



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government and Communities Committee

Wednesday 20 January 2021

Session 5



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CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
TRAVELLING FUNFAIRS (LICENSING) (SCOTLAND) BILL: STAGE 1	2
SUBORDINATE LEGISLATION.....	44
Charities (Disclosure of Information to Designated Bodies) (Scotland) Order 2020 (SSI 2020/435)	44
Town and Country Planning (General Permitted Development and Use Classes) (Scotland) Amendment Order 2020 (SSI 2020/437)	44

LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

3rd Meeting 2021, Session 5

CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

DEPUTY CONVENER

*Sarah Boyack (Lothian) (Lab)

COMMITTEE MEMBERS

*Keith Brown (Clackmannanshire and Dunblane) (SNP)

*Gordon MacDonald (Edinburgh Pentlands) (SNP)

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

Annie Wells (Glasgow) (Con)

*Andy Wightman (Lothian) (Ind)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Alex James Colquhoun (Showmen's Guild of Great Britain)

Morag Douglas (South Ayrshire Council)

Richard Lyle (Uddingston and Bellshill) (SNP)

Raymond Lynch (West Dunbartonshire Council)

Andrew Masterton

Dr Andrea Salvona (Fair Scotland)

Fiona Stewart (Society of Local Authority Lawyers and Administrators in Scotland)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

Virtual Meeting

Scottish Parliament

Local Government and Communities Committee

Wednesday 20 January 2021

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (James Dornan): Good morning, and welcome to the third meeting in 2021 of the Local Government and Communities Committee. Please ensure that all mobile phones are in silent mode. I remind everyone that broadcasting will operate the cameras and microphones as usual, so please allow a short pause after being called to speak to allow them to do so.

Agenda item 1 is consideration of whether to take agenda item 4 in private. Item 4 is consideration of evidence that we will hear today on the Travelling Funfairs (Licensing) (Scotland) Bill. We are meeting remotely, so rather than asking whether everyone agrees, I will, as usual, instead ask whether anyone objects. If there is silence, I will assume that you are content.

As no one has objected, that is agreed, and item 4 will be taken in private.

Travelling Funfairs (Licensing) (Scotland) Bill: Stage 1

09:01

The Convener: Agenda item 2, is an evidence session on the Travelling Funfairs (Licensing) (Scotland) Bill. This is the first of two evidence sessions on the bill, after a call for views that attracted a good response from stakeholders and the public. Today we hear from the local government sector and from representatives of the travelling funfair trade. I also welcome Richard Lyle, who introduced the bill. He will have an opportunity to ask questions of both panels once committee members have finished their questions.

With us on our first panel we have Alex James Colquhoun, who is the chairman of the Scottish section of the Showmen's Guild of Great Britain; Andrew Masterton, who is a Scottish showman; and Fiona Stewart, who is a senior solicitor from the Society of Local Authority Lawyers and Administrators in Scotland, which is known as SOLAR. Thank you all for being here today and for your written submissions. We have allocated one hour for this session, and we have a number of issues to discuss with you.

I will give some brief technical information before we get started. There is a prearranged questioning order, so I will call members in turn to ask their questions for a block of up to eight minutes. It would help broadcasting staff if members would indicate to whom on the panel their questions are addressed. We might have a short time for supplementary questions at the end.

There are three people on the panel, so please indicate it clearly if you wish to answer a question—for example, by raising your hand. Do not feel the need to answer a question if your views are generally in line with points that have already been made. Also, please give broadcasting staff a second to operate your microphones before you speak.

We move to questions; I will begin. First, what is the main reason for the bill being introduced? What difference would the bill make to the showmen, for example? Could I get a response from one of the showpeople, please?

Alex James Colquhoun (Showmen's Guild of Great Britain): The bill would make a huge difference to showmen. Scotland is the only country in Europe that has public entertainment licensing; it does not exist in England, Wales or Northern Ireland. This is the only country that has implemented such a licensing regime.

I should say that we do not encounter difficulties with every local authority. Many local authorities

have fair and standard systems, but others go above and beyond that and operate in a way that we feel is restrictive to our business and our members. We feel that, in many cases, the restrictions are discriminatory. Ideally, our members should be treated the same as they are in the rest of the United Kingdom and Europe, and should not be subject to a licensing system. There is no difference between a funfair that operates in Scotland and a funfair that operates in England, Wales or Northern Ireland.

The licensing regime has been in place for a long time, but it came in by mistake. It was missed by our parliamentary agents, who did not know that they were working for Scotland, so it became law. It took a long time for all local authorities to take it up, but now we have 32 local authorities doing 32 different things. That is unreasonable.

I have some evidence—which I hope that I will be allowed to discuss later—that shows the extreme differences in charges and conditions around public entertainment licensing. It must be noted that those charges and conditions relate only to the public entertainment licence that allows us to operate. However, before we can apply for that licence, we have to negotiate with the local authorities, on whose land 90 per cent of our fairs are held, with regard to the rent, arranging for reinstatement of parks and so on, and we have to place advertisements. All those things have to be done before we can apply for a licence.

There are many aspects to the issue. The Public Services Reform (Scotland) Act 2010 says that we should have to negotiate with a local authority only on one occasion for one service, but we have to negotiate twice. Those aspects have been restricting our business.

The Convener: Thank you. Mr Masterton has had first-hand experience of not being able to go ahead with events because of licensing requirements. Could you give us a practical example?

Andrew Masterton: Yes. In September 2019, we applied for a public entertainment licence from Perth and Kinross Council and paid the application fee, which was in the region of £325. It was for a piece of private land that was not owned by the council. Near the time, the heavens opened and the field became waterlogged. I had applied for a set period—the dates from and to which my fair would run. Near the time, showmen became apprehensive about taking large vehicles—vans and lorries—on to a grass site and the landowner was also apprehensive about allowing the event to go ahead.

We did the right thing; we cancelled the event and it did not go ahead. I took the £325 hit. I did not get my money back. There was no damage

and we hope to use the site again in the future, but because of the restrictive nature of public entertainment licensing, there was no opportunity to move to a hardstanding site. The landowner has a large car park outside a hotel, so we could have moved across the road or we could have varied the dates. I lost my money. All the showmen who were going to attend that event lost a week's business.

That is a concrete example of the current legislation preventing showmen from operating, or making it difficult for them to do so. It certainly cost me a lot of money.

The Convener: In that sort of circumstance, what would be the difference between you and people such as local activists and local businesses who have put a lot of effort into an event that is scheduled to take place on a Saturday, say, but find that they have to cancel the event when the heavens open, as happens regularly, certainly where I come from, in Glasgow? Why should the situation be different for showpeople than it is for other people who want to run events?

Andrew Masterton: I cannot speak for everybody or other events. From our point of view, this is what we do to earn a living. An event of the sort that you mention might be run by a voluntary group—that is, people who are not hoping that the event will enable them to put food on the table at the end of the week. We do not earn any money if the event does not go ahead. The nature and conditions of the public entertainment licence say that you are either open or you are closed; you are either earning money or you are not.

I will try to keep my answer short. Events such as those that are organised by volunteers are peripheral for them; they might have another source of income. Our business is what we do to earn money.

The Convener: I will bring in Sarah Boyack, our deputy convener. I may come back in later.

Sarah Boyack (Lothian) (Lab): Good morning. I am very much looking forward to following up on the written evidence that we received in advance.

Mr Colquhoun said that the legislation applies in Scotland as a result of a mistake. Can you give us some more detail about that and say why it was a mistake?

Alex James Colquhoun: When the Civic Government (Scotland) Act 1982 was going through the UK Parliament, the parliamentary agents who were working for the Showmen's Guild of Great Britain were not aware that they were also working for people in Scotland, so because the legislation was for Scotland alone—there is not the same legislation in England, where funfairs are exempt from such licensing—the agents did not

pick up on it and it was not reported to the Showmen's Guild. It came in through the back door.

As you know, at the beginning, not all local authorities adopted the licensing regime. It took about 10 years for them all to do so. Some local authorities do not charge for a public entertainment licence. Moray Council makes no charge, for example, whereas the City of Edinburgh Council can charge more than £6,000. The parliamentary agents did not pick up on the matter at first, then the act became law and was implemented.

At the very beginning, the charge for a public entertainment licence was £15, and the application process was simple. That has changed over time, as all local authorities have taken it on. On three occasions, we have had to ask Richard Lyle to ask questions in Parliament to clarify the regulations around health and safety issues and issues of double licensing—when we already hold a public entertainment licence but are required by the local authority also to have a licence for a snack bar. We have tried to get clarification and have worked hard with the local authorities.

We do not want to bite the hand that feeds us. Some 90 per cent of funfairs are held on local authority land and we want to work with the local authorities, but we are getting to the point at which the situation is becoming unworkable. There are areas in Scotland that are no-go for funfairs. Young people coming into the business and starting out cannot get ahead and cannot get a chance to operate. Not many people would do what Andrew Masterton has done and put on the line money for a fair, with a chance of losing it. That £300-odd is probably one of the more reasonable licence fees. It is difficult to get on the ladder, and the situation is holding everyone back.

Sarah Boyack: How do local authorities in other parts of the UK deal with issues such as potential noise, litter and emergency planning? Regardless of what your views are on how much you should pay for a licence, how are those things controlled in a way that is publicly visible?

Alex James Colquhoun: Strangely enough, the Showmen's Guild's Scottish section goes into England—we cover Carlisle, where we put on an Easter fair. In Scotland, there is what is called a lease, which comes with terms and conditions. In England, there is what is called a licence to occupy, which is very much like a public entertainment licence, but does not carry an extra charge.

I have a note here from Leeds, from the Yorkshire section of the Showmen's Guild, that says that, for larger fairs, there is a £50 administrator's fee to do extra things. In England,

people apply for a licence, but it is a licence to occupy, and it covers rental for the fair. The documentation—which I am showing you here; it is quite large—sets out all the conditions that we must follow, and the paperwork that we must have. It requires that we say exactly what will be on site—toilets and so on. All the things that you have to do for your public entertainment licence are covered by the licence to occupy. In Scotland, that would be in your lease, which you have to negotiate prior to applying for your public entertainment licence, so you are dealing with the local authority twice.

I have seen some people asking why the period should be only 21 days. However, it is not only 21 days; it is 21 days for the licence application. You could be negotiating with your local authority's parks department, or whatever department covers the area that you want to occupy, for two or three months in advance in order to get your lease, because the reinstatement fees, the rental and so on are all negotiated first. Then, when you get that lease to occupy the site, you have to submit that in order to get your public entertainment licence, first and foremost, to show that you have the land.

