

LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

Tuesday 26 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 26 April 2005

Col.

TRANSPORT (SCOTLAND) BILL: STAGE 2	2383
LICENSING (SCOTLAND) BILL: STAGE 1	2416

LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

14th 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:

Nicol Stephen (Minister for Transport)

THE FOLLOWING GAVE EVIDENCE:

Willie Caie (Safer City Centre Initiative)

Deputy Chief Constable Malcolm Dickson (Association of Chief Police Officers in Scotland)

Jane Hasler (Greater Glasgow Alcohol Action Team)

Jack Law (Alcohol Focus Scotland)

Neil Ross (Moray Council on Addiction)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Alastair Macfie

ASSISTANT CLERK

Euan Donald

LOCATION

Committee Room 1

Scottish Parliament

Local Government and Transport Committee

Tuesday 26 April 2005

[THE CONVENER *opened the meeting at 14:07*]

Transport (Scotland) Bill: Stage 2

The Convener (Bristow Muldoon): Today's meeting of the Local Government and Transport Committee is our 14th of 2005. I welcome back to the committee the Minister for Transport, Nicol Stephen MSP, who is with us for the first item on the agenda, which is further consideration of the Transport (Scotland) Bill at stage 2. The minister is supported by four Scottish Executive officials: Richard Hadfield, Jonathan Pryce, Caroline Lyon and Graham McGlashan. I welcome them and the members of the press and the public who have come to follow today's proceedings.

All members should have copies of the bill, the latest marshalled list—which was published on Monday morning—and the groupings of amendments. Those documents will assist them in following the business.

Schedule 1

ADMINISTRATIVE FUNCTIONS OF RTPs

The Convener: Amendment 53, in the name of Michael McMahon, is grouped with amendments 54 to 56.

Michael McMahon (Hamilton North and Bellshill) (Lab): I will be brief. Without the provision that amendment 53 seeks to insert, the bill would restrict regional transport partnerships in their ability to make decisions on how they could develop strategies in cases where they did not own the land on which they intended to carry out work. If we do not insert that provision into the bill, we will fail to address an issue that requires to be addressed.

I move amendment 53.

The Minister for Transport (Nicol Stephen): Amendment 54 seeks to clarify that servitudes or other land rights can be acquired by agreement or by compulsion, and the Executive encourages the committee to support it.

Amendment 56 will bring RTPs' powers in relation to land into line with those of the Strathclyde Passenger Transport Executive and the local authorities. Although I agree in principle with the amendment, which reflects our intention, I would like to come back with an Executive

amendment at stage 3, to ensure that the drafting fits in with the language of the bill. For example, the bill refers to a "Transport Partnership" rather than to a "Regional Transport Partnership". Nonetheless, we accept the principle behind amendment 56.

Amendment 55 is welcome for a slightly different reason, in that it has exposed an anomaly in the bill. Paragraph 6(5) of schedule 1 reflects an old system of ministerial consent, which used to apply to local authority disposals of land at less than full value. The fact that that regime has recently been updated by section 11 of the Local Government in Scotland Act 2003 means that paragraph 6(5) needs to be deleted and replaced. Although I agree in principle with amendment 55, I would like to come back at stage 3 with an amendment that covers the same point, but that refers to existing provision and the new regime that will apply to RTPs.

It is clear that amendment 53 is well intentioned, but I urge Michael McMahon to withdraw it, because, in the Executive's view, it is not necessary. Section 11 requires an RTP to perform its functions

"so as to fulfil its transport strategy",

so the bill already defines that the purpose of the exercise of a partnership's functions is to implement its transport strategy. By creating a distinction between the exercise of a partnership's functions and the implementation of its strategy, amendment 53 risks confusion. That is why we hope that it will be withdrawn.

Michael McMahon: Given that the minister has indicated that amendment 53 would make paragraph 6(1) of schedule 1 tautologous, I do not think that there is any point in pressing it. I take it that the minister is right in saying that it merely reiterates what is stated earlier in the bill, so I will not press amendment 53.

Amendment 53, by agreement, withdrawn.

Amendment 54 moved—[Michael McMahon]—and agreed to.

The Convener: Do you wish to move amendment 55, Michael?

Michael McMahon: I hope that the minister will lodge an amendment at stage 3 that will address the point that I have raised. I am glad that he accepts that amendment 55 is in the right area.

The Convener: Does any other member wish to move amendment 55?

Tommy Sheridan (Glasgow) (SSP): I would like to move amendment 55 because, although the minister has given an indication of his intention, I would rather that we had the safety of knowing

that amendment 55 had already been agreed to. When we reach stage 3—

The Convener: You cannot speak to amendment 55 at this stage.

Amendment 55 moved—[Tommy Sheridan].

The Convener: The question is, that amendment 55 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Sheridan, Tommy (Glasgow) (SSP)

AGAINST

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)
Muldoon, Bristow (Livingston) (Lab)
Smith, Margaret (Edinburgh West) (LD)

ABSTENTIONS

Davidson, Mr David (North East Scotland) (Con)
McMahon, Michael (Hamilton North and Bellshill) (Lab)

The Convener: The result of the division is: For 1, Against 6, Abstentions 2.

Amendment 55 disagreed to.

Amendment 56 moved—[Tommy Sheridan].

The Convener: The question is, that amendment 56 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Sheridan, Tommy (Glasgow) (SSP)

AGAINST

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)
Muldoon, Bristow (Livingston) (Lab)
Smith, Margaret (Edinburgh West) (LD)

ABSTENTIONS

Davidson, Mr David (North East Scotland) (Con)
McMahon, Michael (Hamilton North and Bellshill) (Lab)

The Convener: The result of the division is: For 1, Against 6, Abstentions 2.

Amendment 56 disagreed to.

14:15

The Convener: Amendment 15, in the name of the minister, is in a group on its own.

Nicol Stephen: Amendment 15 expresses the intention that the west of Scotland partnership will be able to continue to promote private bills such as Strathclyde Passenger Transport's bill for the

Glasgow airport rail link, which is to be introduced later this year. Amendment 15 is consistent with the Executive's policy intention that the initiative for major transport projects in the west of Scotland will continue to be taken by a strong regional partnership body.

I understand that the Procedures Committee proposes to change standing orders to allow for the promoter of a private bill to change, provided that the appropriate conditions are met. However, we cannot prejudice the Parliament's consideration of the Procedures Committee's report and I prefer to include the provision in the bill. Should the Parliament agree to new standing orders that achieve the same objective before we get to stage 3, we will consider lodging an amendment to remove the provisions inserted by amendment 15, which would no longer be necessary.

I move amendment 15.

Tommy Sheridan: Is the minister confident that amendment 15 addresses SPT's concerns that there is a gap in the bill in relation to the promotion of private bills and the development work that is undertaken in their preparation? I understand that the United Kingdom Railways Act 2005 might have an effect on the bill in that respect. Is he telling the committee today that amendment 15 would allow major projects to be promoted on a private legislation basis in future?

The Convener: I will allow you to respond to the point in your winding-up speech, minister.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Will the minister clarify whether amendment 15 would apply solely to the transitional arrangements that need to be put in place to ensure that schemes that are to be promoted in future, such as the Glasgow airport rail link, are covered? Will the power to promote a private bill be passed to the relevant RTP? Will amendment 15—or, indeed, any other amendment that the Executive lodges—allow the west of Scotland RTP to act as the promoter of any large project that is brought forward in future?

The Convener: I welcome amendment 15, which addresses a concern that SPT in particular has raised. SPT is concerned that the transition period during which the functions of the existing transport structure in the west of Scotland pass to the new structures could result in a loss of progress on projects. SPT is specifically concerned about the Glasgow airport rail link. The minister intends that amendment 15 will allow projects such as the Glasgow airport rail link to be passed to successor bodies without interruption. That is to be welcomed, as it indicates that the Executive has listened to the concerns that were raised, particularly by SPT.

I invite the minister to respond to the debate on amendment 15.

Nicol Stephen: My answer to Tommy Sheridan's question is yes. Amendment 15 achieves what I think is our shared objective, which is to ensure that bills such as the Glasgow airport rail link bill can be taken over by a regional transport partnership. Paragraph 7 of schedule 1 states:

"A Transport Partnership may, if it thinks fit, promote or oppose private legislation in the Scottish Parliament."

That makes it clear that RTPs will have powers in relation to private legislation. In response to Fergus Ewing's question, I believe that the provision in amendment 15 could apply in future—given my remarks about possible changes to standing orders, it might be useful to keep that provision in the bill to give greater statutory certainty to the position. However, we will clarify the matter for stage 3 and make any adjustments that are required. I think that, even if the Procedures Committee makes the change that has been mentioned, it will be worth retaining the provision.

Amendment 15 agreed to.

The Convener: Amendment 16, in the name of the minister, is in a group on its own.

Nicol Stephen: The intention behind amendment 16 is to ensure that RTPs have powers similar to local authorities to allow them to create companies that can deliver, promote or give effect to particular responsibilities or functions. An example would be Transport Initiatives Edinburgh Ltd, which was created by the City of Edinburgh Council and is responsible for a number of important projects, including the Edinburgh trams and the Edinburgh airport rail link.

It will be up to an RTP to determine whether there is a need to establish a company to deliver its functions or responsibilities. Amendment 16 seeks to provide the partnerships with that power, which they would be able to exercise as necessary.

I move amendment 16.

Tommy Sheridan: If amendment 16 is passed, will RTPs be able to facilitate and promote companies to deliver, for example, bus services in the same way that Lothian Regional Transport does? Does the minister feel that such an approach is necessary, given the failure of the market in such areas?

Bruce Crawford (Mid Scotland and Fife) (SNP): I, too, have a simple question for the minister. If a regional transport partnership receives an Executive grant, will that funding score against the Scottish block—that is, the money that

we receive through the Barnett formula? If an RTP forms a company and the Executive grant is passed to that company to help it to deliver a particular project, will it still score against the block? Moreover, will such companies be able to deliver changes to Scotland's transport infrastructure without the Treasury counting the money that they spend as public money? If so, room for other expenditure would be freed up.

Fergus Ewing: I have a few brief questions. First, will the RTPs have the power to set up legal persons in other business formats, such as trusts? I realise that this might not be the correct time to ask my second question, but I feel that it covers the same terrain. What financial powers will the transport partnerships have? For example, if they are to promote projects, will they have borrowing powers? Finally, on this general topic, will the RTPs have the full range of powers that they will require if they are to be given the responsibility of taking charge of projects such as the Glasgow airport rail link? Such a provision might be set out elsewhere in the bill, but I have not been able to pick it up.

Mr David Davidson (North East Scotland) (Con): I assume—but I would like the minister to confirm—that the amendment will allow for cross-border companies to be set up where there may be some common interest between one or more RTP and one or more development company or whatever they happen to be. Will the amendment allow for that flexibility in future, when some RTPs may wish to come together or work with different partners on specific cross-regional routes and services?

The Convener: I note that amendment 16 states:

"A Transport Partnership may ... form or promote companies within the meaning of the Companies Act 1985".

Will that allow the transport partnership to engage with existing companies? I am thinking specifically of TIE, which you mentioned in your introductory remarks, minister. Will the amendment give enough scope to the transport partnership in the east of Scotland to engage an existing company such as TIE in pursuing projects on its behalf?

Margaret Smith (Edinburgh West) (LD): Having had quite a lot of dealings with TIE, I think that, as things stand, there is some public concern about arm's-length companies that may be formed or promoted by councils. Amendment 16 allows for such companies. How can we guarantee accountability to the public on the use of public funds and more generally?

The Convener: You have a whole range of questions to respond to, minister.

Nicol Stephen: I shall try to answer the questions in order. The first point was about the block grant that the Scottish Executive receives and whether the funds spent by the regional transport partnerships, or by companies established by the RTPs, would count against the block. The answer is that, if the funding comes from the Executive, it would count against the block, but that would not necessarily be the case for funding generated from other sources. However, to the extent that the funding comes through the Executive, the moneys would count against the Scottish block.

The second question was on establishing a trust. As I understand it, amendment 16 allows us to establish companies. I would need to check the position in relation to any other form of body and write to the committee on that point. The amendment refers specifically to forming or promoting

“companies within the meaning of the Companies Act 1985”.

In relation to finances, the RTPs will have borrowing powers. I was asked whether they would have a full range of powers. I would certainly expect that full range of powers to exist in the west of Scotland, where the partnership will receive strong powers from the start. The extent of the powers in other parts of Scotland will depend on the approach taken by local authorities in the regional partnership area and the extent to which powers are transferred. It is important to emphasise that I would like all the RTPs to have at least concurrent powers with local authorities in relation to park-and-ride schemes and bus priority measures, to give some real momentum to such initiatives, which can suffer from cross-boundary conflict. The Executive would like the partnerships to have powers right from the beginning to be able to make a difference to public transport.

On the cross-border arrangements—not across the Scottish-English border, but across the borders between the regional transport partnerships—amendment 16 specifically states:

“A Transport Partnership may (whether alone or with others, who need not be Transport Partnerships) form or promote companies”.

Therefore, the partnerships will have the power to work with other partnerships and with others in establishing companies. That is perfectly possible.

I have forgotten Margaret Smith's final point, although I think that it was about accountability.

14:30

The Convener: There are two or three points yet to address. Tommy Sheridan asked whether the RTPs would have the power to establish bus companies, similar to LRT, for example. Margaret

Smith's point was about the accountability of companies that are formed. I asked whether the RTPs could engage existing companies as opposed to companies that they might establish in the future.

Nicol Stephen: In fact, I took a note of that one. The short answer is that existing companies can be engaged.

Bus companies could be used for the purposes that Tommy Sheridan mentioned, but such companies would have to comply with the rules to ensure that there was fair competition between bus operators. The partnership would have to be given those powers by the relevant local authorities in the regional partnership area.

On the point about accountability, the rules that would apply to the companies established by the RTPs would be the same as those that currently apply to TIE and other companies that are established by local authorities and other public bodies to deliver a project, as happens frequently. There requires to be strong accountability because of the partnership nature of those entities and the public sector involvement.

The Convener: I see that Fergus Ewing wishes to speak, but I do not want to reopen the debate at this stage.

Fergus Ewing: I just want to clarify a point.

The Convener: I prefer not to reopen the debate, Fergus—

Fergus Ewing: It would be quite helpful, as always.

