



OFFICIAL REPORT
AITHISG OIFIGEIL

Culture, Tourism, Europe and External Affairs Committee

Thursday 10 October 2019

Session 5



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CULTURE, TOURISM, EUROPE AND EXTERNAL AFFAIRS COMMITTEE
24th Meeting 2019, Session 5

CONVENER

*Joan McAlpine (South Scotland) (SNP)

DEPUTY CONVENER

*Claire Baker (Mid Scotland and Fife) (Lab)

COMMITTEE MEMBERS

*Donald Cameron (Highlands and Islands) (Con)

Annabelle Ewing (Cowdenbeath) (SNP)

*Kenneth Gibson (Cunninghame North) (SNP)

*Ross Greer (West Scotland) (Green)

*Stuart McMillan (Greenock and Inverclyde) (SNP)

*Mike Rumbles (North East Scotland) (LD)

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

*attended

THE FOLLOWING ALSO PARTICIPATED:

Lucy Carmichael (Scottish Government)

Neil Coltart (Glasgow City Council)

Peter Dallas (Hampden Park Ltd)

Emma Harper (South Scotland) (SNP) (Committee Substitute)

Ben Macpherson (Minister for Europe, Migration and International Development)

Andrew Niven (Scottish Football Association)

Michael Short (Union of European Football Associations)

Kirsten Simonnet-Lefevre (Scottish Government)

CLERK TO THE COMMITTEE

Stephen Herbert

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Culture, Tourism, Europe and External Affairs Committee

Thursday 10 October 2019

[The Convener opened the meeting at 08:47]

UEFA European Championship (Scotland) Bill: Stage 1

The Convener (Joan McAlpine): Good morning, and welcome to the 24th meeting in 2019 of the Culture, Tourism, Europe and External Affairs Committee. I remind members of the public to turn off their mobile phones. Committee members who are using electronic devices to access committee papers should ensure that they are turned to silent.

We have received apologies from Annabelle Ewing, and I welcome Emma Harper, who is attending as a substitute member.

The first item on the agenda is the committee's continued consideration of the UEFA European Championship (Scotland) Bill at stage 1. I welcome to the meeting Gillian McNaught, senior solicitor for licensing and democratic services for Glasgow City Council, and Neil Coltart, the council's group manager for trading standards; Andrew Niven, project leader for the Scottish Football Association; Peter Dallas, managing director of Hampden Park Ltd; and Michael Short, legal counsel for the Union of European Football Associations. Welcome, and thank you for coming to give evidence to us this morning.

I have a couple of questions for UEFA first. I know that you were here last week to listen to our first evidence session with the Scottish Police Federation and others, Mr Short. You will be aware that there was some discussion about the timetable for the proposed legislation. When did you first make it clear to the Scottish Government that primary legislation was needed?

Michael Short (Union of European Football Associations): First of all, thank you for welcoming me to the committee this morning. I appreciate the chance to speak to you.

In the bidding process that took place a significant period of time ago, the original bid dossier documentation mentioned primary legislation being a possibility across the board for all host cities. In the case of Scotland or Glasgow specifically, in the feedback to the bid when Glasgow was successful, there was a reference to the need for improved legislation, but the options

were left open to the host city, as they almost always are. The most specific reference to the need for primary legislation being made clear was in the early stages of 2019, when we had meetings in Glasgow. That was followed up by an official letter in April 2019.

The Convener: But I understand that the cities were agreed in 2014.

Michael Short: Indeed, yes, and that was the earliest stage at which legislation, or at least legislative tools of some sort, were mentioned to all host cities as a matter of need in order to meet the standards that are outlined as the rights protection programme.

The Convener: My understanding is that not all host cities or countries are introducing primary legislation—four out of the 12 are, if I remember correctly. Why do some cities need primary legislation whereas others seem to be able to use regulations? I understand that, in England, for example, the measures are being taken by regulations at council level.

Michael Short: Absolutely—that is indeed the case. UEFA's position is that primary legislation is mentioned throughout the early stages of the bidding process as a possibility. It is often the easiest way for a host country to standardise the level of protection and to offer consistency and clarity to local businesses, the host association and the event organisers, such as us. That is why it is mentioned early on. However, it is not mandated. What is mandated is the level of protection, and the requirement level that is set out by UEFA and discussed with the host cities is equal and standard across the board. The tools to get to that requirement level are a matter for the host cities. We work with the host cities on their journey to get there, and they choose the route to get there, provided that they can get there.

For some host countries, primary legislation has been the obvious and/or the lowest-friction route. In other countries, secondary legislation, municipality decrees or changes to local authority byelaws are being utilised. In some other places, it is simply a case of using existing laws but reallocating resources in a different way and/or utilising temporary powers.

Given the unique nature of this particular Euro, which is taking place across 12 jurisdictions, 12 countries and 12 different sets of laws, meeting one requirement level is very difficult. Therefore, everybody has to use their own different tools to get there. We whole-heartedly welcome the Scottish Government's choice of route, given the benefits that primary legislation brings with it.

The Convener: The impression that we were left with last week, certainly from some of our briefing papers, was that there had been an

attempt to use regulations, and that there had been an on-going dialogue between the Scottish Government and you over time, which resulted in your insisting on primary legislation in the end. Are you telling me that that is not the case?

Michael Short: The way I would phrase it is that, yes, absolutely, there was an on-going discussion about whether existing laws, regulations and additional tools met the requirements. It took a long time to complete that discussion. UEFA has had to have that discussion across 12 countries, which is a very complex task for us to undertake. It took a bit of time.

When we got to the end of that discussion, it was clear from all stakeholders that primary legislation was the preferred route. We had physical meetings: we came over to discuss that particular issue at Hampden in early 2019 or late 2018, and every party around the table realised and agreed—I believe, anyway—that primary legislation seemed like the most efficient, pragmatic and proportionate route to take.

There was an on-going discussion. It is never mandated by us, but we sent a letter in April suggesting that primary legislation was the preferred course of action for all stakeholders—so, we did say that eventually.

The Convener: I will put this question to our witnesses from Glasgow City Council: why did it take so long to realise that you needed primary legislation, given that you had already had the Commonwealth games and you presumably understood the shortcomings in Scottish legislation around these matters already?

Neil Coltart (Glasgow City Council): On the trading and advertising provisions, I make it clear that we had on-going discussions over a period, including with Hampden Park Ltd, about the fact that the current legislation on trade and the potential restrictions to that trade would not have been effective in meeting the bid document requirements. It was hoped that there would be movement towards resolving the issues but, eventually, in January, we recommended that primary legislation would be the only route to fix the matter.

The Convener: You hoped that there would be movement from UEFA.

Neil Coltart: We hoped that there would be movement in general about what the plan would look like and how we would carry that out; we also hoped that there would be an understanding of the requirements on permissions to trade and advertise. On the core protections relating to ticket touting, advertising and street trading, it was clear that the current legislation would not have satisfied UEFA's bid requirements.

The Convener: Yes, but my point is that you should have known that quite a long time ago. Presumably, you knew that at an earlier stage. We are dealing with the bill at short notice and it is affecting our work programme in other areas, so the committee has a particular interest in knowing why things are so last minute.

Neil Coltart: I think that you would have to direct that question to the civil servants. We had always said in our discussions with colleagues in the council and with UEFA that there were shortcomings in the routine consumer protection legislation that we deal with. Those shortcomings were made clear over a considerable period.

Claire Baker (Mid Scotland and Fife) (Lab): I apologise for my delayed arrival this morning. Last week, we asked witnesses whether any lessons had been learned from the Commonwealth games. Those who were involved in the enforcement procedures at those games might want to comment on that. I know that you have recently started to have discussions with traders who will be involved this time round. Has any time been taken to look back at what happened during the Commonwealth games and consider whether there are any improvements or changes that should be made to the arrangements that were in place then?

Neil Coltart: In the course of carrying out the enforcement at the Commonwealth games and subsequently, we had a range of operational discussions about how we would do things slightly differently and how we would react to certain things. That experience has been used for other events, including at last year's European championships, albeit that that was not supported by primary legislation. We have certainly learned from the nature of major events about what we can expect in terms of people attempting to breach or inadvertently breaching the legislation.

In 2014, a number of businesses—I do not think that they were intending to breach the legislation—misunderstood or had not understood the association rights and the trading and advertising restrictions. Once we had discussions with them, they happily complied with the restrictions. Those lessons have been learned.

One of the bigger issues that we had was that a lot of businesses were well known for attempting to breach the rights of the host event, so we now have better preparations for that, should major events come back to the city. We have also shared that information with colleagues in the rest of Scotland and, indeed, the United Kingdom. During the Commonwealth games, we had a number of officers from different authorities assisting us with activities who were perhaps not as used to major events as the people who work in Glasgow are.

Claire Baker: We had a letter from the Crown Office and Procurator Fiscal Service—I am struggling to find it—that I think said that there were four prosecutions for ticket touting. Those were the only prosecutions that went through the criminal process. Did you have any?

09:00

Neil Coltart: None of those cases was reported by the enforcement officers. I understand that they may have come from Police Scotland, which had similar powers during the games.

Claire Baker: You have spoken about lessons learned, and so far you seem to have talked about involvement with businesses. When the Scottish Police Federation was in front of us last week, it raised issues about working relationships and what was expected of the police with regard to enforcement. I do not think that those issues were documented or reported, as it was more a reflection on how the process operated during the Commonwealth games. The federation said that there were instances of conflict, which were mainly about what enforcement officers expected police to do. Do you recognise that, or see it as being an issue in the future?

Neil Coltart: No, I do not recognise it. Given the size of the operation and the occasional need to co-operate with the police, which we did routinely, there were differences of opinion about the nature of enforcement, which we would discuss with the police and resolve.

There were a couple of incidents when there was a misunderstanding by the games authorities about delivery to Lesser Hampden by a couple of companies, which was resolved in a couple of minutes. I understand that it did not impact in any way on the police's ability to carry out their functions and it certainly did not impinge on the reputation of the games or the organisation.

I worked with the police all day every day and am not aware of any big issues. There would occasionally be resourcing issues, which meant that either we or they could not help each other, and they were resolved by discussion—they were not a big issue.

The Convener: So you can assure us that the police officers will get their lunch this time. There was some suggestion—

Neil Coltart: They got their lunch last time.

The Convener: Did they?

Neil Coltart: There was a delivery by two companies that were providing facilities to Lesser Hampden. They were in vans and lorries that had a lot of advertising that was not part of the sponsorship arrangement. The organising

committee felt that that was an intentional breach of the restrictions, but it was not; it was a practical issue. If drinks and food are to be delivered to a venue by particular companies, the reality is that the vans and lorries delivering them will have branding on them. After discussion, nobody at the organising committee, nor us or the police, had any issue with that.

