

# **LOCAL GOVERNMENT AND TRANSPORT COMMITTEE**

Tuesday 21 June 2005

Session 2

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## LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

21<sup>st</sup> 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)

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

### CLERK TO THE COMMITTEE

Eugene Windsor

### SENIOR ASSISTANT CLERK

Alastair Macfie

### ASSISTANT CLERK

Euan Donald

### LOCATION

Committee Room 4



# Scottish Parliament

## Local Government and Transport Committee

*Tuesday 21 June 2005*

[THE CONVENER *opened the meeting at 14:01*]

### Subordinate Legislation

#### Local Government Pension Scheme (Scotland) Amendment Regulations 2005 (SSI 2005/293)

**The Convener (Bristow Muldoon):** I welcome everyone to today's meeting of the Local Government and Transport Committee, which will be our last one before the summer recess. The agenda today is not as onerous as some of our previous agendas have been. I am sure that we appreciate that, given that we have two major debates to participate in during the next two weeks, on the Licensing (Scotland) Bill and the Transport (Scotland) Bill—I am sure that members will be using their time productively to prepare for those.

The first agenda item is two pieces of subordinate legislation. The first is the Local Government Pension Scheme (Scotland) Amendment Regulations 2005 (SSI 2005/293). No points have been raised on the regulations and there are no motions to annul. Can I take it that we have nothing to report on the regulations?

**Members** *indicated agreement.*

**Mr David Davidson (North East Scotland) (Con):** I do not dissent from that decision, except to point out that there does not appear to be much clarity about the financial costs. I am sorry, but I only got the documents this week, as I have just come back from abroad.

**The Convener:** Any such points need to be raised in advance, so that we can try to get the appropriate questions asked of the minister or the Executive team.

#### Road Traffic (Temporary Restrictions) Procedure Amendment (Scotland) Regulations 2005 (SSI 2005/299)

**The Convener:** The second statutory instrument is the Road Traffic (Temporary Restrictions) Procedure Amendment (Scotland) Regulations 2005 (SSI 2005/299). Again, there has been no motion to annul, no points have been raised by the Subordinate Legislation Committee and no members of this committee have raised any

points. Do we agree that we have nothing to report on the regulations?

**Members** *indicated agreement.*

## Petitions

### Scottish Airports (Access to Public Roads) (PE528)

14:03

**The Convener:** Agenda item 2 is petitions. The first is PE528, on airport parking, which was submitted by MacRoberts Solicitors on behalf of Glasgow Airport Parking Association Ltd. This is the first time that we have considered the petition. I draw to members' attention a matter that I am sure they will all have spotted, because they will have avidly read their papers. The last page of the paper prepared by the clerk was missing, but it is now on members' desks. I will give them a few seconds to peruse it before I ask them to express their views.

We could decide that the matter is worthy of further investigation and carry the issue forward, or we could decide that it is not worthy of further investigation at this stage and decide to note the petition. The third option is that we could hold final consideration of the petition back until we have a discussion on our work programme for the forthcoming year. We will have such a discussion sometime after the summer recess. I am happy to listen to members' views.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** I read the papers that were originally circulated. It seems to me that it would be useful to get some further information. The Enterprise and Culture Committee seems—certainly in the evidence session that I saw—to have considered the petition along with other matters; it does not seem to have focused exclusively on the petition.

In particular, I would like to know the extent to which other car parks are competing with BAA's and how the £5,000 charge that BAA is said to have made as a condition for access is influencing competition. In his evidence, Michael Hirst indicated that it was not at all uncommon for business travellers to find that they missed their plane because they could not get a place in a car park. This committee does not exist just to look after business people, but, if that is a problem, it is one that we would all wish to tackle. The petitioners gave evidence quite a long time ago and I would like to hear an update from them.

For all those reasons—and various others that I will not go into now, for the sake of time—I think that it might be best to hold the petition over. We may not necessarily select it in our work programme, but I would like the committee to seek some more information and to consider the matter again once we have that information—perhaps in

September, when we consider our work programme.