The Convener: There is a danger that it would prolong proceedings, because, if some members reopen the debate, others might want to make additional points.

Fergus Ewing: I have a specific question—

The Convener: The minister has wound up the debate and I prefer to proceed to the decision.

Bruce Crawford: We will end up voting against it.

The Convener: That is your decision, Bruce.

Amendment 16 agreed to.

Amendment 17 moved—[Nicol Stephen]—and agreed to.

Schedule 1, as amended, agreed to.

Section 5—Formulation and content of regional transport strategies

The Convener: Amendment 57, in the name of Sylvia Jackson, is grouped with amendments 58 to 64.

Dr Sylvia Jackson (Stirling) (Lab): Section 5 gives more information than section 4 does about the functions of RTPs. Various concerns were made in evidence to us that should be addressed on the face of the bill. I will run through them quickly.

Amendment 57 seeks to make it clearer that we want RTPs to improve transport links between

“all inhabited parts of the region”.

Amendment 58 addresses an issue of concern to the convener and me in particular. It proposes that RTPs should take on board

“changes in population and land use”.

I know that Paul Martin will speak to amendment 59 in a second. It takes on board much of the evidence that we took in relation to

“a wide range of different users”.

Amendment 60 takes on board the issue of sustainability. The whole thrust of transport policy is economic, but it is important that we have sustainable economic growth. That is also the case with amendment 61, which talks about “environmentally sustainable transport policies”; again, the emphasis is on sustainable development.

Amendment 62 concerns an important point of which all members are aware:

“the promotion of road safety and of safe public transport”.

The amendment incorporates consideration of that into the bill.

Michael McMahon will speak to amendment 64, so I will not say anything on it.

Several of the points that Fergus Ewing addresses in amendment 63 are similar to those that I have raised, but I will ask him about one issue. Paragraph (c) of proposed new subsection (2A) mentions “religious or cultural mores”; I ask him to elaborate on what he means by that.

I move amendment 57.

Paul Martin (Glasgow Springburn) (Lab): I hope that the minister will respond to amendment 59 by saying that it was an omission not to have included

“the meeting of statutory equal opportunities obligations”

in the bill originally. All the legislation that we pass, particularly transport legislation, should include that detail, so I hope that his response will be to say that he should have included it and that he will support amendment 59.

Amendment 59 also mentions the socially excluded. Far too often, transport strategies exclude people from opportunities to access transport. A crucial element of regenerating many

of our communities, including the one that I represent, is ensuring that people have access to public transport. That is why I felt strongly that we must ensure that regional transport partnerships will be aware that, to ensure that areas are able to regenerate, it is necessary to include the socially excluded in the strategies that the partnerships prepare and to give paramount importance to equal opportunities. The volume of evidence that we received at stage 1 from various organisations, including the Mobility and Access Committee for Scotland, made it clear that they wanted the regional transport partnerships’ strategies to keep equal opportunities at the forefront. It is disappointing that, despite the significant evidence that we received on the matter, it was not mentioned in the bill, which is why I have raised it at stage 2.

Fergus Ewing: Amendment 63 seeks to specify in the bill matters that should be considered in the preparation of the regional transport partnerships’ transport strategies. The reasoning behind the amendment is that the Scottish National Party believes that if we are to have regional transport partnerships, they should have a full range of powers and a serious job of work to do. That is why I spell it out that, in devising their strategies in their first year, the partnerships should consider not only the rather general criteria that are specified in section 5(2), which I support as far as it goes—which is not much more than a millimetre—but the various modes: road, rail, air, inland waterways and any other mode that the partnership identifies. Incidentally, I should have added ferries. That was a serious omission on my part, but I can put it right at stage 3 after the committee agrees to amendment 63.

The main point is that the partnerships’ strategies should cover all modes of transport. If they do not, the partnerships will be considered to be rather pointless bodies. They might be regarded as quangos that cost £35 million but have not been given a proper job to do. For the public to believe that the partnerships are of use, it is crucial that they have the full powers that I propose. I am keen that, in his response, the minister should indicate his views on the inclusion of each of the modes that I have mentioned. In addition, it is obvious that the strategy should encompass all areas of public transport and I hope that all members agree with that.

To answer Sylvia Jackson’s question about the reference in paragraph (c) of proposed new subsection (2A) to “religious or cultural mores”, I was specifically thinking about the position of the Western Isles and travel on the Sabbath. My wife came back from the Western Isles just yesterday, thereby observing the Sabbath; I am not sure that that observation has been universal during this election campaign. Obviously, I am too delicate to

mention any names, convener. Out of respect for those who hold the serious religious belief that the Lord's day should be observed, the consideration should be included in the bill. It would be much appreciated by those of that persuasion, whether they live in the Western Isles or elsewhere.

Amendment 63 might be technically infelicitous and incomplete. No doubt if it is, I will hear the minister catalogue its technical infringements and failings. If that is the case, those faults could be put right at stage 3. However, the amendment is very serious. Its purpose is to establish the partnerships in the public eye as bodies that are worth having. If they do not have powers over those areas, the converse would be true: those bodies would be seen to be worthless—I am sure that none of us wants that.

I am interested to hear what the minister has to say in response to the other amendments in the group. I am inclined to support most of them. However, I have a brief word to say about amendments 60 and 61. Amendment 60 would require strategies to take into consideration "sustainable economic growth". Will there be a statutory definition of "sustainable economic growth"? Call me a pedant, but we are creating law here and if it is unclear, the sheriffs, or whoever else has to interpret the law, might be unable to do so. If law is not clear, it should not be law. Although we support the general aim of what the expression might mean, it is one of those phrases that could mean anything to anyone.

Amendment 61 asks us to provide in law that, in devising its strategy, partnerships have a duty to take account of the

"promotion of environmentally sustainable transport policies".

Again, I level the criticism that that is too vague and nebulous to take its place in statute. If Dr Jackson can offer us a definition here and now, I invite her to do so. What is the difference between the promotion of sustainable transport policies and the promotion of environmentally sustainable transport policies? Is the inclusion of "environmentally" not a tautology?

To bring the argument down to a more practical level, is the M74 extension environmentally sustainable? Are cheap flights environmentally sustainable? I say that not to score points but because I am cognisant that when the partnerships are devising their strategies, there are those who would take to judicial review the consideration of any matter that was not, in their view, environmentally sustainable. Just as the M74 might become enmeshed in expensive and useless litigation by pressure groups, the regional transport partnerships, having only to devise their strategy in the first year of their life, might also

become enmeshed in litigation over the meaning of a rather vague, if warm, phrase. I am interested to hear Dr Jackson's response to my criticisms of her amendments, but I reaffirm my absolute support for economic growth, the M74 extension and inexpensive flights for all.

14:45

Michael McMahon: As Fergus Ewing said, we are here to make law. A bill must set out as clearly as possible the powers that organisations and ministers have and ensure that the purpose and intent of the proposed legislation are known to everyone. Amendment 64 provides a safety net, because if the bill does not direct RTPs to consider the national transport strategies that develop over time, in future we might find that an RTP was following guidance that had been superseded by a strategy. We do not want ministers having to change legislation repeatedly in order to develop their strategies. It would be remiss of the bill not to specify that the RTP must take the national transport strategy into account.

I am glad that Fergus Ewing clarified the reference to "religious or cultural mores" in answer to Sylvia Jackson's question. I would be the last person to say that we should not take account of people's religious or cultural mores. However, amendment 63 might provide a veto to groups—however well intentioned they might be—which could have an impact on the wider community. Someone's decision not to travel on the Sabbath is a matter for their conscience. Should a group that holds such views be given a veto over the right of the regional transport partnership to develop a transport strategy for the rest of the population? That part of amendment 63 causes me great concern, because by including such a provision in the bill we would set a dangerous precedent in law. For that reason, I oppose amendment 63.

Margaret Smith: The group of amendments that we are considering includes quite principled amendments as well as belt-and-braces amendments. I support amendment 58, which Sylvia Jackson lodged. It is important that we think ahead as much as possible about changes in population and land use, in relation to areas such as the waterfront in Edinburgh, for example. I am sure that all members can think of examples in their constituencies and regions. We have had problems in the past because we did not consider changes in population and land use five, 10 or 15 years ahead, so development took place before we had the transport infrastructure that would have ensured that things worked properly.

I also support amendment 59, which would clearly place a duty on regional transport partnerships to consider

“the meeting of statutory equal opportunities obligations”.

We cannot stress too much how crucial transport is, particularly for people who deal with the problems of disability.

I support amendments 60 and 61, which Sylvia Jackson lodged. However, Fergus Ewing made a reasonable point—not for the first time—about the need for a definition of the terms that the amendments use. We might need to ask the Executive whether, if it supports the amendments in theory, there is a workable definition that we can use in the bill, because there is no point in our proposing a definition that would not be workable. However, we are trying to find an approach that balances the needs of the economy with those of the environment.

There has been a reduction in accidents—certainly in Edinburgh. It is important that the promotion of road safety and safe public transport underpin the bill, so I support amendment 62.

I am totally opposed to amendment 63. We sought clarification from Fergus Ewing on what it means, and now that we have received it, I am more fundamentally opposed to it than I was prior to the clarification. As Fergus Ewing said, we are creating law, but we are doing so not just for those who have particular beliefs but for the whole population of Scotland. I agree with what Michael McMahon said about amendment 63. I would defend to the death somebody's right not to travel on the Sabbath, if that is what they choose to do but, equally, I would defend to the death somebody's right to travel if that is what they wish to do. It is fine that people such as Margaret Ewing respect other people's point of view and choose not to travel on the Sabbath, so long as other people have the choice. If we go along with amendment 63, we will be putting something in the bill that will in effect allow members of the public to be held to ransom by the religious views of those who have a particular view on how we respect the Sabbath. I accept that that would be appreciated by those who take that view, but it would not be appreciated by others. We are trying to take forward transport issues in Scotland, not to uphold the right of people of one religious belief to hold other members of the general public to ransom over how and where they travel. Where would we draw the line for lifeline air routes, ferry routes and so on? I am fundamentally opposed to amendment 63.

Mr Davidson: My first thought on amendment 57 is to ask where the definition is. If we are going to refer to “all inhabited parts”, we need a definition of what that means. Does it mean one croft, two crofts or 10,000 people in a community? The amendment is not clear enough to be supported.

On amendment 58, I assume that the general principles of what RTPs are supposed to do address changes in population anyway. However, I accept the principle behind the amendment.

My concern about amendment 59 is that immediately the bill is passed, every RTP will have to ensure that virtually every piece of transport equipment meets the obligations. Instead of a prescriptive, highly expensive requirement from day one, I would like to see a more selective right to ensure that the needs of the disabled and disadvantaged are taken care of. Although I accept that we have to look after the needs of people with disabilities and infirmities, amendment 59 is far too strict.

Like Fergus Ewing I am concerned about amendment 60, because there is no clear definition. I am concerned that we will have loads of public objections seeking to block anything, based on what an individual considers “sustainable” to mean. Good legislation does not leave such matters open to doubt. The measure would be restrictive and time consuming. If the Parliament is to pass any laws, they have to be clear as to what they are about. Amendment 61 has a touch of motherhood and apple pie about it, and also comes under the category of requiring a clear definition.

I assume that the duty to promote road safety and safe public transport in amendment 62 is a statutory duty on Government anyway, and I would have thought that it would be rolled out to RTPs and all public agencies.

I would have preferred paragraph (a) of proposed subsection (2A) in amendment 63 to refer to “all forms of public transport”, because the situation will vary from place to place; for example, some areas will not have inland waterways. The general reference would have been sufficient.

I agree with others on paragraph (c). A veto that is based on a consideration that is not applicable to the general population and is not based on any kind of democratic principle cannot be included in a bill. That would fly in the face of the principles on which the Scottish Parliament is supposed to produce legislation that is meaningful to the generality of the nation. I agree with other members that if people choose not to travel, on a Saturday for one religious grouping, on a Sunday for another, or on a Friday for another, that is a matter of their freedom of choice. I would not like to see their freedom being encroached on any more than I would like to see the amendment being accepted.

I think that I understand where Michael McMahon is going with amendment 64 but, equally, we Conservatives certainly do not want to see too much central prescription. We would like

there to be more decentralisation and more accountability to the local population, in all its forms, through the RTPs. In his summary of amendment 64, I would like Michael McMahon to clarify exactly why he thinks that the amendment is needed and why it would support an RTP in being accountable to its local population and to people who use the transport services when they pass through the area or transport goods through it. I do not find the phrase that the amendment suggests should be added to the bill to be necessary, but I would like some clarity on those issues.

Tommy Sheridan: It is true that we need clarity in any legislation that we pass in the Parliament, but if amendments 57 and 58 were passed it would be incumbent on the Executive—I hope in conjunction with Sylvia Jackson—to arrive at a definition to explain what is required. The idea behind both amendments should be supported.

On amendment 59, we have to get a grip. All that is being asked is that the regional transport plans meet “statutory equal opportunities obligations”. The amendment is not adding anything, as it refers to existing statutory obligations. I say to David Davidson that it is not good enough for us as a group of parliamentarians to say that we are all in favour of equal opportunities, but only in so far as we can afford it or only in so far as they can be fitted in. Those obligations are statutory and they must be in the bill. Paul Martin is right. I hope that the minister will admit that there has been an omission and will accept the amendment.

The point that I made about having definitions applies to amendment 60: what is the definition of “sustainable economic growth”? We must have some form of definition. I hope that the definition would not cover plans that deliver increased congestion and pollution, cater for only a minority of the public or are poor value for the taxpayer. Of course, the M74 would not be supported—the public local inquiry has already rejected it—if the definition took into account those factors. It is contradictory for some members apparently to be in favour of sustainable economic growth but to be in favour of a transport plan that is completely the opposite. The provision should be in the bill. We should aim to deliver sustainable economic growth, but definitions have to be available in case there are legal actions or problems in relation to the rejection of this or that plan. Communities must be able to oppose a proposal and they need to know on what basis it is being promoted. I hope that those amendments are accepted.