Laws around health and safety, noise and so on are the same across the UK; those issues are dealt with in the same way. Two years ago in Carlisle, a lady in a house not far from the site was hearing a lot of noise. She contacted the council, so the council came down to the site. We discovered that because of the way one of the speakers for one of the rides was facing, the sound was bouncing back and making it too loud, so the speaker was moved and the issue was dealt with. Things like that come up and we can deal with them. Everything is already in place to allow councils to deal with such issues without the need for public entertainment licensing.

Sarah Boyack: I would like a quick answer to my next question, because I will ask a similar question of Fiona Stewart from SOLAR. Did you say that 80 per cent of the sites that your members use in Scotland are owned by councils?

09:15

Alex James Colquhoun: Most fairs that we deal with take place on local authority land—public parks and so on. As things move forward and sites become difficult to get, some will take place in retail parks and so on. People who run retail parks are already used to dealing with fairs and so on in England. Because the sites are their property, they ask for all the paperwork and insurance details, and everything is lodged with them, outwith the licensing regime. However, most of our fairs are held on council-owned land.

Sarah Boyack: That is very helpful. Thank you.

Can I ask Fiona Stewart from SOLAR to come in on my next question, which is to give a local authority perspective of how the system in Scotland works differently from the system in the rest of the UK? You commented that the 1982 act should be reviewed. Have you discussed that with the Scottish Government? Why should it be reviewed? Is legislation inappropriate or does it not work as well as it might?

Fiona Stewart (Society of Local Authority Lawyers and Administrators in Scotland): Yes, that is something that we have discussed with the Scottish Government over a number of years. A representative from the licensing division of the Scottish Government comes to every meeting that we host.

The 1982 act is now almost 40 years old. Life has moved on from the circumstances that applied when it was implemented. It no longer reflects how modern-day life, events and activities take place. For example, it does not reflect the electronic age. The whole act needs an overhaul so that all licences are updated, revised, and brought into the modern age, and so that processes are streamlined at the same time as maintaining support for the public safety reasons for which the act was brought in.

Our perspective is that, on the whole, fairgrounds operate well. They are welcome in our areas. They are subject to the same safety requirements as all other activities that are licensed under the act, and they are subject to the same four grounds for refusal. We work to the best of our ability to make the existing legislation work, but it is outdated and antiquated and we do not see why fairgrounds should be singled out when the act itself needs to be looked at so that every licence type is treated fairly, and is brought up to date so that needs are met.

Sarah Boyack: Convener, can you indulge me? Am I allowed to ask Fiona Stewart a supplementary question?

The Convener: Yes, you can ask a short question.

Sarah Boyack: Thank you. It is about ownership, which was raised by Alex Colquhoun. Do you have a similar view on there being so many proposals for local government sites, which means that there is scrutiny already, or do you have a different view on rental for the sites and licensing?

Fiona Stewart: I can speak only for my council because it is the one of which I have detailed knowledge. We are certainly trying to work more closely with our landscape services for the council-owned land sites. My initial investigations have discovered that landscape services look only at the lease of the land and do not have detailed

operating conditions for the fair. Operating conditions are left to the licence. However, we do have a one-Aberdeenshire policy that we are looking to streamline, so that applicants have only one point of contact, although separate services behind the scenes might still deal with the one activity.

A number of fairs take place on private land in Aberdeenshire, which makes things more complicated for us. Fewer managers own private sections of land that fairs operate on, so it is slightly more complicated because we are not in control of the leases of that land, so the licence then becomes important.

The Convener: Before I bring in Alexander Stewart, I should have mentioned at the beginning of the meeting that Annie Wells sent her apologies. I put that on the record. Alexander Stewart is next.

Alexander Stewart (Mid Scotland and Fife) (Con): Mr Colquhoun has explained in written evidence and in answers this morning that flexibility in meeting local circumstances is a key feature of the licensing act, but the act it disadvantages fairground operators and might well advantage the local authorities. That is your basic problem, or the basic reason behind some of the concerns that you have raised. Will you go into more detail on that? Will Fiona Stewart then answer with reference to local authorities?

Alex James Colquhoun: Where to begin? I will begin with fees. I have evidence from Taylor's of Edinburgh Funfair, which works out of Edinburgh. It gave me two receipts for fairs that it put on—one at Falkirk stadium and one at Grangemouth gala day. They are both two-week fairs. Falkirk Council's price was £263 for the licence for each of those fairs. Taylor's has a fair on the links at Musselburgh for which the licence comes in at £190. It is exactly the same fair.

We then move on to Edinburgh, which is very important to the fair. It is known as Taylor's of Edinburgh because it is its home town. Taylor's put on two fairs in Edinburgh. The first was on Leith links, for which the fee was £4,464 for a five-day fair. That was outwith advertisement, security or any of the other things that come along. The fair then moved on to the Meadows in Edinburgh. The licence application fee was £6,332 for a five-day fair. Edinburgh is basically a no-go area for funfairs. Those are examples of the differences.

Moray Council's licences are free. Dumfries and Galloway Council has a condition that if there are only five riding devices, the licence is free. That allows small towns and villages to have small funfairs at their gala days. Licensing is stopping fairs from taking place in the small towns and villages; it is taking them away from those places.

You can only afford to take a chance on a licence fee, because there is no chance if your licence is refused or you do not get to go ahead with the fair and the money is lost. Licensing is causing those troubles.

Alexander Stewart: That is a major disadvantage to you as entrepreneurs and business people who are trying to make a living from your organisations and structure. You have to make a huge investment before you start to make one penny back.

Alex James Colquhoun: That is exactly right. Some local authorities are very good. The fee for a licence application in Aberdeenshire is £153, which is relatively good. Fife has more funfairs than anywhere else in Scotland because its system is very good. Until recently, if a fair applied to the local authority in Fife, it did not require the fair to have a public entertainment licence because it was already dealt with. Fife Council has changed that policy and we now have to have a lease and a licence. Those are the types of things we deal with.

There are also objections and other issues. A number of years ago, someone in West Lothian Council came up with the idea of fencing off all the funfairs and the gala days. Five gala days would have been affected. The local authority said that it was a police requirement and the police said that it was the local authority that wanted to impose the rule.

I was chair of the guild at that time. Many of our members are not comfortable going to licence hearings. They have to employ lawyers. We took a lawyer to that licence hearing. We had a letter from Melvin Sandell, who was the head of the Health and Safety Executive at the time, which said:

"The Health and Safety Executive is the body responsible for health and safety on fairgrounds across the UK. It has no similar licensing scheme and will not seek one. It is not consulted in any way on a local authority licence for a fairground and is not asked to see any information on the licence."

He also added there was no stipulation on fencing off a fairground.

Many of our members could not have gone ahead with the fair because they were on public parks, which are common land. They could not fence off that fair because it would have been breaking the letting conditions that had already been agreed with the same local authority that was objecting to the licence. The lawyer's bill came to just over £2,000. He won each of the cases, so it was a win, but the Showmen's Guild picked up that £2,000 bill because the members attending those fairs could not absorb it. That issue was for five gala days within West Lothian.

Richard Lyle and I went to see the local authority to try to sort the issue out. The local authority was blaming the police—[Inaudible.]

That is the type of thing that happens to us. Many local authorities allow local people to object to temporary licences, and we find many cases of discrimination. In the case of an application for a licence for a fair in Carlisle, a teacher objected, using the words:

"you do not know who is living in those caravans when children are walking past",

and on the same application:

"We won't be able to walk our dogs in the park because showpeople are well known for stealing dogs."

Imagine how our members felt about that. The licence application was granted, even with those objections, but the member decided not to take the fair. He paid the lawyer's fee and the licence fee, but decided not to go to that fair because the feelings were so strong. The situation is causing our members to feel discriminated against in some cases and local authorities are allowing that to happen. It is very difficult.

Alexander Stewart: This is for Fiona Stewart. The onus is on local authorities. There seems to be advantage; some local authorities seem to be milking the system and using it as an income stream so they can gain advantage over individuals who are trying to run businesses.

Fiona Stewart: The 1982 act is clear that the licence application fee should be set at a level that covers the local authority's costs of processing the application. It is an application fee rather than a licence fee. It is to cover our administration costs. No national criteria are set down in the 1982 act for what councils should take into account. Each council has to work out its own costs.

In Aberdeenshire, we review our fees every five years, through a detailed investigation and costing. We do a light-touch review at two-yearly intervals, and the fees are upgraded by inflation every 1 April. For a long time, our fee was £50. We discovered that that did not cover our costs, so the fee went up to £90. Our most recent in-depth fee review, in 2017, worked out that it costs just under £150 to process and issue a fairground licence, so we put the fee up to £151, and with inflation the fee is now £153. I cannot speak for the local authorities that charge much higher or much lower fees, but it is part of my call as SOLAR chair that the legislation needs to be reviewed to provide some consistency. Certainly in Aberdeenshire, the fee covers our costs.

With regard to objections in licensing hearings, there are statutory grounds for refusal. If a temporary licence is issued, it is not advertised, but that does not mean that members of the public

and other outside bodies cannot object. If there is an objection or a representation, we must hold a hearing because we have to provide natural justice. The applicant and the objectors must have a fair right to be heard. It is the same process for fairgrounds as it is for any other licence type under the Civic Government (Scotland) Act 1982, and under human rights legislation we are bound to comply. I cannot comment on the discrimination issues that have been raised, but a licence can be refused only if there is evidence to suggest that a ground of refusal applies.

SOLAR agrees that an appeals process is necessary, and we would welcome an appeals process for temporary licences to further the natural justice issue.

Certainly, no local authority should be making a profit. We should be covering the costs of processing the application and producing the licence. No local authority should be making a profit, and we have raised with the Scottish Government that we need a steer about the criteria that we should be taking into account and what we should be disregarding, so that there is more uniformity across the country in relation to all civic government licence fees, and not just fairground licence fees.

Alexander Stewart: Thank you, but it is quite obvious that some local authorities are making a profit. Thank you, convener. I will pass on to the next speaker.

The Convener: That was a bit of a statement to make, Alexander—that local authorities are breaking the rules of the legislation. We need evidence in order to put that on the record. Keith, will you come in now, please?

09:30

Keith Brown (Clackmannanshire and Dunblane) (SNP): My main question is about the fees that we have discussed, but first I would like Mr Colquhoun to clarify one point.

