

# **LOCAL GOVERNMENT AND TRANSPORT COMMITTEE**

Tuesday 21 March 2006

Session 2

£5.00

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## LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

9<sup>th</sup> Meeting 2006, Session 2

### CONVENER

\*Bristow Muldoon (Livingston) (Lab)

### DEPUTY CONVENER

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

### COMMITTEE MEMBERS

\*Mr Andrew Arbuckle (Mid Scotland and Fife) (LD)  
Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)  
\*Dr Sylvia Jackson (Stirling) (Lab)  
\*Paul Martin (Glasgow Springburn) (Lab)  
\*David McLetchie (Edinburgh Pentlands) (Con)  
\*Michael McMahon (Hamilton North and Bellshill) (Lab)  
\*Tommy Sheridan (Glasgow) (SSP)

### COMMITTEE SUBSTITUTES

Colin Fox (Lothians) (SSP)  
Mr Bruce McFee (West of Scotland) (SNP)  
John Farquhar Munro (Ross, Skye and Inverness West) (LD)  
Dr Elaine Murray (Dumfries) (Lab)  
Murray Tosh (West of Scotland) (Con)

\*attended

### THE FOLLOWING GAVE EVIDENCE:

Michael Beswick (Office of Rail Regulation)  
Stephen Boyd (Scottish Trades Union Congress)  
Hugh Bradley (Associated Society of Locomotive Engineers and Firemen)  
Tony Devlin (Transport and General Workers Union)  
Colin Gilchrist (Scottish Executive Legal and Parliamentary Services)  
Mr Tom McCabe (Minister for Finance and Public Service Reform)  
Billy McKenzie (Scottish Executive Finance and Central Services Department)  
Sarah Straight (Office of Rail Regulation)  
Bill Ure (Rail Freight Group)

### CLERK TO THE COMMITTEE

Martin Verity

### SENIOR ASSISTANT CLERK

Alastair Macfie

### ASSISTANT CLERK

Euan Donald

### LOCATION

Committee Room 1



**Scottish Parliament**  
**Local Government and Transport**  
**Committee**

*Tuesday 21 March 2006*

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

**Items in Private**

**The Convener (Bristow Muldoon):** I welcome committee members, the public and the press to today's Local Government and Transport Committee meeting. Before I introduce our first panel, which includes the Minister for Finance and Public Service Reform, I will deal with item 1, which is consideration of whether to take items in private.

It is proposed that item 4, which is consideration of our draft stage 1 report on the Local Electoral Administration and Registration Services (Scotland) Bill, be considered in private, as is our normal practice. It is also suggested that we consider in private until it is finalised our report to the Communities Committee on the Planning etc (Scotland) Bill. Both reports will be published after we have discussed the drafts, as usual. Is that agreed?

**Members** *indicated agreement.*

**Tommy Sheridan (Glasgow) (SSP)** *indicated disagreement.*

**The Convener:** Tommy Sheridan's dissent is noted.

**Planning etc (Scotland) Bill:**  
**Stage 1**

14:03

**The Convener:** Item 2 is consideration of evidence for stage 1 of the Planning etc (Scotland) Bill. The committee has been asked to examine the part of the bill that deals with business improvement districts. I am pleased to welcome Tom McCabe, who is the Minister for Finance and Public Service Reform. He is supported by Billy McKenzie, who is from the Scottish Executive's council tax and non-domestic rates team, and Colin Gilchrist, who is from the office of the solicitor to the Scottish Executive. I invite the minister to speak to the bill, after which we will have questions and answers.

**The Minister for Finance and Public Service Reform (Mr Tom McCabe):** Good afternoon, convener and members. I thank you for introducing the staff who accompany me. I welcome the opportunity to explain the importance of business improvement districts to our number 1 priority of growing the Scottish economy.

There is no doubt that BIDs can be a powerful tool in our drive to provide sustainable economic growth. Evidence of that is abundant in several countries that have established BIDs, which include the United States, Canada, Australia and, since 2005, our neighbours in England.

The main reason why BIDs have become popular is that they empower businesses to devise their own solutions for improved economic performance. That implies no criticism of our colleagues in local government. Of course they do a good job. Partly as a result of the changes that we are making, they will be in a position to do an even better job now and in the future. However, we are well aware that the priorities of colleagues in local government and local businesses can—and often do—differ. We appreciate the frustration that businesses feel when that is the case. Such a situation cannot be good for Scotland, nor can it be good for local communities, and it certainly cannot be good for our towns and cities.

We firmly believe that only by working together can we achieve sustained success. We believe that BIDs can be an extremely useful tool in facilitating the partnership working that is necessary. If BIDs are to work to their full potential, there must be a genuine partnership between the public and private sectors.

I acknowledge that getting to this point has taken us some time—it has certainly taken longer than we would have liked—but we believed that it was imperative that we fully engaged with

businesses and local authorities to ensure that we put in place a policy that was trusted by those who would have to deal with it. We have achieved that by involving the relevant stakeholders at every stage in the development of the policy. We ensured that their views were taken account of and addressed whenever possible.

I will shortly announce the location of the six BID pilots in Scotland. They will be situated across a broad range of areas. We will provide funding for the pilots to enable the project managers to engage fully with the business community and to develop proposals that meet their needs. Once the legislation is in place, we aim to put the BID proposals to a vote.

A group comprising representatives from the Convention of Scottish Local Authorities, the Scottish Retail Consortium, the Scottish Chambers of Commerce, Scottish Enterprise, the Association of Town Centre Management, the Royal Institution of Chartered Surveyors, the Royal Town Planning Institute and the British Property Federation has recommended a number of locations to me. The breadth of representation on the group speaks volumes for the breadth of support for BIDs.

I commend to the committee the policy intention behind BIDs. We will do our best to answer members' questions. If we cannot answer any detailed questions, we will get back to the committee in writing as soon as possible.

**The Convener:** I thank the minister for his introductory remarks, which set out the policy context of the proposal. Members may now ask questions.

**Dr Sylvia Jackson (Stirling) (Lab):** I thank the minister for clarifying some of the issues around BIDs. Last week, we were given some information about the funding of BID pilots. What will the funding be used for? How might Scottish Executive funding be allocated to such developments in future?

**Mr McCabe:** In the initial stages, we will establish the pilot areas. We have said that we will fund the pilots to the tune of £50,000 in each area so that the BIDs can be worked up. We will test the success of the pilots within the local areas. If the pilots prove themselves, which we think they may well do, a local levy will be introduced to help finance BIDs projects.

**Dr Jackson:** Did you say £50,000 or £500,000?

**Mr McCabe:** I said £50,000, in each BID pilot area.

**Dr Jackson:** Okay. How will that money be used?

**Mr McCabe:** That is essentially a matter for the people who have submitted the successful

applications. They will want to work up the BID pilots in their areas. It is for them to make the most appropriate decisions at a local level to ensure that the pilots are successful.

**Dr Jackson:** Can you comment on the size of area that might be encompassed by a BID? Need a BID be urban, or could there also be BIDs in a rural context?

**Mr McCabe:** In an urban setting, the size of a BID often settles itself because the local businesses tend to know the ideal geographical scope. Obviously, a rural BID would have to cover a larger area, but if businesses come together in the right way, there is no reason why a BID project cannot be set up in a rural area.

**Bruce Crawford (Mid Scotland and Fife) (SNP):** I am pleased to hear that each pilot area will potentially receive £50,000. However—this might not be true—last week we were told that there would be no levy on the businesses in those areas. In that light, is this really a pilot for properly structured BIDs? After all, those businesses will not have a longer-term commitment to support the revenue stream that is associated with any capital spend from the Executive.

**Mr McCabe:** In the pilot, the money is being made available to allow the BID proposal to prove itself. If that happens, there will be a levy on the businesses involved to sustain the BID when the legislation comes into force.

**Bruce Crawford:** But a city centre partnership—like the one in Stirling—could use the money in the same way that any organisation involved in a BID would, because the partners are not expected to contribute any funding.

Although I am not wholly sold on BIDs, I acknowledge that one of their attractions is that they provide long-term revenue streams to support activity. However, how can we know that the scheme will work properly for the businesses involved and bring in extra value unless the pilot puts the businesses to the test and requires them to vote on whether they are prepared to put their money where their mouth is?

**Mr McCabe:** The £50,000 will allow each BID pilot to prove itself and it will enable businesses to take a view on how the money should be applied and on how the BID has worked in their area. If the bill is passed and it comes into force, people will be able to vote to retain the BID in the full knowledge that, if the proposal is agreed to, a levy will be applied to continue its funding.

**Bruce Crawford:** I understand that, but I assume that, as in most of these situations, if £50,000 is given to a BID project, there will be a revenue requirement to support the project for future years. Of course, that would not happen

with a straight capital project. If a BID becomes a reality under the legislation, but the businesses in the area decide not to vote for it, what will happen to the £50,000 and who will pick up the tab to ensure that the revenue costs are supported?

**Mr McCabe:** The money will be expended to allow the pilot project to prove itself. Clearly, we could no more get it back than we could in any similar situation.

**Bruce Crawford:** But what if—for example—the businesses in the pilot BID decide to install closed-circuit television in the area? The £50,000 will provide the capital to buy the equipment, but it will not support the revenue costs. If the businesses do not vote for the BID, how will those costs be supported? Surely that is a reasonable question.

**Mr McCabe:** If any such initiatives are considered during a BID pilot project, the businesses will need to understand that spending money in a particular way will have on-going revenue costs. The people in those businesses will be knowledgeable enough to know that, during the BID pilot process, it would be unwise to engage in an activity—installing CCTV is as good an example as any—that required to be sustained over a longer period.

I believe that in the BID pilot projects the money will be spent on consulting businesses and on ensuring that everyone is clear about future intentions for the pilot BID area. Therefore, when the bill is passed and businesses are eventually balloted on whether they should pay a levy, people will be in a much better position to know and decide on how any levy that is generated would be expended.

14:15

**Bruce Crawford:** I may be getting hung up on the word “pilot”. Perhaps the pilot is more of a pathfinder project to find out how BIDs would work. The word “pilot” suggests to me a scheme that is working in the way it is envisaged it would work for real. However, I understand why a pathfinder project to test how things would operate would be useful in the circumstances.

**Mr McCabe:** Perhaps you are mixing up the terminology.

**Bruce Crawford:** I am not.

**Mr Andrew Arbuckle (Mid Scotland and Fife) (LD):** The Federation of Small Businesses did not provide a glowing endorsement of BIDs. It reckoned that BIDs could be another financial burden. What is the minister’s view on that?

**Mr McCabe:** The FSB expressed some reservations, but it also said that the bill went some considerable way towards alleviating some

of its major concerns. The FSB was reassured by the fact that 5 per cent of local businesses will need to support a BID proposal before it can go to a ballot; 25 per cent of all eligible business will need to vote in order for a ballot to be valid; and the proposal will need to secure a dual majority. Although the FSB expressed some concern, it indicated that the bill offered considerable reassurance about its major concerns in those three areas.

**Mr Arbuckle:** Most retail areas contain a large number of domestic properties. Possibilities for BID expenditure include CCTV cameras, additional community wardens and litter wardens. Any of those would be a plus for the residents of a BID area. Is it arguable that everyone who lives within a BID area should contribute to it?