There had been issues with other companies that deliberately parked advertising vehicles in the commercial zone that had to be removed—I think that that was why it was raised.

Mike Rumbles (North East Scotland) (LD): I start with a question to the representative of UEFA. You were aware of my concerns at last week's meeting, and I have read your response to them.

I will remind you that we had had a little discussion about primary legislation and regulations; with primary legislation, our job is to interrogate the law of the land that we are making, which applies to everybody equally. I am a bit surprised by section 2(4), which is about ticket touting. We all want to see an end to it, and legislation is an appropriate way to deal with it.

In your response after last week's meeting, you said:

"UEFA only seeks an exemption from the ticket touting offence for the purposes of ensuring that the initial sale of tickets by UEFA ... is not caught by the offence and, therefore, prohibited."

Then it says:

"UEFA has absolutely no intention of 'touting' tickets in the usual sense of that phrase."

I am a bit surprised about that because, if we are banning ticket touting, we should be banning just that—the sale of a ticket above the price on the ticket. I do not understand why section 2(4), giving UEFA exception from the law of the land, is there at all. I also do not understand the point you make when you say that you have no intention of doing that, when that is not what the law says.

Michael Short: Thank you for the questions. I will try to clarify our position further. UEFA is the sole seller of any tickets for UEFA Euro 2020. It does so at a profit—we sell our product. For that reason, the wording of the bill may regard a sale by UEFA as a sale for profit, which would then be caught by the definition of touting in the bill, which refers not only to sale above face value, but also to a sale

"with a view to making a profit".

Section 2(2)(b) could be triggered by UEFA's right to sell the ticket originally. All we are seeking to do is to ensure that that sale is not prohibited.

Mike Rumbles: That is the point of my question. You are suggesting that we take out section 2(2)(b), which says,

“with a view to making a profit”,

because ticket touting would be caught by section 2(2)(a):

“in relation to the sale, or proposed sale, of a Championship ticket for an amount exceeding the ticket’s face value”.

Michael Short: I am not going to suggest that, because I feel that there is another secondary meaning behind that subsection, although I am not sure what it would catch. However, I am sure that the bill team would be able to clarify that point.

In our submission we referred to

“‘touting’ tickets in the usual sense of that phrase”.

We used the wording

“usual sense of that phrase”

because touting is a legal definition in the bill. Touting as defined in the bill potentially includes the original point of sale of an original product by us, for profit. That would prohibit us from selling tickets. In our written submission we said that we have no intention of “touting” tickets in the traditional sense, outside of the legal definition, meaning reselling a ticket in an exploitative manner at a price above the face value. That is something that UEFA will never do.

Mike Rumbles: Hmm. Our job is to ensure that the law is clear.

Michael Short: Of course.

Mike Rumbles: I understand exactly what you are saying. Your fear is that UEFA selling the tickets in the first place would be caught by the bill. Your concern relates to section 2(2)(b) and the phrase

“with a view to making a profit”.

When we get the minister before the committee, part of our job might be to suggest that that paragraph is removed, so that UEFA would not be caught by it. There might be an issue of us passing a law that appears to do something: if we pass this bill unamended, it would appear to give UEFA special status in relation to ticket touting and would allow it to tout tickets—if it wanted to do that. I understand the point. Thank you, Mr Short.

I move on to my question on enforcement. Last week, we heard from the Scottish Police Federation that the bill gives more powers to enforcement officers than police officers have. Section 16(2) says:

“Glasgow City Council may designate an individual as an enforcement officer only if the individual—

(a) is an inspector of weights and measures (appointed under section 72(1) of the Weights and Measures Act 1985), or

(b) meets such other criteria as may be specified by the Scottish Ministers in regulations.”

I come back to the difference between primary legislation and regulations. As members of the Scottish Parliament, our job is to interrogate primary legislation, because we can amend it—if MSPs across the board think that a bill could be improved by an amendment. However, we cannot amend Government regulations. As an individual, I am always wary of giving regulatory powers to ministers that members cannot amend.

We are considering primary legislation. If we allow Glasgow City Council to give greater powers than those held by the police to inspectors of weights and measures, that is fine, but the bill suggests that the council could appoint anyone according to regulations laid by the Scottish ministers, which we cannot amend.

What is Glasgow City Council’s intention in the appointment of enforcement officers? Are you going to appoint inspectors of weights and measures from Glasgow City Council and bring in others from other local authorities, or are you going to appoint other people?

Neil Coltart: The first point to make is that section 27, on police powers, makes sure that constables will have all the powers that enforcement officers will have. There will be no difference in the enforcement powers. The difference is that the police have the same powers as the enforcement officers would have, so there is not any—

Mike Rumbles: The Scottish Police Federation says that enforcement officers would have more powers than the police.

Neil Coltart: That is wrong.

Mike Rumbles: That evidence is wrong.

Neil Coltart: Yes.

Mike Rumbles: That is interesting.

Neil Coltart: I think a letter of clarification on that was submitted.

Mike Rumbles: Even if they have the same powers, the point still stands.

Neil Coltart: To your second point in relation to who we intend to have as enforcement officers, trading standards staff in Glasgow include people who are not inspectors of weights and measures. There are 20-odd staff within the trading standards section in Glasgow, and roughly half of them are inspectors of weights and measures. As the head of trading standards in Glasgow, I also happen to be the chief inspector of weights and measures for

the city of Glasgow, and it is a statutory appointment. However, not everybody who carries out enforcement is required to be an inspector of weights and measures, and section 16(2)(b) is there to make sure that people who are suitably qualified and experienced can carry out the enforcement role. I would not expect to appoint or second anybody who is not suitably experienced.

Mike Rumbles: In your view, they would be employees in this field in Glasgow City Council or other councils in Scotland.

Neil Coltart: Yes.

Mike Rumbles: You would not take anybody else. You intend to focus on those people.

Neil Coltart: It would be people who are enforcement officers within the trading standards and consumer protection public regulation field.

Mike Rumbles: Do you expect the minister to put that in the regulations that come before Parliament?

Neil Coltart: I expect the minister to give me the authority to designate, so that I can assess whether people are suitably qualified.

Mike Rumbles: That is fine; thank you.

Ross Greer (West Scotland) (Green): The point of the Scottish Police Federation's evidence that enforcement officers would have more power than police officers is that enforcement officers would have more power than police officers would normally have. Police officers will gain additional powers under the legislation—in particular, around whether searches can be conducted with or without a warrant and so on.

I will come back to that in a second. I would like to ask Mr Short a question. UEFA's written submission was useful. You will be aware that the matter was an area of substantial concern at our previous evidence session. You have confirmed that UEFA does not go into that level of detail when specifying the enforcement powers that a host country must give to enforcement officers, but there is a rights protection programme. How could the host country judge for itself whether it meets the criteria of the rights protection programme?

One of the committee's questions is whether specific enforcement powers are required. UEFA's written evidence says that it is not specified that they are required, so we are trying to figure out why they are judged to be necessary in this case. Could you detail how you expect a host country to judge itself against the rights protection programme? That would be useful.

Michael Short: I will try my best. On the specific question whether we give requirements about enforcement officers, there is absolutely no intention to require people who are not fully

qualified, authorised and experienced to undertake enforcement powers. We do not require a host city to go outside its normal process of using police officers and qualified local authority enforcement officers or trading standards officers. We always desire host cities to continue to use the resources that they have.

09:15

On whether a host city can judge itself against the rights protection programme, the process that we undertake involves us distributing what we call a legal matrix to the host cities, which we discuss at various meetings at which we receive inputs from many stakeholders in enforcement in each city. That document is standard across all 12 host cities, and details all areas of concern in our rights protection programme, including ambush marketing, counterfeit goods, unauthorised advertising, ticket touting and other more granular versions of those issues. The document is completed and then discussed around a table with all the stakeholders. Examples are put on screen and we discuss what tools are currently in place, who would use them and their effectiveness.

In our opinion, that is a very collaborative approach; it uses a standardised document across the board and involves responses being considered, reviewed and evaluated by everybody, with recommendations being made thereafter.

Ross Greer: I would like to drill down into specific concerns that have arisen relating to the powers to search property and to seize and destroy property. If those powers were to be held only by police officers—that is, if the proposal to give the powers to officers of the city council were taken out of the bill—would that still meet UEFA's requirements?

Michael Short: That would meet UEFA's requirements, provided that the host city was comfortable that it had the necessary resources to carry out enforcement. Who is involved in such activities is not defined or mandated by UEFA; what is mandated is that the activity can be done practically. Usually, sharing or defining of responsibilities is a question of resources, based on making sure that enough adequately trained and experienced people are available.

Forgive me for the long answer. The short answer is yes, but there is a resourcing question that lies underneath that.

Ross Greer: That is useful. Thank you.

You will have seen the evidence that has been submitted by the Scottish Police Federation. I would like clarification on the process that has brought us to this point. Did Glasgow City Council

advocate that the specific enforcement powers be given under the primary legislation to the council, which would appoint trading standards officers to carry out the duties?

Neil Coltart: The reality is that the powers are needed in order to carry out effective control of trading and advertising in the controlled zones. My expectation was that those powers would fall to the trading standards section, jointly with the police. I never made a recommendation that it should be either the police or trading standards that should be responsible. My position was based on experience of the Commonwealth games and a range of areas involving trade and brand protection, in relation to which trading standards services normally take the lead. However, it was not I who insisted on the extra powers. That said, they are necessary in order to carry out the control function.

Ross Greer: On the specific question whether enforcement officers need to hold the powers or whether they can use the services of the police where necessary, one of the concerns that were raised concerned enforcement officers' ability to search properties. There is a particular issue around the definition of the use of force to enter a property. Apparently, use of a locksmith would not be defined as use of force. The Scottish Police Federation expressed concerns about that.

Is it really necessary for an enforcement officer to be able, with the aid of a locksmith, to enter a property to search it when they could call on a police officer to do that? That is the kind of operation that any member of the public would regard as being one for which we would normally call on the services of the police. I am trying to figure out how much of a problem it would cause you if you had, in the specific circumstance of having to enter and search property, to call on the police to do that, because it will surely not be required often.

Neil Coltart: I agree that it is a resourcing question. Given the profile of the event and the fact that the police have other huge responsibilities, including counterterrorism and so on, in respect of protecting the public from all sorts of activity, I would not want a very short-term requirement—as the one that we are discussing will be, given the nature of the competition—to be delayed because we had to take police officers away from other activity.

