



OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Economy and Connectivity Committee

Wednesday 12 September 2018

Session 5



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RURAL ECONOMY AND CONNECTIVITY COMMITTEE

22nd Meeting 2018, Session 5

CONVENER

*Edward Mountain (Highlands and Islands) (Con)

DEPUTY CONVENER

Gail Ross (Caithness, Sutherland and Ross) (SNP)

COMMITTEE MEMBERS

*Peter Chapman (North East Scotland) (Con)

*John Finnie (Highlands and Islands) (Green)

*Jamie Greene (West Scotland) (Con)

*Richard Lyle (Uddingston and Bellshill) (SNP)

*John Mason (Glasgow Shettleston) (SNP)

*Mike Rumbles (North East Scotland) (LD)

*Colin Smyth (South Scotland) (Lab)

Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

*Maureen Watt (Aberdeen South and North Kincardine) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Anne Cairns (Scottish Government)

Kevin Gibson (Scottish Government)

Peter Grant (Scottish Government)

Joanne Gray (Scottish Government)

Gordon Hanning (Scottish Government)

George Henry (Scottish Government)

Kat Quayne (Scottish Government)

Stephen Thomson (Scottish Government)

Chris Wilcock (Scottish Government)

CLERK TO THE COMMITTEE

Steve Farrell

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Economy and Connectivity Committee

Wednesday 12 September 2018

[The Convener opened the meeting at 09:01]

Interests

The Convener (Edward Mountain): Good morning and welcome to the 22nd meeting in 2018 of the Rural Economy and Connectivity Committee. I ask all people present to ensure that their mobile phones are on silent. Apologies have been received from Gail Ross and Stewart Stevenson.

Agenda item 1 is a declaration of interests. I welcome Maureen Watt to her first meeting of the committee and invite her, as a new member of the committee, to declare any interests relevant to the committee's remit. That is in accordance with section 3 of the code of conduct for members.

Maureen Watt (Aberdeen South and North Kincardine) (SNP): Thank you for the welcome. I am delighted to be on the committee. As some members will know, I am a farmer's daughter and my brother still farms, but I have no financial interest in farming.

The Convener: Thank you. I record the committee's thanks to Kate Forbes for her contribution to our work while she was on the committee.

Transport (Scotland) Bill: Stage 1

09:02

The Convener: Item 2 is our first evidence session on the Transport (Scotland) Bill. Due to the large number of topics contained in the bill, the evidence taking will be structured in three parts. Part 1 will cover buses and smart ticketing, part 2 will cover low-emission zones and parking and part 3 will cover road works, canals and regional transport partnerships.

We will take evidence today from three groups of Scottish Government officials. I welcome to the first session Tasha Geddie from the Transport (Scotland) Bill team; Peter Grant, who is team leader for bus policy; Gordon Hanning, who is head of the integrated ticketing unit; and Kevin Gibson and Alison Martin, who are solicitors in the legal department.

John Finnie (Highlands and Islands) (Green): Good morning, panel. I am going to ask questions about buses and smart ticketing. How will the bill improve the provision of lifeline rural bus services?

Peter Grant (Scottish Government): The bill sets out new and improved options for local authorities to address bus services in their area. We have set out three tools, the first of which is a new partnership model. The second tool is access to local franchising, which is where the local authority would compete in the market for bus services at set times in the year, and the third is for a local authority to run bus services directly or at arm's length. That applies to supported services and not commercial services.

The bill also offers provisions on information for bus users so that bus operators will share more information on fares, routes, timetables and so on. The last aspect is that if an operator deregisters a service, the bill gives local authorities the power to ask that operator for patronage and revenue information on those services. All of those tools will be available to local authorities.

You said that you were particularly interested in the rural sphere.

John Finnie: Yes. How would those tools enhance what is there at the moment?

Peter Grant: There are quite a lot of different tools—I am not sure which one you are particularly interested in. We have tried to improve the framework of existing options. Tools already exist in the Transport (Scotland) Act 2001, for example quality partnerships and quality contracts. We have tried to improve those and go beyond them. We have also looked at direct running of bus services. Are there particular issues that you are interested in delving into?

John Finnie: Yes. There is frustration that, as we understand it, what is seen as a very good model—the Lothian Buses model—is not an option. Will you explain the legislative barriers to having a public operator operating successfully on a commercial basis, as Lothian Buses does? Why are those barriers not addressed by the bill?

Peter Grant: You are right to characterise that as not being addressed by the bill. Lothian Buses is the only remaining example in Scotland of a municipal bus company. There are a number down south—they are companies that were put at arm's length from councils back in the 1980s. Through deregulation most of them were sold off to the private sector. At the time, however, Lothian Buses was not sold off, so it remains council owned. Lothian operates commercially and can compete in the commercial market, like First or Stagecoach.

John Finnie: Why does the bill not facilitate other local authorities responding in a similar way?

Peter Grant: The reason why we focused on supported bus services is that we had a full public consultation towards the end of last year. The issues that local authorities brought to the fore applied to cases, particularly in rural situations, where they already had the power to support bus services, which they do by putting them out to tender.

There are cases where no bids come forward, or just one bid, and local authorities are concerned about the price being high—essentially it is a monopoly situation. That was the specific problem that we sought to solve with the provisions in the bill. However, as you say, that is constrained to the supported-service end of things, not to the commercial end.

Colin Smyth (South Scotland) (Lab): Would you accept that if there is a disincentive to local authorities to set up municipal bus companies, and if Lothian Buses can continue with that model but no other local authority can do so, the bill would maintain a two-tier system? If there is a two-tier system, and commercial bus companies could bid for franchises, would local authorities also be able to bid for franchises?

Peter Grant: Strathclyde partnership for transport, under the powers that it inherited from being a passenger transport authority—essentially those powers were transferred to SPT—can already run buses, including in the commercial space. So far, it has chosen not to do so.

There is also an exemption in the Transport Act 1985 for islands authorities, although I think that you are interested in local authorities more broadly.

