

# **LOCAL GOVERNMENT AND TRANSPORT COMMITTEE**

Tuesday 1 June 2004  
(*Afternoon*)

Session 2

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## LOCAL GOVERNMENT AND TRANSPORT COMMITTEE 15<sup>th</sup> Meeting 2004, Session 2

### CONVENER

\*Bristow Muldoon (Livingston) (Lab)

### DEPUTY CONVENER

\*Mr Andrew Welsh (Angus) (SNP)

### COMMITTEE MEMBERS

\*Dr Sylvia Jackson (Stirling) (Lab)  
Mr Bruce McFee (West of Scotland) (SNP)  
\*Michael McMahon (Hamilton North and Bellshill) (Lab)  
\*Paul Martin (Glasgow Springburn) (Lab)  
\*David Mundell (South of Scotland) (Con)  
\*Tommy Sheridan (Glasgow) (SSP)  
\*Iain Smith (North East Fife) (LD)

### COMMITTEE SUBSTITUTES

Bill Butler (Glasgow Anniesland) (Lab)  
Colin Fox (Lothians) (SSP)  
Mr Kenny MacAskill (Lothians) (SNP)  
Mr Brian Monteith (Mid Scotland and Fife) (Con)  
John Farquhar Munro (Ross, Skye and Inverness West) (LD)

\*attended

### THE FOLLOWING GAVE EVIDENCE:

Margo MacDonald (Lothians) (Ind)

### CLERK TO THE COMMITTEE

Eugene Windsor

### SENIOR ASSISTANT CLERK

Alastair Macfie

### ASSISTANT CLERK

Euan Donald

### LOCATION

Committee Room 2



## Scottish Parliament

### Local Government and Transport Committee

*Tuesday 1 June 2004*

*(Afternoon)*

[THE CONVENER *opened the meeting at 14:06*]

### Prostitution Tolerance Zones (Scotland) Bill: Stage 1

**The Convener (Bristow Muldoon):** I open today's meeting of the Local Government and Transport Committee. I welcome Margo MacDonald MSP, who is our sole witness today. The only item on the agenda is further consideration of the Prostitution Tolerance Zones (Scotland) Bill, which Margo MacDonald introduced. I invite Margo to make an opening statement, after which we will move to questions and answers.

**Margo MacDonald (Lothians) (Ind):** Thank you for giving me the opportunity to come to the committee, convener. Would you like me to start reading all these papers on the desk in front of me from the left or the right? It is all right—I have only a short, one-page statement to add to the written submission that you received. My statement will fill in any spaces.

I welcome the chance to come to the committee today particularly because of the timing. Some of you might have heard the news item on "Good Morning Scotland" about the Aberdeen drop-in centre. I know that at least one member of the Local Government and Transport Committee thinks that the bill is perhaps not needed—I know that he has doubts about it. Perhaps he thinks that the fact that only a small number of women are accessing the new facility in Aberdeen underscores his opinion, but he would be wrong to think that, as I hope to show.

When SCOT-PEP—the Scottish prostitutes education project—introduced the original drop-in centre in Constitution Street a number of years ago, exactly the same thing happened. Fewer than 10 per cent of street workers used the centre in its first months. The location later moved to the Shore and, after two years, about 75 per cent to 80 per cent of street workers were using it. There are two important points in that. One is that the Shore location was more convenient: it was closer to the designated area inside which women would not be charged with soliciting—the tolerance or non-

harassment zone, in other words. The second point is that an understanding, a trust and a working relationship had been built up among all the partners who operated that tolerance zone policy, although we should probably call it a non-harassment or management policy.

The experience in Aberdeen is absolutely no different from Edinburgh's experience in the early days. I should also mention that the centre in Aberdeen is open only one night a week, which means that women who are working three, four or five nights a week cannot drop in regularly. Moreover, its location is quite a walk from where the women work. The Drugs Action people knew that the centre's location was not perfect when they set it up, but it was the only site that was available.

We might find this hard to understand, but the drop-in facility has received absolutely no publicity or advertising. However, we have to remember that the issue is sensitive and the Drugs Action people thought rightly that it was better to publicise it by word of mouth. After all, it would not help matters if a newspaper simply reported even the cold hard facts about the centre. Apart from anything else, people would turn up out of prurient curiosity simply to have a look. I am as certain as everyone else who is involved with the centre that it will be used, because when drugs outreach workers tell the women about the facility they say that they definitely want to use it. I just want to set the record straight on that.

I do not want to take up too much time with these remarks, because I am sure that the committee is well aware of the bill's intention and of the various issues that it has to consider. People sometimes forget that the bill's provisions are enabling, not obligatory. Furthermore, the bill will apply only to the four big cities; although there is prostitution in every Scottish town, the bill is concerned only with street prostitution. The authorities in Dundee have said that they think that the bill is quite a good idea and that councils should be enabled to take the approach that it provides for if they so choose, but they point out that they do not need it because street prostitution is not a big problem in the city. As a result, we are talking about Glasgow, Aberdeen and Edinburgh. The bill would enable all three councils—or two, one, or none of them, if they choose to continue with their current policy—to take these steps. As members heard last week, Aberdeen City Council and the City of Edinburgh Council want a legal framework within which they can construct their own policies for managing street prostitution.

The bill's provisions are primarily aimed at reducing levels of harm in the current situation and at affording an opportunity to provide support and practical help for women who wish to exit

prostitution. For example, SCOT-PEP was mainly involved in supplying condoms, acting as a needle exchange and ensuring that women were well informed of the dangers of their work. It also set up what was called the ugly mug scheme, in which the women were able to compile a list of violent or potentially violent clients.

