

LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

Tuesday 2 September 2008

Session 3

£5.00

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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

21st Meeting 2008, Session 3

CONVENER

*Duncan McNeil (Greenock and Inverclyde) (Lab)

DEPUTY CONVENER

*Alasdair Allan (Western Isles) (SNP)

COMMITTEE MEMBERS

*Bob Doris (Glasgow) (SNP)

Patricia Ferguson (Glasgow Maryhill) (Lab)

*Johann Lamont (Glasgow Pollok) (Lab)

*David McLetchie (Edinburgh Pentlands) (Con)

*Jim Tolson (Dunfermline West) (LD)

*John Wilson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Brian Adam (Aberdeen North) (SNP)

Robert Brown (Glasgow) (LD)

Rhoda Grant (Highlands and Islands) (Lab)

Margaret Mitchell (Central Scotland) (Con)

*attended

THE FOLLOWING GAVE EVIDENCE:

Euan Page (Equality and Human Rights Commission Scotland)

CLERK TO THE COMMITTEE

Martin Verity

SENIOR ASSISTANT CLERK

Jane-Claire Judson

ASSISTANT CLERK

Ian Cowan

LOCATION

Committee Room 6

Scottish Parliament

Local Government and Communities Committee

Tuesday 2 September 2008

[THE CONVENER *opened the meeting at 10:30*]

Interests

The Convener (Duncan McNeil): Good morning. I welcome everyone back from the recess as we head into the 21st meeting in 2008 of the Local Government and Communities Committee. I remind everyone to switch off their mobile phones and BlackBerrys. I have received an apology from Patricia Ferguson, who cannot be with us today.

Under agenda item 1, I welcome to the committee John Wilson MSP, and invite him to declare any relevant interests.

John Wilson (Central Scotland) (SNP): Thank you for your welcome to the committee.

I refer members to the register of members' interests on the parliamentary website and draw particular attention to my position as an elected member of North Lanarkshire Council. I look forward to being on the committee.

The Convener: Thank you, John. We welcome you and I am sure that your experience will make a good contribution to the committee.

At this point, we should record our thanks to Kenneth Gibson, who previously served as the deputy convener. His contributions were always interesting.

Deputy Convener

10:31

The Convener: Under agenda item 2, we must choose the new deputy convener. We proceed to nominations for the deputy convener of the Local Government and Communities Committee.

Bob Doris (Glasgow) (SNP): I nominate Alasdair Allan MSP.

The Convener: There are no other nominations.

Alasdair Allan was chosen as deputy convener.

Alasdair Allan (Western Isles) (SNP): Do you want me to move to sit beside you, convener?

The Convener: Yes, absolutely—the chair was left vacant for you.

Alasdair Allan: Thank you, convener.

Decision on Taking Business in Private

10:32

The Convener: Agenda items 6 and 7 concern consideration of written evidence with a view to agreeing appropriate witnesses to give oral evidence to the committee. It is the committee's usual practice to take such items in private. Does the committee agree to take items 6 and 7 in private?

Members *indicated agreement.*

Subordinate Legislation

Local Government Pension Scheme (Administration) (Scotland) Regulations 2008 (SSI 2008/228)

Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008 (SSI 2008/229)

Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008 (SSI 2008/230)

10:33

The Convener: Under agenda item 4, the committee will consider three instruments that are subject to the negative procedure. Members have received copies of the instruments and have raised no concerns. No motion to annul any of the instruments has been lodged.

Are members agreed that the committee has nothing to report to Parliament on the instruments?

Members *indicated agreement.*

The Convener: Thank you.

Disabled Persons' Parking Places (Scotland) Bill: Stage 1

10:34

The Convener: We move now to take oral evidence on the Disabled Persons' Parking Places (Scotland) Bill. I welcome Euan Page, the parliamentary and Government affairs manager for the Equality and Human Rights Commission in Scotland. Members should have seen Mr Page's written submissions. I invite Mr Page to give a brief opening statement, after which I will invite questions from the members.