Colin Smyth: Yes. With respect, SPT and the islands do not cover the whole of Scotland. I live in Dumfries and Galloway. Under the bill's provisions, Dumfries and Galloway Council would not be able to set up a company to run bus services, except for those services that currently make a loss. That is different from Lothian, so why do the provisions not apply to the whole of Scotland? Using Dumfries and Galloway as an example, would the council be able to bid for a franchise in its area under the bill's provisions?

Peter Grant: I have tried to lay out our thinking behind the bill, which focuses on supported services. Since the bill was published we have had a number of discussions with stakeholders. Engagement on the bill has been going on for several years, but at recent information sessions and one-to-one meetings it has become apparent that there is some interest among certain authorities and stakeholder groups for a Lothian Buses model to be possible.

It is important to stress that although the bill does not provide for such a model, we are looking into the considerations around it.

Richard Lyle (Uddingston and Bellshill) (SNP): When a new transport bill was mooted, some of us hoped that it would improve transport and improve buses. I live in the SPT area and I am sorry but the current system does not work for me or my constituents. Are we missing a trick here? I had hoped that councils could run their own services in areas where the service is poor. We have got people out there who cannot get a bus after 6 o'clock or who cannot get a bus at a regular time. Can we not be bold and allow councils, even those that are partly in pay to SPT, to have a Lothian-type system?

Peter Grant: I am not sure that I can say much more about what the bill does and the rationale for where we are. We have had some discussions on the Lothian-style model and the commercial model. We would be looking into things such as competition and state-aid considerations to make sure that those things were safeguarded. The work has not been done on that yet, but those are considerations that we would have to take into account.

We recognise that Lothian runs good buses. The situation there has evolved over time, and we would want to be very careful not to do anything that would have unintended consequences that would undermine the Lothian model.

The Convener: We are at a slight impasse here because some of our questions relate to policy and are probably more appropriately directed at the minister when he comes in.

John Finnie: The committee is aware from other work that we have done that the research

shows a significant decline in bus numbers due to increased car use, increased bus fares and increased journey times. Are there any measures in the bill that specifically address those issues?

Peter Grant: We are very mindful of that. We started by looking at bus patronage, which has been declining since the 1960s at least. You are absolutely right to compare that with car use and car ownership, which are the most closely correlated trends. It is important to say that bus patronage is not uniform across Scotland. The Scotland number is very much driven by Glasgow and Strathclyde, which has seen a more severe decline than other areas, but even in other areas we are seeing issues with bus patronage.

Recent work by KPMG on behalf of the Confederation of Passenger Transport tried to tease out why that patronage decline has taken place. We have a lot of discussions about that. Congestion is one issue that keeps coming back to us, and the tools that we have put in place are put in place with that in mind. For example, the bus service improvement partnership model gives a framework and a set of tools for local authorities to work with bus operators to tackle things like congestion that get in the way of a good, efficient bus service for the bus user. That is one tool that is in place to tackle bus patronage.

09:15

The Convener: Jamie Greene has some questions on bus service improvement partnerships.

Jamie Greene (West Scotland) (Con): Good morning, panel. I will try to bunch some of this up, and I appreciate that some of these questions might be for the cabinet secretary. You said that consultation on this subject has been taking place for quite some time. Do you have an idea of how many local authorities would like to set up or operate a bus service?

Peter Grant: The consultation gave us a good view of what local authorities thought of all the tools. We can happily provide you with the numbers.

It is fair to say that we are at quite an early stage, with the bill having just gone public. Local authorities are interested in having a framework of tools and some of them are interested in using particular ones. We have seen that from news stories, and we have had conversations with individual authorities that have said that they would like to run bus services directly. There are other areas where there is interest, but local authorities are not fully signed up to them because they have not seen the detail of the proposals in secondary legislation.

Jamie Greene: To give the committee an idea of how relevant this part of the bill will be, can you say whether we talking about a handful or dozens?

Peter Grant: A handful of municipal services are saying that they are very interested, and other authorities have come forward since the bill has been published and the discussion around the commercial end of direct running has begun. It is an emerging picture, so I do not have a set number.

Jamie Greene: Is it possible that there has not been more interest because the bill, as Richard Lyle said, does not open up adequate opportunities for local authorities to operate viable services? My understanding of the explanatory notes is that local authorities cannot operate a service if an existing commercial service is operating in the market, and they could only operate a service on what are classed as “unmet public transport need” routes. It is quite unclear how you define an area where there is unmet public transport need. Is that an area where there is no service running, where there is a poor service running or where a commercial operator has pulled out, which is commonplace across many of our constituencies?

Is it the case that it is simply not going to be commercially viable for any local authority to operate a service and that is perhaps why there has been less interest than we would have imagined?

Peter Grant: Local authorities’ ability to run bus services directly or at arm’s length is dealt with under section 63 of the 1985 act and the powers for local authorities to meet an unmet need. It is something that local authorities do as their meat and drink. They look at their communities and look at what bus services are necessary to serve those communities adequately, then they look at which services are provided commercially already. Currently, when they determine that there is a gap—an unmet need—they go out to tender to the private sector. All we are trying to do is extend the power for them to run those services directly.

We have had a number of conversations, chiefly with the Association of Transport Co-ordinating Officers, which very much welcomes that tool and says that it will be helpful, especially in cases where local authorities are not getting any bids for their tenders and would like the ability to run a service directly. There is some frustration that there is not the ability to do that uniformly across Scotland.

Jamie Greene: I wonder—

The Convener: Jamie, I am sorry, but we are running out of time. It is an interesting problem and it seems strange to me that we have got to

where we are with the bill, after a lot of consultation, and we still have not bottomed out whether authorities want to do what they now seem to be expressing a wish to do. I cannot understand why that has not come to light earlier. Maybe we can put that question to the minister.

I am going to have to move on. Peter Chapman, can you ask a very succinct question on the subject that you have said that you want to ask about?

Peter Chapman (North East Scotland) (Con): I will be as succinct as I possibly can. My question is about bus service improvement partnerships. The bill proposes the abolition of statutory bus quality partnerships and their replacement with BSIPs. We are told that a local transport authority would not be allowed to proceed with a BSIP if a “sufficient number” of bus operators that would be affected by the proposals object to it. We are not told what a “sufficient number” might be, but it seems to me that that allows bus operators a veto over any BSIP proposal.

