

LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

Tuesday 19 April 2005

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2005.

Applications for reproduction should be made in writing to the Licensing Division,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by Astron.

CONTENTS

Tuesday 19 April 2005

Col.

TRANSPORT (SCOTLAND) BILL: STAGE 2	2315
LICENSING (SCOTLAND) BILL: STAGE 1	2346

LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

13th Meeting 2005, Session 2

CONVENER

*Bristow Muldoon (Livingston) (Lab)

DEPUTY CONVENER

*Bruce Crawford (Mid Scotland and Fife) (SNP)

COMMITTEE MEMBERS

*Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

*Dr Sylvia Jackson (Stirling) (Lab)

*Paul Martin (Glasgow Springburn) (Lab)

*Michael McMahon (Hamilton North and Bellshill) (Lab)

David Mundell (South of Scotland) (Con)

Tommy Sheridan (Glasgow) (SSP)

*Margaret Smith (Edinburgh West) (LD)

COMMITTEE SUBSTITUTES

Bill Butler (Glasgow Anniesland) (Lab)

*Mr David Davidson (North East Scotland) (Con)

Colin Fox (Lothians) (SSP)

Mr Bruce McFee (West of Scotland) (SNP)

John Farquhar Munro (Ross, Skye and Inverness West) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Chris Ballance (South of Scotland) (Green)

Pauline McNeill (Glasgow Kelvin) (Lab)

Nicol Stephen (Minister for Transport)

THE FOLLOWING GAVE EVIDENCE:

Sue Allen (Scottish Beer and Pub Association)

Councillor Philip Attridge (City of Edinburgh Licensing Board)

Patrick Browne (Scottish Beer and Pub Association)

Kathy Cameron (Convention of Scottish Local Authorities)

Councillor Rory Colville (Lorn, Mid-Argyll, Kintyre and Islay Divisional Licensing Board)

Councillor Daniel Kelly (Bute, Cowal and Lomond Divisional Licensing Board)

Councillor Duncan MacIntyre (Lorn, Mid-Argyll, Kintyre and Islay Divisional Licensing Board)

Robert Millar (City of Edinburgh Licensing Board)

Dan Russell (Society of Local Authority Lawyers and Administrators in Scotland)

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

Councillor Jim Swan (Convention of Scottish Local Authorities)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Alastair Macfie

ASSISTANT CLERK

Euan Donald

LOCATION

Committee Room 6

Scottish Parliament

Local Government and Transport Committee

Tuesday 19 April 2005

[THE CONVENER *opened the meeting at 14:02*]

Transport (Scotland) Bill: Stage 2

The Convener (Bristow Muldoon): The first item on our agenda is our initial consideration of the Transport (Scotland) Bill at stage 2.

We have timetabled amendments up to approximately 3.30 pm. At that point, we will take stock of where we are—my intention is to complete the grouping that is under way at that point, after which we will conclude our consideration. In any case, we will not go much beyond 3.30 pm to leave time for the other items on our agenda.

Before we move on to consider the first grouping of amendments, Fergus Ewing has a brief comment to make.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I thank the convener for the opportunity to make a general observation, the subject of which I notified him of in advance of the meeting. Before we commence stage 2, I want to highlight the fact that a substantial part of our work relates to matters concerning the composition, powers and responsibilities of the proposed regional transport partnerships. Although those matters were the subject of an Executive consultation exercise, in this instance, the consultation ran concurrently with stage 1. Therefore, instead of having the evidence of bodies such as Strathclyde Passenger Transport and other witnesses on the powers, responsibilities and composition of the RTPs at stage 1, we are having to proceed to stage 2 without the benefit of evidence that, in normal circumstances, we would have considered.

I put on the record the Scottish National Party view that there is a strong case for the committee to take evidence before we proceed to our consideration of stage 2 amendments. To do so would give us a factual basis on which to do the work with which we are entrusted.

The Convener: For the benefit of other members, I confirm that Fergus Ewing raised that issue with me in advance of the meeting. My judgment is that many of the organisations that are concerned with the regional transport partnerships—from whatever perspective—had the opportunity to give evidence to the committee

at stage 1 and to make comments about the RTPs.

The range of amendments that members of all parties have lodged gives the committee the opportunity to hold a substantive debate at stage 2 on the powers and functions of the regional transport partnerships. Any organisation that wants to submit comments to a member of the Scottish Parliament or to give their view for or against the approaches in the bill can do so. Indeed, a number of organisations have taken advantage of that opportunity. For those reasons, my judgment is that it is not necessary for us to hold further formal evidence-taking sessions.

We now move on to our stage 2 consideration of the bill. I welcome the minister and his supporting officials, who are Richard Hadfield, Jonathan Pryce, Caroline Lyon and Graham McGlashan. I also welcome two visiting members, Chris Ballance and Pauline McNeill, who have an interest in the issues. I am sure that they will want to participate in our discussions.

I want to check that all members have copies of the bill, the marshalled list that was published on Monday and the groupings, which will help them in following our consideration of amendments. Today's process will finish at around 3.30 pm, although not necessarily right on the button. I point out that because 2 May is a public holiday and because the fact that we will lose a day would affect members' ability to have advance notice of amendments and so on, the proposal is that we do not hold a stage 2 meeting on 3 May. The committee will still meet on that day to consider the Licensing (Scotland) Bill.

Section 1—Establishment of regional Transport Partnerships

The Convener: Amendment 41, in the name of Michael McMahon, is grouped with amendments 42, 4, 43 to 50, 52, 13, 14, 17 and 27.

Michael McMahon (Hamilton North and Bellshill) (Lab): Amendment 41 is a simple amendment in that it seeks to add only two words to section 1. That addition would broaden Scottish ministers' role in respect of the establishment of regional transport partnerships by saying that they should provide information not only on the constitution of each transport partnership, but on its membership. I hope that the minister will accept that it is necessary for section 1(1)(c) to include the phrase "and membership". It is a technical suggestion, but it would clarify ministers' powers.

Amendment 42 is consequential in that it says that ministers should provide for the constitution and membership of RTPs

"in accordance with subsection (2) below",

which is about ministers' role in defining the make-up of an RTP's membership. I feel that those additions are necessary to ensure that everyone is clear about the potential make-up of any RTP and the powers that lie with ministers.

I move amendment 41.

The Convener: Before I invited Michael McMahon to speak, I should have pointed out that if amendment 45 is agreed to, amendments 46, 47 and 48 will be pre-empted, and that if amendment 48 is agreed to, amendment 49 will be pre-empted.

The Minister for Transport (Nicol Stephen): The committee's stage 1 report invited the Executive to reflect on the proposals for membership and voting and, in particular, on the limits on the number of councillor members and the role in voting of non-councillor members. We have done that and, in moving our position, have responded to the committee's suggestions, although not necessarily in full. I hope that committee members will regard the changes as significant.

I will take the opportunity to discuss amendment 4 and to comment on the other amendments in the group. Executive amendment 4 will allow for up to four councillor members per council. I intend to implement the provision in a manner that will be set out in schedule 1 to the establishment and constitution order. The detail has still to be finally agreed, but I hope that the principle of having up to four councillor members per council will be seen as a significant shift, which the committee and the current voluntary regional transport partnerships encouraged.

Amendments 43, 46 to 48 and 50 from Chris Ballance would remove all non-councillor members from transport partnerships. That would undermine the partnerships, which as a result would be nothing more than groupings of local authority representatives. I strongly urge the committee to reject those amendments.

Amendment 44 from Paul Martin would retain the external members but remove their voting rights. That would move us more towards a joint board approach. I recognise the concerns that several witnesses expressed at stage 1 about the role of non-councillor members. I am pleased to note that the committee's report recognised that regional transport partnerships should not take a closed approach and did not recommend against including members other than councillors in the partnerships.

In their responses to the recent consultation, a wide range of interested parties voiced support for including external members on regional transport partnerships. It is important to emphasise that that view came not only from the business lobby, but

from non-governmental organisations, public bodies and trade unions.

I am concerned that, without voting rights and the corresponding ability for people to be seen as full members of regional transport partnerships, it will be difficult to attract the right calibre of people and to keep them engaged for the long term. I understand that the issue is central for some committee members and involves a balanced judgment. However, I believe that if we ask people to play a full role in regional transport partnerships, when a vote happens, which should be rare, those people should normally have a vote.

After reflecting seriously on the concerns that the committee expressed in its report and on the feedback that was received through the consultation exercise, I have lodged amendments 13 and 27. Amendment 13 will prevent non-councillor members from voting on the power to requisition funds from constituent local authorities and amendment 27 will prevent them from voting on the transfer of functions to partnerships. Only councillor representatives will vote on functions that are to be moved from the Scottish Executive or local councils to regional transport partnerships. Those concessions are significant and address the concerns that have been put to me. I commend the amendments to the committee.

Amendments 45 and 52 from Paul Martin would remove the possibility of councillor members having weighted votes. I understand why that might be seen as a logical consequence of the concession—or move in position—to increase the number of councillor members, as proposed by the Executive in amendment 4. However, I would prefer to keep open two options for the partnerships. One option will be to have multiple councillor membership, under which each councillor member has a single vote—a one-member, one-vote approach, which I think most parts of Scotland will favour. The other option will be to have a single councillor member from each council with weighted voting.

The reason for keeping both options is that I understand that the Highlands and Islands strategic transport partnership and the councils in the Highlands and Islands would prefer to follow the second option, given the particular sensitivities of island councillors. In other words, the system that we had suggested until we made the concessions in the amendments that we are discussing today was what HITRANS was looking for. It would be unfortunate to create division in the HITRANS area by moving away from that approach because of understandable concerns from other areas. In the light of that explanation, I invite Paul Martin to consider not moving amendments 45 and 52.

14:15

Michael McMahon's amendment 41 would improve the bill's readability and make it consistent with other legislation by adding the words "and membership" after the word "constitution". I accept the amendment. The same cannot be said for amendment 42 in its current form, although I would be prepared to consider a similar amendment with different wording.

In its current form, amendment 42 would be too restrictive. For example, it would restrict the creation of the powers of the new regional transport partnerships and could conflict with the powers that members seek to include in the bill to form committees or to adopt standing orders, because those issues are not specifically referred to in section 1(2). I can explain the issue further if necessary, but the legal advice that we have received is that amendment 42, which would insert the phrase

"in accordance with subsection (2) below",

would have a restrictive effect and would mean that the appropriate powers and constitution and establishment orders could not be created in relation to issues that fell outwith the list in section 1(2).

Amendment 14 is a minor technical amendment that will ensure that the bill describes better the intention and content of schedule 1.

As members will have noted from the financial memorandum, the Executive will fund the expenses that the transport partnership members incur as part of the partnerships' start-up costs. Amendment 17 will enable the partnerships to continue to pay expenses to non-councillor members beyond the start-up period. The power relates only to non-councillor members because, as members are aware, provision already exists under the Local Government (Scotland) Act 1973 for the payment of allowances for travel and subsistence to councillors who attend conferences or meetings. The provision on the payment of expenses is consistent with previous legislation—the National Parks (Scotland) Act 2000 contains a similar provision.

Amendment 49 would make explicit provision in the order-making power in section 1(2) for the appointment of office-holders. However, that is unnecessary because the appointment of office-holders falls within the order-making power in section 1(1)(c) to

"provide as to the constitution of each Transport Partnership."

Amendment 49 would also make provision in relation to remuneration. There has never been a policy intention to remunerate councillors or other members of the partnerships for their services. At

present, a council can choose to award councillors a special responsibility allowance if their duties are over and above what might normally be expected. However, the Local Governance (Scotland) Act 2004 made provision for an independent committee to examine all issues related to councillors' remuneration, especially salaries and allowances. That committee will report its findings before the 2007 elections, but at this stage we can only speculate on them. Therefore, it might be best to retain flexibility on remuneration. I ask Paul Martin not to move amendment 49 to allow the Executive to consider appropriate drafting. Once I have given the matter of remuneration further consideration, I undertake to come back at stage 3 to make provision on it in the bill.

Chris Ballance (South of Scotland) (Green):

Amendments 43, 46 to 48 and 50 are principally about democratic accountability and keeping accountability with elected rather than selected members. As the minister has acknowledged, a wide range of evidence on the issue of external members of regional transport partnerships was presented at stage 1 by TRANSform Scotland, central belt local authorities and various other organisations. Strathclyde Passenger Transport has objections to the proposal in the bill, and Charles Gordon of Glasgow City Council has said that it would severely restrict the democratically accountable element of the regional transport partnership.

The secondary question, which the minister has acknowledged but has not really addressed, centres on the possibility of business interests voting on the spending of public money. He has accepted that such concerns are valid in relation to dissolving the RTPs; however, I suggest that they are also valid when it comes to spending the very considerable amounts of money that will pass through the transport partnerships.

The other danger is that the inclusion on RTPs of external members, in particular from the business community, could lead to the distortion of transport policy in favour of companies' private interests rather than the public interest. It is notable that the bill contains absolutely no requirement for representation from passengers or user groups, which I believe will prove to be a real lack in transport planning. Passing the bill as it stands would almost certainly mean that RTPs would listen only to the business community's views and not at all to the views of the travelling public. My amendments, which seek to delete various elements of section 1, would be extremely important in ensuring that the RTPs run smoothly and that any decisions on transport policy, which are some of the most important decisions that local authorities make, remain where they should be: in the hands of elected local representatives.

Paul Martin (Glasgow Springburn) (Lab): On amendment 44, I welcome the minister's commitment to ensuring that external members play a part in RTPs. After all, we are looking to extend such partnerships. I say to Chris Ballance that the Scottish Executive has never committed itself to giving business people the capacity to vote in the Scottish Cabinet or in any other part of Government. Amendment 44 makes it clear that, although partnership with the business community is welcome, business should be excluded from such roles in Government, particularly if they come with the ability to vote.

Mr Ballance's experience differs from mine. I have found that the business community has made a valuable contribution to several layers of Government without having been given the right to vote in the process. We should not only value the role that elected members can play and ensure that they are able to vote, but value those who share their business experience. Moreover, we should acknowledge that elected members can also represent business communities, and have done so well at various levels of Government. As a result, although I welcome some of the minister's comments, I will still move amendment 44.

I acknowledge the minister's concerns about amendment 45 and take on board his points about the importance of weightings in larger authorities. Perhaps I will return at stage 3 with other wording, but for the moment I will not move amendment 45.

I lodged amendment 49 to ensure that there are opportunities for appointments to the transport partnerships to be made and opportunities to provide remuneration for those who will play a significant role in the partnerships. I welcome the fact that the minister will revisit the issue at stage 3 and so I will not move amendment 49.

Amendment 52 is consequential on amendment 49, so I will not move it, but I look forward to hearing the minister's comments at stage 3.

Fergus Ewing: If we are to have regional transport partnerships, they should be provided with a wide range of strong powers. If they do not have such a range of powers, they will not be able to deliver. The minister himself said when he originally argued for RTPs that they must have powers to deliver.

The amendments on the composition of and who should serve on regional transport partnerships improve the position, allow flexibility and deal with the difficulty under the bill as introduced of being able to appoint only one councillor from large councils, which would create problems such as a lack of balance in the representation of the parties that are represented in large local authorities. I also accept the argument that the position of HITRANS and, in

particular, the views that witnesses from the northern isles expressed at stage 1 have been taken into account. The Scottish National Party welcomes that and the flexibility that the amendments will allow for. We also support amendment 44, which would ensure that

"only councillor members may vote",

and we hope that Mr Martin will move it.