Welcome to the committee. We appreciate your giving us your time this morning and look forward to hearing your evidence.

Euan Page (Equality and Human Rights Commission Scotland): In its written evidence, the Equality and Human Rights Commission has sought to set out why it supports the policy intentions behind the Disabled Persons' Parking Places (Scotland) Bill. In particular, we sketched out how some of the bill's main provisions might sit alongside the existing statutory duties on public authorities, especially the disability equality duty.

Our submission also touched on the nature of the problem that the bill seeks to address and the evidence that points to abuse of disabled parking bays by non-disabled motorists having a negative impact on many disabled people's autonomy. In seeking to address that barrier to disabled people's autonomy, the bill comes under the wider independent living agenda that is being pursued by the Scottish Government, following on from the disability working group report of 2006 and the Equal Opportunities Committee's disability inquiry in the same year.

The commission recognises that some local authorities have expressed concerns over the administrative and cost implications attached to designation and enforcement under the bill. We argue that those concerns can be mitigated by development of an approach that prioritises and tackles the most persistent problems. Neither the commission nor, we are sure, the bill's sponsors are interested in simply imposing another paper exercise on public authorities; rather, we want the bill to lead to better outcomes for disabled people. That means avoiding bureaucratic log-jams and—through evidence gathering and the involvement of disabled people—being clear about where and when designation efforts should be targeted in the first instance.

Unfortunately, our legal colleagues are not able to join us today, and there are likely to be specific points around the commission's enforcement

strategy for the disability equality duty—the DED—that I cannot answer. I would, however, be delighted to provide further written evidence to the committee if there are questions that I am not able to answer this morning.

The Convener: Thank you. You mentioned a major problem that the submissions from local government raised—particularly in big cities such as Glasgow and Edinburgh—about identifying private parking places and the danger of ending up with nothing more than a bureaucratic exercise. You also mentioned effective targeting of problem areas. How would you effectively target such areas without an audit and overview of the situation?

Euan Page: The point has been well made that circumstances will vary widely among local authorities. The problems that are faced by our cities, which have very large numbers of private parking areas, are not those that will be faced in Shetland or the Western Isles, for example.

There is a useful policy tie-in with work that should already be under way. Public authorities' work on the disability equality duty should include evidence gathering and the involvement of disabled people in the drawing up of disability equality schemes and, from that, disability equality action plans. Authorities should already be getting a sense of the extent of the problem and of where it is most acute.

It is encouraging to note North Ayrshire Council's reference to its sense of the problem, which it has gained through involvement with disabled people in drawing up its disability equality scheme. There is a growing body of evidence from public authorities' work on their disability equality duty, which should stand authorities in good stead for drawing up their lists of priorities for immediately tackling the problem where it is most persistent.

The Convener: Did you say South Ayrshire?

Euan Page: I said North Ayrshire—I believe that is right.

The Convener: Is North Ayrshire Council not in a minority of one? Is it not the exception to the rule in the work that it has done?

Euan Page: I cannot say. North Ayrshire's work was highlighted in the briefing on the bill by the Scottish Parliament information centre. We would expect other local authorities to be engaged in the same kind of process and to be involving disabled people in drawing up their disability equality schemes.

The Convener: Do you have any knowledge of the work that may have been done?

Euan Page: I am afraid that I do not, at the moment.

Jim Tolson (Dunfermline West) (LD): Good morning. I wish to touch on a couple of points regarding the potential workload that could be placed on local authorities and the cost implications of that. The bill that Jackie Baillie has introduced is laudable and there is much sympathy for it throughout the country, but the repercussions of enforcing it seem to be fraught with difficulties, not least with regard to all the existing on-street and off-street parking bays, their designation, the putting in place of enforcement notices and the need to chase people up.

Can you clarify the commission's view on the possible workload for local authorities in implementing the bill, and comment on the Government's suggestion that £1.7 million spread throughout Scotland would be sufficient to assist local authorities? Some local authorities, including those that cover the larger cities, feel that they would use almost that amount in their areas and—depending on which estimate is used—the cost could be up to 10 times as much.

