LOCAL GOVERNMENT COMMITTEE

Tuesday 12 November 2002
(*Afternoon*)

Session 1

£5.00

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now trading as The Stationery Office Ltd, which is responsible for printing and publishing Scottish Parliamentary Corporate Body publications.

CONTENTS

Tuesday 12 November 2002

LOCAL GOVERNMENT COMMITTEE
28th Meeting 2002, Session 1

CONVENER

*Trish Godman (West Renfrewshire) (Lab)

DEPUTY CONVENER

*Dr Sylvia Jackson (Stirling) (Lab)

COMMITTEE MEMBERS

Mr Duncan Hamilton (Highlands and Islands) (SNP)
*Mr Keith Harding (Mid Scotland and Fife) (Con)
Iain Smith (North-East Fife) (LD)
*Elaine Thomson (Aberdeen North) (Lab)
*Ms Sandra White (Glasgow) (SNP)

COMMITTEE SUBSTITUTES

*Robert Brown (Glasgow) (LD)
Angus MacKay (Edinburgh South) (Lab)
*Tricia Marwick (Mid Scotland and Fife) (SNP)
John Young (West of Scotland) (Con)

*attended

THE FOLLOWING ALSO ATTENDED:

David Cullum (Scottish Parliament Non-Executive Bills Unit)
Peter Peacock (Deputy Minister for Finance and Public Services)

WITNESSES

Kathy Cameron (Convention of Scottish Local Authorities)
Alex Gibson (Scottish Executive Finance and Central Services Department)
Robert Graydon (Renfrewshire Council)
Councillor Anne Hall (Convention of Scottish Local Authorities)
Gillian Russell (Office of the Solicitor to the Scottish Executive)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Ruth Cooper

ASSISTANT CLERK

Neil Stewart

LOCATION

The Chamber

Scottish Parliament

Local Government Committee

Tuesday 12 November 2002

(*Afternoon*)

[THE CONVENER *opened the meeting at 14:00*]

Items in Private

The Convener (Trish Godman): Okay comrades, can we start? We have a busy meeting today.

I ask the committee to agree to take items 4, 5 and 6 in private. Item 4 is committee consideration of our approach to the Prostitution Tolerance Zones (Scotland) Bill, during which we will name potential witnesses, therefore we would like that item to be taken in private. Item 5 is committee consideration of an interim draft report from our adviser on renewing local democracy. Item 6 is committee consideration of yet another draft report, on the Mental Health (Scotland) Bill. Is that agreed?

Members *indicated agreement.*

Local Government in Scotland Bill: Stage 2

The Convener: This is the second day of our stage 2 consideration of the Local Government in Scotland Bill. I am sure that committee members have all their papers, as they usually do.

Before I ask the Deputy Minister for Finance and Public Services to speak, I welcome Tricia Marwick from the Scottish National Party, who is a substitute for Duncan Hamilton, and who has been to the committee before. You are very welcome. I also welcome Robert Brown from the Liberal Democrats, who is here to substitute for Iain Smith. You have not been to the committee before, but I am sure that you will find it to be an absolutely wonderful experience. I introduce the Deputy Minister for Finance and Public Services, Peter Peacock. We will start right away.

After section 15

The Convener: Amendment 33 is grouped with amendments 48, 52 and 53.

The Deputy Minister for Finance and Public Services (Peter Peacock): Amendments 33, 48, 52 and 53 are purely technical amendments. They are intended to clarify to whom the best value and accountability provisions in part 1 of the bill apply.

I move amendment 33.

The Convener: No members wish to speak on the amendments. Does the minister wish to add anything to what he has said?

Peter Peacock: No.

Amendment 33 agreed to.

Section 16 agreed to.

Section 17—Community planning: further provision

The Convener: Amendment 66 is grouped with amendments 67 and 68.

Peter Peacock: Amendments 66 and 67 are drafting improvements to clarify the respective roles of local authorities, as facilitators of the community planning process, and other bodies, as set out in section 17, as participants. The bill as presently drafted requires local authorities to initiate, maintain and facilitate the community planning process and requires other key bodies to participate in the process. Clearly, it is expected that local authorities themselves must also participate, so amendment 66 simply seeks to insert “a local authority” into section 17, alongside other key players, to clarify that beyond doubt.

Amendment 67 places bodies in section 17 under a duty to assist the local authority in

performing its duties under section 16—that is, the role of facilitating the community planning process and the work associated with that. That does not mean that the role of the bodies in section 17 replicates the role of the local authority; it is simply a provision to require other bodies to assist the local authority in performing its duties under section 16.

Amendment 68 is a minor drafting change to improve the wording of section 17.

I move amendment 66.

Amendment 66 agreed to.

Amendments 67 and 68 moved—[Peter Peacock]—and agreed to.

The Convener: Amendment 69 is grouped on its own.

Peter Peacock: The Scottish Executive's commitment to community planning has been clear throughout the preparation of the bill. The absence of a specific duty on ministers in the bill reflected a position that community planning was ostensibly about better local governance. However, it has become clear from the deliberations of the task force, our consultation exercise and the evidence that the committee took at stage 1 that the bill and community planning would be improved if the bill included a duty on ministers in relation to community planning. I am happy to be able to respond positively to the point that the committee made on the issue. I hope that that demonstrates that the Executive is serious about playing a part in making community planning work over a sustained period. Amendment 69 is therefore a significant amendment.

We have not altered our view that the key focus for community planning is at the local level, but the success of the community planning process will also be dependent on strong links between national, regional and neighbourhood levels of governance. Amendment 69 will help to develop those links by ensuring that community planning is promoted and encouraged in the day-to-day policy development and decision-making processes of the Scottish Executive. We recognise that one of the key reasons behind calls for a duty on ministers was the desire to secure the participation of Communities Scotland, and amendment 69 has been drafted to ensure that.

Amendment 69 responds to the committee's recommendations, the views of the community planning task force and the wishes of key stakeholders.

I move amendment 69.

Ms Sandra White (Glasgow) (SNP): I have a small point to make. I am glad that the minister took on board the recommendations of the committee and Communities Scotland. Does the minister have any plans to report annually to the Parliament on the performance of his department and his involvement in community planning, through either Communities Scotland or the local authorities?

Mr Keith Harding (Mid Scotland and Fife) (Con): Amendment 69 could be strengthened by the inclusion of an explicit requirement for ministers to have regard to and support the community planning process in the discharge of their functions. That would fit in with what Sandra White said about the minister making a report to the Parliament.

Peter Peacock: We have tried to make it clear throughout the bill process, and in the clarifications that I have just given, that we are placing a reporting function on local authorities with the support of the other members of the community planning partnership. It is not a question of reporting back to ministers; it is a question of local community planning partnerships reporting to the communities. To the extent that Communities Scotland is part of the local community planning partnership, it will be responsible for reporting locally what it has done.

If Sandra White's point is a separate one—as I think that it may be—about whether ministers will report annually, I must say that we have not hitherto given any consideration to that matter. Nonetheless, I am quite prepared to reflect on that suggestion over the next few weeks before we get to stage 3. That is a fresh point. If that response also addresses Keith Harding's point—as I think that it does—I have nothing further to add. I hope that the committee will approve amendment 69 as it stands, with the assurance that I shall consider the points that have been raised.