On Mr Ballance's points, it is important that a wide range of expertise should be represented on RTPs. Councillors have a great deal of experience, but we want to look more widely than councils alone: we want experts, business people, passengers and user representatives. We want a wide variety of skills, expertise and experience to be brought to bear on the regional transport partnerships' tasks. To single out business people as always acting out of self-interest seems to me to argue from dogma rather than from experience and common sense.

Therefore, the SNP will not support Mr Ballance's amendments 43, 46, 47, 48 and 50 but will support the minister's amendments 4, 13, 14, 17 and 27, which start to put a bit of flesh on the skeleton of the Transport (Scotland) Bill.

Bruce Crawford (Mid Scotland and Fife) (SNP): I ask Chris Ballance to reconsider his position, because what Paul Martin will achieve with amendment 44, if it is successful, will introduce much of what Chris Ballance said he wanted to happen but with a lot more common sense.

I was involved in local government over a number of years, and the council in which I was involved had a leisure trust that ran its leisure facilities. Only councillors had a vote on that body, but a host of different interests, in particular users—I do not think that we want to deny the users an opportunity to be involved in future regional transport partnerships—were able to come to and participate in the trust's meetings and to give us their expertise and knowledge. That brought much gravitas to the decision-making process, which worked well. People came along and contributed, but they were not remunerated as is envisaged in some of today's discussion, because many of them were committed to the community and happy to impart their knowledge to improve services.

That balance is the right one. If Chris Ballance were not to move his amendments but get behind Paul Martin's amendment 44, he would achieve much of what he wants to achieve but with a degree of balance that would enable us to draw on the expertise of others to help regional transport partnerships to deliver much-needed changes to Scotland's infrastructure.

14:30

Mr David Davidson (North East Scotland)

(Con): We are trying to ensure that we set up partnerships that include people who can play a part—that is the key issue—so we must involve service providers as well as users. We should not prescribe a standard model that must fit all, with no possibility for variation. We heard about the situation in the Highlands and Islands; if the region thinks that it has found the best way of running a partnership that can deliver, I cannot understand why there should be a problem. At this stage, I am not interested in considering in detail matters such as remuneration. At the start of the process, we must ensure that all stakeholders, including users' representatives, are involved.

The minister and I represent an area in which there is a successful partnership, which would have been cast out had not the minister lodged amendments that would support the north-east Scotland transport partnership, for which I am grateful. It is vital that we recognise excellence. If we can enhance the approach, that will be fine, but we should not take a prescriptive approach that implies that councillors know best, which is not necessarily the case. We must ensure that working models can be developed in which expertise is noted and used and in which people are welcome to state a view.

I am a former councillor, so I understand why councillors want to vote on money that would be requisitioned from their councils' budgets. However, non-councillors should not be excluded from serious votes about performance and plans, but should have full freedom to vote on such matters.

Pauline McNeill (Glasgow Kelvin) (Lab): I listened carefully to the debate, which is crucial. From a Glasgow perspective, I am interested to know what the new west of Scotland transport partnership would do that SPT already does. I looked at SPT's membership lists and considered the break-up of authorities and it struck me that the amendments in the minister's name would enable quite a small number of people to make the decisions that are currently made by a much larger group. I understand that there is a debate about waiting and about whether partnerships should include a maximum of four councillors. In his summing up, will the minister demonstrate the benefits of an approach in which a smaller group makes decisions, particularly in relation to the west of Scotland regional transport partnership?

Nicol Stephen: From the outset, the Executive's intention has been to ensure that the new regional transport partnerships will be effective decision-making bodies that can make a difference to regional transport throughout Scotland by developing and delivering regional transport

strategies. That is why we are allocating £35 million per year to funding the new bodies. In general terms, I want the new partnerships to be smaller than some of the large existing bodies, to allow for speedier and more effective decision making.

The number of councillors on the new west of Scotland transport partnership will be roughly half the number on the Strathclyde Passenger Transport Authority, which includes 34 councillors, so about 17 councillors will be included on the new body and the inclusion of outside representatives will bring the number up to 24. It is a matter of judgment, but I think that a meeting at which 24 people sit round the table is about as large as I would want such a group to be if there is to be constructive discussion and engagement by all. I guess that there is about that number of people round the table at which we are sitting. Once a group starts to get bigger than that, it becomes more than a board or a committee and starts to feel like a council meeting or a full-sized council discussion.

When I attended meetings of the voluntary regional partnerships, it certainly struck me that in the bigger bodies—with all the members sitting round the table, often with officials alongside them—there is a relatively limited opportunity for everyone to get involved. If they do, it becomes much more like the round-table discussions that are held in the European Union, where everybody gets their say and contributes. It takes a long time to go round the table, which is not the best way in which to make decisions. That is not a criticism of what happens at the moment in SPT, but a reflection on how I would like the new bodies to operate. I hope that that is a reasonable explanation.

I thank Paul Martin for proposing not to press amendments on which he is prepared to come back at stage 3. I have given him reassurances and guarantees—I shall certainly address the issues to which I referred.

On the role of outside representatives, the first thing to remember is that about two thirds of the membership of the bodies will continue to be elected local government councillors, so local authorities will have a central role in the new regional transport partnerships. However, I believe that it is important that all users and all interests be involved in the bodies and that they are genuinely inclusive partnerships. There will be strict conflict-of-interest rules. If any individual—a councillor, somebody from one of the voluntary organisations or a business person—has a conflict of interests, there should be strict rules that will need to be strictly enforced.

It is appropriate that business interests be involved. Transport is vital to business and to

Scotland's economy and future economic strength. Business interests have responsibility for large amounts of Government revenue at the moment; for example, decisions in local enterprise companies and in Scottish Enterprise are taken predominantly by business interests. In the case of the new partnerships, two thirds of the representatives will be from local authorities. In the current structure of government, there is a wide variety of situations in which business and other outside interests can be involved in decision making.

As is the case with the current voluntary partnerships, most of the outside interests will be individuals from representative bodies such as chambers of commerce, the Scottish Council for Development and Industry, the Confederation of British Industry Scotland and other business organisations, as well as members of voluntary groups. I hope that some of the voluntary groups to which Chris Ballance referred will be interested in being involved. User groups and passengers must also be involved in the new regional transport partnerships, so there will be a wide cross-section of representation.

I give the assurance that individual regional partnerships will be able to propose the outside representatives that they wish to include. There should be an open approach. After having made a choice about outside representatives, with ministers having been involved in the first stage of appointments, it will be very much for regional transport partnerships to take the lead. At the very least, I would want outside representatives on regional transport partnerships who are already able to vote to continue to be able to vote, if the RTP wished that to be the case. We are moving from voluntary partnerships to statutory partnerships and we want to strengthen the partnerships and give them more powers, so I cannot see the logic in removing the voting rights that some members of partnerships currently have.

I ask members of the committee to take that issue seriously and to think hard about the sort of structure that they want in the future. It is an important issue and one that goes to the heart of our objectives for the new regional transport partnerships. We want them to be effective new bodies and we want partners to be fully engaged in those new bodies and not to feel that they are in any way second class. At the important point in the life of a new regional partnership when it really comes to the crunch and there is a vote—that should be rare, but we must recognise that there will be votes from time to time—it would be unfortunate if the partners from outside local government were asked to stand back.

Michael McMahon: Based on the minister's response, I am happy to accept that he may be

able to come up with a better form of words than I have done in amendment 42, and that he can address the issue that I tried to cover by coming back with an amendment at stage 3. I will not move amendment 42. It refers to an area that was of great concern to the committee during evidence taking. Although the minister is right to say that the regional transport partnerships should include expertise from as wide a range of organisations as possible—in principle, that is a sound basis on which to move forward—there are other principles with which that collides, such as accountability. On accountability, Paul Martin has got it right.

Chris Ballance suggested that no one other than councillors can make decisions, form policies or bring to the table anything that would help regional transport partnerships to work. I do not believe that, but I agree entirely with what Bruce Crawford said. There is a balance to be struck and Paul Martin has struck the right balance with amendment 44, which I hope he will press. Where principles collide, as they appeared to do in the earlier debate, we should favour accountability and allow councillors to make good decisions on transport spending, based on information that they draw from as wide a range of people in the community as possible. If we agree to amendment 44, and if we can agree on the basic principles in section 1, that—together with the minister's amendments—should mean that we strike the balance that Bruce Crawford seeks.

The Convener: I like the references to balance and the accusation that Chris Ballance is not achieving it.

The question is, that amendment 41 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Crawford, Bruce (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Jackson, Dr Sylvia (Stirling) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
McMahon, Michael (Hamilton North and Bellshill) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Smith, Margaret (Edinburgh West) (LD)

AGAINST

Davidson, Mr David (North East Scotland) (Con)

The Convener: The result of the division is: For 7, Against 1, Abstentions 0.

Amendment 41 agreed to.

The Convener: Chris, were you trying to ask a question?

Chris Ballance: I was not sure whether you were going through all the amendments just now, and if so—

The Convener: We will go through them one by one when we reach the place in which they fall in the bill. When we reach your amendments, you will have the opportunity to say whether you wish to move them.

Amendment 42 not moved.

Amendment 4 moved—[Nicol Stephen]—and agreed to.

The Convener: Amendment 5, in the name of the minister, is grouped with amendments 6, 7, 8, 10, 11, 12, 18, 19, 22, 23, 26 and 28.

14:45

Nicol Stephen: The amendments are various and minor and are needed to clarify that regional transport partnerships may be created that consist of only one local authority plus other external partners. As I have said previously to the committee, I was not full of enthusiasm for such an arrangement because I believe that the partnerships will, in general, work best where more than one council is involved and where there is genuine partnership working among local government bodies. Nevertheless, I have listened to the representations that have been made by others—in particular, I have discussed the issue in some depth with Dumfries and Galloway Council and its partners—and I have noted the committee's recommendation on the issue. As I explained to the convener in my letter of 5 April, I propose to create a separate single-authority regional transport partnership for the south-west of Scotland; the minor amendments in the group that is under debate are necessary to achieve that.

The agreement with Dumfries and Galloway Council is that it will create a model 3 partnership, which will involve transfer of the council's current public transport powers, as happens at the moment in the west of Scotland in the SPT area. Those powers will move to the new Dumfries and Galloway regional transport partnership. That is an important step, which I welcome and which reflects the comments of the committee. The committee has generally felt that such bodies need to be as strong as possible as early as possible. The proposed Dumfries and Galloway regional transport partnership is, therefore, an important step forward.

I will leave it at that. If we are to have regional transport partnerships that cover only one local authority area, we must amend the legislation accordingly.

I move amendment 5.

The Convener: I acknowledge the Executive's movement on the issue, which follows the recommendation in the committee's report. I commend the Executive for its response to the issues that were raised in that report.

Mr Davidson: I, too, congratulate the minister on taking on board a very sensible recommendation.

Amendment 5 agreed to.

Amendments 6 and 7 moved—[Nicol Stephen]—and agreed to.

The Convener: Amendment 43, in the name of Chris Ballance, has been debated with amendment 41. I ask Chris Ballance to move or not move amendment 43.

Chris Ballance: I continue to have two concerns—

The Convener: I am asking you just to move or not move the amendment.

Chris Ballance: Can I briefly explain two concerns that I would like the minister to address at stage 3?

The Convener: I am sorry, Chris—we cannot enter into further debate at this stage.

Amendment 43 not moved.

Amendment 44 moved—[Paul Martin].

The Convener: The question is, that amendment 44 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Crawford, Bruce (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Jackson, Dr Sylvia (Stirling) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
McMahon, Michael (Hamilton North and Bellshill) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Smith, Margaret (Edinburgh West) (LD)

AGAINST

Davidson, Mr David (North East Scotland) (Con)

The Convener: The result of the division is: For 7, Against 1, Abstentions 0.

Amendment 44 agreed to.

Amendments 45 to 50 not moved.

The Convener: Amendment 51, in the name of Paul Martin, is in a group on its own.

Paul Martin: Amendment 51 is a mainly technical amendment regarding the establishment of committees by the regional transport partnerships. I would welcome some indication from the minister of what mechanisms will be put in place in that respect. It is mainly a probing amendment to ensure that we put in place some guidance or—possibly—legislation to allow for the establishment of such committees.

I move amendment 51.

Fergus Ewing: I have some questions for the minister. Can he explain how he sees the RTPs operating in practice in relation to committees? Can he compare that with how SPT operates? Will the RTPs operate on a similar basis? Will there be a committee for each mode of transport in respect of which powers are conferred on the RTPs? Will there be separate committees for road, rail and planning issues and projects, for example? Can he give a flavour of how those bodies will operate in practice? It is clear that it would be difficult to do all the business in plenary meetings—that is, by one large committee.

Nicol Stephen: I will respond first to Fergus Ewing's questions. I have always seen the statutory regional transport partnerships as developing from the existing voluntary partnerships but having more authority, more funding and more power to make real differences in transport in their respective areas. I do not think that that will be achieved by my being prescriptive about how they should operate and whether they should all establish committees and sub-committees. Nevertheless, I hope that they approach the task in an integrated way, which may mean not having separate committees for each mode of transport. If they have separate committees, I hope that they will ensure that integration of the different modes is central to all that they seek to do to in making public transport more attractive to passengers and others in their areas.

I am convinced that we must in the future shift the balance of investment towards public transport to make our buses, railways and tram systems—when we eventually have them—more attractive. Those are the challenges for all the regional transport partnerships. In addition, at least two of the regional transport partnerships will have significant ferry responsibilities, which they will also want to address appropriately.

The Executive can agree, in principle, to amendment 51. The first part of the amendment relates to the creation of committees. We do not require legislative back-up to allow the RTPs to create committees. For the avoidance of doubt, I refer the committee to paragraph 7 of schedule 2 to the draft Regional Transport Partnerships (Establishment and Constitution) (Scotland) Order 2005, which enables partnerships to establish committees and sub-committees and to refer matters to those committees.

The second part of amendment 51 relates to delegation. Having taken legal advice, we feel that there will be benefit in there being clear reference to delegation in the bill. If Michael McMahon is willing, I ask him to withdraw the amendment so that we can bring back appropriate wording at stage 3 to give effect to the second part of the amendment.

The Convener: Does Paul Martin want to respond to the debate and press the amendment?

Nicol Stephen: I am sorry; I should have said Paul Martin rather than Michael McMahon.

The Convener: I am sure that they will both take it as a compliment; you hold them in such high esteem.

Paul Martin: That comment aside, I am happy to accept the minister's commitment to consider the matter at stage 3 and I seek leave to withdraw amendment 51.

Amendment 51, by agreement, withdrawn.

Amendment 52 not moved.

Section 1, as amended, agreed to.

Section 2—Dissolution of RTPs

Amendment 8 moved—[Nicol Stephen]—and agreed to.

The Convener: Amendment 9, in the name of the minister, is grouped with amendments 24, 69, 25, 70, 71, 72, 29, 30, 74, 75, 76, 31, 36, 39 and 40. If amendment 24 is agreed to, amendment 69 will be pre-empted.

Nicol Stephen: There are many amendments in the group so I will try to move through the issues as swiftly as possible. However, inevitably perhaps, my speaking notes are fairly lengthy.

I have previously assured the committee that I strongly support its desire that regional transport partnerships should take on more functions from ministers as well as from councils, over time and where that is felt to be appropriate locally. I welcome the spirit of amendments such as 70 and 72, which seek to force the pace on the issue. However, I am sure that members appreciate that, as with the debate that we have just had about voting rights, there is a degree of caution among councils about the transfer of functions to a new body. As the regional partnerships develop and are seen to be successful, local views will change. There are several amendments in the group that seek to encourage the development of regional transport partnerships, and I welcome that.