Euan Page: I will answer your last point first. There is an issue regarding the marked disparity in estimates for the cost of designation. We need to firm up the figures because we cannot have estimates of £12 for one local authority and more than 10 times that amount for others. It is a similar point to the one that I made in answer to the previous question: if local authorities take the approach that they face an undifferentiated mass of what are currently advisory bays, which have to be assessed and redesignated appropriately, there could be significant administrative burdens.

We need to take a much more focused and targeted approach. What evidence do local authorities have that particular parts of their areas are—to use a phrase from the Convention of Scottish Local Authorities' evidence—"hotspots"? What evidence do they have from disabled people who have contacted the council to say that they are repeatedly coming home to find that the designated advisory bay has been used by another driver? The system for advisory bays currently depends on the good will of individual non-disabled motorists. Where it works, it works well, but where it does not, it can cause enormous problems for people and can have a marked effect on people's decisions about whether they even leave the house.

The way in should be to say that there is a problem in a certain area, and to target our efforts there in the first instance. The duty to report annually should enable us to see that there has been not just marked progress, in the form of a block-by-block move to designate by geographical area, but evidence of some thought about

prioritisation and how to tackle the areas in which a council has evidence of problems or has sought to ascertain whether problems exist. Councils should be doing that anyway under the disability equality duty. There should be a rolling programme rather than a simple bureaucratic block-by-block redesignation, which should help with forward planning and prioritisation.

Jim Tolson: I appreciate that answer. You mentioned a focused and targeted approach, and some practical ways to take that forward stage by stage. However, the commission has missed a point: the bill, if it is approved, will require local authorities to examine not only all the existing parking bays, but to enter into co-operation with private landowners such as supermarkets in order to designate all the other bays over which councils currently have no say or control. The programme will therefore be huge, and will be required to be carried out as soon as possible. Nowhere in the bill is it mentioned that the programme will be carried out stage by stage.

Euan Page: I completely agree. The question of how that prioritisation and flexibility can be built in while still ensuring that the work is done perhaps needs to be put to the bill's framers. If there is compelling evidence that redesignation cannot not be carried out within the timeframe that the bill suggests, common sense dictates that we go back to the drawing board during the passage of the bill to consider how we can mitigate that. That is a challenge not only for the bill's framers, but for local authorities in respect of how they would go about the work. They must be willing to consider how they can exploit the evidence that they should be gathering anyway under the disability equality duty, so that they can say, "There's a problem here, so that's where we'll start, and we have a strategy for how we're going to address it over the coming months and years."

There is perhaps scope to allow for that through the reporting mechanisms in both the bill and the disability equality duty. Again, we expect Scottish ministers to pick up on the matter under their duty to report every three years on how implementation of the legislation is progressing, and through the problems and successes that local authorities have had.

10:45

David McLetchie (Edinburgh Pentlands) (Con): We have had some indication that, in drafting the bill, a careful course had to be steered in relation to the Parliament's competency to enact it, given that disability discrimination and most aspects of traffic management are reserved to Westminster. As a result, the bill had to have a relatively narrow focus on the duties of local authorities within that wider framework, and so

perhaps does not include as wide-ranging a set of measures as you would like. Is equivalent legislation being considered elsewhere in the United Kingdom? What is happening outwith Scotland?

Euan Page: To the best of my knowledge, Scotland is the only place that is proposing the course of action that is set out in the bill. There are issues around the reserved nature of the Disability Discrimination Act 1995. However, there is a separate governing framework for the disability equality duty in Scotland. We work to a Scottish code of practice and a duty that was specifically designed for Scottish ministers.

I am flying a kite, to an extent, but the advent of the equality bill that the UK Government unveiled in its draft legislative programme earlier this year will present an opportunity to consider any anomalies that arise and any consequential changes that need to be made as a result of the legislation. If any such changes are needed, the commission in Scotland will make that a priority in its lobbying and influencing work around the equality bill, which should begin its passage later in the autumn.

