# FINANCE COMMITTEE

Tuesday 16 September 2008

Session 3

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# CONTENTS

### **Tuesday 16 September 2008**

	Col.
DISABLED PERSONS' PARKING PLACES (SCOTLAND) BILL: FINANCIAL MEMORANDUM	693
DECISIONS ON TAKING BUSINESS IN PRIVATE	704
HEALTH BOARDS (MEMBERSHIP AND ELECTIONS) (SCOTLAND) BILL: FINANCIAL MEMORANDUM	705
SCOTTISH COMMISSION FOR PUBLIC AUDIT (CORRESPONDENCE)	706

### FINANCE COMMITTEE

20<sup>th</sup> Meeting 2008, Session 3

#### CONVENER

\*Andrew Welsh (Angus) (SNP)

#### **D**EPUTY CONVENER

\*Elaine Murray (Dumfries) (Lab)

#### COMMITTEE MEMBERS

\*Derek Brow nlee (South of Scotland) (Con) \*Joe Fitz Patrick (Dundee West) (SNP) \*James Kelly (Glasgow Rutherglen) (Lab) \*Tom McCabe (Hamilton South) (Lab) \*Alex Neil (Central Scotland) (SNP) \*Jeremy Purvis (Tw eeddale, Ettrick and Lauderdale) (LD)

#### COMMITTEE SUBSTITUTES

Roseanna Cunningham (Perth) (SNP) Murdo Fraser (Mid Scotland and Fife) (Con) Liam McArthur (Orkney) (LD) Peter Peacock (Highlands and Islands) (Lab)

\*attended

**THE FOLLOWING GAVE EVIDENCE:** Jackie Baillie (Dumbarton) (Lab)

#### **C**LERK TO THE COMMITTEE

Susan Duffy

SENIOR ASSISTANT CLERK

Mark Brough

Assistant CLERK Allan Campbell

LOC ATION Committee Room 2

# **Scottish Parliament**

### **Finance Committee**

Tuesday 16 September 2008

[THE CONVENER opened the meeting at 14:02]

## Disabled Persons' Parking Places (Scotland) Bill: Financial Memorandum

**The Convener (Andrew Welsh):** Good afternoon and welcome to the 20<sup>th</sup> meeting in 2008 of the Finance Committee, in the third session of the Scottish Parliament. Please will all members, witnesses and members of the public turn off any mobile phones or pagers, as they interfere with the broadcasting system.

Agenda item 1 is evidence on the Disabled Persons' Parking Places (Scotland) Bill, which is a member's bill. I welcome to the committee Jackie Baillie, who introduced the bill. With her is David Cullum, the head of the non-Executive bills unit. You are both welcome.

The committee agreed to adopt level 2 scrutiny for the bill, which involves sending a standard questionnaire to bodies on which costs will fall. Members have copies of the submissions that we have received.

Would Jackie Baillie like to make a short opening statement?

Jackie Baillie (Dumbarton) (Lab): I would, indeed. I thank you, convener, for this opportunity to speak to the committee about my bill. I suspect that it will be more fun on your side of the table than it is for me, sitting here as a witness.

The bill's main policy objective is to prevent disabled persons' parking places from being occupied by those who are not entitled to use them. It seeks to ensure that enforcement action can be taken. It is, essentially, a simple bill that utilises existing road traffic and parking procedures and requires local authorities to be proactive in their approach to the management of disabled parking.

Currently, the majority of parking places that are designated for use by disabled people are advisory, particularly in residential areas; as a consequence, they are not legally enforceable. Such spaces are frequently used by unauthorised drivers—I am sure that all members have stories from their mailbags to back up that statement. The occupation of the parking places by non-disabled people prevents disabled people from being able to access them. In turn, more seriously, that can prevent disabled people from being able to access essential services that you and I take for granted.

I sought a great deal of financial and statistical information from key stakeholders to arrive at the estimated cost of implementation of the bill. I also lodged several written parliamentary questions to identify the number of advisory bays, the number of enforceable disabled parking bays, enforcement costs, the number of traffic regulation orders promoted and whether there are plans to simplify the order-making process.