Fergus Ewing made the fair point that we should have clear definitions to have good legislation, but he then contradicted himself by speaking to amendment 63, which mentions “religious or

cultural mores”. How many people could say that X plan does not fit in with their cultural or religious beliefs? That is a recipe for doing nothing. Although some other aspects of amendment 63 are useful, I ask Fergus to consider not moving the amendment. Perhaps at stage 3, instead of including the phrase

“ill health, or religious or cultural mores”

he could insert “disability”, leave out “religious or cultural mores” and include the phrase “by ferry”. He has admitted that the latter was an omission on his part. I am sure that there would be broader support for his proposals if he did that. There are reasonable proposals in the amendment, but the inclusion of that wording in paragraph (c) fatally wounds it.

On amendment 64, it is important not to have a hotch-potch of regional transport plans with no unity. We must get Scotland as a whole moving and there should be seamless relationships between the various transport partnerships so that there are no cross-boundary problems. It will be necessary for plans to have a view to broader national transport plans, and that should be stated in the bill.

15:00

Bruce Crawford: I start with the important point that Tommy Sheridan finished on. I congratulate Michael McMahon on amendment 64. If what he proposes is not included in the bill, where will the cohesion in pulling Scotland together be? Where will our joined-up thinking be? I ask David Davidson to think about a possible decision in the future by a Scottish minister that the east coast rail line should be electrified, for example. All the transport partnerships would have to be involved in helping to deliver that electrification and all the associated paraphernalia. If amendment 64 were not accepted, a transport partnership would not need to consider the ministers’ national transport strategy and therefore a major project might not be completed as a result of a transport area not playing ball. That would be a crazy situation. I will certainly support amendment 64, unless the minister comes up with a proposal that I have not foreseen.

I will leave Fergus Ewing to deal with the details of amendment 63.

The Convener: It would be helpful if you spoke to amendment 63, as Fergus Ewing does not have a right to respond to the debate. Only the person who moves the first amendment in a group has the right to respond to the debate.

Bruce Crawford: In that case, I will try to respond on the hoof.

People are concerned about specific elements of amendment 63, but Fergus Ewing should be encouraged that it is generally accepted that he is on the right track. I think that he accepts that he must reconsider parts of the amendment and lodge another amendment. However, it should be pointed out that the phrase “religious or cultural mores” is currently used in law; we might not like it, but it is out there somewhere. Fergus might not want to proceed with the wording of the amendment at this stage and I am sure that he will lodge an amendment at stage 3 that addresses people’s concerns. I hope that I have successfully covered Fergus’s points.

I understand where Sylvia Jackson is coming from in lodging amendments 60 and 61. However, the minister has proposed an additional power in the transport strategies in order to promote the Glasgow airport rail link, for example. I am sure that some of the people who objected to the Stirling-Alloa-Kincardine rail line would have said that it was not part of an environmentally sustainable transport policy and, if what the amendments propose had been in place, might have made it difficult in law for the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill to go through. However, it might be possible for the minister to be helpful to Sylvia Jackson by stating under section 5(1) that, in drawing up transport strategies, RTPs should consider how sustainable economic development can best be achieved, without including in the bill a definition that might cause difficulties to major transport policies or project developments. That consideration could be included in the bill, but not necessarily in the way that Sylvia Jackson proposes. I have tried to be helpful.

The Convener: I will make some brief comments. I understand that the amendments in the name of Sylvia Jackson and supported by Margaret Smith try to have the transport strategies’ aims set out and try to address people’s concerns about there not being enough definition in the bill. I think that most committee members support those members’ aims. However, if the Executive’s view is that the amendments need further refinement, we can agree to them at this stage with a view to agreeing to Executive amendments at stage 3 that can provide the definition to which Fergus Ewing referred.

I agree with the wide range of other members who have pointed out the potential problems that could be created by amendment 63’s reference in paragraph (c) to “religious or cultural mores”. It is valid to recognise that, although certain parts of Scotland have strong religious beliefs about observance of the Sabbath, we have many different Christian faiths and other faiths in this country as well as many people who do not have a faith. If a transport strategy were to try to address

all those different viewpoints, the problems that other members have highlighted might transpire, with many days of the week being deemed inappropriate days for the provision of transport. Indeed, certain types of transport might also cause problems for people with specific beliefs or for certain cultural groups. Amendment 63 is pretty unworkable. Like most committee members, I welcome Bruce Crawford’s recognition that Fergus Ewing will probably need to go away and think again. Fergus Ewing can perhaps lodge an alternative amendment at a later stage, but I urge him not to move amendment 63 today.

I will give the minister and then Sylvia Jackson the chance to respond to the debate.

Nicol Stephen: I will try to be brief.

I think that Bruce Crawford did an outstanding job in responding to the challenge—which none of the rest of the committee would have wanted—of reading Fergus Ewing’s mind.

Fergus Ewing: I am not sure that I agree.

Michael McMahon: His speech was far too short, for a start.

Bruce Crawford: I need to go for help.

Nicol Stephen: It is for the committee to judge the best way forward, but I accept the committee’s clear intention that there should be more in the bill setting out what is expected from the strategies of regional transport partnerships. It is for the committee to judge whether to agree to amendments in this group today or whether to agree to some of them and hold back others on the basis of my assurance that we will lodge appropriate amendments at stage 3. For the reasons that other members have given, we will need to lodge Executive amendments at stage 3 to clarify definitions and intent but, in the main, we accept the principle of what is being sought by the amendments in this group.

We fully share the intention of amendments 57 to 62 that, in drawing up their strategies, RTPs should, among other things, consider how to improve transport links throughout the region, take account of projected changes in population and land use, focus on the needs of users, pursue sustainable development, promote road safety and safe public transport and meet equal opportunities requirements. As members will know, Executive amendment 31, which has not yet been voted on, will promote equal opportunities. For the Executive amendments at stage 3, we will need to weigh up what is the best way of giving meaning and substance to the committee’s clear wish to have more in the bill.

I will not dwell on amendment 63. Although the amendment contains some reasonable proposals, I suggest that members should oppose it if Fergus

Ewing moves it. For example, it is not sensible to include in the bill a statutory duty that would require regional transport partnerships to prepare separate plans for different modes of transport. I thought that we were all about trying to get more integrated and joined-up transport. Making the RTPs put together five, six or seven separate statutory plans setting out full-scale statutory responsibilities for cars, buses, planes, trams, cycling, walking, inland waterways and so on would be the wrong approach.

As members have already spoken out strongly about Mr Ewing's reference to "religious and cultural mores" in paragraph (c) of proposed new subsection (2A), I will not go over their points again.

I agree with the intent behind amendment 64, in the name of Michael McMahon, but it might need to be tidied up by an Executive amendment at stage 3. It seems that our legal and drafting teams will have to do a lot of hard work to get this right by that stage, but I have great confidence that they will rise to the challenge.

Dr Jackson: I find David Davidson's remarks on amendment 57 somewhat strange, as they seem to imply that he does not want the more remote parts of our rural areas to be covered by the bill. He is shaking his head now, but at the time I felt that that was what he was saying. Strategies must cover all parts of the country, and that is certainly what amendment 57 seeks to ensure.

We all agree on amendment 58, which sets out the need to incorporate

"changes in population and land use"

in RTP strategies. There is also general agreement on amendment 59, in the name of Paul Martin.

Fergus Ewing has raised a significant question about definitions with regard to my amendments 60 and 61. However, this is not the first time that we have been in such a situation. For example, during the passage of the National Parks (Scotland) Bill, we had exactly the same debate about sustainable development, and we were able to break the matter down into three particular aspects. As a result, I do not think that the problem is insurmountable; indeed, the Executive should be able to get its head round it and come up with a definition.

Moreover, the environmental assessment procedures that have been introduced should be useful as far as amendment 61 is concerned. Only this morning, the Subordinate Legislation Committee was considering the Environmental Assessment (Scotland) Bill which, if I remember correctly, has been introduced as a result of a

European directive. There is a lot in the pipeline that should be able to address this matter.

As concerns have been expressed about certain very important environmental and social issues—indeed, the M74 has already been mentioned in that respect—I believe that amendments 60 and 61 must be agreed to in order to make the point. The minister has himself agreed that these points are important.

I think that everything that needs to be said about amendment 63 has been said, and Michael McMahon, Margaret Smith and David Davidson have dealt adequately with the issues that emerge from it.

I will press amendment 57.

The Convener: The question is, that amendment 57 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)
Sheridan, Tommy (Glasgow) (SSP)
Smith, Margaret (Edinburgh West) (LD)

ABSTENTIONS

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

The Convener: The result of the division is: For 8, Against 0, Abstentions 1.

Amendment 57 agreed to.

Amendment 58 moved—[Dr Sylvia Jackson]—and agreed to.

Amendment 59 moved—[Paul Martin].

The Convener: The question is, that amendment 59 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)
Sheridan, Tommy (Glasgow) (SSP)
Smith, Margaret (Edinburgh West) (LD)

ABSTENTIONS

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

The Convener: The result of the division is: For 8, Against 0, Abstentions 1.

Amendment 59 agreed to.

Amendment 60 moved—[Dr Sylvia Jackson].

The Convener: The question is, that amendment 60 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Jackson, Dr Sylvia (Stirling) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Sheridan, Tommy (Glasgow) (SSP)
 Smith, Margaret (Edinburgh West) (LD)

AGAINST

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

ABSTENTIONS

Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)

The Convener: The result of the division is: For 6, Against 1, Abstentions 2.

Amendment 60 agreed to.

Amendment 61 moved—[Dr Sylvia Jackson].

The Convener: The question is, that amendment 61 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Jackson, Dr Sylvia (Stirling) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Sheridan, Tommy (Glasgow) (SSP)
 Smith, Margaret (Edinburgh West) (LD)

ABSTENTIONS

Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Davidson, Mr David (North East Scotland) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)

The Convener: The result of the division is: For 6, Against 0, Abstentions 3.

Amendment 61 agreed to.

Amendment 62 moved—[Dr Sylvia Jackson]—and agreed to.

Amendment 18 moved—[Nicol Stephen]—and agreed to.

Amendment 63 not moved.

Amendment 64 moved—[Michael McMahon]—and agreed to.

Section 5, as amended, agreed to.

Section 6—Procedure before and after the drawing up of transport strategies

Amendment 19 moved—[Nicol Stephen]—and agreed to.

The Convener: Amendment 20, in the name of the minister, is grouped with amendments 65 and 21.

15:15

Nicol Stephen: The original draft of the bill proposes that transport partnerships must submit their strategies within 12 months of their creation. That is a reasonable period in which to expect a strategy to be produced. We do not want the strategies to take a long time to prepare and we do not want them to become like local plans, which can be out of date or not updated in good and reasonable time.

However, I have received representations from the existing voluntary partnerships and from SPT, suggesting that the quality of the strategies could be compromised if the partnerships had to stick to a strict 12-month time limit. I have considered the matter carefully and have concluded that the 12-month period should remain in the bill, but that opportunities should be provided for transport partnerships to request an extension of that time limit, subject to good reason being given. I propose that that request be made within eight months to ensure that, should an extension be refused, a regional transport partnership would still have sufficient time in which to produce its strategy.

Amendment 20 is pragmatic, although I stress that there is no intention to permit extensions automatically on request. There must always be adequate reasons and good evidence of substantial work already having been completed by a regional transport partnership.

Paul Martin's amendment 65 seeks to confirm that the purpose of submitting a strategy is to get it approved. I am happy to accept that amendment.

I move amendment 20.

Paul Martin: Amendment 65 is a technical amendment to include, in section 6, on line 29 of page 4, the words "for approval".

Fergus Ewing: Amendment 21 would allow a partnership

"to submit its transport strategy ... later than the time limit specified ... but not later than such date as is specified in the authorisation."

That provision seems to contain no long-stop date. My reading of the bill is that one year is the period in which the partnerships should devise their strategies. If there is to be any extension, some time limit should be set for that extension.

I wonder whether I have missed something or whether no time limit has been set for that extension. It would be odd for some partnerships to do their work in a year but for others to have an unspecified longer period in which to produce their strategies. Perhaps I have missed something, in which case I apologise. However, if there is no long-stop date at present, will the minister consider setting a long-stop date at stage 3? Unless there is a deadline, some people find it difficult to produce the goods. A deadline concentrates the mind, and the absence of one does the opposite.

Nicol Stephen: Fergus Ewing's idea is a good one, and I will come back to that point at stage 3 having considered what might be an appropriate back-stop time limit—perhaps a further six months. I thank Fergus Ewing for that suggestion.

Amendment 20 agreed to.

Amendment 65 moved—[Paul Martin]—and agreed to.

Amendments 21 to 23 moved—[Nicol Stephen]—and agreed to.

Section 6, as amended, agreed to.

Sections 7 and 8 agreed to.

Section 9—Joint transport strategies

The Convener: Amendment 66, in the name of Michael McMahon, is grouped with amendment 67.

Michael McMahon: During the consultation on the bill and stage 1, there was a lot of discussion about the possibility of a centre of population lying outwith a particular RTP's area, despite there being a compelling argument for the travel to work between that centre and the RTP's area to be included in the RTP's transport strategy. Section 9 deals with joint transport strategies, but there is a gap within that section. Unless the bill says that RTPs must ensure that there are good links between a centre of population and a particular RTP, there will be a loophole that it will be possible to exploit. As we have done on several occasions to make a bill tighter, we must have an amendment such as amendment 66.

Amendment 64, which we agreed to earlier, will ensure that any national transport strategy is taken into consideration, so amendment 67 is probably no longer required. I will not move amendment 67 if the minister agrees that that is the case. There is no point in having that provision in the bill twice.

I am more interested in getting amendment 66 into the bill so that it instructs RTPs in a way that will ensure that there are no loopholes whereby they can consider only centres of population within their area and not, in devising joint strategies, look

across their boundaries and develop a national framework of transport that will be to the benefit of all.

I move amendment 66.

Bruce Crawford: Amendment 64 was about a national transport strategy. Inevitably, a national transport strategy cannot deal with all the minutiae that there might be in the Executive's policy framework with regard to the specific policies in a given area. I wonder, therefore, whether not moving amendment 67 would be a weakness rather than a strength, as amendment 67 talks about "transport policies", not the overarching current national transport strategy. I seek the convener's indulgence. If, having listened to the minister, Michael McMahon decides not to move amendment 67, can I move it?

The Convener: Yes.

Bruce Crawford: Okay. I will wait to hear what the minister has to say.