The Convener: Sorry, but I asked for a succinct question. If we can keep them sharp, I will be able to fit in more questions and answers.

That question was to you, Peter Grant. May we have your short answer to that, please?

Peter Grant: I will try to be as quick as possible. In essence, the BSIP model tries to put a framework around a negotiation, so that local authorities and bus operators can sit down together and look at what communities need and what is required to deliver those things. You are right to home in on the voting mechanism, and the detail of that will be set out in regulations.

A local authority will put together a plan for a partnership for a given area. As you say, the partnership can only go ahead if the bus operators agree to it, so it is very much a negotiation done together. The local authority will want good, frequent bus services. It might look at maximum fares, for example, and have some control over that aspect. The bus operator, for its part, would perhaps want action on congestion and parking, for example. For the partnership to go ahead, it is important that both operators and the local authority buy into it.

The Convener: Peter, did you get your answer to what “sufficient number” means? What does it mean?

Peter Chapman: Have you any idea what a “sufficient number” means? The answer confirms what I said: that the bus operators de facto have a veto over the whole system, because if a certain number object—we do not know the number—then it will not go ahead.

Peter Grant: It is fair to say that if a large number of operators do not want to take part in the partnership, it cannot go ahead. The local authority would be expected to look at the other options that we put forward, in that case. What a “sufficient number” means is not laid out in the primary legislation. We are looking to set that out in regulations. It is quite a sensitive model to try to understand, as it involves not just the number of operators in the area but their market share. We want to work on that model with local authorities and bus operators and make sure that it is set at the right level for Scotland by regulation.

The Convener: I fear that we are not going to get that answer until the cabinet secretary comes in.

Richard Lyle: If legislation refers to a devolved matter, we can approve it or we can amend it. You have mentioned the 1985 act. Let me throw another act at you. No bus quality contracts have been established since the Transport (Scotland) Act 2001 came into force. I think that we passed that one. Why do you think that the local service franchising proposals in the bill will meet with more success than the quality contract provisions of the 2001 act?

Peter Grant: We have had a number of conversations with local authorities, RTPs and others to try to improve what was laid out in the quality contract provisions of the 2001 act. One thing that we consulted on, which had a great deal of support, was removing the entry bar to quality contracts, or to franchising, as we are calling the new thing. Previously, the formulation was that quality contracts had to be necessary to implement the relevant general policies, and that was seen as too high a bar for them even to be attempted. We have worked with local authorities around the entry point and we have lowered that bar for the local authority to enter into an assessment for a franchise.

We have kept other checks and balances, because it is such a large intervention in the market. We have had quite a lot of positive comments about the franchising offer that we have put forward.

Richard Lyle: You said “franchise”, but you can only have a franchise if you are going to do the whole thing. You have said that councils cannot run a service if people object or if people are running it themselves privately or through a bus company. Where is the change for councils? I do not see any.

Peter Grant: I need to explain more clearly the different options that we have. Previously, we were talking about partnerships, and, yes, the bus operators must agree to those. For a franchise, a local authority must do a business case and prove

that it has looked into all the considerations around that, and the operators do not have to agree to it. It is a power for the local authorities to go down a different route, if they wish to.

The Convener: I suspect, Richard, that when the cabinet secretary comes in, you will be grilling him, and I suspect that Peter Grant will relay to him the pressure that he is being put under here.

Richard Lyle: I apologise to Mr Grant if he feels any pressure.

The Convener: I think that he dealt with it very well. I notice that Gordon Hanning is looking nervous because he will be the next one up.

Maureen Watt: I would like to ask about the smart ticketing proposals in the bill. Given that the Scottish Government already sets smart ticketing technical standards and processes for most public transport through the national concessionary travel scheme and rail franchise contracts, what is the purpose of the smart ticketing proposals?

Gordon Hanning (Scottish Government): You summarised it very well. We want to build on what we already have in the concessionary travel scheme and the rail franchise. We want to encourage and enable a national infrastructure: a common platform that will make it easier to introduce smart ticketing and smart ticketing products consistently across the whole of Scotland, regardless of whether it is for the concessionary travel scheme or some other part of the public transport network.

Maureen Watt: But the proposals, as far as I can see, rely on local authorities implementing smart ticketing schemes. Other countries, such as the Netherlands, have national integrated smart card schemes. We have been talking about smart ticketing and smart cards and everything for decades, and nothing seems to be happening. One of my worries is that now people just swipe their card—let us say on London transport—and do not know whether they are getting the best deal on their tickets or not. There is still little or no crossover in terms of using both the tram and the bus, for example, whereas in other countries people can use their tickets on all modes of transport.

Gordon Hanning: There is a slight difference: there is the ticketing system and then there is the infrastructure that underpins it, which is what this legislation focuses on. The ticketing products, which might exist on paper or on smart card today, are still largely a matter for operators.

Maureen Watt: How is the bill going to make things different and better for the passenger?

Gordon Hanning: We believe that it will encourage the creation of that common platform. That is what you see in any country in Europe: a

consistent infrastructure for ticketing to operate on. It should make it a lot easier for operators to collaborate on the ticketing and fare system that you have just described, and also for local authorities, where there is a need and a demand, to create that multi-operator provision in an area.

Maureen Watt: To go back to my point, we have been talking about it for years and the operators have not done anything. They have not collaborated to make it better and easier for the passenger to use public transport.

Gordon Hanning: You are right. They have done a lot of stuff, but they have not maybe done it as quickly as we would like to see. That is precisely why we want to put in place the provisions in the bill—to try to inject a bit more pace into what is already happening. We want to encourage and enable the provision of a national common infrastructure, because without that we will always struggle to provide something that is consistent for passengers across Scotland.

We want to create a national advisory board for ministers, through which operators, local authorities and passenger representatives can come together and advise on the right way to develop and use prevailing technology, again with a view to making all this easier. We want to clarify the powers that are available to local authorities to set up multi-operator schemes and arrangements in their areas.

09:30

Colin Smyth: I am seeking some clarity. In 2012, the Government announced that it was introducing the saltire card—a national multimodal smart card—but you are now saying that you are enabling the industry to do something. Has the saltire card effectively been binned?