The bill already includes the option of functions being exercised by a regional transport partnership concurrently, rather than the powers being transferred away from councils. That is one way in which councils' concerns can be addressed. Amendments 9 and 29 represent another.

It is possible that, over time and in view of changing circumstances or changes in the strategic focus of an RTP, the partnership and its constituent councils might decide that a function that was transferred to the RTP would be better

returned to the council. The same could apply to functions that were transferred from Scottish ministers. We do not expect that to happen often, or for such a decision to be taken lightly. I do not want transport functions to be moving backwards and forwards between the relevant bodies at the whim of a new set of councillors or, indeed, a new set of ministers. However, I am persuaded that to have no such provision—to transfer functions with no possibility of their return to the relevant body—would not be sensible and I am grateful to the Subordinate Legislation Committee for highlighting that omission, which we seek to address through amendment 29.

Amendment 39 requires that the order just described is added to the list of those to which the affirmative resolution procedure applies.

15:00

Amendment 9 is more technical: it clarifies that functions, once transferred from a particular body to a partnership, can be returned to the body that originally exercised the function, if one or more partnerships were to be dissolved—for example, to be reconstituted with different boundaries. We would expect most of the functions of the old partnerships simply to transfer to the new ones. However, a council might move from a partnership with a large number of transferred functions to one that has fewer functions. Without this provision, that council would have no way of regaining the powers that it had previously ceded to the partnership. You will see that we are trying to cover all possibilities and potential options for the future.

Amendment 40 requires that the order just described is added to the list of those to which the affirmative resolution procedure applies.

In the same spirit of wanting to empower regional transport partnerships, amendments 24, 25 and 30 aim to provide a means of moving more quickly on the conferring of functions. Under the current provisions of the bill, the only statutory function that an RTP will have from its creation will be that of drawing up a regional strategy. That is an important function and I am keen that it remains the focus of the efforts of the RTPs during the first year. However, as the committee heard during stage 1, the voluntary partnerships have been delivering and I do not want to interrupt the momentum that has been created. I propose therefore that certain functions should be given to all the RTPs at the time that they are created, or soon afterwards. However, it is clear that few local authorities would welcome passing on functions in their entirety to an RTP at such an early stage in the process and without a strategy having been agreed. I intend that the RTPs should receive only concurrent functions prior to the completion of

their strategies. I do not expect the number of those functions to be large; exactly what they are will be the subject of further discussion. However, it is possible that implementing cross-boundary bus lanes or promoting regional park-and-ride facilities could be useful functions for an RTP to have.

Amendment 24 removes the requirement in section 10 that an order that confers functions is made only once a strategy is in place. Amendment 25 partially reintroduces the requirement by requiring that any functions order that is made once the strategy is in place is based on that strategy. Finally, section 11 requires an RTP to carry out its functions in accordance with its strategy and any directions that are issued to it by Scottish ministers. Amendment 30 clarifies that an RTP can nevertheless exercise those functions in the absence of a strategy but only until a strategy is put in place.

Although I have a significant amount to say about amendments 70 and 72, I will shorten and summarise my comments at this stage. Perhaps I will be able to pick up on some of the points that are in my speaking notes in my wind-up speech. In section 10, ministers have significant statutory powers to transfer powers to the regional transport partnerships. We have said that we want a strong partnership with significant powers in the west of Scotland and I repeat that comment this afternoon. Amendments 70 and 72 have a desire to spell out the sort of powers that ministers should be encouraged to transfer to the partnerships, but I do not want to be restrictive, as that might be a concern for the lawyers and those who are giving ministers drafting advice. It may be the case that we should bring back some of the wording of these amendments at stage 3 to make it clear that the Executive is in favour of considering the transfer of powers, but without prejudice to the generality—to the fact that we want to leave options open. If regional transport partnerships came forward with sensible proposals for the transfer of powers, we would be willing to respond positively to those proposals. I will leave it at that.

Without getting deep into the technicalities of it, we believe that amendments 69, 74, 75 and 76 are unnecessary. Section 126 of the Scotland Act 1998 defines the word “function” so as to include powers and duties. The word “powers” is already, by legislation, part of the word “function”. Therefore, it seems that those amendments would be unnecessary.

Amendment 31 gives effect to our commitment to ensure that public bodies act in a manner that encourages equal opportunities and that, in particular, they observe the equal opportunities requirements. The need for a specific provision in that regard was drawn to our attention by a

number of members of the Parliament as well as by the equalities co-ordinating group, which is an umbrella grouping of faith, race, gender and disability interests.

Amendment 36 will enable more flexibility in how RTPs, councils, the Scottish Executive and its transport agencies work together. The bill already provides for the transfer of functions from the councils and the Scottish ministers to regional transport partnerships and, in the case of rail functions, from SPT to the Scottish ministers. It also already provides for the conferring of functions on the RTPs to be exercised concurrently. This amendment will, therefore, be useful in a number of ways.

The amendment is a response to the committee's recommendation that a clearer commitment be made on the face of the bill to the role of the RTPs in rail policy. I will use this provision to conclude formal arrangements for the continuing role of the west of Scotland transport partnership in the development, management and monitoring of the rail franchise in the west.

I have also explained to the committee that, although the RTPs will start by focusing on their regional strategies, it is my intention that they will take on more functions over time. I realise that that is not something that all councils are currently enthusiastic about and this amendment will provide the option of transferring certain functions to the partnerships and making certain arrangements for their delivery by the constituent councils. Policy decisions would be taken at a regional level but the operational capacity would be retained at a local level. That will not be appropriate in all cases and the efficiency of such an approach would need to be carefully considered. However, it gives some additional flexibility to RTPs and councils. In the same way, it would be possible for the Executive to make arrangements with RTPs for the exercise of some of the Executive's transport functions if a full transfer were considered to be a step too far.

I move amendment 9.

Michael McMahon: I will deal with amendments 69 and 74 to 76 by saying that I accept the minister's point about the word "powers" being included in the definition of the word "function" in the Scotland Act 1998. I will, therefore, not move those amendments. I lodged them in order to secure clarification and I accept the clarification that we have received.

However, I do not understand the minister's concern about amendment 72. Having heard the comments of the witnesses who came to the committee, I am aware that a number of organisations would like to know exactly what the ministers mean when they talk about the powers

that could be transferred to them and would like further clarification of how far the RTPs could go in developing strategies and what areas they would be concerned with. If that clarification is required, I do not see why it cannot be included in the bill.

The key word in amendment 72, which is fairly lengthy, is "may". The amendment simply says that the ministers could, if they wished, transfer powers to the RTPs in relation to

"the planning, co-ordinating and implementation of measures to introduce road user charging ... strategic planning across the Transport Partnership's area ... responsibility for tolled road bridges ... developing and taking measures to support the development of rail services within the Transport Partnership's area"

and so on.

Those are powers that the ministers may give to the RTPs. There is no harm whatsoever in saying to the RTPs that they can develop strategies along those lines and that is the purpose of amendment 72. I would like members to bear it in mind that I am saying not that ministers must transfer those powers to the RTPs, but that they may do so. The minister has said that he has tried to indicate in other amendments areas in which the ministers have powers to give functions to the RTPs, but he has not specified what those functions are. The list is not definitive; I would be happy if the minister were to add to it or take away from it at stage 3. It would be useful to establish that it is not wrong for the bill to specify what powers the RTPs could have. I hope that members agree that amendment 72 usefully serves that purpose.

Fergus Ewing: In a way, it might have been better to discuss the strategies first, because the bill deals with the production of strategies before it addresses the powers that RTPs can exercise. However, that is not reflected in how the amendments are grouped.

I have a number of points on amendments 70 and 71, which are in my name. They are meant to complement amendment 72. Michael McMahon was correct to state that the RTPs should have powers to deal with, for example, any referendum on a congestion-charging proposal. It seemed that the proposal for Edinburgh had about as much chance of success as Robert Kilroy-Silk has of becoming Prime Minister after the general election. Those who proposed that toll would acknowledge that the referendum should have been conducted throughout the Lothians and that it was a fundamental flaw for one small council to make a proposal on which the council tax payers in other areas did not have a vote. Michael McMahon was correct to identify the need for such a power.

In addition, the functions of the roads authority should be in the hands of the regional body, as

should powers in relation to tolled road bridges and matters concerning the development of rail services and the planning and co-ordination of ferry services. I would be interested to hear how the minister thinks that that provision would relate to Caledonian MacBrayne and other ferry operators. The RTPs should also have a responsibility in respect of any airport.

The SNP will support amendment 72, which complements amendments 70 and 71. I hope that when the minister responds he will recognise that amendment 72 contains the word "may" and that it is capable of being further amended, should the Executive believe that, for technical reasons, it needs to be tidied up at stage 3. I hope that that will not be used as a reason to oppose the amendment, because we all know that it is possible to make technical mistakes in amendments, which often need to be corrected at stage 3.

On amendments 70 and 71, I agree with the minister's assertion that the RTPs need more funding, more authority and more power if they are to be meaningful. That goes back to the basic argument that if Scotland is to have RTPs, they must have strong powers; they must have teeth, not dentures, and they must be tigers, not tabbies. If they fall into the category of the denture-fitted tabby, people will rapidly come to the conclusion that they are not worth having and that £35 million is far too expensive a price tag for the most useless pet in Scotland. That is our general argument. *[Interruption.]* I am glad that I am engaging the interest of members and the minister in the discussion.

On the specifics, I acknowledge SPT's assistance in giving me a technical description of its powers. By setting out the powers that SPT has, the intention is to provide a model for the powers that all the RTPs should have in relation to public transport by bus, contracts, ticketing issues and projects. It would seem logical for such bodies to have powers in respect of major projects. There is an interesting interface between the responsibilities of Parliament, the national agency and the RTPs in that regard. It is difficult to envisage a project such as the Glasgow airport rail link going ahead entirely on a national agency basis, given that there would need to be strong local and regional input. Just as there is a strong argument for a regional body to decide about congestion charging, so major projects affecting parts of Scotland should also be largely in the hands of regional transport partnerships. That said, it would be a fine, difficult decision, because many such projects have implications for the whole transport network outwith the individual area. However, the focus requires to be at the most local level.

15:15

Amendment 75 seeks to serve those purposes. I hope that I am not guilty of technical infelicities here; I will not try to blame SPT for providing me with a technically flawed amendment if there are technical objections to it. The specific aim is to provide what the committee sought in its stage 1 report: strong regional transport partnership bodies to take our transport system forward into the future.

I turn finally, and briefly, to amendment 71. The RTPs may have stronger powers spelled out in the bill as I have described, but not all the existing voluntary partnerships throughout Scotland have had the experience of exercising powers at that level. Therefore, although amendment 71 is a probing amendment, which does not have my 100 per cent commitment and is not necessarily the right approach, it would provide a different framework for how to proceed.

The minister has said that powers will be considered later and that he is sympathetic to the wording of amendments 70 and 71, but he has not said what powers the bodies should have. We are arguing that they should have strong powers, but we acknowledge that not all the voluntary partnerships will be in a position to exercise the full power to carry out a major multimillion pound project in their area. It is unrealistic to expect that a body that has had no experience of such a task could go overnight from devising partnerships on a voluntary basis to running major projects. To encapsulate the difference between the positions that the minister and I have set out, the minister has said that the RTPs might acquire powers sometime later and we have said that they should acquire the right to have those powers unless they opt out.

The committee has always displayed a lot of good will in its deliberations and we never really want to get involved in party-political stuff. However, I have a more general criticism. If the meaning of provisions is not clear during the process of passing a bill, that paves the way for future problems. If we do not know at that time what the law is and what it is intended to do, the possibility of getting things wrong later is far greater. If we do not know exactly what the law that we are passing means, how can the public possibly understand what it means and know what we are trying to achieve with the RTPs? For that reason, it is important that we spell out the powers in the bill as Michael McMahon has argued quite correctly in his amendment 72, which we look forward to being moved and supported. I am concerned about leaving that to stage 3. Given that stage 3 proceedings can be pretty truncated—to put it euphemistically—there will not be the chance to have a full debate about the powers

then. I hope that the committee will be able to support the amendments in my name.

Margaret Smith (Edinburgh West) (LD): A number of committee members have a great deal of sympathy with many of the comments that Michael McMahon and Fergus Ewing have made about amendments 70, 71 and 72. There is a desire among committee members to see clearly spelled out in the bill exactly what powers are to be given to the RTPs, what powers are likely to be given to the RTPs and what the mechanisms are for doing that. We need that clarity if we are to believe that those organisations will have the powers that they will need to deliver the changes that we want. I ask the minister what specific problems he sees with addressing in the bill at least some of the issues that are raised in amendment 70. I am thinking about such things as quality partnership schemes and quality contract schemes—things that the committee looked at prior to my involvement with it. Those schemes are not functioning as the Executive hoped, and it is to be hoped that the RTPs will have some way of addressing that.

In relation to amendment 72, the point has already been made about road user charging. The minister will know that I was no supporter of the charging scheme that was the subject of a recent referendum by City of Edinburgh Council. Where it completely faltered was in the fact that there was no cross-party political support for it, not only in the city, but across the local councils. If that approach was to be taken elsewhere, it would seem sensible to secure, as a minimum, support for such a scheme at a regional transport partnership level, rather than have one council seeking to impose the scheme on its own. Having the Forth road bridge—which seems to be filling the pages of the *Edinburgh Evening News* nightly—in my constituency, I believe that responsibility for tolled road bridges is an important issue in regional transport delivery. It would, therefore, seem sensible to include that in the bill.

However, although I have sympathy for what Michael McMahon is trying to do, I believe that there is a slight technical problem with that part of amendment 72 that refers to responsibility for any airport having a strategic regional transport function within a transport partnership's area. There is an airport in my constituency, in relation to which there are all sorts of different levels of responsibility. A large part of the responsibility is in the hands of the private company that owns and runs the airport, although there are responsibilities that are in the hands of the minister, concerning such things as airport taxes. There are probably some areas for which responsibility lies outwith the private company; nevertheless, the main responsibility for the airport lies with a private

company. I wonder, therefore, whether amendment 72, as it is currently drafted, would be open to legal challenge. That is not to say that I do not have sympathy with the views behind the amendment; it is simply that the amendment may need to be redrafted.

I would be interested to hear the minister's comments on those two questions about amendments 70 and 72.

Bruce Crawford: We will not have many chances to get this right, as we will not have many chances to discuss a transport bill as we are doing today. I have found the Executive's research into what happens in other European countries quite enlightening and salutary in many ways. It is clear about the amount of power that is required by regional transport authorities and partnerships to make the significant step changes. Many of the models that are described in the Executive's research go beyond model 3, which is what was discussed in the consultation document, in the amount of power that they have. I am, therefore, grateful that Fergus Ewing's amendment 70 seeks to enable transport partnerships to participate in community planning and that Michael McMahon's amendment 72 seeks to secure a role for them in strategic planning across their areas. Such issues are crucial in making the huge changes that are required to be made to Scotland's transport infrastructure. Many bodies on the continent have land use powers along the transport corridors, which enable them to make the decisions on acquisition and movement that are required to make the changes that need to be made.

We should welcome what Fergus Ewing is trying to do through amendment 70, which is to invest in all the transport partnerships at least the powers that are available to the existing SPT, and what Michael McMahon is trying to do through amendment 72, which is to add powers to their capacity. The amendments may not be technically bang on the button as far as the Executive's draftsmen are concerned—I wait to hear what the minister says to Margaret Smith—but what members around the table are saying is a reflection of what was said in our committee report. The strong powers that the committee envisages for the regional transport partnerships go beyond what the Executive put out to consultation.