Dr Jackson: I support amendment 66. My constituency of Stirling is in one particular regional transport partnership area, but the big centres of population of Glasgow and Edinburgh are on either side of it. Amendment 66 will be particularly important and I support it.

Fergus Ewing: I have a couple of questions for Michael McMahon. Although I agree absolutely with the sentiment of his remarks, surely it is explicit in section 9 that the transport partnerships should work together where they have common interests. I take the example of the A9, which straddles two or three transport partnerships. Given that they will all have an interest in seeing improvements to the A9, they will want to speak to each other on the matter.

Amendment 66 says:

"In drawing up joint transport strategies, Transport Partnerships shall have regard to improving transport between any cities or other major centres of population within the area covered by the Partnerships."

Although that is desirable, if the provision is put on the face of the bill, the implication is that the joint strategies need not consider transport in areas that are not major centres of population. In other words, if amendment 66 were to become enshrined in law, partnerships would not be required to consider the needs of smaller towns and villages in their joint transport strategies.

I am sure that that was not Michael McMahon's intention in drafting the amendment. If that meaning or that implication can be drawn from the wording of the amendment, does he agree that it would be better to think again about the provision and bring it back in another form?

My second question relates to amendment 67. As Bruce Crawford said, Michael McMahon referred to the "national transport strategy" in amendment 64. In drafting amendments, it is important to choose the same language. In amendment 67, the word "policies" should therefore be replaced by the word "strategies". If the bill is amended so that

"Transport Partnerships shall have regard to the transport policies of the Scottish Ministers",

that begs the question of what the policies of the Scottish ministers are. Without being too contentious, some could argue that it is not always clear what those policies are. I understand that the strategy is to be published in one document. Anyone involved in interpreting the law will therefore be able to establish exactly what the national strategy is, even if they are unable to establish what national policies are.

Nicol Stephen: I completely endorse Michael McMahon's intention in lodging amendments 66 and 67. If I may, I will take the second amendment first. The advice that I have received is that amendment 67 is unnecessary. If members look at section 5 on the formulation and content of regional transport strategies, they will see that section 5(2)(e) refers to

"the respects in which the transport ... will contribute to the realisation of the transport policies of the Scottish Ministers".

The duty also refers to instances in which joint strategies are produced. I ask Michael McMahon not to move amendment 67.

The outcome on amendment 66 will rest on the committee's judgment of the arguments. I would prefer it if Michael McMahon withdrew amendment 66 on the basis of my giving him an assurance that we accept the principle of what he is trying to achieve and that we would come back with an appropriate amendment at stage 3, which would relate to the section 5 amendments of Sylvia Jackson and others. It would be better if we provided greater clarity on, and greater specification of, what is required of regional transport strategies in section 5, so that that could flow through to the joint strategies. It seems easier to achieve what we want to achieve by amending section 5 at stage 3, and in so doing taking account of Michael McMahon's intention, than by voting in amendment 66 and then having to reverse it out at stage 3 and put back the appropriate reference in section 5. I hope that members understand what I am suggesting.

It would be sensible to place all the relevant detail in section 5. I want to ensure that that is properly scrutinised by the Executive lawyers and drafting people and that the bill makes it clear that what applies to the strategies of individual regional

transport partnerships also applies to joint transport strategies. Our current advice is that the bill is clear on that, but I will check up on that advice and find out whether we cannot make the bill even clearer on that point.

15:30

Michael McMahon: As I read amendment 67, it occurred to me that we would just be repeating an earlier provision. The minister clarified that amendment 67 is unnecessary, given that the wording of section 5(2)(e) means that my intended aim has already been met. As I am more than happy with the minister's response, I will not move amendment 67.

I am not as satisfied with his comments on amendment 66. We have to get such a provision into the bill. If he believes that another form of words is necessary, or that other issues must be dealt with, I would be more than happy for him to lodge a further amendment at stage 3, but I ask the committee to support amendment 66. Once the provision has been inserted, the minister will be able to produce other suggestions thereafter.

The Convener: The question is, that amendment 66 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Jackson, Dr Sylvia (Stirling) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
McMahon, Michael (Hamilton North and Bellshill) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Sheridan, Tommy (Glasgow) (SSP)
Smith, Margaret (Edinburgh West) (LD)

ABSTENTIONS

Crawford, Bruce (Mid Scotland and Fife) (SNP)
Davidson, Mr David (North East Scotland) (Con)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)

The Convener: The result of the division is: For 6, Against 0, Abstentions 3.

Amendment 66 agreed to.

Amendment 67 not moved.

Section 9, as amended, agreed to.

After section 9

The Convener: Amendment 68, in the name of Paul Martin, is in a group on its own.

Paul Martin: I lodged amendment 68 for a number of reasons. At stage 1, we received representations from a number of groups that referred to a lack of co-ordination in the delivery of transport to many national health service facilities throughout Scotland. The local evidence that I received on the ability of a transport strategy to

provide transport services to health facilities in my constituency—I am sure that other members have received similar evidence—made me feel strongly that it should be a requirement that a strategic approach to the matter be adopted through the formation of partnerships between the health authorities and the regional transport partnerships. There is some evidence that informal partnerships are in place in various parts of Scotland. By making the formation of partnerships between the relevant health authorities and the regional transport partnerships a legal requirement, amendment 68 would ensure that consideration is given to the challenges that people face in accessing the health service.

I was motivated to lodge amendment 68 after seeing the difficulties that the reduction in the frequency of bus services caused many of my constituents when they were trying to attend Stobhill hospital. I am sure that, throughout Scotland, there are examples of transport services to health facilities being reduced because of a lack of co-ordination and partnership between health authorities and transport authorities.

I move amendment 68.

The Convener: I see that quite a few members wish to comment. Before I ask them to speak, I point out that I intend to let the committee decide on this amendment, and then on some other amendments that we have already debated, before suspending these considerations until the next meeting at which we discuss stage 2 of the bill. The debate on amendment 68 will be the last debate today.

Tommy Sheridan: I strongly support amendment 68. Paul Martin has reflected the wishes of his constituents who find it very difficult to get to and from Stobhill hospital. Across the whole of Glasgow—whether we are talking about the Victoria hospital, the Southern general hospital or the Glasgow royal infirmary—more and more people are up against bus services that are driven primarily by profit. To try to get round the problem, some hospitals have even considered having dedicated bus services. However, as with many things, money is a big barrier. If we can concentrate the minds of the regional transport partnerships by introducing a legal requirement, we can squeeze some improvements into the system.

Amendment 68 is very important and I hope that the minister will indicate his support for it so that bus services to hospitals can be improved across Scotland. Like Paul Martin, I can speak only for Glasgow, but radical improvements are required.

Dr Jackson: It was in Glasgow that we first heard of an example of a health facility being moved but the bus service continuing to run as if

the facility was still in its original place. A number of new hospitals are being built, so it is vital for communities to have the provisions of amendment 68 in the bill. I heartily support the amendment.

Margaret Smith: I, too, support amendment 68; it is crucial that its provisions become a legal requirement. Anyone who has had anything to do with consultations on acute services reviews will know that, for the public, transport is one of the top two issues. That is certainly true in Edinburgh, where people now have to travel great distances to get to the new Edinburgh royal infirmary. The convener will know about problems getting to St John's hospital in Livingston; and, in my constituency, a new tramline will not stop at the second largest hospital in the city. In the past, the NHS has not given transport the importance that it deserves in its formal processes. If legislative action is required for that to happen, we should take that action. I welcome amendment 68.

Bruce Crawford: I welcome amendment 68 as well. It is a pity that we cannot rewind the acute services reviews and include in them the provisions of the amendment. In Sylvia Jackson's area, no one considered how to get people from Callander to Larbert before the decision was taken to build the new hospital at Larbert. In future, people will face similar problems getting from Dunfermline to Kirkcaldy. There are no cohesive plans to transport people from one part of the community to another.

Many such decisions have been taken at the margins. Had we had something like the provisions of amendment 68 in place earlier, we might have been able to get people to apply their minds to transport issues. I am a bit afraid that some irrevocable decisions are being made and that we are facing a future transport nightmare because some of that work has not been done properly by local authorities and the health boards. Had a transport authority and the health boards sat down and thought it through properly, they might have come to a different conclusion. I am glad that the amendment is being made now, even though the previous situation cannot be rewound.

Mr Davidson: I have received communications from all over Scotland about access by public transport to hospital services. The issue is wider than that because some of the centralisation plans of the NHS and the Executive, as well as staff shortages, have resulted in some peripatetic outpatient services being moved into population centres. In the rural north east, where I come from, there is a huge problem in all parts of the region about access, not just to services, but for people to be able to visit others.

I have two questions for Paul Martin that I hope he will be able to answer. Where does he expect the funding for the measures to come from?

Would it come partly from the health boards, or solely from the regional transport partnership? Without adequate funding, some of those services will just not happen, despite what is on the face of the bill.

Paul Martin's amendment 68 includes the words:

"persons using hospitals and other NHS facilities in the Health Board area."

Why did he not seek to extend provision of transport to major care facilities? A lot of older people want to visit relatives who are in care and they require access to public transport, which is part and parcel of the support of an individual in a care facility. Apart from that, I accept the principle of what Paul Martin tries to achieve, but we could do with more clarification. Perhaps the minister will express Executive views about that in his winding up.

Fergus Ewing: I have a few technical points to make. I support the aim and sentiments of amendment 68, which is that the transport partnerships and the health boards should work together. However, amendment 68 says that the strategy

"must set out measures to secure the effective provision of public transport to persons using hospitals".

I am not quite sure what the phrase "persons using hospitals" means because people who visit hospitals cannot be said to use hospitals. I presume that it is intended that visitors to in-patients should be covered. If that is the case, it must be made clear. I presume that the wording would apply to patients, visitors, employees and people in general who have a need to go to a hospital.

The amendment does not encapsulate the provision in section 9 that makes it clear that in producing the health transport strategies, the requirements of sections 5 and 6 have to be fulfilled. That is a technical point, but if there are to be strategies, they should be produced in a year, or a longer period. That is the purpose of section 9(1), which makes it clear that joint transport strategies should be covered by the generality of the technical rules in sections 5 and 6. Perhaps the minister will respond to that.

If we are to make specific transport provision to and from hospitals for health boards, which is desirable, what about specific provision to and from schools for education authorities? I am tempted to ask, "Where do we stop?" or, "Should we stop?" I am just asking the question and not setting out any particular view. Transport to and from school can be just as contentious and controversial as transport to and from hospital and perhaps more so in some cases because of the additional problem of security. Should that be on

the face of the bill too? I am interested to know what the minister thinks.

Is it intended that the strategy should encapsulate the Scottish Ambulance Service, which applies to the whole of Scotland, as well as the geographical areas of health boards? It does not seem to be the case, but I thought that that might be intended. Would wider issues such as car-parking charges be covered by the strategy? Car-parking charges in some cases are so high that they are a deterrent to people who want to visit hospitals. It can be a very expensive experience in some parts of the country.

15:45

Nicol Stephen: There is clearly strong feeling on the issue, which I support. My recommendation is therefore that you agree to amendment 68 today, but that it will be necessary to come back at stage 3 with an amendment that will cover some of the issues that have just been raised by Fergus Ewing in relation to health board areas, the fact that the Scottish Ambulance Service has a Scotland-wide remit and the duty that would be placed on all the health boards in Scotland.

I would also like to examine the potential for a multiplicity of different statutory strategies to see whether, in terms of cross-boundary issues, there are opportunities for regional partnerships and/or health boards to work together on the development of those plans. We need to consider what status should be given to plans with health boards as against other plans with education departments or social work departments, or with plans such as that in the care home example given by David Davidson. I would like to weigh up those issues and draft an amendment, but that amendment should keep the spirit of amendment 68, which the Executive strongly supports.

I would also like to discuss the issue with the Minister for Health and Community Care, so that we can take soundings in the Health Department and come up with a sensible way of implementing a strategy. I have already spoken to him and he supports the intention of Paul Martin's amendment. It is important to put that on the record and make it clear that any amendment that the Executive comes back with at stage 3 will attempt to strengthen and ensure proper implementation of amendment 68, rather than change its intention.

Paul Martin: I shall deal briefly with a number of points. Fergus Ewing raised a point about the comparison with education facilities. The purpose of amendment 68 was to introduce a specific reference to health. I think that there is a significant difference between mothers travelling to school to collect their children and people

attending hospitals who require 24-hour facilities. I make no apologies for the fact that the purpose of my amendment is to focus on health. I recognise that there are many other arguments for areas that are to be served by transport facilities, but health is the specific focus of my amendment.

Fergus Ewing had the opportunity to lodge his own amendment about education or any other area, but amendment 68 gives us the opportunity to focus on health and to recognise the challenges that people face when they have to travel at an appointed time. No routine is attached to medical facilities. People do not attend every morning at 9 o'clock; sometimes they are told to attend at certain times. Amendment 68 recognises that and attempts to inject a health theme into the bill.

David Davidson made a point about funding. I know that the First Minister asks David McLetchie about funding every week, so there is a comparison there. Funding will come into the issue, and the challenge that the regional partnerships will face will involve them in looking for ways in which they can create opportunities for funding. They will also have an opportunity to face up to the bus companies, which have to take the good with the bad, as I have always said, and deliver a service to the areas that need it. I would argue that the partnerships could have powerful lobbying opportunities to bring in additional funding for services. They could also examine how services are delivered at the moment, because there are still opportunities to improve services where resources are not always the issue. Getting round the table in the first place, which does not happen in many health board areas because there is no statutory obligation to do so, will ensure that that happens.

David Davidson also raised the issue of care facilities. It is difficult to define our approach to that issue. The focus of the amendment is on primary and acute care services. I understand that the member wants to add care facilities, and there may be opportunities at stage 3 to broaden the scope of the amendment.

I welcome the fact that a majority of members appear to support amendment 68. However, members' unanimous support for the amendment would add weight to the argument that there is a need for all transport services to improve how they deliver services to communities that are served by health facilities.

Amendment 68 agreed to.

Section 10—Other transport functions of RTPs

The Convener: We will vote on a series of amendments before concluding today's stage 2 consideration of the bill. I remind members that amendment 24 pre-empts amendment 69.

Amendment 24 moved—[Nicol Stephen]—and agreed to.

The Convener: Amendment 69 falls.

Amendment 25 moved—[Nicol Stephen]—and agreed to.

Amendments 70 and 71 not moved.