**Mr McCabe:** The levy will be for business improvement districts. I see no argument for pulling in the average ratepayer.

**Mr Arbuckle:** If the pilot projects are successful—as I hope they will be—will the money that they receive become the standard funding for the expansion of BIDs?

**Mr McCabe:** We still have to decide on that, so I do not want to give any further commitment than has already been given. We have committed a not inconsiderable sum of money, so we will wait and see how things develop in the areas concerned before we take further decisions.

**Tommy Sheridan:** One issue that was raised last week is whether business improvement districts will provide genuinely additional services or services that should be provided anyway. Does the minister have a firm definition of what constitutes additionality in the context of BIDs? If so, what is it? Is he confident that the bill will ensure that BIDs provide additional services rather than services that should be provided anyway?

**Mr McCabe:** That is an important point. I do not have a clear definition of what constitutes additionality, because I believe that the businesses and local authority involved in a BID should be able to decide on their own priorities. There is a fear that some projects that might emanate from BIDs will simply replace existing local government services, but local government exists and operates on the basis that it is interested in improving conditions in local communities. Local authorities are not instinctively minded to find ways of avoiding their obligations just because a BID has been put in place. That said, we have committed ourselves to monitoring how BIDs operate. Certainly, we would be extremely concerned if evidence arose that the net effect of a BID was to substitute activity that should have taken place anyway.

**David McLetchie (Edinburgh Pentlands)**

**(Con):** Following on from Tommy Sheridan's point about additionality, is there a requirement in the bill to establish on a statutory basis the baseline from which councils and others who are involved in BIDs are starting and against which additionality is to be measured?

**Mr McCabe:** The bill contains a requirement for people to define the activities that they currently undertake as far as they can, although margins will always be involved.

**David McLetchie:** So although it is not an exact science, there will be—broadly speaking—a statutory requirement to establish a baseline against which additions or improvements to services can be measured. Is that correct?

**Mr McCabe:** Yes. We would be interested in that. As I said a moment ago, we are keen to monitor the experience of BIDs. If they simply replaced activity, we would be extremely concerned. If we are to monitor that situation, we will need something to judge it against, so that baseline will be important.

**David McLetchie:** Do you accept that there is a baseline for what is currently provided and what people perceive should be provided out of general revenues rather than out of the levy?

**Mr McCabe:** I am not convinced that we would ever find an end to the list of things that people think should be provided—that is the nature of public life. To some degree, we are entering into the realms of local accountability, and councils clearly should be held accountable for their actions. If people at a local level felt that the level of services provided was lower than the level they were paying for, they could express a view through the conventional means.

**David McLetchie:** Something that might be perceived as additional is the introduction of CCTV in a town or city centre. Do you perceive that as being installed exclusively for a business benefit or for a general public order benefit? If it is for the latter, why should it be paid for out of BID funding?

**Mr McCabe:** CCTV programmes operate in different parts of the country and in different parts of local communities. As with the provision of any public service, we do not please all the people all the time. In some areas, some people would be pleased only with 100 per cent coverage, but other people would say that that was too much. There may well be considerable CCTV coverage in local communities, but a business in a certain location might like something that is discreet and that serves it more directly. A business or a group of businesses might want to take that decision for a range of reasons that are pertinent to their activities.

**David McLetchie:** Compared with the voluntary partnership arrangements that many local authorities have in relation to town or city centre management, is it fair to say that the essence and rationale behind the creation of the BID as a creature of statute is that it will enable those who see no value in what it will do to be compelled to contribute to its cost?

**Mr McCabe:** That would be a rather perverse interpretation. I do not see it in that way at all. The rationale behind the BID is that it provides the opportunity to involve the business community in a way that has hitherto not been possible. The business community would like to be able to work in much closer partnership with colleagues in local government, and the BID concept gives a far greater incentive for it to do so. We are convinced that we need to find ways in which the public and private sectors can work much more closely and in which the public sector can be a driver of economic activity that leads to greater overall benefit. We think that, over time, BIDs will make an important contribution to that.

**David McLetchie:** But the essence of a BID is that it will compel people who would not contribute voluntarily to a scheme to do so.

**Mr McCabe:** People will be asked to vote and if the hurdles have been overcome—if 5 per cent of businesses support a proposal; if 25 per cent of businesses turn out for the ballot; and if there is a dual mandate in terms of the number of businesses that are in favour of the proposal and their rateable value—a democratic decision will be taken.

As I said, we do not please everyone all the time. I do not think that any of the democratic decisions that we take, regardless of what they are about, please everyone all the time, but they are democratic. Even people who may not usually wish to get involved in such activity will have the reassurance of knowing that they had the opportunity to express a view. Sometimes you win and sometimes you do not.

**David McLetchie:** But we already have a democratic structure involving councils and the Scottish Parliament, through which people make substantial contributions. You are defining another subcategory of democracy and allowing a new democratic body to impose a compulsory levy on people who see no value in what it will do. Is that not correct?

**Mr McCabe:** We are taking to another level the fairly sophisticated model of democracy that we are fortunate enough to enjoy, which we think will be to the overall benefit of our community.

**Bruce Crawford:** I was glad to hear the minister say that the average rate payer would not be expected to pay—by that, I assume that he meant



individual property owners—but what would happen in circumstances in which the property holder did not operate a business per se, but leased a lot of property to people? Let us take the example of the St John's centre in Perth, which is owned by a major property holder such as Grosvenor. A business improvement project in that area might well result in an improvement in the area's atmosphere and ambience. Would you consider such a property holder to be a voter and, if the vote went the right way, would you consider them to be a contributor because they would gain net worth out of the BID?

**Mr McCabe:** Are you talking about someone from outwith the BID area?

**The Convener:** I think that Mr Crawford is talking about someone who owns a shopping mall, for example.

**Mr McCabe:** Do you mean the landlord?

**The Convener:** Yes.

**Mr McCabe:** I think that landlord involvement is already catered for.

**Bruce Crawford:** In such circumstances, the landlord would get a vote and would have to contribute.

**Mr McCabe:** As you are aware, we have taken steps on the use of a section 104 order under the Scotland Act 1998, which we hope will progress through the Westminster Parliament. There are devolved and reserved issues around the concept of BIDs. We are doing our best to progress the issues that are within our competence and we are promoting a particular approach among our colleagues south of the border to the use of a section 104 order. For very good reasons, the approach that we are taking to BIDs north of the border is slightly different from the approach that has been taken south of the border.

**Bruce Crawford:** With respect, that does not answer my question. In the circumstances that I described, would the property owner get a vote and would they have pay?

**Mr McCabe:** Yes—if the section 104 order goes through.

**Bruce Crawford:** That is what that allows for.

**Mr McCabe:** Yes. However, I stress that that area falls within the remit of the Westminster Parliament. We have indicated the shape that we would like that order to take.

**Bruce Crawford:** I am not aware that the committee has seen a copy of that order. We may have done, but—

**Mr McCabe:** We are still discussing the detail of that with our colleagues at Westminster.

**Bruce Crawford:** I want to dig down a bit more. I can understand that it might be necessary to pursue such an order because the issue may well be reserved, but we are talking about the introduction of BIDs in Scotland. We need to define which property owners in a development area would be required to pay. Would a distinction be made between a property owner who owned two or three shops in the area and a property owner who owned a shopping mall? How will you arrive at who will have a vote and who will have to pay? That area is quite complicated.

**Mr McCabe:** I would not have thought that it was all that complicated. I am not entirely sure what you are driving at.

**Bruce Crawford:** With a property owner who owns a mall, it is easy to define the area for which they are responsible. Will they get a vote and will they have to pay? What will happen with an individual who owns two or three shops in an area that are not part of a shopping mall but are nevertheless businesses? Under the section 104 order, will landlords of a number of such properties be in a position to vote and will they have to contribute?

**Colin Gilchrist (Scottish Executive Legal and Parliamentary Services):** The voting structure would make a distinction between the rateable occupier and the owner. The BID proposer could suggest what proportion of the votes could be allocated to whom.

**Bruce Crawford:** You talk about a proportion of the votes being allocated, but at last week's meeting we heard that it would be one business, one vote. I am now being told something different. Forgive me for trying to tease out the matter, but it is important.

**Mr McCabe:** It is obviously not the most straightforward question. Billy McKenzie will have another go at answering it; we will keep trying until we get you the answer.

14:30

**Billy McKenzie (Scottish Executive Finance and Central Services Department):** The issue is very complex.

**Bruce Crawford:** I understand that. That is why I am asking the question.

**Billy McKenzie:** I think that you are referring to the different layers of ownership that can occur. The plan is to allow the BID board to identify the owner who will receive the benefit and then to calculate the percentage of the levy that the owner and occupier would have to pay—depending on who received the greater benefit. The vote will be calculated in a similar way: if someone pays 60

per cent of the levy, they will get 60 per cent of the vote.

**Bruce Crawford:** That is slightly different from what we heard last week—although the witness was speaking not on behalf of the Scottish Executive, but about the experience south of the border. Their understanding was that it would be one business, one vote. However, if we are having weighted voting, I imagine that the Federation of Small Businesses will be concerned. With weighted voting, a large business could have more votes than the two or three shops next door.

**Mr McCabe:** Landlords are not involved south of the border, but we are trying our best to ensure that they are involved here in Scotland.

**Bruce Crawford:** It is still weighted voting though, rather than one business, one vote.

**Mr McCabe:** You talked about the experience south of the border, but landlords are not involved there.

**Bruce Crawford:** But here, we are talking about having voting that is weighted depending on scale; we are not talking about one business, one vote.

**Mr McCabe:** But the vote is weighted on the rateable value of the property. Each individual still gets one vote.

**Bruce Crawford:** Okay. I think that we will have to think about that a bit more.

Sylvia Jackson mentioned the area that a BID would cover. I have spoken before about the example of Dunfermline. Just outside the main shopping area are the B&Qs of this world and the warehouses. Would there be anything to prevent a BID proposal from widening the envelope to capture individuals on the edge of the town centre, so long as the voting conditions were taken into account?

**Mr McCabe:** In practice, I do not think that there would be anything to prevent that from happening. However, anyone who was involved in the project would have to receive a benefit. By the same token, there would be nothing to prevent people outside the BID project from making a voluntary contribution if they felt it appropriate.

**Dr Jackson:** How many groups came forward for the pilot schemes? What criteria were used for the six pilot schemes?

**Mr McCabe:** Originally, 13 groups submitted proposals. The organisations that I mentioned analysed the proposals and recommended which ones should go forward.

**Dr Jackson:** How were they chosen? What were the criteria for a pilot scheme?

**Billy McKenzie:** Various criteria were considered for each application. The main criteria were the involvement of the business community in a BID proposal, and the long-term sustainability of the proposal. The details of the projects are limited at this stage, although they will build up in the next year. However, a view was taken on whether the projects were reasonable within the given timescales.

**Dr Jackson:** I am confused. Last week, we heard about several problems in Inverness. Is the Inverness scheme one of the pilot schemes? I understood that it was. Last week, it did not seem as if the criteria were sustainability and the involvement of the business community.

**Mr McCabe:** That may have been the impression that you were given last week, but people come at these issues from different angles.