As well as being contracted to the health board to provide public health services, SCOT-PEP was contracted by Scottish Enterprise to provide pre-employment training for women who were ready to exit prostitution. I see such an approach as part of the whole package; indeed, the bill's explanatory notes refer to such measures. We should not forget that there is no contradiction or dichotomy between wanting to introduce harm reduction measures and wanting to eliminate prostitution or to ensure that there is an absolute diminution of the whole sex industry. I count myself among those people who feel that the bill would do nothing at all either to add to the exploitation of women who are working as prostitutes or to prolong the time in which a woman might for one reason or another work as a prostitute.

14:15

What I see as a practical and pragmatic yet caring approach to a sensitive aspect of life in Scotland's four big cities is supported by bodies as diverse as the Presbytery of Edinburgh and the women's committee of the Scottish Trades Union Congress. The STUC women's committee states in its written submission that it

"supports the introduction of tolerance zones as they enhance the safety of prostitutes in these areas as well as eliminating the threat of violence towards them."

I do not know that I would say "eliminating", but the figures show that tolerance zones greatly diminish the threat of violence towards women working as prostitutes. If anyone wants to pursue that point, I am willing to discuss it.

The submission from the STUC women's committee continues:

"Research has shown that 67% of Scottish people back the establishment of tolerance zones. However, whilst only 24% oppose tolerance zones outright, 61% would object to one being set up near their home."

Most of us understand that the challenge for most people is not the fundamental proposal to have a tolerance zone policy or a management zone policy—it is not to have it in their area. The submission further states:

"This 'not in my backyard' view would have to be challenged if tolerance zones were to be introduced with the same degree of success as the informal tolerance zones in Edinburgh and Aberdeen."

Up to a point, m'lud: remember that the proposals in the bill would make the matter entirely the

responsibility of the local authority. Several members of the committee have experience of being local authority members. Can they seriously see themselves saying that they will have a zone on the main street in their area? I do not think so. No local authority sensitive to the position in its area would advocate having a tolerance zone established in an entirely unsuitable area. That is one of the checks in the bill—local councillors know their area and know what would be tolerated by their constituents. Therefore, I take slight issue with the women's committee of the STUC on that point. I do not think that such a policy would be put into effect by any local authority that was sensitive to the opinions of its electors.

The Church of Scotland states:

"Women and men working as street prostitutes represent some of the most vulnerable members of our city, and it was the conviction of the committee that Presbytery should make a helpful and constructive contribution to the debate engendered by the introduction of this Bill. Prostitutes are not popular members of society, generating a whole range of mainly negative responses. A recent Board of Social Responsibility report affirmed, 'it is particularly important that where the public attitude is one of indifference or of self-protection, the Church should seek to reach out and minister ... to those working in prostitution.' It is with this in mind that, in this particular instance, the committee recommends that Presbytery lends its support to the Bill."

Like me, the women's committee of the STUC and the Presbytery of Edinburgh would like nothing better than to see an end to the violence and exploitation associated with street prostitution and the reintegration into mainstream employment of women who are able to step away from prostitution. Like me, they are aware that those who oppose management, non-harassment or tolerance zones have suggested no alternative that precludes fines and imprisonment. Anyone looking at the history of how prostitutes have been dealt with must agree that imprisoning them does not work. Therefore, if we can, we must find a non-custodial answer to what is an on-going feature of life in our cities. That is what the bill seeks to do.

**The Convener:** Thank you very much. Members will now ask questions.

**Michael McMahon (Hamilton North and Bellshill) (Lab):** I will begin with the question that half the committee members would like to ask. You have made one amendment to the bill that you introduced in the previous session of Parliament. Has the timescale within which you introduced the present bill allowed the development of ideas that will make our assessment of the bill different, given that it is only one amendment away from the bill that you introduced in the previous session?

**Margo MacDonald:** Remember that the bill reflects what its supporters and I see as the present situation, which has not changed or has

only worsened. The councils and local health and police authorities are in basically the same situation. The only amendment to the previous bill was a minor one—I forgot to include community councils in the list of consultees, so I added that to the present bill. The bill has not changed because, frankly, it did not need to change all that much. However, the situation in Edinburgh has changed: it has worsened greatly. Members are well aware of that because they have received evidence to that effect—and not only from me. The situation in Aberdeen would be greatly improved if there was a legal basis on which to operate. Therefore, the bill has not changed, but the situation might have changed a bit.

**Michael McMahon:** Although the change to the previous bill that you made was minor, why was it important to include community councils in the bill? What is the reasoning behind the change?

**Margo MacDonald:** As I said, I forgot to include them. I thought that I had included everybody. I have said to the committee before that I wish that I had not called the bill the Prostitution Tolerance Zones (Scotland) Bill because for some people the title carries a connotation that does not really exist. What people will tolerate in their own areas is up to them to decide—that goes not only for behaviour that relates to prostitution. That is why it is important that community councils or anyone who feels that they would be affected by a proposed zone must have the right to be consulted. I do not think that councils would turn their backs on what community councils and other genuinely representative neighbourhood organisations said.

**Dr Sylvia Jackson (Stirling) (Lab):** You mentioned a few organisations with which you have been in contact to collect evidence. Is there any important research that you have not mentioned but that you think we ought to know about? I am particularly interested in relevant research that has been carried out since we discussed the bill the first time round.

**Margo MacDonald:** There is interesting research, although we must remember that prostitution varies from location to location. I have a piece of research on the Dutch experience—the Netherlands has the longest experience of the management of prostitution. The research is dated 11 September 2003 and was done by Marieke van Doorninck. I have a copy if members would like to have a look at it—they will be happy to hear that it is in English. The research goes back over the past 20 years and draws together lessons that might be learned. One of the first points is a recognition of what the bill seeks to do, which is to realise that, although a Government may have an attitude towards or strategy for prostitution, the on-going action that is taken to cope with the problem

must be as localised as possible because every city is different.