Amendment 69 agreed to.

Section 17, as amended, agreed to.

Section 18—Reports and information

The Convener: Amendment 70 is grouped with amendments 71 and 72.

Peter Peacock: Amendments 70 and 71 respond to points that were made by the committee about section 18(1), which concerns the matters on which local authorities will have to report. One of the committee's recommendations involved the publication of a community plan, which would contain objectives to provide a basis for assessing performance. We have always made it clear that the focus of community planning should be the overall process of better planning of services and the delivery of those services. The statutory basis for community planning has been framed with that on-going process in mind.

I have no doubt that, as part of that process, community planning partnerships will want to produce a plan and we would encourage them to do so. However, we must not see the production of a plan as the statutory purpose of community planning. Indeed, we tried to keep to a minimum in the bill mention of the production of plans and to concentrate on the process of doing. The consultation responses backed that approach. Although a plan is an important tool, I am not persuaded that a statutory requirement to produce one is needed.

Community planning is about co-ordinating the planning and provision of services and achieving specific outcomes that make a difference to people's lives and to Scotland's communities. That is why the bill emphasises that community planning partnerships should report to communities, rather than to ministers or to the Parliament. Nevertheless, I agree with the committee's view that outcomes are important in the context of reporting and I am happy to present amendment 70, which tries to achieve that. The amendment will require a report to be produced on the community planning that has been done. The report should include information about the improvement in outcome that is attributable to the community planning process. It should also contain outcomes set against objectives and related performance outcomes that have been agreed by the partnership.

The guidance will expand on that matter and, in time, it will offer suggestions on the range of joint outcomes and indicators to which partnerships may aspire. We want to give local authorities and community planning partnerships the necessary scope to develop specific outcomes within the framework.

I turn to amendment 72. The duty to report on community planning should rightly rest with local authorities, which will be the facilitators of community planning. However, I recognise that other key partners must participate in the reporting process. The committee's view was that the duty to report should apply to the bodies in section 17 as well as to the local authority, but we are concerned that that could be interpreted as a duty to report separately, which is neither the committee's wish, nor mine. A single collective report must be prepared for the community planning partnership, with the local authority, as facilitator, being responsible for its preparation and publication. However, I am persuaded that we must commit other key partners to assisting in the reporting process.

Amendment 72 will ensure that the bodies in section 17 provide any information that the local authority might reasonably require in preparing a report on how the local authority has implemented its community planning duties. For example, that might be information that is necessary to publish a report or information relating to a body's participation in community planning.

I move amendment 70.

Amendment 70 agreed to.

Amendments 71 and 72 moved—[Peter Peacock]—and agreed to.

Section 18, as amended, agreed to.

Section 19—Guidance

The Convener: Amendment 79 is in a group on its own.

Dr Sylvia Jackson (Stirling) (Lab): Amendment 79 relates to the third line of section 19, which contains the phrase

"about participation in community planning."

That suggests that only the element of guidance that relates to participation should be considered. If the committee's recommendation that a community plan should be published is accepted, those who are involved in community planning should be required to have regard to all guidance that the Scottish ministers provide, not only guidance about participation. Therefore, I recommend that section 19(1) be amended by deleting the words "participation in".

I move amendment 79.

Peter Peacock: The Executive supports Sylvia Jackson's amendment. It is likely that ministers will want to issue general guidance on community planning as well as on participation specifically. Amendment 79 is helpful.

Amendment 79 agreed to.

Section 19, as amended, agreed to.

After section 19

The Convener: Amendment 73 is in a group on its own.

14:15

Peter Peacock: As the committee is well aware, community planning is a developing process. At its heart is a desire for closer working between public agencies at local level and for the agencies to work better with communities, including the voluntary and private sectors. It is also about the better delivery of national priorities at the local level, aligned with local priorities.

As community planning partnerships develop over time, they will wish to innovate and develop their co-operative working relationships and arrangements. We want to create as few limitations as possible on the ways in which the

partnerships wish to develop. We want to give them the powers and abilities to accommodate their local decisions on how best to work together.

The guidance that accompanies the bill—the committee has a copy of the working draft—will help considerably in setting a framework for community planning throughout Scotland, while allowing community planning partnerships space to deliver based on their particular circumstances.

Community planning is evolving. However, opportunities for primary legislation come round infrequently so we should always be looking ahead when we design such legislation. That is why I have been attracted to examining how some community planning partnerships might—I stress the word "might"—want to evolve in the future.

I do not want unnecessary barriers to stand in the way of greater co-operation and integration between our public bodies in co-ordinating the delivery of services. I can envisage circumstances in which a community planning partnership might wish to undertake some of its joint activity on a basis different from that of an informal partnership, which a community planning partnership currently constitutes. One means of facilitating that in the public sector framework would be through the formation of a corporate body comprising a membership from a range of bodies participating in the community planning partnership. The corporate body would be a legal entity that was distinct from any one partner.

The possibility of incorporation, as it was termed, was raised in several stage 1 evidence sessions by the Society of Local Authority Chief Executives and Senior Managers, the Society of Local Authority Lawyers and Administrators, the community planning task force and by me. Following a period of discussion and consultation, undertaken jointly with the community planning task force, I am satisfied that we have a consensus to lay an amendment before the committee.

I will describe the key features of the section that is proposed in amendment 73. Any such corporate body would be intended for the purpose of better securing co-ordination to further community planning; it would not be intended to substantively deliver services. Any such corporate body would be enabling and any decision to go down such a route would rest completely at the local level between the local authority and other members of the partnership making an application. The case that is made by the community planning partnership should result from wide consultation and would have to set out the views of those who were participating in the process on the functions that a corporate body would take on. In other words, there would be a need to demonstrate broad agreement.

Ministers would have the ability, through an order-making power, to set out the functions to be undertaken by the corporate body along with the membership of the body, the accountability arrangements and, if necessary, any other conditions. Ministers could not initiate the process or require it to happen, and the process would be subject to parliamentary scrutiny. Provision is being made to supersede existing legislation that would inhibit a body's participation in a corporate body for that purpose.

I emphasise that the power to use the provision would be in local hands. If local authorities and agencies do not wish to use the power, it will not be used.

I know that there are some questions about accountability and potential costs and I want to address those briefly. A separate body will require its own accountability arrangements. That being the case, it would be preferable to have such accountability systems through a public route rather than through the likes of a company. A corporate body with a public accountability route will make it clearer that community planning is about joint accountability when agencies, communities and voluntary bodies act together.

The committee raised a concern about cost, which is entirely understandable. As I have made clear, community planning cannot be about duplicating activity and additional funding. The same is true of a corporate body. The case for the formation of such a body should be grounded in a genuine co-ordination of functions on behalf of the wider community planning partnership. If the body were simply about adding to or duplicating the functions of its constituent members, there would be no point to proceeding with it. I want to be absolutely clear that I do not envisage a corporate body that is created under an order-making power under the section that amendment 73 would insert to be responsible for the substantive delivery of services. There are other vehicles to bring about the joint delivery of services between those bodies. The power to advance well-being gives local authorities powers to enter into partnerships for that purpose. Other vehicles are tailored to specific policy areas, such as in community care. The section that amendment 73 would insert is an enabling provision.