I do not know whether it provides reassurance to know that we did not use the power to enter a domestic dwelling during the entire period of the Commonwealth games. We entered lots of business premises: I have powers under all sorts of other legislation to enter business premises and domestic dwellings that are used in conjunction with a business. Those are not unfamiliar powers

for us. They are phrased in different ways and are for different purposes, but trading standards staff deal with such matters routinely.

Ross Greer: Thank you.

Mike Rumbles: Section 21 does not give you the power to enter households. It says that, if you enter households, you have to be "accompanied by a constable."

Neil Coltart: I am sorry—

Mike Rumbles: As an enforcement officer, you do not have the power to enter a house on your own. Section 21 says that you must do it

"at reasonable times, and ... accompanied by a constable."

Neil Coltart: I should have been clearer. My point is that, if the police enter a house as the only authority that has that function, that will be taking two or more police officers away from other functions. If trading standards officers do it, with the support and consent of a police constable, we will take only one constable away from duty.

Mike Rumbles: The law—the bill that we are looking at—says "a constable."

Neil Coltart: Yes—that is what I am saying. Normally, for reasons of corroboration, if the police were to go into a domestic dwelling, or into any premises, they would take two officers, so we will be removing an officer from the process.

Mike Rumbles: There is not an issue of corroboration, because the enforcement officer will be there to corroborate. The bill says that you are allowed to enter only with a warrant issued by a sheriff and if accompanied by a police constable.

Neil Coltart: Yes; it is a police officer.

Mike Rumbles: In your answer to Ross Greer, you gave the impression that you had not entered any premises under the previous event but, even with this bill, enforcement officers will not be allowed to enter premises on their own.

Neil Coltart: No. I am acknowledging that.

Mike Rumbles: That is fine.

Alexander Stewart (Mid Scotland and Fife) (Con): We have touched already on the traders and the business community. Communications will be vitally important, and you have acknowledged what you have done in the past to engage with some of those people. What engagement have you had to date and what do you have planned that will inform as many as possible of the business community and traders in the relevant zones that will be affected in the process implemented by the bill that it will have an impact on their trade and business processes?

Neil Coltart: At the end of August, there were two public engagement sessions at which a

number of people were invited to view draft maps of the zones that will have some potential control over them or restriction on them. That type of process will continue. Once the legislative process is complete, assuming that that happens, we will have further public meetings. We will also engage with businesses that we know of and can identify as being within those areas to ensure that they understand the requirements and restrictions that are placed on them.

In addition, we will contact business and trade organisations to make sure that they are also aware. We will then use the normal public press process to highlight that there will be changes surrounding the Euro 2020 competition.

Alexander Stewart: How successful have the engagement sessions been? Did you get a reasonable turnout?

Neil Coltart: During the Commonwealth games, once the bill became an act and the regulations were in place, the attendance at public sessions was very good at each of the venues—there was more than one venue—and also at the business community engagement sessions. Once we are able to give much more detail about the boundaries of the planning areas and identify particular businesses, I expect there to be a reasonable turnout.

Alexander Stewart: For those who are unable to attend, will there be an online session to tap into? Not everyone will be able to turn up to a physical event, but they will still need to have that information.

Neil Coltart: We will certainly make sure that all the businesses that will be directly affected will be informed and given the opportunity to either engage at a public event or engage—I use the term advisedly—privately, because they may have individual questions that they do not necessarily want to go through at a public meeting.

Alexander Stewart: I move on to ask a specific question of the SFA. In the past, if there was an event of this nature, or a game involving the Scotland team, the SFA would usually operate its pop-up shop outside Hampden. Is it your intention to do something similar during this event if the Scotland team is successful?

Andrew Niven (Scottish Football Association): We would obviously work in tandem with UEFA on what we would be permitted to do around a potential Scotland match at Hampden park. Clearly, we understand that UEFA has exclusivity on the Hampden park campus and the commercial programme there. At the appropriate time, we would liaise directly with UEFA on that matter. My understanding is that we would probably not be permitted to carry out such

activity, as that programme would be run entirely by UEFA.

Emma Harper (South Scotland) (SNP): I am interested in the training of enforcement officers. Our briefing says that enforcement officers will be drawn from staff members in Glasgow City Council. How is training being planned? How will it be carried out? How many people will be required to have additional education? I am assuming that many of the trading standards enforcement officers will already have had experience from the Commonwealth games.

Neil Coltart: All the trading standards staff with one exception were involved in the Commonwealth games, and all of them were involved in the European championships last year, and similar large events. Some of us who are more mature were even at the previous UEFA events in the early 2000s. Some of us were even there in the 1990s and 1980s.

This bill has been drafted with the Glasgow Commonwealth Games Act 2008 in mind, or as an advisory source, and we therefore have a training package that takes the staff through not only the provisions of the bill and the regulations but the details of the planning areas and commercial zones. It also reinforces the council's enforcement provisions and policies for every activity.

Our preference is that businesses and individuals are encouraged into compliance before we take any formal enforcement action. That approach was borne out during the Commonwealth games, when all the activities that we dealt with, with the potential exception of the police reports in relation to touting, were dealt with by discussion and persuasion, rather than more formal reports to the procurator fiscal or similar activity.

I envisage that the training package for the UEFA European championships will be a half day of training on the detail of the regulations and the bill, and a further half day on areas such as trademarks and association rights to make sure that everybody in my team, and anybody else, is aware of the exact nature of the trademarks and the association rights.

Emma Harper: I assume that the training will require liaison with the police so that everybody knows about the various roles and to ensure that there is good communication and collaboration. If there is good liaison with the police, potential misunderstandings can be avoided.

09:30

Neil Coltart: We have already engaged with the police in relation to the events. As a matter of course, we will invite some police officers—I am

not volunteering to train the whole of Police Scotland—to the training so that they receive the same level of briefing as the enforcement staff.

Donald Cameron (Highlands and Islands) (Con): I want to return to the issue of primary legislation. Did the SFA have a role in the dialogue between UEFA and the Scottish Government about whether primary legislation was required?

Andrew Niven: Yes. As Mr Short said, when we looked at the feasibility of bidding for UEFA's Euro 2020 championships, we saw that its tournament requirements and bid dossier template made it clear that there might be a need for primary legislation. That need was reflected in our bid submission to UEFA and it was pulled up in UEFA's evaluation report in August 2014. There has been a process of on-going dialogue between the association and the various parties on the local organising committee for the UEFA Euro 2020 Glasgow project for a number of years about the potential need for implementation of primary legislation.

The convener expressed concern about the late arrival of the bill before the committee, but there has been continuing consideration of the need for primary legislation for a period of time, to which we have been party.

Donald Cameron: To be clear, your view was that primary legislation might be needed. You did not say whether you wanted it; you just thought that it was a potential requirement.

Andrew Niven: Having assessed the legal requirements as set out by UEFA, our view was that it was very likely that primary legislation would be needed.

Donald Cameron: Did you discuss the issue directly with the Scottish Government?

Andrew Niven: Yes. The team that is delivering UEFA Euro 2020 Glasgow is a partnership of the SFA, the Scottish ministers, Glasgow City Council, Hampden Park Ltd and VisitScotland. That team has been together from the outset of the process in 2013, when we considered the feasibility of a bid, and there has been on-going dialogue with officials across all the partner authorities about the need for primary legislation for a period of time.

Donald Cameron: As far as you are aware, was the Scottish Government clear that there was a potential requirement for primary legislation?

Andrew Niven: The Scottish Government was aware that it might well be a requirement. We wanted to fully investigate whether there were opportunities to implement the measures in a different way, but we were clear, as were Scottish Government officials, that a bill might ultimately require to be implemented.

Donald Cameron: I want to move on to a different issue. This question is for Mr Dallas. We have heard that the Hampden park event zone is based closely on the Commonwealth games event zone. Has an evaluation of how that zone operated during the Commonwealth games been carried out to inform the Euro 2020 event?

Peter Dallas (Hampden Park Ltd): Yes. As far as the campus is concerned, I can speak directly only for Hampden Park Ltd. I personally and Hampden Park Ltd have been involved since 1999. We were involved in the champions league final in 2002, the UEFA cup final in 2007, the Olympics football matches in 2012 and the Glasgow 2014 Commonwealth games. The size and scale of the event that is coming to Scotland is such that it is deemed to be the third-biggest sporting event in the world. Because of that, additional security measures must be deployed on the campus. Hampden park's defined property therefore needs to be expanded slightly so that it can have a security delineation that is slightly beyond the normal parameters of the stadium, which we term "the outer security perimeter", particularly to the north and east of the stadium.

The bill must assist Hampden Park Ltd and the SFA to meet the obligations that are involved in hosting such a tournament. The bill will also help UEFA to protect the commercial interests of the partners that are supporting the event.

For the event that will take place in June next year, the security perimeter will be slightly wider. We understand that various official licences are permitted within the vicinity of the stadium, but it is important to note that they are not permitted on Hampden's campus, which is private property, for any event at the stadium. In this instance, there will be a security perimeter. Any licensed traders that would normally fall within the security zone will be offered an opportunity to trade elsewhere. The four matches will be in addition to Hampden's normal busy schedule.

The same opportunity was offered to traders back in 2014 for the Commonwealth games. I cannot comment on how successful it was or whether any of the licensed traders took up the opportunity, but traders will again be able to take up the opportunity.

Donald Cameron: Was there a formal evaluation of what happened during the Commonwealth games at Hampden that will inform what happens next year?

Peter Dallas: In terms of what?

Donald Cameron: In terms of the event zone.

Peter Dallas: Glasgow City Council undertook a post-event review of the operations. The delineation of the campus for 2020 very much

follows the successful delivery of the Commonwealth games, where Hampden invited in about 480,000 people over 10 days. That worked successfully from Hampden park's point of view—we did not have any negative fall-out from that event, so it worked successfully. The template for the operation of the stadium this time will follow a similar pattern.

Stuart McMillan (Greenock and Inverclyde) (SNP): My first question is for Mr Coltart in particular. Within the zones in Glasgow, are there any car garages, particularly around Hampden?

Neil Coltart: Do you mean parking garages or service garages?

Stuart McMillan: I mean car sales garages.

Neil Coltart: There is at least one within the perimeter of Hampden, but there are none in the merchant city or George Square venues. There used to be a second one at Hampden, but I understand that it has ceased trading. There is definitely still one within the zone around Hampden.

Stuart McMillan: One of the main sponsors is a vehicle manufacturer. If there are any car sales garages that sell cars that are not from one of the main sponsors of the tournament, how will their advertising of their activities be dealt with during the championship period? I have seen the list of exceptions, but if that business attempted to carry out some additional activities that were deemed to contradict the law, how would that be dealt with?