Many people have referred to the Swedish experience, where the law on prostitution was changed. The three main cities in Sweden—Malmö, Gothenburg and Stockholm—are all different. The pattern of prostitution is different, the policing of prostitution is different and the ways in which services are directed towards prostitutes are different. Those differences are localised, because prostitution is an aspect of behaviour that has grown up in the city and, like other forms of behaviour, it varies between cities. That is one of the things that I want to stress to the committee.

As members might know, I am a member of the expert group on prostitution, which the Executive set up when the bill was not passed in the previous session. The work of that group is completely different—it aims to consider prostitution widely and to suggest some strategic objectives. It is not in the business of dealing with the situation here and now, in which the Edinburgh police say that they need such-and-such powers. The group would not suggest anything that would run counter to local authorities interpreting strategic objectives in a way that suits their local communities. The work is not theoretical; it is about people, so it has to be practical and to reflect the situation on the ground.

You asked about other research. A study was done in Sweden, where demand was criminalised. Before the law changed, there were 300 street prostitutes, but we have been in touch with the social welfare officer for Göteborg city, who reckons that there are now about 100. It is difficult to do any proper research, because the whole business has moved underground and has taken on other connotations. Women are being trafficked into Sweden from former eastern bloc countries—they work as prostitutes in private houses and it is difficult to track them down. Following the change in the law, the general trend has been for the amount of street prostitution to fall off and diminish in the first year, then to creep back up. That bears out what we know from other places in the world that have tried to eliminate street prostitution.

As the committee has probably heard in other evidence, people who know a great deal more about the matter than me reckon that there will always be a market for street prostitution in big cities, however small that market is. In many respects, the bill addresses that residual street prostitution, which will be with us for a long time—that is what Councillor Jim Coleman told the Local Government Committee in session 1, as its deputy convener might remember. Councillor Coleman admitted that even Glasgow City Council, which opposes the bill, did not envisage an end to street prostitution in the foreseeable future. Glasgow has

worked out a means of coping with the downside of street prostitution. If that suits Glasgow, that is fine. However, my contention is that no city should be able to prevent another city from working out what is best.

**Dr Jackson:** You mentioned the Dutch research and you said that you learned a lot from what happened there. Did the Dutch go through a similar legislative process? If so, what happened? If not, why not? You have answered what I was going to ask you about your views about Sweden, so I would like to ask you about the Glasgow situation. Glasgow is worried about appearing to legitimise prostitution by having a tolerance zone and thinks that a zero-tolerance approach is more appropriate. What are your views on that?

14:30

**Margo MacDonald:** I do not want to be over-critical of Glasgow's approach, but the figures do not stack up on the surface. Glasgow charges women after two cautions, I think. If you go to Cornton Vale, you do not find women who have been working as prostitutes in Aberdeen or Edinburgh; the women in that prison on charges relating to prostitution are from Glasgow. Actually, one lady from Dundee has visited Cornton Vale quite a lot and makes the statistics look unbelievable—as I said, that is a smaller scene.

I should make it clear that women are jailed not for soliciting but for not paying the fine. We have to consider the cycle of offending, being fined, failing to pay the fine and going to prison. Heaven knows what happens to the children when their mothers are going in and out of jail. That is not a solution from anyone's point of view.

According to the figures, which are, admittedly, a bit woolly—it is not certain how many women are working as prostitutes—there appears to be a growing number of women going into prostitution, particularly younger women. The two members of the committee with links to the east end of Glasgow will know that prostitutes have drifted out towards Glasgow green, which did not used to be an area of great activity but has become one, particularly for younger women. Whether or not I agree with Glasgow's strategic objective, I am not sure that it is coping with the here and now as well as it might.

I do not want to appear to be condemnatory of Glasgow but, as members heard from other witnesses, the number of street prostitutes in Edinburgh fell over a period and the number in Aberdeen remained static or perhaps even fell a little. There are various reasons for that decline in numbers. In Edinburgh, the introduction some time ago of licensed saunas was a contributory factor. However, since then, the number of street

prostitutes in Edinburgh has continued to fall. The apparently tolerant attitude in Edinburgh did not seem to encourage more people to become prostitutes. In Glasgow, however, where a harder line was taken, more people seemed to become prostitutes—certainly, more prostitutes are noticeable in an area of the city where they were not previously noticeable.

Those figures might be said to speak for themselves, but, to be fair, it should be noted that there are many different local conditions. For example, most of the younger and newer prostitutes are prostituting themselves because they are dependent on drugs. Until the tolerance zone in Edinburgh was discontinued, the situation was completely different: it was reckoned that 30 per cent of the prostitutes in Edinburgh were injecting drug users compared with 97 per cent or 98 per cent in Glasgow. That underlines the point that I was making about the situation having local features. The approach that is taken must be based on the local situation, geography, history and social conditions.

**Dr Jackson:** Could you talk about the Dutch research?

**Margo MacDonald:** The research says:

"In the late eighties and nineties a total of eight official tolerance zones were installed in the Netherlands. Some of these zones started as tolerance zones; others were official streetwalking zones from the start. The difference between the two is that a tolerance zone is appointed by the city council but not formalised in the city bylaws. In every single case the installation was the result of a complicated, sensitive and sometimes long process."

I think that we are no different from anybody else, but we have an example of such a zone being established for almost 20 years and we can judge whether or not it worked in the case of Edinburgh. The same conditions might not have worked in Glasgow, but that should not prevent us from saying that Edinburgh should be able to reinstate, or attempt to reinstate, what seemed to work for it.

**Dr Jackson:** Were the Dutch zones established through legislation?

**Margo MacDonald:** Yes.

**Paul Martin (Glasgow Springburn) (Lab):** I will ask about the contact element and the message that is being sent out to women in the zones that you are referring to. The Routes Out experience is about providing alternatives to that lifestyle, while recognising that there are problems relating to drug activity. Is that not completely different from what you are proposing, which is, in effect, to send out a message that such activities are acceptable, rather than setting out an alternative lifestyle?