**Dr Jackson:** Yes—absolutely.

**Mr McCabe:** Of the 580 businesses in Inverness that were surveyed, 69 per cent supported the BID proposal, 8 per cent were against and 23 per cent were undecided. When a survey was circulated to the same businesses with some further questions about the proposal, 89 per cent supported it, 4 per cent were against and 7 per cent did not know. An impression might have been created last week with regard to Inverness, but the evidence that we have at our disposal suggests that the reality is somewhat different.

**Michael McMahon (Hamilton North and Bellshill) (Lab):** I apologise for coming in late, convener. If my question has already been asked, please let me know and I will read the answer in the *Official Report*.

We should look for best practice where it exists. Has any analysis been done of the players who are involved in the BIDs down south to see whether they are the same players who would be involved in Scotland, or would we be comparing apples with oranges?

**Mr McCabe:** We have been working with and consulting the same organisations. The responses that we are receiving and the early impressions of the projects down south seem to chime very well with the proposals in Scotland.

**Michael McMahon:** When we took evidence from the FSB last week, there seemed to be a degree of hostility to the idea, yet the organisations that it represents are similar to those that are participating in the BIDs in England. Has any analysis been done of cultural differences? Why would there be hostility from shop owners in Scotland but not from those in England?

**Mr McCabe:** I do not think that there is any evidence of hostility from shop owners or people who lease properties in Scotland. Some people

may think that it is in their interests to create a different impression, but we have no evidence base to support that. The FSB undoubtedly raised some concerns in its evidence, as was mentioned earlier, but it acknowledged that some of its major concerns had been assuaged by the bill. In general, there is a strong body of support for the concept in the business community.

**The Convener:** A question arose last week about not-for-profit businesses such as charity shops. In England, different BIDs take different approaches to the question whether such businesses should contribute to the levy. Does the Executive have a view on that or will you leave it to individual BIDs?

**Mr McCabe:** The bill tries to adopt a flexible approach to that. It allows charity shops to be exempted from the BID process.

**David McLetchie:** If a charity shop is exempt from the BID process under the bill, why would it rush to volunteer to hand over any of its hard-earned charitable cash to contribute on a voluntary basis?

**Mr McCabe:** Sorry?

**David McLetchie:** As I understand your previous answer, you said that the legislation already allows charity shops to be exempted from payment.

**Mr McCabe:** What I meant is that the bill allows individual BID boards to exempt them if it chooses to do that.

**David McLetchie:** So they are not exempt on the face of it. In other words, standing a decision to exempt them, they are liable. Is that correct?

**Mr McCabe:** The facility exists for the BID board to exempt them if it chooses, yes.

**David McLetchie:** So, if the board does not specifically exempt them, they will be liable.

**Mr McCabe:** Yes.

**David McLetchie:** Thank you.

**The Convener:** That brings us to the end of our questions, minister. Thank you for your evidence. I also thank Mr Gilchrist and Mr McKenzie.

**Tommy Sheridan:** We put on the record our congratulations to the minister.

**The Convener:** Indeed. I am sure that all members of the committee will want to congratulate the minister on his marriage at the weekend. We wish you many years of happiness, minister.

**Mr McCabe:** Thank you.

## Freight Transport Inquiry

14:40

**The Convener:** Our second panel of the afternoon is on a different subject—freight transport. From the Office of Rail Regulation, I welcome Michael Beswick, who is the director of rail policy, and Sarah Straight, who is the director of rail markets, passengers and freight.

We are undertaking an inquiry into the role of freight transport and its economic and environmental impacts; rail freight is obviously an important aspect of our study. I invite you to make some introductory remarks on how you view rail freight, particularly in Scotland. We will then have questions and answers.

**Michael Beswick (Office of Rail Regulation):** The Office of Rail Regulation is the independent regulator of Great Britain's rail industry. It might be useful to summarise our key jobs. From 1 April, when we merge with the Health and Safety Executive's rail division, we will be the health and safety regulator for the GB rail industry. That will add to our existing economic regulation function. Much of our work in that regard relates to Network Rail. We set Network Rail's charges and outputs—we now do that separately for Scotland—monitor delivery of those outputs and ensure that Network Rail meets the requirements of customers, including freight customers. We set the terms of key relationships, particularly those that involve access to Network Rail's network. We also have other relevant functions. We are the competition authority for the rail industry and we look after many other industrial relationships and operator licensing.

Through independent regulation, we aim to achieve several public interest objectives, which are set out in the Railways Act 1993 and subsequent legislation. Relevant objectives to the inquiry include duties to have regard to the use and development of the network for freight; to have regard to sustainable development and environmental issues; and to protect the interests of users of the network, which include freight users.

We try to balance the various objectives. For instance, we are heavily involved in balancing the interests of freight on the network against those of passengers and in balancing the interests of the different parties in the rail industry. In many ways, our role is to hold the ring and to ensure that freight transport is treated fairly with other uses of the network.

**Bruce Crawford:** Your submission says:

“rail performance in Scotland ... has not improved as much as might have been expected in view of improvement in Great Britain as a whole.”

Will you elaborate on that?

**Michael Beswick:** On the Government's public performance measure, GB performance as a whole for passenger services is running at about 85.5 per cent. First ScotRail's performance is still running at a little less than that. Given the operational conditions in Scotland, performance probably ought to be a little better. Overall, railway performance in Scotland is a bit disappointing. We have asked the industry to produce plans to address that and we will have a session with the industry in the next few days to find out how it is doing that. We are reasonably confident that the industry has in place a number of management actions to address the situation. That partly involves freight train performance and working with freight operators to address any problems that freight is causing or is being caused, which the committee discussed with Mr Hogg the other week.

14:45

**Bruce Crawford:** I am tempted to ask lots about passenger services, but the inquiry is about freight. To what extent has that underperformance affected how we shift freight by rail? Is it more to do with passengers, as you said?

**Michael Beswick:** It is very much to do with passengers. Clearly, there are issues around the coal traffic and ensuring that that operates reliably. There were also issues that led unfortunately, as I think one of your witnesses told you, to a loss of container traffic to England. The mess that the railway got into after the Hatfield derailment meant that rail lost that container traffic for good. That demonstrates the importance of addressing performance issues for freight where they arise.

**Bruce Crawford:** On the issue of conflicts, the claim from the passenger side in the case of the Forth rail bridge is that the freight end is not as flexible as it could be with its passports—for want of a better term, although it may be the right one—for using the rail bridge in order to allow more passengers across. Will the advent of the Stirling-Alloa-Kincardine rail line improve that position? What powers do you, or anyone else, have to encourage freight trains, if they cannot bring new business to bear, to give up passport time on the rail bridge?

**Michael Beswick:** Sarah Straight will comment in detail on the issues around access, but it is clear that the Stirling-Alloa-Longannet route will have the advantage of providing an alternative

route to the Forth rail bridge. I think that that is important.

**Bruce Crawford:** That is a different issue from their giving up their passports, though.

**Sarah Straight (Office of Rail Regulation):** A key issue in freight rights, as opposed to passenger rights, is that they are generally much more flexible. The way in which the industry parties are talking to each other and with Network Rail means that there is the flexibility for freight to move around the passenger slots. Between them, I think that they will come up with the best use of capacity to suit all of them. Of course, there will never be a perfect situation, but the way in which the industry parties are beginning to co-operate with each other will make the situation much better.

**Bruce Crawford:** Thanks, that is useful; “best use of capacity” is a great term. However, what happens if there is no coming together? Who makes the final decision about who will have rights where? I genuinely do not know.

**Sarah Straight:** The ultimate determiner of capacity and its allocation is the Office of Rail Regulation. We consider applications for access rights from freight operators and passenger operators. We consult the parties affected—Network Rail and the train operators—and we reach a decision in the light of various criteria. We do not particularly give freight the advantage over passengers or the other way round. In determining the rights, we consider the allocation of capacity as a whole.

**Bruce Crawford:** I need to think about that for a little while, convener. I might come back in.

**Mr Arbuckle:** Your written submission talks about capacity and pinch points. The more I read it, the more I wondered whether there was any spare capacity in the Scottish rail network for additional freight. Is there?

**Michael Beswick:** There is a lot of spare capacity, but there will always be pinch points. There are particular issues around the routes to England for coal. As your colleague said, there are also particular issues around the Forth rail bridge, which the Stirling-Alloa-Longannet route should help with. Of course, that will cause issues to arise in the Glasgow area. It is a question of looking for sensible timetabling solutions. Much of our experience, and that of the industry, is that it is often a question of identifying better planning and better ways of utilising the capacity and better timetabling. I think that that will be the focus of the work that Network Rail is doing this year in its reutilisation strategy for Scotland. That is very much about identifying pinch points and identifying whether there are timetabling solutions and whether infrastructure solutions are needed.

**Mr Arbuckle:** This might be a general question, but do you think that it might be possible for freight transport to increase by 20, 50 or 100 per cent, given better timetabling and better use of lines?

**Michael Beswick:** It depends. We must look at specific locations before we can be sure. Some routes have plenty of capacity, but on others pinch points will be hit very early in the game. It is important that all concerned engage with the re-utilisation strategy that Network Rail is developing. The strategy takes a comprehensive look at what is and is not available in Scotland. Ultimately, if people are not happy with that, they have recourse to us.

**Mr Arbuckle:** Can you give us an example of an underutilised line?

**Michael Beswick:** Most railway lines are volume hungry. It is a question of ensuring that there is not a specific point at either end or somewhere in the middle. It is difficult to say that a line is empty or not well used, because it depends on what we try to do with it. For example, Anglo-Scottish coal is making better use of the Glasgow and south-western route, which is a tight route, and that enables use of the Settle to Carlisle line, which has a lot of capacity.

**Mr Arbuckle:** Do you envisage any general expansion in rail freight that could be carried at night outwith normal passenger times? Is that the kind of expansion that you are looking at?

**Michael Beswick:** As Sarah Straight said, freight needs to be flexible. Freight operators are always in a position to seek out opportunities, get access for them and make arrangements for slots in the timetable.

**Tommy Sheridan:** Now that so much power has been devolved to us as a consequence of the Railways Act 2005, will your role as rail regulator here differ from the role that you play in England?

**Michael Beswick:** The difference is not so much in our role, but in the environment in which we operate. In the future, the Scottish ministers will have responsibility for specifying and funding rail services in Scotland. We have to set Network Rail's outputs and funding in Scotland in the light of the guidance that we get from the Scottish ministers. We will have to set a separate set of passenger access charges for Scotland.

We must have regard to the fact that Network Rail is a GB company and that much freight is GB-wide, rather than just within Scotland. That takes us back to the point about the balance between local needs in Scotland and the needs of and benefits to the whole network. It is no different from what we have done before, but the situation has been made much clearer as a result of the Scottish ministers' new role.

**Tommy Sheridan:** You will be required to establish separate rail outputs for Scotland. When will you be in a position to develop your first set of outputs? How far down the line are you—are you still waiting for information from the Scottish Executive?

**Michael Beswick:** We set national outputs for Network Rail in the passenger access charges review for 2004 to 2009, which completed in 2003. We split that up as best we could between England, Wales and Scotland and we are producing the Network Rail monitor for Scotland that summarises how things are going in Scotland compared with England and Wales.