Neil Coltart: We have some experience of car dealers attempting to make an association between themselves and an event. We would make sure that the garage was well briefed about what it could and could not do. As far as I am aware, there would be no intention of preventing normal trading from taking place. There would be careful scrutiny of whether the garage was attempting to make an unreasonable association between its business and UEFA or its sponsors. We would do that as part of the preparations for the regulations coming into force.

We will carry out a survey of the businesses—not just garages, but all sorts of businesses—in the areas that will be affected by the controls in order to get an understanding of exactly what they do and how they operate. We will then make sure that there are no unreasonable changes after the regulations come into force, particularly during the restricted periods around the competition.

Stuart McMillan: My next question is about another of the sponsors, which is a delivery company. What is to prevent a competitor company from hiring people to wear its outfits and go around the zones? If such people were stopped by enforcement officers or police officers, they

could say that they had just delivered something and were heading back to their vehicle. What is to prevent a company from, perhaps not flooding the zone, but putting in more people to do that kind of guerrilla marketing during the championship?

Neil Coltart: Because of the nature of our enforcement and preparations, we will have reasonable intelligence about what activity is taking place in each area. If we see a particular business attempting to misuse its freedoms in relation to business as usual, we will take that up with the business.

As was pointed out earlier, delivery vehicles, supply vehicles and all sorts of other things are inevitably branded, and nobody is talking about banning them from the surrounding area, provided that they are conducting their normal business. It would be a failure on our part if a series of vehicles that belonged to a sponsor's competitor were parked up or circling the area. We have had discussions with UEFA about what we need to do to control exactly that type of activity.

Stuart McMillan: The championship period is 1 June to 12 July 2020, but the eventual act will be repealed automatically on 31 December 2020. In effect, the act will still be in place even though you will clearly not be doing all the activities that you have mentioned after the championship period. What activity would you undertake if someone infringed on the provisions of the act after the championships?

Neil Coltart: The controlled zones will operate only for the dates that you mentioned. If we find anything during that period that requires to be followed up with a report to the procurator fiscal, we will continue to make those preparations after the competition has been completed. At that time, we might still need the powers, but we do not intend to do anything other than winding up any formal enforcement action.

Stuart McMillan: Mr Short, will you provide further information on the protections that UEFA's commercial sponsors require throughout the championship? What do they need and what do they want in order to deliver what they deem to be their outcomes from sponsoring the event?

Michael Short: I can speak to that to a reasonable extent. I will try to assist, although some of the detail might be held by our commercial sponsorship team.

Within the security perimeters, in the zones where people will require a ticket to attend a match, full exclusivity will be provided to sponsors to do what we call activations. They are promotions and advertising and, for licensees, the selling of products, for which they have exclusive rights. That applies in the tightest zone, which is within the security perimeter.

In the area within the commercial perimeter or the event zone, we are obligated to undertake the rights protection programme—that is where the sponsors benefit from the programme. In that space, as UEFA partners, they have a right to carry out the sole approved activations of any sort, whether that involves advertising by sponsors or sales by licensees. They can expect to be the only approved partners in that area, which is the event zone under the bill. Thereafter, we are obliged to undertake the rights protection programme to increase the protection and value of the rights within those areas. The areas are then negotiated with the host city.

09:45

Stuart McMillan: Is there a risk or a possibility that delivery on the ground will be slightly different in each of the host cities? Is it possible that, if a fan goes to a number of games in different cities—they would be lucky to do so, of course, given the costs—they will have different experiences, notwithstanding their being in different cities, within the controlled zones near each of the stadia?

Michael Short: The controlled zones will be of slightly different sizes and scales depending on geography, the stadia and where the fan zones are located, so people will have slightly different experiences. The commercial perimeters of the event zones will depend on the successful delivery of the rights protection programme. It is of course possible, or there is a risk, that a fan or spectator might experience an ever-so-slight difference in the delivery of the rights protection programme in each country because it is dependent on successful delivery by human beings, local authorities and police officers. They will all have—for want of a better phrase—different abilities and resources, and they will have good days and bad days. We cannot guarantee 100 per cent that people will have identical experiences. However, delivering the programme is the contractual requirement and the objective.

Stuart McMillan: I imagine that, after each championship, a great deal of work is undertaken to analyse its effectiveness in relation to UEFA's requirements. What lessons that UEFA has learned from previous European championships have you requested or demanded be implemented for the 2020 championships, notwithstanding that there will be a different format, with games being played in different cities?

Michael Short: You anticipated the first part of my answer in suggesting that the Euro 2020 championships will be a unique event. Experiences and lessons have of course been carried over from previous iterations, but there is

no real precedent for the Euro 2020 championships.

The primary lessons that we are carrying over relate to preparation, clarity and training. On preparation, dealing with 12 different jurisdictions requires more collaboration ahead of the event in order to manage expectations and set them at the same level, given the 12 different sets of laws. Given the distances between locations and the variety of locations and laws, we need to ensure that there is no uncertainty and that we increase clarity for local businesses, our sponsors and the fans.

Another lesson that has been learned from previous championships is that we can never do enough to provide guidance and information to relevant stakeholders in advance of the event. We have done that before—the work is not new—but we are committed to trying to do it even better by using new techniques, which may be digital or online. We also want to ensure that there are resources on the ground by getting people to help with the training and guidance that Mr Coltart hinted at. UEFA thoroughly supports that work and will provide resources to help to provide the training and distribute the information.

Donald Cameron: I return to the subject of ticket touting. My colleague Mike Rumbles asked Michael Short some questions about that, and I heard what he said about not wanting to be caught by the “for profit” element. I have reread UEFA's submission, and I want to be certain on the matter. Is there any scenario in which UEFA would sell tickets at more than face value?

Michael Short: I am not a ticketing expert and I am not part of the ticketing department, but my answer is no. The face value is the face value. We are the original seller of the ticket and we will always sell it at face value. Even through the resale platform, a ticket will be resold to another spectator at the same price. That is part of the terms and conditions of the resale platform.

The Convener: You will be aware of last week's committee discussion about the potential charity auctioning of tickets—the Scottish Police Federation raised that issue—which you have addressed in your written submission. To be perfectly honest, it is not absolutely clear from reading your submission what the position is on people auctioning tickets for charity. Although you do not demand that that be made illegal, you will still have certain rights.

Will you clarify the position for us? If someone wants to auction UEFA tickets for charity, do they need to seek your permission?

Michael Short: I will try to assist with that, to the extent that I can. A ticket sale for a UEFA event or for Euro 2020 is specific to the purchaser.

The purchaser can buy a number of tickets and then allocate those tickets to guests and provide information about those people. The key point is that those tickets cannot be resold to an unknown third party under the ticketing terms and conditions that a person signs up to when they purchase a ticket. In other words, to summarise, the ticket needs to be used by the original purchaser or a guest of the original purchaser.

That causes issues for auctions, because with an auction the ultimate holder of a ticket is unknown and, therefore, any mechanism that involves a ticket moving to an unknown third party is a breach of the ticketing terms and conditions. We would hope to ensure that the bill would never trigger any form of criminal offence on a charity seeking to do good work by auctioning off a ticket—that is not our intention. However, the ticket that is used for that option, in order to abide by the ticketing terms and conditions, would have to be a special ticket provided by UEFA that was able to be transferred to third parties.

The Convener: Oh, right. There will be special tickets.

Michael Short: Exactly. By pre-approving the promotion, the charity would get a ticket that is allowed to be used in the promotion. We would speak to them ahead of the auction in order to do that. We are open to receiving requests like that.

The Convener: Okay. You will be publicising that.

Kenneth Gibson (Cunninghame North) (SNP): I am a bit mystified about what the criteria are for designating the boundaries of fan zones. For example, if we look at the Hampden park zone, I notice that the junction of Cathcart Road and King's Park Road is not included. As someone who has been to Hampden park many times, from watching Scotland to watching St Mirren's glorious 1987 cup final victory, I know that fans often buy hats, scarves, badges and football programmes at that location.

King's Park station is included in the Hampden park zone, but Glasgow Queen Street station is not included in the George Square zone. What is the thinking behind the designation of the zones? I notice that one of the fan zones goes behind the city chambers, which is quite odd. I do not understand why that would be a location for fans. I cannot imagine many fans going to that area, because there really is not anything there. What is the thinking behind that?

Neil Coltart: With any commercial-controlled area, there must always be a level of compromise. We would not do this, but the easiest thing to do would be to draw a big circle around a venue at some distance, which would include everything in the area where people gather. In order to make

sure that there is a reasonable balance between the restrictions that are in place for the commercial zone and free trade, free movement and so on, there has to be a compromise. Therefore, the draft plan for the area around Hampden includes a slightly strange dogleg-shaped area down to King's Park station. It would be unreasonable to include that station simply by drawing an egg-shaped area around the whole of the Hampden area.

There will always be a level of compromise and negotiation about such boundaries. One of the requirements for enforcement—this takes us back to a point that other people have made—is absolute clarity about where the boundary is, so a fan zone might stop at a particular junction in order that we can be absolutely sure that we can identify whether a person is inside the controlled zone.

All the zones will have to be the subject of negotiation, discussion and clarification, because we do not want to overly restrict ordinary trade.

Kenneth Gibson: I understand that. Obviously, UEFA wants a monopoly in the zone that I am talking about. I know the area pretty well and the zone just does not make much sense to me. I am thinking about the south-west end of Hampden, and the junction of Cathcart Road and King's Park Road, as I said. The area is very busy and the fans will all pile up there, so there will be plenty of opportunities to buy ad hoc merchandise long before they get to the stadium. If the intention is to diminish those opportunities, the zone should be altered to take account of that area, given the efforts that you have made to ensure that that route up King's Park Avenue and Aitkenhead Road is included. I have been trying to understand the logic of the zone, as a fan who often travels to matches that way.

Peter Dallas: On the immediate area around Hampden, I think that there might be some slight confusion. There is the Hampden campus, which has the outer security perimeter, and there is the rights protection zone—that is the zone to which you are referring—which is further out and is distinctly different from a fan zone. There is no fan zone out at Hampden park. We have the Hampden campus and we have the rights protection zone, which is the wider area to which you referred, on the way to the stations, in which there is protection in relation to ticket touting and branding. In the city centre, two fan zones are delineated. There is a slight difference in terminology.

Kenneth Gibson: The term that is used is "clean site zone perimeter". I just wondered why the boundary was drawn in the way that it was.

Peter Dallas: The Mount Florida railway station will be a main artery for fans who travel to

Hampden, as will transport hubs around the stadium, so the rights protection zone is around the Hampden stadium, to protect the commercial interests of UEFA's partners as the spectators approach the immediate vicinity of the stadium.