You said that licensing came in “through the back door”, because the agents acting for the Showmen’s Guild had not noticed that the provisions in the 1982 act applied to Scotland. I do not think that that equates to it coming in “through the back door”. It was nothing to do with the Government of 1982, which—believe you me—I am not rushing to defend. Can you clarify that agents missed that aspect of the legislation, rather than it being the case that the Government tried to sneak it through?

Alex James Colquhoun: That was our mistake. The parliamentary agents that we employed were not aware that they were working for Scotland. Various parts of the legislation were being put

through at that time, and the agents totally missed that aspect because it was solely in the Civic Government (Scotland) Act 1982. It was never flagged up to the Scottish Showmen’s Guild until it became law.

It took a couple of years for some local authorities to introduce a licensing regime. I think that Glasgow City Council was the first council to take it up—the licence was £15, at the beginning. It took many years for all local authorities to take it on themselves to require public entertainment licences. Maybe “through the back door” was not the right way to describe it, but that aspect was missed.

Keith Brown: [*Inaudible.*—and it has caused problems ever since. I understand that. I would like you to clarify something about fees, given the discussion that we have just had. It seems to be extraordinary that some local authorities, including the City of Edinburgh Council, charge thousands of pounds, including hundreds of pounds for each device that is inspected and so on, while others charge nothing at all.

Does the Showmen’s Guild take the view that the local authority should be entitled to recover costs that are incurred in processing licences, or that the licensing process—at least in this respect—would be covered by other things and should not have to be undertaken at all, which would remove fees?

Alex James Colquhoun: Our members would want me to sit here and say that they want the same process as applies in England and Wales. English showmen come up here and Scottish showmen travel to England—we travel throughout the UK. They would like the same system in place.

As the chairman of the Showmen’s Guild, I have been working for a long time to get us even to this point. I have been working with the Convention of Scottish Local Authorities and with local authorities themselves to try to sort these things out. I realise that the current system has been in place since the 1982 act was passed, and that it will be very difficult to change. We are happy with the idea that some sort of system needs to stay in place—we cannot just wipe the system away.

We have had discussions on that, and on many different aspects, and we are trying to come up with a balance. The £50 charge that the bill proposes would, in some local authorities, be higher than the fee that is currently in place. It is so difficult to strike a balance. We have been trying for a very long time to sort things out and make them easier, and to make the system the same across the 32 local authorities.

When proposals for a better-regulation bill were discussed a number of years ago, we thought that that legislation would be the thing for us—it was

looking at standardising things across all 32 local authorities, so they would have the same processes with the same costs and the same forms. However, the proposals for regulation and the ideas changed from what they had been at the beginning, so unfortunately that did not happen.

We have gone to the Scottish Parliament and to Police Scotland a number of times to get guidance, but sometimes the local authorities will not take such guidance on board. I have, as Richard Lyle has, sat in council offices trying to explain the situation and to put across the views of Police Scotland and the Scottish Parliament, but the licensing authority lawyer has just said, "That's not how I interpret it."

The 1982 act says that local authorities may enforce conditions as they see fit, so they feel that they can impose anything. I disagree strongly with that approach, as do many others. It has been suggested many times that we take things further, to judicial review and things like that, but we do not want to bite the hand that feeds us. Local authorities give us the land to operate on, so we cannot make enemies of them. We do not want to cause trouble; we simply want to get on and do the business that we have been doing for generations.

Keith Brown: I missed the first two thirds of that answer because my screen froze, but I can pick it up by going back to the *Official Report*.

I have a similar question for Fiona Stewart. I understand the principle that local authorities should be able to recover the cost of processing an application for a licence, but how can the costs vary so greatly, from thousands of pounds in some areas to nothing at all in others?

I used to be a councillor, and I have been a clerk to the civic government committee in a local authority, so I am conscious that the 1982 act covers a number of different licensing applications and processes. Is the situation for showpeople who apply for public entertainment licences comparable to the situation with other licences?

Fiona Stewart: Do you mean the level at which the fee is set?

Keith Brown: I am talking about the process that is to be followed.

Fiona Stewart: Yes—the process is very similar for all licence types, although funfairs, for instance, do not require the same vehicle testing as taxis. We have to remember that funfairs are not the only activity for which local authorities issue public entertainment licences. Some local authorities differentiate their fees, depending on the type of event or activity for which a public entertainment licence is issued, whereas others set one fee for all public entertainment licences. I am not saying

that it is an excuse or a reason for setting higher fees, but authorities do not have national criteria to ensure that their charges are like for like.

In Aberdeenshire Council, the licence fee for a funfair is a lot lower than it is for, say, a Highland show or an agricultural show. We have graded fees, and our fees are slightly lower for charitable organisations than they are for commercial operations. That is how Aberdeenshire has interpreted the legislation on fees. Other local authorities have interpreted it differently. However, we agree that fees for all licence types under the Civic Government (Scotland) Act 1982, not just fees for funfair licences, need to be looked at.

On processing, schedule 1 to the 1982 act sets out clearly the factors that local authorities should take into account. We have to consult the police and the firemaster, but most local authorities also take into account planning, environmental health and building standards. In Aberdeenshire, we liaise with the Health and Safety Executive for funfairs; it receives copies of all the applications and the licences that are issued, because it has an enforcement role to play. On occasion—I am going back 15 to 18 years—the HSE has stepped in and advised us not to issue licences for safety reasons, but usually it is a silent partner.

The licence needs to be processed and administered, and the cost is based on how the legislation is interpreted, so there is variation. We are very much aware of that, so we need some kind of national criteria to assist us in addressing it. On the question of higher fees, the only thing that I can think of is that there might be a set fee for a public entertainment licence, and the local authority has chosen not to categorise different types of activity under that licence. I hope that that answers your question.

Keith Brown: Have I got time to follow up on that point, convener?

The Convener: On you go.

Keith Brown: The committee often hears from local authorities that they want—quite rightly—discretion, but we are now hearing, "We have to do this because we do not have national guidance." Surely it is up to local authorities to do the right thing. If they think that the charges are punitive in some cases, they could just decide not to apply them. You do not need the Scottish Government to give you guidance, do you?

Fiona Stewart: We are not comparing like with like—we cannot compare the fees across Scotland if we are not all setting fees according to the same criteria. We can, as legal clerks, discuss the matter at SOLAR and take it back to our individual councils, but the councils set the fees—councillors have the power to set fees, over and above what we say.

Without a national steer to say, for instance, that we need to take into account X hours of officers' time and the fees that are paid elsewhere, we are not comparing like with like. There will be big differences, because local authorities are making their best attempt to do what they think is correct. That is how such wide discrepancies have come about.

I acknowledge that, way back in 1985, when most PEL systems came in, fees would have been a lot lower, but costs have increased and processing methods have changed, and we have to cover our costs. In that regard, applications for fairgrounds are no different from any other application. I know that that is not what you want to hear. I can certainly take the issue back to SOLAR and discuss it there, but ultimately the question of fees is in the hands of our councillors.

The Convener: Fiona Stewart said that her council charges different fees depending on the type of event that a licence is for. I thought that the whole purpose of the licence fee was to cover your costs. How do those two things marry?

Fiona Stewart: They do marry. For example, it can take a lot longer to process an application for a large music event. A lot of time is spent sitting around a table with many organisations looking at the safety of the event, working on a safety plan and then tweaking it. In addition, an application might go to a committee. The cost of processing a licence for that type of event can therefore be a lot higher than it might be for a funfair event, which would rarely require a hearing; the processing is usually done by letter or email and an application can be turned around much more quickly, so the administrative costs are lower. There is less involvement and less interaction with the applicant to ensure that the event is safe, so it is cheaper for us to issue a licence.

The Convener: Thank you for that clarification.

I will bring in Andy Wightman next. I ask for quicker responses than we have heard so far. We still have a fair bit to go, and we have until just after 10 o'clock for this session.

Andy Wightman (Lothian) (Ind): First, I have a quick question for Alex Colquhoun. You said that about 80 per cent of fairs are held on public land. Can you confirm that a great majority of that public land is common land that has been held by towns for centuries, and on which your members and their predecessors have been operating fairs for centuries?

Alex James Colquhoun: Yes. In most cases, fairs are held on public parks, which are common land in or around the centre of a town. That is traditionally where we would attend. We have a lot of royal charter fairs that date back hundreds of years. Those fairs are all based on that system,

and that is where we want to operate. Many fairs have been lost because of issues with common land. Two fairs a year used to be held on Dumbarton common, but that land was lost through licensing issues, so those two fairs have now gone.

That highlights another difference between England and Scotland. England has the Fairs and Markets Act 1850, which requires local towns and authorities to make common land available for markets and fairs. That is why there are many more fairs in England. We do not have such legislation in Scotland; we have public entertainment licensing, which works against us. Nonetheless, in most towns, on most occasions, anyone who is looking for a site for a funfair will begin with the local authority, looking at the parks and football pitches—all the common land that is available. That is where our members would begin.

Andy Wightman: Fiona Stewart spoke earlier about whether there is a need to review the 1982 act. You asked why fairs should be singled out in the bill. I presume that that is because fair operators have identified issues with the current legislation. For example, the same regime does not operate in England and Wales. Fairs travel around the country and therefore operate across local authority areas, and although fairs are full-time businesses, there is no flexibility built into the system to enable them even to move across the road. Do you accept that, regardless of your views on the detail of the bill, such arguments merit development of a new statutory regime for fair operators?

09:45

Fiona Stewart: No. We have markets that come in from the continent, and street traders, burger vans and people who sell goods, who all travel around the country and must apply for licences in each local authority area. They are commercial operations and are subject to the same requirements. If the weather is bad or a pitch is bad, a market or street trader cannot move from one location to another without requiring another licence.

Other types of events that are held under a public entertainment licence must absorb the loss if the weather is bad or there is a reason why they can no longer go ahead. I appreciate that some of those events are held by voluntary organisations, but they have to take the hit, as the commercial operators do. If those other operators have to take the hit, why should the rules be different for fairgrounds? The businesses that I have listed also travel around the country. The bill would create a two-tier system by which other businesses that travel would be subject to civic

government rules while fairgrounds would be subject to fairground rules.

We should be able to work towards a solution by looking at the 1982 act as a whole and bringing it up to modern-day standards in order to balance the needs of operators against the needs of the local authorities that issue the licences. Fairs are not the only businesses that face such difficulties.