**Mr Davidson:** I support Fergus Ewing's comments. A number of questions arise from the evidence given by the minister and by Caroline Lyon, as reported in the papers that we have. I think that other issues may emerge—Helen Eadie certainly broadened the issue to include a number of other areas, such as taxis and access. We have two pieces of evidence from Caroline Lyon. When she was asked to confirm that no charges can be imposed under the byelaws, she said, "That is correct." However, when Nicol Stephen asked her a question, she agreed that the result of a commercial negotiation was perfectly legitimate if there was an agreed charge. We need to clear that up, particularly in light of the fact that there are currently no real park-and-ride or rail connections to allow people to park and take a train into some of our major airports. It would also be helpful to ask for written evidence from BAA, which is involved in the matter.

**The Convener:** I take it that there is consensus that we should carry the petition forward until we consider our work programme for the forthcoming year and that there are a number of questions that members would like to pursue further before reaching a conclusion.

**Paul Martin (Glasgow Springburn) (Lab):** All that we have said is that we want to carry the petition forward, but we have not been specific about how we should deal with it. It is not the case that there are exclusive contracts only with airport parking. New shopping centres that are set up—I do not want to mention them by name—will have their own exclusive parking facilities and access to taxi services. Although supermarkets do not charge for parking, they have exclusive taxi services, and a wide range of hospitals now have parking charges and exclusive contracts. The issue arises in a number of areas. If we are going to carry the petition forward, we need to be specific about how we will consider it and how that will link in with the previous evidence that was taken.

**The Convener:** I do not think that, at this stage, we are giving a commitment to carry out a formal inquiry into the issue. What has been suggested is that we delay consideration of the petition until we consider our work programme for the forthcoming year. That would leave it open for you to propose a broader line of inquiry into other areas of car parking that encompassed the issue raised in the petition.

**Paul Martin:** I am not saying that we should not do that.

**The Convener:** What I am saying is that, if you wanted to, it would be open to you to suggest

further work. We are not making a decision here and now as to whether we will take the petition forward as a major item on our work programme. We shall simply postpone consideration of that question until our work programme meeting in September. Is that agreed?

**Members** *indicated agreement.*

### **Local Government Finance Act 1992 (Council Tax Discounts) (PE784)**

**The Convener:** The next petition is PE784, which was lodged by Damian Pavillard. It calls for the Scottish Parliament to take the necessary steps to ensure that local authorities can no longer reclaim the value of council tax discounts that are found to have been unwarranted. Today's meeting is the first time that the committee has considered the petition.

The paper by the clerk suggests that it may be inappropriate for us to carry out further work on the issue, given that the Executive has established an independent review of local government finance. In addition, after the recess we will consider Tommy Sheridan's Council Tax Abolition and Service Tax Introduction (Scotland) Bill. It seems to me that the issues that Mr Pavillard raises in his petition can be considered either as part of the independent review or during our consideration of the bill. I suggest that we take that approach. We can advise Mr Pavillard of that and suggest that he makes his views known to the independent review. I invite comments from members who support that view or wish to suggest an alternative.

**Bruce Crawford (Mid Scotland and Fife) (SNP):** I am happy to support your line, convener. We should advise the petitioner in writing that the committee, in addition to considering the Council Tax Abolition and Service Tax Introduction (Scotland) Bill, will consider the outcome of the independent review in due course. I assume that that is the case. We should make the point to the petitioner that, in addition to the specific proposal in Tommy Sheridan's bill, there will also be a wider review.

**Michael McMahon (Hamilton North and Bellshill) (Lab):** I was going to make exactly the same point. When we consider the review, we should bear in mind the petition, which raises a point that needs to be clarified. At an appropriate time during our review of the report on local government finance, we should make sure that the petition is addressed.

**The Convener:** Do we agree to respond to the petition in that manner and to conclude it?

**Members** *indicated agreement.*

### **Council Tax (PE787)**

**The Convener:** The third petition is PE787, which was lodged by Alastair Murdoch on behalf of Scottish Action Against Council Tax. It calls for the Scottish Parliament to replace the council tax with a system that is more closely related to the ability to pay.