**Margo MacDonald:** No.



**Paul Martin:** Can you explain the difference between a Routes Out process and the contact that is made with women in Edinburgh, which is a non-harassment process? You are explaining two different approaches, and I want to understand what the contact is like and what experience there is of it.

**Margo MacDonald:** In all practical circumstances, I do not think that there is much difference. As I said, SCOT-PEP ran the pre-employment training courses and counselled women who wanted to exit prostitution. I cannot remember whether you heard about that from Ruth Morgan Thomas. Nobody can give you a precise figure on how many women have exited prostitution after the contact, support and counselling that they would expect to get at the drop-in centre. If women have been working regularly as prostitutes and make the decision that they are going to get out, they usually get out completely and drop all their old associations, because they do not want to be reminded of their old life and they do not want anyone else to be able to remind them. Most folk would understand that that is a perfectly normal reaction.

You say that Routes Out provides alternatives. What do you mean by providing alternatives? Routes Out does not have the money. Although the umbrella organisation for the social inclusion partnership had £1.9 million—a huge amount of money—that is not enough money to provide alternatives, if the alternative that you are talking about is to make up for an education that has been skimmed on because the woman was in care and was not well looked after or well brought up. Lots of women end up on the streets because they had a traumatised childhood, so you would have to make up for that, provide them with job training, raise their self-esteem and build their confidence, and then you would have to find an employer who was willing to take on a rookie woman who could be in her 30s. That is an expensive process, and even Routes Out does not have a magic wand to wave and say, “Ting! We’ll get you a nice wee job. Here’s a job for you. You’ll go to Tesco’s.”

**Paul Martin:** In some cases, Routes Out has done that.

**Margo MacDonald:** Some people will manage it, yes, but how many lassies are working? There are more than 1,000. When it comes to comparative figures for successful reintegration into mainstream work and into an organised and more orderly lifestyle, what you see as SCOT-PEP’s alternative approach stacks up at least as well, if not better—although there should not really be a competition between the two approaches. The difference between the prominence that Routes Out gives to the elimination of prostitution and the process by which SCOT-PEP has pursued

the elimination of the number of people who work as street prostitutes is, in my view, semantic.

I do not want to be more critical of one approach than the other, because there is not much difference between them. Glasgow has a zone inside which a different form of behaviour is tolerated or accepted. Call it what you will—I think Glasgow calls it a safer-sex zone—but to most people, it looks awful like a tolerance zone.

**Paul Martin:** The expert working group that you have been part of, Margo—

**Margo MacDonald:** Remember that I cannot speak for the working group.

**Paul Martin:** I appreciate that, but have you been happy with the way in which the working group has developed? You advised us earlier that the group would not override issues that are referred to in the bill. Is the bill not still subject to the group’s recommendations?

**Margo MacDonald:** No, I said that, in my opinion, what the group is seeking to do, which is to provide an overview and perhaps some strategic pointers on prostitution per se, does not conflict with what the bill seeks to do.

**Paul Martin:** In your opinion.

**Margo MacDonald:** Yes.

**Paul Martin:** But are you happy with the way in which the group is developing, the evidence that it has taken and the process that it has followed?

**Margo MacDonald:** In many respects, the group has a difficult remit—to consider prostitution. Even since the group was established, the scene has changed greatly. Much more criminality, and much more potential criminality—really frightening stuff—are tagged on to prostitution. The position is changing rapidly. The police in Edinburgh would like the bill to go through so that they are able to get back on top of the information flow.

The group could not have done anything other than what it has done. Please excuse me if I appear to be reticent about this, but I am not sure how much of the group’s private work I can discuss. The group has tried to separate out all the various strands in the sex industry, to consider them individually and to consider their relationship to each other. I think that the group has gone about its job in the right way. It is an impossible job in some ways.

For the committee’s information, I spoke to the Home Office last week and it does not expect to put out its consultation paper until July. Time is going on, and there is arguably an urgent situation that should be addressed.

**Mr Andrew Welsh (Angus) (SNP):** I understand your reticence about speaking about the working group, but the group’s activities are in parallel with

the bill, and you have a unique insight into both. In evidence to the committee, the Deputy Minister for Justice accepted that different approaches to street prostitution have been taken in different parts of the country. He also stated that any future developments in the approach to street prostitution should be considered alongside the wider issues of prostitution, and only after the working group has reported. What is your reaction to that?

**Margo MacDonald:** The working group will report fairly soon on street prostitution, but it will be in two phases. There will be a report specifically on street prostitution and a longer-term, more contemplative report on the sex industry as a whole. The bill does not seek to straighten out our attitudes to the sex industry, which is now a billion pound industry. The issues are much bigger than those that the bill attempts to go into. There is no contradiction: first, there will be the expert group's attitude towards the bill—I do not know what that will be; and, after a time lag, there will be another report.

**Mr Welsh:** You said “fairly soon”. Can you indicate when you expect the report to be produced?

14:45

**Margo MacDonald:** I am not sure. If I said that it would be ready by the summer, would that do? I think that you might have it for moving into the new Parliament building.

**Mr Welsh:** Oh dear. That could start a further debate.

You said that the working group is doing nothing that would run counter to the bill. Would not the bill be better considered in the wider context of the working group's report?

**Margo MacDonald:** No. The bill is my contribution as the independent member—as if you could forget—for Edinburgh and the Lothians. The bill arose out of a need in Edinburgh for which there was no other solution. I was assured that introducing a bill was the best and simplest legal way forward. After I had started down that road, it became obvious that Aberdeen would also benefit from such legislation. That is the origin of the bill.

The expert group is quite different. It will give its opinion on the bill in the same way that it might give an opinion on the Home Office report. If it does, that will simply be because the body of knowledge and experience that it has gained means that it might have something to contribute to an on-going debate. However, there is no contradiction between the expert group's role, which is strategic, and the role of the bill, which is tactical. The bill is focused on the particular situation in the cities just now.