Andy Wightman: Okay. There is no provision in the bill for any consultation of communities on licence applications. I will start with Fiona Stewart then move on to Mr Masterton and Mr Colquhoun. Do you have a view?

Fiona Stewart: That is very concerning to us. Communities should be given a voice, because not just fairgrounds but all licensed activities take place in those communities. We frequently get complaints from neighbours, which we can deal with only after the fact, so why should communities not be given a voice, given that such activities have an impact?

We welcome fairs. Nine times out of 10 there are no problems, but it is not sufficient to consult only the police and fire authorities. Councillors know their areas; they are the ones who get the complaints from the public. We must deal with the issue in some way, otherwise it will hit the front page of the local press. We want to be fair, but we need to give the communities a voice as well.

Andrew Masterton: I welcome local communities being given the opportunity to make representation. In my experience—I can speak only as a showman operating in my own right—I have been unsure whether my business will go ahead at the weekend because, based on representations that have been made, I have been called in to appear in front of a licensing committee. More often than not, representations are based on a premise of supposition—they are based on hearsay and speculation. I am happy to go to a licensing committee and be held to account for my track record, as someone who has operated on the site previously. Sometimes, representations can be made without consequence—sometimes, people who make representations do not need to account for their position. Sometimes, representations are based on nimbyism or pure prejudice against showmen, as a result of us being perceived as Travellers.

The bill makes provision for the police to make representations, which I think is perfectly good and valid. If we have been on a site before, the police can assess my suitability as an applicant, based on a criminal record check. The local authority can base an opinion on the suitability of my rides, whether they have ride safety certificates and whether I have public liability insurance. Sometimes, people can make representations to

stop us based on nimbyism—not in my back yard—or pure prejudice. I would like the police to be the funnel through which representations are made.

Andy Wightman: Thank you. Mr Colquhoun, do you have any comments on the matter?

Alex James Colquhoun: I will read from the Scottish Government's guidance on temporary licences. Temporary licences for up to six weeks are available to local authorities. The guidance says:

"Where an application for a temporary licence has been submitted, the licensing authority need only consult the chief constable, and if necessary, the fire authority."

That is in the schedule to the Civic Government (Scotland) Act 1982, and it is very similar to what is proposed in the bill.

I understand that there will be issues but, as Andrew Masterton said, people will sometimes object in an attempt to stop us getting a licence to allow a fair to go ahead. We fully understand that happening if sites are unsuitable. There have been cases that we would not argue about in which sites have been lost because they have been unsuitable for various reasons. That does and will happen, but we are being prevented from operating without even being given an opportunity, as Andrew Masterton said.

Local people can object through their local councillor and at least part of the issue can be dealt with. If the park is not suitable, the issue can be dealt with with the local authority when we apply for the lease without our having to go to a licence hearing and having to pay all the money involved in that. That can be dealt with if people are concerned, but we should at least be given the opportunity to put the fair on.

There are laws in place that mean that, if the music is too loud, the council's environmental health department can come along and we can deal with the issue. That has happened in the past. I remember one instance in Fife when the people putting on a fairground pulled up on the site at 7 o'clock at night. It was tight getting into the site, so they waited until the traffic had gone down. They did not even set up, yet the police were there at 8 o'clock the next morning, because there had been objections about the noise from the music at the fair. The fair had not even been set up and there were already people objecting to the noise from it. Those are the issues that we face.

In some cases, people just do not want a funfair in a particular location. We have had instances in Glasgow in which new flats have been built around public parks; in other areas, buildings have been turned into flats. Some people believe that that is their front garden, and they do not want a funfair

operating there. Even the Glasgow fair, which is a royal charter fair that the Glasgow fair holidays are named after, no longer takes place, because flats and so on were built around the park. The fair was gradually moved further into the park where no one could see it and where the public did not really want to walk. There used to be four or five bingos there, and the old ladies who used to go and play bingo there did not want to walk away into the back of that park. That fair has now gone.

The Convener: Could you keep your answers a bit shorter, please, Mr Colquhoun?

Alex James Colquhoun: I am sorry—I will finish there.

The Convener: Fiona Stewart, do you want to come in?

Fiona Stewart: Yes. I will keep it very brief.

The temporary licence section does not prevent a local authority from consulting other bodies in relation to producing a licence; it does not say that we “must only” liaise with the police and the fire authorities. We must be satisfied that the activity is suitable to be licensed.

Councils cannot control the content of objections. I see my job as a legal adviser as being to advise the licensing committee on what is valid, competent and relevant. When it comes to discriminatory grounds, councils have public sector duties not to discriminate under the equalities legislation, and I would like to think that local authorities comply with that; we certainly do. Any objection that is made will be investigated, but it should be borne in mind that often, under council schemes of delegation, once a representation is made, if it is not withdrawn, that removes our delegated powers as officers to grant a licence and the matter must go before a committee to be determined. Under the Local Government (Scotland) Act 1973, there are restrictions, whereby there are certain delegations that we can use and certain that we cannot.

Gordon MacDonald (Edinburgh Pentlands) (SNP): I want to ask about the proposed reduction in the time for processing a licence to 21 days. Could Alex Colquhoun tell us what impact that would have for showpeople?

Alex James Colquhoun: At that point, we will already have negotiated to get the lease of the land. There will be 21 days to deal with the licence and any objections. The shortening of the period gives us more chance. As things stand at the moment, if the licence application is refused, our members will be out of business for a week or two weeks or whatever because, by that point, they will not have any other options. The shortening of the period will mean that, if it looks as though they will not get a licence or if there are objections to

the application, they might be able to find another site or to hold another fair somewhere else.

At the moment, there is a long period of waiting, which can last for months. One of the problems is that, generally, the hearing will be held just before the fair is due to go ahead, which is a period of only a couple of days. We have had instances in which a licence has been refused on the Friday before the guys were due to pull into the fair on the Sunday. In those circumstances, they will have a week when they will not be able to find anywhere else. There is no process for them to go through to find something else. Reducing the period for processing a licence would make things much easier and give our members an opportunity to find something else.

Gordon MacDonald: We have talked about the wide range of scale of fees that are charged. What is the range of processing times for Scotland's 32 local authorities?

Alex James Colquhoun: They range from three months down to about 21 days, which is standard. As Fiona Stewart said, most licensing matters are generally dealt with by authorities under delegated powers. If there are no objections, it is done. If it is a fair that has been held for quite a while, it could be done through delegated powers. Such cases are relatively simple to deal with. It is when new applications involving new fairs are made that the problems come in. That is how it pans out.

Gordon MacDonald: Andrew Masterton, what is your experience of application times?

Andrew Masterton: They vary wildly. Most of my events take place in Fife. I consider Fife Council to be very effective in processing licence applications; it can turn around a licence application in 28 days. By contrast, the local authority that I deal with that takes the longest is East Dunbartonshire Council, which has a three-month lead-in time on the same entertainment licence.

The bill would allow showmen to have their licence application considered within 28 days. Showmen are not looking to submit their licence application 28 days before the event. Ideally, we would submit multiple applications at the same time—perhaps now, in any regular year—so that if there was a problem with one application, we would have time after a refusal to find an alternative site. Showmen are not looking to put in licence applications at the last minute; we are looking to be able to put them in early so that there is a back-up that would keep us open, keep the wheels turning and keep us in business.

To answer your original question, in my experience, the shortest time is four weeks in Fife, whereas in East Dunbartonshire the process takes

three months. Unfortunately, the weather does not give us three months' notice of its intention, which makes life difficult as well.

Gordon MacDonald: Why is there such a large range of processing times in the councils—from 21 days to three months?

Fiona Stewart: That will depend on whether the authority is issuing a full public entertainment licence or a temporary public entertainment licence. Generally, a temporary licence will have a quicker processing time. A site notice or newspaper advert has to go up for a full licence, so it will take longer.

I take issue with the suggestion that all showmen put their applications in early. My experience is that because of the nature of the business and the fact that showmen travel from location to location, applications often come in quite near the time of the event. I am not saying that that is wrong.

We have difficulties when an application comes in close to the date for which it is required. If there are objections or representations and a hearing is required, we have to give fair notice of that hearing to all parties. Getting a committee together, particularly in the summer, when committees tend to be in vacation periods, can be difficult. The 1982 act requires us to give 14 days' notice of a hearing and that is where we run into difficulties. A licence can be refused very close to the date, or in some circumstances we are not able to hold a hearing before the first date on which the fairground is seeking to trade.

The majority of applications should go through in time, but the closer to the date they come in, the more problems there are for local authorities to try to guarantee that the licence is granted in time. The main difference is that some will be full licences and some will be temporary.

10:00

Gordon MacDonald: What is the difference between a temporary licence and a full licence? Do the majority of funfairs have temporary licences, bearing in mind that traditionally they use the same land in each local authority every year? What is the difference? Are the majority of funfairs temporary licences or full licences?

Fiona Stewart: I cannot answer that for all local authorities, I am afraid. I have not gathered that information.

Gordon MacDonald: What is the situation in Aberdeenshire?

Fiona Stewart: In Aberdeenshire, we moved from full licences to temporary licences some time ago to speed up the process, because we do not

require to put up a site notice for a period of 21 days with a temporary licence. That has reduced the processing time from 28 days down to 21 in the absence of a need for a hearing. Even that is tight, I have to say.

Gordon MacDonald: If you are saying that 21 days—which is the period proposed in the bill—is a bit tight, what would be a more reasonable timescale?

Fiona Stewart: If you are building in time to hold a hearing, the maximum processing time would need to be between eight and 12 weeks. That would allow the application to go out to processing, reports to be prepared, notice to be given and a committee to be held. If there is to be an appeals system on top of that, in which appeals go to the sheriff court, and the committee's decision was to refuse an application, an appeal would cause a further delay. However, we think that that would be fair to objectors and applicants because an appeals system is currently missing from the temporary licence process and is available to those applying for full licences.

We would be looking for between eight and 12 weeks' processing time, even for a temporary licence. Obviously if you do not need a hearing we can grant the licence much quicker and we would not need the full 12 weeks. On average, however, that is a reasonable approximate time for us to process applications and issue licences.

Gordon MacDonald: We have talked a lot about fees. What would the impact be on your local authority if fees were reduced to £50?

Fiona Stewart: Our current costings come in at just under £150 per application, so we would be losing £100 per application and we do not have the capacity to absorb that cost.

Gordon MacDonald: I accept that you would be coming down from £150 to £50. What is the total income that the council gets every year from the issuing of temporary entertainment licences to funfairs?