Again, I recommend that we advise the petitioner that we will shortly consider Tommy Sheridan's Council Tax Abolition and Service Tax Introduction (Scotland) Bill, which appears to contain the proposal that the petitioner seeks to have implemented. The issues that are raised in the petition will be discussed during the committee's analysis of the bill. The committee will subsequently report to the Parliament, which will decide one way or the other on the merits of the bill. Do members agree that we should take that course of action and conclude the petition?

**Members** *indicated agreement.*

## Ferry Services (Clyde and Hebrides)

14:13

**The Convener:** Agenda item 3 is consideration of any further work that we may wish to undertake on the tendering of ferry services in the Clyde and Hebrides. A paper by me has been circulated. Its purpose is to update the committee on the on-going discussions between the Scottish Executive and the European Union transport commissioner on the tendering of ferry services in the Clyde and Hebrides. The paper notes:

"Executive officials have confirmed that ... the Minister for Transport is seeking to meet the Commissioner again over the next few weeks. This is likely to mean that any announcement to the Parliament may be made, at the earliest, immediately after the summer recess."

As I understand it, the date has not yet been confirmed for that meeting.

I seek members' views on what action the committee should take. My preference is to defer any final consideration of further action until we get a response from the minister on his meeting with the transport commissioner. A specific suggestion, which is not included in the paper, is that we write to the minister and ask him that, at his earliest opportunity after that meeting, he writes to the committee to advise us of any significant developments that have arisen.

Out of courtesy, I advise members that I have been approached by the Scottish Trades Union Congress to take part in a delegation that it wants to send to Brussels. It intends to seek a meeting with a representative of the Commission through one of Scotland's members of the European Parliament and it has invited me to go along. I would be going not in my capacity as convener of the committee but as an individual MSP. I just advise members that I have received that invitation and that, if the STUC is successful in setting up such a meeting, I intend to go. Obviously, if the opportunity presents itself, I could raise many of the issues that have come up in evidence and that we have discussed. Do members have any suggestions?

**Bruce Crawford:** Thank you for that useful background, convener. Obviously the meeting in Brussels will be quite useful. I wonder whether the committee might try to get involved in that, given that we are conducting an inquiry. Evidence will come from that meeting that might help the committee to fashion recommendations. Is there any way in which the committee could be involved in the meeting in a more official capacity? I understand that you are going to the meeting in your capacity as an MSP, but it would not be a

bad thing for the committee to be involved. However, that is a different issue from the one that we are considering at the moment.

I understand why you have made the recommendation that you have, but I am slightly concerned about it. We have just taken strong evidence from Professor Neil Kay, Paul Bennett and Jeanette Findlay about the need not to go to tender. We do not know exactly when the minister's meeting with the Commission will take place—it could happen during the recess for all we know, although the minister might change and it could take place sooner or later than that. However, if we wait until that meeting, although the evidence that the committee has gathered might not be lost exactly, it will not be able to be used in the way that the people who gave the evidence might expect. I would have preferred the committee to have taken an interim position using the evidence that we have heard to influence the Executive's negotiations with the Commission.

To get to that position, I expect that we will have to have some sort of interim report that draws together the evidence and comes to a view on it. I realise that that might cause some difficulty, because we are right up against the wall as far as recess is concerned. We also have stage 1 of the Licensing (Scotland) Bill to discuss in the Parliament tomorrow and stage 3 of the Transport (Scotland) Bill is next week. However, there is still a slot next week when the committee could meet and have a quick discussion about its interim position based on the evidence that we have taken. That would be a powerful thing for the committee to do, because our report could influence the debate that will take place at some stage between the minister and the commissioner. The minister could go to the meeting armed with the position of the Executive and the Local Government and Transport Committee. That would strengthen the minister's arm if he takes the view that the tendering process is not necessary and that there are other ways of showing that there is no discrimination.

**The Convener:** In my view, it would be pretty challenging for us to agree a comprehensive analysis of the three academic reports over the coming week and to take a position on which we were all agreed. Many ideas that are worthy of consideration resulted from those evidence sessions, but I am not sure whether I am convinced that we have a detailed enough analysis of the alternatives to allow us to say that one or another provides the magic bullet. However, the Executive has those three academic papers and I am sure that it will have studied the questions and answers from the committee's deliberations.