**David Mundell (South of Scotland) (Con):**

Before asking my principal question, let me pick up on your earlier comments about the changing nature of prostitution, which involves what are, in effect, economic migrants from places such as eastern Europe, who tend to work in a particular location. What impact does that have on the prostitution issue? If the nature of prostitution is changing, perhaps the street prostitution issue is not quite the same as it was when your bill was originally introduced.

**Margo MacDonald:** I am quite sure that there have been changes. Quite a lot has changed even since the bill was first introduced, but there are still women who work as prostitutes on the streets and who are therefore at great physical risk. That fact has not changed at all. As the Presbytery said, the duty of care has not changed.

It is possible that there is some trafficking of women, but the word “trafficking” is becoming overused and misunderstood. Probably most of the women who work in English cities are, for one reason or another, in the country legally. It is suspected that some of them have been brought here, but most are not illegals. Obviously, those who have been smuggled in are absolutely ripe for exploitation. They might come under the influence of pretty violent and unscrupulous pimps and so on, but they tend to work inside, where they can be hidden, rather than on the streets. Therefore, I would not overemphasise the extent to which street prostitution has changed because more women are being trafficked by being brought into the country either illegally or on some sort of ruse.

**David Mundell:** My reason for asking the question is that, having heard the evidence, I wonder whether the way forward might be provided by the more comprehensive approach that could come out of the working group's report rather than by your bill, which seeks to tackle a particular issue.

**Margo MacDonald:** Not at all. If right now councils were allowed to put into effect a programme of management that suited their needs, capabilities and geography, and if the committee, the Executive or anyone else came up with an absolutely fantastic solution that has eluded everyone for 2,000 years, chief constables would tell councils that they saw no further need for the legislation and that it could be dropped or merged into the new approach. That is the beauty of the bill. I cannot claim the credit for that—the two guys from the Faculty of Advocates who helped me with the bill have made it a very neat piece of legislation that can be used when required and discontinued without fuss. However, I would not be happy about our saying that we will wait until we have the answer to everything, as that answer has been sought and not found for 2,000 years.

**David Mundell:** In evidence to the committee, the Routes Out partnership argued that the policy memorandum that accompanies the bill does not demonstrate

“a comprehensive multi-agency strategy with the associated actions that are required to address street prostitution and its patterns of change, such as the shift of so-called red-light districts.”—[*Official Report, Local Government and Transport Committee*, 2 March 2004; c 690.]

How do you respond to that comment and to the wider evidence that has been given on the bill?

**Margo MacDonald:** I disagree entirely with the Routes Out partnership. The health authorities, the police authorities and the local councils in the three cities that have said that they support the principles of the bill are involved, as are all the other community organisations that one could care to mention. Before the member arrived, I discussed that issue with Michael McMahon. I have tried to leave out no one from consultation on setting up tolerance zones. As I have explained to the committee, tolerance zones are not just geographical areas, but means of delivering services and policing, helping women out of prostitution and ensuring that public health issues are properly monitored. I think that Routes Out has it wrong.

**Paul Martin:** The policy memorandum states that the situation in Edinburgh has been made worse by the demise of the non-harassment zone. How accurate is that statement? In any area, different social factors can contribute to a reduction in crime.

**Margo MacDonald:** One must consider the number of assaults on prostitutes, which has increased by 1,000 per cent in Edinburgh since the zone was discontinued. Now there is a different arrangement. Women are working in different areas and moving on so that they will not be reported, lifted or cautioned. The police do not want women to enter the Cornton Vale cycle, but they cannot fail to answer complaints that are made about women soliciting in an unsuitable area, as has happened in Leith links. I apologise if committee members do not know the city well, but Leith links is quite unsuitable for soliciting as it is too much of a residential area. The women are now less cohesive than they were when the non-harassment zone existed.

I referred earlier to the ugly mug scheme operated by SCOT-PEP. When the tolerance zone was in operation, if a woman was threatened, robbed, raped or assaulted in any other way, the information was immediately fed in to SCOT-PEP and the knowledge was added to the register of ugly mugs, or potentially violent people, so that other women would not sell sexual services to those men. That scheme has obviously been discontinued.

If a drop-in centre is going to operate as part of the package of measures for delivery of service, it has to be where the women are. The drop-in centre is still on Newhaven Road in Leith, but the women are all over the place, so there is nothing like the shared knowledge and communication that there used to be. There is also nothing like the communication and trust that were shared with the police and, although I cannot put my hands on it right away, I think that we have a statement on that from the police, saying that they regret the loss of intelligence. Intelligence passes to the police from women who are working as prostitutes if there is trust and each side knows what the rules are. If the police have to answer calls to caution women because there has been a complaint, the trust will go out of the window, and the system will break down. That has happened in Edinburgh.

**Paul Martin:** Could it be that residents have been reporting the attacks and that is why there has been an increase, whereas in other areas where there have been tolerance zones residents have not reported attacks because they are not happening in residential areas?

**Margo MacDonald:** No, it is the women who are reporting the attacks and the police know that there has been a huge increase, but no one knows exactly what it is. SCOT-PEP carried out some research—I think that the police did as well, although I am not certain about that—and women now think that no one is bothering about them and that people have turned their backs. They feel that they cannot expect anything else, so they wonder why they should bother reporting the fact if they are attacked. That situation unpicks a lot of the work that SCOT-PEP and Routes Out or any of the other organisations try to do on building the self-esteem and confidence of the women. I know that that is a rather soft measurement, but I happen to think that it is important.

**Mr Welsh:** To work, a tolerance zone would have to have widespread acceptance. The City of Edinburgh Council's evidence to the committee discussed the challenges that would lie ahead in finding a suitable area for a tolerance zone if the bill is passed. What safeguards are there in the bill to ensure that a zone is not imposed on an area where there is opposition to it?