I hope that the minister can give us some sort of commitment that he is prepared to bring back to us something from the Executive that lays out how the partnerships will be able to take on stronger powers, beyond what is in the bill, so that we can deliver the bodies that will make the huge changes for Scotland; otherwise, as some commentators have said recently, we may be stuck with a third-world transport infrastructure that is not good

enough for our economy. The statistics that we have heard today say that we are going to lose 2 million people by 2073. How are we going to turn that around unless we have a successful economy? That is at the heart of the matter.

I have one final point to make about disability discrimination issues. Fergus Ewing's amendment 70 proposes the insertion of new section 10(2A)(f) on the ability to adapt transport infrastructure

"to facilitate improved travel by people with disabilities".

The longer-term ambitions of the Disability Discrimination Act 1995 can be achieved sooner if the money is made available, and we can even go beyond the requirements of the DDA and have a more inclusive public transport system in Scotland. I ask the minister to reflect on that point and on what further commitments he might be able to make in that respect.

The Convener: I assure Bruce Crawford that I will do my best still to be around in 2073, to prevent the Scottish population from dropping too much.

Mr Davidson: Earlier, the minister was talking about the generality of the transfer of powers and I got the impression that he was more concerned about procedures than about getting to the nitty-gritty of what the Executive, which introduced the bill, wants to achieve. I agree with other members that it is important that the bill makes clear exactly what is going on. We need to know clearly, and as early as possible, from the minister what powers he envisages are up for option. I agree that not every regional transport partnership will want to have all the powers, but, rather than having a series of discussions, we need to know at least what the framework will be. There will be situations in which several of the partnerships will have to work together anyway because of strategic routeing and so on.

Fergus Ewing's amendment 70 is a bit of a curate's egg: it is good in parts, but there are other parts about which I am not so sure. We all agree that the quality partnership exercise simply has not worked properly. I assume that, since the majority of members of the partnerships will be councillors, they will already be obliged to participate in community planning, so that part of the amendment is unnecessary. I agree with the provision on disability discrimination in proposed subsection (2A)(f), but I am not convinced by subsection (2A)(h), although it at least makes the effort to achieve a clarity that is distinctly lacking in the bill.

As for amendment 72, the example that Margaret Smith gave of the guggle in Edinburgh—when a council group tried to have its way on a matter that affected a region when the rest of the region did not agree—would not happen if the

relevant power was transferred to a regional transport partnership. In my area, it is impossible to divide Aberdeenshire from the city of Aberdeen when considering the economy and the movement of people to and from work and going about their business.

I am a bit concerned that amendment 72 includes control of airports. I do not know how that could work. However, I can see a role for representation on RTPs of major airports such as Edinburgh, Dyce, Glasgow and Prestwick, so that there is better co-ordination. It is important to sort out not just who runs an air route, but how people access airports. Having used Prestwick, I know that it can be difficult to access. Whose responsibility is that? Aberdeen airport is within yards of a railway line but does not have a station that links with it. I am sure that everybody can think of similar examples. Airport membership of an RTP would be useful, but I do not support a move for RTPs to take over the running of such major businesses. However, airports and RTPs should co-operate more.

15:30

The Convener: I will make a few comments about four of the amendments. I agree with Fergus Ewing about Robert Kilroy-Silk's limited chance of becoming Prime Minister. I would even go so far as to say that he has just the same chance as Alex Salmond has of becoming Prime Minister, but we will leave that to the electorate on 5 May.

As the minister outlined, amendment 36, which is in his name, attempts to address SPT's concerns about having a role in the development, management and monitoring of the rail franchise agreement. The amendment would give the minister the power to allow for that. However, SPT has expressed concern that the bill does not contain enough to reassure it that that opportunity will continue. Amendment 36 is a move in the right direction and I will support it, but I ask the minister to consider whether further flesh needs to be put on the measure to reassure fully not only SPT, but members who represent the west of Scotland, that the new west of Scotland regional transport partnership will have sufficient powers at least to do as much as SPT can and—I hope—to achieve more.

Amendment 72, which Michael McMahon lodged, is permissive. As he said, it includes the word "may" and does not require ministers to transfer any of the functions listed to the new regional transport partnerships. That attempts to recognise Fergus Ewing's point that some partnerships might want to take on more functions earlier than others, so they would not all be at the same stage early on.

Valid concerns have been raised about the airports provision in amendment 72. I believe that Michael McMahon's intention was that functions relating to the Highlands and Islands Airports Ltd public sector operated airports might be transferred to the Highlands and Islands regional transport partnership. He will not be able to clarify that, because he will not have the chance to wind up, but I believe that that was his intention. I suggest to the minister that, if amendment 72 were agreed to, a stage 3 amendment could clarify the intention further. The broader liaison role with, as opposed to the transfer of functions from, the major central belt airports and Aberdeen airport could also be addressed at that point. Michael McMahon did not intend to suggest a transfer of functions from any major central belt airport. Other functions could be added to those listed in amendment 72 and there is potential to include a catch-all to make it clear that the list is not intended to be exclusive. If amendment 72 is agreed to, members and the minister should reflect on those matters before stage 3.

Although I understand Fergus Ewing's position on a number of these issues, I urge him not to press amendments 70 and 71. They will not simply create regional partnerships with powers equivalent to those held by the existing SPT; in fact, those bodies would be much stronger. For example, they could decide to remove functions from Scottish ministers. Under the amendments, the Scottish ministers "must transfer" the functions set out in proposed subsection (2A)

"with the agreement of the Partnership".

If the partnership in question said that it wanted a certain function, the Executive would be required to give it, even though the Parliament or ministers might have taken a different view. I do not recommend giving such powers to an organisation that would not have the direct democratic legitimacy of Scotland's Parliament.

I am also concerned about the workability of the provision with regard to rail services. For example, amendment 70 refers to

"the power to specify which rail services should be included in rail franchises".

Under the Westminster Railways Act 2005, Scottish ministers now have the power to sign off rail franchises, which is a sensible move for the Scottish passenger rail franchise. However, under amendment 70, up to six separate organisations would have to sign off the franchise at refranchising, which would make it very difficult to reach agreement on the shape of a future passenger rail franchise. It is quite right that such a power should lie with the Scottish ministers, but each of the bodies should have the opportunity to contribute to that process.

In that respect, I encourage the Executive to make a further response on these amendments in the way that I indicated when I referred to amendment 36. For those reasons, I encourage Fergus Ewing not to press amendments 70 and 71 at this stage and to consider setting out some of his proposals in subsequent amendments to amendment 72.

Do any other members wish to make a contribution at this point?

Dr Sylvia Jackson (Stirling) (Lab): I indicated earlier that I wanted to speak, convener.

The Convener: Sorry.

Dr Jackson: It is really nice to be at this committee instead of the Subordinate Legislation Committee, discussing the balance between what should be dealt with in a bill and in an order and following the issues through into the area of policy.

That said, I should note the Subordinate Legislation Committee's concerns that, given the width of the power set out in section 10, the whole matter is to be dealt with "by order". As Bruce Crawford has pointed out, all the evidence suggests that the functions of RTPs are a crucial matter, which we believe should be dealt with in the bill.

The question then is where one starts and stops putting things in the bill. In that respect, the phrase "may include" in amendment 72 probably gets over that problem. However, I remain unconvinced that an RTP should not have certain crucial functions. I will come back to that matter in a moment.

I took proposed paragraph (f) in amendment 72, which refers to

"responsibility for any airport having a strategic regional transport function",

to mean that the RTP in question should have input into such an airport. I am not sure whether "responsibility" is the correct word to use, but I feel that amendment 72 contains enough for the minister to take the matter away and to consider putting something that we want into the bill. Indeed, the committee is unanimous on that matter.

On Fergus Ewing's amendment 70, I take on board Bristow Muldoon's point about the words "must transfer". I am a bit concerned about the amendment, because the list in it involves some duplication, as the bill deals with community planning later on. There is perhaps too much detail in both amendment 70 and amendment 72. I think that amendment 72 would work at a broader, functional level, so perhaps we need to think about the matter again.

I ask the minister to consider amendments 72 and 70 and to lodge a stage 3 amendment based largely on amendment 72.

Nicol Stephen: I could pick over the detail of amendments 70 and 72 and give technical and legal reasons why they might be resisted, but I sense that that approach would not be productive. Having taken several bills through the Parliament, I have considerable experience of losing stage 2 votes and, on this occasion, I think that it would be particularly unfortunate if I was to encourage a vote to resist the amendments, particularly amendment 72, because I support the committee's views—I want regional transport partnerships to take on new powers.

At times like this, I wish that there was a stage 2½ that would allow us to work together to develop good and sensible ideas and incorporate them into the bill. However, as the process stands, I suggest that, although the vote is unlikely to be this afternoon, we should accept amendment 72—there is wide support for it—but also consider some of the suggestions that are made in amendment 70. The Executive will consider everything in amendments 70 and 72 and try to draw up a stage 3 amendment that reflects the committee's wishes and puts a greater onus on the RTPs so that, rather than having ministers approach individual councils to ask for the powers to be transferred, we encourage the partnerships to take on some of the least controversial of the powers fairly early in their lives.

I think that the Executive could draft an amendment that would get broad, if not unanimous, support from the committee, so I undertake to do that. Among the legal and technical reasons that have been given to me for rejecting amendments 70 and 72 are those that Margaret Smith described—for example, what would the implications be for airports that are in the control of BAA or of private operators if we were to pass amendments 70 and 72 in their current form? As Sylvia Jackson pointed out, paragraph 8 of schedule 1 already contains reference to community planning, which is mentioned in Fergus Ewing's amendment 70. Assuming that amendment 72 is passed, I undertake to consider all the issues and, at stage 3, I will lodge an Executive amendment that tries to reflect the committee's clear intention appropriately.

On amendment 36, the convener described exactly our policy intention on Strathclyde Passenger Transport, but I will continue to discuss with SPT how we can best achieve the policy intention that I have repeated clearly and strongly, I hope, on several occasions.

I will leave it at that for this afternoon, because I know that we are now over time. I hope that the

intentions that we all have on the regional transport partnerships can be reflected in an appropriate amendment to the bill.

The Convener: As you point out, minister, it is unlikely that we will reach the decisions on most of those issues today, as we are already beyond the point at which I said that we would conclude. I propose that we take the decisions that take us to the end of section 4, after which we will move on to the next agenda item. We will continue our consideration of the bill at next week's meeting.

15:45

Bruce Crawford: I seek clarification on one point. I am grateful for the minister's positive comments, but I am slightly concerned that, if there is to be a stage 3 amendment, by the time the Parliament considers it we will be up against the wall. If members wanted to lodge an amendment to that amendment, the situation would start to get a bit messy. Will the minister write to us to lay out his intentions or to give us the amendment so that we have more time to consider it than we normally have to consider amendments at stage 3?

The Convener: I do not intend to put that to the minister directly as I do not want to reopen the debate, but I am sure that he has heard your request, which is not unreasonable.

Fergus Ewing: I have a brief point, convener. The minister spared us the technical criticism, but that information would be useful for many members as it would help to inform and improve the quality of the debate. If the committee could have the technical criticism, we could see where the technical faults exist and perhaps put them right, with the assistance of people who have an interest, some of whom are in the room and some of whom are outwith it.

The Convener: I will explore with the minister whether it is possible to make such information available. As I said, I do not want to reopen the debate.

Fergus Ewing: The minister is nodding, which is always welcome.

Amendment 9 agreed to.

Section 2, as amended, agreed to.

Section 3—Funding and borrowing

Amendments 10 to 13 moved—[Nicol Stephen]—and agreed to.

Section 3, as amended, agreed to.

Section 4—Administrative functions of RTPs

Amendment 14 moved—[Nicol Stephen]—and agreed to.

Section 4, as amended, agreed to.

The Convener: That brings us to the beginning of the next group of amendments. We will commence consideration of those amendments at our next meeting. I thank the minister and his officials for attending.

15:47

Meeting suspended.

15:54

On resuming—

Licensing (Scotland) Bill: Stage 1

The Convener: Our next agenda item is further consideration of the Licensing (Scotland) Bill. I welcome Patrick Browne, the chief executive of the Scottish Beer and Pub Association, and Sue Allen, the vice-president of the association. I apologise that we overran slightly on our previous item of business—I hope that we will not detain you for too long. I ask Patrick Browne to make his introductory remarks on the bill, after which members will ask questions.

Patrick Browne (Scottish Beer and Pub Association): I thank the committee for the opportunity to give evidence on the Licensing (Scotland) Bill. I have with me Sue Allen, who is the regional director in Scotland for Punch Taverns. The *Scotland on Sunday* newspaper recently described her as Scotland's top landlady. Punch Taverns operates 450 of Scotland's 5,000 pubs, which makes it the country's largest pub operator by far. Sue is also vice-president of the Scottish Beer and Pub Association.

I do not propose to go over all the detailed evidence that we submitted to the committee. Our association has consistently supported the Nicholson committee's unanimous package of recommendations; indeed, our former chief executive, Gordon Millar, was a member of that committee. Given the evidence that the committee took last week from the Scottish Licensed Trade Association, I point out that our association and other elements of the trade have differences on some of the issues.

Our association does not support the view that there is a general over-provision of licensed public houses in Scotland. The number of licensed pubs has increased by more than 14 per cent in the past quarter of a century in Scotland, while the number of off-licence premises has increased by 25 per cent in the same timeframe. Given that alcohol sales account for only 56 per cent of the average pub's turnover, we do not believe that there is a general over-provision of licensed pubs. Particular issues may exist in some locations, but they can best be addressed through the operation of the market and by licensing boards exercising their local knowledge and expertise. Our association does not believe that a moratorium should be introduced on the issuing of new licences, which would inflate unjustifiably the value of licences in Scotland. Such a measure would act as a barrier to new operators taking over underperforming premises, stifle legitimate competition and undermine attempts to improve the quality of the Scottish pub estate.

We fully support the proposals to end the permitted-hours approach to pub trading hours. Given that the vast majority of premises have been granted regular extensions beyond the permitted hours in response to customer demand, it would be meaningless to retain the permitted-hours approach. We also support the abolition of the current plethora of different licences, which we believe to be unnecessary and bureaucratic, as boards are more than capable of differentiating between the operating plans of different premises and of regulating the premises accordingly.

The bill will lay solid foundations for the future of the licensed trade in Scotland. The bill broadly implements the unanimously agreed proposals of the Nicholson committee, which we support. We look forward to working with the Scottish Executive and the Parliament to ensure the passage of a bill that produces a licensing system that is fit for the 21st century by responding to the needs of the Scottish public, but which balances that against the need for action on alcohol misuse and effective action on irresponsible promotions.

Mr Davidson: Where you disagree with the proposals in the bill, will you spell out what you would put in their place?

Patrick Browne: We disagree with some of the details of the bill. The main issue is probably the duty to assess over-provision. At present, licensing boards use their local expertise and knowledge in making judgments about over-provision. Our concern about the strategy of having a national licensing forum that will arrive at a formulaic assessment of over-provision is that the local knowledge and expertise that the boards have traditionally used will be lost and will be replaced by a central method of decision making. We would prefer boards to continue to be allowed to exercise their local knowledge in making judgments about over-provision.

Mr Davidson: Do you think that the market will play a big role? You have heard some of the evidence that there has been a tendency to be defensive about allowing in new entrants or new products, however you want to describe them. Should the market decide whether something survives?