Kenneth Gibson: Okay. I will not pursue the issue, but I am not convinced that it is the right boundary, from UEFA's point of view. The boundary is literally yards from the stadium—if you turn right at that junction, you are right at Lesser Hampden and Hampden itself. I do not understand why the boundary has been drawn in that way; it seems almost random.

Also, Mr Coltart, why have you drawn the boundary right behind the city chambers? There is no commercial activity there whatsoever, unless you want to buy a wedding dress.

Neil Coltart: I should say that I did not draw the boundaries. The issue there is that when large events have been held in George Square, people have offered a variety of items for sale in John Street, which runs from the back of the chambers.

There are no licensed street traders in that area anyway, so street trading should not be affected all that much. Generally, permission is not given for street trading in the George Square area. However, we know from experience that John Street has been used as a gathering point for people selling novelty-type items at events.

Kenneth Gibson: Thank you.

The Convener: There is an additional question on enforcement from Ross Greer.

Ross Greer: Thank you, convener. I realise that time is short, so I will be brief. I am a bit concerned that section 17(4) gives enforcement officers the ability, in essence, to recruit anyone that they need to help them with enforcement. It says that an enforcement officer may recruit

“any other person as may be reasonably required for the purposes of taking action”.

I assume that, in most cases, that means asking a police officer to help, but who else would an enforcement officer ask to help them? To ensure that there could not be a free-for-all, what criteria would be put in place?

10:00

Neil Coltart: The easiest example that I can give you is one in which it is suggested that there is a breach of not only the provisions concerned, but the Trade Marks Act 1994. In that case, we might ask someone from the brand to come and identify, for example, that the product is a counterfeit pair of Armani jeans or whatever. We would bring in such technical experts only rarely

and, given the fluidity of enforcement, we would have to proceed on a case-by-case basis.

Another example involves something that we had to deal with during the Commonwealth games, when someone had put a banner way above reasonable-access ground level. We had to bring in someone who could use high-access facilities such as a cherry-picker to provide assistance. Expert technical help would be required in such a specific and carefully managed and controlled set of circumstances.

Ross Greer: Do individual enforcement officers have the power to make such decisions? If they need to bring in the kind of folk that you have just referred to, do they have to ask management or a supervisor before doing so? I am concerned about leaving the broad power in the legislation in the hands of an individual enforcement officer.

Neil Coltart: Because of the ravages of resources and the cost, I can guarantee you that any enforcement officer who was expecting a cherry-picker to arrive anywhere in Hampden or the surrounding areas would have asked for my permission; whether they would get that permission would be a matter that we would have to deal with.

Ross Greer: I understand the example of the cherry-picker. However, the kind of thing that the Scottish Police Federation is concerned about is where an enforcement officer needs a hand with something and gets their big, burly mate who lives round the corner to come and help them for 10 minutes. Would they be protected under the legislation?

Neil Coltart: The provisions concern the requirement for technical or specialist help to be brought in; they would not allow anybody else to be brought in just for the sake of it—that simply would not happen.

Ross Greer: Will you define that with your enforcement officers? Will you set out a decision-making framework for them?

Neil Coltart: Yes. The process that we have used for lots of events involves minute-by-minute contact with all enforcement officers, who ask for advice or for consent or permission to carry out particular activities. They are trained and briefed to the nth degree about the requirement to ensure that that happens on all occasions, because we want to ensure that across the three different areas—the Hampden campus, the merchant city and George Square—the enforcement activity and compliance requirements are identical, so that somebody who moves from one area to the other in Glasgow does not have a different experience. I accept the earlier points that that situation might be different across Europe, but the experience of

enforcement in Glasgow should be identical across the different areas.

The Convener: We must finish now, but I do not want to do so without raising the important topic of young people busking. We devoted quite a lot of time to that issue last week, because we have many talented young people in Glasgow and busking is a popular activity.

The bill proposes to criminalise within the zones the provision of

“public entertainment for gain or reward.”

However, the UEFA submission states that

“busking is not an activity that is required to be prohibited under the Rights Protection Programme”.

Would Mr Short object, therefore, if the proposal in the bill was dropped?

Michael Short: No, I would not—that is from a rights protection programme point of view, which is why our point that you quoted was worded in that way. There might be other safety and security concerns about lots of people performing on the streets, and other authorities or stakeholders might have an interest in ensuring that such activities did not get out of hand or become unsafe in any way, given the traffic flows of people. However, from a rights protection programme and UEFA point of view, we very much hope that there is lots of busking to enhance the atmosphere.

The Convener: Okay. Thank you for coming today. I suspend the meeting for a change of witnesses.

10:04

Meeting suspended.

10:08

On resuming—

The Convener: We move on to our second panel of witnesses on the UEFA European Championship (Scotland) Bill. I welcome Ben Macpherson, the Minister for Europe, Migration and International Development; Lucy Carmichael, the Scottish Government bill team leader; and Kirsten Simonnet-Lefevre, principal legal officer with the Scottish Government. I invite the minister to make a brief opening statement.

The Minister for Europe, Migration and International Development (Ben Macpherson): I am pleased to be here to talk about the provisions of the UEFA European Championship (Scotland) Bill and how the Scottish Government proposes to use the powers in the bill, subject to parliamentary approval. We do so, of course, in the context of Glasgow’s place among the world’s top sporting destinations being confirmed when it was selected

alongside the likes of London and Rome as one of the 12 Euro 2020 host cities.

We are delighted to be involved in the 60th anniversary of the event and we expect the economic benefits to be significant. Just as important, though, is that we expect that the buzz and memories that it will create will be on a par with those surrounding other famous football matches that have taken place in Glasgow. Hosting such events often involves meeting certain requirements of the rights holder, and the bill will help ensure the successful delivery of Euro 2020 by putting in place protections for commercial rights, as appropriate and proportionate, in relation to ticket touting, street trading and advertising.

The provisions in the bill to ban ticket touting have been broadly supported since they were announced. Delivering that, along with the provisions on advertising and street trading, will reinforce Scotland’s reputation as a gold standard host of major events. However, it is important that the restrictions are proportionate, so we propose a number of exceptions to the trading and advertising offences. Charity collections and busking were raised during the evidence sessions last week and earlier this morning, and I am pleased to confirm that we will propose that both of those activities will be exceptions to the trading offence.

My officials provided further information on proposed exceptions to the advertising offence earlier this week. That includes issues that I understand are important for advertising stakeholders, such as permitting advertising on buses and taxis that enter the event zones. I expect to share with the committee very soon illustrative regulations that will set out further details of how the Scottish Government expects to use its powers in the bill, which I hope will aid your consideration.

I am grateful for the points that committee members raised in last week’s evidence session and earlier this morning. I trust that the Scottish Government’s letter of Monday 7 October clarifies the position and perhaps alleviates concerns on a number of matters. For example, the Scottish Government is proposing that all enforcement officers will be local authority members of staff, and we are happy to consider whether that could be included in the bill.

Developing a bill is a process, and I am happy to listen to suggestions on areas where the bill might be improved through amendments. In light of the expedited timescale, I am grateful to the committee for undertaking consideration of the bill so swiftly. I want to provide reassurance that the Scottish Government, along with Glasgow City Council, intends to continue to publicise the

restrictions on advertising, street trading and ticket touting in the run-up to the event to raise awareness among businesses and the public.

I look forward to providing more information on the rationale for the bill and how it is expected to operate in practice.

The Convener: Thank you, Mr Macpherson. You heard the earlier session, when we spoke to UEFA, Glasgow City Council and the Scottish Football Association about when it was understood that primary legislation might be necessary in Scotland. Obviously, such legislation has not been brought forward in every country that is hosting the games. UEFA said that it was made clear in the bid, back in 2014, and the SFA said that it flagged up the matter in 2014. Glasgow City Council was aware of the issues, because it had previously hosted the Commonwealth games. Why has it taken so long for the primary legislation to be introduced to Parliament with so little notice, when all that was known back in 2014?

Ben Macpherson: As was alluded to by the earlier witnesses, before April 2019, the Scottish Government and its partners were working to establish whether it would be possible to meet UEFA's requirements without primary legislation, by relying on existing legislation. We were conscious of the pressures on parliamentary time, so there was an aspiration to explore all possible angles and avenues to utilise existing legislation.

However, through dialogue and examination by all parties, which included, of course, the Scottish Government, it became clear in April—this was demonstrated in correspondence by letter on 1 April from UEFA to the SFA and other parties—that primary legislation is the most effective and robust way to meet UEFA's requirements as the rights holder and the requirements of the host city agreement, and to ensure that the ticket touting offence is effective in practice and protects people to the extent that we want. Once that position crystallised, the Scottish Government moved swiftly to introduce the bill.

10:15

The Convener: It certainly moved swiftly. I am aware that you were not in your current post in 2014. Indeed, you have come into the post quite recently, and the decisions were not your decisions. The decision seems to have been taken a little late in the day.

As regards the ticket touting offence in particular, it seems that there is a gap in Scots law on modern entertainment. We do not seem to be able to cover ticket touting. It does not seem practical that we should need special pieces of legislation every time a major international event comes. Do we need to improve the law on that?

Ben Macpherson: Currently, the legislation applicable to ticket touting is section 55 of the Civic Government (Scotland) Act 1982. However, that does not cover online aspects of ticket touting.

There is the balance between devolved and reserved powers to consider. For the benefit of the common good, it will be useful—in due course, provided that the bill is approved by Parliament and once the UEFA championships have passed—to examine the success of the eventual legislation. That would give a good basis for wider consideration of the issues around ticket touting and of whether there is merit in considering a potential framework bill on such issues in future. At the moment, we need to get the current bill right. We can then see how it works in practice and consider the matters thereafter.

The Convener: That is fine. The committee is certainly working hard to do that within the timetable.

I welcome the points that you made about busking and charitable activity. In the letter from the Scottish Government that sets out the types of regulations and the exceptions that you expect to put into force through regulations, busking is not mentioned. Can you give us a categorical assurance that it will be specifically mentioned in the regulations? The alternative is to amend the bill to take out section 6(2)(d), which prohibits

“providing public entertainment for gain or reward.”

If busking is not to be mentioned in the regulations, the bill will need to be amended.

Ben Macpherson: Because busking is trading, it will be relevant to that part of the eventual legislation, but we will seek to permit busking in the regulations.

Claire Baker: It is interesting to hear you say that, following the passing of the bill, there will be a thorough look to see how effective the legislation has been. That does not seem to have happened with the Glasgow Commonwealth Games Act 2008 to any great degree. In advance of the bill being passed, there now seems to be quite a lot of work to understand how effective the Commonwealth games legislation was or otherwise. There is a lot of anecdotal evidence, but there was no thorough consideration of how that legislation operated and of whether we could grow from it or continue with some kind of further legislation to tackle the issue of ticket touting in particular. I understand that there are reserved powers involved, so there are limitations on what we can do.

