor might be involved.

With all due respect, we think that having to have a permit will simply increase red tape for us and, obviously, for local authorities.

Cameron Buchanan: My point was really about removals, which you suggested can take four or five hours. People know about them in advance, and one normally applies to the local authority for a permit for removals that will last longer than four or five hours. Surely common sense would prevail in cases in which vehicles were unable to park—say, in the example of the Warburtons lorry that you provided—and the driver would not get a fine because he could say that he could not park but had to make a delivery.

The Convener: Other vehicles are available.

Chris Campbell: I am sorry, but under section 1 of the bill none of our vehicles will be allowed to park on a kerb unless it has a special written permit. If that is the case, thousands of permits will need to be issued. As far as removal vehicles are concerned, the bill allows for a 20-minute wait for a vehicle that is double parked or which is beside a dropped kerb. Removal vehicles have to get on

to the kerb to let other vehicles pass: that would not be permitted by the bill and the wait would be totally outwith the 20-minute period that is allowed under a permit. The permit would allow us to park for longer, but the vehicle could still not legally go on to the kerb. I know that you will say that the lorry should not be on the kerb in the first place, but I am sorry to say that because of the design of towns—especially older towns and housing estates—we have to do that if we want to get the job done.

Cameron Buchanan: Could an element of common sense come in here, or not?

Chris Campbell: There does not, from my point of view, seem to be any common sense in this; the bill does not provide for common sense, and would make us technically liable. There is no confidence that we will not have to pay for parking our bread vans on the pavement.

Stuart Hay: For clarification, there is no provision for permits in the bill. The bill provides exemptions for specific streets where there are likely to be problems. There might be some scope for parking on the pavement in narrow shopping streets or high streets where deliveries have to be made, but there is no permit system as such. Instead, people will say, “This is how the regulations apply to this or that particular street.”

Cameron Buchanan: Mr Campbell, it might be dangerous to ask the question, but what would be your solution?

Chris Campbell: My suggestion is fairly straightforward. At the moment, there is road traffic legislation that has been on the go since I cannot remember when that allows us without our committing an offence to park on kerbs if absolutely necessary. All that we are asking is for that to be built into section 1 with regard to parking on footways. It should be borne in mind that we do not park on footways, anyway; rather, we stop on them to load and unload and then move on. The answer is quite simple: the exemptions under current road traffic legislation for loading on kerbs should be continued in the bill.

Jayne Baxter (Mid Scotland and Fife) (Lab): I was interested in a comment that Mr Hay made earlier. It seems to me as I go about my business, visit my family and just live in the world, that people in a lot of housing estates park on the pavement. That goes against the bill's principles, and I accept and appreciate that it causes real problems for people who have mobility problems, who are pushing pushchairs or who are walking along the street with young children.

However, the reality is that, for folk who live on those estates, there is a sort of mutual consent and neighbours care about people parking on the pavement. Most households have more than one

car, but many do not have parking for more than one car. It seems to me that, if we are going to educate and encourage people not to park on pavements, we have to provide other parking.

That takes us back to the planning system and the consents that are given for housing developments. Do we need changes to the planning system alongside the bill or can we get round the issues with the local arrangements that Mr Hay mentioned when he said that councils can look at neighbourhoods and work out local arrangements?

The Convener: Who is going to take that on? Jane Horsburgh will go first.

Jane Horsburgh: I am glad that you mentioned planning, because it went through my mind earlier that there is a bigger issue for the medium to long term. We need to ensure that vehicles are, where necessary, accommodated in residential areas. I hope that that will be taken forward, although I do not know whether it would sit within the bill. Maybe the committee could take advice on the Government's viewpoint regarding planning. In its “Designing Streets: A Policy Statement for Scotland”, the Government prioritises pedestrians and cyclists over vehicles, but vehicles, too, need to be accommodated to a reasonable extent. I agree that there is a longer-term issue that we need to address. Otherwise, we will just build in problems for the future.

In response to comments that have just been made, I note that the problem is created not by the bill but by the society that we live in. It is nothing new, but the bill will focus local authorities and policy on tackling some areas that may have been—dare I say it?—neglected in the past. On a practical level, the bill will allow local authorities, through the exempted areas, to manage the streets. If a mum with a buggy or somebody who cannot see knows that one side of the street is going to be parked on, they will know that the other side is going to be clear. It is about managing the street. We are not saying that that is easy, but the issue is worth tackling. Unless we jump on it, we will not set a framework for tackling it.

We have all been on such estates, and on many of them there is a slalom effect. It is not feasible to have a person with a buggy slaloming from pavement to pavement or somebody who cannot see coming on to the road and having to walk straight down it and feel their way along to try to find a safe way back. Dealing with that has to be a priority. It is not easy, but we can work with communities to do that and there are some practical things in the bill that can be looked at.

Morven Brooks: Following on from what Jane Horsburgh said, I agree that accessibility should

be considered at all levels of planning. That is a role that the Scottish Disability Equality Forum takes on as a national organisation, and it is a role of the access panels.

Work has to be considered within the community; communities' needs for parking facilities are not considered, especially in housing estates such as the ones that we are talking about, but they should be. It is not just about disabled people or the woman with a buggy; it is about equality for all. Accessibility needs to be considered at the very early planning stages.

The Convener: There are men with buggies as well, of course.

David Livey: I want to pick up on a point that Jane Horsburgh made. It is already policy that footway parking should be minimised. That is in the Scottish Government's "Designing Streets: A Policy Statement for Scotland". Footway parking should be designed out. That is the policy. However, we are where we are, and footway parking happens.

The bill gives the policy legislative teeth, and putting in place a ban would give us the ability to do something about footway parking where it happens. It is worth bearing it in mind that 30 per cent of households in Scotland do not have access to a car but rely on walking, public transport and cycling. The provisions in the bill would be of huge benefit to them.