16:00

Patrick Browne: Individual licensing boards should be free to judge whether there is over-provision in particular locations. Our concern about the provisions in the bill on over-provision is that they could lead to no new licences being granted in particular areas, which would drive up the paper value of licences in those locations. New operators that try to access those markets would have to pay a premium for their licences, which

would leave them with less cash to invest in those businesses if they were successful in taking them over. There is a particular problem with dealing with competition issues by locking down the market in that way.

Mr Davidson: I therefore presume that you are against any linkage between a licence and the capacity of an establishment.

Patrick Browne: Individual licensing boards have to judge whether the relative size of premises will meet demand in a local area or lead to over-provision. There is a danger that local knowledge and expertise will be lost if some kind of formulaic assessment of over-provision is used.

Mr Davidson: You said that you would welcome a single licence that covers all forms of establishment, be it off-sales, on-sales or whatever. What is your view on over-provision and controls for off-sales?

Patrick Browne: At the moment, something like 40 per cent of alcohol sales are in the off-sales sector. That trend has developed during the past 20 or 30 years in response to customer preferences and the fact that the consumer can now access alcohol from a variety of sources and in a variety of ways. The traditional blurring between the on-trade sector and the off-trade sector has been removed in the past 10 to 20 years. People get their alcohol from various sources and they drink in various environments. Again, individual licensing boards should judge whether there are too many off-sales or on-sales premises in a particular location.

The Convener: Bruce Crawford has a supplementary question, but first I have a question. Would having only one type of licence make it more difficult for the licensing board to make a decision on over-provision when it believes that such over-provision is within one sector? Some of the argument for having more than one type of licence is that different forms of knowledge and training are necessary for running a pub in comparison with what is required for running an off-sales establishment. Is that a legitimate argument for having different types of licence for those two types of premises?

Patrick Browne: We welcome the development that there will only be one licence. As I said, in the past 20 to 30 years, there has been a blurring between the different types of premises, whether they are pubs, restaurants or hotels. For example, hotels increasingly tend to operate hotel bars as pubs.

Under the new regime, licensees or applicants will be obliged to give an operating plan to the licensing board. The board should be more than capable of judging not only how premises will operate, but the conditions that should be imposed

on an operation's practice and procedures. The board should be able to regulate premises effectively.

On training, I understand that discussions are taking place in the industry about introducing new training requirements in the new regime that will be created by the bill. That will allow different managers to specialise in different areas, such as supermarket off-sales operations or pubs. Training will be tailored to specific types of operation under the broad umbrella of a certain set of qualifications that every operator should have. It is entirely feasible to deal with training and the conditions that must be imposed on premises in the operating-plan approach that is outlined in the bill.

Bruce Crawford: I want to try to get under the over-provision issue and build on what the convener said.

Thank you for your written evidence, which was well presented and which allowed me to understand what you seek to achieve. I understand your position on over-provision, but I wonder whether you would change your mind on the number of types of licences if there were a new, formulaic way of dealing with over-provision. I might be wrong, but there could be a danger that the licensing board in a certain area would decide that because it had already issued X licences for that area—even though they might all be for off-licences—it would not issue any more. If the process was formulaic and there was only one type of licence, there could be a danger that new pubs that wanted to open up in a given locale would not be able to do so because they were trapped by the assessment that over-provision existed.

I realise that the fact that we are talking about an imaginary scenario might affect how you couch your answer, but if the Executive took that route, would that change your mind about the number of licence types that should be available? Would you still think that there should be only one type of licence or would you agree with the Scottish Licensed Trade Association that there should be three types of licence?

Patrick Browne: The creation of one type of premises licence would be a welcome development. At the moment, many licences are dependent on classifications of premises that no longer apply. Our view is that rather than the Executive taking a formulaic approach by issuing national guidance, it would be preferable if local licensing boards were able to use their knowledge and expertise when making such judgments. The operating plan should make it entirely possible for a licensing board to make a judgment about the different ways in which a premises will be operated and to decide, for example, whether it should grant a supermarket a licence or allow an

additional pub application. It should be feasible for such distinctions to be made in the wording of an operating plan.

Bruce Crawford: You would make a good politician, because you successfully avoided discussing the scenario that I described. I understand why you might have wanted to do that, but if there was a formulaic process—you couched your answer in such a way as to suggest that there should not be—would that change your mind?

Patrick Browne: Obviously, if a formulaic approach were adopted by the national licensing forum, the trade and applicants would have to deal with that, although it would still be for individual licensing boards to regulate the situation. Our preference is for local boards to be allowed to use the expertise and knowledge that they have developed rather than to have central guidance on an issue that is largely determined by local factors.

Bruce Crawford: I accept that, but I am concerned about what would happen if a formulaic approach that did not suit your organisation were adopted.

The Convener: We will come back to Bruce Crawford's other questions shortly.

Paul Martin: My first question relates to some of the evidence that we received from the Glasgow community representatives on the impact of licensed premises on local communities. Examples were cited of how licensed premises can have both external and internal disturbances and of how that can impact on communities. Do you acknowledge that there is a need for licensed premises to invest in the surrounding environment, whether through closed-circuit television or greater involvement in activities such as clearing litter? I realise that it would be difficult for you to say that you would welcome such developments, but in a large number of premises, investment seems to be focused within the premises.

Sue Allen (Scottish Beer and Pub Association): If the members of a community have a legitimate issue with the operation of a licensed premises, it is right and proper that they should be able to raise it, as is the case under the current licensing legislation and with environmental health matters. If someone has a genuine, material issue to raise, it is right that their case should be heard. However, I am concerned about the suggestion that the neighbour notification radius around a licensed premises should be extended to 50m. My worry is that, in more urban areas, that would mean that an awful lot of notices would have to be sent out to local people.

Paul Martin: I was wondering whether there should be a levy. I know that it is difficult for you to

support that idea, but do you acknowledge that community representatives have asked why the council should clear up all the litter and deal with the other aspects of behaviour that licensed premises encourage; why we should pay the police bill for the large number of call-outs to licensed premises; and why owners of premises do not fit a CCTV system to serve not just their premises but the community? Could we include something in the bill that would give people a bit more confidence that licensed premises are working with the community? At the moment communities think that proprietors focus purely on the inside of the premises.

Sue Allen: My concern about having general guidance is that one size never fits all. If there is a specific issue at a specific premises, that should be dealt with in the operating plan and by the local licensing board. However, I understand where you are coming from. The argument is the same for other retailers, such as McDonald's, being responsible for picking up the litter outside their premises, which I support fully. My concern is about generalising too much.

Patrick Browne: As responsible operators, our clear view is that if a premises is causing problems the licensing board and the police should address those problems and, if necessary, shut down the premises. We are not in favour of bad operators being allowed to continue to operate if they are causing problems for their neighbours in the community. If there is an identifiable need for CCTV, I am sure that individual operators would consider that. Under the bill, depending on premises' operating times, there will be scope to impose additional conditions on the licence, which might include the installation of CCTV cameras, although we have concerns about CCTV being imposed on all premises irrespective of whether it is required.

Paul Martin: You said that the marketplace will take care of all the competitive factors. How fair is the marketplace at the moment? Having large groups of branded pubs seems to minimise the opportunity for the smaller proprietors to make a profit. How fair is it to throw everybody out there and let them get on with it, given that there are anti-competitive processes that do not encourage the existence of the small pubs that people used in the past? We have seen such pubs close down as the branded pubs have expanded.

Patrick Browne: It is not just about the operation of the market; pubs operate within the regulatory environment of the licensing system. However, the marketplace has a role in putting out of business pubs that are not very good or allowing the owners of such premises to sell them to somebody else who can operate them more effectively.

It is not just about the superpub chains. Punch Taverns operates 450 pubs, which are part of a brand. Each pub operator in effect runs an independent small business. The pubs are managed independently and, in many cases, are leased. It is not about taking a one-size-fits-all approach to the industry. There are a lot of independent operators out there. We represent 1,500 of the 5,100 licensed public houses in Scotland. It is therefore difficult to argue that our members are dominating the marketplace, because there are many independents out there.

Paul Martin: Do you accept that the marketplace will not always take care of the issues that you have raised? A number of large branded pubs have taken measures that are making things difficult. We have to accept that it is not just the weak that are unsuccessful; people who have run pubs for many years find themselves unable to compete with the larger, branded pubs that are clearly marketing against them.

Patrick Browne: Public houses operate within a regulatory environment. If they were pursuing anti-competitive practices, I am sure that this Parliament or the Westminster Parliament would address that. The industry has recently been the subject of investigations by various parliamentary committees. The pub trade operates in a regulated, licensed environment, so it is not just about the market.

16:15

Margaret Smith: I want to pick up on Sue Allen's concerns about the intention to increase the radius for neighbour notification to 50m and to seek your views on the proposal to allow any person to object. You say that you are opposed to the 50m neighbour notification radius, which your helpful submission explains is because of the cost to the boards of that extra level of notification. It could be argued that your opposition arises from your belief that you are likely to get more objections if more people get notifications. However, you could not argue that those people do not have an interest in what is going on in a public house or other establishment within 50m of their home.

You also say that you are opposed to allowing any person to come forward with an objection. Who do you think has a right to object? How can we come up with something that takes on board not only the needs of businesses but the needs of the communities that are dealing with many of the issues that Paul Martin mentioned?

Sue Allen: I do not think that we object to the proposal to allow any person to object to a licence, but objections should be real, material and commonsense rather than frivolous or vexatious. I

know from experience that if there is a problem with a pub, that is well communicated in the area. Objections from many people are already heard by our local licensing boards and it is right that people should have a right to say that they are affected by the way in which a licensed premises is operated. I have no objection to people being able to object.

My worry about the 50m proposal is—again—that one size does not fit all. If we are talking about a rural pub, a radius of 50m might be right because that might only encompass 10 houses or neighbours. In an urban area, however, there might be a workload and administrative issue with a one-size-fits-all approach. I would like the right to object to be limited to people with a real, material and commonsense reason.

Margaret Smith: You are saying that it is more reasonable for someone who has a real, material objection to be able to object than it is for someone who lives within an almost arbitrary 50m boundary. I hear what you are saying about the rural dimension, but although it might be an extra administrative burden for a board in an urban area to let people know what is happening with an application, the impact of living within 50m of an urban pub in, say, Edinburgh's Grassmarket can be quite considerable and the impact on someone's life is likely to be greater than if they were living within 10m of a rural pub in the middle of Inverness-shire. You seem to be arguing that any person who has a commonsense reason should have the right to come forward with an objection. That is the existing position and you would be quite happy for that to continue.

Sue Allen: Yes.

Dr Jackson: I will ask about the national training requirements that are mentioned in the bill. Are the provisions for personal licence holders adequate and appropriate? The submission from the Convention of Scottish Local Authorities says:

"There remains a degree of discomfort among local board chairs that personal licenses can be held for ten years, even with refresher training. The concern is that this risks less control by boards over their activities".

Sue Allen: As a member of my association and as a representative of my company, I welcome the inclusion of training in the bill. It will do the industry a lot of good to uprate the training that is given and for training to be made mandatory.

Indeed, Punch Taverns in Scotland will not grant a lease of a licensed premises to anybody who has not undergone mandatory training with us. People are required by the current board not only to hold the Scottish licensee's certificate but to undergo a two-week mandatory training programme that takes into account drug awareness as well as licensing law, environmental health issues, employment law and equal

opportunities. As a company, we very much support the training requirements in the bill. In fact, I have told Mr Crawford that we would be happy to extend our training to people who do not take our pubs, if that would be helpful.

Patrick Browne: The issuing of a personal licence for 10 years was one of the recommendations of the Nicholson committee. We are relaxed about that because if someone who holds a personal licence abuses their position or is found to be operating incorrectly or out of line with the regulations, they will be brought in front of the licensing board and the matter will be dealt with. Rather than our having any difficulty with someone having a personal licence, there is a presumption that people will have such licences and that if they abuse their position, the matter will be dealt with. We would support that.

Dr Jackson: There might be quite a high turnover of bar staff. What sort of training do you think that they should have?

Sue Allen: I assume that you are referring to casual student employees who work in bars only for a matter of weeks. There should be a responsible person on the premises who has been fully trained, and the casual employee should be given some form of on-the-job training when they start the job—even if it is only a trial shift, during which they are shown the proper way in which to do things and health and safety issues are explained, such as how to recognise when people are intoxicated. They should be supervised during their shift. I cannot see how we could possibly make training mandatory for such temporary workers.

Bruce Crawford: Some people are concerned about the additional costs that the new proposals will involve. In particular, licensing standards officers will be involved in the process. What is your view on that? Should the cost of the new licensing process be met from general taxes or should it be self-financing through fees? What methods should be used to set the fees? We have had a fair bit of discussion about whether the fees should be based on property, turnover or profit. Which should it be?

There may be one licence, but there will continue to be different types of operation. How will the system of fees recognise the different types of operation? A small pub will be entirely different from a large club—by that, I mean a disco-type club. "Disco" is probably an old-fashioned word—it shows you how old I am—but you understand where I am coming from. We need to hear what you think about that. I have not reached any firm conclusion, although I have heard a fair old plethora of evidence about the variety of methods that might be used.

Patrick Browne: The difficulty is that that detail is not in the bill, for understandable reasons. We are told that the Executive will produce detailed proposals before Parliament has completed its scrutiny of the bill.

As an organisation that signed up to the Nicholson committee, we accepted that the introduction of a new regime with new responsibilities and people, including licensing standards officers, will inevitably lead to increased costs. Inevitably, larger premises will have to bear more of the burden of that. We have accepted that and have put that on record. In England and Wales, there has been a quadrupling of the fee and the costs on the industry, which causes us concerns. Our concern in the Scottish context is to ensure that, when the new licensing boards have been established, they do not gold-plate the mechanisms that they put in place. I mean no disrespect to the witnesses from local government who are sitting behind us, but I know, from spending six years in local government, that on occasion, when it is putting in place a new structure, local government tends to gold-plate and perhaps over-engineer solutions. It is important that when the new regime is put in place, we try to keep costs to a minimum, consistent with good enforcement and the necessary legislation.

Bruce Crawford: That is useful. In fact, there were some interesting faces behind you when you made that comment.

The Convener: Are you about to go into a different area, Bruce?

Bruce Crawford: No, I want to tease this matter out a little more, because I think that we might be facing a problem. The minister might well suggest such proposals, but those proposals might not emerge during our evidence-taking sessions. As a result, we might not get another chance to ask these witnesses about the type of fee arrangement that might be appropriate. I cannot imagine that your organisations have not discussed this issue, but it might well be that you have not reached a conclusion on the right way of doing this. I realise that you might not be able to deal with the matter today, but it would be useful if you provided further written evidence on whether fees should be set according to profit, turnover, property size or number of customers. I do not know how the heck you will do that, but such information will be useful.

Patrick Browne: I am more than happy to ask my organisation for a response to that question. However, I will say that, as far as the licensed trade is concerned, such a mechanism already exists. For example, the way in which the current business rates structure directly relates the turnover of a premises to the rates that it pays is pretty transparent.

Bruce Crawford: I know that the business rates mechanism is slightly different for hotels and pubs. They are not treated in the same way as other businesses.

Patrick Browne: My evidence suggests that our members are happy with the fact that the current business rates structure relates their turnover to the amount of rates that they pay. Again, I am happy to seek a response from our members on that matter.

Bruce Crawford: That would be useful.

The Convener: You have already raised your members' concerns about potential gold-plating. Where in the bill might that occur?

Patrick Browne: Concerns have been raised about the fact that some elements of the local authority licensing mechanism, which has operated for a number of years, are self-financing while others are not. For example, many licensing boards draw on services in their local authority to provide the licensing mechanism and perhaps do not fully recharge them.