Next we have to start setting the outputs and funding for 2009 onwards—what we call control period 4, which runs from 2009 to 2014. Next summer, the Scottish ministers will tell us what they want the railway to achieve in Scotland and how much money they have available. We will then have to determine what Network Rail will have to deliver to achieve that in the most efficient way and how much Network Rail should be paid in access charges.

The next key step is for the Scottish ministers to develop what they call a high-level output specification and a statement of available funds. We are working closely with them on that information, which will subsequently be converted into a set of Network Rail outputs and funding through our review process.

**Tommy Sheridan:** Do you expect, or have you discerned, a difference in approach to the expansion of the use of rail for freight transport in Scotland compared with England and Wales?

**Michael Beswick:** We do not yet have any definitive views on that. Clearly, the Scottish Executive and Transport Scotland are doing a lot of work on transport strategy. The clear message is that the focus in England will be on passenger performance, passenger capacity and safety. Rightly, the present work in Scotland is on developing the answer for Scotland.

**Tommy Sheridan:** You indicate that, in England, the concentration will be on improving passenger service output. Our inquiry aims to establish whether enough is being done to develop freight transport in Scotland. I realise that you have had your overarching role in Scotland for only a short period, but we are anxious that, in Scotland, we are attempting to maximise the use of our freight capacity. Is that objective coming through in your discussions?

**Michael Beswick:** The role of freight in the Government specification in Scotland is being considered, but the issue is yet to be thought through. The model in the white paper on the matter for England and Wales was essentially that

freight should be incremental on the passenger network, which is funded by Government. The Scottish ministers must decide on the extent to which they want to make funds available specifically for freight and what sort of mechanism they want to use. That may well be done through the continued use of freight facilities grants. European law places constraints on the extent to which the Government can put money into freight—Sarah Straight may wish to comment on that—but the Scottish ministers have options, which they must work through. We are working with ministers to ensure that they have the best available information.

**Sarah Straight:** Many recent European initiatives have been directed at liberalising the freight market and opening up Europe to freight. The European Union is setting rules about the way in which charges are made but, on the whole, those rules are aimed at providing a level playing field among member states, rather than at giving freight an advantage or disadvantage in relation to passenger traffic.

**Dr Jackson:** Your submission suggests that there will be a change of policy on access charges. Will you comment on that?

**Michael Beswick:** At present, there is no plan one way or the other. We reviewed freight access charges in 2001, which is why we did not review them substantially as part of the 2003 review—we did not think that it was right to change them, as we had only just reviewed them. However, we need to consider freight access charges in the 2009 review. Issues arise about the principles for access charges. This spring, we will consult on what the principles should be and whether the present ones should be changed. Work is also needed to ensure that the wear-and-tear element of freight access charges is realistic and sensible. Overall, the infrastructure costs of the railway are a bit higher than they were when the charges were first set. That is work in progress, although we are getting on with it because we understand its importance to the freight industry.

15:00

**Dr Jackson:** My second question is about timber transport, which was mentioned a week or so ago. I am using this only as an example, but there is an area in my constituency where for about two years an issue has been on-going between English Welsh & Scottish Railway and Network Rail, and in which the Minister for Transport and Telecommunications has also been involved. How exactly would you be involved in a project such as that, which is about when freight travels on certain parts of track?

**Michael Beswick:** Sarah Straight is probably the expert on access. Our key involvement is to do with determining what contractual rights the freight operators would have to operate on Network Rail's network. In doing that, we must clearly balance the requirements of freight and passenger services. In Dr Jackson's constituency, there are constraints on what can be done, but our job is very much about seeking the best public-interest outcomes.

**Sarah Straight:** We would not be asked for an access right for a short time to run a particular load on a particular track. What usually happens is that a company such as EWS comes to us—as it has recently—to ask for access rights across the country for a long period, in order to give the company as much flexibility as possible and the ability to respond to business opportunities. Once the company has those rights, the day-to-day operational issues about how those rights can best be used is best discussed between Network Rail and EWS on the day, if there are specific issues to resolve.

**Dr Jackson:** Would you make the long-term decisions about freight's being on a track at certain times?

**Sarah Straight:** That is not necessarily the case; we usually find that freight rights have a lot of flexibility around them and that timings for specific days are decided between Network Rail and the freight company.

**Michael Beswick:** Ultimately, train operators can appeal on timetable issues to the ORR if they do not get satisfaction through their contract with Network Rail.

**Dr Jackson:** Their contract?

**Michael Beswick:** Train operators have contracts—access agreements—with Network Rail. There are provisions for appeal to the ORR if timetabling issues cannot be resolved.

**Dr Jackson:** Thank you.

**David McLetchie:** What, roughly, are the terms of usage of the rail network, and what is the relationship between freight-service use and passenger-service use?

**Michael Beswick:** I am trying to think of a useful statistic on that. About 1,000 freight trains a day are run by EWS and probably another 500 are run by other operators, so it is a relatively small proportion of the number of trains or train miles on the network. However, the amount varies hugely by route because large parts of the network are used largely by passenger commuter trains and carry very little freight. A number of main lines carry significant freight, however.

**David McLetchie:** Have you been given any parameters, instructions or guidelines by

ministers, whether of Her Majesty's Government or the Scottish Executive, on those usage ratios? Are you under any kind of imperative to alter the relationship?

**Michael Beswick:** Our guidelines are essentially our statutory duties, which are set out in section 4 of the Railways Act 1993, as amended at various times. It requires us to balance various requirements while protecting the interests of users. We must consider the use and development of the network for passengers and freight; sustainable development and the environment; the ability of industry parties to plan; and any general guidance that is given to us by a secretary of state or by Scottish ministers. It is a question of balancing various duties, which includes balancing the needs of passenger services and freight services. We must then take a view as to how that is best done. When we make such decisions we have to set out the principles that we have adopted.

**David McLetchie:** So when there is a conflict over access to a particular route or line between the demands of passenger operators and the desire of freight operators to develop new freight services, there is no bias in any direction from ministers that makes you more disposed to a freight service rather than to a passenger service, or vice versa. Is there a guideline that indicates that in such a conflict situation one should be preferred?

**Michael Beswick:** There is no such guideline from ministers. We have published our own criteria, according to which we make such decisions.

**David McLetchie:** Do your criteria dispose you to opt for development of freight services or passenger services?

**Sarah Straight:** Generally, the issue does not arise in exactly that way. Unless there is no room left on the track, we can generally fit a freight train round a passenger service or a passenger service can run at a slightly different time. In a situation in which nothing more can fit on the track, the decision is made for us, although we are not yet at that stage. We must take advice from Network Rail, which has to operate the railway.

**David McLetchie:** If an operator says that it wants to run a new passenger service or freight service, but you cannot fit it in without bumping an existing service or affecting how an operator runs an existing service, can you interfere with the service or the access right of an existing operator?

**Sarah Straight:** The short answer is that we cannot. We have no power to direct an agreement that would automatically cause Network Rail not to be able to meet its obligations to another party.

**Michael McMahon:** You talked about your discussions with ministers on the overall policy. Everyone is signed up to the idea that we need to get more on to rail and off the road. We have also heard about the capacity problems in accommodating passenger services and rail freight. This morning I visited the Mossend railhead before I came through to Parliament. A new partnership has developed there between a cement company and the operator. A few weeks ago, the committee visited Eurocentral and we saw the partnerships that operate there. Both those sites have huge scope for expansion. More than 50 acres is potentially still to be developed at Eurocentral and at Mossend railhead 20 acres is still to be developed. If there was competition between two operators, what would your role be in ensuring that the market was not skewed? How would you ensure that two competitors were given an equal chance of success?

**Sarah Straight:** We deal with any applications that are put to us for rail access rights. We try to ensure that no barriers are put in the way of freight operators and operators that are entering the freight market. We use various mechanisms to ensure that that is the case; for example, we use option access contracts. If developments are taking place, someone can come to us and say, "We are building a development and we would like to use trains in three or four years. We want to use them for X years to get a payback for our investment." They can almost book some access rights in advance. Developers are taking that option. We are trying to make that available to operators and potential operators so that rail becomes an attractive option. However, they have still to find space on the network once the trains are outside their development.

**Michael McMahon:** Do you have to show the Scottish Executive that you are operating even-handedly? Who holds you accountable?

**Sarah Straight:** Our clients—the train operators—hold us accountable.

**Michael McMahon:** If an operator feels disadvantaged, how can it obtain redress or get the imbalance taken out of the market?

**Sarah Straight:** Ultimately, if anyone is concerned about a decision that we have taken, we can always be judicially reviewed. We hope never to get to that point, however. The hallmarks of the ORR are our openness, transparency and our consultation of all parties that are involved in the cases that we deal with. We always hope to have a completely open deliberation about any suggestion that is that is put to us.

**The Convener:** Your submission identifies the main freight-capacity issue as being movement of coal. It also acknowledges that the opening the

Stirling-Alloa-Kinross line will address one of the problems in that regard. What are Network Rail and, indirectly, the Scottish Executive doing to tackle other constraints on the movement of coal?

**Michael Beswick:** As I said, Network Rail is working on a route utilisation strategy for Scotland. We asked it also develop a freight utilisation strategy for the whole network. Clearly, we are conscious that freight in particular is transported across the entire network. We have to have joined-up thinking on that. Network Rail will assess freight needs across the whole network, including specific work on Scotland. That work will begin to identify whether there are any other problems. As far as movement of coal in Scotland is concerned, the obvious problems concern locations in the central belt, particularly in the Glasgow area. As far as movement of coal from Scotland to England is concerned, the issue will be the Glasgow and south-western route. The freight utilisation strategy should identify those issues.

**The Convener:** Will the ORR have a direct input into the freight utilisation strategy and the Scottish route utilisation strategy, or will you assess them following their publication?

**Michael Beswick:** We are consulted on the strategies and are asked for our views on their development. The main process by which they are developed is by Network Rail engaging with the train operators, the funders—such as the Scottish Executive and the Department for Transport—and with the passenger transport executives and other such groups.

Ultimately, when Network Rail publishes a strategy, the ORR will have 60 days to decide whether it is, against the guidelines that we have set, acceptable, so we could tell Network Rail to do the work again. We try to be involved and to ensure that, in developing the process, Network Rail engages actively with all its stakeholders.

**The Convener:** On capacity, I am sure that the priority that the rail freight industry places on gauge enhancement on the Glasgow and south-western line to enable 9ft 6in containers to use the line as a diversion when the west coast main line is not available is being considered as part of the freight utilisation strategy. The matter has been brought to our attention in earlier oral evidence and in submissions. Does the ORR have a view on the issue or will you await the outcome of the strategy?

**Michael Beswick:** We will await the outcome of the strategy. I understand from technical experts that the issue is not trivial; given the nature of the route, significant work is required and it may be better to focus on other routes for that traffic. That is the sort of issue that I expect Network Rail to address in the freight utilisation strategy. Basically,

it will have to take a view on the route by which the high containers will get to Scotland.

**Bruce Crawford:** I return to the response that you made to my colleague, David McLetchie. You gave the figure of 1,500 for the number of freight journeys that are made in a day. The figure seems to be a high one for Scotland. Was the figure for the UK?

**Michael Beswick:** I am sorry; the figure was for Great Britain.

**Bruce Crawford:** Do we know what the figure is for Scotland and what proportion of total freight it represents? I know that, compared to the passenger side, the figure is small.