**Margo MacDonald:** I said at the start that I thought it inconceivable that any council—remember that it is the council that will designate the zone—would designate a zone in an inappropriate place.

**Mr Welsh:** Are there safeguards against that in the bill?

**Margo MacDonald:** There is an appeals procedure in the bill. People can appeal directly to the sheriff.

**Mr Welsh:** Do you accept that there will be practical problems in finding any such tolerance zones?

15:00

**Margo MacDonald:** Absolutely. With the development and gentrification of areas that were seen as a bit run down and were not frequented by many people during the night hours when business is done, it is less easy to find areas and it is more of a challenge. Aberdeen is more fortunate than other cities because of the size and layout of the dock area. There are very few houses adjacent to the zone in Aberdeen.

Dundee is small and, although the area is partly residential, so few women work as prostitutes there that there are not many complaints and there is not much upheaval. In Edinburgh, there are still areas down by the docks, which was the traditional area, where women work as prostitutes. As I explained, I have no intention of publicising exactly where those areas are, because I do not want them to receive any undue publicity. If the bill is passed, I will happily escort council representatives there. Some councillors already know where the areas are, and they will be explored for feasibility.

The place that may well have difficulty is Glasgow, as Glasgow is now experiencing the same syndrome. The area round about Cadogan Street, which was a wee bit run down, is becoming more up-market. Expensive offices, flats and so on are being built and are planned to be built. It was understood to be the area in which people would expect to find soliciting in Glasgow, but it is shrinking. When he gave evidence to the committee, Councillor Coleman said that there would be a difficulty in Glasgow. However, I said difficulty—I did not say impossibility.

**Mr Welsh:** There will be a practical problem. For clarity and for the record, could you outline the appeals procedure?

**Margo MacDonald:** Can you not read it? I will need to find it in the bill.

**Mr Welsh:** I just want to ensure that it is on the record.

**Margo MacDonald:** It is on the written record all right. Section 5 states:

“(1) A person aggrieved by the making of a designation under this Act may, not later than 28 days after the date on which the making of the designation is notified under section 3(4), appeal to the Scottish Ministers against the designation; and where such an appeal is made, the zone shall not come into operation until the appeal is determined.

(2) An appeal under subsection (1) shall—

(a) be made in writing;

(b) state on which ground (or grounds) of those mentioned in subsection (3) the appeal is made, and the reasons for appealing on that ground (or on those grounds);

(c) state whether the appellant wishes to be heard before the appeal is determined or is content for it to be determined on the basis of written submissions;

(d) be accompanied by a copy of the designation or the notice given under section 3(4); and

(e) be copied (without the accompanying document referred to in paragraph (d)) to the local authority which made the designation.

(3) The only grounds on which an appeal may be made are—

(a) that the prostitution tolerance zone consists of an area, or includes a place, inappropriate to such a zone;

(b) that the period during which the zone is to remain in operation, or the times of day during which it is to operate, are inappropriate;

(c) that the code of conduct (or any part of it) is inappropriate.

(4) Subject to their being satisfied that the appeal is made on one or more of the grounds set out in subsection (3), if—

(a) the appeal states, under subsection (2)(c), a wish for a hearing; or

(b) the local authority inform the Scottish Ministers in writing, within 14 days of receipt of a copy of the appeal under subsection (2)(e), of their wish for such a hearing,

the Scottish Ministers shall, before determining the appeal, give the appellant and the authority an opportunity to be heard.

(5) The Scottish Ministers may determine the appeal by—

(a) allowing the appeal and revoking the designation;

(b) allowing the appeal and, subject to subsection (6), varying the designation; or

(c) refusing the appeal.

(6) Before varying the designation under subsection (5)(b), the Scottish Ministers shall give notice of the proposed variation to the local authority and the appellant and give each of them an opportunity to make representations.

(7) The Scottish Ministers may appoint persons to perform on their behalf—

(a) all of the functions conferred on them by this section in relation to particular appeals under this section (or all such appeals); or

(b) particular such functions in relation to particular such appeals (or all such appeals);

and where a person is so appointed, subsections (1) to (6) (or such of those subsections as confer the functions that the person was appointed to perform) shall apply as if the references to the Scottish Ministers were references to that person.

- (8) The Scottish Ministers may, by order made by statutory instrument, make further provision about or in connection with appeals under this section; and a statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of the Scottish Parliament."

Do you want me to go on about the power to suspend or modify—

**Mr Welsh:** No, thank you. I did not intend to complicate matters, but I thought that that might be useful for anyone who reads our proceedings.

**Margo MacDonald:** Believe it or not, I think that you are right. I think that I said earlier that the appeal would be made to a sheriff, but that was a mistake. The appeal would not be made to a sheriff.

**Mr Welsh:** No doubt that was what you said.

**Iain Smith (North East Fife) (LD):** I do not want to go into the issue of whether prostitution tolerance zones are right or wrong. Margo MacDonald hinted at my concerns in her opening statement—

**Margo MacDonald:** Did you recognise yourself?

**Iain Smith:** I did, but I do not agree with the conclusions that you drew from the story on "Good Morning Scotland".

My interrogation of the bill has been conducted in an attempt to establish, first, whether there is a need for the bill or whether local authorities' existing powers are sufficient and, secondly, whether the bill would do what it intends. In that context, I will ask a question that I have put to other witnesses. Is the bill needed, given that the previous non-harassment area in Edinburgh operated without legislation, and that Aberdeen City Council and the police in Aberdeen operate without legislation what news reports have rather erroneously called Scotland's only official prostitution tolerance zone? Do you agree that local authorities already have the power to act with community planning partners, particularly the police, to identify non-harassment areas and to provide the benefits of prostitution tolerance zones?