We are concerned that, under the new regime, local authorities will lose their current ability to meet some costs through expenditure of the money raised from business rates and that they will start with a blank sheet of paper. We must ensure that the number of licensing standards officers in a licensing board area relates to their workload. After all, the boards' operating costs must reflect the fact that the range of premises to be regulated will be far wider in urban areas than in rural areas. It is difficult to speculate on how things will work until we see the Executive's proposals for a fee structure and local authorities' proposals for licensing functions in their areas.

Margaret Smith: I suppose that the question was more about potential gold-plating in the bill.

I do not know whether you have had a chance to read the evidence that we received last week from the Scottish Licensed Trade Association, but it seemed to feel that grandfather rights should be introduced to ensure that businesses face as little upheaval as possible and know exactly where they stand. In fact, such a measure has been introduced in England and Wales to allow people to move seamlessly from the old system to the new one and, even if a new eye can see that certain premises fail to come up to scratch, people just have to live with that.

However, the public—and, indeed, many committee members—believe that the bill presents an opportunity almost to improve on the services that have been available in the past. Your proposals for transitional arrangements seem to suggest that, although you believe that there should be grandfather rights, any such measure

should contain safeguards for objectors who feel that premises do not come up to scratch. However, you think that a licence should not be withheld unless it can be proved that a premises cannot be brought up to scratch. Is that a fair reading of your organisation's position? You are committed to grandfather rights, but you are sympathetic to the view that there might be an opportunity to improve premises and services.

16:30

Patrick Browne: I agree in part with what you say. We set out our position on grandfather rights in detail in our submission. A precise form of words must be used.

We would not want the conferral of grandfather rights to prevent premises from being adapted for disabled access, for example, if such adaptation were possible. Grandfather rights are a separate issue, which is to do with ensuring that someone can continue trading and keep their licence and trading hours under the new regime, and with ensuring that someone who has traded for many years is not obliged to produce building and planning consents that might go back 20 or 30 years. Everyone would know that the licensee had the consents, because they were still trading, but if licensees were forced to produce the documents, they might incur substantial costs for not much benefit.

If there is a requirement to make physical adaptations to buildings, individual licensing boards should be able to address the matter, but that issue is mainly separate from the issue of grandfather rights.

Margaret Smith: In your submission, you say:

"If an objector can demonstrate that the operation of any such business materially contradicts the Licensing Objectives then a premises licence for an established businesses should only be refused if the draft operating plan for such business cannot reasonably be amended."

I take it from that that you do not think that licensing boards should say, "Here's someone who has had a licence for 12 years, so we will automatically rubber-stamp his licence." I am reading between the lines, but I understand from your comment that you believe that there should be due process and that although there should be a presumption that the licensee should keep their licence, there should be no rubber-stamping exercise, because there might be scope to consider other issues.

Patrick Browne: I agree with that assessment.

The Convener: Your submission indicates that you are quite comfortable with the provisions on statutory permitted hours. Are you perfectly happy that there will not be distinct regional variations in licensing boards' approaches to permitted hours?

Are you concerned about the lack of a simple process for occasional extensions of permitted hours?

Patrick Browne: If we accept the Nicholson recommendations and the bill, we must accept that individual boards will make judgments about local circumstances, which will be reflected in the trading patterns of their areas. That is the regime that is to be introduced and we support it.

There is a real issue about occasional extensions. The Scottish Executive has indicated that it considers that such matters will be dealt with by part 4, on occasional licences, but the trade does not accept the Executive's position. We think that the provisions will not allow boards and applicants to deal with, for example, office parties or wedding receptions that take place at short notice. There is a need for new provisions that will address such matters.

The Convener: Finally, on irresponsible drinks promotions, how comfortable are you with the bill's provisions in relation to the on-trade? It has been suggested that there is an omission in the bill, in that there appears to be no requirement on the off-trade with regard to what might be regarded as irresponsible drinks promotions.

Patrick Browne: We support action to tackle irresponsible promotions. The Executive has taken such action in the bill, but we have a slight concern because promotion is not just about selling drinks at reduced prices at certain times; it is also about promoting new products in the marketplace or trying to encourage people to switch from one brand to another. For example, we might need an opt-out for promotions of new products, but that is a matter for the committee to judge.

We have a particular issue with the exemption for the off-trade. The anecdotal evidence from our members is of an increasing pattern of people consuming alcohol at home earlier in the evening and then going out later and passing on the problems of binge drinking to the on-trade. A restriction on irresponsible promotions will address the situation effectively only if we ensure that it applies to both the on-trade and the off-trade.

I am not trying to plug the publication, but in the *Scottish Licensed Trade News* of 17 March, Jack Law, the chief executive of Alcohol Focus Scotland, made a relevant point. He said:

"We're extremely concerned that the bill has failed to address off-sales promotions. Some might argue that alcohol bought in these instances is stored for drinking over a long period of time. It's difficult to be convinced that a two-litre bottle of cider retailing at £1.40 is designed as a product for sipping over several evenings."

Clearly, the issue must be considered in more detail.

The Convener: You have certainly finished your evidence on a high with that observation. I thank you for your evidence, which has been useful and which will help the committee in its consideration of the bill.

The second panel this afternoon is made up of witnesses from the Argyll and Bute and city of Edinburgh licensing boards. I welcome to the committee Councillor Duncan MacIntyre, the chair of the Lorn, mid-Argyll, Kintyre and Islay divisional licensing board; Councillor Rory Colville, the vice-chair of that divisional licensing board; Councillor Daniel Kelly, the chair of the Bute, Cowal and Lomond divisional licensing board; Councillor Philip Attridge, the chair of the city of Edinburgh licensing board; and Robert Millar, the clerk to the city of Edinburgh licensing board. I give the witnesses an opportunity to make an opening statement, although that is not an invitation for all five of you. Councillor MacIntyre will lead on behalf of Argyll and Clyde.

Councillor Duncan MacIntyre (Lorn, Mid-Argyll, Kintyre and Islay Divisional Licensing Board): I thank the committee for inviting us today. We are not Argyll and Clyde—that is the health board.

The Convener: Sorry, I meant Argyll and Bute.

Councillor MacIntyre: You have already introduced the members of the Argyll and Bute licensing board. A number of years ago, Argyll and Bute Council decided to divide its area into two divisional licensing boards: Bute, Cowal and Lomond divisional licensing board and Lorn, mid-Argyll, Kintyre and Islay divisional licensing board. I am chairman of the Lorn board and Daniel Kelly is chairman of the Bute one. I understand that the note that we prepared has been circulated to members of the committee, so I do not intend to go through it. I hope that during the meeting we will have the opportunity to expand on the issues that are raised in the note. Given what happened in the previous session, that will be quite interesting.

We welcome the publication of the Licensing (Scotland) Bill, which is a long-awaited piece of legislation. Obviously, there is still a considerable amount of work to be done on drafting the associated regulations and guidance, and we look forward to seeing them in due course.

In our area, there is an increased prevalence of young people consuming alcohol to excessive levels. We have found the problem to be more and more common, and I am sure that we are no different from the rest of Scotland. We hope that many of the measures that are set out in the bill will assist with tackling that worrying trend. Although we recognise the importance of having a national policy framework, it is crucial that

licensing boards retain a high level of flexibility and accountability to enable them to respond effectively to local circumstances.

Councillor Philip Attridge (City of Edinburgh Licensing Board): I do not have much to add, except that I welcome the golden opportunity that you have to solve what are common problems in Scotland. I ask Robert Millar to enlighten the committee on a small correction to our submission.

Robert Millar (City of Edinburgh Licensing Board): We welcomed the opportunity to lodge a written statement but, unfortunately, in the rush to prepare it we made a mistake. In the paragraph on the size of boards, we refer to a minimum of 10 members. Of course, the bill proposes a minimum of five members, so our submission should read “five and three”, not “ten and three”.

The city of Edinburgh licensing board's concerns are very much reflected in the Executive's published intentions. The board has not yet had an opportunity to consider in detail many of the provisions that will come out in the form of regulations. Unlike some of the deputations from which the committee has already heard, the board has not yet put forward any views on matters such as transitional arrangements or grandfather rights.

Michael McMahon: I represent an area in which divisions in boards are not uncommon. The idea that a licensing board has to cover a whole local authority area seems to relate to some areas but not all. In the evidence that we took in Glasgow last week, concern was expressed to us about the proposal that the Glasgow licensing board should be divided, instead of having a single board with fewer members covering the whole of Glasgow. I am interested in hearing your perspective on the proposals on the size of boards, and particularly on the idea of licensing boards with five to 10 members. I am aware that some licensing boards are almost the size of some councils, and I would like to hear your perspective on the idea that they could not operate if they were smaller. I seek responses from you on the scale of licensing boards. How many members do they need if they are to work?

Councillor MacIntyre: In Argyll and Bute, there are two distinct geographical areas, as I explained. Members come from various parts of Argyll and Bute and they bring to the boards their local knowledge of the issues. For example, a few weeks ago, four members were in favour of something that had been proposed in their own area, but the members from outwith the area opposed it. Members have a local perspective on matters that affect their areas. The number of licensed premises in Argyll and Bute is in the order of 640—I shudder to think what the figure per head of population is. We have to deal with a lot of

licences throughout a wide area, so we rely on local knowledge.

16:45

Councillor Attridge: One of our major concerns is that in a city the size of Edinburgh, which is developing at a huge rate, and to which everybody wants to come to open clubs, luxury hotels and so on, we need consistency of grant. If the grant is too small or boards are very small, we will not get the required breadth of knowledge from the city.

Our city centre is growing at a great rate. I represent Leith. There is the area at the bottom of Leith Walk around the Shore, and there is the city centre. From around half a mile down Leith Walk you could say that the area is not in the city centre, but Leith will shortly be in the city centre. The city centre will then spread west.

We need consistency. We need the breadth of knowledge of local members on the board. However, the proposal was for small boards with a maximum of 15 members and a minimal quorum. I know what local members are like, and I do not like the idea of big developments in somewhere the size of Scotland's capital city being run by a handful of people. We need to have a good breadth of knowledge from local people.

Michael McMahon: We are trying to tease out the arguments. In evidence last week we heard one perspective, which was that if local knowledge was used and the people who made the decision were local to the area, they might be susceptible to local pressures, whereas if the board included the wider geographical area, local pressures would dissipate, and decisions could be made without pressure from local communities. What are your views on that? I see that Councillor Attridge is keen to get in, so I will take him first.

Councillor Attridge: Boards have two types of members, who can be easily classified as openers or shutters. If you have small boards, you can bet that premises will not be opened, which would be unfair on those people who wish to come into and develop the city. We need development. We are a major tourist attraction. We need consistency and breadth on boards, which will take the wind out of the sails of parochial nimbys.

Councillor MacIntyre: Rory Colville wants to answer as well, but I refer again to a recent debate and vote that we had on a proposal: local councillors voted for the proposal, but people from outwith the area voted against it. That gives a good indication of the situation.

Councillor Rory Colville (Lorn, Mid-Argyll, Kintyre and Islay Divisional Licensing Board): I agree with the provisions in the bill that would allow boards to divide if they wished. We say that

we have a drink culture in Scotland, and we certainly have a different culture in Islay and Mull. With all due respect to Danny Kelly, I do not think that the councillors in Helensburgh would fully understand that culture. We have 26 islands in the Lorne, mid-Argyll, Kintyre and Islay area. We need to have local knowledge. It is important that we retain the right of boards to decide to divide.

Michael McMahon: So you are happy for the bill to allow horses for courses.

Councillor Colville: How do you mean?

Michael McMahon: Just as you describe it. Boards should be allowed to divide where it is appropriate to do so, and boards in cities should be allowed to take a wider perspective and to be as broad as possible.

Councillor MacIntyre: There has to be that flexibility.

Margaret Smith: I have a couple of issues. The bill proposes that any person will be able to object, as opposed to the present position. What do you think of that? What will be the implications for your boards if that proposal goes ahead? Could you also address the issue that I touched on with the previous panel, which is the proposal to increase the area for neighbour notification around licensed premises, to try to involve the public in decisions to a greater extent? How can we find ways to engage with the public on these important issues without it always coming down to nimbyism, which Councillor Attridge mentioned?

Robert Millar: The Edinburgh board is happy to embrace the inclusivity that is suggested and to bring more people into the process. I am sure that the convener of the board agrees that one of the big problems is that many objectors go part of the route in lodging objections. They will attend a board meeting and then meet a technical problem that means that their objection is declared incompetent and they must walk away from the meeting without being heard. That is unsatisfactory for members, highly unsatisfactory for the individuals who are involved and unnecessary. Those people will have failed to clear a technical hurdle.

The aim behind the proposed legislation is to sweep away such things and allow persons who have an interest in making an objection to make it. Frivolous and vexatious objections can still be ruled out—which is fair enough—but the remaining objections will require to be dealt with. I am confident that councillors who serve on the licensing committees and are experienced in dealing with the Civic Government (Scotland) Act 1982—which has a different approach to objections and representations—will be aware that it is possible to handle a large volume of objections, including many that are not made on

the basis that the objector lives in close proximity to the premises in question. There is a well-trying civic government system and a welcome extension in the field of liquor has been proposed.

Margaret Smith: Are you quite relaxed about the point about neighbour notification?

Robert Millar: Yes. I understand that there will be a duty on the clerks, but, as long as the resources are there to carry it out and the clerks are properly resourced to serve notices, that should not be an issue—the process is administrative.

Margaret Smith: Do the gentlemen from Argyll concur with that?

Councillor MacIntyre: We endorse what has been said. We are in favour of the involvement of as many people as possible. However, planning applications for buildings attract objections from across the world. Where does it end? We need to be sensible. We are keen to hear valid and competent objections and to let people have a voice, but there must be some perspective.

Councillor Colville: I have a point to make about occasional licences, about which we would like to say something at some stage.

Margaret Smith: My next questions cover occasional licences.

Councillor Colville: I foresee a huge workload with occasional licences in particular. I noticed that the clerk must pass objections to occasional licences to the applicant. Obviously, that will not happen so often with permanent licences, but if there are up to 16 licences for organisations a year, there will be a huge workload for the clerk in notifying the applicant and vice versa. I visualise a lot of extra work if the public object to occasional licences.

Margaret Smith: My next questions are indeed on occasional licences. Board members have highlighted concerns about the proposed number of such licences and the training of staff. I want to tease out a little what your proposals would be and what would be reasonable. In responding, Mr Millar could pick up on what Councillor Colville has said about the extra administrative work that would be involved.

Robert Millar: The Edinburgh board already operates a system in which there is notification of occasional licences. The current system requires the applicant to notify the chief constable, but a great many applicants do not do so in practice. A process has therefore developed over the years whereby there is, in effect, notification. It is clear that there will need to be more notification but, as I said, that is a matter of resources. Through the increased use of information technology and the geographic systems that are now being introduced

with IT, it is possible to identify premises that require to be notified. If the system is in place and properly operated, it could do the notification itself. Therefore, I do not see the issue as being a major problem.

Patrick Browne said that there needs to be a procedure for occasional extensions, but I am not convinced of that. I had envisaged that, certainly in cities such as Edinburgh, the board's statement of policy could indicate what occasional extensions the board would be prepared to recognise, so as to cover the Edinburgh festival and the winter festival period, for example. Provisions could be built into the statement of policy for special occasions such as parties, when in any event the board usually operates an extra-hour procedure. I think that occasional extensions could be accommodated within operating plans and boards' statements of policy.

Councillor Attridge: I think that the figure of four occasional licences in section 53 could be increased, but 56—that is more than one a week—could become a nuisance and the use of untrained staff would become an issue. It is not common sense to have such a high number of occasional licences. Training, or the lack of it, is one of our worries.