David McLetchie: Given the scope of the Disabled Persons' Parking Places (Scotland) Bill and what it seeks to achieve, what are its weaknesses, from the standpoint of someone who wants to ensure that disabled parking bays are enforceable?

Euan Page: We would appreciate greater clarity on a couple of points, but the general point that has come through in our discussions so far is that, as in many other cases, the legislation will be as good as its implementation. There is a challenge in overcoming local authorities' fears about costs and administrative burdens. However, if we get a shared sense of how we can implement the legislation in a way that does not lead to a bureaucratic paper-chase but actually makes a difference to disabled people's lives, we will have a shared agenda on which we can work.

I would not characterise it as a weakness, but since we submitted our written evidence, concern has been expressed to us about section 5. It would be interesting to hear the bill team or others comment on it. The concern is that the definition of "qualifying person" in section 5(8)(b) does not capture advocacy and advice organisations that work principally with disabled people. Such organisations might be concerned about ensuring that there are enough designated parking spaces at the front of their places of business. Examples include the integrated living centres, Govan Law Centre and other organisations that do a lot of work around information and advice.

However, the problem is not insurmountable. Such organisations are not covered in the bill as it stands, but they could go back to councils to make the case for their having some kind of designated parking, given the nature of their work and the people whom they seek to help. We would like clarification of the thinking on that, but I would not characterise the bill as being weak or as having many weaknesses.

David McLetchie: In your submission, you refer to the baywatch campaign—a more prosaic version of "Baywatch" than many of us are used to. You say that the campaign's

"most recent survey points to one in five designated parking bays in Britain being used by drivers without blue badges"

and that the situation has not improved since the previous survey in 2005. That is the peril that the bill is trying to address. However, many representations that I and, I am sure, other members have received suggest that the fraudulent obtaining of blue badges is an abuse that is almost as great, if not greater. Our inability to police the blue badge system has a bearing on enforceability. The bill relates to a step further down the line, but we might be said to be shutting the stable door after the horse has bolted. What is your view on the operation of the blue badge scheme?

Euan Page: That point was well made. The commission suggests that the draft bill took the right approach in separating the important—related, but separate—issue of abuse of the blue badge scheme from abuse of designated parking bays. We must make a clear policy distinction between the issue of tightening up the blue badge scheme to make it less open to fraud and misuse and dealing with people who persistently make fraudulent use of blue badges, and the issue of people's choices about how and where they live their lives being curtailed because the number of designated parking spaces is inadequate. Since the bill was introduced, many people have made the point that we cannot look at issues in isolation and that we need to debate the operation of the blue badge scheme. There are practical steps that we could take to beef up enforcement and to ensure that badges are used solely by the people to whom they have been issued. However, we must not end up punishing by default disabled drivers and limiting their parking options as a result of abuses that take place elsewhere in the system.

Johann Lamont (Glasgow Pollok) (Lab): Fraud must be dealt with, but that is not the issue for a disabled person who needs a parking space. If a parking space has been designated for use by disabled people, the fact that someone uses it fraudulently is not an excuse for other people to do the same.

You made the important point that the bill should not be a paper exercise and that you do not want a measure that looks as if it is making an improvement but is not doing so. Is it possible to place the bill in the context of the disability equality duty? Does the commission look at it in those terms? I am concerned that some of the anxieties that have been expressed about the bill—that it will cost a lot of money and will be difficult to enforce—imply that it is a bonus rather than part of the core duty of enforcing disability equality. Is the commission willing to say that meeting the needs of disabled people in relation to parking is part of local authorities' core responsibility to ensure disability equality? Will it pursue local authorities that fail to act in the proactive way that the bill suggests?