**Margo MacDonald:** What was possible 10 years ago is no longer possible. The informal arrangement that existed then would not now be tolerated by the general public. The Home Office is setting up a consultation on the matter because Liverpool City Council, for example, has said that it intends to set up a zone that will be modelled, by and large, on the zones that operated in Scotland.

Council officers and Councillor Thomas from the City of Edinburgh Council told the committee that the council would not feel secure in proceeding with a new tolerance zone until there was a legal basis for such a zone. The matter is sensitive, as

we know. If the council were to develop a new zone, which it would have to do because of the changing geography of the city, it might have to spend some public money—but not oodles of public money—to install security lighting, closed-circuit television and toilets. Councils must be accountable for public money that they spend, so if the City of Edinburgh Council were to spend public money to aid and abet what is currently an illegal activity—soliciting—there would be questions to answer, m'lud. That is the point that the witnesses from the City of Edinburgh Council made. The council would like to be able to pursue its policy in the knowledge that it was doing so free from the potential of a challenge in court.

Aberdeen City Council does not have the same problem, but who knows whether it might? Although there are very few homes in the immediate area of the tolerance zone in Aberdeen, a council tax payer could decide to challenge the council if it spent a bit of money on even the drop-in centre. Therefore, Aberdeen City Council would like to operate from a legal basis and will put forward the same sort of argument that Liverpool City Council has put forward.

On whether the councils would be able to use the legal power to operate tolerance zones, Aberdeen City Council is already showing that it could and the City of Edinburgh Council has operated a zone and shown that it could use the power. Glasgow City Council, which has started from a different point of view, has in effect worked out a policy for itself. We can trust councils.

**Iain Smith:** I trust councils implicitly, but my understanding of the evidence that we have taken on the bill, and of that which we took on the Prostitution Tolerance Zones (Scotland) Bill in the previous session, is that the non-harassment or tolerance zones that have operated effectively in Scotland so far have been in traditional areas for prostitution. The reason why they began to fail in Edinburgh and Glasgow—although Glasgow City Council never called the area a tolerance or non-harassment zone, my view is that it was, de facto, operating such a zone—is that redevelopment started to chase prostitution out. It had nothing to do with the legal powers of the local authority or the police, but was all to do with changes to the traditional areas for prostitution. Is the issue not more about identifying areas than providing a legal basis?

**Margo MacDonald:** No—both are important. Councils would not be subject to anything like the threat of legal challenge in the courts if there were areas outwith the main stream that were convenient for the business of the night and which were not observed by folk who are not connected with that business.

However, the matter is not as simple as that. For example, believe it or not, the area for prostitution in Glasgow changed and was shifted. You are not nearly old enough to remember when it was Blythswood Square, but I am—I am looking at the two Glasgow members who are present to see whether either of them is old enough to remember that, but they obviously are not.

**Michael McMahon:** Ma mammy told me tae stay away from it.

**Margo MacDonald:** The area in Glasgow was once round about Blythswood Square, and the prostitutes were moved down the hill.

In Edinburgh, if we go far enough back, we find that Rose Street and all of Leith Walk were areas for soliciting. In fact, there was a quid pro quo; if the prostitutes stayed within an agreed area, they would not be cautioned or fined for soliciting and they would be under some sort of protection because policing was more effective. Therefore, it was in the prostitutes' interest to co-operate, which is why the bill talks about times of operating, for example. That was borne out when the police moved the tolerance zone from Coburg Street to Salamander Street in Leith: there was a compliance rate of 98 per cent with the rules that governed operation of the zone.

We cannot run tolerance zones informally and without a legal basis for ever and a day. It is bad practice to ask serving police officers to turn a blind eye. We do not want them to turn a blind eye—we want them to be aware of what is going on and to police effectively, but they cannot do that by turning a blind eye as a matter of course. It is much healthier to admit to what we are actually doing than it is to have a nudge-nudge, wink-wink approach to the matter.

15:15

**Iain Smith:** I question some of your assumptions. I would have thought that, in terms of the charge of abetting legal activities, councils and other community planning partners could use the fairly justifiable defence of public safety or other grounds for the provision of the services to which you referred. It could be argued, for example, that needle exchanges abet illegal activities, but I think that everyone accepts that there are important public health reasons for offering such services.

With that in mind, is not there a potential risk that, if the bill had been enacted earlier, councils such as Aberdeen City Council might have shied away from going down the route that is set out in the bill because it is much more high profile than the route that the council might choose? I am thinking of the need to publicise an area ahead of designation, of the need to deal with objections

and of the potential for appeals. For those reasons, local authorities might not be willing to go down the route that is set out in the bill. In the case of Aberdeen City Council, it has worked with the various agencies and has, in effect, regulated what was happening in the city.

**Margo MacDonald:** First, we should remember that we are talking about a small number of local authorities—we can be specific. If the bill were to be passed, Aberdeen City Council would have the choice between formalising its zone or continuing with its informal policy. It would be up to Aberdeen City Council to decide on the best way forward.

We know that the City of Edinburgh Council would definitely use the provisions, but I do not know what Glasgow City Council would do. If that council faced real pressure from residents in the area in which soliciting traditionally happens nowadays, it might use some of the provisions of the bill. If the bill was enacted, councils such as Aberdeen City Council would not be forced to use its provisions just because they exist. That does not worry me.

**Iain Smith:** I note what you are saying, but surely there exists the potential—if Aberdeen City Council did not change its existing position, but continued with its informal zone—for a member of the public to argue that the council was operating a prostitution tolerance zone without having observed legal requirements.

**Margo MacDonald:** If a council considered that what was happening on the ground was what it wanted to happen, or that that was the best possible compromise, I assume that the council would observe the legal requirements.

**Iain Smith:** Okay.

**Michael McMahon:** I want to return to what you said about turning a blind eye. In your submission you said:

“The Bill does not seek to promote prostitution, but rather to protect prostitutes from excessive violence, to protect public health and minimise the nuisance to the general community that can accompany soliciting.”