Fiona Stewart: I am not able to give that information to you now. It depends on the number of fairs that come, so it varies from year to year. I am sorry, but I do not have up-to-date figures in front of me.

The Convener: A couple of members want to ask a quick supplementary. I ask members to please make them quick, and the responses should be quick as well.

Andy Wightman: I have a quick supplementary for Fiona Stewart on her exchange with Gordon MacDonald. In response to a question about the timescale for granting licences and the fact that you need to go to licensing committees, you answered on the basis of the provisions of the

Civic Government (Scotland) Act 1982. The bill would exempt funfairs from that act and make them subject to its own provisions. Do you accept that the observations that you were making are not strictly valid? There are only two grounds in the bill that would allow councils to refuse an application, in section 9(2). The arguments that you were making would be applicable if we kept the provisions of the 1982 act but would not be if the bill were to progress into law.

Fiona Stewart: That is correct, but we would still require a hearing to refuse a licence unless provisions were built into the legislation to allow officers to refuse. We would not have those delegated powers otherwise. We would not automatically, under the Local Government (Scotland) Act 1973 and under our schemes of delegation, have power as officers to refuse, so we would still be looking at more time. There still has to be time for notice preparation and a hearing unless the bill was amended in a way that provided for an alternative means.

Andy Wightman: Okay, I accept that. Could—

The Convener: No, Andy—I am going to have to bring in Sarah Boyack.

Sarah Boyack: I have a quick question about whether there is a difference between urban and rural local authorities regarding pressure on land and capacity to keep the opportunity of funfairs going. Could you give a perspective from both sides of the fence, if that is possible? Do you see a difference between how authorities approach that?

Alex James Colquhoun: All 32 local authorities do different things, but in the north of Scotland—Aberdeenshire is one of the better ones—things are much easier. The problem seems to be in the cities. Edinburgh certainly is the most difficult and the most expensive, so I think that there are differences there.

Fiona Stewart: I am speaking for a rural area. I do not see that there are any increased pressures, because funfairs tend to come to the same locations at the same times every year. I cannot speak for a city environment, because I have had no input from members on that, I am afraid.

The Convener: Richard Lyle, who is the member in charge of the bill, is present and wants to ask a couple of questions. Please make the questions and the responses brief.

Richard Lyle (Uddingston and Bellshill) (SNP): I think that you have heard in the evidence why the bill is needed. My question is for Fiona Stewart. In local government legislation, funfairs were not added in England. My bill would resolve the situation for Scotland. Funfairs in Scotland were added through an amendment. I want to

resolve a 39-year-old wrong. Many councils in England charge nothing for a licence. When an applicant in Scotland is refused a licence, they might lose hundreds of pounds. It is like being in a shop asking for a television, paying for it—

The Convener: Just ask a question.

Richard Lyle: Right. Why should we not have a nominal fee? By having a nominal fee, I want to encourage more fairs to take place.

Fiona Stewart: If there is to be streamlined process, a lower fee would be the result. We are concerned about the impact on communities.

On fairs losing money when a licence is refused, councils have processed the application, which has cost the council money. If the bill is passed with a streamlined system, costs will be lower, but we will have costs, so the fee should be set at a level that would cover those costs. There will be less work, but we will still have costs.

Richard Lyle: Most licences are for a year. The cost of a taxi driver or window cleaner's licence is £130 to £175 in most councils. Funfair licences are for a few days only and range from £50 to many thousands of pounds. Why is that?

Fiona Stewart: That is because the same amount of work has to go into producing a temporary licence, with some exceptions. We charge less for fairs—the work is not as involved as it is for a huge music event, for example, and the fee is set accordingly. The processing is the same for a temporary licence and a full licence under the Civic Government (Scotland) Act 1982, so the costs are the same. At the moment, I can talk only about the 1982 act, but if the bill becomes law there will be a more streamlined process.

Richard Lyle: I have only another two questions for Fiona Stewart, convener. I understand that, under paragraph 7(3) of schedule 1 of the 1982 act, temporary licences—not full licences—are exempt from objection provisions; there is no right to object. Why should the public have no right to object when there is no such provision in the original legislation? The only people who need to be contacted are the chief constable and the Scottish Fire and Rescue Service.

Fiona Stewart: The provisions do not say that the local authority must contact only the police and the fire service. The temporary licence provisions give local authorities permission to set a regime that is suitable for that temporary licence to be issued. We are not talking mainly about objections, but about representations, which are permitted for temporary licences. We cannot ignore that in law. Under human rights law, people must also be given a voice. Over the years, that principle has been developed under case law.

Therefore, although an objection might not be competent, a representation is, and we are not duty bound to contact only the police and the fire service.

Richard Lyle: This will be my last question, convener. SOLAR's submission talks about accidents at fairgrounds. Health and safety is a reserved matter, so it is not covered in my bill; there will be no changes to health and safety law. Why do you have concerns about that not being in the bill?

Fiona Stewart: We would prefer fairs to continue to be licensed under public entertainment licensing, in which the grounds of refusal encompass the suitability of the premises, public nuisance and public safety, as well as other good reasons. Through that legislation, we have the locus to take into account the safety of the rides and any accidents that have taken place. We also have a duty to protect vulnerable people in our communities who might go on rides. Believe me, it is not a "them and us" scenario. We welcome the fairgrounds, but we have the right to refuse a license on public safety grounds at the present time. The legislation means that safety is not solely the purview of the Health and Safety Executive, and we would wish those grounds of refusal to remain for fairground licensing.

Richard Lyle: To Alex James Colquhoun, I—

The Convener: No. I am sorry, Richard—you have asked enough questions. I thought that you had questions only for Fiona Stewart. You will get your chance to make your case next week.

I have one question for Alex James Colquhoun before we finish the session. You said that most fairs are returning fairs and that there is not an issue with them, so this is really just an issue for new fairs. Surely, new fairs would not be going to traditional haunts, so people would have the right to raise objections if they have concerns, to make sure that they are heard.

Alex James Colquhoun: When I say "new fairs", I mean that a lot of sites have been lost. Development has gone on, as you well know, so sites are being lost all the time. Sites are not becoming available, so we have to go out and find new ones. We are just asking for that opportunity. When someone applies for a licence, most times, they are refused flat out. I have seen licences being refused based on one objection. That would not happen in any other area, whether it be for a taxi driver's licence or for any other licence.

We ask at least to be given the opportunity to put on a fair for one year, and if there are issues, we can deal with those; we can work on them. As I said, some sites might not be suitable. However, under the 1982 act and how it works, we are not getting an opportunity to put on fairs in order to

prove what we can do. We can alter our opening times and we can make closing times, if people feel that there are issues with those.

It is our business; we do not want to cause trouble with local authorities or the local community. We want to entertain the community, so that the people will come to the fair, spend their money and have a good time. That is what we do, and we want to continue doing it.

Everyone remembers going to the fair. Members probably remember fairs in Glasgow that have disappeared over the years. We need to keep the business going. Too many local authorities want fairgrounds to come to their events, including to their firework displays, but do not want a stand-alone funfair. My members cannot survive on that model; we cannot keep going to one-day fairs. We need stand-alone fairs across Scotland, but that is being restricted.

The Convener: That brings us to the end of this evidence session. I appreciate the witnesses' appearance and their answers to the questions. I thank everyone who took part. Please leave the meeting by pressing the red telephone icon.

10:14

Meeting suspended.

10:20

On resuming—

The Convener: Welcome back. I welcome the second panel of witnesses. Morag Douglas is licensing team leader at South Ayrshire Council, Raymond Lynch is a solicitor and licensing section head at West Dunbartonshire Council, and Dr Andrea Salvona is from the Fair Scotland project. Thank you for being in attendance and for your written evidence.

We have allocated about an hour for this session. You might have heard my remarks to the last panel, to the effect that if you agree with what another panel member has already said, you should feel free simply to confirm that, rather than answer the question. Members will ask their questions in a pre-arranged order, with supplementaries at the end, if time allows. It would help broadcasting staff if members could indicate to whom their questions are addressed, in order, and if everyone could allow broadcasting a second to operate their microphones.

We will now move on to questions. Dr Salvona, what difference do you see the bill making to showpeople?

Dr Andrea Salvona (Fair Scotland): It would make a huge difference to some families. Showpeople have suffered historical discrimination

and, over time, the effects of the 1982 act have been eroded. At about the same time as the legislation came in, difficulties were starting to appear in relation to people getting licences. Some of the knowledge about the fairs and showpeople in general started to erode, because there was no more face-to-face interaction. I welcome the bill because it would enable a more pragmatic and sensible approach and would reconnect communities with their cultural memories of the fair.

I listened to the earlier panel; I suggest that because the bill's approach is more streamlined, it would reduce some of the arbitrary conditions that are attached and it would discourage conflicting institutional demands, which Alex James Colquhoun outlined. It would enable people to plan their businesses more effectively.

The current position of fairs and the community itself is fragile and quite precarious. Fair Scotland is looking at a project on discussing in the media whether fairs will survive the impact of Covid-19. I suggest that the bill would make more pragmatic use of Government resources; I note from submissions that the committee consults more than 12 internal departments and a range of bodies. Although consulting a range of bodies is right and proper, I would be interested to hear the rationale for consulting that number, because it seems like more of a response to a natural disaster than to a simple local burgh fair.

I think that the bill recognises that the fairground is an important expression of civic culture. I take issue with some of the suggestions that market traders applying for licences, for example, can be seen as a similar group. Showpeople have a long history of discrimination; market traders do not experience the same kind of discrimination. Also—

The Convener: I am sorry for interrupting, but are you suggesting that the bill is required because there is discrimination against showpeople, or is there some other reason why you think that they should be specifically looked after in a way that market traders, for example, are not?

Dr Salvona: It is not about showpeople, per se. It is about the protection of the culture. What I described is an important factor in some difficulties in licensing. Fairs in the community are a precarious part of our cultural heritage at the moment. That is why I say that discrimination is sometimes a factor in the difficulties in obtaining licences.

The Convener: Morag Douglas, what impact do you think that the bill would have on local authorities?

Morag Douglas (South Ayrshire Council): The difficulty for local authorities would be that the

bill would exclude any kind of public engagement with communities, in order solely to address the needs of showpeople. You have already heard quite a lot of information about fee levels. Although I cannot speak for the cities, because I am from a fairly rural authority, the fees that we charge are simply to cover costs; the proposed fee would not do that.