The Convener: Before we go on to Argyll and Bute, I will pursue questions with Robert Millar about the process that he would expect to be followed under the new regime to deal with occasional licences.

Robert Millar: For occasional licences, as opposed to occasional extensions?

The Convener: Sorry—occasional extensions.

Robert Millar: The board's statement of policy would be the starting point. The board would have to indicate—I will take Edinburgh as an example—that, during the period of the Edinburgh festival and the winter festivals, an automatic two-hour extension to normal hours would be granted to premises and that perhaps for other events a one-hour extension would be allowed. The premises would indicate in their operating plan whether they intended to take up the extra hours. Thereafter, there would be no further notification for occasional extensions.

The Convener: Would that process cover not only major events such as the festival but matters such as a wedding booking?

Robert Millar: The nature of the premises would need to be taken into account. If the premises regularly operated a wedding business, it would be able to deal with the matter through its operating plan. If a premises were being refurbished, for example, and there was an intention to move into that market, that would be a major variation

anyway and the public would have the opportunity to come in at that point. The board would determine whether the premises were suitable for that business.

Bruce Crawford: If ad hoc occasional licences were required, do you envisage that a licence holder could submit in their operational plan that they wanted 12—or any other number of—ad hoc occasional licences a year to allow them to deal with unexpected circumstances? Would the operational plan be the appropriate place to do that? How would you deal with those situations?

Robert Millar: The board would have to indicate that it was prepared to consider requests for ad hoc extensions in the operating plans. The bill seems to suggest that, if there is an ad hoc extension, the operator of the premises is making a major variation. We need to consider, perhaps in a way that has never been done before, the type of business that operates on the premises. That is what the boards will be doing with the operational plans. If the premises already has in place a function suite that is used every weekend for an ad hoc function, be it a wedding or an anniversary celebration, that is taken into account in the hours that are granted.

Bruce Crawford: My concern is that we will be in a situation where the fees will go up. It is a nap that that will happen. Some businesses will face pressure on their books because of the legislation on smoking in public places and will have to be fleet of foot to stay alive. We must find ways of enabling those who are capable of changing their business profile in order to stay alive to do that. Perhaps that means that some sort of ad hocery should be built into the operational plan. If that was going to happen, some sort of national standard would be needed. Do you support the idea?

Robert Millar: Yes.

17:00

Councillor Daniel Kelly (Bute, Cowal and Lomond Divisional Licensing Board): There are a fair number of voluntary organisations in Argyll and Bute and many of them ask for occasional licences. That gives the licensing board and the police quite a problem, especially on the islands, because of the nature of some of the functions.

Margaret Smith: How much of that is caught up with the issue of lack of training for the people in voluntary organisations who organise those occasions? How big a problem is it?

Councillor Kelly: It is a big problem. The staff in many of the voluntary organisations have not had any training, but we would like them to.

Mr Davidson: Years ago, when I worked in Edinburgh, some of the licensing authorities decided that if an organisation wanted a bar—say for a school fete—a local licence holder had to deliver it by making the application and so forth. Is that sort of arrangement for one-off occasions under consideration? If so, would the local licence holder be required to be present in person and to be responsible for the occasion?

Let us say that a local rotary club wants to hold a function. Would the suitably qualified person who made the application for the licence act as the named individual who supervises the occasion? I return to the point that Councillor Attridge made. If boards give people automatic extensions, I assume that the extensions will also have to be recorded and notified to the police so that the police know what they are enforcing.

Councillor Kelly: Yes.

Councillor Colville: The practicalities of the proposal would not work on the islands. We have looked at the idea, but licensees are not interested in running those sorts of occasions at the moment. The trouble with occasional permissions is that they are considered part of the culture in certain remote areas—what else is there to do?

The problem is that the number of occasionals is growing, particularly in Islay. The police, the local substance misuse forum and the national health service have brought to our attention problems relating to alcohol on Islay. They point the finger at the number of occasionals that are granted on the island.

As the board has not yet met to discuss the issue, I stress that what I am saying is not what the board has decided. I am not sure whether we would take a definite view on the number of occasionals—let us say four or more—but we are absolutely certain that, if we are going to grant occasionals, there has to be training. If someone is selling hamburgers, they have to go on a food hygiene course, yet we allow people to sell a licensed drug without any training.

To give one example, the reality of the situation on Mull is that one policeman is on duty. We have granted 2 am extensions to two premises, which are half an hour apart, and if occasionals are running elsewhere on the island, it will take the policeman four hours to get round all the premises. We are putting an awful lot of faith in the people who are running organisations. We are asking them to be responsible, know when people should stop drinking and know the age of the people whom they are serving. A host of issues is involved, none of which is being addressed at the moment. On Islay, four policemen are on duty at any one time. The policing situation is similar to that on Mull.

I am also concerned about occasional extensions, although the board may come to a different conclusion on the issue. If premises are granted a licence that runs to 2 am or 3 am, they could use it as and when they see fit. That puts a huge strain on police resourcing. Things got so bad in Oban one night that the police had to draw batons. On that occasion, the police could cope because they knew when the closing time was. However, our board may take a different view of the issue from that taken by a city-based board.

Councillor Attridge: I will take up what Mr Crawford said about people having to look about for opportunities when the smoking ban is introduced. That will offer another business opportunity for personal licence holders. Somebody who is trained and trusted and has a licence could run occasional events. The solution is available if we look deeply enough.

Councillor MacIntyre: To run occasional events, somebody who is responsible and is seen to be responsible must be involved. I am sorry—I cannot see the name-plate of the member to whom I want to refer.

Bruce Crawford: My name is Bruce Crawford. I will turn my name-plate towards you so that I can become world renowned.

Councillor MacIntyre: I could not see the word “Crawford”—I thought that it said “Robert”.

Bruce Crawford made a point about the future cost and expense of running events with occasional licences to the standard that is expected. If voluntary organisations in rural areas regularly run events in competition with bars, that will affect the economics of operating at a higher standard, which we must take into account. In rural areas where bars are small, they may survive because of their Friday and Saturday nights. If a voluntary organisation competed with them every Friday and Saturday night, that would cause concern.

The Convener: Does Bruce Crawford want to pursue his original question?

Bruce Crawford: Yes. What are the gentlemen's views on how the licensing standards officers might be best managed? Should enforcement by them be under a board's control and direction or should they operate separately as council officers but still report to a board? Another view that has been floated—I would like to know whether it has much credence—is that the police might employ LSOs, who would still report to licensing boards. A plethora of arrangements could be brought to bear on how best to employ LSOs. What are your feelings about what the LSOs' main role should be in comparison with what the police do?

Councillor Attridge: We envisioned LSOs as being along the lines of environmental health officers and having many powers of entry. We accept that councils, not boards, will employ LSOs. LSOs should not be employed by the police. The police will still report to boards and we do not want to hear from two branches of the same department—I would like to hear a slightly different view.

Robert Millar: Our submission highlighted concerns about the lack of input to a board under the new arrangements. I am aware that the position varies across the country, but the Edinburgh board has the benefit of input from the fire and police services and from several council officers, including those in food hygiene and environmental services.

The new intention is that a police report may be given but, failing that, only licensing standards officers will have input. The board envisages them as council officers who will appear before the board with reports on the suitability of premises or with complaints under the review system. We did not intend to make representations on that; we merely wanted to throw up a word of caution that, in effect, licensing standards officers will be the only reporting body.

For example, a problem that often arises in Edinburgh concerns planning for premises. At present, a licence is sought in a provisional grant form with a planning certificate and the board is not told the conditions of planning. Later, when the premises are apparently ready and seek finality from the board, the planning department informs us that issues such as landscaping and car parking might not be finalised. The argument is always that the board has no interest at that point and must finalise the licence to allow the sale of liquor, even though the full extent of the planning permission has not been complied with.

There is no provision to tackle that issue in the new proposals, presumably on the basis that there are other remedies—the enforcement regimes for planning, fire safety and so on. However, the proposals may not lead to the most joined-up form of working, because the board will have to finalise licences when there is a considerable amount of work still to be done.

Bruce Crawford: Do the gentlemen from Argyll and Bute want to respond?

Councillor MacIntyre: My view is similar. We had a vision that the LSOs would be attached to the council, simply because of the area that we cover. The workload for the LSOs would be considerable, given what they would have to do and where they would have to go. We have about 640 licensed premises in Argyll and Bute.

Councillor Kelly: We must remember the spread of Argyll and Bute. The licensing board that I chair covers the area from Helensburgh to Rothesay, away down to Tighnabruaich and nearly up to Inveraray. That is a big area. The other licensing board covers the Oban and mid-Argyll area, which is massive and has a huge number of islands. The job would be a big one and a big responsibility.

Councillor Colville: We anticipate that we will need two LSOs—one for each division—because of the huge area that is involved. We have a pub on Sanda that takes a whole day to get to—it is designed purely for sailors. We have 26 inhabited islands, more than half of which certainly have some form of licensed premises, although I am not sure of the exact number. A big concern is how we will pay for the officers. I am sure that the committee has heard before from Argyll and Bute Council about the issue of sparsity—the population is spread throughout the area. Argyll and Bute Council cannot afford to subsidise the officers, so they will have to be funded either out of the fees or centrally.

Bruce Crawford: I hear what you have all said but you are arguing for a situation in which the individual who will be trying to enforce a board's policies on the ground and who, no doubt, will be involved in the education process will operate at arm's length from the board. Can the proper direction and focus be achieved, if, as Robert Millar envisages, LSOs are employed more broadly as council officers? It does not matter whether the officers are employed by the council or the board; the issue is whether they will have the right focus and direction if they operate at arm's length from the boards. I need more from you to convince me of that—I might be convinced, but you have not got me there yet.

Councillor Attridge: That brings us to the subject of licensing forums. We have a large forum and believe in working in partnership in a city the size of Edinburgh. Unless we work together, nothing happens. We have a forum of around 50 people. It does not meet once a year, as envisaged in the bill, which would be a waste of time; instead, the board meets the forum before every quarterly board meeting. We have solved problems through our forum, which includes licensing solicitors, agents, council officers, representatives of different types of licensed premises and community councillors—you name it, we have it. If a person is relevant, they are in the forum. The issue is all about including people and working together. Therefore, in Edinburgh, any licensing standards officer who thought that he was at arm's length doing exactly what he wanted would be told something different. He would be there to work for the betterment of the city and for health and safety.

Bruce Crawford: Surely he would be there to enforce the board's policies. There may be a conflict between the city's agenda on economic development and the requirement on the licensing board to ensure that the licensing system operates effectively in a given area. Tell me if I am wrong, but I just want to test the argument.

17:15

Robert Millar: Possibly Edinburgh has been fortunate in not having had a breakdown between the council and the board to date. I am employed by the City of Edinburgh Council but have effectively been seconded to the board. The same could be done with the licensing standards officers if that was what was wanted. I do not think that Edinburgh has envisaged a problem with that. Perhaps that was foolish, but it was felt that, as the council is the body holding the money, the revenue would pass through the board to the council. The council would then continue to pay the necessary number of officers. However, that is a purely administrative arrangement and the system could easily operate in a different way.

Bruce Crawford: If fees are going to be recovered from the licence holder and it is all going to wash its own face, all the board will be is a post office for the money going from one place to another—it will not be accountable for the money that is being spent. We could argue for a long time but—

The Convener: Please do not.

Bruce Crawford: I need a bit of convincing and I do not feel as if I am getting it.

Councillor MacIntyre: I do not think that there is conflict between the councils and the licensing boards. We have to work as one to make sure that the regime operates to the benefit of both. Bruce Crawford alluded to economic development. The licensing boards operate completely differently from the councils and have to make their own decisions based on the legislation that is in front of them. Whether a council has a different economic or social view, we are bound by the legislation and that is how we will operate. I do not mind who pays the LSO, as long as it is not the council. Someone has to pay him, but he must do the right job. There has to be a job description and we have to find out where the money will come from. If it comes from the licensees, that is fair enough, but there will be complaints about it. The job is necessary; we have to have LSOs and we have to fund them.

Mr Davidson: Two general issues have been raised in all the evidence sessions on the bill. One is about over-provision and the other is about the automatic granting of grandfather rights and the

possible opportunity to improve standards. What are the views around the table on those issues?

Councillor Attridge: We touch on grandfather rights in one of our submissions. We have some premises that we would not want to have grandfather rights to keep putting on certain kinds of what they call entertainment. We do not agree with grandfather rights. We envisage the majority of licensed premises carrying on as they are, but there are some that give us cause for concern, mainly because we have no means of controlling what they put on—indeed, under the bill, we would still have no control. Those premises cause considerable problems in Edinburgh city centre. However, if an establishment is putting on bona fide entertainment, it will not have any problems.

Mr Davidson: You are saying that you are not wanting to blank out grandfather rights but that there should be some assessment of whether they should be granted on an individual premises basis.

Councillor Attridge: Yes.

Mr Davidson: Apart from adult entertainment, which you mention in your submission, are there any grounds for giving the board the right not to allow such a licence?

Councillor Attridge: Training people to meet very high standards and criteria would be one consideration.

Councillor Colville: Earlier, one of the witnesses mentioned the fact that their organisation provides extensive overall training. Out in the real world, there are seven different types of licence and we have granted them all. My worry is that, with only one type of licence, someone who is running a small pub with a capacity of 15 could use grandfather rights to move to a pub with a capacity of 500. The board could consider individual circumstances, but if grandfather rights could be granted automatically, that would make things difficult.

Mr Davidson: I presume that, if somebody moved from one premises to another, that would constitute a variation, so the matter would come back to the board.

Councillor Colville: Fair enough. As I said, we have to look at each case as it arises. Our concern is about how we cope with the transition period and the effect that that will have on councillors' ability to do their other work. How much work we will have to do is a grey area. Each case will have to be considered and we might have to let some cases go through on grandfather rights. If we do not do that, it will not be feasible to keep the system going. However, I do not think that there should be automatic grandfather rights.

Councillor MacIntyre: David Davidson asked about over-provision. The policy memorandum

clearly says that over-provision is the fundamental problem. Although the bill will lead to improvements, which is to be commended, my reading of the situation is that there will be further provision.

It is essential that we provide training and set higher standards, but as well as training our staff we must educate our customers. If we are to meet the desired standards, there must be a degree of self-regulation, because many premises will not be able to achieve what we are looking for.

The Convener: Will the introduction of the single premises licence make it more difficult for boards to define over-provision?

Councillor Attridge: I do not think so. When we consider an operating plan, we will decide whether there is over-provision of that type of operation. I return to the size of the boards: on a good board, there is good breadth of knowledge and it is possible to ascertain whether there is over-provision in the city. The over-provision of alcohol licences currently makes that difficult.

I prefer an approach that is based on merit, rather than one that imposes a blanket ban. In some parts of the city we want development. For example, companies are moving out to the Gyle from the commercial area in the city centre. What else can we do with the huge banking halls that they leave behind? We cannot let classical buildings rot. Some people do not want such buildings to be turned into licensed premises, but through the operating plans we can work out the different types of licence that we might grant. The bill deals with that quite well.

The Convener: That brings us to the end of our questions. I thank the witnesses for their evidence.

I welcome our final panel of witnesses. Dan Russell is clerk to the south Ayrshire licensing board and represents the Society of Local Authority Lawyers and Administrators in Scotland; Fiona Stewart is deputy clerk to the north Aberdeenshire licensing subdivision and also represents SOLAR; Councillor Jim Swan is chair of the bill team at COSLA and is well known to me as a councillor in West Lothian; and Kathy Cameron is the policy manager for COSLA. I offer both sides of the panel the opportunity to make some introductory remarks before we go to questions and answers.