Jayne Baxter: I accept David Livey's point, but in some areas there are one and a half parking spaces per property, so there is overspill. That will have to go somewhere else and it will have a knock-on effect on the surrounding streets. We need to be mindful of that. I completely accept the principle of access and mobility—it is a given—but we live in the real world and we have to accept that the bill will have consequences.

10:45

The Convener: Has anyone made a submission on such issues to the planning review panel that the Government has put in place?

David Livey: Sustrans will make a submission to that panel.

The Convener: Do any of the other organisations intend to do the same?

Stuart Hay: Living Streets plans to do so.

John Binning: SPT will, too.

The Convener: Your organisations are being proactive in that regard.

George Adam: Morven Brooks mentioned access panels. One of the problems is that when it comes to dropped kerbs, the situation is pretty

much a hotchpotch—some local authorities are very good and some are not great, with different approaches being taken at the two ends of the same street. Is that not an argument—in the context of making submissions to the planning review—for asking that consideration be given to making access panels statutory consultees?

I have found that the effectiveness of an access panel depends on the local authority working with it. The guys who are involved in the access panels are wheelchair users and people with visual impairments. If we were to get them to audit our town centres, there would be a good chance that we would sort out many problems that we are discussing. That would help just about everyone who is giving evidence today. Should we consider such audits?

I used to be Renfrewshire Council's representative on the Renfrewshire access panel. What a difference we made when we started doing work and not just moaning about things. It is a question of being more proactive.

Morven Brooks: Absolutely. We are working on having all access panels being made statutory consultees so that they have the recognition that they need in their local authorities in order to provide advice and to make necessary recommendations in the initial planning stages for buildings and for parking. I fully agree with George Adam.

George Adam: There was a situation in Renfrewshire in which a fully accessible toilet was installed—except that it was on the wrong side of the building and no one could get into it. The council obviously did not speak to the access panel in planning that facility. If access panels can offer input early in planning, we can make a difference.

Stuart Hay: There is a challenge. I am going to be optimistic and say that the Scottish Government has good policies on transport and is trying to reduce car use over time. We are now at the most difficult point. There are policies in place for getting more people walking and cycling and for getting people on to public transport, and there is support for things such as car clubs. That work will take a good amount of time, but it will improve neighbourhoods more generally.

There is a problem today, but many other solutions are available to us when it comes to how we manage our neighbourhoods, if we are bold enough in helping people to meet their mobility needs in a different way.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): We certainly seem to live in a society in which town centres, streetscapes and housing estates are designed more for people with cars than they are to allow people to get around. We

can see the difficulty that pedestrians have and the ease with which people with cars and delivery vehicles seem to get around towns, so I am very sympathetic to the aims of the bill and to the suggestions that have been made to the committee today.

However, all the examples that have been given today have related to situations in which there is congestion and people find it difficult to move around, but I am concerned about what might happen in cases in which there is no congestion. Let us think about the other side of the coin. I know of some housing estates where there are hardly any cars. The bill would create an offence in the event that a van turned up to deliver a telly, even though no problem was being created. I would like to hear the panel's views on that side of things. Would the bill have consequences in terms of creating an offence in relation to delivery of goods to people's houses in situations in which that is not a problem because there is no congestion? Are we inevitably heading towards a set of compromises involving exemptions, discretions and so forth? Do we need the loading and unloading exemptions that Mr Campbell mentioned? I would certainly like the bill to result in an improved situation; I would not like us to create anomalies and further problems.

Chris Campbell: I agree entirely. I am sorry to repeat myself, but we are happy with sections 2 and 3 on double parking and dropped footways. Those sections are not a problem. All we are saying is that at the moment the "Highway Code" points to legislation that says that "if necessary" we can do certain things that will probably not make people too happy. We have a job to do, which is to deliver goods; there will be occasions when it will take a bit longer and when a vehicle might have to go up on to the kerb. I gave the example of the bread lorry that was just trying to make a delivery but would have committed two offences under the proposed legislation.

The Convener: Can I play devil's advocate, Mr Campbell? I do not think that the photo is particularly great, although that is perhaps because I have trouble looking at darker things. People have highlighted their sense that delivery drivers seem to think that they have a divine right to park right in front of the building to which they are delivering, rather than offloading a bit away and having to move the pallets or cages a bit further. Will you comment on that?

Chris Campbell: I have no doubt that such things happen—that is human nature. If such problems continued, we would need to know about it, so that we could take action through our systems.

The Convener: What action could you take to stop one of your members causing grief by blocking a road or pavement?

Chris Campbell: If there was a continuing problem and the driver was a member of the RHA, we could expel them and cancel their membership. The company that owns the lorry in the photograph is not a member, which is why we took the photograph.

The catch-all system involves the traffic commissioners, who are in charge of all heavy goods vehicles in the UK; in Scotland, we have our own traffic commissioner. Companies are regularly called to account in public inquiries in matters of safety and danger. If it was proved that a company was causing danger in its loading procedures, it could end up in front of the traffic commissioner and would run the risk of losing its licence to run its vehicles.

The Convener: How many times has that happened in the past year?

Chris Campbell: I am making the point that we do not seem to have had any complaints about lorries parking on the kerb. If there are complaints, they have not been brought to our attention.

The Convener: Does anyone else have something to add on Mr Coffey's point?

Morven Brooks: The majority of our members are not against the exemption for lorries to park for a short period to get on with their work. Our members realise that day-to-day activities have to happen. However, certain provisions should be put in place—for example, the driver should be available to move their vehicle to allow a disabled person with a mobility problem to continue their journey.

Many comments have been made about drivers not being available or refusing to move their vehicle. That is not just a legislative issue; there are attitude problems as well, which need to be addressed through education. However, if certain provisions were put in place, they could work.

Jane Horsburgh: If someone cannot see at all, the chances are that they will hit or come into contact with the lorry or its wing mirror. The larger the vehicle, the more dangerous it is. I have not come across an example of a driver being willing to move their lorry; instead, folk have been asked to wait.