I move amendment 73.

Tricia Marwick (Mid Scotland and Fife) (SNP): I have a few concerns about amendment 73, which the minister's comments went some way to alleviating. On the idea of incorporation, the Local Government Committee's stage 1 report said that the minister said:

"he was sympathetic to the idea as long as it was based on the voluntary agreement of all partners, and that any partner had the ability to veto incorporation".

The wording in subsection (1) of the proposed new section is:

"The Scottish Ministers may—

(a) on the application of the local authority together with one or more of the bodies, office-holders and other persons participating in community planning in the area of the local authority".

There is no mention of the veto or of the fact that all the members are responsible and that they should all be signed up. That is my first concern.

Secondly, I welcome the minister's statement that he does not see incorporation of the bodies as a way of delivering the services and that the services should still be delivered by the local authority and the other partners. Despite what the minister said, I am concerned that amendment 73 perhaps does not make the position as clear as was the minister's statement. I would have liked a lot more clarity in amendment 73.

My third point is that although SOLACE and the community planning task force came up with the idea at stage 1 that we should consider incorporation, I am not convinced that we examined that idea as fully as we could have done. I am conscious of the fact that we heard no voices that could have put an opposing view to the committee at the time. I do not think that the issue has been thought out properly. Although I welcome what the minister said, I want him to return to the evidence that he gave at stage 1 and tell us why he has moved away from the voluntary agreement of all partners towards the agreement of just one of them. I want the minister to explain why he has moved away from providing for even one of the partners to be able to veto incorporation.

My final point is that subsection (9) of the proposed new section states:

"An order under subsection (1) above shall be made by statutory instrument and, if made without a draft of it having been approved by resolution of the Scottish Parliament, shall be subject to annulment".

Do I take it from that that when the order is made, although we might have powers of scrutiny and we may vote against an order, we will not be able to make amendments to the order at that time?

Robert Brown (Glasgow) (LD): I want to raise a couple of points of information, which might show my ignorance. First, I assume that this sort of arrangement would apply to social inclusion partnerships, which I imagine are under the general umbrella of community planning. Is that right and is it the intention that social inclusion partnerships might be converted into bodies corporate in suitable instances? There might be advantages to that, but that is another issue.

The second point is on the format, which is something that we will have to discuss with regard to reserved issues around different sorts of company. Will the company be limited by guarantee? Has any thought been given to the most suitable mechanism for such a public sector body?

Peter Peacock: I will deal with Robert Brown's questions first. If I understood him, he asked whether amendment 73 would allow a SIP to become incorporated. I do not think that it would, but I will confirm the position in writing to Robert Brown. If a SIP were constituted locally and were part of a community planning partnership, I understand that it could be part of an incorporated body.

Robert Brown asked about companies limited by guarantee. The closest analogy to what will be created is a local authority joint board. It will be not a company limited by guarantee, but a body corporate, whose establishment is in the gift of ministers under the procedure that amendment 73 will introduce. Joint boards involve local authorities co-operating. The amendment widens the potential for partnerships and uses a similar model.

I have considerable sympathy with Tricia Marwick's comments about the drafting, as I asked officials the same questions when I saw the amendment. The amendment is intended to initiate the process. It simply ensures that an application is made in line with some minimum criteria. I hope that a request will not be made only by the local authority and one other body, but if it were, paragraphs (a), (b) and (c) of subsection (2) would nonetheless ensure that the application makes clear

"(a) what consultations were conducted on the question whether to apply for an order under that subsection;

(b) what were the views on that question of the persons participating in community planning in the area …

(c) what were the views of persons (other than those referred to in paragraph (b) above) consulted on that question".

When an application is made, a minister will apply tests of whether to proceed by checking whether the application is from two people or represents the views of a wider group of people. If ministers felt that the community planning partnership had not reached genuine consensus, they could decide not to proceed with the matter.

When drafting the provision, the more that we reflected, the more that we asked whether, if the principal players in a large community planning partnership—the local authority, the health trust, Communities Scotland and whoever else was round the table, such as the police or enterprise companies—felt that that was the right way to proceed but one organisation in the partnership felt that it was not, it would be right for that organisation to veto the big players' will. That is the reason for the drafting.

If local views were that consensus had not been reached, I would not envisage a minister agreeing to proceed. That said, I am always willing to reconsider ways of clarifying such matters, if possible. First, I suggest that we proceed with amendment 73. I am happy to give an undertaking to re-examine the matter and to consider whether the amendment can be improved. I am happy to let the committee know about that and to discuss it with the committee before stage 3, to see whether we can resolve the issue. I have considered the matter quite a lot and I am satisfied that the amendment allows the right balance.

I will deal with Tricia Marwick's other comments. The purpose of a body corporate relates to co-ordinating functions, not delivering service functions. Tricia Marwick asked about consultation after evidence had been taken at stage 1. That was conducted jointly by the Executive and the community planning task force, with all the organisations to which she referred, which were also consulted at stage 1. A fairly wide consultation was held before we lodged the amendment. On balance, there was consensus for the proposal, because the amendment provides an enabling power—it does not put a prescriptive power in ministers' hands, but simply enables things to happen when a local decision has been made.

Tricia Marwick's final point was about the resolution. I understand that the same procedures are in the Scotland Act 1998 and that there is a choice as to which procedure is followed. Without prejudice, I would be happy to consider whether there are any changes that we could make to that. I believe that Tricia Marwick was arguing for an affirmative order rather than for the choice being available. Having the choice may well be the right thing to do, but I am happy to reflect on that point before stage 3.

14:30

The Convener: The question is, that amendment 73 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Brown, Robert (Glasgow) (LD)
Godman, Trish (West Renfrewshire) (Lab)
Harding, Mr Keith (Mid Scotland and Fife) (Con)
Jackson, Dr Sylvia (Stirling) (Lab)
Thomson, Elaine (Aberdeen North) (Lab)
White, Ms Sandra (Glasgow) (SNP)

AGAINST

Marwick, Tricia (Mid Scotland and Fife) (SNP)

The Convener: The result of the division is: For 6, Against 1, Abstentions 0.

Amendment 73 agreed to.

Section 20—Extension of Controller of Audit's reporting functions to best value and community planning: amendment of section 102 of 1973 Act

Amendments 34 and 35 moved—[Peter Peacock]—and agreed to.

Section 20, as amended, agreed to.

Amendment 36 moved—[Peter Peacock]—and agreed to.

Section 21—Power to advance well-being

Amendments 37 and 58 moved—[Peter Peacock]—and agreed to.

Section 21, as amended, agreed to.

Section 22 agreed to.

Section 23—Limits on power under section 21

Amendment 38 moved—[Peter Peacock]—and agreed to.

The Convener: I invite the minister to speak to and move amendment 74, which is in a group on its own.