**Michael Beswick:** I do not have the figure for Scotland. I imagine that it would be in the order of 100 to 150 journeys.

**Bruce Crawford:** Are you the right people to ask for the figures?

**Michael Beswick:** We can ask Network Rail for them or you could ask it directly.

**Bruce Crawford:** We should probably ask Network Rail directly, in that case.

I understand the balance about which you were talking to David McLetchie, but your submission also says that your remit includes a requirement to “facilitate improvements in the competitiveness of rail freight against other transport modes”.

I can see that the Chancellor of the Exchequer might do that by increasing duty on derv, which would certainly increase the opportunity for moving more freight to rail lines, but I am not sure how you would facilitate such movement because you do not have a lot of funds to bring to bear. Is facilitation more about negotiation, discussion and avoidance of conflict, which you mentioned earlier?

15:15

**Sarah Straight:** Facilitation is mostly about not putting up barriers before new entrants to the freight market. I mentioned access rights contracts, which are an option that developers have used, but we have other mechanisms to make rail freight as attractive an option as possible. There are various mechanisms to do with contracts. For example, there is a mechanism to ensure that if a company has rights that belong to a particular contract and a competitor comes into the market and wins the contract from it, the rights can transfer to the new contract. We can do things that do not make life difficult for rail freight operators in the market, but we cannot do anything more about money because we are not funders.



**The Convener:** That ends questions to Michael Beswick and Sarah Straight. I thank them very much for their evidence.

Our second panel of witnesses on the freight transport inquiry consists of representatives of the Scottish Trades Union Congress. I welcome to the committee Stephen Boyd, who is assistant secretary for the STUC, Hugh Bradley, who is a member of the Associated Society of Locomotive Engineers and Firemen, which is one of the rail unions, and Tony Devlin, who is a member of the Transport and General Workers Union.

We have been told that the STUC witnesses wish to make no introductory comments. However, committee members should have a written submission from the STUC. I thank Stephen Boyd for providing that in advance.

**Tommy Sheridan:** I thank the witnesses for coming along. In your written evidence, you talk about a shortage of drivers in the road haulage industry and estimate that the United Kingdom shortage is some 40,000 drivers. If we extrapolate a Scottish figure from that, is the result that there is a shortage of about 4,000 drivers in Scotland? If so, is there any evidence to back that up?

**Stephen Boyd (Scottish Trades Union Congress):** I will pass you straight to Tony Devlin, who is our expert on the road haulage industry.

**Tony Devlin (Transport and General Workers Union):** It would be pretty difficult to get an exact figure for the shortage of drivers in Scotland. I would argue that the Scottish figure would be a bit higher than 4,000 drivers.

**Tommy Sheridan:** To what do you assign the shortage? Is it simply the conditions of the job? Is there anything the Scottish Executive can do? The minimum wage is, unfortunately, a reserved matter; is it the main determinant of the shortage?

**Tony Devlin:** A number of factors cause the shortage of drivers—the issue could merit an inquiry of its own. One factor is the working time directive and abuses of it in respect of holidays and periods of availability, for example. The directive has not been operated in the spirit that was intended.

If we consider other transport industries, we have to ask ourselves why the road haulage industry is—for want of a better phrase—pale, male and stale. Why is the industry not family friendly? Factors to take into account include long hours, low pay and the basic working environment. Some pressures affect the industry as a whole. For example, the supermarket chains put pressure on the haulage companies, which then put pressure on the people who work in the industry. Unfortunately, they seem to suffer most. If we ask ourselves why people are not coming into the

industry and why there is a driver shortage, we can put all those factors together and say that the industry is not attractive. It is a hard industry to work in.

Whether people are lorry drivers or lawyers, they look for the same things in a job: pay that gives them a reasonable standard of living; some form of security; and a family-friendly work-life balance that allows them to see their family. People do not want to take on a job for 37 hours a week only to find that it is for between 70 and 80 hours a week.

I have only skimmed the surface, but if you put everything down on paper, the job does not look attractive. Furthermore, the cost is astronomical for a young person who wants to become a driver of large goods vehicles. Many people do not have that sort of money ready to hand.

**Stephen Boyd:** In sections 2.8 and 2.9 of our written submission, we tried to identify some positive things that the Executive could do to create a better working environment for drivers in the road haulage industry. For example, there could be adequate and affordable roadside facilities, and better parking facilities in all local authority areas.

We have to consider the value of creating a good working environment not only in the road haulage industry but in all sectors of industry. We believe that that is missing from “The Framework for Economic Development in Scotland”. In many respects, that document is very good; it picked out most of the issues that we had to tackle in order to improve productivity. However, consideration of the workplace—which in the road haulage industry is the driver’s cab—is missing.

**Tommy Sheridan:** I have a related question for either Stephen Boyd or Tony Devlin. We have heard that Scottish haulage companies are making increasing use of foreign drivers, and that foreign companies are increasingly involved in the Scottish industry. Polish drivers have been mentioned in particular. Is there a discernible problem of competition for Scottish workers? Are the foreign drivers being employed for lower wages and under poorer working conditions than Scottish workers would expect?

**Tony Devlin:** That is a problem, and not just in the transport industry, unfortunately. My union regularly finds that eastern European labour is brought in and trained to a level that is in most cases definitely not acceptable to do the long-distance and short-haul jobs of an LGV driver. As the question suggested, they are there for a reason: they are being exploited as cheap labour, which has the knock-on effect that the Scottish workforce is exploited at the same time.

The threat is constantly thrown through the office window at Scottish workers that if they do

not like their situation, they know what to do. Employers can find any amount of cheap eastern European labour to take their jobs. Most eastern European drivers are paid the minimum wage and work long hours, sometimes with little regard for the working time directive and for drivers' hours regulations. That has an adverse effect not only on the Scottish workforce, but on migrant workers. The effect is equal, because employers play one group off against the other. The situation is brought on primarily by the driver shortage and the fact that large producers—supermarkets and others of that ilk—place ever-increasing pressure on the rest of the chain, which goes all the way down to the workers, so employers look for the lowest common denominator and the easiest route from which to take money.

**The Convener:** You mentioned the driver shortage. We have talked about the fact that many of your concerns would have to be resolved at Westminster or in Europe. The Scottish Executive, however, has the power to subsidise or provide more courses for young people to train to be LGV drivers. Would you support that? Have the unions discussed that with the Executive to try to address the labour shortage in the industry?

**Tony Devlin:** I come from a transport background. I was involved in establishing the industry forum for tanker drivers, for which the Scottish Executive commissioned a report on the tanker industry by Walter Williamson just after the fuel crisis in 2000. That was a good report; not a lot came of it, although it hit the nail on the head at the time.

After that, through our union's national committee, some of my colleagues and I worked with our national officials to try to establish a national forum to address the issues. We now sit down with employers, others in the industry and the Government to discuss issues in the tanker industry. I would welcome subsidised training for young people to become drivers. Training used to cost hundreds of pounds. Now it costs thousands of pounds and involves two tests. Becoming qualified is not easy and when other factors are added in, it is even less easy for a young person to become an LGV driver.

**Tommy Sheridan:** How much does it cost a young man or woman to train to be an LGV driver from start to finish, including any tests and possible failures? Bristow Muldoon's point was spot-on—if the Executive would consider implementing schemes to subsidise that training, that would help. However, that would not help if employers—especially foreign employers—continue to employ cheaper labour. In that case, even if someone was trained, they would not get the work unless they were prepared to work for a lot less.

15:30

With that in mind, when you mentioned qualifications, I was interested to hear you talk about the level of training in the industry. As you know, the road hauliers tell us that they are overregulated, but I argue that they are underregulated. Is there any scope—taking on board all the European obstacles—for the haulage industry in Scotland to establish a minimum qualification level below which people could not be employed, in order to ensure that we have a higher level of training than you have said exists currently?

**Tony Devlin:** Yes, there is a lot of scope for that, but to achieve it the will to do so is needed on both sides. The industry has road-haulage agreements that are very basic and which do nothing other than meet the legal minimum requirements. There would have to be some form of minimum standards agreement with the employers.

Tommy Sheridan is right: there is no point in throwing money at something if, at the end of the day, there is no real benefit from it. We could subsidise people so that they could train for heavy goods vehicle licences, but the haulage industry wants a sustainable workforce, so our doing that could open the door to another trap. People could use it as a cheap way of getting their licences and then leave the industry to use their licences elsewhere. It used to cost hundreds of pounds to get a HGV licence; there are now two tests that cost between £2,500 and £3,000. I do not have the exact figure, but the cost is thousands of pounds.

**Tommy Sheridan:** Sorry, that is the cost of obtaining—

**Tony Devlin:** A driver would have to sit a class 2 test to drive a rigid lorry. Once they had driven that type of vehicle, they would apply to sit a class 1 test, which is to drive an articulated lorry. A driver would have to sit two tests and meet the cost of that. It is quite a difficult procedure to go through, especially as the road haulage industry in the UK, not just in Scotland, is in real need of a review of the type that we did in the tanker industry. In that industry, drivers need professional qualifications and a minimum standard has been agreed with the employers. There would have to be genuine willingness on both sides before that could happen in the haulage industry.

**The Convener:** In recent meetings, a committee member who is, unfortunately, not here today, Fergus Ewing, has described the working time directive as possibly one of the worst pieces of legislation in the past couple of decades. I do not subscribe to that view. Your written submission states that you are concerned with trying to

address the long-hours culture in the industry and raising the health and safety concerns that are associated with drivers working long hours. What is your response to Mr Ewing's view of the working time directive?

**Tony Devlin:** I will be honest. I find that an incredible view for anybody to take on the working time directive, given the fact that it is health and safety legislation. In 2006, in an industry in which staff are in short supply, to ask people to work 50 or 60 hours a week—that is a conservative estimate, as people complain to us about working 80, 90 or 100 hours a week—driving lorries, petrol tankers and what have you, is astonishing. If we are serious about addressing shortages in the transport industry, we should be trying to make it a reasonably attractive and secure industry for people to work in. People will not be attracted by the prospect of being paid the minimum wage and having to work 80 to 100 hours a week at the straight-time rate, on the back of which they will get no pension or qualifications. The working time directive can address that if there is a genuine will for it to do that.

Although I realise that the situation can be reviewed and changed only at Westminster, I suggest that Scotland should be able to make serious changes to the way in which the working time directive is enforced here by the Vehicle and Operator Services Agency. At the moment, I know of no instance of VOSA asking to look at the working time records of any company. I take calls almost daily—sometimes two or three times a day—from workers in Scotland who ask the same questions and make the same complaints, and I have meetings with companies that put forward the same arguments to try to change the working time directive. If we genuinely want the working time directive to operate, and if Scotland is to be a progressive, modern industrial country, remarks such as those about the working time directive are astonishing, to say the least.

**Stephen Boyd:** The words that Mr Ewing used were:

"hugely unnecessary and intrusive".—[*Official Report, Local Government and Transport Committee, 7 March 2006; c 3480.*]

On the train on the way here, I read the *Official Reports* of the committee's previous meetings on the inquiry. There is a lot of stuff in the *Official Reports* about regulation in general, and Mr Ewing's comment was predicated on the assumption that the working time directive comes on top of the already massive layers of bureaucracy that firms face. I know that that is a growing orthodoxy that is shared by many different organisations and political parties in Scotland, but it does not stand up to the merest scrutiny. If you will indulge me, I will give you the STUC's general

view on regulation, as it is important and relevant to the inquiry.