Euan Page: That is an absolutely fundamental point. I was struck by the comments from one local authority, which made the point that it must strike a balance between the needs of disabled people in its area and the needs of wider society. The commission argues that that distinction is entirely false, because just as disability is a normal part of lived experience, so disabled people are part of society. There is no distinction between the needs of person A as a disabled person and those of person B as a non-disabled person. We would not seek to have one set of rules for single mothers, black and minority ethnic people or gay people. We are all different, but we are all part of society. In considering the proposed legislation and the policy implications, it is important that we do not start with irrelevant distinctions between the needs of disabled people and the needs of non-disabled people.

To return to the point about disability being a normal part of lived experience, for the vast majority of disabled people, disability happens during the life process. A minority of disabled people are born with an impairment that carries on through life. As we grow older, we will all acquire an impairment. Further, 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. We need to get over the hurdle of thinking that we have to go the extra mile and spend extra money to meet disabled people's needs. Good public policy means working to ensure that we design and deliver policy that meets the needs of all people in Scotland.

Johann Lamont asked about how the proposals tie in with the disability equality duty. It makes absolute sense to have an annual reporting requirement on the public authorities that are subject to that duty, which includes all local authorities in Scotland. Some local authorities have identified the reporting requirement as an issue, but it need not be an additional burden,

because the information and evidence that is required should be gathered anyway. We should consider embedding the bill's annual reporting requirement within the disability equality duty reporting processes.

Johann Lamont asked about the commission's role. As with any issue, if we had evidence of a significant problem emerging in one local authority or in various settings throughout Scotland, we might look to work on it. However, as I said, I cannot go into great detail on our enforcement strategy at present, although we can get back to the committee with specifics on it.

Johann Lamont: Without the proposed legislation and on a voluntary basis, if a local authority said that it would not put in place designated enforceable disabled parking spaces because it could not spend a lot of money doing so, would that be a dereliction of the authority's responsibilities under the disability equality duty?

Euan Page: There is not a yes or no answer to that. The duty makes it clear that cost and resources can be an issue for an authority in identifying priorities in its disability equality scheme. However, those cannot be the excuse of first resort, which has often been the case with public and private sector responses to disability equality legislation.

Johann Lamont: I have two brief final points. First, you say that a local authority can argue that it cannot afford to put in place enforceable parking spaces for disabled people. Would the judgment on that argument take into account what the local authority spends generally on parking enforcement? That does not ever seem to be an issue for local authorities—they seem to spend quite a lot of money on it—so the issue would be about where the authority chooses to spend budgets. Would that be seen as discriminatory?

Secondly—perhaps you will answer the two points together—does the commission take the position that someone with a disability has the same right to access their home and workplace that the rest of us have? If that is defined as a right, surely it should be exercised by way of a designated parking space. In other words, if an authority decides not to provide such a space, the decision would bring it up against the disability equality duty.

11:00

Euan Page: The first point, on how authorities decide on the affordability or otherwise of the measures as a proportion of their overall resource allocation for traffic enforcement, is useful. It would be interesting to see the extent to which decision making is informed by the distinction—which we consider to be false—between the needs of

disabled drivers and the needs of society in general. If an authority makes provision from within the resources that it allocates to observing the 1984 act and other traffic management priorities, we consider that it is managing things well. As you say, authorities do not seem to find the process of observing that act and related regulations an enormous challenge, although I am sure that they would argue differently.

We need to stop viewing the application of costs that entrenches disabled peoples' rights as separate from the wider policy area in which they are situated. You have raised a useful line of inquiry. Instead of saying that the issue is entirely separate from the wider job of day-to-day management and enforcement of traffic duties, authorities should ask how much of the cost could be borne by rolling three-year budgets as part of overall traffic management enforcement strategies. I return to a point that was made earlier: authorities should prioritise and find where the problems lie. If they do so, they will have the evidence to begin to make that judgment call.