Peter Peacock: Amendment 74 is a simple but important amendment, which responds to a committee concern. It relates to the power to advance well-being and provides a safeguard against the problem of unreasonable duplication, about which the committee raised concerns in relation to section 23(4).

On the basis of evidence taken at stage 1, the committee recommended that section 23 be amended to make it clear that the power to advance well-being could be used to carry out the functions of another body where prior consent had been given by the body concerned. Once prior consent has been given, unreasonable duplication cannot occur. The concern was that the bill as drafted did not make that sufficiently clear.

Local authorities expressed concern that carrying out the functions of another body would be deemed unreasonable even if there were agreement between the parties concerned. Amendment 74 puts the matter beyond doubt. If, after best value has been considered, there is a case for a local authority to undertake a function that is the responsibility of another body, and if that other body consents, that would not be considered unreasonable duplication.

I move amendment 74.

Amendment 74 agreed to.

Amendment 59 moved—[Peter Peacock]—and agreed to.

The Convener: Amendment 75 is grouped with amendment 77.

Peter Peacock: A primary objective of the bill is to shift the focus in local government legislation away from process and cost to embrace outcomes and delivery as well. For the most part, service users simply want better services—they are not hung up about who delivers them or about how they are delivered. We expect local authorities to adopt the approach and the delivery mechanism that secure the best value in meeting the basic criteria.

In the past, local authorities have involved themselves in various sorts of corporate body, such as companies or trusts. We have never sought to regulate the choices that local authorities make in that regard. Most of those bodies are not, and cannot be, bound by the provisions that have been carefully developed and approved in local government legislation.

It is clear that the power to advance well-being clarifies and strengthens the statutory basis for company formation by local authorities. Whether such formation is done under the power to advance well-being or by using other statutory justification, we believe that certain basic principles should apply as a consequence of local authority involvement in corporate bodies. Corporate bodies that discharge local authority functions should fall within the accountability framework of local government. That is essential to ensure protection and account for the public pound. Amendments 75 and 77 are intended to address that issue directly.

The "Following the Public Pound" guidance by the Convention of Scottish Local Authorities and the Accounts Commission for Scotland has proved a valuable guide to local authorities. We support the principles that are set out in that guidance and we welcome the fact that the guidance will be updated to reflect the new landscape of Scottish local government.

However, in the Parliament and elsewhere, there have been calls for greater certainty in accountability arrangements on these matters. We need to ensure that the "Following the Public Pound" guidance is applied rigorously and uniformly. We have concluded that, in future, following that guidance should be a precondition of involvement in corporate bodies, not an optional extra. We want to remove any ambiguity. Amendment 75 puts the issue beyond doubt.

On amendment 77, it is essential that, once a local authority has decided to use a corporate body to discharge some of its functions, the authority's auditors have a right of access to the body's accounts. Involvement in corporate bodies can be profitable for a local authority. We are considering how such profit should be regarded within the accounting framework that is set out in part 1 of the bill. If necessary, we will clarify the issue formally at stage 3.

I move amendment 75.

Ms White: I seek some clarification on amendment 75, particularly its reference to

"any code or other document which the Scottish ministers direct".

The minister mentioned the guidance for local authorities. The language that is used in amendment 75 worries me, as it makes me think that ministers will put forward codes or documents—for example, in relation to the power of well-being. I want to clarify that the Executive will not produce various documents just because of amendment 75.

Tricia Marwick: In his comments about incorporation, which he made in relation to amendment 73, the minister stated that he did not expect an incorporated body to discharge the functions of local authorities or of any other partners. However, in supporting amendment 77, he indicated that incorporated bodies could discharge some of the functions of local authorities. I am concerned that incorporated bodies might be allowed to discharge responsibilities that elected officials and local authorities should discharge. In view of the remarks that the minister has just made, I seek clarification on what he is saying about incorporated bodies.

Peter Peacock: On Sandra White's point, amendment 75 does not represent a Trojan horse for other bits of guidance that we want to use. We seek to ensure that the "Following the Public Pound" guidance, which will be updated over time, is applied rigorously and consistently in relation to local authorities' involvement in corporate bodies. That is not to say that ministers could not use the power at some future date, but there is no intention to do so. In our mind, the issue is straightforward: we want the power that amendment 75 will provide so that we can ensure that "Following the Public Pound" is followed more rigorously. We are responding to significant representation that has been made since the Parliament was established about the current arrangements.

On the point that Tricia Marwick made, we need to be absolutely clear that the body corporate that we discussed in the context of amendment 73 is a body corporate for the co-ordination of the community planning function. It is not our intention to use that body to deliver primary functions.

However, existing arrangements allow local authorities to establish corporate bodies, trusts

and other mechanisms to deliver services. Perhaps the best anecdotal example that I can give is the leisure trusts that local authorities have set up to run swimming pools, sports facilities and the like. Those already exist in a number of council areas in Scotland.

Amendment 75 will provide a mechanism to bring those trusts within the scrutiny of public accountability. Rather than encouraging more things to happen outwith local authorities—and potentially, therefore, unaccountably—the amendments will ensure that there is an accountability mechanism for such bodies. We seek to resolve that issue, which has been raised in the Parliament on a number of occasions.

The Convener: The question is, that amendment 75 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Brown, Robert (Glasgow) (LD)
Godman, Trish (West Renfrewshire) (Lab)
Harding, Mr Keith (Mid Scotland and Fife) (Con)
Jackson, Dr Sylvia (Stirling) (Lab)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Thomson, Elaine (Aberdeen North) (Lab)

ABSTENTIONS

White, Ms Sandra (Glasgow) (SNP)

The Convener: The result of the division is: For 6, Against 0, Abstentions 1.

Amendment 75 agreed to.

Amendments 45 to 47 moved—[Peter Peacock]—and agreed to.

Section 23, as amended, agreed to.

Before section 24

The Convener: Amendment 76 is in a group of its own.

Peter Peacock: Amendment 76 is intended to ensure that there is statutory provision so that best value and community planning can be taken into account in the regular inspections of fire services by Her Majesty's chief inspector of fire services for Scotland and in the regular inspections of police services by Her Majesty's inspectorate of constabulary for Scotland. Amendment 76 would simply make the powers of the inspectorates clear in that regard.

I move amendment 76.

Amendment 76 agreed to.

Section 24 agreed to.

Section 25—Excess of power: enforcement

Amendment 65 moved—[Robert Brown]—and agreed to.

Section 25, as amended, agreed to.

The Convener: That is our stage 2 consideration of part 4 of the bill finished. We will stop for a couple of minutes to stretch our legs, before we deal with the Dog Fouling (Scotland) Bill.

14:43

Meeting suspended.

14:46

On resuming—

Dog Fouling (Scotland) Bill: Stage 1

The Convener: We continue our stage 1 consideration of the Dog Fouling (Scotland) Bill, a member's bill that was introduced by Keith Harding, who is a member of the committee. We welcome the Deputy Minister for Finance and Public Services, Peter Peacock; Alex Gibson, who is a policy officer at the Scottish Executive; and Gillian Russell from the office of the solicitor to the Scottish Executive. Thank you for coming today. Minister, you know the drill. You may say a few introductory words, after which we will ask some questions.