It was interesting that the Showmen's Guild recognised that some of the fees—Mr Colquhoun mentioned a fee of £300—were not unreasonable in the circumstances. That is important. It is also important to realise that the public entertainment licence regime covers many events—not simply fairgrounds—so it seems to be strange to be lifting one type of event out of the regime and giving it special treatment that no other type of event would benefit from—[Inaudible.]

The Convener: I am sorry—you have gone mute on me. Thank you very much for that response. I ask Mr Lynch the same question.

Raymond Lynch (West Dunbartonshire Council): I cannot add much to that. Our concerns are based on local engagement, in relation to allowing elected members at local level to make the decisions. We believe that they are best placed to do that. If there are objections and representations, members are well versed in civic licensing matters. One of the weaknesses, perhaps, is that if an application is refused, there is an expensive appeal procedure. If there was some kind of change, we would be happy to put our decision up for scrutiny in terms of stating our reasons and making the right to appeal easier. We do that for other civic matters, so we would not have any qualms about that. However, very few applications are refused.

I will give a practical example. In evidence this morning, Mr Colquhoun said that there used to be two fairs on Dumbarton common. There were incidents in early 2010 or so. Notwithstanding that, an application was granted to a different operator by our committee in 2019. However, we found that the main problem with temporary applications was that many members of the public and elected members did not know about them. There were concerns that a licence could be granted without, at least, the public knowing about it, so there are issues with temporary applications.

We want events to go well. We seek buy-in from so many people to ensure that they do. We approach such events in the same way as we approach concerts and so on. The key is that such events must work well in the community. My experience is that they mostly do work well and that most operators engage well. We would just like to have a good lead-in period that allows for that engagement and allows issues to go in front

of a committee, which we think would be better placed to do that.

Sarah Boyack: I will kick off with a question for Dr Salvona. One of the things that has come through in the written evidence and in the first evidence session today is that it is a changing world. The comment was made that where people used to have funfairs, there are now people living next door. Have you done any analysis on that? From the perspective of the people living next door, even a three-week funfair could have a massive impact on their lives. What are your thoughts on how that could be addressed?

Dr Salvona: We have not done any particular analysis of that, but we are aware that, because of the break in the traditions, it is quite difficult for funfairs to get established in a new location. Sometimes that is not so much based on the noise and the disruption—that can be an element, but it is easily addressed in the new bill because it is an objective measure—it is more that when there is a new funfair site, people have preconceived notions about who showpeople are.

10:30

I will give you a practical example of what sometimes happens when there is a temporary application to establish a fair. A fair was being established for a new area and some objections were raised. Some of them were prejudicial, but the person running the fair took forward a petition and most people supported the fair. We have evidence of this, which I am quite happy to offer in a written statement later. Sometimes what happens is that the few voices that protest about fairs override the majority of the public, who support the fairs. That should be taken into account. It is very important that local communities have a voice, but it is also important that a few voices do not override the majority of the public, who support the fairs.

Sarah Boyack: That is helpful. It would be useful to see that evidence afterwards, so thank you for that offer.

I have basically the same questions for the local authority witnesses. A comment was made earlier that one objector would be sufficient for a licence to be refused. Certainly my overview of decisions by my local authority is that it would be extremely unlikely for an application to be overthrown by one objector. In fact, it is usually very difficult to get any licensing overruled even if there are local objections. Do you have a perspective on the difference between funfairs and other types of licensing? What are local authorities' views on why an application would be refused in making decisions? Can you give examples of why funfairs would be refused that would be different from what

happens with other types of licensing applications, for example?

I will take Mr Lynch first, because he is currently on my screen, and then Morag Douglas.

Raymond Lynch: My experience with objections is the same as yours. In my experience, members would not accept one objection that was not relevant to the matter. Certainly, we do not treat such applications any differently when they come in front of the committee. I gave a practical example of that earlier. The committee could take into account what was said by Police Scotland and any relevant objections. As Fiona Stewart said, the clerk would advise on the criteria for relevant objections. The committee could decide on that and have a hearing.

People having a right to be heard on an issue does not necessarily translate into a reason for refusal. That is the simplest way to answer the question. To hear the community voice, or if somebody wants to say something about the application, they have to attend the committee, and the committee has to consider it and then come to a reasoned decision under the 1982 act. However, we have not refused any such applications recently. We want to work with the operators and we try to do as much pre-planning as possible to allow events to happen.

Morag Douglas: I agree with Raymond Lynch. Like Sarah Boyack, I think that it is very unusual for an application to be refused on the basis of one objection. In my experience, councillors have been very supportive of local fairs. To give a practical example, we have had only one fair where there were issues. It was on a private site, rather than a site owned by the local authority. Those issues resulted in immediate complaints from local residents and businesses, which we attempted to deal with while the fair was happening. The fairground operator at that time was advised that any future applications for that particular site would need to go to a committee and would not be dealt with under delegated powers, because of the large number of objections to the site. We were able to find an alternative site for the fairground, so there were no further applications for the problematic site.

That is an example of our trying to find a practical and pragmatic solution to a problem, but that was certainly not based on a single objection or any kind of discriminatory problems. It was very much about physical problems that occurred on the site.

Sarah Boyack: I want to follow that up with Morag Douglas. The previous panel raised the concept of travelling funfairs as opposed to a locally established business that is there all the time. Could councils do more to be proactive and

to work with the sector to give it opportunities? You have talked about how you found a better alternative site. Could local authorities do more before you get to the process of an individual application, so that there is an on-going dialogue between councils and the sector? That would be a beneficial approach in which you try to identify better alternative sites if a proposed site is not acceptable, perhaps because things have changed and there is new housing locally. Could local authorities do more on that, regardless of the bill?

Morag Douglas: There are two sides to that. The licensing authority is a regulatory authority and it is not its job to find a site. That is not to say that other parts of the council could not be involved in trying to identify sites. As I said, in the particular case that I was involved with a few years ago, we were able to find another site, which two fairground operators have now used without a problem. I foresee that, in the future, that site will be regularly used. It is not for the regulatory side of the council to deal with that. It would be for the council's estates department or whatever to look at that. However, early engagement is always to be welcomed.

Sarah Boyack: I was reflecting on that when I realised that our two local authority witnesses are licensing people, and you obviously have that approach, but I am asking about wider decisions by the council. Mr Lynch, from talking to your colleagues, is there that proactive approach? You own land and lease it. Is there another aspect there that could make it a win-win situation in which you get the right sites, income goes to the council and funfairs can still operate across the country?

Raymond Lynch: I agree. There is always scope to be more proactive and to have early engagement. The problem is identifying the plans. I know that it is sometimes difficult for showpeople to know specific dates, but there is certainly scope for early engagement with our council departments on identifying sites for lease and identifying criteria. That could alleviate some of the problems that happen when we get to licensing. The more that we troubleshoot the issues before we get to licensing and looking at completely regulatory matters, the better it is for us. I certainly agree that there is scope for that. The council would be supportive of that, because we want safe events that are good for the community. I certainly agree with you on that.

Alexander Stewart: We discussed with the previous panel the view that the fees that are set for a temporary public entertainment licence can allow some local authorities to make a profit. I ask Mr Lynch and Ms Douglas what their views are on that.

Raymond Lynch: We operate under the 1982 act, which works on the basis of cost recovery. In 2014, West Dunbartonshire Council was probably one of the first councils to do an in-depth fee review, which was supported by COSLA at the time as a template for looking at the issue, because there was an absence of guidance on it. We attempted to do a proper fee review to try to break even. We reviewed a lot of the fees, which were historically at quite a low level, and that led to an increase in fees. We will carry out that exercise again in five years' time.

We potentially have three such licences per year, and our fee is currently £708. Because we do not have a bespoke fee for temporary public entertainment, those are covered under public entertainment. From a revenue point of view, that is around £2,100, so it is not a huge part of our fees when you consider fees relating to taxis and other matters. Therefore, we do not have a high volume of fees and we are not looking to make a large amount from them. If those fees went to a lower level, that could create issues about how other fees are offset.

We certainly look at cost recovery and we operate within the 1982 act, but we do not think, "Where can we get revenue this year?" A lot of processes are involved in dealing with an application. We try to make events as safe as we can and we want them to go as well as they can. That takes a lot of engagement. We put our fees up for scrutiny in a full report, and our elected members were supportive of them.

Alexander Stewart: Morag Douglas, does your council have a similar view?

Morag Douglas: Yes. Our fee is currently £222 for a temporary public entertainment licence, and that barely washes its face. I think that we always make a loss. When an application comes in for a funfair, we ask for a plan of the ground where the rides are to be situated et cetera and we ask for the document of compliance to say that the rides have been inspected. In an ideal world, I would like that application to come in with all the documents, so that we can check them once, but the reality is that, for every single funfair that I have dealt with, whether it involves a stand-alone public entertainment licence or is part of a larger one-day event, we have struggled to get all the documentation. We make many phone calls and send emails to the person who has submitted the application to chase up the documents. I have literally traipsed across the Low Green in Ayr to get documentation for a machine on the day of an event only to find that it was just being inspected that day. That is very difficult for us, and £50 would go no way towards covering those costs.

Alexander Stewart: The bill makes no provision for consultation with local communities, particularly

in relation to where fairgrounds are going to be positioned. How does that compare with the system that we have at the moment and what would be the advantages and disadvantages if that became the way that the process is managed?

Morag Douglas: South Ayrshire Council is always looking to engage with the public, and it would seem bizarre to deliberately cut off any engagement at all. I can give an example of another event that was to have been held last year. Obviously, Covid got in the way, but this happened during the period when a funfair might have been able to take place. We had an application from an operator for an event on council ground. The council, not through licensing but through its estates department, took soundings from the community council, which was very against the idea of leasing ground for a funfair during Covid. For that reason, a lease was not granted, so the licensing issue became unimportant. In that particular case, we have agreed with the operator that we will roll the fee over to an application for next year for the same site, which has been used in the past without causing issues. That is trying to be pragmatic, under the circumstances.

Alexander Stewart: Mr Lynch, do you agree with Morag Douglas on the lack of a consultation provision?

10:45

Raymond Lynch: Yes. I will quickly give one example. In our experience, it causes more apprehension among the public if they do not know about things than if they are told and can object. There can be concern about an event, and people want to know what the event will be. If it is advertised, people can respond. The community is less likely to object once people know about an event than if they are not told about it, if that makes sense.

Alexander Stewart: Thank you. I am content with that, convener.