What if the committee agreed to write to the minister to say that several interesting potential solutions to the tendering situation were suggested in evidence as the committee considered the three academics' papers, that we are aware that the Executive has those papers, that we ask the minister to provide the committee with the Executive's analysis of whether they provide a solution and that, if any ideas have merit, they should be fully explored in the Executive's meetings with the transport commissioner? That is my suggestion.

I will give Bruce Crawford an opportunity to speak again, but I will first call David Davidson, because he had his hand up earlier.

**Mr Davidson:** I have some sympathy with the view that you just expressed. When I put my hand up before you spoke, my view was that the minister's report of the meeting should go for comment not only to us, but to those who gave evidence. I am happy to go down the interim route that has been suggested but, if the Executive has a response one way or the other after a meeting with European officials, even if it has considered what we have said and the evidence, it is right to return to all those who gave evidence to ensure that they can comment to us, because the inquiry continues, regardless of what the minister does or does not do and of whom he does or does not meet. The committee must still tidy that up. People should have an opportunity to submit written evidence in response to whatever the minister says.

**The Convener:** I also suggest that we could invite the minister to an early meeting after the recess to update the committee directly, in addition to a written update after the meeting with the commissioner. That might be an ideal way to progress the response to the meeting with the Commission and the Executive's response to the academic papers.

**Fergus Ewing:** Obviously, I am pleased that the STUC is taking the initiative that it is taking. I hope that, just as the Parliament has displayed cross-party support of the desire to avoid tendering, the STUC will offer all MEPs the opportunity to be part of the delegation and to show a common front as a sign of the breadth of feeling. However, that is for the STUC and not for the committee.

I disagree with none of the convener's recommendations, but I endorse Bruce Crawford's recommendation. We could produce an interim report, which could be fairly short. Most of the work has been done in the three papers and in the evidence that we took.

It is particularly important to be accurate about the European Commission's position. By way of

background, paragraph 2 of the briefing paper says:

"The European Commission has, for a number of years, held that under EU state-aid and maritime cabotage rules, the Scottish Executive is obliged to put the Clyde and Hebrides ferry operations out to competitive tendering."

That is not what Professor Neil Kay said. The last paragraph on page 11 of his paper said that, in relation to the 1992 maritime cabotage regulation, guidelines were originally issued in 1997. Those guidelines referred to tendering; in fact, Professor Kay quotes the guidelines as saying that

"the Commission expects public tenders to be made".

[*Interruption.*] I will try to speak louder while Mr Davidson turns off his pager or whatever it is.

However, any reference to tendering has been excised from the guidelines that superseded the 1997 guidelines. The reference to island cabotage has also been removed. Neil Kay attributes that, in part to "the indefatigable efforts"—"indefatigable" is a difficult word to pronounce—of Neil MacCormick. The evidence that we heard suggests that the problem is not that EU law says that there must be tendering, but that it may be difficult to find a way to comply with EU law that avoids tendering. Without revealing any names—the Chatham House rule applies—I should add that that also seemed to be the upshot of the advice that we received at the meeting that we attended. The background information could, therefore, be revised slightly.

The most significant evidence that we heard came from Jeanette Findlay, who pointed out the potential costs if Caledonian MacBrayne loses. She admitted that she could not precisely estimate those costs, but she talked about a figure of up to £42 million. I would have thought that the EU, in the rather troubled position in which it now finds itself, was not best placed to stamp its feet and tell Scotland what to do. Frankly, if a Scottish Executive minister said that it would be crazy to go ahead with a tendering process that would cost the public £42 million, when the whole point of the process was supposedly to save the public money in subsidy, that would put us in a strong position.

It would be helpful if we could have a meeting next week, as Bruce Crawford has suggested, and a short paper—of probably two or three pages—with bullet points summarising some of the strong evidence that we heard, especially regarding the potential costs. Whatever they might say about you behind your back, convener, no one could ever accuse you of being workshy. I am sure that you will agree that another meeting would be good news. If we can achieve anything by it, it could be excellent news.