Peter Peacock: Thank you, convener. I have a reasonable amount to say, after which my associates from the Executive and I will be happy to try to answer questions. This is the committee's final stage 1 evidence-gathering meeting on the bill. We have read with interest the evidence that has been given so far and I will touch on some of the issues that have been raised.

First, however, I reaffirm the Executive's support for the principles of the bill. I hope that we can all work well together to ensure that the bill completes its passage before the end of the parliamentary session. In my younger days, my route into local politics was editing the local community newsletter in my village. My first front-page story and editorial was on dog fouling. The inspired headline was "Mucky Pups", which did not go down well in certain quarters, especially with the dog owners in the village. It therefore gives me some personal pleasure that I now have a hand in a piece of legislation that might advance the cause that I was advocating almost 30 years ago.

I knew Keith Harding for a good number of years before we were both elected to the Parliament. He and I disagree fundamentally on a great many things and have different political philosophies, but I have always found him extremely easy to get on with—I have found him one of the easier people to co-operate with over the years, when co-operation has been necessary. In preparing his bill, he has worked hard with my officials and the non-Executive bills unit in that spirit of co-operation.

I look forward to helping in whatever way I can to get Keith Harding's bill on to the statute book. Our commitment to that is underlined by the fact that tackling dog fouling is an integral part of our wider quality-of-life initiative. Furthermore, should the bill be approved by the Parliament, which I hope will be the case, we have allocated £100,000 for a publicity and educational campaign.

I wish to acknowledge at this stage the work that has been undertaken on Keith Harding's behalf by the non-Executive bills unit of the Parliament. I have to say that the bill is one of the more readable pieces of legislation that I have come across, which shows the good work that the unit has done.

The work that has been done on the bill has coincided with the Executive's review of the existing dog fouling provisions, which we recognise have not been entirely effective in dealing with what is a very annoying problem. No doubt we have all experienced the distress and nuisance caused by dog fouling or have had it brought to our attention by constituents. In the circumstances, I agreed that my officials should work collaboratively with the non-Executive bills unit of the Parliament with a view to improving the existing arrangements. The bill is the outcome of those discussions, although, in relation to some aspects, my officials are still in liaison with the non-Executive bills unit and I am still talking with Keith Harding. I am confident, however, that we will be able to agree any amendments that are required, some of which I will cover later.

The main problems with the existing legislative provisions relate to the nature and extent of the offence, lack of enforcement and the difficulties involved in obtaining evidence. The Executive therefore welcomes the main changes proposed in the bill. The bill changes the emphasis in relation to the offence from one of allowing a dog to foul to one of failing to clean up after it. The bill also extends the remit of the legislation to all public places. It allows the police and local authorities to enforce the proposed provisions by way of fixed-penalty notices and removes the need for corroborative evidence.

Keith Harding's consultation for the bill, together with the informal local government focus group that my officials established, indicated support for such changes. However, in the consultation, concerns were expressed about the ability of local authority officers to enforce the proposed provisions. We acknowledge those concerns. Although it would not be appropriate to provide local authority officers with the same powers as the police have to demand personal details, we believe that, to assist enforcement, there should be an offence of obstructing a local authority officer. We plan to lodge an amendment to address that.

As the committee is aware, we also indicated that we had some concerns about the practicalities of local authorities using the method that is proposed in section 11 of the bill for the recovery of unpaid fixed penalties. However, in the interim,

it has not been possible to identify a better solution that would not involve substantial changes to the principles of the bill. In the circumstances, we are content to leave the bill as drafted, provided that Keith Harding continues to be of the view that the method proposed is the best available option.

We also noted in our response that the bill does not provide for a hearing should a person wish to contest the appropriateness of the increased fixed penalty. That could be because the person has submitted a request for a hearing within the period allowed or has already paid the original penalty. We also believe that, for the avoidance of any doubt, those issuing the fixed penalties should have the power to waive the increase if they consider that appropriate—for example, if there was evidence that the original penalty had been paid. I understand that Keith Harding has accepted the need to address such European convention on human rights concerns and that he will lodge an amendment at stage 2.

I will now deal with some of the points that were raised at last week's meeting. I noted with interest the case made by the City of Edinburgh Council for the time limit for a local authority to issue a fixed penalty to be increased from 72 hours. The Executive would be receptive to that if the committee considered that that would be of assistance to local authorities. I understand that Keith Harding is considering the merits of that proposal. We would be interested to hear the committee's views on the matter.

We are also pleased that the issue of education has come up in the committee's discussions. I take this opportunity to emphasise that we do not think of the bill as being all about enforcement. It is much more than that. Although enforcement will undoubtedly play a part, we need to educate and encourage the dog-owning public to change their attitudes and to act more responsibly. As I have indicated, the Executive intends to play its part by undertaking a £100,000 publicity and educational campaign should the bill complete its passage.

I have outlined why the Executive supports the general principles of the bill and briefly referred to those amendments that we consider necessary. I reiterate our appreciation of Keith Harding's support, and the non-Executive bills unit's assistance, in working with my officials to produce a bill that largely meets the Executive's policy requirements as well as meeting the aspirations that Keith Harding has set out. That is a good example of collaborative working to ensure a more effective solution to the problem of dog fouling. I hope that that is extended to ensuring that the bill successfully completes its passage before the end of this parliamentary session. I am happy to answer members' questions.

The Convener: As you say, the bill was introduced by Keith Harding, who is a member of the Local Government Committee. However, are you aware of any concerns raised by local communities directly with the Executive before the bill was introduced? Has the Executive produced guidelines for local authorities on dog fouling?

Peter Peacock: I will ask Alex Gibson to answer those questions.

Alex Gibson (Scottish Executive Finance and Central Services Department): The Executive receives complaints from members of the public about the inadequacy of the existing dog fouling provisions. The only guidelines that have been issued specifically in relation to section 48 of the Civic Government (Scotland) Act 1982 relate to the period when the act was first introduced. However, many other guidance circulars on dog-related subjects have been issued over the years.

The Convener: Okay. Thank you.

Ms White: I have a question on the bill's financial implications, particularly the cost to local authorities. I put the same question to the City of Edinburgh Council and to a chap from Renfrewshire Council last week. I got two different answers but the general point was that both councils would like extra money to deal with the bill's implications for local authorities. Concerns have been expressed to the committee about the sum of money that it is said would be enough for councils to implement the bill.

It has been suggested that local authorities should assess how much it would cost them to implement the bill. Would you be in favour of a general cost assessment rather than just saying that £6,000 will be enough for local authorities to implement the bill? Local authorities do not think that that will be enough. If local authorities said that they wanted to be consulted on the cost, would the Executive be in favour of doing that before the bill's provisions were implemented?

Peter Peacock: We support the financial memorandum that Keith Harding produced with the bill. The memorandum broadly indicates that the measure should be cost neutral. I know that some believe that the bill will bring about savings in relation to the current procedures—for example, the preparation of reports for a procurator fiscal. In addition, the bill will return to local authorities the receipts of income that result from the penalties. That alone ought to generate sufficient revenue to cover any costs or additional costs associated with the implementation of the bill.