In addressing the second point, I return to something that I said in my opening remarks. The proposals contribute one component to the wider policy challenge of independent living for disabled people. The commission's end goal is an independent living regime for disabled people in Scotland—if "regime" is the right word. We are under no illusion that that can be achieved in the space of months or even years. However, we need the policy environment to ensure that disabled people can make the same choices as non-disabled people about where and how to live their lives. I am thinking of the major life decisions, such as when and how to get married, have kids or go to university, as well as the mundane things, such as when to go to the shops, visit friends or go to the library. We are talking about embedding the principle in policy making and the decision making on challenges that are involved in designating resources. Authorities should be asking not, "How much do we have to spend on disabled people once we have done all the other core stuff—our day job?" but, "How can we embed the idea of disability equality and independent living for disabled people in everything that we do?" We need to make that step change and mind shift.

The previous Administration did a lot of valuable work through the establishment of the disability working group, which identified independent living as one of three overarching themes to inform public policy in Scotland. The commission is pleased that the current Administration is putting some money into identifying the barriers to independent living. Crucially, organisations of disabled people, such as Inclusion Scotland and the Glasgow Centre for Inclusive Living, are partners with the commission in that project.

The Convener: I seek clarity on the matter. In his questioning, David McLetchie first raised the narrow scope of the bill and issues of competency. In your submission and oral evidence, you talk of the duties that the bill will place on local authorities and the Scottish ministers. If the bill is passed, will additional responsibilities and duties be placed on the Scottish ministers and local authorities?

Euan Page: There are two points to make. First, the bill contains specific provisions to do with the audit and redesignation of advisory parking bays, on which important work is being done. Secondly, there are requirements relating to the reporting duty. The issue is not that things are already being done under other statutes; rather, the bill deals with a specific problem and a tailored solution.

The Convener: There is something that I fail to understand, which may be my fault. You concede that, if we pass the bill, local authorities might find its provisions burdensome and might not need to bother—they can just look at one area as another area. If we pass a bill that does not place on the Scottish ministers and local authorities additional disability equality duties, how will our actions avoid being a bureaucratic exercise that results in a paper-chase that does not achieve anything for disabled people who cannot go about their daily lives?

Euan Page: The point is that we should not end up in an either/or situation in which authorities either do not bother or are immobilised into inaction by the scale of the problem. That takes us back to how local authorities can effectively intervene and prioritise. To help them do so, they should have evidence through their disability equality schemes of where problems are most persistent.

It is clear that fears exist about the burdensome nature of the bill's requirements, but we must get a much better idea of how public authorities are considering the proposed duties and how they arrived at their cost estimates and views on the bureaucratic nature of the bill. If the bill can be designed in such a way that it will be a useful tool for, in the first instance, targeting action on areas where problems are most persistent, we will go a long way towards reducing the bureaucratic and cost burdens.

I think that Johann Lamont mentioned that councils have month-on-month requirements to review and implement their overall traffic management schemes. That is not a burden on them; rather, it is part of their day-to-day work—it is what they are there to do. The question is how we can better embed the bill's provisions in local authorities' overall traffic management work and stop seeing the bill as something that will result in a paper-chase or people simply jumping through hoops.

Alasdair Allan: We have talked about competence, but I will resist pressing you on your views on whether it is daft that certain aspects of parking cars are devolved and certain aspects are reserved. It sounds a bit like devolving vitamins B and C for people ingesting their dinner, but not vitamins A and D.

Other members have raised the issue that I want to raise: enforcement of the bill. How big a task will it be for bigger local authorities in particular to enforce the bill's provisions, particularly with regard to the owners of private car parks that are used by the public?

Euan Page: There will undoubtedly be challenges for the larger local authorities. I cannot remember the figure, but a daunting estimate has been given for the number of private car parks in the Glasgow City Council area.

At the risk of repeating myself, I would argue that prioritisation is the key. I imagine that work will be being done anyway to look in general at use, traffic flow and the planning implications of where new parking places will be placed. That work should give an indication of where hot spots are likely to emerge. The issue should not be approached as if there is an undifferentiated mass of separate private parking facilities around a city area. I do not seek to downplay the challenges that a large city authority faces. It is about looking at what is happening both within an authority's disability equality scheme and more generally through the information and data gathering that it does on traffic flow and parking use in different parts of the city and saying, "Clearly, there is a problem here and less of a problem there." The local authority would not want to spend an awful lot of time chasing up somebody who rents out a bit of derelict land at the back of an office block in the centre of Glasgow for three or four cars. That would not have the same priority as rolling out the kind of system that Braehead shopping centre has in place.