The committee's evidence taking includes the London Metropolitan University study “A Critical Examination of Responses to Prostitution in Four Countries: Victoria, Australia; Ireland; the Netherlands; and Sweden”. Contained in the study is a statement by Fiona Broadfoot, who is the founder of an organisation called Street Exit. She said:

“It doesn't matter what they try, whether it's legalising it, allowing 'tolerance zones', clamping down on street girls, having piecemeal name and shame campaigns against kerb crawlers, it never works.”

She goes on to say:

"What we need is for the government to be brave enough to make some serious efforts to solve the problems of prostitution, such as tackling demand and helping women to get out, rather than turning a blind eye."

I am sure that there would not be much in the second part of the statement with which you would disagree. Is Fiona Broadfoot not right, however, in the first part of her statement? Is it the case that your bill will not achieve anything that is close to what you hope it will achieve?

**Margo MacDonald:** I can—in respect of violence, the most extreme form of which is murder—only point to the history of the tolerance zone in Edinburgh. Two women were murdered in a period of more than 10 years and in both instances the murderers were, I think, caught and charged within 48 hours. That was because of police knowledge of the scene and intelligence that they were able to use. We need to compare that situation with the situation in Glasgow, where seven murders took place over the same number of years, all of which have remained unsolved—no one has even been charged. After that spate of murders, Glasgow reassessed how it would protect the most vulnerable women.

We are not theorising—a record exists of what happened when Edinburgh tried the policy that the bill proposes. The bill will not be for every town in Scotland; it will not apply nationwide or anything like it. Four cities will be involved although, as I have said, we could count out Dundee because of its size, which would mean that only three cities would be involved.

We can consider whether each city has achieved any of its objectives. It was considered that Edinburgh succeeded in respect of public health in that not a single case is on record of HIV having been transmitted through prostitution. Edinburgh certainly achieved its objectives on violence; fewer than one assault per month occurred when the tolerance zone operated. As for supporting women and reintegrating them into society, as far as can be shown—I claim no more than that, but no one else can either—women were helped to reintegrate into general employment and the number of street prostitutes fell.

**Michael McMahon:** I do not dispute your figures, but I suggest that they might have resulted because the arrangement was informal. The study of four countries that I mentioned reported:

"The most extensive sex industries in Europe are in countries where aspects of prostitution are legalised."

Obviously, your bill will not legalise prostitution, but the study refers to "aspects of prostitution", which I assume could mean formal arrangements in legislation. Your bill would fall into that category. The study says that in Germany, the Netherlands,

Denmark and Italy, great growth took place. It says:

"From the mid 1990s ... the growth became more evident in the UK, and it was accompanied by marketing strategies that sought to create a new form of legitimacy."

Surely the problem is that if we take the same road as those countries, we will arrive at the same difficulties as they have.

**Margo MacDonald:** Those quotations are a wee bit anecdotal; they do not contain too many figures.

**Michael McMahon:** I can give some figures. I have three or four pages of the report, which contains evidence on levels of violence. It refers to

"A wide range of studies ... documenting elevated levels of violence"

against prostitutes. One study compared Glasgow, Edinburgh and Leeds. It

"involved 240 women working in indoor and street locations"

of whom 63 per cent

"reported violence from customers, and"

37 per cent

"had been assaulted in the three months prior to the survey."

The report contains many statistics. I just quoted a paragraph that summarised the evidence.

**Margo MacDonald:** Did that study compare the different levels of violence in Glasgow, Edinburgh and Leeds?

**Michael McMahon:** According to the report, it did. The document says that there is

"A wide range of studies ... documenting elevated levels of violence"

against prostitutes and includes evidence from one study that compared 240 women from Glasgow, Edinburgh and Leeds who worked indoors and outdoors. We could bandy statistics back and forth. I did not challenge any of your statistics.

You talked about a set of circumstances that arose in an informal setting. The report by London Metropolitan University examined places where legislation had been passed and it identified increases in violence, in drug abuse and in the formal sex industry. Those all accompanied regulation and legislation that had been adopted to tackle prostitution.

In contrast, Sweden has tried to tackle demand. My point is that to tackle the problem, we should not talk about regulating and formalising tolerance zones, because the report concludes that they do not work. We should tackle those who seek to use women for sexual purposes.

**Margo MacDonald:** That depends on what is defined as working, which takes us into an ideological and philosophical debate that in some respects I have not gone into. As I keep repeating, I have sought to tackle the situation in Edinburgh and in any other city that wishes to tackle it now.

I have to tell you that I have suspicions about the four countries report that I would not have had if you had said to me that it tabulated the figures for the percentage of violent attacks or reported attacks on women in Glasgow over a certain period and that the figure was X, that in Edinburgh, obviously using the same conditions, the figure was Y and that in Leeds the figure was Z. That is not the way the figures are broken up, so I do not think that you can take—if that is what you are looking to do—the starting point in Glasgow and compare the effectiveness of the outcome in Glasgow with that in Edinburgh and in Leeds. I do not think that the study does that.

**Michael McMahon:** I am not suggesting that it does. You asked me to produce some statistics from the report and I did that. My point is that the report concluded that formal regulation of prostitution can increase violence, drug abuse and the scale of the sex industry.

**Margo MacDonald:** I find it difficult to make that sort of jump, because the increases in violence that are obvious in Edinburgh happened when there was discontinuation of the tolerance zone. That is our practical experience in Edinburgh, regardless of what any statistical evidence may say. We can point to the fact that there have been many more attacks on women in Edinburgh since the discontinuation of the tolerance zone.

**The Convener:** We will draw the discussion to a close. I am not sure that we are making any progress in this last little debate.

I thank Margo MacDonald very much for her evidence to the committee this afternoon and I also thank committee members. That brings us to the end of today's meeting.

*Meeting closed at 15:27.*



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