Therefore, we do not think that there is a case for additional funding. We think that the scheme should be self-financing. The scheme could reduce current costs and there could be a new income stream for local authorities, which would cover any other costs.

Dr Jackson: A question that arose at last week's meeting is what should happen when someone under the age of 16 commits an offence. What are your views on that? One view is that the prosecution of such offences could be cumbersome. If someone under 16 was prosecuted, the case might have to go to the Lord Advocate.

Peter Peacock: I suspect that I will seek legal advice on the point about the Lord Advocate. On your general point, our view is that there is no need to change what Keith Harding has proposed in his bill. We think that the bill's provisions are satisfactory. Authorised officers could issue fixed penalties to people under 16. However, such local authority officers will have to exercise considerable judgment and discretion when issuing fixed penalties.

For example, if an authorised officer saw that a young person in control of a dog failed to clear up after the dog had fouled the pavement, we would not expect the officer immediately to slap a fixed penalty on that young person. We would probably expect the officer to use their discretion by telling the parents what had happened and asking them to ensure that it did not happen again.

Beyond that, there is an important point of principle. We support what Keith Harding proposes in the bill because it would be wrong, in our view, to exempt under-16s from the bill's provisions. If they were exempted, that could encourage a circumvention of the provisions. For example, children could be sent out to walk the family dog or, if a family group was present when the dog fouled the pavement, the family members could claim that an under-16 was holding the lead at the time. On balance, we expect officers to use common sense and judgment in cases involving under-16s. We do not want Keith Harding's provisions on under-16s to be changed.

I understand that there is scope under the bill to issue guidance. I hope that such guidance would flesh out the approaches that we would expect local authorities to take in situations of the sort that Dr Jackson described. I rather suspect that that covers the point of principle to which Dr Jackson referred, so perhaps we can leave the Lord Advocate out of the discussion—unless Dr Jackson wants to come back on that point. Perhaps Gillian Russell wants to pick up on what has been said.

Gillian Russell (Office of the Solicitor to the Scottish Executive): Was the point that was made to the committee last week that a prosecution of somebody under 16 would be referred back to the Lord Advocate?

Dr Jackson: That is what was suggested to us.

Gillian Russell: If the case went as far as a prosecution and the procurator fiscal was involved, I presume that the normal rules that would apply to any prosecution would apply to a case under the bill.

Mr Harding: I do not have any questions, minister. We have discussed the issues at length on many occasions. I appreciate the way in which your team has co-operated with the non-Executive bills unit and me. I also appreciate the announcement today of the £100,000 educational programme. I am glad that you have reassured me that the bill will continue to go forward with your support in principle. I look forward to addressing your concerns.

15:00

Elaine Thomson (Aberdeen North) (Lab): In the evidence that we have been given, it has been suggested that, rather than having a separate bill, we could have amended the Civic Government (Scotland) Act 1982 and the Environmental Protection Act 1990. Do you think that we need the Dog Fouling (Scotland) Bill?

Peter Peacock: I will ask Alex Gibson to flesh out our thinking, but we feel that the bill is an entirely appropriate means by which to deal with the matter. Keith Harding took the initiative, with the support of other members of the committee, when he lodged the bill. The bill contains the provisions that the Executive is seeking. Parliament provides for such a mechanism within its procedures. We do not think that there is any need to think about changing the mechanism that is being used. It is entirely appropriate. There are reasons for not amending the legislation to which you refer, which Alex Gibson will explain.

Alex Gibson: The provisions in section 48 of the Civic Government (Scotland) Act 1982 differ substantially from what is proposed in Mr Harding's bill and would have to be more or less totally repealed. It is far easier and far more appropriate to introduce a completely new bill. I appreciate that the bill has a relationship with the Environmental Protection Act 1990, but dog fouling has always been regarded as a separate offence with stand-alone provisions. The Executive believes that that should continue.

Elaine Thomson: I have a question on a slightly different topic. Dog fouling is an issue that crops up for us all, so I entirely support the bill. Nevertheless, I understand that the bill will apply to all non-agricultural land. Will there be difficulties with the definitions of agricultural and non-agricultural land? I can think of areas where a number of different animals use public land—there is fouling other than that caused by dogs. That might raise a number of questions.

Peter Peacock: Could you give me your second point again?

Elaine Thomson: My second point relates to non-agricultural land that is used by humans, dogs and horses. What thought has been given to areas that could be described as bridle-paths, as well as places where people walk dogs?

Peter Peacock: That question might better be addressed to Keith Harding, who introduced the bill.

The Convener: As long as he does not have any ideas of extending the bill to include horses and bridle-paths.

Peter Peacock: That is a matter for Keith Harding. We would consider it. I suggest that Elaine Thomson thinks about introducing a horse fouling bill if she feels particularly strongly about the issue. I am being facetious. The question is best addressed to Keith Harding, because the bill is his.

Dr Jackson: You said that, if you were thinking of altering the bill, you might do so radically, but that you are happy to give it support. It has been argued in written evidence that the bill may be a bit narrow and that it might well have been extended to provide for a national registration and licensing scheme for dogs. What are your views on that, looking at the broader picture?

Peter Peacock: The bill is not an Executive bill; it is Keith Harding's member's bill and we are simply addressing ourselves to the provisions in his bill. With respect, I suggest that the bill's scope is more a matter for him.

We are aware of the arguments on registration, with which there are considerable difficulties. We continue to consider the issues, but we have not ruled registration in or out. Keith Harding's bill does not raise that point, so we have not addressed it in the context of the bill.

I am conscious that I did not address Elaine Thomson's earlier question about agricultural land. Perhaps Alex Gibson or Gillian Russell can help me with that. The provision, as I understand it, is on public land and rules out agricultural land specifically. However, public land is defined broadly and I am not sure that the provision is framed in the way that Elaine Thomson suggests it is—that everything other than agricultural land is public land—although agricultural land is specifically excluded. There is probably a fine point of distinction. Perhaps Keith Harding and his colleagues who have been working on the bill would deal better with that point.

The Convener: The committee has received evidence that suggests that the bill is unclear in respect of corroboration of offences. In particular, concern has been expressed that the bill does not state that an offence must be witnessed by a person who is authorised by the local authority. It is argued that that could lead to local authority officers or those who do not like dogs hounding dog owners. Do you have any concerns regarding that provision?

Peter Peacock: I understand the point, but we will not seek to alter the provisions in the bill, which are sufficient. We would expect people to exercise discretion, but it is clear that if an authorised officer did not witness the alleged offence—which would be an actual offence if the officer witnessed it—they would have to be careful about simply taking at face value someone's word that an offence had been committed, and about proceeding on that basis. I understand that it would be within officers' powers to do that. Equally, we would expect officers to exercise discretion in resolving such problems. Perhaps guidance could help. Perhaps speaking informally to someone and indicating that an allegation had been made would be part of the process of encouraging people to be more careful about how they conduct themselves in future. I accept the point about malicious use of the provision. Local authorities will have to exercise discretion in how they handle such matters.