**The Convener:** My concern about having a meeting next week is not so much about the

demands of that on members of the committee as about the demands that it would make on the committee clerks. They have the Licensing (Scotland) Bill to deal with this week and stage 3 of the Transport (Scotland) Bill to deal with next week. They are heavily engaged in processing amendments to the Transport (Scotland) Bill at the moment. The difficulty that I foresee in agreeing to your request is the impact that that would have on the committee's clerking team.

I suggest that, rather than having a meeting next week, with the additional pressure that that would put on the clerks, we might find it more effective if I wrote a letter to ministers, drawing their attention to the papers that we have received. I could also draw their attention to the comments that you have made today, which will appear in the *Official Report*, concerning the potential costs of tendering that are mentioned in Jeanette Findlay's report. I think that we would achieve more through writing such a letter to the ministers than we would by having a committee meeting next week and agreeing a report that the clerks would then have to finalise at the same time as dealing with stage 3 consideration of the Transport (Scotland) Bill.

**Bruce Crawford:** I recognise the pressures that would be involved in our having a meeting next week, so I suggest that your letter could take the form of a report expressing the arguments that we have heard and drawing together the evidence in the sort of short document that Fergus Ewing envisages. It would obviously be difficult for us all to come to a unanimous agreement at this stage, but we could implore the minister to provide a detailed rationale as to why the alternative proposals would not be satisfactory. That would put the onus back on the minister to comment. Some of the evidence that we heard is pretty robust and the minister might have a view on it, but we are not going to know that before he meets the Commission. If we could circulate such a letter by e-mail and agree it in that way, that might avoid the need for another committee meeting. That would be a letter-plus option because it would, in effect, be a report that was done by letter. I am prepared to go that way if it helps us to achieve the necessary outcome.

14:30

**Dr Sylvia Jackson (Stirling) (Lab):** I hear what Bruce Crawford is saying, but I do not think that such a letter would amount to much more than what was originally suggested. The convener's original suggestion that we should take the main points from each of the three papers could be done easily, as we already have Professor Kay's recommendations on the way forward as well as the other papers' suggestions, to which Fergus Ewing referred. We could simply refer to the main

points in the three papers and ask the Executive to say why those are not workable and cannot be progressed.

**The Convener:** Absolutely. I am perfectly prepared to do that. However, rather than trying to get agreement on the letter from all nine committee members, I suggest that, once the clerks and I have drafted the letter, we pass it by the deputy convener to ensure that it covers all the points that have been discussed today. Is that acceptable to members?

**Bruce Crawford:** That would avoid the need to meet next week and, in effect, it would produce a report by letter. I am content with that suggestion.

**Michael McMahon:** What will be the timescale for the letter? Bruce Crawford has dropped his request for another committee meeting because of the point about the pressure that that would put on the clerking team, but I do not see how the clerks' workload would be lightened if they still have to produce a paper for next week. What timescale are we talking about for the report that is to be drawn up? I suspect that the timescale will need to be after next week.

**The Convener:** I have not yet discussed that in detail with the clerks, but we may well decide on the timescale that you suggest. Given the purpose of the letter, the key point is that it is sent sufficiently in advance of the minister's meeting with the EU transport commissioner.

**Michael McMahon:** The letter should not be required for next week, as we should not put the clerks under any extra pressure. The only difference between the current proposal and Bruce Crawford's original proposal is that the current proposal does not involve a committee meeting next week. The timescale for the letter should be beyond next week.

**The Convener:** I will discuss the timescale with Eugene Windsor afterwards, but the requirement is that we send the letter before the minister's meeting with the EU transport commissioner. Given that no date for that meeting has yet been agreed—we will check that point with the minister's team—we have a window of opportunity. I understand that the Executive will take no action on Hebridean ferry services one way or another until the Minister for Transport can report back to the Parliament on his meeting with the transport commissioner, so we have a window of opportunity.

Is that proposal agreed?

**Members indicated agreement.**

**The Convener:** That brings us to the conclusion of today's meeting.

*Meeting closed at 14:33.*

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