Amendment 72 moved—[Michael McMahon].

The Convener: The question is, that amendment 72 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)
Sheridan, Tommy (Glasgow) (SSP)
Smith, Margaret (Edinburgh West) (LD)

AGAINST

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

The Convener: The result of the division is: For 8, Against 1, Abstentions 0.

Amendment 72 agreed to.

Amendment 26 moved—[Nicol Stephen]—and agreed to.

Amendment 27 not moved.

Amendment 28 moved—[Nicol Stephen]—and agreed to.

Section 10, as amended, agreed to.

After section 10

Amendment 29 moved—[Nicol Stephen].

The Convener: The question is, that amendment 29 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Jackson, Dr Sylvia (Stirling) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
McMahon, Michael (Hamilton North and Bellshill) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Sheridan, Tommy (Glasgow) (SSP)
Smith, Margaret (Edinburgh West) (LD)

AGAINST

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

ABSTENTIONS

Crawford, Bruce (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)

The Convener: The result of the division is: For 6, Against 1, Abstentions 2.

Amendment 29 agreed to.

Section 11—Manner of performance of RTPs' functions

Amendment 30 moved—[Nicol Stephen].

The Convener: The question is, that amendment 30 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)
Sheridan, Tommy (Glasgow) (SSP)
Smith, Margaret (Edinburgh West) (LD)

AGAINST

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

The Convener: The result of the division is: For 8, Against 1, Abstentions 0.

Amendment 30 agreed to.

Amendment 31 moved—[Nicol Stephen]—and agreed to.

Section 11, as amended, agreed to.

The Convener: Amendment 73 was withdrawn.

Section 12—Transport functions of Scottish Ministers

Amendments 74 and 75 not moved.

The Convener: That brings us to the start of the next grouping, which we will debate at our meeting on 10 May. We conclude today's stage 2 consideration of the Transport (Scotland) Bill and move on to the remainder of our business. A completion target for the meeting of 10 May will be published in the *Business Bulletin* within the next couple of days. I thank the minister and his officials for their participation in the meeting.

Nicol Stephen: I thank the convener and members.

The Convener: I suspend the meeting to give members the opportunity to have a short break.

15:55

Meeting suspended.

16:00

On resuming—

Licensing (Scotland) Bill: Stage 1

The Convener: Agenda item 2 is further consideration of the Licensing (Scotland) Bill at stage 1. I welcome to the committee Malcolm Dickson, the deputy chief constable of Lothian and Borders police. He is here today in his capacity as a representative of the Association of Chief Police Officers in Scotland. I give him the opportunity to make introductory remarks on the bill, following which we will move on to a question-and-answer session.

Deputy Chief Constable Malcolm Dickson (Association of Chief Police Officers in Scotland): Thank you. It is a pleasure to be at the committee.

The Association of Chief Police Officers in Scotland has certainly been widely consulted and involved in the build-up to the bill; ACPOS was also involved in the Nicholson committee. Therefore, ACPOS strongly supports a great deal of the bill's provisions. We particularly support the fact that, for the first time in Scotland, we have a proposed purpose for licensing in the five licensing objectives. That is no small step forward.

It has been understandably difficult for licensing boards over the years, and certainly since 1976-77, to focus on what their function is and what they are trying to achieve because local councillors wear many hats from day to day. Councillors may find themselves playing a strong role in promoting economic development, but the following day they may find themselves on a licensing board. In a country such as Scotland, where tourism, which is a mainstay of the industrial life of the country, relies heavily on the hospitality trade, councillors will clearly be minded much of the time to try to promote the growth of that trade. ACPOS is delighted by the proposal in the Licensing (Scotland) Bill that licensing should have a clear, separate function that concentrates, correctly, on harm reduction.

We welcome various aspects of the bill, including: the retention of licensing boards, which give a local angle; mandatory training—the professionalisation of the licensed trade, if you like; over-provision assessments, which the Scottish Executive has added since the Nicholson committee reported; the discouragement of irresponsible promotions; the protection of young people; and, as I said, the introduction of the five licensing objectives.

However, there are a couple of areas in which we think that care has to be taken during consideration of the bill or during its

implementation, in whatever form it is passed. We accept that, in the 21st century, nationally prescribed permitted hours may no longer be the best way in which to deal with trying to keep some control over the total provision of licensing. We think that, as the Nicholson committee stated, law does not change culture. However, we are slightly concerned, because the drinking culture in Scotland is quite different from that in southern Europe, as I think that everyone acknowledges. I know that the bill does not propose a complete free-for-all, but there is a danger that, over the years, control over the total provision of licensing might be lost. That is our fear. If someone could tell me that the bill will not lead to an inexorable rise in the total provision for public drinking, I would be happy, but I am concerned that there might be such a rise, given the way in which the bill is framed.

My second concern is related to that point, as it is about over-provision. The police service welcomes the bill's approach to over-provision, but there should be clarity about how over-provision will be measured. We do not suggest that the standards in relation to over-provision should be the same in the centre of Glasgow as they are in the centre of Alloa. However, there must be a consistent approach.

A further concern that we have expressed since the process began is the diminution of the role of the police service in the person of the chief constable. The current legislation is not perfect, but it allows licensing boards to take account of matters that do not necessarily result in a conviction in a court of law. The civil standard of proof—on the balance of probability, rather than beyond all reasonable doubt—is required, as is the case in relation to the decisions of other bodies. There are matters to do with licensing, and particularly the people who are involved in the licensing trade, that police forces should legitimately bring to the attention of licensing boards. The bill removes that discretion from licensing boards. That is our thinking on the bill, in broad terms.

The Convener: Thank you for those comments and for the paper that you submitted before the meeting, which members have a copy of.

Margaret Smith: I used to be a member of a licensing board and an abiding memory of the board's meetings, apart from the fact that they were very long, is the useful input that we received from police officers, not just about whether applicants were fit and proper persons but about how licensees ran their establishments and how their staff dealt with difficulties on the premises. Given that I have that background, I am receptive to the compelling arguments that are made in the submission from ACPOS for retaining the current

level of police involvement and role of chief constables, as well as for including in the bill a definition of "fit and proper person". The submission argues that the current procedures on the role of the police in licensing should be maintained. How could the procedures be improved?

Deputy Chief Constable Dickson: I cannot think of an answer at the moment, but I appreciate your comments. In our written submission, we tried to cover the wider area of how the police are exposed in the first response to a crisis situation in licensed premises. Licensees might not be on their best behaviour when they run premises, but there are matters that licensing boards have a right and perhaps a duty to consider.

The current operation of the Licensing (Scotland) Act 1976 is more or less adequate in enabling us to get views on such matters across to boards. However, we have some difficulty with appeals after a licensing board has decided, for example, to suspend a licence. Even though there might be a prima facie case for suspension, if an appeal is submitted, the licence is reinstated while the appeal waits to be heard. However, if I remember correctly, I believe that that issue is partly covered in the bill, which gives police forces some discretion in closing premises.

Margaret Smith: On the list of relevant offences in the bill, you feel that boards should be left to decide on the relevance of convictions. In fact, you feel that boards should have regard to convictions that are not related simply to running licensed premises.

As far as personal licences are concerned, you feel that the bill's current provisions would lead to self-reporting of court cases and convictions by those who are applying for licences. What would be the result of such an approach?

Deputy Chief Constable Dickson: The list of relevant offences in the bill represents the kind of straitjacket that we want to avoid. That is not because we are spoilsports and always see the worst in everyone; however, as members who have been councillors before will be aware, the police possess certain information about offences and convictions. I should point out that that information can be corroborated to a degree; I am not suggesting that we provide questionable information to licensing boards, and in any case it is always up to the licensing board to question how information has been obtained and whether it is reliable. Police forces throughout Scotland are much better now than they were 20 years ago at assessing the reliability of non-conviction information.

There are occasions when the behaviour of a personal licence holder or the person named on a

premises licence under the terms of the Licensing (Scotland) Act 1976 might not fall into the strict categories of relevant offences that legislators have set out, including—obviously—those that contravene the 1976 act. However, the repetition of an offence might indicate to a licensing board that there is a question mark over a person's fitness to be a licence holder or that they did not have sufficient respect for the law. Moreover, although they might not have proffered a charge or although the case might not have gone to court, police officers might have dealt with an individual in circumstances that suggest that his or her own use of alcohol might be out of control or might differ from the norm. The boards have a right to know about such factors and to dismiss or accept them as they wish.

As for personal licences, the Nicholson committee's recommendation of a national database of personal licences would have been sensible. However, I understand that resources and the logistics involved may prevent the immediate implementation of that recommendation.

The difficulty with introducing the personal licence that the bill proposes is that the licensing board where a person resides when that person first applies for a licence would be responsible for maintaining the record of that licence. Therefore, there would be 32 or more different databases. As soon as a person moved from one area to another, there would be an opportunity for information to be missed, especially in relation to that person thereafter appearing before a court. The bill assumes that a personal licence holder will self-report a conviction to the new licensing board; however, that leaves too much to chance.

Over the past year or so, police consideration of such aspects of the bill has been informed by the outcome of the Bichard inquiry into the tragic murder of two girls in Soham, Cambridgeshire. As you will recall, the inquiry was fairly critical of the way in which police forces exchanged information with one another—especially information on non-court convictions. We are sensitised to that situation albeit that, in Scotland, there is a national database of police intelligence that we hope is a big improvement on the situation in England and Wales. Nevertheless, just as we are not complacent in relation to child protection, we are not complacent in relation to ensuring that licensed premises are run in a proper manner.

16:15

Paul Martin: My question is probably more relevant to the off-trade than the on-trade. One specific concern that has been raised with us is that when local communities arrive at a licensing board hearing and are advised that there is no

police report, that does not always reflect their local concerns, as they may have made a number of calls in connection with an off-licence. It appears that their perception of antisocial behaviour surrounding premises and their concerns about that are not reflected in a police report. Is there an argument for having a recognised and consistent format at licensing board hearings to ensure that it is not in the gift of the police officers to report such matters but a requirement on the police to report them in a consistent format?

Deputy Chief Constable Dickson: I sympathise with that point of view. We would all—including the association—like to be as consistent as we could be throughout Scotland. However, we are faced with the fact that the eight police forces in Scotland all have different information recording systems: there is no standard format for information capture and provision. There may be room in the bill for, as you suggest, at least a requirement on police forces to bring forward to the licensing board the information that they have gathered about a premises over a given period of time.

It is the practice in Lothian and Borders police for us to try to capture as much information as we can about any incident—to use police speak, for which I apologise—on licensed premises. That sometimes covers incidents that are close enough to the entrance of licensed premises to cover the information that you are talking about. It is sometimes difficult for police forces or boards to differentiate between behaviour outside premises that is related to the premises and behaviour that is there because it is there. Equally, however, I understand that a board might want to know about that and might want to make that decision itself.

The Convener: I have a question about the licensing standards officers. In your submission, you raise a particular concern about the power to enter unlicensed premises. You are concerned about the fact that no warrant is proposed in relation to that power and, importantly, about the potential for LSOs to be subject to violence. Would it be more appropriate for police officers to pursue that role? I ask you to expand on the point.

More broadly, what relationship do you envisage between the LSOs and the police? As well as mediating between licensees and the local community, LSOs will also have an enforcement role. If LSOs are established in local authorities, will they be in the right place or should they be attached to police forces as civilian officers? Do you have other opinions about the proposed operation of the LSOs?

Deputy Chief Constable Dickson: The proposal is partly about the decriminalisation of

licensing offences. On the technicalities of how the running of licensed premises is conducted, I no longer see a need for those premises to be policed by the police—I say that as a police officer who is constantly juggling resources and trying to meet increasing public demands with finite resources.

The convener's first point was about the power to enter unlicensed premises. I think that most of my colleagues across Scotland would say that we are no longer in the situation of dealing day in, day out with shebeens, illicit stills and drinking clubs. That said, we still need to maintain an awareness of the potential for such premises to exist. It is therefore right for the bill to address the potential for the unlicensed sale of alcohol.

The power that is proposed in the bill for LSOs to enter unlicensed premises without a warrant exceeds the power that police officers have at the moment. Consideration has to be given to safety in that respect. After all, the LSOs, who will be working for licensing boards or local authorities, will be expected to look at the less criminal end of enforcement, monitoring and compliance. We do not expect them to be trained in dealing with disorder or potential violence to the degree that police officers are. That is one reason why we raise the issue.

I turn to the enforcement role and where I see the best place for LSOs. As I said, I tend to think that it is not a bad idea to shift some of the responsibility for enforcement—at least for monitoring and compliance—from police forces to LSOs. LSOs will work for licensing boards or local authorities, partly because of the decriminalisation issue and partly because of the issue of police resource.

The fact of the matter is that, as much as we want to give adequate attention to licensed premises today—here and now in April 2005—other demands on our service mean that we are not doing that to the level that the public has a right to expect. Having a dedicated resource that is at the behest of licensing boards or local authorities seems to be a sensible way of trying to preserve the monitoring and compliance role.

In some ways, having such a dedicated resource might de-escalate the confrontations—that might not be the right word—that arise with some licensees or their staff. It is an unfortunate fact that some members of society do not like the police. I do not know why that is the case, but there are such people. Perhaps the proposal for LSOs will give a more acceptable face to enforcement, monitoring and compliance than the bobby is seen by some to give at the moment.

The association's view is that, as long as monitoring and compliance are done, we do not have a strong feeling either way on the issue. We

are not confident that all police forces across Scotland are providing that monitoring and compliance at the moment.

The Convener: I would like to explore your concerns about warrants to enter and inspect unlicensed premises. I take your point that illicit stills are probably not the concern; I suspect that duty evasion will probably be the biggest concern over the unlicensed trade in alcohol. I understand that organised crime is often behind such trade. Do you fear that if the power in question were introduced, LSOs could potentially put themselves in very dangerous situations?

Deputy Chief Constable Dickson: That potential exists. Through exchanging information with HM Customs and Excise, we know—indeed, I think that everybody now knows—that the movement of alcohol across national borders as well as within countries is problematic, and I would not like to think that LSOs, whom we think of as the friendly but coercive face of the local authority licensing board, would step into such situations.

The Convener: David Davidson has a question. Is it related to what Paul Martin asked about?