The Convener: You said in your opening remarks that you have set aside £100,000 for the bill. I take it, given what you said about education, that you envisage that money being used for advertising what the bill is about and what it will do. However, the committee has also received evidence that included queries about resources that will be made available to procurators fiscal if they have to implement the bill's proposals. Does the Executive have any plans to give the Procurator Fiscal Service additional money or will offences not go before procurators fiscal often?

Peter Peacock: We are not persuaded that, of itself, the bill will produce more work for procurators fiscal, because they already have a role under the current legislation. It is arguable that because the bill is designed to supersede those provisions and to provide new ways of dealing with such matters, procurators fiscal might have less work. However, we would not ask for any money back.

The Convener: I will ask a final question. The memorandum that you gave the committee before the meeting states:

"The Executive considers that any civil enforcement mechanism adopted in the Bill should conform to the principles which the Executive has applied to its current proposals for reform of the civil enforcement system. Alternatively, there is an argument for the matter to continue being dealt with as a criminal offence. The Executive is currently considering which of the above procedures is the most appropriate and, if appropriate, will table an Executive amendment."

Will dog fouling continue to be dealt with as a criminal offence, will it be dealt with as a civil offence, or will it be a combination?

Peter Peacock: I made the points in my opening remarks that we wrote that memorandum when we were considering the possibilities and that it has not been possible to identify a better solution that would not involve substantial changes to the bill's principles. In the circumstances, we are content to leave the bill as drafted. We have clarified that that is our position, we have not come up with any alternative and we are happy for the bill as drafted to proceed.

The Convener: Thank you for your time.

Peter Peacock: Thank you.

The Convener: Okay, we will continue. We have before us representatives of the Convention of Scottish Local Authorities. I welcome Councillor Anne Hall, who is a member of COSLA's environment, sustainability and community safety executive group. I declare an interest at this point because I know Anne—it is nice to see her. I welcome Robert Graydon, who is the environmental protection manager for Renfrewshire Council. I should also declare an interest in that I know him, too. I also welcome Kathy Cameron, who is COSLA's policy officer. I understand that Anne Hall will make opening remarks on the witnesses' behalf.

Councillor Anne Hall (Convention of Scottish Local Authorities): I have a difficulty in that although I am a Renfrewshire Council councillor, I am today representing COSLA and its concerns about the bill. COSLA and some local authorities feel that amendment of the Civic Government (Scotland) Act 1982 might be more appropriate, although that is not the view of all councils.

There is concern about the bill's lack of empowerment for local authority officers, especially in situations where offenders are asked to provide identification; the bill does not give local authority officers powers such as the police have to get people to give such information.

We are also concerned about the system of hearings. From the evidence that has just been given, I am concerned about what will happen when cases are taken to court. If a case went to court, there would be a requirement for corroborative evidence. If an authority has one officer out on the streets on his or her own, that could lead to difficulties in respect of corroboration.

There is also a concern about the cost of implementing the bill. There is a view that the bill could be cost neutral, but the difficulty remains about whether authorities will have to employ extra staff and whether it is appropriate for officers of the council to do the job of dog wardens in addition to their own jobs. Even with a system of fixed penalties, there might not be enough money to cover those additional duties.

The bill might create in communities aspirations that local authorities cannot meet. We have a protocol in Renfrewshire that works well, which involves two hours of police time each fortnight during which police officers go out with our dog warden. That might hit a few areas, but as the committee can imagine, a huge part of Renfrewshire is untouched, especially as we have had the protocol in place only since June. That is all I want to say for the moment.

15:15

The Convener: Thank you. If no one else wants to add to that, we will open the discussion for questions.

In your experience, how big a concern is dog fouling? We heard evidence last week that it is not much of a concern, but we heard today that people are contacting the Executive directly. Do you see it as a serious problem?

Councillor Hall: Yes, I do. I get an awful lot of inquiries and complaints at my surgery about dog fouling. Renfrewshire Council has installed four dog bins in each council ward, so it is not as if there is no alternative to dogs fouling the street; rather, people are more aware of the fact that dogs are fouling the street and that the evidence is not being picked up and disposed of correctly. I get complaints at my surgery, the dog warden gets complaints and the police get complaints. There is a big health concern about dog fouling, especially about young children ingesting eggs and ending up with a worm infestation. I was looking at the figures on the internet and, although there are not that many reported cases, my feeling is that the problem is bigger than it might appear from the statistics.

Robert Graydon (Renfrewshire Council): I can back up Councillor Hall. Our authority is probably no different from any other in Scotland, and complaints about dogs—whether they are about stray, barking or fouling dogs—number among the highest that we receive. During the past couple of years, the number of complaints has remained fairly steady, but we have noticed that although the number of complaints about stray dogs has dipped, the number of complaints about dog fouling has risen. It is a major issue in our department.

The Convener: In COSLA's written evidence, it was suggested that councils had expressed the view that

"a substantial re-drafting or perhaps an abandonment of the bill, in favour of an amendment to the Civic Government (Scotland) Act 1982, might be more practical".

I ask Kathy Cameron to explain the reasoning behind that statement.

Kathy Cameron (Convention of Scottish Local Authorities): A range of councils expressed a range of opinions, and it is always difficult to try to consolidate those opinions into something that gives an overall view. It is safe to say that a number of the comments suggested that the bill contained some weaknesses which, were they not addressed, would lead to more, rather than fewer, problems with implementation. COSLA would not die in a ditch if the committee decided not to go for amendment of section 48 of the 1982 act or of the Environmental Protection Act 1990. They were mentioned merely as options that the committee might want to consider.

Having taken note of the Executive's comments today and in its written submission, we are pleased to note that it has accepted that amendments are being lodged to meet most of COSLA member councils' concerns. We are pleased to note, too, that Keith Harding has accepted that the issues have to be examined.

We continue to have concerns about financial aspects and issues of public expectation. I have spent some time in the past few days looking at councils' websites and their content on dog fouling. Almost without exception, dog fouling features as a major concern in terms of the number of complaints received from members of the public. The methods through which councils attempt to deal with the problem are many and varied. They range from free provision of poop scoops to telephone hotlines for whistleblowers, which is an option that many councils are examining in more detail. One website offers the opportunity to make an online comment on dog fouling. Those provisions might all fall under the heading of evidence that the committee might want to examine.

Ms White: Can I also declare an interest? I know Councillor Hall and the practices in Renfrewshire Council very well, including those on poop scoops and so on. I think that that council was one of the first to act on the problem.

I want to pick up on what Councillor Hall said about corroboration, which I, too, am concerned about. I am concerned not just about putting forward cases to the fiscal's office, but about the possibility that people who do not like dogs will hound people and that a person who does not like another person will hound them. That happens in all walks of life. Obviously, the witnesses have concerns about fiscals, but I also worry about matters such as those I mentioned. Will there be problems if there is no corroboration and people use the legislation to hound someone whom they do not like, or to hound people with dogs?

Councillor Hall: Many things concern me about corroboration and fiscals. I think that Sandra White is right—there is a risk that a feuding neighbour, for example, could use the legislation to get at their neighbour.