The responses indicated a complete lack of centralised information, so I wrote to local authorities in August 2006 asking for information on the number of advisory parking places and enforceable bays, the application process, the decision-making process on whether a bay is deemed advisory or made enforceable, and enforcement costs. My consultation paper, which was issued in November 2006, asked a specific question on the costs of enforcement and invited any other comments on the proposal.

In considering the costs that are associated with the bill, it is important to remember that the general approach is to place a duty on local authorities to exercise their existing powers to make orders on disabled persons' parking places. The bill does not create new systems or procedures. It simply requires local authorities to be more proactive about using the powers that they already have and to use those powers effectively.

Let me give the committee an example. Local authorities already have order-making powers to make parking bays enforceable. They already have powers to enter into arrangements with private owners to enable enforcement to take place in private car parks. The bill continues to utilise those existing enforcement regimes, including existing levels of fines, issue of penalty notices and appeals processes. It does not alter provision in any of those areas.

The bill also continues to use the existing arrangements for the blue badge scheme, and it makes no change to the scheme. Let me deviate slightly to say that I appreciate and share the desire to tackle abuse of the blue badge scheme. I know that that is shared by many members, and I would encourage the Government to take that on. We would then have a truly comprehensive package of measures that was designed to ensure that only those who need disabled parking actually get it.

Members are aware of the Disability Discrimination Act 2005. It introduced the disability equality duty, which is aimed at ensuring that public bodies build disability equality into everything that they do. That requires local authorities to promote equality of opportunity for disabled people, taking steps to take account of disabled people's disabilities. The duty builds on existing reserved discrimination duties by requiring authorities to consider the outcomes that disabled people experience in each area of responsibility and to take steps to reduce any disadvantage. It is clear that it is a disadvantage if a disabled person is unable to access a disabled parking bay.

Finally, if the committee does not believe me about the value of the bill—although I would find that hard to believe—I draw its attention to the words of Euan Page of the Equality and Human Rights Commission Scotland. He pointed out that

"for the vast majority of disabled people, disability happens during the life process ... we live in a rapidly ageing society in Scotland. Those issues are not just abstract public policy challenges; they are of profound importance to everybody in this room and their families."—[Official Report, Local Government and Communities Committee, 2 September 2008; c 1069.]

I could not have put it better myself. I am happy to answer any questions.

**The Convener:** The committee's focus is obviously on the financial aspects of the bill. I remind the committee that Tom McCabe and I have been designated to take the lead in questions, but members have simply to catch my eye if they want to intervene.

The financial memorandum indicates that some costs will arise—mostly involving staff time—in the identification and assessment of existing disabled persons' parking spaces, but it does not give any figures. According to the financial memorandum, the main cost of the bill will involve promoting and implementing

"orders for those disabled persons' parking places still required."

Using figures from Fife Council and West Dunbartonshire Council, you produce an estimate of the maximum total cost nationally being £1.7 million, not including costs for installation and signage.

In evidence, Glasgow City Council indicates that initial set-up costs for its parking spaces alone would be more than £2 million, mainly as a result of the need to replace existing bays with those that comply with the Traffic Sign Regulations and General Directions 2002. In that light, does the estimate of £1.7 million not look inadequate?

**Jackie Baillie:** Not at all. I will deal with the margin of uncertainty before moving on to the specific comments from Glasgow.

There is, of course, a degree of uncertainty attached to the total cost of £1.7 million. Arriving at an estimated cost for the implementation of the bill was extremely difficult, given that even the Scottish Government does not hold information on the current number of advisory disabled parking spaces or, indeed, enforceable disabled parking spaces. Further, some local authorities were unable to tell me the number of advisory or enforceable bays in their area. If such statistical information is not available at local or national level, it gives us an unavoidable margin of uncertainty.