The Convener: On Willie Coffey's point, if there was an estate or an area where lorries had not really been a problem, and someone who lived there had a visual impairment, would the situation be more dangerous for them if a lorry parked on the kerb, because they would not be used to that happening in their area?

Jane Horsburgh: You have answered your own question. It is the unexpected obstacles that cause problems. If someone knows that their street is full of parked vehicles, that does not make the situation better, but they know that the vehicles are there. Coming up against an unexpected obstacle is worse.

If there is no congestion, I have to ask why people are parking on the pavement. Maybe they could park slightly further away.

Willie Coffey: I know estates in my constituency where there are no cars on the streets. What would happen if Mr Campbell came along in his van with a telly in it and he could not park on the street to load or unload? Is that what we are saying we want? Do we recognise that that is an issue? We have to do something about problems in congested town centres that are crammed full, but would the bill create an anomaly? Would we create an offence where there are no problems?

The Convener: My understanding is that that is not the case.

Morven Brooks: As I said earlier, this is about equality for everybody. Anybody who has a disability could move into a street or town and be affected. We cannot assume that, because there are no current problems, there will be no problems in the future. We have to think about making a society that is equal for everybody.

Stuart Hay: We are looking at enforcement in areas in which there is a particular problem. As has been said, resources for enforcement are limited. They will not go to the estates that Mr Coffey mentioned; they will be concentrated in places where there are problems. They will also go outside a lot of the existing controlled parking zones, because there is enforcement in those zones and people behave themselves in areas where there are yellow lines. We are looking at a particular set of circumstances.

The bill would send a signal to people that they should not park on the pavement if they can avoid it. People see it as an easy option to just bounce up on to the pavement. The big issue with that is that pavements are not designed for vehicles so, when people bounce big vehicles up the kerb, they damage the pavements. They then create trip hazards, which are another problem for certain groups of people. The bill's other objective is to protect our infrastructure. Unless we start to design pavements to be parked on, which will be expensive, we need to do what the bill proposes.

David Livey: I draw the committee's attention to Police Scotland's evidence, which reiterates what Mr Hay just said:

"The new legislation provides both Police Scotland and Local Authorities, where appropriate, with the necessary legislation to take action".

That is the crux of the issue. Cycling Scotland's evidence also says that the bill would allow the police to tackle the problem when there are hotspots. When there is a problem, it will be able to be addressed.

The Convener: I will play devil's advocate again. Some folk have suggested that all this can be dealt with by common sense, but it seems that common sense has gone out of the window and that folks find it difficult to navigate their neighbourhoods. What do you say to folks who think that there should be no additional legislation and that common sense should apply, rather than laws?

Jane Horsburgh: What is common sense? It is in the eyes of whoever decides it. If the problems could be dealt with by common sense, we would be there now. I do not know what common sense is. People need some knowledge of the impact that the problem has, and we cannot assume that everybody understands the impact of parking on pavements and over dropped kerbs. I do not think that the issue can be dealt with through common sense, although I wish that it could, and I welcome the folk who apply common sense appropriately.

I go back to what I call the three Es, which are education for people, encouragement to do the right thing and enforcement. We have to educate folk about the impact that their behaviour is having and change their attitudes. I have no doubt that, given clarity, some attitudes will change when people know about the impact. If the bill goes forward, there will be a role for the Scottish Government to look at an education programme.

11:00

David Livey: The streets outside our front doors are evidence that the problem cannot be dealt with through common sense. My advice to people who say that is that they should go for a walk or cycle, or get vision impairment training from Guide Dogs Scotland, and they will see that the issue exists.

It is particularly an issue for cycling, because one of the biggest barriers to people making everyday journeys by bike is safety concerns. It seems to be a fairly easy fix to tighten up on parking in front of dropped kerbs and prevent double parking and pavement parking when that is a problem. That would add coherence to what is already there. It is Scottish Government policy to enable more people to travel actively every day. The bill would support that.

Stuart Hay: We need to remember that London has had prohibitions on footway parking since 1974, which local authorities have integrated into

other traffic management. I have every confidence that Scottish local authorities would be able to do the same thing. They have a template to work with that has been developed over a number of years.

Morven Brooks: Sadly, not everybody has such common sense. Education and raising awareness of disability issues would be important in taking the legislation forward, among many other things. One way to do that is not by one body coming up with its own promotional campaign but by working with communities and access panels to make sure that the information is accessible and inclusive and that everybody gets the message. It is not just about putting a campaign together but about how it is put together and who it is done with.

John Binning: This is also an issue of balance. We need to balance the needs of a range of users of pavements, roadways and so on. An element of common sense has to come into the framing of legislation, as a number of people have acknowledged. For example, people who have mobility problems also rely on bus services, and it is important that those services can access our public roads.

The Convener: Does Mr Campbell want to say anything?

Chris Campbell: I am sorry, but I am going to have to put my blinkers on here. Our concern at this stage is probably not the additional legislation but the legislation that would disappear: the Road Traffic Act 1988. Apart from that, I do not think that I should say any more.

The Convener: I thank you all for your evidence.

11:03

Meeting suspended.

11:07

On resuming—

The Convener: We now move on to our second panel of witnesses in order to consider the implementation and enforcement of the bill.

I welcome Murray Hannah from Fife Council, Superintendent Fraser Candlish from Police Scotland, David Armitage from Aberdeenshire Council, who will speak on behalf of the Society of Chief Officers of Transportation in Scotland, and Donald Gibson from South Lanarkshire Council.

Do the witnesses have any brief opening statements that they would like to make?

Murray Hannah (Fife Council): Thank you for the opportunity to speak to the committee today at this consultation event on a very important piece

of work. Fife Council recognises the difficulties that obstructions such as parking, A-boards and waste bins can cause in some situations. We see that there are important issues that the bill is trying to address.