Gordon Hanning: No. The card is out there and has been there for years. What we want to do is to make things progressively easier for all. In Scotland there are 200 bus operators, 13 ferry operators, a tram operator, a subway operator and five rail operators. We are trying to encourage and make it easier for them to operate on a common platform. That does not mean that we force them all to use the saltire card; some operators have chosen to develop their own version of the card. We are seeking—and we have had a lot of success already—to make all those cards, however they are branded, operate in exactly the same way.

The Convener: So, there will be a good excuse for Stewart Stevenson to bring out the six or seven cards he brings out at every committee meeting to say that he has to use them all.

Jamie Greene: That last answer really highlights the problem. There are multiple operators all running different schemes with no standardised technology. It is a very confusing picture from a consumer's point of view. You can get multiple cards. Some people have no idea which card does what, or on which mode of transport or in which part of Scotland they can be used. The pricing models are different across every operator.

Surely the Transport (Scotland) Bill, from a policy point of view, was an amazing opportunity to do something about that and create some standardisation from the top down, through a Government-led policy that took the initiative and put an end to that hugely complex and fragmented marketplace for the consumer. Why did it not do that?

Gordon Hanning: I think that we are trying to encourage and enable that common platform.

Jamie Greene: You are setting up an advisory board and you are enabling national standards. That is not, to me, taking the lead in solving this problem.

Gordon Hanning: We would expect the operators to pay the cost of providing that infrastructure, in the same way as they would put tyres on the buses, for example, so we felt that it was important that the operators had a say in the technology and the migration. Technology develops very quickly. It is about both the operators agreeing when to introduce a new type of technology and what the migration path should be towards that new technology, and it is about operators advising the minister of their thoughts on all that. We are trying to encourage and enable that national platform with this legislation.

The Convener: Thank you very much. I fear that that is another thing on which the cabinet secretary will be pushed harder when he comes in.

I suspend the meeting to allow officials to change over.

09:33

Meeting suspended.

09:34

On resuming—

The Convener: We continue our evidence session on the Transport (Scotland) Bill with Scottish Government officials. We will now look at low-emission zones and parking. Tasha Geddie is still in place and we welcome Stephen Thomson, who is head of environmental and sustainability policy; George Henry, who is the policy manager

for parking; and Anne Cairns and Clare McGill, who are both solicitors.

Peter Chapman: We are on low-emission zones now, folks. As I understand it, there are two ways to operate an LEZ. You can either place a ban on certain classes of vehicle and impose a penalty for non-compliance on them if they come in, or you can impose a charge to enter the LEZ if the entry criteria are not met, which is the system that is in operation in London. Why has the Scottish Government chosen the first option?

Stephen Thomson (Scottish Government): We asked in the consultation in November whether the penalty option or the charge option would be favoured. The penalty option was slightly more favoured than the charge option. That is the first reason for the decision: stakeholders were asking for that. Scottish ministers have also had a long-standing policy on road pricing, which is effectively what a charge would be. The powers exist for road pricing but at this point in time, the Scottish ministers' view on road pricing is that they are not in favour. That is the second reason why the ban route was chosen.

There is a third option as well, which is essentially a ban as a form of access restriction. It prevents the dirtiest vehicles from entering a space, whereas a charge would allow those dirty vehicles to enter the space if a person was willing to pay a fee. There is a fairness and equity element in terms of going down the ban route.

Peter Chapman: I understand that. Your last bit of the answer leads me on to the next question. The effectiveness of an LEZ is dependent on the scheme design. The Scottish ministers will set out the emission standards, vehicles that are exempt and penalty charges in regulations rather than in the bill. Can you provide any indication at this point of what might be in these regulations? Do you have some detail of how the system is going to operate?

Stephen Thomson: Yes. We have outlined a series of proposals in the consultation. We felt that the parity with similar LEZ schemes across Europe, for example, in relation to emission standards, going towards a Euro 6 standard for diesel and a Euro 4 standard for petrol, would provide a basis for the Scottish LEZs to be among the most ambitious in Europe.

As you say, we have a series of regulation-making powers on things such as penalties and exemptions. We listed a number of exemptions in the consultation, including holders of the blue badge or a derivative of the blue badge, and blue-light services. We talked about vehicles that provide essential services, such as road gritters, road sweepers and so on. Other topics that have come up in discussion with businesses include

vehicles that are involved in funeral services or weddings. Those are the types of topics that we would want to explore in the regulations for exemptions.

Peter Chapman: Have you any thoughts on what the penalty charges are likely to be?

Stephen Thomson: We have had thoughts. The top end of the charge was set by guidance from Anne Cairns in relation to what the maximum fine could be. We have included an option within the bill that there can be an escalation of or surcharges to the penalty so that the penalty might start at a relatively low level, perhaps akin to a speeding fine, but can escalate depending on the number of offences. That, again, is where we would want to take a regulation-making power, but we have tried to follow existing legislation, where it is already in place. Anne Cairns might want to give examples here, but something at the level of a speeding fine might be a reasonable place to begin in relation to the penalty charge, and there could perhaps be an escalation thereafter.

The Convener: Anne, do you want to say a bit more on this? There are different levels of speeding fine.

Anne Cairns (Scottish Government): The standard speeding fine might be around £60, but we have not come to any conclusions about what the actual fine will be. It will very much be a process of taking the evidence as the bill goes through, and then ministers will make a final decision. The regulation will state the actual amount in due course.

Peter Chapman: If you are saying that, the first time that you come into an LEZ with a vehicle that should not be in an LEZ, you will be charged £60, that seems very harsh to me. That is just my comment.

Anne Cairns: No final conclusions have been come to on that. It is still a process that is being worked out. The amount will be set in the regulations.

Peter Chapman: When do you think that some of these details might be forthcoming? Do you have a sense of the timescale? It is very important that we know more about this.

Stephen Thomson: Yes. To give you a flavour of where we are at, we are starting right now to develop the outline of what regulations will look like. We do not want to be in a place where the bill goes through its due process, receives royal assent and then and only then do the regulations start being developed. That is not what the local authorities want, and it is not what we want. In terms of a rough indication of timescale, we will probably develop the outline of the regulations between now and Christmas and then, between

Christmas and summer, finalise what they would look like in tandem with what the parliamentary process identifies.