Mr Davidson: Yes—it is on the previous point. I would like clarity on a specific matter. I could not find details of the police's position on personal licences and a way forward—in other words, positive recommendations on what the police authorities or ACPOS would like to see. Do you support personal licence holders holding a Scotland-wide licence, particularly as some chains now have managers who move around? Would you like there to be an accredited standard that people must pass, with no automatic provision? People would have to become accredited and they would then have a national licence. Equally, should there be a central register through which police input—regardless of which force it came from—would be made available to the appropriate licensing board when it came to make a decision? You were not terribly clear about that matter.

Deputy Chief Constable Dickson: I apologise for that. ACPOS's position on personal licences, on which I am authorised to speak, is that the idea has some attractions, but we understand why the Executive has stopped short of advocating a national database, as that would have big resource implications. However, without a national database, we cannot see any advantage over the current system of personal licences.

You asked what the association would like to see in relation to personal licences. I suppose that a Scotland-wide licence would be a sensible progression. I do not think that such a licence would necessarily be administered centrally, but if it were to apply throughout the country, agreement would be needed between the eight forces and the

licensing boards that they were willing to conform to a standard.

Accreditation is probably dealt with reasonably well in the bill, which covers training for personal licence holders to be qualified. Perhaps there is a question of timing and whether a person must graduate as a personal licence holder before they take up the occupation or whether there is some leeway. For example, a person could be in the trade for some time and then progress to a personal licence.

Mr Davidson: Do you see a comparison between police forces' access to, for example, information on traffic offences that is recorded on driving licences and the process that we are discussing? A system already exists for any police force to obtain information about a driver at any time.

Deputy Chief Constable Dickson: I am concerned that, as things stand, we would not be able to hold nationally all the information that I mentioned earlier, over and above relevant offences. Most information about specific incidents that do not result in court cases, for example, will be kept locally, probably at the headquarters of each of the eight police forces. Scotland does not have a national police force, so there is no standard way of capturing such information.

Mr Davidson: I accept what you said in response to the convener's query about court cases. However, would you care to consult your colleagues and write back to the committee offering a view on how information that is not the result of a court action or prosecution could be transferred and the information that you think should be covered? The committee would find that useful.

Deputy Chief Constable Dickson: I can certainly do that.

16:30

Tommy Sheridan: You made some interesting points in response to the convener's question about the powers of licensing standards officers. Rightly, you are worried about their being given even more authority than existing officers of the law have. I am therefore surprised that there is an omission from your written evidence regarding section 86 of the bill, which describes the powers that are to be conferred on licence holders to remove from premises any person on whom an exclusion order has been imposed. Section 86(4) states that the licence holder may

“(a) remove the person from the premises, and

(b) if necessary for that purpose, use reasonable force.”

I have asked a number of witnesses about the provision, and all have expressed concern about

it. I thought that ACPOS would have expressed more concern than anyone. I am concerned by the suggestion that a licence holder could use reasonable force to remove a person from premises, because I do not know what reasonable force is in all circumstances. Do you share my worry about that provision?

Deputy Chief Constable Dickson: I am glad that you have brought that to my attention. Although I have studied the bill, I have not read it line by line and I confess that this is the first time that I have noticed that provision, so there is a shortcoming in my association's submission to the committee, for which I apologise. The provision has not been brought to my attention by any police force, which surprises me. My response to the question must therefore be personal because I have not been authorised by the association to give its view on the matter.

I share some of your concern that people who are not empowered officers of the law should have a statutory right to use reasonable force. As you say, “reasonable force” is not defined in the bill, although it is defined in other legislation, notably the Police (Scotland) Act 1967. I suppose that the provision is an attempt to be pragmatic and to acknowledge the reality that exists. I am sure that licensees have asked people to leave their premises and have escorted them to the door. However, there is a world of difference between that and using the degree of force that a police officer might use in making an arrest.

Tommy Sheridan: At previous meetings, I have referred to it as the Rambo provision, because there is concern that a power is being conferred that could be used disproportionately, depending on the size of the licence holder and of the person who is breaching the exclusion order. Superintendent George Clelland of Strathclyde police, who gave evidence to the committee, said that it was a dangerous road to take. Sheriff Principal Nicholson said that the provision would open up a can of worms in relation to potential legal challenges. If a licensee bashes a person over the head to knock them unconscious so that they can remove that person, is that reasonable force, if the person is 6ft 4in tall? I ask the association to consider the issue and to give us a written opinion on it. I hope that your opinion will be similar to those of the people who have already expressed a view, and that the Executive can be persuaded to remove the provision.

The Convener: It would be useful if you could give us written confirmation of the association's views, once you have liaised with colleagues.

Tommy Sheridan: I would like to put another question to Malcolm Dickson. I have my first parenting class tonight and I need to leave at 5. May I ask the question now?

The Convener: As long as it is not a long speech.

Tommy Sheridan: It will not be. The question relates to the interesting paragraph in your submission entitled “Polluter Pays?” which is short on solutions, as I think David Davidson said. You hint, quite rightly, that the policing of licensed premises, particularly larger ones, usurps much of your resources. As a result, you say that some areas, such as housing schemes in Edinburgh, are “not receiving the level of policing”

that they need and deserve. You suggest that we introduce “some mechanism” whereby big licensed premises would pay for the extra attention that they would receive. Yesterday, a housing association in Glasgow received publicity about a scheme through which it would pay for police officers’ time. I am interested to hear what ACPOS says, so can you come back to us with possible solutions? You talk about a mechanism, but what would it be and how would it work?

Deputy Chief Constable Dickson: In England and Wales, the legislation’s approach to licensing hours is similar to that which the bill takes, and the Government is considering such mechanisms, not all of which would address my concerns. For example, the Government is considering linking hot spots of disorder with particular licensed premises. Another approach is to identify localities in which there is a specific need and to designate zones in which charges will be levied; such an approach might tackle the problem in Scotland.

I am worried that we are giving the impression that we are anti-entertainment or that we are opposed to people enjoying themselves, which is certainly not the case. Nor are we opposed to superpubs—as they tend to be called—many of which are well run. However, every time a new big premises opens, policing feels the pinch. We are feeling it particularly in Edinburgh, where there are twice as many licensed premises per head of population as there are in Glasgow, as members know. During the past five years, the traditional city-centre entertainment area has grown tentacles down Leith Walk, along George Street and down the Cowgate and might even extend as far as Holyrood—heaven forbid.

When large premises open, the number of people who enter the city centre for night-time entertainment increases, which has an effect on disorder and violence on the streets. We are not saying that disorder and violence emanate from particular premises; we are saying that an increase in the totality of public drinking has harmful effects. The infrastructure to deal with such effects in Edinburgh is already creaking; we cannot provide the level of policing in housing estates on Monday mornings at 9 am that we

should provide, because between 11 pm and 3 am on Fridays and Saturdays we are dealing with the situation in the city centre. The policing pattern for the 24-hour, seven-day week is skewed to the period between 11 pm and 3 am, 4 am or 5 am on Friday, Saturday and sometimes Sunday nights. We must comply with working time regulations and police officers must sometimes have days off, so every time we put an extra officer on duty on a Friday or Saturday night, we must take one or two officers away from daytime policing of other social problems. That is our worry.

You ask for constructive suggestions; we have sought legal opinion and there is no obvious way of dealing with the problem. For example, we cannot simply allow councils to vary business rates, which might be one approach. I suggest that we cannot have a voluntary arrangement that relies on the good nature of individual licensees. Some licensees have approached us and have offered to chip in, which is commendable although it is not a solution. We need some sort of precept: the money from that need not necessarily go straight into police coffers, given that public drinking puts demands on other parts of the public service infrastructure that we have mentioned today, such as public transport, lighting, closed-circuit television and refuse collection.

We need some way of getting the trade to provide for public services. That might mean, for instance, amendment of the bill to allow licensing boards to designate part of an urban centre as placing particular demands on public services, such that a condition of any licence is that the licensee must pay X or Y, according to the size, capacity or throughput of the licensed premises.

The Convener: That idea seems to have parallels with the arrangements for recovering the costs of policing football matches, which are another major business that can sometimes involve disorder and violence. I understand that a significant proportion, if not all, of those costs are recovered by the police. Should we adapt that model to recovery of costs from licensed premises?

Deputy Chief Constable Dickson: To be honest, I would prefer not to adopt the model that is used for sporting events, which has been fraught with difficulty ever since it was introduced and is not easy to enforce. To allow police forces to issue enterprises with bills for extra policing is not what the ethics of the situation demand. I would prefer that the extra need for public service infrastructure be recognised in community planning, perhaps by the community safety side of community planning. Instead of the police force deciding what that extra need is, the police force could simply state how much extra resource it feels it must afford to deal with the problem.

Perhaps the community planning authority—that is, the local authority—or some other body could arrange for that money to be pulled in by precept.

The Convener: I will allow brief supplementary questions from Bruce Crawford and Margaret Smith before we return to the questions that are written down.

Bruce Crawford: I have two brief questions on resource issues, on which Malcolm Dickson has made some important comments. First, if the City of Edinburgh Council's licensing board issues more licences and creates more licensed premises per head of population than exist elsewhere, surely the council has a responsibility to acknowledge that in the level of grant-aided expenditure it provides to Lothian and Borders police. Should not the council recognise the added pressure on the police that results from its attempts to create economic development and growth in the city?

Secondly, why would it necessarily be more expensive to have a national database, which could be updated with local input using web-based secure systems, than to have 32 separate local databases created by local authorities? I just do not understand that. Is an issue of scale involved?

Deputy Chief Constable Dickson: I will answer your second question first. I am very much in favour of there being a national database. The personal licences will work—if we go down that road—only if we have a national database. However, I was trying to suggest, although perhaps I did not make myself clear, that the information that licensing boards need before someone could get on to such a database is currently held by eight different police forces in eight different ways. We could not simply from one week to the next take that information from those eight different places and put it in one place and expect that the data would, as it were, be able to talk to one another. However, you are absolutely right that the way ahead for licence holders is to have one national database rather than 32 local databases.

In Edinburgh and other towns and cities that have special licensing needs, some of those factors are considered in allocation of grant-aided expenditure, but the licensing issue gets lost in the plethora of factors that are argued over. Perhaps such a special licensing need does not have a high enough profile among those factors, but that would perhaps be the ideal way to consider the matter. As members probably know, Lothian and Borders police force recently argued that Edinburgh is a special case and was granted additional funding by the Scottish Executive. That funding did not take into account Edinburgh's licensing situation although, as you can imagine, we tried to make that case. The additional funding

took into account demands on the police that are unique because Edinburgh is a capital, such as the Scottish Parliament, the Scottish Executive, consuls, VIP visits and so on. The situation remains in Edinburgh. You are right to say that the City of Edinburgh Council could decide to pay more. It has in other cases—for example, on policing of antisocial behaviour.

16:45

Margaret Smith: Some of my questions have already been touched on. I can testify to the fact that the problem is clearly a drain on community policing around Edinburgh: we have heard about one example. I had cause to call the police a couple of weekends ago; an hour later I got a phone call explaining why they had not arrived. I have not yet seen a policeman on a Saturday night because they have, I think, been dealing with problems outside licensed premises in the Haymarket area.

My other point is about the funding mechanism and the grants that are given to local authorities. The issue should play its part in working out of GAE, because it is not just about a simple figure that indicates how many licensed premises there are in a local authority area. There are several knock-on impacts, of which policing is the most important.

You mentioned that you sought legal advice on the matter. I know that people get very agitated about the possibility of making public any legal advice that they have been given. You sought legal advice on whether there is a simple way to address the problem, for example though varying of business rates, on which you came to the view that it could not be done. Can you expand further on those comments? I guess that one of the problems is that of attributing blame to particular premises. Would there be mileage in giving licensing boards the power to vary fees if there were continual issues about the need to police particular premises, or would the correct response in such a situation be to decide that the premises should no longer have their licence?

Deputy Chief Constable Dickson: I have to say that the legal advice is currently draft advice, so we could not found our position on it, but it suggested that variation of business rates does not seem to be a possibility because those rates are set nationally; local boards do not have any leeway to vary them. However, Parliament can change the law.

As I hinted earlier, it would be difficult to vary fees on the basis of the blameworthiness of individual premises, although boards have the power to suspend licences or to attach conditions to licences. Generally speaking, we are talking

about the totality of drinking in a given area rather than how individual licensed premises are run.

I read something that an eminent professor in England had written, which was quoted in Alcohol Focus Scotland's evidence to the committee. That evidence said that concentration on individual premises rather than on the problem holistically was a bit of a red herring. I sometimes feel that the same is true of the issue that we are considering now, and I have to give the bill credit for moving away from that. The Licensing (Scotland) Act 1976 tended to focus on individual cases, so licensing boards have found themselves in a difficult position ever since because they have had to think about the issue case by case and have never been able to ask what effect a licence would have on a town, city or other wider locality. The bill is moving us away from that, and I like to think that we would not necessarily place blame on individual premises. That said, however, if there is incontrovertible proof that the presence of particular premises that operate a particular type of business in a particular place is adding to public service expense, that may be a justification, but that would be the exception rather than the rule.

Michael McMahon: The bill is designed to address what are perceived to be social problems in respect of the drinking habits of young people and—too often, unfortunately—children. Do you think that the no-proof, no-sale provisions are likely to be as effective as the Executive wants them to be? What other suggestions would you make from your perspective to enhance the no-proof, no-sale provisions or to take them in a different direction?

Deputy Chief Constable Dickson: We certainly support the no-proof, no-sale provisions, and we have in the past encouraged boards and individual licensees and businesses to try to impose controls. It would be of great benefit in addressing the problem across Scotland if there were an acceptable standard. There will always be problems. As members know, people can nowadays apply for a proof-of-age card over the internet without ever having to prove their age. Mr Sheridan's child might be able to get proof of being aged 18 despite being a long way from that. There will always be certain ways round the controls, but a standardised, acceptable and recognisable proof-of-age scheme is bound to be a big step forward.

Michael McMahon asked whether there are other ways in which we might effect such controls. It is certainly a difficult social problem in every single police area in Scotland and it is the one thing that colleagues bring up time and again. I have to say that there is no easy way to tackle the problem. We have looked, and are still looking, at test-purchase operations—sting operations, if you

like—to try to get evidence against off-sales premises that are suspected of selling to under-18s. The general view of most operational police officers is that the problem is licensees selling not to under-age people, but selling by proxy to the under-18s' slightly older companions. One way or another, young people who want alcohol are going to get it.