We agree with the intentions of the bill. It seeks to reinforce the already wide-ranging legislation in the road traffic acts, the Roads (Scotland) Act 1984 and the “Highway Code”. We are particularly pleased that the bill recognises that not all instances of footway parking can or should be banned.

We believe that the bill’s intentions chime very well with the place-making principles in “Designing Streets”—designing streets for people. However, challenges would arise in retrofitting some of the intentions and details of the bill in legislation and from the controls that the bill would bring to established streets.

David Armitage (Aberdeenshire Council and Society of Chief Officers of Transportation in Scotland): As I am speaking for SCOTS, I will emphasise things that I think will be of universal concern. At the moment, all councils have concerns about resources and would want anything that affects resources to be given careful consideration.

There is also a very complex framework of road and traffic legislation. We have all had experience of trying to implement legislation that might not mean what it was intended to mean or that has unintended consequences. That can cause problems, especially if it is primary legislation, as this bill is.

The main thrust of my evidence, therefore, points out areas in which there may be issues in the bill as currently drafted.

The Convener: Mr Gibson and Superintendent Candlish, do you want to add anything at this point?

Donald Gibson (South Lanarkshire Council): No.

Superintendent Fraser Candlish (Police Scotland): No.

The Convener: Okay. Let me start off with the question that I posed at the beginning of the session with the last panel. Why can we not make current legislation work to deal with the issues of footway parking that so many people have highlighted to us?

We will start with Superintendent Candlish, because I have had conversations over the years with a number of police officers about folk parking on pavements. My argument has been that people have obviously driven on to the pavement to park on it, and driving on pavements is an offence, yet

the response has been that there is not much that the police can do about that unless they actually see it happening.

Superintendent Candlish: Yes, it is quite a complex issue. Two pieces of legislation were quoted in the committee papers. One was the Roads (Scotland) Act 1984, which makes it an offence to drive on a footway, to lead a horse on a footway and to cycle on a footway. The second piece was the Highways (Amendment) Act 1986, which applies only in England and Wales and not in Scotland.

When it comes to driving on a footway, that legislation can be used but it is quite cumbersome. If a vehicle is parked on the pavement, you have to identify who owns the vehicle, then you have to make a requirement on the owner to state who was driving it, and then you have to make a requirement on that named person to say whether they were driving when it was parked on the footpath. After that, the circumstances are reported to the procurator fiscal to consider whether the offence will be taken to court. The process is quite lengthy and cumbersome. Perhaps if the bill were enacted, it would create a more focused means of enforcing the legislation should that be required.

The Convener: Can you give any indication of how many folk, in the past year for example, have been done in Scotland for driving on pavements?

Superintendent Candlish: No. I do not have that information with me today.

The Convener: Do you think that it is many?

Superintendent Candlish: No, I do not think that it is many at all.

The Convener: Could it be zero?

Superintendent Candlish: I could not say with certainty, but I think that the number would be low.

The Convener: Could you provide us with that information? It would be very useful for the committee.

Superintendent Candlish: Yes, I could.

The Convener: Do any of the other gentlemen wish to comment on the existing legislation and whether, as it stands, it is good enough to deal with the difficulties that have been highlighted?

Donald Gibson: There are quite a number of pieces of legislation that we can use. At the moment, we use traffic regulation orders. One of the statements that I think I heard you making in the earlier session was that local authorities do not use traffic regulation orders to prohibit footway parking. South Lanarkshire Council has used them to prohibit footway parking on three occasions when the matter was brought to our attention and

other means of stopping footway parking were not feasible.

Normally, the first thing that we look at is putting down standard waiting restrictions, which relate to the road and the footway. However, in some residential areas that is not necessarily appropriate. We then look at putting bollards down, but that can cause problems if the footway would be made too narrow by doing that. We go through those steps, and, as I said, on a number of occasions we have actually used a traffic regulation order to prohibit footway parking. Existing regulations and powers are there for local authorities to do that, if they wish.

Section 129(2) of the Roads (Scotland) Act 1984 states:

“A person who, without lawful authority or reasonable excuse, places or deposits anything in a road”—

the road includes the footway, so that would include somebody who places a car on the footway—

“so as to obstruct the passage of, or to endanger, road users commits an offence”.

My reading of that is that it is not necessary to see a vehicle being driven on to the footway or to know who did so; it is just the depositing of it there that causes the problem.

11:15

The Convener: What is your response to that, superintendent?

Superintendent Candlish: It is a matter of legal interpretation, and a sheriff or justice of the peace would consider that. I know that the 1984 act simply refers to “A person”, but we would still have to find out who that person was.

Section 172 of the Road Traffic Act 1988 gives the police the legal means to require the registered keeper of a car or anybody who has information to state who was driving it at a particular time, but that cannot be used for every piece of legislation. I would have to check to see whether, in relation to what has just been quoted, we could legally make it a requirement on a driver to state who was driving.

It is a complex matter, and it comes down to different interpretations, which may or may not be upheld in court, if a case gets that far.

The Convener: Do you have any indication of how many folks have been done for the offence that Mr Gibson just mentioned?

Superintendent Candlish: I have been in the police for 20 and a half years, and I am not aware of that provision ever having been used for someone who has parked on a footpath.

The Convener: Could we perhaps get figures on that from you?

Superintendent Candlish: I will try, yes.

The Convener: Thank you very much.

David Armitage: There is existing legislation in Scotland, under section 19 of the Road Traffic Act 1988, which makes it an offence to park a heavy commercial vehicle on a footway, but I am not really aware of it making that much difference, and I am not sure how much difference it would make to introduce yet another offence.

Murray Hannah: Sometimes, the developments around decriminalised parking and some of the changes in regulations and legislation push council officers and police officers apart. As has been mentioned, there is an opportunity to work more closely together. In Fife, we work very closely with the local community police to deal with issues. Often there are local problems caused by local people that need local solutions. We take the opportunity to use that liaison.