Jamie Greene: Good morning to the new panel members. There is a tremendous amount of good will in the committee and probably around the Parliament for the intentions of an LEZ. However, there is also a huge amount of concern outside of the walls of this building, particularly among drivers and people who reside in potential LEZs and also among businesses that operate in LEZs, around the possibility that there may be different schemes operating—different grace periods and exemptions—on a city-by-city basis. Do you recognise some of those concerns? What are you doing to address them?

Stephen Thomson: Yes, it is a valid point that the schemes in some instances could be different. We have listened to what local authorities have asked for and they essentially ask for two things that seem to be diametrically opposed. They ask for consistency in terms of emissions standards, penalties and exemption lists, but they also ask for the powers to create their own LEZ based on either the size, the scope or the timing, which is fair enough because the local authorities are best placed to understand the air quality challenges that they have.

The point that you make about communicating to members of the public what the differences are is well made. For example, we know that Glasgow is looking at a suite of vehicles in its LEZ but if another city decides to include, for example, buses and only private cars, we have to communicate to members of the public and businesses that, for example, heavy goods vehicles or light goods vehicles are not included. That is where the work must happen during the grace periods to let those businesses and individuals know what the differences are.

Jamie Greene: I appreciate the flexibility that is allowed to determine, for example, the geographic areas of the zones, which streets are not included or the time of day, depending on the needs of that city. However, surely a scheme that means you can drive in one city but not in another will cause tremendous amounts of confusion for businesses and commuters. Can you also clarify whether it is likely that there would be exemptions for residents, by which I mean private car operators? The London scheme, for example, offers a fairly substantial discount scheme on the opt-in version of such a zone. Do you think that it is right that people who reside within LEZs should be penalised for driving their cars to and from their home simply because of where they live?

Stephen Thomson: That point about residents living in LEZs was identified during the consultation exercise. That is the reason why we

have included an additional grace period in the bill. The grace period, on the face of it, is for all vehicles and then there is an additional grace period for residents who live within an LEZ. They have an additional period of time to adapt.

Jamie Greene: But a grace period has an end point. It is a temporary exemption, not a permanent exemption. Why is there only a grace period and not a plan to provide permanent exemption for residents?

Stephen Thomson: It is a case of working in tandem with how the fleet looks just now versus how the fleet might look at the end of the grace period if the maximum grace period is taken. The fleet is naturally going to evolve anyway towards a Euro 6 standard and away from the older vehicles, but you are right that there will be some residents who, even at the end of an extended grace period, will still have vehicles that are non-compliant. There will be people who will have to adapt as part of the LEZs being put in place.

09:45

Jamie Greene: When you say “adapt”, what you are talking about here, for the benefit of the members of the public who are watching today’s proceedings, is that people who perhaps are stuck with older vehicles, perhaps people who cannot afford modern vehicles and rely on their vehicle, will in effect be faced with a daily fine to commute or travel around their own cities. Is that the potential scenario?

Stephen Thomson: Yes, that is one scenario.

John Mason (Glasgow Shettleston) (SNP): The next issue that we want to address is parking, and specifically parking on pavements, footpaths or footways, or however we describe them. In my constituency, there are quite a lot of streets where the road is quite narrow, the pavements are reasonably wide and it makes sense to put two wheels on the pavement. The police come to community meetings and they say to residents, “You should put two wheels on the pavement. That makes sense. It keeps the roads flowing and it keeps the pavements clear.” Can you explain to me why we are going down this road of a blanket ban, with the councils having to exempt certain roads, rather than just saying that, where there is a problem, the council would have the power to ban pavement parking?

George Henry (Scottish Government): When we discussed this through our public consultation and with stakeholders, it was felt that a national ban would be the best approach. The bill requires local authorities to undertake assessments of their roads to determine which roads should be exempt. For the ones that you have described, these will be set out in the ministerial direction and collated

in our parking standards document, which will identify which streets can be available for exemption. That would ensure that there is a consistency in assessment and implementation across the parking elements of this bill. The process of exempting streets will be set out in regulations that are made under section 44 of this bill.

John Mason: I wonder whether it would not have been easier for a council to list the streets where parking is not allowed on the pavement. Would it not be more onerous on the councils to list the streets where it is allowed on the pavement?

George Henry: From our discussions with local authorities, it was certainly felt that, because the number of streets that will be exempt will probably be lower than the number of streets where people parking on pavements is causing problems, the approach that we have taken was deemed to be an easier one for local authorities. They will promote exemptions on a smaller number of streets than they would if it were the other way around.

John Mason: To take a slightly different angle, there already is a ban on driving on pavements. I have always wondered about this because, clearly, if you put two wheels on the pavement, you are driving on the pavement. Is that not already banned?

George Henry: No, it is not. It is not illegal to park on a footway, as matters stand. It is illegal to drive on one and, granted, you have to drive on one to get your car there. Certainly, there is an issue with people parking on footways. It causes great difficulties for some road users, including vulnerable road users. That is why we are seeking to iron that problem out and make it clear that it is illegal to park on a footway.

John Mason: Moving on to the question of enforcement, I understand that in some areas it would be the council that would enforce. Am I right in saying that in some areas it would be the police that would enforce? In both cases, do they have to enforce? Would there be any penalty on a council that just ignores the new legislation and allows parking on pavements, or would there be some way to force the council or the police to enforce?

George Henry: The bill confers the powers for all 32 local authorities to enforce the new restrictions on pavement and double parking. It will be up to the local authority to identify how it wishes to carry out that enforcement but there is a commitment to an annual report that we will be putting before the Scottish Parliament to identify the successes of the bill or otherwise and identify which local authorities are carrying out their duties appropriately.

Richard Lyle: In my constituency, there are streets where the pavements are quite wide on both sides but, as John Mason said, the roads are quite narrow. There will be a problem in some areas with cul-de-sacs, where people can drive in but when they reach the hammerhead, the only way out is to reverse. Will councils have to consult regarding exemptions for pavements? Will they be able to amend the exemptions over the years? Will there be a system whereby the public—say people in a particular street—can contact or petition the council to amend and allow them to pavement park?