The situation was further compounded by the enormous differentials in the costs that were provided by authorities for two separate issues: promoting orders and installation costs. Until local authorities have completed their review of what is there, we will not know the accurate figures. I have made my best attempt to secure all the information that would be required. As I said, I lodged a number of parliamentary questions and we have written twice to each of the 32 local authorities, first in a direct letter in August 2006, and then at the start of the consultation process in November 2006. The consultation process lasted until February 2007. Twenty local authorities chose to respond initially; more responded during the consultation period, including Glasgow City Council, which at that stage did not provide information on the costs relevant to making the bays enforceable. It has since done so to the Finance Committee. Using all the information available to us, I have done my utmost to ensure that the bill is accurate. It is our best endeavour to supply an estimate of the overall cost.

I did not just go with the Fife Council figure. West Dunbartonshire came forward with a cost of £12.20 for each space for the process of establishing a traffic regulation order. Fife gave us a total figure of £119 per bay, which covered the process of getting the traffic regulation order and the costs of installation, such as signage and painting. Fife confirmed in evidence to the committee that its figure is accurate; we were therefore correct and reasonable to use it. We allowed for a little rounding up, acknowledging that in remoter areas, the cost was likely to be higher. had the benefit of West However. we Dunbartonshire Council having done its exercise in real time. It had literally just designated its 410 advisory bays as enforceable bays. The process was undertaken within the council's existing budget and, irrespective of the bill, the signage and installation would be undertaken within its existing budget. Many councils were proceeding to implement the policy without incurring additional costs.

The committee can see from the paperwork the wide variation in costs. I draw the committee's attention to the fact that while painting a bay in Perth and Kinross costs £35, paint is evidently more expensive in Glasgow because it comes in at £65.

Alex Neil (Central Scotland) (SNP): That is because Perth and Kinross is a good Scottish National Party council.

Jackie Baillie: I am being heckled here, convener.

I recognise that local authorities will have a crucial role in implementing the bill and that most of the costs will fall on them. Glasgow provided the committee with a breakdown to illustrate how it arrived at a cost of £2.1 million. I have explained what happened in West Dunbartonshire, and in Fife, where the cost is £119 per bay. Glasgow's estimated cost is £466 per bay to make each of its 4,500 bays enforceable. How come Fife is doing that for a quarter of the cost of Glasgow? Such variation indicates unintended wide an consequence and important function of the bill, which is that reports will come in centrally and local authorities will be able to learn from one another about the most cost-effective mechanism for implementing the bill. We already have an example of that in applications for traffic regulation orders. While Glasgow applies for the orders individually, other local authorities batch them; for example West Dunbartonshire Council does 400 at a time. There are economies of scale. Perhaps the Convention of Scottish Local Authorities has a role in assisting local authorities to share best practice.

We should not forget the existing duties under traffic and disability discrimination legislation on Glasgow City Council—and on every other council in Scotland. The costs that are shown in the financial memorandum are not new costs as such; they cover things that authorities should be doing in any case. I hope that that answers your question, convener.

#### 14:15

**The Convener:** The problem for the committee is that, although the estimates are vague, the expenditure that results from the bill will not be vague at all. We need to relate the estimates to that eventual expenditure. There seems to be a discrepancy between the £1.7 million and the eventual expenditure.

Glasgow City Council has 4,500 advisory bays, which is about 32 per cent of the 14,000 bays that you estimate are to be found across the country. We are concerned that higher costs may accrue in other cities, too. At least Glasgow City Council stated the basis for its estimates. I want to see clarity and not vagueness in the estimates. We need to get down to what the accurate figure could and should be.

Jackie Baillie: I would absolutely love to provide you with the clarity that you seek, convener. We have been seeking exactly that degree of clarity. For example, Dundee City Council said that the cost of making enforceable its 1,100 advisory bays will be £196,000. South Lanarkshire Council indicated that £1 million would be required for its 1,200 bays, with Glasgow City Council saying that £2.1 million would be required. Those figures show the wide disparity between authorities. If Dundee City Council says that the cost will be £196,000, is its information any less valid than that which we received from Glasgow City Council? In bringing together the information for the financial memorandum, we have highlighted the huge disparity between authorities across the country in the cost of organising implementation of the bill.

As I said, some authorities batch applications whereas others deal with them individually. For some authorities, the cost of erecting a sign on a pole is £256 and yet the City of Edinburgh Council attaches signs to existing street furniture-we see outside this very Parliament—thereby that reducing cost. It is clear that there is no uniform system; had there been such a system, I could have provided the committee with absolute certainty on all the figures. In the absence of such clarity, I have set out the circumstances and lack of information. I have tried to arrive at sensible conclusions; I hope that the committee will acknowledge them as such.