We also use a range of traffic orders to introduce waiting restrictions where appropriate and we introduce advisory H-bar markings to keep driveways and dropped-kerb crossings clear, but it is also about working with people to find local solutions using the existing available legislation.

The Convener: It sounds like we have a bit of a hotchpotch of provisions in this area. Many different bits and pieces of legislation have been mentioned, and South Lanarkshire Council seems to be doing something different with traffic orders. Given all of that, we seem to have some confusion, and we do not seem to have many, if any, offences actually being recorded. Would the bill help to simplify matters in dealing with some of the problems that folk are facing on a daily basis?

Superintendent Candlish: Police Scotland feels that the bill provides some much-needed clarity. As I have heard other witnesses say today, roads and footways are shared road space, but car drivers in particular often seem to think that their needs take precedence over everyone else's, when of course they do not.

There are relevant pieces of legislation in existence. The one that has just been spoken about, which concerns depositing things on a road—a footway being classified as a road—is really meant to apply to loads such as building materials or items, rather than vehicles specifically. That would be my interpretation of it.

The bill provides clarity. From our perspective, it is quite well written. It would also provide the police with the ability to use discretion—that would not get taken away. I do not think for a minute that in those areas where parking has not been decriminalised the police would be out issuing lots

of tickets from the day after the bill is enacted, if it is; the power would be used to address specific community concerns such as those that have been mentioned, and it would be used during campaigns. It is a matter of education, engineering and enforcement—that is very much the order of things when it comes to police enforcement.

The Convener: Do any of the other gentlemen wish to comment?

David Armitage: The issue in respect of heavy commercial vehicles would be complicated because two pieces of legislation would be covering the same thing but with different sets of exemptions. That would make the situation more complex rather than simpler.

The Convener: Would you like to respond to that, superintendent?

Superintendent Candlish: I am not aware of what the complications would be.

The Convener: Mr Armitage, would you explain the complications, please?

David Armitage: A heavy goods vehicle that is parked on the footway in accordance with one of the exemptions for loading or unloading under section 19 of the Road Traffic Act 1988 could be committing an offence under another act. It would be difficult for people to understand if two acts cover exactly the same situation with different exemptions.

The Convener: Superintendent?

Superintendent Candlish: Sorry, but I would have to go away and look into that.

John Wilson: Good morning. Mr Gibson, you indicated that you have prosecuted or fined three drivers in South Lanarkshire. Is that correct?

Donald Gibson: No. We have introduced three traffic regulation orders covering three different sections of footway in three different areas.

John Wilson: Have you prosecuted or fined anybody under those regulations?

Donald Gibson: No. The regulations worked; there have been no contraventions.

John Wilson: So you just introduced three regulations and that stopped all the breaches that you felt were taking place.

Donald Gibson: Yes.

John Wilson: It might be useful if you could let us know what those three regulations were so that we can speak to the proposer of the bill about them; if they have resolved problems in South Lanarkshire, they might help to resolve problems in other areas in Scotland.

Superintendent Candlish, when the convener asked you about trying to take to court someone who has breached road traffic regulations by parking on the pavement, you indicated that the police would have to secure the name of the owner of the vehicle, the name of the person who was driving the vehicle at the time and a witness to say who was driving the vehicle, then you would need to submit a report to the procurator fiscal for them to take action against the individual concerned if they found that there had been a breach. That seems a very complicated process to go through, and I think that you alluded to that point. Is there no way in which fixed-penalty fines could be imposed by the police or local authority traffic enforcement officers in such situations? Would that not resolve some of the problems that you have identified?

Superintendent Candlish: What I was talking about would be a driving offence rather than a parking issue, so only the police would have the power to deal with it. Under current legislation, somebody working for a local authority does not have the powers that a police officer has to require a registered keeper of a vehicle to state who was driving it in the situation described; only a police officer could make that requirement on somebody. Ultimately, the offence would not be a parking one but a driving one, so we would have to identify who the driver was and, as you said, there would have to be secondary evidence to back that up.

John Wilson: The issue for me is that if an offence is committed and a vehicle is parked on a pavement, then surely the owner of the vehicle has some liability. Based on what you are saying, even if we introduced the legislation that we are considering, the defence for any vehicle owner could be simply to say that they were not driving the vehicle, that somebody else was driving it and that they are not prepared to say who. So, no action could be taken if there was no witness to say who was driving the vehicle when the offence was committed. How do we change the legislation to ensure that individuals who breach it can be dealt with in an appropriate manner?

Superintendent Candlish: Under the current legislation, only the driver of the vehicle would be charged with driving on a footway. In certain circumstances, the owner or registered keeper could be charged with aiding and abetting an offence, but there would have to be evidence to prove that. My reading of the bill is that it would provide for a fixed-penalty offence almost like those for which you might get a parking ticket on the windscreen. The penalty would be levied against the owner or registered keeper of the car, which is a far quicker, sharper and shorter means by which to enforce the law and, perhaps, deal with high levels of offences being committed.

John Wilson: One of my questions to the earlier panel of witnesses was about consistency of enforcement not only in the local authorities, of which we have 32, but by Police Scotland. During the short suspension that we had, I spoke to Cameron Buchanan about how someone who parks on a pavement in Motherwell is dealt with compared with someone who parks on a pavement in Hamilton. We heard from Mr Gibson that South Lanarkshire Council introduced new regulations that have dealt with on-pavement parking, but a driver in Motherwell may find that no action is taken against them for committing the same offence. If the bill is implemented throughout Scotland, how will we ensure consistency so that, when a driver goes to any town or village, they know that they will be dealt with in the same way as they would be in other areas?

Superintendent Candlish: In the non-decriminalised parking areas—areas where the police would enforce the bill—that would be challenging. Obviously, we would create our own internal procedures and processes, but the general guidance to police officers would be to use discretion where possible. However, if there was a community concern or a real emerging issue, it would be focused upon.