One of the things that will help is limiting of low-price offers. Research shows that young people have a finite sum of money that they pool together every Friday or Saturday night, with which they buy as much alcohol as the sum in the kitty can buy. To limit low-price promotions in off-sales premises might be a way in which to address that aspect of the problem.

Michael McMahon: Senior police officers in my area have highlighted their concerns about their inability to police deliveries to homes—what is known in our area as dial-a-drink. Does your organisation have a view on that? Do you have any suggestions as to how officers who find themselves in that difficult situation can deal with the problems of young people acquiring alcohol through that mechanism?

Deputy Chief Constable Dickson: That has an awful lot to do with parental control. Usually, to be able to use dial-a-drink one must have a credit card; often, parents' credit cards are used. Preventing people from drinking in their homes is a bit like policing domestic violence; it is intrusive, to a degree. Alcohol will always be in people's homes. Is it an individual problem for parental control or is it something in which the police should interfere? After all, it is not illegal for a child under 18 to drink in his or her parents' home.

Michael McMahon: The concern that has been expressed to me was about the police's ability to control the sale of alcohol at source.

Deputy Chief Constable Dickson: I suppose that one might insist on proof of age being used in such circumstances, but enforcing that would be difficult.

Michael McMahon: That is my point. As an organisation, do you have suggestions on how that difficulty could be overcome?

Deputy Chief Constable Dickson: The short answer is no. The situation has grown just over the past two or three years, as you know. We have considered how to license premises from which alcohol is transferred, but the cash transaction often happens at a different place from the goods transaction. Legislating for that will be difficult. It might be that there is some means of proving one's age to the retailer over the phone or internet, but such a means is beyond me at the moment. That is probably what we want to aim for.

Bruce Crawford: In your evidence, you link the abolition of nationally prescribed permitted hours with over-provision; I want to understand that better. As you know, the bill will allow for development within a licensing board of policies for permitted hours to be included in individual operating plans, and to do away with statutory permitted hours. We have heard evidence—primarily from the Scottish Licensed Trade Association—about its concern that the proposals will allow a more restrictive process to develop. If I have got your drift right, you suggest in your evidence that the bill might allow for a more liberal process as far as licensing is concerned. As politicians, we have to start making judgments on that. Who is right and why?

Deputy Chief Constable Dickson: As I said at the start, my fear is that if we accept a total licence provision in Scotland in any current board area, I cannot foresee provision ever decreasing post-implementation of the bill, other than if individual licensees were to say, “I’ve made a mess of this business, I’m giving up”, and nobody else takes up their licence. The number of licences will creep up year by year.

As we say in our written submission, there have been 3,000 new licences granted in Scotland in the past 20 years. Even that figure belies the fact that the capacity of each licensed premises—particularly in the cities—is increasing. We did not know about pubs that could hold 500 people when I was a boy—not that I went into pubs when I was a boy.

It is difficult to imagine a board saying to a big licensed-trade business such as J D Wetherspoon or Saltire Taverns, “Sorry, we have reached our provision limit. Either you’ll have to reduce your capacity or give up your licence. You can’t have any more pubs; we’re not accepting this multimillion pound development in our town—go and find a site somewhere else.”

It is telling that none of us has a measure of total licensed provision in Scotland. We do not know board by board or in Scotland as a whole the number of permitted hours or premises. If we do not know that now, where will we be in five or 10 years, when we will be asking whether the bill has been a success in allowing us to improve public health and to control crime and disorder?

17:00

Bruce Crawford: A couple of questions arise from that. You have accepted that it is difficult to get an objective rather than a subjective view, so should there be a national formula that defines over-provision, or should we leave it up to local licensing boards to make such decisions?

Deputy Chief Constable Dickson: I certainly favour the bill containing a little more detail because, as you say, it is difficult to get an objective measure. As I have said, the same standard that is applied in Selkirk town centre cannot always be applied in Aberdeen. It might be possible to count up the total number of hours for which a licensed premises is permitted to trade in an average week, multiply that by the capacity of the premises—every premises has a set maximum capacity—and say that that is the total licence provision for the premises.

On over-provision, the bill envisages that each licensing board will decide which geographical areas to call localities. For proximity’s sake, let us talk about the Cowgate and the Grassmarket, which form a recognised entertainment strip. The board will decide that the total licence provision for that locality is premises A plus premises B plus premises C plus premises D. That aggregate of licence provision could be measured today and used to say how many licensed hours there are in the Cowgate and the Grassmarket. That represents an objective way of deciding what the provision level must be and whether there is far too much provision or the level of provision is okay. Without such an objective method, how will we know when there is over-provision? In my view, if we ask 32 licensing boards to come up with such a method, we will get 32 different methods.

Dr Jackson: I want to ask about the seven categories of licence. The trade is worried about the change to the system; it suggests that there should be three distinct types of licence. What is your view on that?

Deputy Chief Constable Dickson: To some extent, that is a matter for the licensing boards. Although I can understand the trade’s fears, boards will always want to distinguish between off-sales and on-sales premises. They will also want to distinguish between off-sales in different localities. I do not share the fear that doing away with all the categories will lead us into danger, because the demarcation lines are pretty blurred at the moment. In my experience, there are premises in Edinburgh that are described as hotels in their licences but whose business is certainly not putting people up for a quiet night.

Dr Jackson: Are you saying that the trade’s suggestion that there should be three categories of licence—on-sales, off-sales and entertainment—is sensible?

Deputy Chief Constable Dickson: That broad division is fairly sensible. Indeed, if such distinctions were not made, I expect that boards would want to make them. It might be helpful for the bill to stipulate those categories, but we want the new system to be a bit more flexible than the

system that exists under the Licensing (Scotland) Act 1976, which confuses operators and police officers.

The Convener: I have a final question as a supplementary to Bruce Crawford's question on permitted hours. At the moment, many off-licences close at 10 pm and many pubs close at 11 pm or sometimes midnight. Nightclubs tend to stay open until later. If there were to be a blurring of the definitions of permitted hours, meaning that more licensed premises stayed open until 2 am or 3 am, would you foresee greater manpower difficulties for the police? Would it be more difficult to respond to incidents resulting from more people leaving such premises in the early hours of the morning?

Deputy Chief Constable Dickson: If the number of licences increases, the number of permitted hours will inevitably increase. I cannot imagine a licensing board ever saying to a licensee who has never offended, "I'm sorry but we're going to have to cut back your hours." There will be a ratchet effect and the number of permitted hours will grow and grow. ACPOS believes that ways of dealing with that growth will have to be very carefully thought through, both by individual boards and by Parliament.

You mentioned the different closing times of off-sales and on-sales. Different areas have seen different effects. In some areas, it is considered beneficial to set the licensed hours for off-sales within the licensed hours for on-sales, because people who have come out of pubs cannot then go to the off-licence on their way home. In other areas—although perhaps not so many—the effects are different. It is right that the bill proposes that each individual board should set the times according to its own policy.

The Convener: In a city centre such as Glasgow's or Edinburgh's, there could be many more pubs that want to open until later. If the number of premises that stay open until the early hours increases significantly, the number of people out on the streets in the early hours might increase significantly as well. That could have an impact on policing.

Deputy Chief Constable Dickson: That is absolutely our point. We would not like to see that happen, because of the concomitant increase in the demand on police resources. We can talk all we like about police resources—and we are always grateful for whatever local or central Government gives us—but a steady rise in the number of people in town and city centres, and a steady rise in the length of public drinking times, would require a really substantial increase in policing capability to allow us to control situations and to maintain order as the public would expect us to do.

The Convener: That brings us to the end of our questions. I thank Malcolm Dickson for his evidence. It has been very helpful.

Okay, we move on to our last group of witnesses for today. We have a packed panel of five: representing Alcohol Focus Scotland, we have Jack Law, its chief executive, and Mary Ellmers, its national ServeWise manager; representing the greater Glasgow alcohol action team, we have Jane Hasler, its co-ordinator; we also have Willie Caie, the project manager of Glasgow's safer city centre initiative; and, representing Moray Council on Addiction, we have Neil Ross, its former chairman. We also expected to have with us today Iain Campbell, its present chairman, but he is unable to attend.

I welcome all three organisations and invite you to make some introductory remarks. Given the broad range of groups on the panel, I encourage each representative to keep their remarks as tight as possible.

Jack Law (Alcohol Focus Scotland): I thank the convener for the opportunity to present evidence to the committee today. Alcohol Focus Scotland has been involved in the licensing process for well over 10 years, during which time we have run training programmes and events. We have also pushed for licensing reform through the Scottish Advisory Committee on Alcohol Misuse. We see the need for good and effective legislation to underpin the intentions behind the plan for action. Our aspiration was always that the legislation would complement the policy intentions that lie behind the plan for action on alcohol problems.

We are very much in favour of the bill—we welcome it. We agree with the present licensing principles and are a bit concerned that they are renamed in the bill as licensing objectives. In some eyes, the new name might be seen to reduce the importance of the original principles. However, the matter is one for debate.

We have some major concerns about the bill as it is presently drafted. For example, at this moment in time, it does not seem likely that the bill will deliver on the licensing principles around public health. Perhaps that is because the focus of the bill is somewhat narrow: instead of tackling the wider issues of excessive or problem drinking, the bill focuses on binge drinking and disorder.

As we set out in our submission, our key concerns are that off-licences will be exempt from the measures to tackle irresponsible promotions; pre-loading and other similar issues; and the sourcing of alcohol for people who have alcohol problems. We are also concerned about the probability of longer licensing hours, in particular in supermarkets and off-licences. We understand

that that suggestion is being considered, particularly south of the border. If it were to be taken on board, we are worried about the gradual spread of longer licensing hours into Scotland.

Another issue of concern is the adequacy of monitoring and evaluation of the effects of the bill at both local and national level. It is important that the legislative opportunity that the bill offers enables people to become informed about what works and what does not work. Any legislation is only as good as its application. A strategic evaluation of the impact of licensing decisions needs to be made on a regular basis. In that way, we will be able to evaluate the effectiveness of the new licensing legislation. The issue is as much about the quality of life in communities as it is about businesses and other commercial considerations.

I will close by saying a little about the local and national forums and how they will fit into the process. We are concerned that there is not much expression of how that will be done, particularly at the local level, where there is an interest in involving local communities and local people in the decisions that are made by licensing boards. In particular, we are concerned about the need to ensure that local people, who are perhaps not as well versed in licensing issues as others are, have the capacity, capability and information to enable them to participate in the processes in which we hope they will be involved.

The Convener: Thank you.

17:15

Jane Hasler (Greater Glasgow Alcohol Action Team): I thank the committee for allowing us to attend committee today and give evidence. The greater Glasgow alcohol action team members and our wider partners welcome the Licensing (Scotland) Bill. We believe that it gives a unique opportunity to ensure that a supportive licensing and legislative framework underpins the work of the action team in tackling alcohol problems in the greater Glasgow area.

We recognise that the bill is only one part of a range of measures that were included in the national plan for action on alcohol problems, many of which alcohol action teams have been charged with addressing locally.

As the committee knows, greater Glasgow is one of the largest urban conurbations in Scotland. The action team has been concerned about the level of alcohol-related harm that is evident in the area. Statistics produced by the national alcohol information resource and locally show that the levels of alcohol-related deaths, hospital admissions, general practitioner consultations, accident and emergency department attendances

and crime in the Glasgow area are consistently higher than overall Scottish rates. We know that a significant number of adults, 16 to 24-year-old drinkers and under-age drinkers are exceeding healthy, recommended limits for consumption.

On availability, although between 1996 and 2004 the local authority areas in greater Glasgow had rates of liquor licensing per head that were lower than the Scottish average, in most local authority areas the highest proportion of licences was for off-sales. In 2002, there were 152 applications for new licences in the area, the majority of which were granted.

Willie Caie (Safer City Centre Initiative): I am here in my capacity as chair of the Glasgow city centre alcohol action group. We would like to raise a number of issues today. As the committee is aware, we have submitted a number of written responses, but it is worth my raising some issues again verbally.

Over-provision is a concern for local communities, especially in Glasgow. The issue is complex in urban environments. The night-time economy in cities such as Glasgow is thriving, and there is concern that insufficient transport and other provision exists to deal with the number of people who participate in that economy and are disgorged on to the streets.

In an area as large and diverse as greater Glasgow, we see setting up local licensing forums and their role in involving communities as challenging. We continue to support the presumption against 24-hour opening in the bill and the suggestion that the impact of the legislation on alcohol-related public health issues should be reviewed and monitored. We have strong concerns about the fact that off-sales are not included in measures to ensure responsible sales and promotions. We have specific concerns about the practice of pre-loading, to which the previous witness alluded in his evidence, and people purchasing cheap alcohol from off-sales before they go out to town and city centres at night.

I draw the committee's attention to some recent, as yet unpublished research that was commissioned by the greater Glasgow alcohol action team. The research, which was undertaken in a sample of Glasgow pubs, evidences the fact that there are other factors that encourage or discourage safer drinking in licensed premises. Those include ambience, noise and heat in premises, the availability of food for clients and the types of client who frequent the premises. The findings may be of interest to the committee when it considers certain sections of the bill. The greater Glasgow alcohol action team would be happy to make the research available to the committee,

once it has been published, so that members may be aware of its findings.

Thank you for giving me an opportunity to speak to the committee.

Neil Ross (Moray Council on Addiction): Thank you for inviting me to attend today's meeting. I represent Moray Council on Addiction, which is a voluntary organisation and a registered charity. You will be pleased to hear that we are affiliated to Alcohol Focus Scotland and that we associate ourselves entirely with Jack Law's earlier remarks.

We approve of the bill's objectives and are pleased that training is being given to all personnel. We are also pleased about the establishment of local licensing forums, although we believe that they should be required to meet licensing boards more than once a year, as the bill requires.

You asked us to comment specifically on irresponsible drinks promotions. As a rural organisation, we have not experienced significant problems with such promotions at licensed premises. In our experience, binge drinking in our area is related to home drinking, and I associate myself with the remarks that were made by earlier speakers; we believe that irresponsible off-sales promotions have a significant impact on binge drinking in our area. We also believe that people tend to consume drink up to a specific monetary value; earlier, Deputy Chief Constable Malcolm Dickson mentioned that younger persons have a limited pot of money and they will spend up to that amount on drink. The problem is not irresponsible promotions in licensed premises but those in off-sales premises.