The Convener: How detailed and clear were the estimates that you received?

Jackie Baillie: They were very clear. They pointed up substantial anomalies. We have been back in touch with some authorities. For example, Perth and Kinross Council operates its traffic regulation orders in a way that is quite different from the system that other authorities operate. Aberdeenshire Council seems to have picked up on that practice. The consistent view, however, is that there is no consistency in how all this is applied on the ground. Indeed, in its submission, Fife Council confirmed the figure that we used as the basis of our calculations.

The Convener: So, what are we to make of the  $\pounds1.7$  million?

Jackie Baillie: We are saying that, based on the information that we sought and which was made available to us, the figure is accurate. Unfortunately, a margin of uncertainty is unavoidable; the information that we wanted to make available does not exist.

**The Convener:** The financial memorandum states:

"The principal cost falling on local authorities will arise in promoting orders".

However, Glasgow City Council says in its submission:

"This statement is incorrect. The principal cost will be the provision of signs and road markings to TSRGD 2002."

In preparing the financial memorandum, did you take account of the cost implications of compliance with the Traffic Sign Regulations and General Directions 2002? If so, how?

Jackie Baillie: Yes, we did.

As I outlined, we extended an invitation to all key stakeholders to submit information as part of the two-phase consultation. Certainly, during that time, we asked for, and received, enforcement costings. Fife Council gave us a figure, as did other authorities. We took on board what we knew about the process at West Dunbartonshire Council, whereby it applied to make one traffic regulation order for all its advisory bays. We were fairly confident about those figures, as we were about the figure that Fife Council gave us; Fife Council confirmed that figure in its evidence to the committee.

**The Convener:** Could you make the figures available to the committee?

Jackie Baillie: Indeed.

Tom McCabe (Hamilton South) (Lab): It has been asserted that

"No year one or ongoing costs were sought or given ... during the consultation process."

If I interpreted your opening statement correctly, you disagree with that assertion. If that is the case, why has such a fundamental difference arisen?

Jackie Baillie: I will reiterate what we did during the consultation because I appreciate how the difference could have arisen. When we sent our letter to all local authorities in August 2006, I was unashamedly on a fishing expedition to find out how they worked so that the bill that we proposed would add to the current process rather than detract from it. In that letter, we asked for information on advisory bays, enforceable bays, the cost of enforcement and fine levels. We also asked whether there was decriminalised parking. It is interesting to note that councils such as Glasgow City Council, the City of Edinburgh Council and Perth and Kinross Council have decriminalised their parking and make surpluses on it, so any proposal could be self-financing.

We asked for information again between November 2006 and February 2007 as part of the consultation. In addition to asking about parking fine levels and enforcement costs, we asked—as you would expect us to do—for any other comments. In answer to that question, some authorities took us through their existing costs. Glasgow City Council did not, but we did not ask specifically for the level of detail that it has subsequently provided. That said, other local authorities provided such detail for us.

If the bill is agreed to, the first year of its operation will be about local authorities considering what their existing parking provision is, where the advisory bays are and what requires to be done. The bill requires that, in those 12 months, local authorities should identify all the bays; it does not require them to make traffic regulation orders or put up the required signs or street furniture in that year. Traffic regulation orders are likely to be laid in the following financial year. West Dunbartonshire Council started the process some time ago and has yet to put its signs up. That demonstrates that it would be possible to spread the cost over not only one financial year but two or three. I understand how important that is for local authority planning.

**Tom McCabe:** Glasgow City Council and Fife Council have said that they cannot cover the additional costs arising from the bill and, perhaps not surprisingly, have suggested that the Scottish Government should do so. As yet, there seems to be no indication from the Scottish Government that it is prepared to do that. Do you have any further information?