As I said earlier, I do not suggest for a minute that the police would be out issuing parking tickets with regard to the new offence in every area of Scotland. The power would be used for specific areas and specific concerns. It would be challenging to create consistency. I do not think that a consistent enforcement policy could be created other than the power being used proportionately to the circumstances in an area. It would have to be backed up by a good education strategy as well.

David Armitage: One difficulty that the committee has in finding answers to the questions about effectiveness and enforcement is that we do not have any evidence before us from the former Greater London Council area, where there has been legislation along similar lines since 1974. Unfortunately, none of us can offer any evidence on how effective that legislation is and whether it makes enforcement any easier, but it would be helpful to the committee in deciding on the matter if there were some study available as to whether the situation in the former Greater London Council area is any different from that in the surrounding areas that do not have such legislation. Perhaps it would have been good for the member in charge of the bill to seek out such evidence. I looked to see whether I could find any studies on it, but I was unable to.

The Convener: The committee cannot speak for the member in charge of the bill, but we will have the opportunity to question her next week, so

we might ascertain then what the knowledge is about Greater London and various other places. The committee will consider all aspects and guide the clerks to find the information about any studies that have taken place—not that I am pre-empting what the committee may decide, of course.

Donald Gibson: Should the bill be enacted, there will be considerable inconsistency in enforcement, given the current mix of decriminalised and non-decriminalised areas in Scotland. That is noticeable at the moment in the two councils that Mr Wilson mentioned of North Lanarkshire and South Lanarkshire—in one area there is enforcement and in the other there is not.

11:30

A second issue relates to the response that the authorities that have decriminalised parking enforcement can make. Apart from the three or four larger cities, most of them are smaller authorities that carry out enforcement only between certain hours. For example, in South Lanarkshire, it is from 8 o'clock in the morning until 6 o'clock in the evening—we do not have any enforcement outwith those times. Obviously, the police have 24/7 enforcement. I can see most of the issues and problems happening in residential areas, where people will complain about footway parking in the evening. Given our current authority set-up, we would not be able to deal with that, but the police would, so there is the possibility of inconsistencies there.

Murray Hannah: I agree with those sentiments. In Fife, we have 20 parking attendants. A number of the issues that arise will possibly be in residential streets. There will not be herds of parking attendants available to wander round the streets on a regular basis to observe the issues as they happen in real time. That will have to be built in to beats, so it might be several days before parking patrols can look at those areas. That will skew resources away from the busier town centre areas, where some of the bigger issues happen as a result of congestion and parking.

John Wilson: I have no further questions, convener.

The Convener: I have a question on that issue of areas that have decriminalised and criminalised parking enforcement and the use of parking wardens or attendants, or whatever you call them in your various local authorities. Mr Hannah has highlighted some of the things that they currently do. From my experience of the difficulties, the city wardens in Aberdeen were often used for what we might call sting operations to deal with a particular problem and, after that happened a few times, the problem disappeared. Is that the kind of thing that you envisage happening, Mr Hannah?

Murray Hannah: Absolutely. Some of the solutions that I talked about earlier were local solutions for local issues. In Fife, we have been working closely with Police Scotland's Fife division on initiatives such as park safe and kerb safe, where we target certain areas, particularly around school frontages. We have been doing a lot of that work over the past year or two, and it is exactly what you are talking about. It involves bringing together council officers, parking attendants, local community police and others in a concerted effort to do a focused encouragement and awareness-raising exercise, backed up with enforcement where that is required. That type of approach can sometimes produce good results.

The Convener: So if the bill was in place, that is the kind of thing that you envisage happening in areas where there are difficulties.

Murray Hannah: Without any doubt, if the bill achieved royal assent, there would be much better clarity on enforcement, as Superintendent Candlish talked about. It certainly would be a good tool, in that it would provide teeth to those interventions.

The Convener: Before we move on, I want to go back to the three traffic regulation orders that South Lanarkshire Council has put in place. I am interested to know the reasons for those traffic orders, how big an area they cover and how difficult it was to get them in place—in my experience, it always took what seemed like half a lifetime to get a traffic order in place. Could you give us an idea of all that, Mr Gibson?

Donald Gibson: They are relatively small areas where there were particular problems. I have before and after photographs with me, if you would like to see them.

The Convener: We can have a look at them—and you can continue while we do.

Donald Gibson: The traffic regulation orders were promoted under section 1 of the Road Traffic Regulation Act 1984 in the normal fashion, using the Local Authorities' Traffic Orders (Procedure) (Scotland) Regulations 1999, as amended, which we use for all traffic regulation orders, and they took the usual six to nine months from start to finish.

The Convener: Six to nine months?

Donald Gibson: It takes between six and nine months, yes.

The Convener: The area that is shown in the photograph is a tiny cul-de-sac. Are all three of the orders for areas that small?

Donald Gibson: Relatively so, yes.

The Convener: So there were particular difficulties in those areas—were they easily resolved?

Donald Gibson: An order was the best way of resolving the particular issues. We wanted to allow people to continue to park on the road but not on the footway. We prohibited parking on one side of the road and allowed parking on the other, rather than on the footways on both sides. As you can see from the photographs, there was a particular issue with the density of the housing in that area.

The Convener: Would it be difficult to implement a road traffic order on a larger stretch of road where there may be those kinds of difficulty?

Donald Gibson: From a technical point of view, there is absolutely no difference in promoting a traffic regulation order over a wider area.

The Convener: And from a practical point of view?

Donald Gibson: From a practical point of view, it would only mean a greater length of time to put together the order itself. However, during the promotion of the order, members of the public have the right to comment or object. The larger the area, the more likely it is that there would be some form of adverse comment or objection, which we would have to deal with.

The Convener: How much do you think it cost to promote the order in that tiny area in the photograph, including the signage and everything else?

Donald Gibson: Probably about £1,500.

The Convener: £1,500 for that tiny area.

Donald Gibson: Yes.

The Convener: If you were going to do a large stretch, would that cost much more?

Donald Gibson: Yes.