We would always support measures that help employers to comply with clear and efficient regulation, and we recognise that regulation must change to reflect changes in the economy. If we truly aspire to healthy and safe work places, fair and equal pay, and sustainable economic development, regulation is fundamental. It is important to bear some things in mind. Since minimum standards in employment were reintroduced in 1997, well over 2 million jobs have been added to the UK economy. Employment regulation does not equal fewer jobs: that is a simple fact.

Independent organisations such as the Organisation for Economic Co-operation and Development and the World Bank regularly put the UK at the top of the table of countries in which to do business. They take into account a range of factors, of which regulation is one. Since the reintroduction of the minimum standards in 1997, business profitability in the UK has grown and compares well with business profitability in our competitor nations. Many of the employers' gripes about regulation reflect poor management practice. The comments of some of the employers who have spoken to the committee reflect the fact that astute employers who planned ahead for this regulation and who planned ahead to meet the cost of fuel by getting it written into contracts, and so on, find it easy to comply with the regulation. It reflects, unfortunately, the standard of management at many levels of the Scottish economy that we find this type of regulation so difficult to deal with.

**Hugh Bradley (Associated Society of Locomotive Engineers and Firemen):** There has been a success story in the freight industry throughout Britain, although there is room for improvement. We have had to work within the constraints of the working time directive as well; however, for the companies that employ train drivers, that has not been such an issue as it has been for our colleagues in the T&G. I am saying that it can be done and is being done at this time.

**Bruce Crawford:** I hear what you are saying about the working time directive. The road haulage industry and trade bodies have presented evidence to us that the directive has resulted in significantly inflated road haulage costs. Indeed, the UK Government suggests that the cost might be around £1 billion. I have no idea whether that is right or wrong. What is your view?

**Stephen Boyd:** I do not know the detail of the issue and I certainly would not put a figure on the costs. However, the costs have to be weighed against the benefits. That has not happened in discussions about regulation. The benefits are that

we now have a higher standard of health and safety in the road haulage industry. Tony Devlin might want to say more about that.

**Tony Devlin:** I support that. The costs of any new legislation must be weighed against the benefits. The benefits of the working time directive for lorry drivers and others in the transport industry are important. It is easy for me to say that, because my experience is that the directive has brought real benefit to people. It was the norm, and the long-hours culture meant that it was expected, that people would work long hours. A refusal to do so usually led to a threat against your employment or dismissal, because employers thought that they could find drivers easily.

The transport industry has problems that must be addressed. People work excessive hours, day and night, on roads that are increasingly congested. It is ironic that you will hear adverts on the radio advising car drivers to stop every two hours for a cup of coffee and to stretch their legs, while it is expected that lorry drivers will be able to work 15 hours a day with a 45-minute tea break.

The working time directive has made the roads safer for the public and, if properly implemented, could make the jobs of people who work in the industry a lot safer. I could not put a figure on the cost of the directive, but I know the benefit that it has brought about.

**Bruce Crawford:** Is there any evidence, across the UK, that the directive is being implemented in different ways?

**Tony Devlin:** Yes. There are about four or five large logistics companies in the UK and a variety of companies of other sizes, down to the family-run firm with two or three trucks. Some manufacturing companies, which are not primarily involved in the transport industry, have trucks as well. Some companies have come up with good examples of ways in which to manage the working time directive, as Stephen Boyd said, and have arrived at good operating practice on a day-to-day basis, while others fall down in that regard. Sometimes, even though good deals might have been reached across the negotiating table, the way in which the system operates on a day-to-day basis can be less than satisfactory.

**Bruce Crawford:** Are you saying that there is a difference between how the large companies and the small companies implement the working time directive? Are the smaller ones having greater difficulty?

**Tony Devlin:** I do not know whether that is necessarily the case. The businesses that have the most difficulty with the working time directive are those in which people just buried their heads in the sand. Everybody knew that the directive was coming in. Those who simply buried their heads in

the sand in the hope that it would not happen and did not prepare for its implementation are now not very happy. However, for companies large and small that prepared for the directive and worked towards implementing it within the three to five year timescale, the working time directive made no difference when it came into force. The difference that exists is not between large companies and small companies, but between those that prepared for the directive and those that did not.

15:45

**Bruce Crawford:** I ask the question because larger companies generally find it easier to implement whatever new regulation is introduced because they have human resources personnel who are employed to deal with that sort of thing. Normally, tradesmen and smaller units have more difficulty putting new regulation into effect because they do not understand all the implications. Perhaps the latter are more representative of the nature of the Scottish industry. That is what I am trying to get at.

**Stephen Boyd:** As paragraph 2.5 of our written submission highlights, the introduction of the working time directive has been an opportunity missed. Some of the anti-regulation rhetoric ignores the fact that the implementation of the directive should be an opportunity to create a level playing field on working time. The directive provides an opportunity to address the real recruitment and retention issues to do with why people do not want to join the haulage industry. It provides an opportunity for the industry as a whole—employers and trade unions—to get together and address those issues, as has happened in the more progressive parts of the industry.

**Bruce Crawford:** I accept all that, but I am trying to get my head round whether the industry in Scotland has particular problems because its structure involves more small, family-run, independent operators. I do not want to cast blame on anyone, but the reality is that such operators have taken a bit longer to get used to the idea.

**Tony Devlin:** I may be wrong, but I suspect that one reason that the directive has caused more problems for Scottish transport companies than for others in the rest of the UK is that Scottish hauliers take longer to reach the marketplace. In the past, drivers might have been required to work longer hours and that was not a problem. Companies could employ fewer staff because drivers were able to work perhaps 14 or 15 hours a day. Now that the working time directive has come into force, the requirement for daily and weekly rest periods means that that cannot happen. For Scottish hauliers whose failure to prepare for the

directive means that they now take longer to reach the marketplace, I imagine that the regulation was quite a thunderbolt when the day of reckoning came round.

**David McLetchie:** I seek clarification of paragraph 2.2 of the STUC's written submission. Am I right in thinking that the drivers' hours regulations under the working time directive came into force in April 2005? Are those the regulations that we are discussing?

**Tony Devlin:** Yes, we are talking about the road transport regulations.

**David McLetchie:** Those regulations came into effect in April 2005. However, paragraph 2.2 of the submission mentions that 195 drivers' hours offences were identified in a survey that was carried out by the Association of Chief Police Officers in Scotland on 3 February 2005. Those offences must have been infringements of the regulations that applied to drivers' hours as measured under what might loosely be called the tachograph regulations. Is that correct?

**Tony Devlin:** Yes.

**David McLetchie:** For how long have we had the regulations on tachographs in relation to drivers' hours?

**Tony Devlin:** I think that the tachograph regulations have been in force for about 20 years.

**David McLetchie:** If those regulations were introduced in 1986, they have been around since well before 1997. Good.

From the standpoint of a driver, what is the relationship between those tachograph regulations and the regulations that came into effect in April 2005?

**Tony Devlin:** Is the question about how the regulations work in an operational sense?

**David McLetchie:** Yes. Do the regulations that came into effect in April 2005 limit the number of hours that a driver can work, or the period over which a driver can work, to a more significant extent than the regulations under the tachograph regime did?

**Tony Devlin:** Yes. As I said earlier, they should significantly reduce the period over which a driver can work. Unfortunately, that does not happen in every circumstance, because of the way in which different employers operate the system on a day-to-day basis.

**David McLetchie:** The figures that you have are from the Association of Chief Police Officers in Scotland. Who polices or enforces tachographs? Who will police drivers' hours under the new regulations?

**Tony Devlin:** VOSA will do that.

**David McLetchie:** So it will perform both functions.

**Tony Devlin:** Yes.

**David McLetchie:** In paragraph 2.8 of your submission, you make suggestions about improving roadside facilities—parking places and so on—for drivers. Has the STUC or the T&G carried out a survey of the main routes in Scotland and identified where there are deficiencies of provision of which you could advise us? We might then be able to highlight the fact that the facility on a particular road is totally inadequate and that there should be some point where a driver can stop.

**Tony Devlin:** Our national committee includes representation from each of the regions into which the union is divided and has investigated the matter in detail. I do not have the exact figures with me, although I believe that I could supply them. I will try to provide members with a better understanding of the issue. When a driver goes away overnight or for a couple of nights, he is given a subsistence allowance—perhaps in the region of 20 quid. If he goes away for a day, is he to feed himself three times and to pay for the truck's parking fees out of that 20 quid? A cup of tea and a roll at motorway services can cost anything between five and seven quid.

Employers, too, complain about the inadequacy of roadside facilities. There are insufficient affordable facilities for drivers on the UK road network as a whole. At motorway services, there may be 200 spaces for cars and 15 spaces for lorries. However, lorry drivers get hungry at the same times as car drivers, and 100 truck drivers cannot get into 15 spaces. In the past, we and employers have requested that local authorities make available proper, affordable parking facilities with CCTV and washing facilities, so that drivers can park up at night in a secure place, where they can have an affordable meal and get proper rest. That is where we believe that something could be done in a Scottish context. At the moment, drivers go in and out of motorway services late in the day trying to find somewhere to park, only to discover that there is no room at the inn, so to speak. That forces them to move on to the next motorway services, which could be 30 or 40 miles down the motorway, although they do not have enough driving time to get there. They then have a decision to make.

We seek the provision of affordable facilities. We can supply exact figures for Scotland for the inquiry, if members request them. There is one set of proper services along the whole length of the M8—at Harthill. There are probably only 15 or 20 spaces for trucks at Harthill services, although

there are many trucks on the M8. Although there is an incredible amount of transport on the A9 from Perth to Inverness, there are no proper facilities where truckers can stop and get something to eat. Similarly, on the A90 to Aberdeen, there are a couple of cafes with some bits of waste ground, but such facilities are not adequate.

**Stephen Boyd:** If the committee is particularly interested in this matter, we are more than happy to develop the proposals that we have touched on in our submission.

**The Convener:** That would be very helpful.

I realise that our questions have concentrated mostly on road freight, but we are also interested in rail and water freight. You acknowledge that only a small amount of freight is transported solely by rail or on water, and that those modes tend to interact with road freight. How should the Scottish Executive invest in the rail industry to deal with the pinch points that we discussed earlier with the ORR, and how would the STUC prioritise investment in the rail industry to maximise its potential for moving freight?

**Hugh Bradley:** That is a big question. Obviously, major priorities at the moment include securing clearance for 9ft 6in high cube boxes, which are about to be introduced on the Aberdeen line; the reopening of the Stirling to Alloa line, which will be important for coal flows; and enhancing the Glasgow and south western line to Dumfries and Carlisle for coal flows from Ayrshire.

We are also seeking enhancements to railheads. Indeed, Michael McMahon asked earlier about developments at the Mossend terminal with John G Russell and at Eurocentral. We should remember that Eurocentral was designed to be expansive; however, it has never come close to doing what it was supposed to do. That said, there has been good news in the area, and new companies have moved in and want to move goods by rail. The Malcolm Group and Direct Rail Services have also been contributing to developments in Grangemouth.