I welcome the bill, which will be good for people who are in wheelchairs and especially young families and people with prams. I abhor people parking on the pavement but, sadly, as John Mason said, there are occasions when you just cannot go anywhere else.

George Henry: Local authorities will undertake assessments under the provisions in the bill and, when identifying streets that can be exempt, they will be required to use our parking standards document. As I said, section 44 will confer on ministers the power to set out regulations for the process of exemptions. We are discussing that with local authorities at our parking stakeholder working group. We realise that there might be historic streets that do not necessarily lie within the criteria, and we will need to consider those as we go through the process. First and foremost, we are trying to fix irresponsible parking, but we want to work with local authorities, because they know their streets best, so that we can get the best model to fix the problem, support the policy and assist with parking provision for local authority streets.

The Convener: As part of my background reading, I looked at the document “Roads for All: Good Practice Guide for Roads”, which Transport Scotland published in July 2013, and which I am sure you know your way around absolutely. It lists footway widths and talks about ramps and blistering to allow people to identify crossover points. In light of the fact that on-street parking will be allowed in certain areas, will that document have to be rewritten so that people can move from one side of the road to the other in the situation that Richard Lyle mentioned, where it might be a requirement for people to park on pavements?

George Henry: That document will not need to be rewritten. We are working on a parking standards document with a range of stakeholders, including the local authorities, the Convention of Scottish Local Authorities and Living Streets. We are working in partnership with them to discuss the footway widths where we can allow footway parking. The early discussions are that that would support the “Roads for All” guidance. For example,

about 2m is the narrowest footway that we need. That would allow two wheelchairs or a double buggy to pass. As we develop the parking standards document with our stakeholders, we will very much take cognisance of “Roads for All” and work through it.

The Convener: My understanding is that, if there is a 2m-wide walkway on one side of a road, a 2m-wide walkway might not be needed on the other side, but good practice dictates that it should not be less than 1.5m. However, it does not stipulate whether that is on both sides or one side of the road.

George Henry: Yes, that is correct. We would look at that in working with local authorities. They are best placed to assess their streets and they know what is best for their areas. When a local authority is doing an assessment, it could allow a narrower footway on one side, provided that the crossing points remain free and that people can pass from one side of the street to the other as safely as possible.

Maureen Watt: Why does the bill not propose a ban on parking in front of dropped kerbs? That issue is particularly important for people who have mobility impairments.

George Henry: That certainly is a problem, and we are currently discussing with stakeholders which dropped kerbs could be in scope. When we are doing that, we will identify whether we can take that forward under secondary legislation. That is the current plan. Discussions have taken place. There will be a national ban on parking at known crossing points where there is tactile paving for the visually impaired, but we are looking to take that forward under secondary legislation.

Maureen Watt: So you need to distinguish between dropped kerbs that allow people to get their cars in front of their house and narrower bits where people with wheelchairs or buggies can cross.

George Henry: Yes. It is about identifying the difference between a crossing point and a domestic driveway. One of the big things that we have considered with stakeholders as we have worked through the policy is the impact of the displacement of vehicles. For instance, in many housing estates or streets, there are one-vehicle driveways but two or three-car families. There could be the opportunity for them to continue to park in front of their driveway. As long as the crossing points and known crossing points for wheelchair users or visually impaired people are still free, there will still be a safe mechanism for them to cross the street.

Mike Rumbles (North East Scotland) (LD): We are all interested in effective legislation and we are certainly not interested in ineffective

legislation. To me, section 47(6) as written could drive a coach and horses through the purposes of the bill as far as parking on paths is concerned. It states:

"The parking prohibitions do not apply where ... the motor vehicle is, in the course of business ... being used for the purpose of delivering goods to, or collecting goods from, any premises, or ... being loaded from or unloaded to any premises ... and the vehicle is so parked for no longer than is necessary for the delivery, collection, loading or unloading and in any event for no more than a continuous period of 20 minutes."

If we say,

"no more than ... 20 minutes",

that will become the standard practice. In other words, the result that I see is that, if someone is trying to enforce the bill, people will say, "I'm allowed to park here for 20 minutes." Then another vehicle will arrive to unload or collect goods, and the driver will think, "I can stay for 20 minutes." Whereas the current law says that somebody has to be in a vehicle that is doing that—the driver, a passenger or somebody else—under the bill, they will be able to wander off.

I am concerned that footpaths will be blocked for vulnerable users, whether that is disabled people or mums and dads with prams. We are welcoming a bill to ensure that people do not park so that others can have free access but, to me, section 47 drives a coach and horses through the whole thing. If section 47(6)(c) just stopped at "loading or unloading" and we removed

"and in any event for no more than a ... period of 20 minutes",

that would be helpful.

Jamie Greene: Why do you not try to amend it?

Mike Rumbles: I am coming to that. If the Government does not amend it, I certainly will try.

George Henry: We have been discussing that issue with stakeholders since the bill was published. You are right to point out that a delivery vehicle may park on a footway during its course of business while loading or unloading if it cannot reasonably be done without parking on a footway. Therefore, delivery drivers should first seek to find a parking space or loading bay, and only if they cannot find one can they park on the footway.

However, parking on a footway does not necessarily mean that they should be causing an obstruction. The current law is that drivers should not be causing an obstruction. We are looking to identify in the parking standards document what should be accepted or otherwise, but we are not promoting anybody blocking a footway to vulnerable users. We are trying to strike the balance between keeping pavements, footways and roads as safe as possible and allowing

businesses to operate and keep the economy going.

10:00

Mike Rumbles: We have the same interests. Everybody agrees with what you have just said—that is the aim. Our job is to look at problems with the proposed legislation that you present to us, and I have identified that as a really big problem. What you say is all very well but, in defence, a lawyer will turn round and say, "But the bill says people are allowed to stay here for 20 minutes. It does not say you have to allow a gap to allow somebody through; it says you can load or unload for 20 minutes, and in fact the next guy can do the same." If we want to achieve the objective, section 47 needs to be rewritten.