Gordon MacDonald: Before I ask my questions, I want to ask a quick point of clarification. Morag Douglas said that the fee in her council area is £222 and Raymond Lynch said that the fee in his is £708, which is greater by a magnitude of more than three. We heard concerns from the showpeople this morning about huge discrepancies between what different local authorities charge. Why the difference? Presumably, the majority of the cost relates to official salaries and both of you will be using the same salary scales for your local authorities, so why is there such a huge difference between the

£222 in South Ayrshire and the £708 in West Dunbartonshire?

Raymond Lynch: You raise a valid point. I have raised the issue of the lack of consistency in fees at SOLAR previously. West Dunbartonshire is regularly compared with other areas and members of the public ask the same question when they apply for licences. There is a bit of public debate about why there is such a wide variance. With cost recovery, we are duty bound to look at our structures and fees, and at what is involved in an application, and to make our best assessment, operating within the law. If any guidance comes out, that will provide clarification. I cannot comment on how other local authorities set their fees, but we did an involved exercise in 2014.

We have regularly reviewed that and our elected members have looked at it, but certainly you raise a valid point about the wide discrepancy. The public sometimes do not understand that, but certainly when there are 32 local authorities there will be different approaches and different costings. I comment only on why West Dunbartonshire charges the fee that it does, and we have put that in the public domain.

Gordon MacDonald: Morag, why is your fee so cheap? When was the last time that you reviewed it?

Morag Douglas: We have not had a root-and-branch review for quite some time. Our fee has moved with inflation rather than from looking at the amount of work that is involved. We are due to do a full-scale review, which I think will increase fees across the board quite substantially. I am not suggesting it would treble them, but I can see that there will be a fairly substantial increase. That will not be widely acceptable to the public, but we are under a duty to cover our costs.

Gordon MacDonald: How long does it take for your authority to issue a temporary licence?

Morag Douglas: We are normally able to turn applications around in 28 days, assuming that we do not have any problems with them or with representations that come in. As I think that Fiona Stewart explained to you, officers in general do not have delegated powers to refuse a licence. That would go to a committee and that is where the difficulty comes in, in that I do not think that we would want officers to have the power to refuse licences. I think that it is right that elected members are involved in that decision-making process, but it is how that is built into the scheme that is difficult.

Gordon MacDonald: If the proposal in the bill to reduce the time to 21 days went ahead, what impact would that have on the council?

Morag Douglas: You would be asking us to prioritise an application for a funfair over everybody else's applications that we are also trying to deal with. You will appreciate that the licensing departments in all councils deal with a huge variety of applications. Taxi and private hire licences are a very good example—dealing with those, and with liquor licences, is very time consuming for us because of the number of applications. We are working to timetables for those applications because a lot of them end up having to go to a committee. If you put funfair applications ahead of all the others, you may be prejudicing other people who have lodged their applications timeously but whose applications we may not be able to deal with because we have to prioritise an application for a funfair. It might mean, for example, that somebody who has applied for a taxi vehicle or taxi driver's licence has to wait until a further committee before they can be dealt with; it would seem very unreasonable to say that an application for a funfair should be prioritised against anything else.

Gordon MacDonald: Raymond, how long does it take your local authority to process a temporary public entertainment licence?

Raymond Lynch: If it is not complex, it can take anything up to six weeks but probably four. Questions arise when not all the information has been produced or objections come in and the application requires more scrutiny. We always like to have early planning and to have a buffer that allows stuff to get in front of elected members. That is why you might see a wide variety of processing times, because we are not always working in the best-case scenario in which everything is straightforward, everything is lodged and there are no issues attached to it. Certainly, earlier planning and engagement is important, which I think is a point that the deputy convener picked up on. I think that we can be more proactive about that across the board, looking at what is required and at standardisation, and troubleshooting problems in advance rather than when the application comes in. There is scope to look at issues prior to applications coming to licensing. I would be happy to explore that away from the table as well, if that was felt appropriate.

Gordon MacDonald: Andrew Masterton suggested that a lot of showpeople put in an application for a public entertainment licence for the year to various local authorities. What is your experience? Do you get applications months in advance because people are planning their year?

Raymond Lynch: Unfortunately, that is not my experience, although we would like it to be the experience. The earlier we have an event planned on our calendar, the earlier we can engage with our estates department and so on, to set up the

site. If showpeople are coming back to a similar site, we know roughly when they are coming back, but the more advance notice we get, the earlier we can identify any issues in the application form.

Certainly, what you describe is not my experience. Sometimes our experience is that the application is made quite close to the event, which creates an issue in terms of timescales as well. If it is in early, the onus is put on the local authority to properly process it. Showpeople should obviously take account of when the application is lodged; if applications were lodged early and local authorities did not process them timeously, that would be an issue.

Gordon MacDonald: Finally, Andrea Salvona, what would be the benefit to showpeople if the time was reduced to 21 days?

Dr Salvona: I would reiterate some of the points that Andrew Masterton made. Sometimes there is an issue when something goes wrong in a particular place, so it would make a big difference if the process was quicker. There are a couple of issues with the paperwork that would be a lot easier to address if the process was more standardised. I have run my own business and, if I had to put in the amount of paperwork that I have seen, I would find it unsustainable to do week after week. It is important that the paperwork is submitted in advance, but that cannot always happen. It would be of benefit if the amount of paperwork was reduced.

I have a couple of other points, but I will let you ask me in the correct sequence, if that is all right.

Andy Wightman: Dr Salvona, I think that you said in an answer to Sarah Boyack that there has been a break in tradition. Obviously, these fairs go back in some instances to the 12th, 13th and 14th centuries. Can you clarify that you relate the break in tradition to the introduction of the Civic Government (Scotland) 1982 Act? Could you confirm that that is what you mean and could you say a little bit about how fairs were regulated in towns before 1982?

Dr Salvona: Before the 1982 act, a lot of showmen negotiated directly with the local authorities and it was more a consensus-based approach. I know that in Glasgow there was a licence, but it was probably a licence to occupy.

To respond to your question about the break, in my research I looked at all the interactions between the Showmen's Guild and the local authorities. I looked at a lot of historical documentation projects at school, in which the families of showpeople recorded that their lifestyle had been quite significantly interrupted. I noticed that it was in the 1990s that there started to be significant issues with the Civic Government

(Scotland) 1982 Act having all these different conditions attached to different local authorities.

When I am speaking of the break, what I am referring to is that, as fairgrounds decline in numbers, there is a loss of daily interaction between local communities and showpeople. Fairgrounds are an intergenerational activity and collective memories are passed down in families. When the break occurs, and the shows decline and fairgrounds are taken away, the collective memory disappears and it becomes hard for people to establish themselves back in a community. It takes a wee bit of work between the local authorities and showmen to get that established again.

Andy Wightman: My next question is for Morag Douglas and Raymond Lynch. As local authority officers, do you recognise the problems and the issues that have been raised by showpeople about the current licensing regime? Do you recognise those issues and consider them to be valid issues in relation to the tradition that they are carrying on?

Morag Douglas: I recognise the concerns that were raised about fees. That is understandable and I think that that needs to be addressed. I accept that there is not an appeal process, for example, that is particularly good with the temporary licences. I do not recognise the problems with trying to arrange fairs taking place. I have been doing this job for 15 years and, apart from one site that caused multiple problems, we have always been able to issue the licences for funfairs, sometimes after a bit of negotiation. I am not suggesting that everything has always been straightforward, but I cannot think of another situation where events have been refused.

I also do not recognise any talk of discrimination; I do not have any personal experience of representations that would be discriminatory. There is always a bit of nimbyism from the public when it comes to any kind of application, but I think that councillors in any committee can deal with that quite effectively.

Raymond Lynch: I would reiterate a lot of what Morag Douglas has said. It is easy to point to inconsistencies in 32 local authorities. Notwithstanding the fact that inconsistency may occur, it is our view that local elected members who know their area can deal with these matters if there is proper time to deal with them in front of committees, if that is appropriate.

11:00

A lot of applications do not require to go to committee, a lot are dealt with and our view is that we try to facilitate these events as best we can. They are not straightforward. The 1982 act—if you

go back to the heart of it—is about public safety. That is why a licensing system is in place and why we require it. There are public safety concerns and we want these events to go well and we want to minimise any risk in relation to them. Certainly, we are keen to have such events in our area; we just like the idea of having proper planning, preparation and local involvement.

Andy Wightman: I have a question on that point for you, Mr Lynch. Mr Colquhoun referenced the regulatory regime in England—I think that he had looked through a licence to occupy a site in Carlisle. The issues about which you raised concerns—about public safety, for example—are built into that one document, which is an agreement between the local authority and the fair operator on occupying a site and taking all the relevant appropriate steps in terms of safety, having certificates and all the rest of it. Do you recognise that there would be merit—this is not what the bill proposes—in having such a system so that the council could satisfy itself that all the issues that it had legitimate concerns about were addressed? It would be a one-stop shop for fair operators. Councils issue licences, but they also, as part of an entirely separate arrangement, arrange leases for sites.

Raymond Lynch: They are two different things. A lease covers things to do with grounds and it does not cover licences specifically. I can give an example. When we used to have concerts at Balloch park, there would be a ground lease, which would cover matters such as reinstatement and so on, and a separate public entertainment licence, which would cover a wide variety of safety matters. I think that it would be difficult for a lease that looks at the property side to cover safety matters. We would still advocate having a separate licence that people would point to for conditions. A licence is a clear document.

My property colleagues may be able to give a better answer. I can see the advantage in having one document that covers everything but, historically, the licensing regime has been separate. The licence to occupy in England is different. We have a ground lease and so on.

Perhaps property lawyers can answer the point better than me, but that is how we have done it in the past. The issue could be looked at if there is scope to incorporate a better one-stop shop, as you put it, but we believe that licensing-specific concerns are better dealt with in a licensing document.

Andy Wightman: Maybe we will speak to Carlisle City Council about how it operates.

Does Morag Douglas have anything to observe on that question?

Morag Douglas: The approach would mean that, when events were held on private ground, there would be no scrutiny of those events at all because the council would have no input into that. That should be borne in mind.

Keith Brown: The committee is wrestling with a number of different issues: is the current regime necessary, is it superfluous, is there duplication, and how can we reduce the costs or streamline the process? We would all like to see more funfairs. That would generate more economic activity and we could all do with a bit of fun—when we are able to go to a funfair, that is. However, I suppose that the big question is this: who pays if local authorities are not able to recover the costs involved?