The Convener: The bill as drafted would possibly save the council a lot of money, as you would not have to promote a hotchpotch of various orders.

Donald Gibson: Yes, it would, but the reverse of the coin is that we would need to go through the same process of making orders for places where we wanted to be able to permit people to park on footways because of the density of housing. Those are likely to be larger areas, and therefore there would still be costs.

The Convener: Okay, the bill as drafted would allow you some flexibility over whether to enforce in certain areas, recognising local difficulties.

Donald Gibson: I did not see anything in the bill that gives us leeway in terms of enforcement. From my reading of the bill, the provision covers all footways unless we promote an order to say otherwise. If the provision was in place, we would be required to enforce it.

The Convener: Could you promote one ginormous order exempting all the areas you wanted to?

Donald Gibson: My understanding is not—sorry, yes, we could promote one order, but it would have to refer to lots of different streets.

The Convener: But one order.

Donald Gibson: Yes.

The Convener: Does anyone else want to come in on that point?

Murray Hannah: I referred earlier to the challenges of retrofitting the proposals into existing streets. Some of the costings in the background papers on the bill are very rough, but there were figures that suggested perhaps 10 exempt areas in Scotland, costing something like £500,000. I do not have figures, because the work has not been done, but I believe that in Fife we would potentially want dozens of exempt areas across various locations. The nature of the settlements, not just in Fife but in many places—

The Convener: Can I stop you there? In terms of that exemption, I ask the same question as I posed to Mr Gibson. Could you create one super-order, exempting all of the places in Fife that you think should be exempted?

Murray Hannah: Potentially, we could promote one order, but the point I am making is not about the technicalities and the legal issues in making an order but about the background work that would have to be done before we got to the point that we had an order and schedule to promote.

In Fife, I reckon that we would end up with a significant number of exempt areas. The reason for that is that many of the streets in many of our small towns and villages are designed for horse and wagon. We have all the coastal villages around the east neuk; we have many of the smaller mining villages in the south of Fife.

The point was made earlier about how we live our lives today. Given the level of car ownership among many families in those areas, I am envisaging that the bill will potentially swap one problem for another, bigger problem and we will end up having to manage displaced parking issues and chasing the problem around various different streets. That was the point that I was trying to make as regards the size of exempt areas.

The Convener: By the sound of it, you already have a fair indication of which areas you would

exempt. For example, you might exempt an entire village in the east neuk of Fife because you know already that the process would never work there to the degree that it should because of the horse-and-cart scenario. You already have that knowledge, do you not?

Murray Hannah: I have local knowledge and, from that knowledge, I am confident that there will be a number of locations, potentially whole small villages and perhaps smaller towns, where the exemptions may have to cover larger areas.

The Convener: I asked the previous panel about A and B roads and private roads because the bill seems to exclude them. What is your opinion on that?

Murray Hannah: I am content with the bill proposal to address all restricted streets. I do not think that there is any need for the bill to address unrestricted roads, whether they are A and B-class roads and in the rural environment or not.

David Armitage: The reference to restricted roads creates issues, because it is difficult for anybody to know whether a road is restricted or unrestricted unless they are very familiar with road traffic legislation and have copies of individual orders. By default, restricted roads are C-class and unclassified roads with street lighting. It is possible to pass orders to make A and B-class roads in urban areas restricted roads, but that is not how the Scottish Government advises councils to do things. The current advice says:

“All mandatory speed limits, other than those on restricted roads, should be made by order under Section 84 of the RTRA. This includes the making of a 30 mph speed limit on a Class A or B road in Scotland and any Class C or unclassified road which is unlit.”

If somebody is following current Scottish Government advice, A and B-class roads will not be restricted roads in the meaning of the term in the Road Traffic Regulation Act 1984. However, some of them might be, and people cannot tell by looking at the signs. People can easily tell whether a road has a 30mph speed limit, but they cannot tell whether it is a restricted road. For the public to understand it, the bill would probably have to be changed.

The Convener: In layman's terms, are you saying that A and B roads and private roads should be included in the bill if—

David Armitage: I am saying that most—but not all—A and B roads would be excluded as the bill is currently drafted and that all private roads would be excluded.

The Convener: So it would be easier to deal with the proposals if all A and B roads and other roads were included in the bill.

David Armitage: There might be other ways of drafting the legislation—for example, by referring to the speed limit, which might be easier to understand.

Donald Gibson: If the bill goes ahead, all roads should be covered, including private roads, because a private road is just a road that is maintained by somebody else; it is still a road in terms of—

The Convener: That is the kind of plain and simple answer that I like, Mr Gibson.

John Wilson: Mr Gibson, can I check that you said, “including private roads”?

Donald Gibson: Yes.

John Wilson: I understand that there are issues regarding enforcement in relation to private roads.

Donald Gibson: No.

John Wilson: There are no issues.

Donald Gibson: No.

David Armitage: No.

The Convener: That is a no then, Mr Wilson.

John Wilson: That is clear and definite—if a road is private, the police or traffic—

The Convener: I think that both Mr Gibson and Mr Armitage gave a resounding no as to whether there are issues.

John Wilson: I would be interested to hear from the superintendent.

Superintendent Candlish: I defer to the experts on that, to be honest.

The Convener: Thank you, superintendent.

11:45

Jayne Baxter: This question might have been answered already. Is an unadopted road the same as a private road?

Donald Gibson: Yes.

The Convener: I think that we have agreement from the witnesses there.

Jayne Baxter: Thank you. It was just a point of clarification.

The Convener: Gentlemen, what would be the main barriers to enforcing the bill? You talked about areas where enforcement is decriminalised and you talked about traffic wardens, city wardens or parking attendants who are used in particular areas. What are the main impediments?

Donald Gibson: The main problems would arise in areas of dense housing where there is insufficient parking to accommodate all vehicles.