Dan Russell (Society of Local Authority Lawyers and Administrators in Scotland): Fiona Stewart and I are representing SOLAR, which is the organisation that represents lawyers and professional administrators in local government. As the convener said, we are clerks to our respective boards.

SOLAR has been making submissions for a number of years to the effect that the Licensing (Scotland) Act 1976 was due for review. We welcome the Licensing (Scotland) Bill and what it seeks to achieve. We are keen that the licensing objectives are in place, we are keen on the retention of local licensing boards and local decision making, and we welcome the requirements for statements of licensing policy. We mention in our submission various points that could be improved upon. We are happy to take questions.

Councillor Jim Swan (Convention of Scottish Local Authorities): We welcome the opportunity to give evidence to the Local Government and Transport Committee. COSLA has been looking into the principles of preventing crime and disorder and promoting public safety. I do not sit on a licensing board; I think that that is why I was picked as the chair of the bill team. We are not experts on the subject. We had to try to reach consensus with the chairs and secretaries of several boards, which covered the north of Scotland to the Borders, and east to west, in the form of Edinburgh and Glasgow. We tried to form a consensus from the views of all those boards to represent the general position of COSLA.

Michael McMahon: We get the impression that most people welcome the bill, but that some concern is being caused by who would have the right to object. The bill proposes, basically, that anyone could object. How difficult would that make life for the licensing boards?

Dan Russell: From the point of view of the clerks, we welcome the provisions in the bill, which reflect what happens under the Civic Government (Scotland) Act 1982. Occasionally, we get a large number of objectors to a specific application, but most objections that we receive under the 1982 act are genuine and require to be heard. We welcome the idea of opening up entirely the list of objectors and allowing any person to object.

Michael McMahon: Does COSLA share that view?

Councillor Swan: The consensus in COSLA is that we should open up the process to more objectors, but that it would be better to contain objections within the relevant licensing board area. There may be a need to review who can be statutory objectors, so that people such as MSPs and MPs can object. They may not live in the board area, but they might want to articulate a position.

Michael McMahon: What is your view on the police becoming objectors?

Councillor Swan: There are areas in which the police could become involved, but it is for the committee to decide whether the police should be

statutory objectors. They can certainly raise issues in other licensing committees.

Michael McMahon: When the bill is passed we will have made the decision, but we want to make the right decision. We are looking for good evidence on why certain groups should or should not be objectors, and anything that you can suggest in that regard would be helpful to us. Does SOLAR have any reservations about broadening the list of objectors as widely as that?

17:30

Dan Russell: Our submission refers to a right of appeal for objectors; we are strongly of the view that there should be such a right. However, that creates a problem in that if the list of people who are entitled to object is opened up entirely, the number of people who may have a right of appeal will inevitably be wider, too. A decision will have to be made on whether to go for a completely open list of people who are entitled to object and give them a right of appeal, or whether to restrict the list and thereby also restrict the right of appeal. I cannot suggest any solution to that problem.

Michael McMahon: Would the boards become overburdened clerically if they were trying to deal with that level of competition between one side and another? That might not be the best way of putting it.

Dan Russell: As I said, we have some experience of objections under the Civic Government (Scotland) Act 1982. Occasionally, an application attracts a large number, perhaps hundreds, of objections. Making the process work in practice in order to hear all those objections is an administrative nightmare, but it can be done. I would hate to think that we were excluding competent, valid objections on liquor licensing.

Michael McMahon: From my experience and as a result of some of the evidence that the committee has received so far, I am concerned about the requirement—or the lack of one—on licensing boards to take cognisance of information that the police have. Although licensing boards can request information from the police, that does not always happen. Should it become a statutory requirement that information be requested from the police before licences are granted?

Dan Russell: I hope that the licensing boards would consult the police on all applications. The police currently have the right to object and to make observations. In my experience, they use that right.

Michael McMahon: They do when it is requested of them, but should it be a statutory requirement that information from the police should accompany all licence applications?

Dan Russell: My view is that the current system works quite well. The police have the right to object and to intervene in the process as they see necessary. They intervene at the appropriate time.

Michael McMahon: My experience tells me otherwise.

Kathy Cameron (Convention of Scottish Local Authorities): There is concern among some clerks that the police will be reduced to saying that Joe Smith has previous convictions or no previous convictions, whereas under the current system the police can provide information that might not relate to a conviction on the part of an applicant but which might still lead the board to consider that the applicant should not get a licence. There is concern among the clerks that such information would no longer be available to the board, because the police would no longer be able to provide it.

Paul Martin: The issue is not only the applicant's previous convictions, but the applicant's premises. In some cases—my experience backs up Michael McMahon—communities object to applications, but when members of the community arrive at the meeting of the licensing board they are told that no police report has been received about activities at the premises. Is it not important to have a format that would reassure members of the community that, when they arrive at the board, the police will have reported that so many calls have been made to the premises and that so many incidents have been reported, although they might not have been detected? In that way, the board would have a picture of what is going on around the premises rather than focusing on the individual who is applying for the licence.

Fiona Stewart (Society of Local Authority Lawyers and Administrators in Scotland): I can speak only from my experience as a clerk and say that the police in my area would tend to bring forward that information to the board automatically by way of an observation rather than as an objection, if they felt that it was relevant to the application. I can speak only for my own board area on that point.

Paul Martin: Do you recognise that sometimes you might not hear about what is happening? For example, you might not have heard about issues such as those that Michael McMahon and I have had brought to our attention. Perhaps you do not hear about such issues because people raise them with local elected members or directly with the police. It is possible that you have processed applications when 100 telephone calls have been made to the police in relation to antisocial activities surrounding the premises in question, but no report has been made to the board so you have not heard about it. Is that correct?

Fiona Stewart: I accept that.

Mr Davidson: COSLA's submission mentions grandfather rights, on which you will have heard comments. Obviously, you are involved with two large associations and are not responding as members of boards. What are your views on how the bill is framed with regard to grandfather rights and on the risks of following the English model, which has been mentioned? Will you say something about the application of the proposals and the fact that everything will have to be dealt with almost overnight?

Councillor Swan: One of the main points that we want to make is that there should be transitional periods. There was general consensus that grandfather rights should not be automatic, but it should be recognised that some establishments would find it difficult to get up to speed with training and standards, for example, especially if we are talking about raising standards in older premises to the level that is outlined in the bill. We do not think that grandfather rights should be automatic, but we recognise that a transitional period might be needed.

Kathy Cameron: Earlier panels have spoken about the need to recognise the impact that grandfather rights might have on progressing the proposed legislation. I reflect on what those witnesses said because there is a link between transitional arrangements and grandfather rights. A significant body of work will be required to try to digest applications that are submitted when seven or eight different types of licence become a single licence. My colleagues have reminded me that single licence applications will be accompanied by operating plans that will allow boards to discuss the types of specialism in those plans. Perhaps that takes us back to the issue of over-provision, which has been raised.

On grandfather rights, we seek clarity from the Executive about how the proposals reflect what is being suggested in England and Wales, whether they are right for Scotland and whether systems are in place to cope if those rights are, or are not, introduced.

Mr Davidson: I have a supplementary question for Councillor Swan. Are you suggesting that a transitional period should be granted to the licensing board to deal with all the issues, or that interim provisional or probationary licences should be granted until the board gets round to having a good look at them, which would give people a chance to update or match training needs, for example?

Councillor Swan: We considered matters with the latter in mind. It is always difficult to achieve wide consensus, but there seemed to be a general opinion that a transitional period would be needed

to allow people to try to reach the necessary standards. I would not want to say much more than that.

The Convener: I note that COSLA's submission raises concerns about adult entertainment. Do you concur with the City of Edinburgh Council's view that grandfather rights should not apply to premises that provide adult entertainment?

Councillor Swan: The City of Edinburgh Council was involved in the consensus and I bow to its knowledge. As you know, we do not have such entertainment in the West Lothian Council area. There was concern that adult entertainment should be dealt with under different legislation and people who are present thought that the issue should have been considered at an earlier stage.

The Convener: Do the representatives of SOLAR want to respond to Mr Davidson's points?

Dan Russell: Yes. SOLAR is opposed to automatic grandfather rights. Our view is that boards should have the discretion to deal with applications for licences in accordance with their policies. Allowing automatic grandfather rights would simply re-license what is there at present, even though every board has a small number of premises that give concern and which need to be addressed. If discretion was left with the boards, those premises and licence holders could be addressed by way of conditions.

Mr Davidson: What about the workload that the officers and officials will have to deal with on behalf of boards in the beginning, when there is an overnight rush to register?

Dan Russell: Again, the answer is to have a reasonable transition period. There needs to be a period of perhaps a year or more between the bill coming into force and the commencement date so that licence holders can create operating plans and boards can establish and publish their policies.

Bruce Crawford: From what I have heard so far, there is huge consensus throughout Scotland on the measures. Everyone tells us that they support the bill generally, but I guess that everything will be fine and hunky-dory only until the fee demands start dropping through folks' doors. I do not say that the bill is unnecessary, but I suspect that, when people begin to realise how much some of the measures will cost, there will be a minor revolution out there. People already pay business rates and water rates; the proposed ban on smoking will be a problem for small organisations; disability discrimination issues will become more important; there are fire regulations; and now we will have operating plans and more fees.

The fee mechanism is the nub of the issue. The mechanism that is chosen will determine whether the bill is successful and whether there is a general revolution among the licensed trade. Given that, I need to understand from you folks whether the fee mechanism should be based on turnover, square footage or profit. Should the fees be differential between the different types of operation? Should large organisations that use former banking halls pay in different ways from the wee guys who run local pubs? Those are big questions and there will be problems if we do not resolve the issues.

We will not have the chance to hear from you again, so I would like to understand whether a view is forming in SOLAR or COSLA about how to deal with the fees. If not, will you let us know as soon as you have agreed on a view, although that might take you a while?

Kathy Cameron: I would love to be able to offer a magic solution, but, unfortunately, COSLA has not considered the mechanics of the fee structure, although we will seek full cost recovery from the fees. COSLA accepts that that will mean a significant increase in fees, but we propose that, instead of being presented with a set fee structure, councils should be allowed, within mutually agreed parameters, to set the fee structure for each board area. We have consulted on that proposal. The suggestion would not necessarily keep fees down significantly, but it would mean that, instead of a one-size-fits-all approach—which has been mentioned—boards would be able to consider local circumstances, determine what fees were required and set the fees accordingly.

Bruce Crawford: Is it your argument that councils' general funds could be used to support licence costs, or is it that the number of premises in some authorities will allow them to keep costs low?

Kathy Cameron: It could be either.

Bruce Crawford: That is where I have a problem. On the one hand, I hear that all associated costs should be covered by the fees, but, on the other hand, if we are to allow councils to support the licensing system from the general fund, we will—

17:45

Kathy Cameron: I am sorry to interrupt, but we need to bear it in mind that, in the current fee process, councils act as a sort of mailbox or bank account for the money to go through. However, the funds that come in via liquor licensing fees are there to support the licensing staff.

I mentioned in our written evidence that the Scottish Executive performed an exercise to measure the income that is derived from that process. It is safe to say that there were 32 separate responses to that exercise. The councils all come from a different perspective, which is right and proper. One size is not appropriate for all. They all have their own issues in their own areas. The only way to proceed is to have a fee structure that sits within that system but results in full cost recovery. The point was made in our bill team discussions that if boards cannot wash their face with the fees from liquor licensing applications, the burden should not be placed on council tax payers.

Bruce Crawford: What does SOLAR think?

Dan Russell: SOLAR's position is no different from COSLA's. There are different ways of setting fee structures. Various decisions will have to be made in that regard. We favour local flexibility in setting fees and we favour full cost recovery. However, how that can be achieved is a huge problem.

Bruce Crawford: That is the million dollar question, but we have to get there somehow and somebody along with the Executive will have to come up with a solution.

If the organisations reach a more focused and agreed view, it would be useful for the committee to hear about it, because we have a fair bit to go.

Mr Davidson: I have a quick supplementary for Fiona Stewart. Like me, you come from Aberdeenshire. You have a lot of small, well-scattered premises, so the time that is taken by a licensing standards officer to move around will be different from the time that is taken by an officer in, for example, the city of Aberdeen. In Aberdeenshire, we have different divisional boards. Do you see the right to cost recovery being based on each divisional board area or on the whole council area?

Bruce Crawford: Good question.

Fiona Stewart: It is a good question. We would have to look at it across the council area, bearing in mind the fact that each board is required to have its own LSO for each division. I think that Aberdeenshire hopes to retain its divisions. The costing has to come from Aberdeenshire as a whole, if the LSOs are to be employed by the council.

Mr Davidson: If the council does not just move funds around but instead acts as a banker, will it have to come to a view on the costs that need to be recovered? Will the sub-boards have to agree on how that can be dealt with locally?

Fiona Stewart: Given Aberdeenshire Council's nature, I suspect that that would be the case, and that the council would consult the boards.

Mr Davidson: I presume that there is an overlap with the six area committees.

Fiona Stewart: Yes, but area committee members would be reflected in the boards anyway, because the majority of area committee members also sit on the boards.

Bruce Crawford: Are you saying that Aberdeenshire Council would employ six—

Fiona Stewart: No, three. We have six area committees for the council, but we have three licensing divisions.

Bruce Crawford: But surely even three would not necessarily employ one officer each. Surely the officers would be employed through the council as one entity, so that they could work flexibly in all areas.

Fiona Stewart: Yes.

Bruce Crawford: That is fine. Thanks.

The Convener: Some people have suggested that defining over-provision will be a problem if all licences are of the same type. You probably heard the City of Edinburgh Council representatives say that it would be possible to do that through premises' business plans. Do you agree that the over-provision of particular types of licences can be dealt with adequately within the single premises licence, or would you prefer there to be distinctions—perhaps not as many as the current number of licences, but more than the single premises licence that is proposed?

Kathy Cameron: Several representations have been made to me on that issue. As I have said, copies of applicants' operating plans, which will set out in more detail the types of activities that they plan to conduct with their licence, will be submitted with single licence applications. Perhaps that will provide some scope to make an easier determination of over-provision. In sitting here and listening to the discussions, I have been reminded that those operating plans will come in at the same time as the applications; we might therefore go down that route.

Having said that, and notwithstanding the views of the city of Edinburgh licensing board, there may be issues for other large city boards to consider. The point that has been made to me is: how do we compare apples and pears under a one-licence regime? That is an issue for the boards to consider, which is why it is important to have the transitional arrangements in place as soon as possible.

Dan Russell: SOLAR generally supports the city of Edinburgh licensing board's view on the matter. It will not be easy for boards to determine over-provision and it will be even harder for them to declare their policies on over-provision. That will have to be done through examination of the operating plans, which should give us enough information to determine classes or types of operation and enable us to come to a view on over-provision on that basis, provided that there is some definition of capacity. The word "capacity" appears in the bill; there needs to be clarity about the capacity of premises and how that will be determined.

The Convener: That brings us to the end of questions in the last evidence session of the day. I thank Fiona Stewart, Dan Russell, Jim Swan and Kathy Cameron for their contributions. It has been another useful session.

Meeting closed at 17:52.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Friday 29 April 2005

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at the Astron Print Room.

Published in Edinburgh by Astron and available from:

Blackwell's Bookshop
53 South Bridge
Edinburgh EH1 1YS
0131 622 8222

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh

Blackwell's Scottish Parliament Documentation
Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

RNID Typetalk calls welcome on
18001 0131 348 5412
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers

Printed in Scotland by Astron