The other point is that we are, to some extent, pushing against an open door. There is no resistance to the bill's proposals among many private sector owners of parking spaces who have many disabled customers. I was struck by the comments of one local authority, which suggested that private car park owners would remove their parking bays as a result of the bill because they would not want to alienate customers. I have not heard any evidence that that has been the experience at Braehead.

If I can tie that in with the overall requirement to encourage non-disabled motorists not to abuse disabled parking bays, it would appear that there is an enormous amount of good will 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.

Alasdair Allan: You also mentioned, in relation to section 5, that there might be difficulties in ensuring that groups of disabled people as well as individuals can qualify. Can you elaborate on what solutions there might be to that problem?

Euan Page: My point related more to where an organisation rather than a named individual is the qualifying person. For example, a welfare advice organisation that provides many services to disabled people may be concerned that it does not meet the definition of qualifying person and therefore would not qualify for a designated bay, which would be an enormous help, outside its offices. I am flagging up a potential issue, which I imagine could be rectified. We want to ensure that, as we move from having advisory parking bays to having enforceable bays, we do not leave the door open to fears that the clients of such a welfare advice organisation will not be able to find a suitable parking space to enable them to use its services.

Bob Doris: Can I clarify something? Currently, each local authority has a disability equality duty, which could lead it to use existing powers to enforce disabled parking bays, whether in conjunction with private companies, off-street or outside people's houses. Local authorities can do that now to meet their obligations under the disability equality duty.

Euan Page: There are currently two classes of parking bay: enforceable and advisory. No enforcement powers are available for advisory bays. A local authority could not currently say that it will enforce a non-enforceable bay under the terms of the disability equality duty. The bill is looking at how we move to a single, enforceable standard for all parking bays.

11:15

Bob Doris: That is not what I was driving at. Currently, there are enforceable and advisory bays and local authorities take the approach that they consider best fits local circumstances. They would argue that, in doing so, they are meeting the disability equality duty. I want to ensure that I understand the matter correctly.

Euan Page: Currently, when a local authority considers designating an advisory bay, it considers whether a case has been made. As a result of information that the authority has received through its consultation and involvement with disabled people in drawing up its disability equality scheme, the lack of advisory bays in area X or Y may have emerged as an issue, so the council may seek to create more advisory bays.

However, the issue is not a cut-and-dried one about whether an authority has fulfilled its duties by doing one thing or has not fulfilled its duties by doing something else. There is a continuum. Local authorities have to consider their policies on the design and placing of designated bays as part of their on-going work to meet the requirements of the disability equality duty, but there is the separate issue of advisory bays being rendered useless for disabled drivers if they are occupied by non-disabled drivers. The point is not that a council would be failing to meet the requirements by providing advisory bays. However, evidence that was gathered by colleagues in SPICe and by Jackie Baillie in taking evidence on the bill reveals a real problem with the abuse of advisory bays, regardless of councils' efforts to provide those bays.

Bob Doris: That is not what I am driving at, but I probably did not articulate my question very well. I will make this my last point to allow other members to speak. Some councils have enforceable bays—for example, West Dunbartonshire Council has 600 such bays. Even though some local authorities are not keen to use existing powers, West Dunbartonshire Council is happy to do so and would be well placed to fit in with any new statutory obligation that is put on councils. However, the council has stated that it does not want advisory bays to be withdrawn, because they give flexibility. I am curious about why you want all advisory bays to be withdrawn. As I said, West Dunbartonshire Council has 600 enforceable bays, but it is worried that although a local councillor can get someone an advisory bay outside their house within a week or two, it can take several months to get an enforceable bay. The council would like local flexibility. I would appreciate your comments on that.