George Henry: There is already primary legislation in place under which people are not allowed to cause an obstruction. The bill relates to issues less than obstruction and the other irresponsible parking methods that happen.

Mike Rumbles: Yes, but section 47(6) is a legal defence against prosecution. If I were a lawyer looking at this, I would say, "My goodness, people are not going to be prosecuted, because the law that is going to be passed will clearly allow them to do it."

The Convener: The committee will have the chance to question other witnesses on that subject. All members probably have some sympathy with Mike Rumbles's point. If the period is 20 minutes and someone sits in their lorry and moves it forward 1.5m, does that mean they are in a different parking space and therefore they are not causing an obstruction and the 20-minute period starts again? There are all sorts of valid questions here. It would be interesting for George Henry just to give a short answer and we will perhaps quiz more people on the issue as the evidence sessions continue.

George Henry: We are discussing the issue continually with stakeholders as part of the parking standards working group. To be clear, first and foremost, people need to try to find a car-parking space or loading bay to carry out that duty. It will be down to enforcement officers to enforce the measure efficiently and to ensure that people do not behave disreputably. I reiterate that there is current legislation that says that people should not cause an obstruction.

The Convener: I am sure that that would be easy to do where there are lots of parking enforcement officers, but it might be difficult in more remote places.

Richard Lyle: Does the bill also apply to car parks? We often go into a car park and somebody

has paid the entrance fee or whatever but has stupidly parked on a pavement that is not a designated space. You might say that it is up to the company that owns the car park to do something about it. Does the bill cover that?

George Henry: No. The bill covers only on-street parking.

The Convener: Thank you for clarifying that.

I will suspend the meeting briefly to allow for a changeover of witnesses.

10:03

Meeting suspended.

10:04

On resuming—

The Convener: In our third session this morning on the Transport (Scotland) Bill, we will look at road works, canals and regional transport partnerships. Tasha Geddie has sat through all three sessions, so I am not going to welcome her again, but I welcome Kat Quane, policy officer on road works; Joanne Gray, policy manager on regional transport partnerships; Chris Wilcock, head of ports, shipping, freight and canals; and Kevin Gibson and Claire McGill, who are both solicitors.

Colin Smyth: I will start by asking a question about road works. In what circumstances would you anticipate the Scottish road works commissioner using the proposed inspection powers within the bill?

Kat Quayne (Scottish Government): I will outline the context in which the commissioner would use his inspection powers. At the moment, roads authorities can have an inspection regime for undertakers. The commissioner obviously has to look at both sectors—the roads authorities and the utilities—so he can look at either one. He can gather information, he can do specific site inspections and, at the moment, he has a limited range of compliance powers. He can issue fines, but he does not have any powers to address things on site as they arise or if there is a specific issue that needs a quick resolution. That would be the context for the use of inspection powers.

Colin Smyth: How will the compliance notice regime work in practice given the limited resources and powers of the commissioner?

Kat Quayne: A review of the Office of the Scottish Road Works Commissioner that Transport Scotland carried out in 2016 identified that he was limited in not having the powers to directly go and find evidence himself, and it identified that the office might have to be

expanded to cover an inspection function. It would not necessarily be the commissioner himself who would go out and do inspections; he would need inspectors who would act for him.

Colin Smyth: How does the bill improve circumstances for disabled people when road works are being carried out? Are there any provisions in the bill that make improvements there? Also, am I right in saying that “Safety at Street Works and Road Works: A Code of Practice” is legally binding in the rest of the United Kingdom but is purely a code of practice in Scotland? Why is that the case and should it have been tackled in the bill?

Kat Quayne: That is absolutely right. The safety at street works code of practice is legally binding for roads authorities, highway authorities and undertakers in every other part of the UK. In Scotland, it applies only to the undertakers. I am not entirely sure of the history of why that is. Perhaps Kevin Gibson could answer, as that was before my time.

The bill puts the code on a statutory footing for roads authorities as well. There are also changes to the number of qualified operatives who are needed on a site and the type of qualification they need—the street works card, as we call it.

The Convener: You looked for help on that and Kevin Gibson almost looked away. Do you want to add anything?

Kevin Gibson (Scottish Government): I cannot speak to the history of why the code is binding in England and Wales but not here. What I can say is that evidence of compliance with the code in Scotland is evidence that you have complied with the duties, so the converse is to some extent also the case—evidence that you have not complied with the code is evidence that you have not complied with the duties. The code has an element of a legal effect here but it is not completely binding as it is in England and Wales.

Colin Smyth: Is there a reason why we did not make the code binding as part of the bill?

Kat Quayne: The bill makes the red book, which is what we call the safety code, mandatory for roads authorities. The original safety code was endorsed by the Scottish Executive. It is a very old document. I do not know why that did not happen at the time, but the bill makes it applicable to roads authorities. The Health and Safety Executive enforces it in that way as well; that is the standard that it looks to.

John Mason: On regional transport partnership finance, I understand that, rather than the actual expenses being shared around the constituent councils, estimated costs will be used in future. Presumably, that would mean that, if expenses

were slightly lower, there would be a fund left over and the partnership could carry that forward. What would happen if there were a deficit? Would the RTP carry the deficit forward or would that be dealt with in some different way?

Joanne Gray (Scottish Government): At the moment, the bill does not provide for a deficit, and the RTPs do not carry a deficit. They are required to have a zero balance at the end of each financial year. Although in practice that seems quite difficult to achieve, what normally would happen is that any excess funds would be transferred to one of the constituent councils of a partnership and then come back to the partnership at the start of the following financial year.

John Mason: The funds are effectively lent to the council at the moment, or is that the future plan?

Joanne Gray: At the moment, the funds transfer to a particular council in an RTP and then come back. I do not know whether the transfer is a loan. I would not like to call it a loan.

John Mason: It is not that the money is handed back to, in Strathclyde's case, the nine local authorities, and then we start again fresh in the new year. I am trying to clarify the difference between what is going to happen and what has happened in the past, but as I understand it the aim is to allow them to carry forward excess funds.

Joanne Gray: Yes. It is just to make it a little less clumsy than it is just now.

John Mason: I see.