We received a letter this week, following evidence that we received a couple of weeks ago on the offences, which says that four ticket touting

offences were reported to the Crown Office. The letter says:

“The Scottish Government will discuss these cases with COPFS to see if it can share any further information that might help to inform development of the Bill and associated regulations”.

I do not imagine that that will be able to help with the development of the bill, because we do not have time to enable that, but will you look at the evidence from the Crown Office? Will that impact in any way on the process that we are going through, given that the timescales are so short?

Ben Macpherson: We of course welcome the submission of evidence by the Crown Office and Procurator Fiscal Service. I refer to the letter from officials clarifying the position on the four instances where the ticket touting offence was used under the legislation for the 2014 games. Officials are engaged in further dialogue and correspondence with the Crown Office and Procurator Fiscal Service to understand how those instances worked in practice in order to inform our further consideration of the bill as we enter the next stages of the legislative process, provided that Parliament approves the bill at stage 1.

Claire Baker: This week, you also sent information comparing the Commonwealth games legislation with the bill. Have any lessons learned or impact assessments from 2014 led to changes, or do you anticipate the bill working in the same way as the Commonwealth games legislation?

Ben Macpherson: The legislation for 2014 is the gold standard and was thoroughly examined by Parliament and subject to consultation before it was developed. The bill that is before us is enhanced from the 2014 gold standard, particularly with reference to section 9, which puts in place alternative arrangements for existing trading that is banned during the championships that will oblige Glasgow City Council to offer alternative trading arrangements for street traders. Where appropriate, we have sought to enhance the legislation for 2014, but we also see it as the gold standard. From the anecdotal feedback that was received, the legislation performed successfully and worked well in practice during the period of the games.

Mike Rumbles: I have questions on two issues, but I want to say first that I am pleased that you have listened to the evidence on other issues and are willing to make specific changes in regulations, which is great.

I first want to focus on ticket touting. We all want to see it gone, and the bill is a useful means of achieving that. However, when I read the bill, section 2(4) immediately stuck out. It states:

“The touting offence does not apply in relation to acts done by UEFA.”

When we asked the UEFA representative about that this morning, which you may have heard, he was clear that UEFA does not engage in ticket touting and aims to sell the tickets at face value, with a service charge, which is covered under the bill.

UEFA is not involved in ticket touting. It is concerned with section 2(2)(b) which says:

“with a view to making a profit.”

UEFA makes a profit—that is what it is about—and it has given us the impression that that is why it wants section 2(4) in the bill. I put it to Mr Short that the wording

“with a view to making a profit”

could be removed and we could concentrate solely on the face value of the ticket, and he seemed happy with that. What is the minister’s view on that?

Ben Macpherson: Thank you for your engagement on that aspect of the bill. I viewed UEFA’s evidence this morning and read its written submission. My understanding is that the continued inclusion of section 2(2)(b) is necessary in order to cover the fact that UEFA will make a profit from ticket sales. From my perspective, the reason for its inclusion, along with section 2(4), is because section 2(2) also relates to section 2(3), which concerns catching the offence of ticket touting before the transaction takes place. The aim is to deter ticket touting and, in particular, online advertising of it.

The continued inclusion of section 2(2)(b) is also necessary to cover an instance in which, for example, someone says that they will give a ticket to another person, but the profit will be the provision of a service or good, rather than the monetary value that is over the level of the face value of the ticket. Therefore, we believe that it is important to continue to include sections 2(2)(a) and 2(2)(b) because of their relation to section 2(3) and the fact that section 2(2)(b) and section 2(4) are interrelated in order to allow UEFA to make a profit from ticket sales.

Mike Rumbles: But section 2(6)(b) refers to

“the amount payable for any other goods or services which are to be acquired as a condition of sale”,

so that is already covered.

What stands out to any ordinary person is the look of this. We are saying, “We want to ban ticket touting, but we’re not going to ban UEFA ticket touting,” and UEFA says, “We don’t want to ticket tout.” Therefore, why is the provision in the bill? I genuinely do not understand the argument. If ticket touting is selling or proposing to sell a ticket

for more than its face value, that is covered. Therefore, section 2(2)(b) is not necessary and, if we do not have that section, UEFA is not worried about it.

Ben Macpherson: But section 2(2)(b) is required to allow UEFA to make profit both from initial sales and any resale through its reselling arrangement.

Mike Rumbles: But UEFA does not do that. The answer to Donald Cameron's question was absolutely explicit. He asked, "Will you be reselling the tickets over and above face value?" and UEFA said, "No."

Ben Macpherson: I appreciate that, and I am taking that position as read. What I am saying is that, in selling a ticket in the first place, UEFA will make a profit, so 2(2)(b) is necessary in order to cover that position.

Mike Rumbles: Of course it makes a profit. That is not ticket touting.

Ben Macpherson: I know, but the fact that UEFA will sell tickets in the first instance requires it to be exempted from the offence.

Mike Rumbles: I genuinely do not follow this. As explained in the bill and as is generally understood, ticket touting is the sale of a ticket above its face value. Of course UEFA is making a profit—that is what it is here to do; everyone accepts that.

As far as I can see, there is an unnecessary element in section 2(4), which says:

"The touting offence does not apply in relation to acts done by UEFA."

People might think that that is rather odd.

Ben Macpherson: But if you look at section 2 as a whole, including 2(2)(b), you will see that the idea of making a profit is included—

Mike Rumbles: That is what I am saying. It is not necessary, because—

Ben Macpherson: We are saying that UEFA should not be disallowed from making a profit. That is why 2(4) and 2(2)(b) are required.

Mike Rumbles: The profit in ticket touting is the profit that is gained by the ticket tout over and above the amount of money that he purchased the ticket for. That is ticket touting, is it not?

Ben Macpherson: Yes, but, as is detailed in its evidence, UEFA intends to set up a provision in order for people to resell tickets at face value.

Mike Rumbles: At face value, so they are not ticket touting.

Ben Macpherson: However, there would still be a profit position involved in that.

Mike Rumbles: We seem to be going around and around in circles. Nobody is arguing that UEFA should not make a profit.

Ben Macpherson: The position is clear, and we agree on the same point. If you and the committee feel that the legislation is not clear, we will certainly consider that when we come to stage 2. However, I think that we are both clear that UEFA does not seek to ticket tout and that there needs to be consideration of the mechanisms by which UEFA makes a profit.

Mike Rumbles: It looks bad, but I absolutely agree that that is right.

I want to consider the issue of enforcement. I was pleased to hear what you said in your opening statement about the regulations with regard to the officers that would be appointed. That is great.

I do not know whether you have seen the supplementary evidence that has been given to us by the Scottish Police Federation. It raises concerns about section 17(4), which says:

"An enforcement officer may be assisted by any other person as may be reasonably required for the purposes of taking action under this section."

In her letter to the committee, Lucy Carmichael says:

"These provisions do not allow enforcement officers to call on others to help with general enforcement activity on a routine basis."

We are examining the letter of the law here and, as I read it, the letter of the law does not say what the letter says. The letter of the law is clear.

In an exceptional case in which something happens and an enforcement officer grabs someone to help them, that other person will be protected, whatever action subsequently takes place, because the bill says:

"An enforcement officer may be assisted by any other person".

The evidence from Calum Steele and the Scottish Police Federation is that, if that provision is to remain, the SPF would like it to include the condition that a police constable needs to be present. That is in the supplementary evidence from the SPF. Will you comment on that?

10:30

Ben Macpherson: Let me address enforcement powers as a whole, because the evidence that the committee has taken thus far suggests that some important points need to be clarified.

It is important to emphasise that the powers in sections 17, 18 and 19 are contingent on implicit permission from the proprietor for enforcement officers to be engaged. Use of force and powers of

entry are covered in sections 20 and 21. Sections 17, 18 and 19 relate to instances in which a proprietor has given an enforcement officer permission to enter.

As Neil Coltart said in the earlier session, section 17(4) is intended to cover instances in which certain third parties are required to deal with a breach. The cherry-picker example was given. It is important that the committee is clear that sections 17, 18 and 19 apply when permission has been given by the proprietor, which changes the nature of the consideration—

Mike Rumbles: I have the bill in front of me, and that is not what section 19 says. Section 19 says:

“An enforcement officer may, without warrant, enter any place and may search any place (and any vehicle, vessel, container or other thing at that place)”.

There is a restriction in relation to entering a house, in that the police must accompany the enforcement officer, but the power in section 19 is very wide.

Ben Macpherson: There are, quite rightly, greater requirements in relation to the use of reasonable force and entering residential property, which relate to warrants and being accompanied by a police officer. However, it is implicit in sections 17, 18 and 19 that the proprietor's permission will have been granted—

Mike Rumbles: Sorry, but can you point me to where it says that in section 19?

Ben Macpherson: I said that it is implicit.

Mike Rumbles: It does not say it, though, does it?

Ben Macpherson: Those sections underwrite the powers of enforcement officers to undertake their duties if they are given permission by the individuals involved.

Mike Rumbles: Forgive me, but—

Ben Macpherson: I appreciate that the committee has considered issues to do with those sections in its evidence taking, and we can certainly give the matter further consideration before stage 2. I just point out that permission from the proprietor is implicit in sections 17, 18 and 19.

Mike Rumbles: My point is that, whatever the Government's good intentions, our job is to look at the letter of the law, not the intention behind the law, unless regulations are to be made, as is the case in some areas. Our job is to look at the bill, and section 19 is quite clear in giving enforcement officers huge powers. That is the evidence that we have heard. We have heard that enforcement

officers will have huge powers, equivalent to those of police officers.

Ben Macpherson: No—

Mike Rumbles: Well, that is the evidence that we have been given. The Government has a particular view; our job is to consider the wording of the bill that is before us. The bill gives protections to enforcement officers about which the Scottish Police Federation is concerned—I think rightly. All that we are trying to do is ensure that we tighten up the provisions, to avoid problems occurring. I hope that nothing will go wrong and everything will be fine, but our job is to ensure that all the t's are crossed and all the i's are dotted. I think that there is a problem, and I am glad to hear you say that you will have a look at the issue. I hope that you will lodge amendments at stage 2, so that the committee does not have to do that.

Ben Macpherson: As I have said, with the implicit position that permission would be granted by the proprietor for sections 17, 18 and 19, the wording in section 19(1) is there just to clarify the position of enforcement officers once they are in a premises, having been given permission by the proprietor to enter.