Euan Page: I am sorry for misunderstanding the question.

That is another matter that it might be useful for the committee to explore further as it takes evidence. There could be an issue of prioritisation. It is surely not a priority for councils to consider immediately removing advisory bays that are being used and not abused. The priority for councils may lie elsewhere—they may want to take action on advisory bays that are being abused by non-disabled drivers.

One challenge is to ensure that people's minds are put at rest. The message from the bill should not be that people will have their advisory bays taken away and that they might get an enforceable bay. We must ensure that the process is managed well, so that if people's parking bays are to change, their minds are put at rest that it will be a change for the better. We do not want any danger that councils might, as part of a rolling programme,

create an atmosphere in which people are worried. We do not want people to receive a letter that says that the council is going to take away their advisory bay but that does not say when the council will get round to putting in an enforceable one. That takes us back to the point about the dangers of not prioritising and the need to think through how to manage the provisions. That potential worry must be addressed and I am sure that councils will be alive to that.

John Wilson: I raise a couple of issues to do with the disability equality duty on local authorities—I put my hand up to speak earlier, but Johann Lamont partly covered what I wanted to say. I want to try to draw out Jim Tolson's point about whether £1.7 million is the cost that would be borne by local authorities—a warning shot has been fired at us in that regard as we consider whether the bill should progress. I understand that there are duties on local authorities to do with how they deal with people with disabilities and other groups in society. Therefore, the £1.7 million might be a figment of someone's imagination, because the additional cost that it is claimed might be required to carry out work under the bill might already be being covered by the cost of gathering information.

Euan Page: I absolutely agree that we need much more clarity about where the figure came from. We must say to local authorities, "You've been subject to the disability equality duty for the past couple of years. As part of that and as part of your overall traffic management strategy, we imagine that you are gathering evidence and thinking about budgets and the resource implications of your approach to the needs of disabled motorists and blue-badge holders." Costs that would be incurred under the bill should be factored into existing budgets rather than regarded as additional, stand-alone costs that would appear like a bolt from the blue—I agree with your analysis.

John Wilson: I am thinking about the duties under the DDA—part IV, I think. You said that a couple of advice services in Glasgow are afraid that if they applied for enforceable parking bays, they might not get them. However, surely under existing legislation on access to services an organisation such as Govan Law Centre can apply to its local authority for a designated disabled parking bay outside its office. The issue should not be a worry for such organisations, because they could make a case under other legislation to their local authority for designated disabled parking bays.

On a similar note, you gave the interesting example of a private operator who has three parking bays at the rear of their office and does not have to have a disabled parking bay, but

surely an individual could argue that under the DDA their employer should provide a disabled parking bay, to allow a person with a disability fully to participate in employment in that workplace. It could be argued that employers should be providing such facilities as a matter of course, to comply with the legislative requirement to open up employment opportunities to all.

Euan Page: Yes. The provision of a parking space for a disabled employee is a good example of a reasonable adjustment under the DDA and we expect employers to provide such spaces. I was drawing a distinction between encouraging people not to abuse disabled parking spaces and identifying private parking spaces in large local authority areas. It would perhaps be more incumbent on local authorities to start by considering big private parking spaces, where there is a large turnover, rather than take an undifferentiated approach in which they treated a parking space outside a retail park on the outskirts of Glasgow in the same way as they treated a piece of scrubland in the centre of town that is used as a private parking space. It is about how local authorities go about their work.

You make a good point. Under the provisions on access to goods and services and the provisions on employment, which are in part II of the DDA, the provision of disabled parking spaces would be regarded as a reasonable adjustment, which employers and service providers should consider making. Forgive me, but I have forgotten your earlier question.

John Wilson: I have forgotten it, too.

The Convener: If there are no further questions from members, I thank Euan Page for his helpful evidence. As we agreed to do, we move into private to consider items 6 and 7.

11:25

Meeting continued in private until 11:55.

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