Paul Martin: I have a question for Jack Law. I read your submission, which is helpful and contains useful background information. The table entitled "International trends in alcohol consumption" shows that in Italy there has been a decrease in consumption of more than 47 per cent. Are you aware of any evidence to explain that trend?

Jack Law: I do not have any evidence to hand other than the information in my submission, but my understanding is that licensing processes in Italy are different from those in Scotland. As I understand it, there is a limit to the number of licences that can be provided. However, there is also an important cultural issue. In the continental culture, which is often mentioned and to which some cities in Scotland seem to aspire, drunkenness is not regarded as an attractive state for people to get into. The power of that cultural influence is pervasive in countries such as Italy and France. There have been changes and the picture is not consistent, but in general the culture

and tenor of those countries is such that alcohol is enjoyed as part of a meal or a low-key social occasion and is not something that is used to escape.

Paul Martin: Another point that you raised in your opening statement was on the need to include public health in the bill, and you mention that in your submission as well. I think that everyone would agree with that idea, but it is quite wide and your submission does not give any specifics on how it should be achieved. It is easy to say, "Let's improve public health," but what should the Executive have included in the bill to facilitate that?

Jack Law: Many of the points that we have made on the bill are about our aim to improve public health. At the end of the day, that is about trying to change attitudes and introduce elements of social responsibility. The reason why people need a licence to sell alcohol is that alcohol is a drug and if people consume too much it changes their behaviour. Excessive drinking also has a major impact on people's health. If we ensure that licensees understand that they have a responsibility to guide people into not drinking excessively, ultimately that will have an impact on public health. That is what underpins our statement about the impact on public health. If that factor is absent, how will the legislation join up with the policy intentions behind the plan for action?

Paul Martin: Finally, what practical measures do you suggest? Would you require every licence holder to have in place a programme to educate people? Would pubs have to display posters to tell people about liver disease? What practical measures would you include in the bill? The Executive has not included health promotion as an issue, but there is no reason why we cannot lodge amendments on that.

Jack Law: Several things could be done. First, we should ensure that irresponsible promotions in off-licences are outlawed. We should tackle the problem head on and make it clear that the legislation on irresponsible promotions applies also to off-licence premises. Furthermore, licensing hours must be contained. After all, people have as much of a right not to drink alcohol as they have to drink it.

We must ensure that licensees are trained and understand their responsibilities. We do not want them to proselytise and give lectures every time people buy a drink, but they should be able to identify instances when people should not be served. After all, there have been very few, if any, prosecutions in Scotland of people who have served drunk customers. It would also be helpful if literature on sensible consumption and the risks

associated with irresponsible consumption were available in outlets.

The Convener: It might be appropriate if we were to move to Margaret Smith's questions on pricing in off-licences.

Margaret Smith: Mr Law touched on the critical point that irresponsible drinks promotions affect off-licences. However, people have expressed concern that the bill says, in effect, that such promotions affect only on-licences. Given the argument that people can stock up on alcohol and drink it over a period of time, can effective controls be devised for off-sales premises? Furthermore, will you outline your concerns about the 48-hour rule? Would extending such a provision to off-licences and supermarkets be effective?

Jack Law: On your first question, it almost defies logic that concern has been expressed about irresponsible drinks promotions in one element of alcohol sales, but not about such promotions in the other. We need to do clearer research on this matter, but anecdotal evidence from those who deal with people with alcohol problems suggests that their source of alcohol is off-licences. People with such problems do not go to bars. Other investigations have found that young people and under-age drinkers source their alcohol from off-licences. As a result, there is a clear need to address the matter from that perspective.

The difference in the price of alcohol between off-licences and on-licences is staggering. For example, I discovered recently that, in some outlets that shall remain nameless, people can buy one unit of alcohol for as little as a penny. Again, that defies any logic. The price and availability of alcohol are crucial issues in tackling problem drinking.

We have concerns about the 48-hour rule. What will happen in that period? Will outlets be able to sell alcohol at extremely low prices? Is such an approach acceptable in tackling excessive drinking? Will that 48-hour period be followed by a 10-hour period followed by another 48-hour period? That would be no real change at all. The bill must be robust and direct about such matters by, for example, stipulating a minimum price. That would ensure that we would not have so many problems with cheap alcohol.

Margaret Smith: You mentioned minimum pricing. I do not have any details, but I believe that such an approach has been trialled in parts of Perthshire and Glasgow. However, questions have been asked about whether the approach is legal or open to challenge.

In your submission, you say that the Westminster Home Affairs Committee was

advised by the Office of Fair Trading that prices can be fixed,

"as long as prices are fixed by local authorities and not by trade associations or individual pubs".

Will you expand on that?

17:30

Jack Law: That is our understanding of the situation. Our submission quotes a Government report; we did not draw that conclusion ourselves. We understood when the Perthshire experiment started that there was strong advice that local authorities could set minimum prices. I think that the basis of the approach is to do with ensuring that local authorities, as public bodies, have some control over pricing, rather than leaving it to commercial interests. There seems to be a clear suggestion that local authorities have the power to set minimum prices, which would have an impact on how people drink.

Margaret Smith: Convener, can we get information about the impact of the minimum pricing pilot schemes? Can we also write to the OFT for clarification?

The Convener: The report to which Jack Law referred is not a Government report, but a report by the Home Affairs Committee. Is that correct?

Jack Law: Yes.

The Convener: The clerks can ask the Scottish Parliament information centre to produce a briefing on the report that draws out the OFT's advice.

Bruce Crawford is interested in the matter, but he was out of the meeting when we started on it and Margaret Smith asked the question that he would have asked. Do you want to ask a supplementary question?

Bruce Crawford: This might be a good time to write to the Executive to ask about its position on the legality of price fixing. It would be useful to have an answer on that before the minister gives evidence to the committee, because that would enable us to consider the issue in more depth.

The Convener: We can consider doing that later. Do you have a question for the witnesses?

Bruce Crawford: I am sure that I missed the discussion about pricing and irresponsible drinks promotions. What changes would the witnesses make to the way in which supermarkets and smaller off-licences sell alcohol, to try to redress the problems in Scotland and reduce the amount of alcohol that finds its way into the hands of young people and people who abuse alcohol at home?

Jack Law: A number of changes could be made. First, the most direct action would be to

ensure that licensees and people who sell alcohol understand their responsibilities and how they can discharge them effectively. Training would offer the most effective way of ensuring that that happened. We should agree national standards for licensees and we should monitor compliance. However, we talk to people in the off-licence trade and we know that they face problems in managing sales. I do not want to diminish the impact of those problems.

Secondly, action could be taken in relation to where and how alcohol is displayed and promoted. We all know about the power of sophisticated marketing and positioning. If sophisticated marketing can bring a product to people's attention, I presume that there could be an equally sophisticated approach to not bringing alcohol to people's attention or at least to marketing it more responsibly. That might simply involve positioning, or it might involve ensuring that people are aware that products can be placed in a certain area for a purpose, to inform customers and discourage them from being irresponsible.

Finally, we should ensure that the licensing boards are aware of the issues and the ways in which licensees can be irresponsible.

The Convener: Do the other witnesses want to comment?

Jane Hasler: I would like to mention the do us a favour campaign in Glasgow, in which we have worked in partnership with the police. There are prevention projects throughout Glasgow that target off-sales premises, give them legal information and address the issue of agents who purchase alcohol for under-age drinkers. Enforcement and licensing officers are an important element in tackling such things.

Bruce Crawford: Do you support the proposal that everyone who is involved with alcohol sales at the point of sale in off-licences should be a personal licence holder or should be certificated by the local authority or by a recognised provider of training in order to undertake sales?

Jack Law: Our position is clear. Everyone who sells alcohol should be trained and accredited to a certain standard. A licensee who has a major responsibility for premises should be trained to a different level than that to which someone who sells alcohol on behalf of that licensee is trained. People should undoubtedly be trained to an agreed and accredited standard.

Bruce Crawford: How can we get an accredited standard? How would training be provided? What certificate should people be accredited with?

Jack Law: We think that the national licensing forum should be the first body to set standards, which could be recognised by various

accreditation bodies—the Scottish Qualifications Authority is the first body that springs to mind in that context, but there will be others. There should be a national standard that is approved and applied throughout the country; that would lead to consistency in licensee training, standards of delivery and understanding.

Bruce Crawford: Would payment for that come from fees?

Jack Law: We pay for our own driving licences. Training must be affordable if we want to make it work, but we believe that the licensee should pay for it.

The Convener: I think that Michael McMahon has a question.

Michael McMahon: My questions on training and on no proof, no sale have been answered.

Mr Davidson: I have a comment that relates to Margaret Smith's question. The local courts overturned Aberdeen licensing board's application for a minimum pricing scheme in licensed premises throughout Aberdeen. If we plan to take evidence from outside bodies, we ought to write for clarification of the grounds for the appeal and the court result. Once the courts, rather than trade bodies or the OFT, have taken a view, we must take notice of what is behind that view and the explanations.

The second page of Moray Council on Addiction's submission mentions

"the promotion of responsible drinking through knowledge and education."

Will you expand on that and talk about specific schemes or proposals that could be applied?

Neil Ross: The issue goes back to what Jack Law said about training and educating licence holders and staff at the point of sale. Promoting responsible drinking is an educational matter. The MCA probably spends around half of its time educating other professionals and other people in the area. I am not talking about educating licence holders, but there is a process through which people are educated on the dangers and on the sensible use of alcohol.

Mr Davidson: You mentioned those who provide licences and other professionals. Are there any schemes for the public, and for young people in education and parents in particular?

Neil Ross: No. The work is with other health professionals.

Jane Hasler: The local authority education departments are involved with the greater Glasgow alcohol action team, and health education on alcohol is constantly reviewed and improved through various schemes. Such

education should be a major component of all school education and of some youth service education. In greater Glasgow, there are seven community-based alcohol prevention projects—many of which involve young people—that work with a range of different groups in communities. One such project in Easterhouse has done groundbreaking work with young people on social norming campaigns. Young people consider the drinking norms in their groups and, depending on the research, the knowledge is used to publicise positive things about the number of people who do not drink and do not get drunk. Such experimental approaches are being evaluated and we hope to roll them out. A range of things is being done in greater Glasgow.

Mr Davidson: Comments were made about the cultural aspect of the use of alcohol with food in Italy and other continental countries. Do you have any thoughts on making licensed premises family friendly as a means of changing the culture? Would that be feasible and can you think of ways in which such an approach could be introduced?

Jane Hasler: In our response to the white paper, we made a number of comments on that. We felt that, as in the bill, it would be good to allow licensed premises to opt in to allowing children entry but that there should be strict standards for the number of hours that children could be permitted in licensed premises, for promotions and for the public health issues about which Jack Law talked, such as drinking behaviour and health messages on drinking. Family-friendly premises should also be no-smoking environments. There is an opportunity to make licensed premises family friendly, but the business of bringing children into them needs to be thought through and monitored carefully. I would make pretty much the same points as those that we made in our response to the white paper.

Jack Law: We must ensure that we understand the effectiveness of alcohol education. Much of the international research on education of young people suggests that it is not effective on its own; it needs to be part of a wider package. Having a licence places a responsibility on the licence holder; part of that responsibility is to ensure that customers can consume alcohol in a safe and friendly environment, which is partly about ensuring child friendliness. We want to encourage environments in which children can participate in the general social experience rather than participate in a drinking experience. That is important, so it is also important to try to ensure that premises are family friendly. That can be achieved through the operating plan that the premises will require if the bill is enacted. If that was used as a way of encouraging licensees to express their intentions to make their premises family friendly, that would be a huge step forward.

If that approach was coupled with good and effective training that imbued licensees and bar staff with a sense of responsibility, that would inevitably spill over into the customer's experience in licensed premises, which, if it is worked properly, will be positive.

Dr Jackson: Is there any provision, whether it is included in the bill or not, that you have not spoken about but which you think would be effective in lessening alcohol abuse?

Jack Law: There are a few issues, which we mentioned in our submission. One such issue concerns the exemption from training for casual staff who have worked for less than four months. We are not clear whether that means less than four months in total or less than four months in each experience in the trade. In fact, we argue that anyone who serves alcohol should be trained—that is the simple way of dealing with the issue—and there can be different levels of training. Casual staff do not need to receive massive input as long as they are clear about certain principles. That is important.

The second issue concerns the provision of licences to voluntary organisations for occasional licensed events. We are concerned that there seems to be no requirement for training in that context, although the maximum number of days for which such occasional licences can be granted is 56 days a year; that is a lot of days—it is more than a day a week. The events that voluntary organisations run tend to be good, because they are often aimed at wider audiences than a small, targeted section of the community—they are about families and wider sections of the community—but there is a risk that, if people at such events are not involved in the educational process and dispense or sell alcohol without understanding what they are doing, all the other provisions on licensing will be undermined.

The other issue concerns trains and planes. It defies logic that we are beginning to think through and apply rigorous rules to static premises but that we do not seem to want to apply those rules to other places where alcohol is sold, particularly trains. I presume that we have all been on train journeys in which alcohol has featured strongly and caused disruption. There are difficulties with the provision of alcohol in such circumstances and those difficulties need to be tackled.

Jane Hasler: A previous witness spoke about the impact on public services. As we say in our submission, the service infrastructure in the evening and late-night economy is a big concern for us. Although we support the presumption against 24-hour drinking, we do not know what impact that presumption will have on the number of premises in Glasgow that will open later or what the overall impact will be on the city as a whole.

As a result, we would like the policy's impact on public health issues in urban centres such as Glasgow to be monitored and evaluated over the long term.

Neil Ross: Jack Law touched on the advertising and marketing power of the locations in which certain supermarkets display alcohol. It is not beyond licensing boards to include in plans some sort of restriction on the alcohol or to require that, if it is placed on a layout plan, the alcohol does not move from the planned location. In supermarkets now, the alcohol moves from where it started off to the front door for a big promotion and then moves again. That has a big effect on sales.

The Convener: That brings us to the end of our questions for this group of witnesses. I thank them very much for their evidence, which has been helpful.

Meeting closed at 17:47.

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:

Thursday 5 May 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