Pressure would be put on local authorities to enforce the rules, and then we would be under pressure to provide additional off-street parking in residential areas. However, provision of residential parking is not in the remit of local authorities and we do not have budgets for that. That would be a major issue.

David Armitage: My authority does not have decriminalised parking enforcement, because we are a rural authority, so we do not carry out enforcement. If we had decriminalised enforcement, there would be difficulties, because we do not have the resources to appoint additional staff, and sending people round a large area would be quite difficult. However, in our case, the responsibility would fall on the police.

The Convener: There are rural authorities, or authorities that have large rural areas, such as Fife Council, that have decriminalised parking enforcement, are there not?

David Armitage: Yes.

Murray Hannah: Yes.

The Convener: Aberdeenshire Council sends folk all round its area to do things, so what would be so difficult about doing that in relation to the bill?

David Armitage: I do not think that we would be in a position to respond to a report. Our existing parking attendants who work on council car parks can go to a particular area, but they would not be in a position to dot around a diffuse rural area responding to reports.

Murray Hannah: In Fife, where parking enforcement is decriminalised, if there was an issue in a residential or rural area outwith a town centre, the reality is that we would—whether that area was near the town centre or out in the sticks—arrange for parking attendants to patrol the area. However, there would not be an instant, real-time response; the response would have to be planned. For example, action would be included in plans to expand beats or whatever. That means that people's expectations might not match the reality of what would happen and the timescales for action.

I fear that there is the potential for us to get involved in a load of neighbour disputes, because parking issues in residential areas are often caused by local people and require local solutions. We might find ourselves drawn into the middle of all those local disputes, with people saying, "The legislation is there; someone needs to be here right now to sort all this out." Dealing with such local issues would be a significant challenge for local authorities, given all their other priorities.

The Convener: Such disputes already go on. That is probably why Mr Gibson issued his three traffic regulation orders.

Donald Gibson: Yes.

The Convener: Let us move on to the financial memorandum, which the Finance Committee has not yet looked at. I am well aware that all the witnesses have talked about resources and, after today's statement by the Chancellor of the Exchequer, I think that we will all be talking about resources, or the lack of them, for a fair while to come.

I am well aware of the amount of money that is usually available for orders and other action by roads officers. I was a local authority member for 13 years, and I know that everyone round the table—apart from Cameron Buchanan—will have had the same experiences as I have. Do you want to comment realistically on the financial memorandum?

Donald Gibson: It is difficult to put some sort of cost on the bill. We recently implemented the Disabled Persons' Parking Places (Scotland) Act 2009, which meant that we had to have some regulations. In South Lanarkshire, we spent just over £600,000 on that piece of legislation to put in the necessary signing and lining for all the disabled persons parking bays. We also have to maintain those and keep them going.

The council would need to find an initial capital outlay to implement the bill, and the amount involved would require to be updated regularly as things changed in various areas. If the rate of car ownership increases, as it has been doing recently, the costs could spiral year after year.

Murray Hannah: The 2009 DPPP act has been mentioned, so I will take the opportunity to talk about it briefly. We introduced a substantial number of enforceable bays as a result of that legislation. I do not have an exact figure, but we have spent approximately £500,000 on infrastructure.

The Convener: We are talking about something—the DPPP act—that is completely and utterly different from the proposals in the bill. Jackie Baillie's DPPP bill was pretty resource intensive, which was well known to begin with, was it not?

Murray Hannah: Yes, but I am talking mainly about infrastructure costs for signs and lines and so on to make the bays enforceable. That is where a significant part of the cost comes from.

The Convener: What do you mean by enforceable bays?

Murray Hannah: The 2009 DPPP act—

The Convener: I am sorry—you are going back to that, but I am talking about the bill that is before us.

Murray Hannah: I am sorry—I thought that you were talking about the DPPP act. With regard to the bill, I see the biggest cost coming from exempt areas, as I said. In Fife, I would envisage a significant number of those areas. To introduce an exempt area would require some heavy street engineering in terms of signing and lining, aside from the cluttering that would arise. An infrastructure cost would be attached to introducing town-wide exemption areas; that is where the cost would come from.

The Convener: Why do you think that that would require a huge amount of signing and lining?

Murray Hannah: In London, which has areas that are exempt from such legislation, councils have to introduce signs to indicate that parking is permitted on a footway and so on. Similarly, we would have to introduce additional signage to give effect to the TRO that we would have to introduce to override the bill.

The Convener: Sometimes I think that we overcomplicate things. I do not see the need for signing anywhere, to be honest, but that is my personal opinion. We overdo the signs in almost every aspect of road traffic orders. Does Mr Armitage want to comment?

David Armitage: To implement a road traffic order, we need a level of signing and lining to make the situation clear. I agree with the previous comments. In London, parking bays are usually marked out, partly on the footway and partly on the carriageway, and there are signs to indicate that parking is permitted. I see no real alternative to that. We might be able to create a special parking control area with signs for vehicles going into and out of it, but I am not quite sure whether that would work. I defer to colleagues with more experience of special parking control areas.

Donald Gibson: If the bill was passed, we would want to permit people to park partly on the footway, but only over certain sections or lengths of road in a residential area. For example, we would not want people parking near a junction, where a vehicle would block visibility.

At present, although people might well park in those areas, they cause an obstruction when they do so. A local authority could not mark a parking bay in such an area. We would need to start and stop the controls along each length of street, and delineate the beginning and the end of the parking areas. The Traffic Signs Regulations and General Directions 2002 dictate the required signing and lining, and there is a regulatory requirement to put

a sign at the start and the end of the regulated area and every 60m therein.

The Convener: Does Superintendent Candlish have anything to say on the financial memorandum?

Superintendent Candlish: Police Scotland deals with myriad issues each day to keep communities safe. If the bill was introduced, it would give more clarity on this issue. There would almost be non-cashable savings, and it would perhaps add clarity. Police Scotland would incur no extra cost.

The Convener: Thank you very much for your evidence.

Meeting closed at 11:55.

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