The major priority is the line to Aberdeen to where, I should point out, GB Rail Freight is looking to move more postal traffic. Many good things are happening in Scotland, but we need to get the specifics right and ensure that such developments continue.

**The Convener:** You referred to the issue of gauge. Do you agree with rail freight operators that enhancing the Glasgow and south western line to take larger gauge containers is a significant priority that requires investment?

**Hugh Bradley:** Containers do not use that route, which carries mainly coal and other aggregate freight. I imagine that it would be used

as a diversionary route if something happened on the west coast main line—on which, as members know, there have been many delays because of engineering and upgrading work. In such cases, the passenger train operating companies have been able to move their passengers with buses; however, with freight, we have to find a diversionary route back into the central belt, which usually means going via the east coast. This is the first time I have heard anyone suggest that the Glasgow and south western line be used as a diversionary route for container traffic. That said, many more containers are being moved from the central belt. For example, the Malcolm Group, which began by moving four trains a week, is now looking to move 80 trains a week. The majority of its freight is in containers. It could well be that the Glasgow and south western line is used as a diversionary route in future.

16:00

**Michael McMahon:** We have taken a lot of evidence from people who operate in the rail or road transport industry. A few weeks ago, we took some evidence from environmentalists and the environmental industry. They advocated a green jobs strategy and no growth in freight. Once they have finished hugging their trees, they will want to come home, get things from the shops, watch television and live in a nice house. How do we move stuff around the country if we do not develop the freight industry? Do you have any views on their strategies for reducing freight in Scotland?

**Stephen Boyd:** We are also awaiting a green jobs strategy. Something was published last year, but there was not much in it about creating jobs, unfortunately.

The STUC agrees with you. If we are to support the objective of sustainable economic development, there will have to be a growth in freight. We strongly advocate a general shift from road to rail as far as is practicable, but we have to recognise that roads are still going to be a fundamental part of the freight transport system.

**Michael McMahon:** If it is any consolation, we also tried to discover what a green jobs strategy is, and we did not get very far beyond the envirobabble that we usually get. There was no strategy. The environment is important and everyone is concerned about it. People can see the potential for damage to the environment if things are allowed to grow and develop unrestricted. Would things such as the reintroduction of the fuel duty escalator have an adverse effect on the jobs and potential jobs for your members, or would a freight transport strategy just have to take that into the mix?

**Tony Devlin:** When we start talking about transport, it is inevitable that—if you will pardon the pun—the road will lead to discussion of the price of fuel. The price of fuel is only part of the package. There is no doubt that we would support a reduction in the tax on fuel as much as anyone would, as long as the benefits that came from that reduction were passed on to the workers driving the trains and trucks and delivering the freight. It might be argued that reintroducing the fuel duty escalator would cost jobs in the transport industry, but that might not be the case. What will cost jobs in the transport industry is the constant striving to cut costs at all costs. That is understandable because people are in business to make a profit—I am not against people making a profit as long as the distribution of the wealth is even. The price of fuel would be part of the package and, because of its profile, it might be put forward as the reason why jobs are lost without being the real reason.

**Michael McMahon:** Obviously, as members of the STUC, you do not see any competition between members who drive lorries and those who drive trains. If everything is working cohesively, everyone benefits.

**Tony Devlin:** That is right.

**Hugh Bradley:** The presentations show how it is; there is no conflict of interest here.

On the environmental issues, you have all the same statistics in front of you as we do about the environmental benefits of moving freight by train. It is not a them-and-us situation. We have a united front here. If more stuff goes by road, it could impact on jobs for lorry drivers. In general, we are looking at sending long-haul deliveries by train and short-haul deliveries by lorry, although we must also consider transport by sea. We have a situation at the moment with Freightliner intermodal. The company is facing severe competition because stuff is being moved down south not by road or rail but by the Grangemouth feeder boats. That is an example of the competition that can arise in an integrated transport system.

The committee has seen the success story at Mossend. John G Russell is a big player—the company brings the stuff to the railhead, sends it on a long journey down south and then picks it up again. In the submission from EWS, its chief executive, Keith Heller, states that he too would consider setting up his own fleet of lorries to tie in with the railway. Companies in road and rail transport represent a united front. It is not a question of one sector benefiting at somebody else's expense.

**Stephen Boyd:** On the environmental issue, I would not want to be portrayed as being flippant about climate change. It is a real issue and we

hope to address it in our work plan next year—after congress—perhaps in a more focused way than we have done until now. However, it is unrealistic and unhelpful to stipulate in a strategy for tackling climate change that freight transport should not increase.

**Michael McMahon:** So you want a balanced strategy that takes into account the needs of both the transport industry and the environment.

**Stephen Boyd:** Yes.

**The Convener:** The reduction in services on the Rosyth to Zeebrugge ferry route will impact not only on your members in the transport industry but on those in the manufacturing sector. They have expressed concerns about the situation. Does the STUC have any specific information on the effect on Scottish companies of the reduction to three sailings per week in each direction?

**Stephen Boyd:** We have some information, but I am not sure whether it is in the public domain.

**Tony Devlin:** I think that it is. I spoke to people from a large tyre manufacturer in Dundee. I believe that they have been down to Edinburgh to put their case on the perceived cost of the reduction in sailings of the Superfast ferry to Zeebrugge. I read the various submissions to the committee's inquiry and I also spoke to the convener of our Dundee branch this morning, who faxed some details to me. I find some of the figures that he gave me astonishing. Some 25 per cent of finished product loads—that is, 1,157 loads per year—were going on to the Superfast ferry. The imported semi-finished product—1,000 loads per year—was still going by road. If the ferry had kept to its full capacity, Michelin perceived that, in time, it would carry 40 per cent of finished product loads, which would take the figure from 1,157 up to nearly 2,000 loads per year. The company was thinking about expanding, perhaps by constructing a storage warehouse in the Rosyth area. The company would have stored winter tyres there before running them across to Scandinavia and the rest of Europe via Zeebrugge. It was also planning to set up a terminal in Zeebrugge and to form a link in Ballymena.

My concern is that it will not be long before Michelin and other companies of its size and ilk start to consider where their factories are positioned in terms of getting their goods to market. It will not be long before they start to consider whether there is a viable future for their factories. That is the last thing that the trade unions and, I imagine, the people in this room want. It does not take too much thought to work out that if one large company in an area thinks that way, other large companies in the area will think that way, too.

I do not know why the Superfast service was reduced and how much service was offered previously, but the convener of our Dundee branch told me this morning that more than 80 per cent of the capacity on the ferry was used regularly for freight. Given the potential increase in usage by that one company, and given the difficulty of getting to ports down south, if the ferry operated more regularly than it does at present—I think that it operates every second or third day—there would be potential to grow the amount of freight and increase job stability throughout the east coast and the rest of Scotland.

I am concerned about the situation, although I do not know whether anything can be done to reduce the costs for operators that use the ferry. Our union would be concerned if the service depleted further rather than grew. From speaking to people about the matter, I know that potential exists for growth in the usage of the ferry. I do not know the exact details, but I know that large companies, the workforces of which we represent, are watching the issue closely.

**The Convener:** I am sure that the issue is of concern to the committee generally.

**Mr Arbuckle:** Does any Scottish or UK legislation leave your members at a disadvantage either to English drivers or to drivers from Europe?

**Tony Devlin:** The European working time directive, which has been implemented here, is the same for all drivers throughout the UK. The difficulty is with the daily operation by transport managers, rather than with the policies that directors and chief executive officers of companies have developed. Their mission statements on the working time directive make fine reading, but issues arise when those are cascaded down to day-to-day operational matters. On the issue of whether the directive discriminates against Scottish workers and eastern European labour, I would say that it exploits, rather than discriminates against, those workforces. One workforce is played off against the other to keep the terms and conditions and wages of both down and to keep costs down. If the working time directive was operated in the spirit in which it was intended to be operated, many of the problems that we have discussed today would not exist. The problem is that it is not operated in the intended spirit and we therefore have problems.

**Mr Arbuckle:** Is the directive not being operated as intended only in Scotland, or is the situation worse elsewhere? Is it worse in England or among those who come from the rest of Europe or, indeed, from outwith Europe?

**Tony Devlin:** The operation of the working time directive in Scotland is not further from the spirit of the directive than the operation is down south.

With any industry, if a piece of legislation is introduced that the industry is not particularly keen on, it will not be too long before the industry finds a way round it. It is no worse in Scotland than it is in England. The trend for migrant workers to come here from eastern Europe started in the rest of the UK and it has filtered through to Scotland.

16:15

**Stephen Boyd:** At previous meetings, there was concern that other European Union member states are not implementing the directive as effectively as they should be. I am not in a position to say whether that is true, but if it is, the way to tackle it is to ensure compliance in other member states by taking the matter to the Commission, not to weaken the regulations at the UK level.

**The Convener:** That brings us to the end of questions, so I thank Stephen Boyd, Tony Devlin and Hugh Bradley for their evidence to the committee.

**Stephen Boyd:** I welcome the opportunity to give evidence. National Union of Rail, Maritime and Transport Workers colleagues would have joined us, but the date clashed with their spring conference.

**The Convener:** Before I welcome our next panel, I have some sad news to convey. Margaret Ewing MSP has unfortunately passed away. On behalf of the committee, I convey our deep condolences to Fergus Ewing and to Margaret's wider family. I am sure that it is a sad loss not only to Margaret's family but to the Scottish Parliament because of her contribution to public life in Scotland over many years.

I welcome Bill Ure to the committee. Bill is here in his capacity as the Scottish representative in the Rail Freight Group. He is well known to committee members through the many roles he has played in regard to rail—he is a knowledgeable figure in the area. I invite Bill Ure to make some introductory remarks on rail freight and the broader issues around the freight industry in Scotland.

**Bill Ure (Rail Freight Group):** On behalf of the Rail Freight Group, I welcome the opportunity to talk to the committee and to answer questions. We hear a great deal about the switch from road to rail and how that will help the economy and the environment, but as I indicated in the paper that has been circulated to members, we have to get that into perspective. There is no magic wand that will suddenly switch everything from road to rail.

The market is a certain size. I have suggested in my paper what that size can be and where there is the opportunity for transfer. Rail can help to alleviate the effects of road congestion and, by taking some of the load off the congested road



network, contribute towards a more vibrant and sustainable economy. As the committee will be aware from the evidence it has heard, the transport problem is complex. There is no magic bullet that solves all. A series of considered actions have to be taken, some of which will no doubt have unexpected consequences.

From the rail freight aspect, we see opportunities arising where an effective transfer from road to rail can be made, but the transfer must be cost effective. We want more freight on rail, when that is cost effective. The people who transfer freight are in business to make a profit and to deliver service to customers. There is no point in making a transfer unless it delivers high-quality service for customers and is cost effective.

Going around the freight market in Scotland over the past year, I have been interested to find that it is often the major logistics companies, as distinct from transport companies, that use rail for freight—for example John G Russell (Transport) Ltd, the Malcolm Group, DHL and the TDG. Many of those companies have crept back up the supply chain and are not just at the end at which they respond to customers wanting things moved from here to there. They do all sorts of other things, such as consolidating or breaking down loads, warehousing and holding stock. Such companies constantly drive innovation and have demanding standards of service.