Jackie Baillie: No. We have identified the costs to the Scottish Government as marginal and, in its submission to the committee, it has agreed with that assessment. We argue that existing resources are available to local authorities to implement the bill and that they face duties under the Disability Discrimination Act 2005, which places a responsibility on all public bodies to promote disability equality. On that basis, we think that many local authorities already collect the information required by the bill and provide enforceable parking bays.

**Tom McCabe:** I agree with a lot of what you say. I would not be minded to accuse Glasgow City Council of being against, or putting barriers in the way of, the creation of disabled parking spaces, but it has expressed some pretty strong views about costs.

Jackie Baillie: I would always acknowledge the costs of providing services in local government. This is set against the backdrop of the Government providing local authorities with a record level of resources. I am keen to ensure that local government has sufficient resources to implement the bill, but I think that those resources exist.

**Tom McCabe:** Making arrangements for privately owned off-street car parks will undoubtedly require local authorities to undertake additional work because they would be required to negotiate and agree the orders that they would promote. The financial memorandum indicates that the costs of such arrangements would fall to the private operators. However, Glasgow City Council has suggested that staff costs alone would

be around £180,000 and that there would be other costs. Do you agree with the council's estimate of costs? Do you have evidence that the private sector will co-operate in identifying the spaces?

**Jackie Baillie:** We have evidence that the private sector would be willing to do that. Let me just take you through our thinking. We started with section 33(4) of the Road Traffic Regulation Act 1984, which allows local authorities to make arrangements with a private owner for the provision of parking places, so that power is not new. However, nobody has yet entered into such an arrangement, which is disappointing.

We did not seek to impose legislation on owners of private car parks because we could not place a duty on businesses—that is a reserved matter. We felt that local authorities were ideally placed to identify owners of car parks because they have access to information on business rates and planning applications that have been granted, so it is reasonable to think that they can identify owners from information that they hold.

Confusion perhaps arises around owned car parks to which the public have access. It is not necessary to contact owners of private car parks for offices and businesses to which the public have no access. However, the public obviously have access to car parks at places such as Asda or the Braehead shopping centre. For office-block car parks that are simply for employees, though, separate provision is made under the 2005 act with regard to employers' responsibilities towards their employees, which are outwith the bill's scope.

Let me give you another example. The Scottish Widows building, which is not too far from where we sit, has an underground car park for employees, to which I understand there is no public access. The bill's provisions would not apply to such a car park. However, the public do have access to visitor parking there that is part of a privately owned car park, so the bill's provisions could apply to that. That kind of information is already available to local authorities.

The bill is at pains not to stipulate the nature of arrangements because we anticipate that there will be local circumstances that will need to be reflected. However, it would be for both parties to agree. Arrangements could cover, for example, staff costs for the promotion of the order and costs for amendments, signage and enforcement, on which most arrangements tend to focus.

There is scope to do what is required. For example, Asda and Braehead shopping centre undertake their own enforcement of disabled parking spaces. If they are able and willing to pay private enforcement firms, there could be alternative scope for local authorities' costs to be defrayed as part of any arrangement. I am fond of quoting people, convener. When Euan Page appeared before the Local Government and Communities Committee, he said that we were pushing at an open door in terms of the private sector's willingness to engage with our proposal—sorry, the actual quote is:

"It would appear that there is an enormous amount of goodwill in parts of the private sector towards being partners in that process. We can look at what local authorities could do in conjunction with supermarkets, retail parks and so forth to drive the message home."—[Official Report, Local Government and Communities Committee, 2 September 2008; c 1073.]

I think that he is right and that we are pushing at an open door.

Equally, if we want to come down to the commercial bottom line, Leonard Cheshire Disability reminds us that the spending power of people who have a disability is approximately £5 billion annually. They are consumers, too, and I think that businesses recognise that.

**Tom McCabe:** Do you think that the lack of detail in the bill on arrangements for enforcement could lead to differing standards of enforcement and provision across the country?

Jackie Baillie: There already are differing standards of enforcement and provision. Currently, local authorities that have decriminalised their parking enforce it differently from those that have not done that. Glasgow and Edinburgh use a separate system of traffic wardens, whereas the rest of the local authorities rely on the police and their traffic wardens to enforce parking. Therefore, differences exist already.