Ross Greer: I get that, in giving enforcement officers the ability to do that, a lot depends on the consent of the individual whose property they might be searching. The reality is that most people are not well versed in the intricacies of the law and their rights. When someone turns up at their property in uniform—often in personal protective equipment in such cases—that makes them appear somewhat like a police officer, even if they are clearly not a police officer. Most people will not be entirely sure what rights they have to refuse that person entry.

I will stick with section 17(4). You said in your opening statement that you would consider adding to the bill the point that all enforcement officers would be local authority staff—primarily trading standards staff. That is very welcome. However, as we have discussed, section 17(4) gives those officers the ability to draw other people into their activities as required. Would those other individuals be given the same protections under the legislation for their activities that an enforcement officer would have?

We have had undertakings from Glasgow City Council about the level of training that will be required for the enforcement officers, but there is nothing about any individuals from whom enforcement officers might need help. I am concerned about the effect of the legislation on the individuals from whom enforcement officers might seek support for their activities. There is an undertaking that those individuals will be trained,

and a lot of that will be done at very short notice. As the cherry-picker operator would not be an enforcement officer, they would not be trained in the intricacies of the bill and what an enforcement officer should do. In my reading of section 17(4), the protections of the legislation would potentially be extended to them and their activities, given that they would be following an enforcement officer's request.

Ben Macpherson: Our intention in section 16 is for enforcement officers to be local authority employees, and primarily they will be Glasgow City Council trading standards officers. As I said in my opening statement, we will consider how to amend section 16 to make that clear.

The individuals who may assist

“as may be reasonably required”—

there is a reasonable test there—

“for the purposes of taking action”

under section 17 would not be enforcement officers, so they would not be designated as enforcement officers under the bill. As Neil Coltart illustrated, any individuals who accompanied an enforcement officer in an incident would be those whom the enforcement officer believed were reasonably required for the purposes of taking action. A number of examples were given in the earlier session. They would not be enforcement officers but would accompany enforcement officers, and would not have the same status under the legislation.

Ross Greer: I am still concerned about what is in the bill. What effect would it have? What defence would the bill allow those individuals to make, if it came to that?

I will move the issue on slightly. Under the bill, the test for enforcement officers engaging in activity short of activity that requires a warrant is that they are asked to make a personal judgment about it. What would happen if an enforcement officer and a police officer took contrary points of view on the appropriate course of action in an individual situation in relation to which both have powers? I am talking not about powers of arrest, which police officers are clearly allowed to exercise, but about search, seizure and so on. If an enforcement officer and a police officer came to two contrary points of view about one situation, who would win out?

Ben Macpherson: Do you mean with regard to sections 20 and 21?

Ross Greer: Primarily, yes.

Ben Macpherson: My understanding is that sections 20 and 21 cover the position where, after a process of reasonable investigation, an enforcement officer believes that it is necessary to

use force to enter a premises. Section 21 is about homes, which are, quite rightly, much more stringently protected through the requirements for an enforcement officer to be accompanied and for warrants.

In those instances in which, after investigation, the use of force or entry into a residence is required in the enforcement officer's judgment, that officer would engage with Police Scotland for the necessary assistance, as articulated in the legislation. I do not see that there would be a conflict between what Police Scotland would do and what the enforcement officer would do. Perhaps an example would help me to understand your point.

Ross Greer: One concern that has been raised is that the use of a locksmith to gain entry would not be considered to be use of force. If an enforcement officer has decided that they need to gain entry to premises and that they need the assistance of a locksmith to gain that entry, but a police officer considers that that is disproportionate and entry to the premises is not required, who wins?

Ben Macpherson: I am struggling to think of a situation in which that would be the case because an enforcement officer would reach out for Police Scotland's assistance only when that was required under sections 20 to 28.

Ross Greer: There are situations in which the enforcement officers do not require the assistance of a police officer.

Ben Macpherson: Yes, so why would the police be involved—

Ross Greer: A police officer could still be present in those circumstances. That is the point. For example, the individual with whom the enforcement officer is in dispute could summon a police officer.

Ben Macpherson: Under the bill, the enforcement officer would have the power to undertake the action they deemed to be necessary.

Ross Greer: Would that be the case if a police officer was present because they were called by the individual whose locked premises the enforcement officer had decided they were going to use a locksmith to get into? If an individual is in dispute with an enforcement officer, and that individual summons a police officer because they believe that the enforcement officer intends to take disproportionate or unacceptable action, can the enforcement officer undertake that action even if the police officer agrees that their action is disproportionate, unnecessary and not required?

Ben Macpherson: I am not saying that.

Ross Greer: What would happen in that situation? The core point is about what happens if an enforcement officer and a police officer come to contrary points of view.

Ben Macpherson: Again, I am struggling to envision a situation in which that would be the case. In theory—and I think it would only be in theory—the police officer has more powers than the enforcement officer. That is made clear in the bill.

Kirsten Simonnet-Lefevre (Scottish Government): Under section 19, the power to enter and search can be used only when the permission of the person in charge of the property has been given. If that permission is not given and a locksmith is required to gain entry, section 20 would apply.

The restrictions in section 20 mean that either the enforcement officer needs a warrant and to be accompanied by a constable, or a constable would make the call on whether it was appropriate to gain entry by using reasonable force. Although the powers given to the enforcement officers are fairly wide and they can make decisions, in the example that Ross Greer gives, the constable would decide, if no warrant was given.

Ross Greer: I will finish with the wider point. This morning, UEFA confirmed that it does not require any host country to give their enforcement officers any specific powers. That led us to the wider question of why in the Scottish Government's view it is necessary to give enforcement officers powers around search, seizure, destruction and so on, rather than simply leaving those powers with the police. Is it a question of resources, as was indicated by Glasgow City Council?

Ben Macpherson: As I said, there is an implicit requirement for permission in relation to sections 17, 18 and 19. The deployment of enforcement officers is a more effective use of resources when it comes to undertaking the necessary investigations and enforcement of the requirements under the host city agreement to deliver the event successfully—again, with the implicit permission that is required for enforcement officers to undertake that work.

10:45

As has been said, enforcement officers also have the experience and training to undertake such work effectively—they have done so for previous events. In relation to the use of reasonable force and entry to a residential property, the need for police officers to be present is clear in sections 20 and 21.

There will be significant demands on Police Scotland during the event and it makes more sense in terms of resources and the utilisation of expertise for enforcement officers to undertake that work, just as they did—successfully—in 2014.

Ross Greer: I am conscious of the time, convener. If there is time at the end, I would like to come back in.

The Convener: I flag up the comment in the Scottish Police Federation's latest submission to the committee that

“the execution of that warrant should lie with the police”.

The SPF is concerned about the question of primacy and the impression that the constable would be acting under the direction of an enforcement officer, which the SPF disagrees with. The SPF says that the constable should only act

“in support of the warrant”.

Are you saying that the SPF is wrong?

Ben Macpherson: In the majority of cases, the enforcement officer would be the individual who has undertaken the investigation of whether a breach has taken place. For that reason, it is logical that the enforcement officer would be the one who engaged primarily in the investigation. However, quite rightly, there are the safeguards in sections 20 and 21, which say that warrants would have to be obtained as appropriate or police officers would have to accompany the enforcement officers as appropriate.

Mike Rumbles: We were struggling before to think of an example. I have one now. Ignoring entry to houses and ignoring the use of force, because there are protections, section 19 says quite specifically that

“An enforcement officer may, without warrant, enter any place”

if they believe that an offence has been committed. A police officer needs a warrant, signed by a sheriff, to enter a property. It is different if a policeman believes that an offence is about to be committed or is being committed—they can enter then—but not if they believe that an offence has been committed, so section 19 gives extra powers to an enforcement officer.

The example was given of a locksmith not using force to gain entry. We could have a situation where a policeman and an enforcement officer arrive at a premises that is not a house and the enforcement officer says, “This provision gives me the power to enter these premises without a warrant—I don't need a warrant and I'm not using force,” and the policeman says, “I don't have that power.” That is the example.

Ben Macpherson: As I have said, it is important to emphasise that, with section 19, along with sections 17 and 18, permission of the proprietor to enter is implicit, so—

Mike Rumbles: The bill does not say that.

Ben Macpherson: The fact that it says “without warrant” is for clarity—

Mike Rumbles: Where does it say that an enforcement officer cannot enter without permission? You keep saying that it is implicit but I cannot see it anywhere in the bill.

Ben Macpherson: It is implicit—

Mike Rumbles: That might be your intention, but it is not what is before us.

Ben Macpherson: It is implicit—Kirsten Simonnet-Lefevre can comment on that.

Kirsten Simonnet-Lefevre: Section 19 is subject to sections 20 and 21.

Mike Rumbles: Yes, those sections are about the reasonable use of force and about entering houses—I have said that already. You can have premises that are not houses; a locksmith could enter those premises without using force. That is the example that I am giving.

Kirsten Simonnet-Lefevre: Using a locksmith would be using reasonable force because, obviously, a locksmith would be used only when no permission was given.

Ben Macpherson: Obviously, if you are not given permission, the use of force is required.

Mike Rumbles: Where does it say that you have to have permission?

Ben Macpherson: You have to read the section as a whole—

Mike Rumbles: Yes, but where does it say that?

Ben Macpherson: Section 20(1) makes it clear that the use of force is required—

Mike Rumbles: No, section 21 is about entering houses.

Ben Macpherson: Not section 21; subsection (1) of section 20. It makes—

Mike Rumbles: That is about using force. I am talking about not using force and I am not talking about houses.

Ben Macpherson: If you will let me finish, Mr Rumbles—

The Convener: We must move on.

Ben Macpherson: It is clear that—

Mike Rumbles: It is not clear.

Ben Macpherson: It is implicit that permission is granted in the instances that sections 17, 18 and 19 cover, because the need for the use of force occurs only when permission is not granted, and that is why, when the use of force is required—that is, when there is no permission—section 20 is applicable. You have to read the sections together in order to get the full meaning.

The Convener: I do not think that Mr Rumbles is convinced—

Mike Rumbles: Certainly not.

The Convener: —but we need to bring in other members.

Emma Harper: Good morning, minister. I have a quick question. The bill proposes three event zones: Hampden park, George Square and the merchant city. There are proposals to ban advertising and outdoor trading within those zones. The tournament runs for six weeks, from 1 June to 12 July. Are the zones applicable for that whole timeframe, or only when games are being played? I imagine that, during that time, when no games are being played, businesses and street vendors might think that they can just do business as usual.