Rail freight is not supposed to be competitive for distances under 200 miles, but our written submission points out that for over a year the Malcolm Group has run a train from Grangemouth to Elderslie—a distance of 41 miles—and back, to avoid road congestion and provide predictability and reliability. That company is considering putting on a second such service.

The West of Scotland Transport Partnership—WESTRANS—has a freight strategy and it is looking closely at transporting freight over shorter distances. If Hunterston comes off as a container port, it could link with terminals throughout Scotland. For example, there is the terminal at Elderslie, which is being doubled in size as we speak thanks to an Executive freight facilities grant, John G Russell at Deanside, a complex of terminals in the Mossend and Coatbridge area, and the Grangemouth terminal. We are evolving the vision of a shuttle service across central Scotland between those terminals to drop off and pick up freight, which would take more lorries off the road.

We need to get a few matters into perspective, though. We have researched the number of lorries and cars on the road in the west of Scotland. People say, "Get lorries off the road and solve congestion." We found that there were approximately 82 million lorry movements and 700

million car movements in the west—so one asks what causes the congestion. A balanced perspective would recognise that taking lorries off the roads would ease the congestion problem only modestly.

The real reason for switching from road to rail is to improve transit times, which are worsening across central Scotland as congestion gets worse, and to provide reliability. That is why the Malcolm Group started its Grangemouth container train. It got fed up firing off 10 or 12 lorries into the wild blue yonder from Grangemouth to Greenock and not knowing within an hour and a half to two hours when they were going to arrive. A wee container train that leaves Grangemouth at 7.30 in the morning arrives at Elderslie at 9.35 and its punctuality rate is over 90 per cent. Much of the passenger railway would like that punctuality rate.

Freight is transferred to rail for economic and reliability reasons, and for the environmental benefit of having fewer lorries on the roads. We must be realistic about the view that lorries cause congestion. Perhaps they do in certain focal points. One asks why all the retailers in the pedestrianised area of Buchanan Street in Glasgow want deliveries at 9 o'clock in the morning. There is certainly congestion there, but it is not driven by the road haulage industry; it is driven by its customers. They might have successfully reduced their inventories and got their just-in-time deliveries, but they have externalised their costs to the rest of society. They do not pay for their policy; it is we who pay for their wanting goods at a specific time.

We think that there are opportunities for transferring freight from road to rail, but we must consider some of the fundamentals. The major movement of freight in Scotland just now is coal from opencast sites and through Hunterston to Longannet and Cockenzie, but particularly to power stations in the Ayr valley. That is a key movement of coal, which is increasing. Until energy policy is ultimately decided, coal will supply a fair amount of electricity generation.

The Settle to Carlisle route between Carlisle and Leeds is closed for a month for emergency repairs because of the sheer volume of traffic that has passed over it. The line has not been designed or maintained for such traffic for the past 20 or so years, but it is being beefed up for it. That is why there is an emphasis on improving capacity on the Glasgow and south-western route from Mauchline south to Carlisle and on the feeder line from Hunterston through Newton-on-Ayr station, Annbank and Mauchline.

It is nice to talk about transfers for intermodal traffic and so on. That is coming along and it will happen, but the key short-term issue is to improve the robustness and the capacity of a major freight

artery, which helps to keep the lights on in Scotland and other parts of Britain.

The other key activity is the opening of the Stirling to Alloa line. That has a number of benefits, not least of which is that it takes coal trains off busy lines between Edinburgh and Glasgow. That helps to improve the reliability and punctuality of the passenger services. The line also takes coal off the Forth bridge, which creates more paths for passenger trains from Fife, where there is a capacity problem. It also enables longer trains to be run from Hunterston to Longannet, which makes the operation more efficient and means that fewer trains are used.

That is a summary of the situation. I am happy to answer members' questions.

**The Convener:** Thank you.

**Michael McMahon:** You mentioned the freight facilities grant. Have we used those grants as well as we could have done in Scotland? Have they been as effective as we would like them to be? Everyone seems to think that they are a good idea, but have we developed the strategy around freight facilities grant in the way that we could have done?

**Bill Ure:** They are a good idea and they are effective when they are used properly. You will be aware that there is a clawback mechanism. Someone can be given a grant, but if the deal does not come off—often for legitimate business reasons—the money is returned. It is not the case that the money is chucked away.

My experience and the feedback that I have gained from speaking to people in the industry is that we have found the people in the section of the Executive that deals with freight facilities grants to be well-informed, helpful, co-operative and eager to do business. They do not sit with a pot of money and say, "This is my money—you are not getting any of it."

The drive must come from industry itself. The smarter operators have recognised that and know how to work with the system. It is invidious to single out one company, but naming names is no problem. The Malcolm Group has received several grants to improve its facilities at Grangemouth and it is doubling the size of the terminal at Elderslie. The grants have been followed up by more traffic going on to rail.

The group got a grant recently to move plasterboard traffic from Kirkby Thore, which is between Carlisle and Leeds, on the Settle to Carlisle line. The traffic is currently all moved by road, but it is being transferred to rail and it will come to Elderslie. Positive developments have come from the grants.

A substantial grant has gone to JST Services (Rail) Ltd to enable it to put in sidings at Barrhill between Girvan and Stranraer and to buy a freight multiple unit to move timber to Ayr harbour, to the paper mill at Troon and to Carlisle and Chirk. Those developments have been watched closely.

The committee will be aware that a lot of timber is due to come on harvest, as it were, in Scotland over the coming years. If the service is successful, as we believe it will be, we can expect further applications for grants to help move timber by rail. Timber lorries are an utter curse on Highland roads, as the roads are not designed for such traffic. If you have been up there you will know what it is like. They hold up traffic splendidly and they are not without risk when they go through some smaller places. Timber is quite a low value commodity, so it cannot stand a lot of cost. That example was a very intelligent application of a freight facilities grant.

**Michael McMahon:** My experience is that those who have tried to pursue freight facilities grant have found the process of trying to convince the Executive that they have a viable proposition arduous. They often have to put substantial investment up front to have any prospect of getting a grant. Could freight facilities grant take the form of pump-priming rather than being an addition to a potential investment?

**Bill Ure:** It never does any harm to re-examine procedures to establish whether they put people off. The Scottish Executive has a duty to ensure that it gets value for money for the taxpayer and the rigorousness of its procedures endeavours to ensure that that is the case. The procedures do not seem to put a number of firms off applying for freight facilities grants—some firms have had several grants. It often comes back to the ability of the management in the companies and how serious they are about the application.

16:30

**Michael McMahon:** We are talking about trying to get more for smaller companies that may see the vast potential for development. Would a mechanism to allow them to use the freight facilities grant for investment be helpful, or do you believe that the system is working effectively at the moment?

**Bill Ure:** No system is perfect. It may be worth looking at the section that deals with freight facilities grants to see whether it is worth spending a modest amount of money on a coaching or assisting team to help small companies through the system. However, it is right to have a rigorous application to ensure value for money for taxpayers. There have been too many areas in which it has not been clear that money has been

spent wisely or prudently, and I would hate that to be said of the rail industry.

**The Convener:** I know that significant growth in rail freight travel has been reported in Scotland, but a significant part of that has been for coal to Longannet and to power stations in the English midlands. Does that increased coal-related tonnage mask the fact that other aspects of the rail freight industry may not be performing as well as we would wish? What more could we be doing to generate more tonnage in other areas of the rail freight market, given the possibility that power stations in the English midlands might find alternatives to Hunterston for rail freight in the future? Even if that is not the case, we must look to see what other opportunities we have to transfer road freight on to rail.

**Bill Ure:** It is difficult to ascertain exactly what is happening behind the morass of figures. As has been mentioned, the Freightliner Group from Coatbridge faces competition from feeder ships. In an overall transport policy, that is not a bad thing, as the most environmentally friendly way of moving a lot of traffic is by sea. If it meets the transit time and customer service requirements, it is fine, because it means that there are other opportunities for rail in intermodal traffic. There is certainly growth, and the Malcolm Group and John G Russell (Transport) are the people driving it.

It takes time for the effects to come through, but a number of currents and adverse trends are running against the road haulage industry at the moment, including the working time directive, fuel costs and congestion. There are a number of things the rail industry should be doing to generate more traffic. There is a legacy of unreliability—which has nothing to do with the present players—that goes back to the days of British Rail, when freight was the orphan of the storm, the last thing people thought about and the first thing that was attacked when people wanted to reduce costs. People have shocking memories of what went on then. The world has changed, and not enough people know how the situation has improved.

The rail freight industry—as individual companies or collectively—should be boasting about the punctuality and reliability of freight services, to convince customers. In the intermodal market from central Scotland to the west midlands, rail is unbeatable. That is why people use it. You just cannot match the transit times by road: a journey from Aberdeen to Walsall takes seven and a half hours for DHL's express parcels service, which is extremely successful.

The industry has a certain amount to do on its own. You will be aware that the Scottish Executive and those who are working on Network Rail's route utilisation strategy are doing a lot of work on the rail strategy for Scotland to ensure that there is

a proper balance between passenger and freight traffic. I am closely involved in both initiatives, and I am not discontented with the fact that the importance of rail freight is recognised and that freight is not being squeezed out by more and more passenger trains.

However, a lot depends on the industry doing things for itself, and that is driven particularly by the logistics companies, which seem smarter and lighter on their feet than some of the operators. If you think about it, the primary business of EWS and Freightliner is hauling trains. Getting the traffic is ancillary to that. That is where the logistics companies come in: they can make the bridge, as it were, between the customer and the rail haulier. In fact, many customers do not know that their transit takes place overnight and is by rail. They are not interested. They tell a company such as TDG, "We want it there tomorrow." They could not care less whether it goes by road or by rail. It is the logistics company that makes that decision.

**The Convener:** I was going to ask about the route utilisation strategy in relation to freight. I welcome your indication that you are not dissatisfied with the way things are progressing in that regard. Can I take it that you are optimistic that the priorities that you have set out in your paper—particularly those relating to gauge enhancement—will be adopted as part of the route utilisation strategy?

**Bill Ure:** There is a clear recognition that the first priority must be the Glasgow and south-western route, because there is a problem here and now with the movement of coal traffic. We are enthusiastic about gauge clearance across the rail freight industry, because we see it as a means of keeping Scotland connected so that the industry can serve Scottish industry properly.

We need more clearance for 9ft 6in containers, which is what we have on the west coast main line to the Mosshead and Coatbridge complex. The clearance to the north-east and Aberdeen is for 8ft 6in containers and conventional wagons, and 9ft 6in on specialised wagons. That is great to have, but employing specialised wagons puts up costs by about a third. We would like capability to Aberdeen, to Inverness and one route across Scotland cleared for 9ft 6in containers.

The Glasgow and south-western route gets a mention, not just for development for coal but as a diversionary route for the west coast main line, so that if the main line is closed by accident or design—because it has to be maintained—there is a diversionary route for freight to and from central Scotland. Hence the emphasis on gauge clearance in the Glasgow and south-western area. That would also be beneficial in the event of Hunterston being developed as a container port.

**The Convener:** I think that your comprehensive paper and introduction have answered all the questions that members had. Thank you for your evidence to the committee this afternoon.

16:37

*Meeting continued in private until 17:00.*

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