The issue is not about lack of detail in the bill or financial memorandum. There is a willingness to do what the bill seeks. I am reminded that the issue is similar to the question of yellow lines and double-yellow lines in outlying areas and across our cities, for which there are varying standards of enforcement. The issue is about prioritising certain areas. We anticipate that there will be proactive enforcement in our town and city centres, where there are hot spots, if you like, but we expect enforcement in quieter residential areas to be reactive rather than proactive.

#### 14:30

The Convener: Fife Council's submission states that costs should be met by owner-occupiers, by private owners who undertake their own enforcement, and by the Scottish Government. It seems that costs are being shuffled off in all directions and there is no certainty that owneroccupiers or Fife Council will take them up. Have you had any indication that they will do so? It seems that unknown costs are being shuffled towards the Scottish Government.

Jackie Baillie: Not at all. Far be it from me to shuffle unknown costs to the Scottish Government. Local authorities will invite owneroccupiers to enter into partnership arrangements, but they must both agree. If there is no agreement, the local authority will not be required to bear any costs. The matter will be entirely one for the private car park owner, who will bear all the costs. We did not include that in the bill because local arrangements will differ from place to place. Many areas will opt for local authority enforcement costs, but others will prefer to make their own private arrangements. We need to reflect on that.

Fife Council acknowledges that the average cost will be £119 per bay. I recognise its desire for more resources to do all its bays. We think that we have come up with a reasonable estimate of the actual cost but, as the committee has noted this afternoon, there is wide variation. We want to ensure that there are sufficient resources in the system for the bill to be successful, because it will make a difference to an awful lot of people who cannot access disabled parking bays at present.

**The Convener:** Thank you. The committee looks forward to receiving the details that you promised us. Do you wish to make a further statement to finish?

Jackie Baillie: I think that you have heard enough from me, convener. I would not want to test your good nature.

**The Convener:** I thank Jackie Baillie and David Cullum for being present today and for the information that they have given us.

### Decisions on Taking Business in Private

#### 14:32

**The Convener:** Item 2 is for the committee to agree whether to consider a draft report on the Disabled Persons' Parking Places (Scotland) Bill in private at a future meeting. Do members agree that we should do so?

Members indicated agreement.

The Convener: I also propose that we consider papers by our adviser on the draft budget for 2009-10 in private at our meeting next week. Is that agreed?

Members indicated agreement.

## Health Boards (Membership and Elections) (Scotland) Bill: Financial Memorandum

#### 14:33

**The Convener:** Item 3 is to decide what level of scrutiny to apply to the financial memorandum to the Health Boards (Membership and Elections) (Scotland) Bill.

On Friday, members received correspondence from the Cabinet Secretary for Health and Wellbeing, which states that the Scottish Government wishes to revise the estimated costs of the bill. However, I do not think that that makes any difference to the paper's recommendation that we adopt level 2 scrutiny of the financial memorandum, which will involve seeking written evidence from the 14 territorial health boards and then taking oral evidence from Scottish Government officials. Do members agree that we should do that?

#### Members indicated agreement.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I wonder whether it would be appropriate also to seek evidence from electoral registration officers, who are mentioned in the cabinet secretary's letter.

**The Convener:** Is it agreed that we should ask them for written submissions?

Members indicated agreement.

## Scottish Commission for Public Audit (Correspondence)

#### 14:34

The Convener: Item 4 is consideration of correspondence from the Scottish Commission for Public Audit, which is a statutory body that consists of five MSPs, whose role is to examine and report on Audit Scotland's expenditure proposals. The SCPA is examining Audit Scotland's governance arrangements and has written to us because the previous session's Finance Committee considered some relevant issues during its inquiry into accountability and governance in 2006. Members will see that the clerk's note details the findings of that committee's report on the issues that the SCPA is dealing with. Are members content for me to send a response to the SCPA setting out the previous committee's findings, as described in the clerk's note?

#### Members indicated agreement.

The Convener: As agreed, we now move into private session to consider how to progress our inquiry into the methods of funding capital investment projects, so I ask the public to leave.

#### 14:35

Meeting continued in private until 15:00.

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#### Wednesday 24 September 2008

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