Joanne Gray: It is just to create that extra flexibility, so that there is no transfer of funds. The funds will just sit where they are.

John Mason: The funds will be carried forward. Presumably, it is possible that RTPs will have a deficit because they have to overspend on the subway or something. In that case, will they then by 31 March have to get more money from the councils or could they carry that deficit forward and hope to make it up the following year?

Joanne Gray: Until now RTPs have not carried a deficit and we would not envisage that they would do so going forward. According to my local government finance colleagues, it is not good practice to carry a deficit. It has not happened up until now, so I cannot answer that question.

The Convener: Jamie, you had a question on this. Has what has been said sufficiently answered it?

Jamie Greene: Partially. Perhaps I could follow on from Mr Mason's line of questioning on carrying over funds. I believe that the legislation will now enable regional transport partnerships to borrow money and by default, I suspect, accumulate debt

as a result of the borrowing. Given that some of the other elements of the bill allow for greater opportunity, for example, to set up bus franchises and other types of public services, and given that RTPs are funded by local authorities, is there any worry that by giving RTPs the ability to borrow funds on the wider market, you are in effect creating an opportunity for local authorities to accumulate debt to fund infrastructure or subsidise public transport? What is the policy rationale behind that?

Joanne Gray: RTPs have had borrowing powers since the Transport (Scotland) Act 2005. What the bill does is place more responsibility on them to comply with the regulations that came in in 2016. Until now we are not aware that there has been a problem with that. RTPs are required by a suite of local government finance regulations to ensure that they can afford whatever they borrow and, ultimately, they are accountable to their board, to their constituent councils and to Audit Scotland.

Jamie Greene: Are there any additional duties or changes in how RTPs will be structured, monitored and managed in future, or is the bill just tinkering around with the financials as opposed to the structures of RTPs? At any point was there any discussion around whether the bill could look at the wider issue of the success, or lack of success, of RTPs?

Joanne Gray: No, the bill does not look at that. It is really just a technical amendment to allow that flexibility. There are other pieces of work on-going at the moment, such as the national transport strategy review, that are looking at such issues and at the future of transport governance in Scotland.

The Convener: Mike Rumbles is itching to ask the next question.

Mike Rumbles: I am, convener, because I want to ask about canals. They may be at the end of this session, but they are very important. I am well aware of the work that has been done on canals running into the city here in Edinburgh and the canal festivals. They are regenerative of whole areas and it is a very positive thing that has been happening, but recently there have been problems when the canals have been blocked. In the bill, we have a section tinkering with the numbers on the board of Scottish Canals. Does the Government have any concerns about the backlog of maintenance? What about placing a duty on the board to ensure that our canals are kept open and navigable? This would be an opportunity to do that.

10:15

Chris Wilcock (Scottish Government): It is worth saying that what is in the bill is really a technical point to give ministers the flexibility to alter the structure of the board in the future if they chose to do so. When the board was set up, it was restricted to six members, mainly to take the organisation forward following separation in 2012. In discussions that we have had about some of the complexities and the opportunities facing the canals, it has been suggested that we might want to look at varying the position and creating flexibility to bring in additional expertise or indeed to reflect some of the expertise that the executive team might have. That is very much what we are looking to do in the bill.

In relation to the other things that you mentioned, the Transport Act 1962 and the Transport Act 1968 already set out how canals are supposed to operate, and they have provision on what Scottish Canals is supposed to do to keep the canals open to all users. We are working very closely with it in relation to the challenges that we have seen in recent times. Those have been partly addressed through some additional funding that Transport Scotland and the Scottish ministers have been able to give. We are also looking at how we can help Scottish Canals with funding on other areas in the future.

It is important to highlight that the work that Scottish Canals has done to identify the asset management backlog is a responsible piece of work. The assets are ageing and complex and it is important that Scottish Canals understands the work that it needs to do to make sure that the structures are there for the future.

Mike Rumbles: On a technical point, as I understand it there is no requirement in the 1962 act for the board to ensure that the canals are navigable. That is my question. Should we not be using the bill as an opportunity to give responsibility to the enlarged board for ensuring that Scottish canals are kept navigable?

Chris Wilcock: My understanding is that the existing legislation provides for a responsibility for the canals to be kept navigable.

Mike Rumbles: Does it?

Chris Wilcock: That is my understanding of how the legislation is now.

Mike Rumbles: Could the Government check that and let us know?

The Convener: It has been mentioned to various people that Scottish Canals is investing in properties such as holiday lettings and shops rather than investing in canals. It would be useful for the committee to have some feedback on that.

Chris Wilcock: Certainly, that point has been raised with us in our engagement with stakeholders, particularly in light of the challenge that we have at the moment. I have asked Scottish Canals to undertake a piece of work on this because the challenge has been put to it a number of times that it is spending money and attention on non-canal-related activities. It is important to note that the income that is generated from non-canal activities comes back in on an annual basis and grows the investment pot to support the canals going forward. I have asked Scottish Canals to do some work on that to make those points clearer to people, because I think that it is important that that is recognised.

The Convener: All businesses know that the core asset is what you invest in, not necessarily the ones that generate short-term income. I will leave it there if I may.

I thank all those who have given evidence this morning on the three panels. There are various questions that we did not get through, which is very much where I anticipated we would be at the end of the meeting. The clerks will, subject to everyone agreeing, submit those questions to Tasha Geddie, and we ask her to respond to them through the clerks.

I ask the officials to remain in place while we deal with the next item of business, because after that we will be moving into private session and it does not seem appropriate to break now.

Subordinate Legislation

Scalpay Island, Isle of Skye, Scallops Several Fishery Order 2018 (SSI 2018/245)

10:19

The Convener: Item 3 is consideration of a negative instrument on the Scalpay scallops. The instrument grants an exclusive right to fish for scallops in the area of Scalpay island, near the Isle of Skye. The Scottish Government wrote to the committee to clarify several points that I raised as committee convener. We have received no motions to annul the instrument.

Does the committee agree that it does not wish to make any recommendation in relation to the instrument?

Members *indicated agreement.*

The Convener: The committee now moves into private session.

10:20

Meeting continued in private until 12:28.

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