I accept the point that has just been made that two different things are going on here. Could having a different form of licence be one way around the issue? If a known operator comes to you with a licence that has stamps on it for the mechanical checks, health and safety and everything else, that should be enough and should mean that there is no need for a process. Unless there was an endorsement on the licence to show that the operator had transgressed in some way, that would be enough. That would deal with quite a number of the applications that you get. It would simplify the process, it would reduce the work that you have to do and it would reduce the cost to the operator. That question is for Dr Salvona and Morag Douglas.

Dr Salvona: I think that the Showmen's Guild would appreciate any improvement to what the bill proposes or to what is in the Civic Government (Scotland) 1982 Act.

More imaginative technological processes could be put in place, such as a portal where all the documentation is available for local authorities to access. There is a huge variation in the processes. One local authority checks with and consults all the bodies, whereas another asks showmen to consult the bodies and then submit their application.

I do not think that there is a full overview of local authorities. Some of those attending this meeting say that they do not have experience of these events, but in my research I found it difficult to get a full overview. Events are more prevalent in some areas than in others. Anything that would streamline the process and would give you an overview of what is happening would be beneficial.

Morag Douglas: It is worth my taking a moment to explain the process. An application is made by an individual, but that individual does not own or operate all the rides and attractions at that fairground. The certificates for the individual rides are issued to the operators of those individual

rides. A fair might have the same operator from two different venues, but it is not necessarily the case that the same attractions come with each fair. Let me use the example of a circus. The circus operator moves from place to place and they give us an electronic file with absolutely all their information on it: structural information about the tent, health and safety risk assessments and so on. Everything is in the one place.

My personal experience when I receive an application for a fair is that everything comes in piecemeal. I have already alluded to that, but I think that the operators could help themselves greatly if they got themselves better organised and submitted all their documentation together. It would also help if they submitted documentation that was in date. Quite often, we find that the documentation that is submitted is out of date, which means another phone call or email to chase that up, to try to get one coherent application. Sadly, my experience is very much that getting all the documentation together is not what happens. That is a great difficulty in terms of what we receive.

Keith Brown: I accept your point that, if the authority has to run around and do things because the applicant has not done them, there is a cost attached to that. I understand that. I refer to Dr Salvona's comment, which was a very good one. Local authorities have changed the way in which they deal with property inquiries for house purchases over the years. It must be possible to have databases of information obtained from each of the organisations—on health and safety, mechanical equipment and so on—at the operator's instigation, showing where they have approval for things, which you could check more or less at the click of a button. If they do not have that information, it is down to them to check it, and there should be a cost attached to that. Surely it is possible to have a streamlined, IT-based service.

Morag Douglas: I agree with you to an extent. The difficulty is around the number of people who are involved in an individual fair. When we get an application, we do not know who those individuals are. There will be somebody operating the waltzers, somebody operating the dodgems and somebody operating the Miami ride. If we do not have information about who those people are or what their references are in any database that we could check, that is a very time-consuming process. However, I agree that there is room for improvement—there is absolutely no question about that—on both sides.

The Convener: I know what the waltzers and the dodgems are, but I have never heard of the Miami ride. It must be a while since I have been to a funfair.

Richard Lyle has a couple of questions. I ask him to keep them short.

Richard Lyle: If you do not mind, convener, I have a couple of questions for Raymond Lynch and a couple of questions for Morag Douglas, but I will be succinct.

Raymond, I notice that your council's licence fee is £708. Do you think that it is fair that an applicant loses £708—in comparison with the proposed £50—if the licence is refused?

Raymond Lynch: I would not like anybody to lose any money in terms of a fee. The fee is based on the costs. Early planning of these events and consistency—as Morag Douglas says, we will be quite happy if there are improvements within the system—will help. As a council, we are quite happy to have these events. You are right that I would not like to see anybody lose such a fee. It is a large amount of money—I fully respect that.

Richard Lyle: How many funfair applications do you get a year, on average?

Raymond Lynch: We normally have three.

Richard Lyle: Three a year?

Raymond Lynch: Yes.

Richard Lyle: Morag, do you agree that health and safety is not devolved and that the bill will not change that? Operators will still need to show relevant safety and test certificates to the councils that they make applications to, even if multiple families are doing the one fair. The health and safety checks will still have to be done, and health and safety is not covered by the bill because it is not devolved—that position will not change.

Morag Douglas: I am not quite sure that I completely understand your question. With the applications that come in to us right now, we check all those certificates as part of the application process. As I have mentioned, we have uncovered problems in the past, with certificates being out of date and so on.

In my experience, the Health and Safety Executive tends to become involved after the event if there has been an incident at a fairground where somebody has been injured. It does the investigation side of things, rather than looking at the event in advance.

Richard Lyle: On average, how many funfair applications does your council get a year? Do you think that it is fair that a person whose application is refused by South Ayrshire loses £222 rather than £50?

Morag Douglas: For all civic government licences, the position is the same: the application fee is not refundable. For example, if somebody applies for a taxi driver's licence and his

application is refused, he loses the fee. That is made clear up front. Licences are refused because there has been some form of objection.

These licences are not refused flippantly or without a great deal of consideration. I appreciate that it is difficult for people, but if the council has done all the work that it is required to do before a decision to refuse is made, I think that it is correct that the fee should be covered. How else is the council meant to cover the cost of the work that it has done? The sum of £50 simply does not do that.

Richard Lyle: You do not know how many funfairs you have.

Morag Douglas: Sorry. We probably get eight to 10 standalone funfairs a year. The rest are normally part of bigger events. For example, with the Ayr show or an agricultural show, they come in as part of the event and the fee is paid by the organiser of the full event rather than by the individual operator. The Ayr show is the biggest event that is held in South Ayrshire and attracts around 80,000 people over two days. There is no cost to the fairground operator at that event because that is covered by the bigger public entertainment licence that covers the whole event. That is not to say that we are not still looking for the same documentation from the fairground operator for all the rides at that event.

11:15

Richard Lyle: Your council would lose under £2,000 a year if the bill went through, based on the number of fairs that you have and the fee that you charge, in comparison with my fee.

Morag Douglas: Yes. It would mean providing that service at a cost to other people who apply for licences. We have costs, and if you put them all into a basket and say, "It is okay—these people do not need to pay, so those people will need to pay more", I think that you would be prejudicing other applicants who would then be covering the cost.

Richard Lyle: I disagree, but I will leave it at that, convener.

The Convener: Thank you, Richard. You will have plenty of time to talk next week.

That completes our questions and concludes this evidence session. I thank all who took part in the meeting for helping us identify some key issues in relation to our report to Parliament on the bill.

Our next evidence session will be on 3 February, when we will hear from Richard Lyle, who is the member in charge of the bill. I ask the members of the panel and Richard to leave the meeting by pressing the red telephone icon. I

remind committee members that we remain in public for the next agenda item.

Subordinate Legislation

Charities (Disclosure of Information to Designated Bodies) (Scotland) Order 2020 (SSI 2020/435)

Town and Country Planning (General Permitted Development and Use Classes) (Scotland) Amendment Order 2020 (SSI 2020/437)

11:16

The Convener: Agenda item 3 is consideration of the Charities (Disclosure of Information to Designated Bodies) (Scotland) Order 2020 and the Town and Country Planning (General Permitted Development and Use Classes) (Scotland) Amendment Order 2020. I refer members to paper 3, which contains further details. The instruments were laid under the negative procedure, which means that the provisions will come into force unless Parliament agrees to motions to annul them. No motions to annul have been laid.

The Delegated Powers and Law Reform Committee considered the instruments on 12 January 2021 and determined that it did not need to draw the attention of Parliament to them on any grounds within its remit.

Does anyone have any comments to make on either instrument? If so, please make clear which one you are referring to.

Sarah Boyack: I want to make brief comments about the permitted development rights order.

The Convener: Which instrument are you referring to?

Sarah Boyack: I am talking about the Town and Country Planning (General Permitted Development and Use Classes) (Scotland) Amendment Order 2020. I am not against the order, but I have questions about how its implementation will be monitored to ensure that, if there are problems, they will be addressed.

Obviously, people have concerns about the changes. There is uneasiness and there are concerns about the size of masts and potential detriment to the visual impact of areas. I am keen on that being monitored.

I also note that there are concerns about agricultural buildings. I understand why what has been suggested has been suggested but, if lots of housing is built and developed in rural areas and developments in our towns and villages are not reinforced, that could have a cumulative impact. I

am thinking of the town centre first principle. There might be opportunities in town centres.

I have had concerns about bike sheds. I very much support them, but I wonder about the guidance. There could be something about the style and quality of bike sheds in sensitive areas, such as conservation areas. There are bike sheds in such areas, but they do not impact on the quality of those areas. I am not against the change, because big cars and lorries can park outside people's houses in those areas; it is simply a matter of getting a proportionate approach. Maybe councils could give good advice. I am not against the approach, but I am interested in whether there will be monitoring by the Scottish Government and feedback from local authorities over time.

The Convener: Okay. That is now on the record.

Andy Wightman: I continue to believe that it is inappropriate to bring in pretty significant changes to the planning regime through negative instruments. We are faced with affirmative instruments that we have nothing to say about, because there really is nothing to say about them, but the minister has to appear before the committee to move a motion on an affirmative instrument, to take evidence, and to debate it. Today, we have no minister before us.

I contemplated lodging a motion to annul the instrument, but I decided not to, because everyone is too busy at this time, so doing so would have achieved little.

I agree with Sarah Boyack. I have concerns about agricultural development. The proposal to more than double the maximum size of agricultural buildings should be debated properly, because although that might reflect new agricultural practices, it does not change the potential impact that a building of 1,000m² might have in a landscape that would be regulated by full planning controls for any other industry. I also note that private ways and hill tracks, which were meant to be reviewed in relation to the permitted development regime, have been relegated to phase 3 of the Government's work. It is regrettable that that is not coming forward.

The instrument contains a lot of important measures, but it is regrettable that those measures have been introduced in Parliament such that there is no scope for meaningful debate; there is no meaningful way in which one could, for example, object to the doubling in size of agricultural buildings. However, I agree with the rest of the instrument.

The Convener: Obviously, you know that whether an instrument is laid under negative or affirmative procedure is out of our control, but at

least your comments are now on the record, and the Government will be made aware of them.

As nobody else has any comments to make, does the committee agree that it does not wish to make any recommendations in relation to the instruments? Please indicate if you object. As no one is objecting, that is agreed.

That concludes the public part of the meeting.

11:22

Meeting continued in private until 12:00.

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