Ben Macpherson: I refer to the definition of the championship period. The intention is for the Hampden park zone to be in place between 1 and 30 June—that is the requirement in terms of the games that are being played there. The George Square zone will apply from 10 June to 12 July. That is because of the necessity for that zone to be part of the wider public’s enjoyment of the tournament—visiting fans and people from Scotland who want to watch the spectacle in a public space. The dates of operation of the merchant city zone are still under consideration, because we want to ensure that the approach is proportionate in terms of ensuring that it is a fan zone and in terms of the wider public’s needs.

With regard to the merchant city zone and the George Square zone, the opportunities for businesses in that area will be exceptionally high, and they will welcome the extra custom. As you heard earlier, the issues around the Hampden park zone involve consideration of the preparation of the stadium for the games that are taking place as well as the need to ensure that the requirements that UEFA has set are met.

Emma Harper: I assume that because of the different dates of operation of the zones in the three areas, businesses will have to be kept informed of what is required of them in relation to game days, business opportunities and so on.

Ben Macpherson: Absolutely. The Scottish Government and other partners have already engaged with them in that regard. We have held

two drop-in sessions in Glasgow, which we invited street traders, businesses, media owners and equality groups to attend, as well as the Federation of Small Businesses, Glasgow Chamber of Commerce, the Scottish Retail Consortium and the Greater Glasgow Hotel Association. Telephone calls have taken place with street traders and other businesses that were unable to attend in person. We have been clear that the proposals are in draft form and are subject to parliamentary approval, and that we are looking to take feedback on them from businesses.

I think that we should all see the championships as a hugely beneficial event for Glasgow, which will have a hugely positive economic impact on the country as a whole and particularly on businesses that are located in Glasgow and in the zones.

Donald Cameron: I am sorry to return to this, but this morning's discussion has revealed that the bill is throwing up difficult and important questions about ticket touting and enforcement powers.

I heard what you said about on-going dialogue on the need for primary legislation, and I accept that you took on your role only recently. Of course, everyone wants this event to happen and to be a success. However, the bill that underpinned the 2014 Commonwealth games was passed six years before the games. The United Kingdom Parliament is considering a bill in relation to the Commonwealth games in 2022. Is it acceptable that, eight months before the championships are due to take place, we are having to rush through legislation, especially when it seems that there was always a high possibility that primary legislation would be needed?

Ben Macpherson: I share the view that, ideally, we would have more time to consider the bill. I think that all parties would have welcomed that. However, the approach has been taken with the best intentions. The aim was to examine current legislation and maximise the good use of parliamentary time.

It is important to emphasise that our basing the bill on the gold standard of the Glasgow Commonwealth Games Bill put us in a strong position, as we have examined a bill that was effective and thoroughly scrutinised at the time. Together, we are enhancing our legislation in the current process, so that we can have the strongest and most effective legislation in place for the delivery of an important event, which will be highly beneficial for Scotland.

Donald Cameron: Of course, we all want Scotland to host big sporting events in future. However, it is not acceptable that we are dealing with a bill ad hoc and at short notice. Will the Government commit to give consideration not just to closing the loopholes in touting law that the

convener mentioned but to how we approach and legislate for major sporting events more generally?

Ben Macpherson: We will certainly evaluate the bill in due course. We will consider whether an events framework bill might be appropriate in future; we expect to carefully consider the benefits of having such a bill. However, if we can, together, deliver a successful bill, just as the Parliament did in relation to the 2014 Commonwealth games, that legislation will provide a strong basis for analysis in that regard.

Stuart McMillan: The championship period runs from 1 June to 12 July, but if we pass the bill, the legislation will not come off the statute book until 31 December 2020, which means that there will be a fairly long time in which there might be unintended consequences. Has consideration been given to reducing that period?

Ben Macpherson: Well, the offences relate to the championship period and not the period up to the date when the legislation ceases to have effect. The cessation date of 31 December 2020 was decided on just because of the nature of the calendar year end, but if this is a pressing point for the committee and you take a strong position on it, we can certainly consider whether cessation should take place earlier. We are open-minded on the issue.

11:00

Stuart McMillan: Following on from Donald Cameron's question, in the evidence session last week, the issue was raised that Scotland's current legislation on ticket touting is a challenge when it comes to big events. Mr Cameron asked a question regarding framework legislation. We all anticipate the event to be successful for Scotland and to promote the country. After it is over, we could undertake an immediate piece of work to bring the ticket touting legislation up to date, in order to remove ambiguity and concerns for future major events that Scotland wants to hold.

Ben Macpherson: One of the challenges around that is the nature of reserved and devolved powers and considerations between the two. There is an enthusiasm for undertaking consideration of the effectiveness of the legislation, as I have committed to today, with regard to potentially introducing a major event framework bill. I do not want to presuppose that consideration.

We will deliver the legislation together and we will make the event a success. We will reflect on it and on previous events, such as the Commonwealth games, and we will consider together whether, going forward, a framework bill would be more appropriate, effective and expedient.

Alexander Stewart: As you alluded to, we all want the event to be a success. We want the fans to enjoy it. We want the public and the traders to be part and parcel of that process. It will showcase us as a country and showcase the locations. However, there are knock-on effects for individuals and organisations in the zones. Last week, the Advertising Association came up with specific areas that it was concerned about, such as vehicles that have advertising material on them or people carrying print media containing advertising going into the zones while events are taking place. What exceptions to the process are you considering in order to ensure that those organisations and individuals will not be penalised, and that they will be able to trade and continue to do their normal business practice?

Ben Macpherson: Thank you. It is an important question. I refer members to annex B in the letter of 7 October from the Scottish Government to the committee. The first two bullet points state that

“Distributing or providing current newspapers”

and

“Advertisements on or in moving vehicles, for example buses, vans or trucks”

will be exempt from the regulations. The exemption

“would not apply to vehicles used primarily to display adverts”.

We seek to be as practical as possible, in order to make sure that exemptions are reasonable. We are also considering what might be required in regulations to disapply the offence for any commercial arrangements that are entered into before the advertising offence is created.

We need to balance reasonableness for suitable exemptions with ensuring that, given the significant resource that they contribute in order to make the event happen, the global partners that UEFA is engaged with are protected.

Alexander Stewart: It is right that they are protected in the process. They have a bigger say in the situation.

I asked the first panel about how the regulations would be communicated and how you would make sure that there is engagement with organisations and individuals, so that they know what the parameters are and that they do not, by mistake, find themselves on the wrong side.

Ben Macpherson: As I said earlier, we have already had two drop-in sessions, and we held follow-up calls with businesses that wanted to engage but were not able to attend on the day. We have indicated the level of impact that we would expect the legislation to have on their businesses.

We are trying to be proactive. We are encouraging UEFA and other partners to correspond with businesses, so that, when advertising space in the event zones is being contracted, there is a sense of reasonableness and balance between the needs of UEFA’s global partners and the ambition of local organisations and businesses that are selling their advertising space.

The bill says that

“Glasgow City Council must issue guidance”

on street trading and advertising restrictions, so there is a clear requirement in the legislation for publication of guidance. That is important.

Alexander Stewart: As you said, the guidance is important, as people need to know the parameters within which they have to work.

Ross Greer: I would like to look at section 19, on enforcement officers’ power to enter and search, and, in particular, their ability to search any

“other thing at that place”.

They can search the contents of a place that is being searched. I want to look at their ability to search electronic devices. If they search a premises and there is, for example, a laptop or tablet that does not have a password or a strong password on it, what are the restrictions on enforcement officers’ ability to search it?

Ben Macpherson: My understanding is that the ability to search electronic devices is covered in other legislation and that section 19(1) refers to premises. Permission is implicit in relation to section 19 and it is important to keep emphasising that. The powers in the bill are to do with physical premises.

Ross Greer: It says any

“other thing at that place”,

so the physical premises is “that place”. A “thing” that is “at that place” means objects contained within the place. A laptop could be at a property that is being searched. Would that not fall within that definition in section 19(1)?

Ben Macpherson: As I said, the provisions in section 19 are subject to permission, so a laptop could be searched only if the owner of the premises and the laptop decided to grant the enforcement officer access to it. As I said, there are protections. I need to double-check that and I am happy to follow that up in writing. However, my understanding from memory is that access to electronic devices is covered under other legislation.

Kirsten Simonnet-Lefevre: It is to do with searching a place, rather than a thing—

Ross Greer: I am sorry to interrupt but it says a “thing at that place”.

Kirsten Simonnet-Lefevre: Yes, it does. The opening words are that the enforcement officer

“may search any place (and any vehicle, vessel, container or other thing at that place)”.

It means a physical search of something, which could be a tent or temporary structure. It is not meant for searching electronic devices. It is about searching a place. The bracketed words are things in that place that can be searched.

Ross Greer: That is not my reading of section 19(1). It would be useful if the minister writes to us about the provisions on searching electronic devices in other legislation that he mentioned. We need clarity about what the provision in section 19(1) applies to, because “thing at that place” is a broad term. It would cover anything contained in the place that is being searched. It would not cover, as Kirsten Simonnet-Lefevre said, only temporary structures or property. It says “thing”, which has a broad definition.

Ben Macpherson: As I said at the beginning, I am happy to provide clarity. I also want to be clear that, of course, permission is implicit with regard to section 19.

Ross Greer: We have been over that a number of times this morning. There is concern from members of the committee that saying permission is implicit is not sufficient and that something more is required in the legislation. If we can get clarity around the meaning of section 19(1), that would be helpful.

Ben Macpherson: Thank you.

The Convener: At the meeting last week, Lucy Carmichael said that she expected to give the committee illustrative regulations before we published our stage 1 report. Can you confirm that that is the case?

Lucy Carmichael (Scottish Government): Yes. My letter to the committee says that we will have them to you by 25 October at the latest, but we aim to do it sooner than that.

The Convener: That would be most welcome. I ask the minister to reflect on the lines of questioning, particularly from Mike Rumbles and Ross Greer, on the enforcement powers. Given the tight timescales, it might be helpful if you could provide more clarification on your answers to their questions in writing. I am concerned about the latest letter from the Scottish Police Federation, and its concerns about the primacy of the police officer being undermined when it comes to the execution of the warrant. Can you respond in writing to the committee with detail on that point?

Ben Macpherson: I am happy to do so. As I said earlier, in the legislation, it is clear that the police officer would have primacy. I made the point repeatedly today that, with regard to sections 17, 18 and 19, there is implicit permission from the proprietor. We will reflect on the written evidence that you have received and the committee’s questions today and last week, and consider whether further clarification is required in the drafting. If you read sections 17, 18 and 19 with the implicit sense of permission, a lot of the concerns that have been raised would be alleviated.

The Convener: Thank you.

11:12

Meeting continued in private until 11:27.

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