I am concerned about another thing; I am unhappy about individual officers being alone in situations in which they must confront offenders. We are asking council officers to go into situations into which policemen would often not be put. Policemen tend to work in pairs where that is possible, so I am unhappy about asking council officers to go out on their own.

Ms White: Various witnesses have been concerned about that. If two officers are needed for a job, extra resources will be required. It has been suggested that moneys to local councils will be inadequate and that the Executive could supply more. You mentioned in your opening remarks that you are concerned about costs. We have heard evidence from the Executive, which is minded not to give local councils more money to implement the proposals. Would you welcome COSLA's doing an audit of all the councils to come up with a workable and feasible cost for implementation of the bill? Would you recommend that COSLA put that figure forward to the Executive?

Councillor Hall: There is a feeling within COSLA that proposals should be properly costed. At the moment, there is deep concern that we will not be able properly to implement the bill without costings. That takes us back to the problem of not meeting the public's aspirations.

Dr Jackson: I have two questions—which I asked the minister—on matters about which you have expressed concerns. The first concerns the treatment of offenders who are under 16—your submission raises the issue of under-eights, in particular. Will you expand on what the submission says? Secondly, how should the bill be expanded to take in a registration and licensing scheme?

Councillor Hall: In many cases, a dog from a cat and dog home will have a microchip—I am thinking of what the Royal Society for the Prevention of Cruelty to Animals does. It might be that that approach should be considered. Such an approach might be helpful in dealing with stray dogs, too, but that is not part of the bill.

On under-eights, at what point does a child become responsible? A child of 16 could be issued with a fixed-penalty notice, but I would be a wee bit concerned about non-payment of fines. At the end of the day, will the parent or the child who is at school and does not have an income be responsible for payment? Where are we going in that respect? Will a case end up before the children's panel because a child of eight allowed a

dog to foul in the street when they were in charge of it? There is a grey area about which there are concerns.

Elaine Thomson: You said that you have concerns about costs. Do you have any information about the costs that are being incurred under the current legislation and procedures to deal with dog fouling?

Councillor Hall: It would be better if Bob Graydon answered that question.

Robert Graydon: I can speak only for my own council. We employ an animal warden to deal with dog-related matters. Most councils employ some sort of warden to deal with dog matters. We have discussed corroboration and if we were to issue fixed penalties for dog fouling, I would probably want to have two officers out on patrol. There is the matter of confrontation; problems might arise if an officer were out on his or her own. In our case, costs will probably rise if we go ahead with having two wardens.

We already have a dog-waste bin scheme in operation, and we would probably wish to expand that. If we are to promote the eventual act in communities by educating people about it and running some sort of campaign, that will involve telling people that they should not be letting their dogs foul or that they should be clearing up after them. We have to give people the facility to dispose of dog waste. Although we would seek to expand our existing scheme, other councils might feel that they have to start at the beginning and put in place a dog-waste bin scheme, which will obviously incur expense.

Elaine Thomson: Was COSLA consulted on putting together the bill's financial memorandum?

Kathy Cameron: We were not, to my knowledge, consulted on the financial memorandum.

Mr Harding: I return to Trish Godman's earlier question. I find COSLA's submission to be somewhat confused. Paragraph 1.2 suggests

"an abandonment of the bill, in favour of an amendment to the Civic Government (Scotland) Act 1982"

and paragraph 2.3 suggests extending the

"existing powers under the Environmental Protection Act 1990."

I assume that you have read the policy memorandum, which explains why we pursued those avenues but did not go down them.

Paragraph 5.2 states:

"COSLA supports the proposal that unpaid Penalties become a civil debt to the Council".

Paragraph 4.1 suggests that COSLA prefers to criminalise offenders

"via the usual Means Enquiry procedure",

which takes place in district courts.

It also mentions "imprisonment" as an option for non-payment. Do you support the principles of the bill? If so, which parts?

Kathy Cameron: It is safe to say that councils support in principle what Mr Harding is attempting to do. The difficulty, as I explained at the beginning, is that COSLA received a wide range of comments from councils. In representing such a range of views, it can often be difficult to come to a single fixed view on individual issues.

When we provided our written submission—a substantial document, because we had received a considerable number of comments—we felt that it would be safer to convey all the views that were expressed. I appreciate that that might, in some instances, be confusing. Our main views, however, centre on the lack of empowerment, on safety, on the cost to councils and on public expectations.

Mr Harding: So, basically, your submission is anecdotal; it represents what has been expressed by councils. What checking did COSLA undertake in relation to the accuracy and consistency of the comments that it received before they were incorporated into your report?

Kathy Cameron: We must assume that the information we get from councils is accurate.

Mr Harding: So no checking was undertaken.

Kathy Cameron: If a council provides us with comment, we must assume that it is indeed the comment of the council.

Mr Harding: All you have done is taken evidence from councils. You have not widened that out to other concerned bodies.

Kathy Cameron: COSLA is responsible only for dealing with comments from its member councils.

Mr Harding: The financial memorandum has been approved by the Presiding Officer and accepted by the Executive. Where do you differ on it? The memorandum is based on evidence about the collection of fixed fines and so on down south. What evidence do you have that the memorandum is inaccurate?

Kathy Cameron: The fact that the evidence appears to have come from one example in England means that it is not necessarily acceptable in relation to implementation of the proposals in Scotland.

Councils already spend a substantial amount of money attempting to address the problem of dog fouling. A recent submission regarding quality of life and the associated end-year flexibility contained a figure of, I think, more than £500,000,

which has been spent by councils in attempting to address dog fouling issues. The bill aims to do much more to address the issue. On the face of it, the figure that the financial memorandum quotes appears to be in no way adequate.

15:30

Councillor Hall: As I said, I have a difficulty because, on the one hand, I have COSLA and the other authorities and what their views might or might not be and, on the other, I have my council's view. I am not terribly worried about whether we change the Civic Government (Scotland) Act 1982. The issue is empowerment of officers on the street to do the job. At the moment, the only people who have that enforcement power are the police.

It has been said that FPNs will fund the bill's implementation. At present, when we have litter problems, we follow a similar protocol for the uplift of litter. If somebody is seen dropping litter, a policeman and a council officer will say, "You've dropped litter," and provide the person with the opportunity to pick up the litter. I am not clear about how that would work with dog fouling, but if we say to someone, "If you leave that there, you will get a fixed penalty, but if you lift it, you won't," that will provide no funding. Are you with me? That might cause other problems.

How many cases will proceed? The hope is that not many will proceed, because Keith Harding's aim with the bill is to educate people and encourage them to be better dog owners, which should eliminate the need for fixed-penalty notices. That relates to what I said about aspirations for the larger area. We can deal only with what we see.

Mr Harding: I acknowledge those concerns, but the idea behind the bill is to reduce dog fouling, if not to eradicate it. The bill is about education; it is not about imposing fines. The City of Edinburgh Council gave interesting evidence last week that it had experienced no difficulties in imposing fixed fines for dog fouling. That council and the Royal Environmental Health Institute of Scotland foresee no requirement for additional staff to implement the bill.

Kathy Cameron: The views that have been expressed came from councils' environmental health officers. I cannot comment on the fact that they appear to fly in the face of the comments that were made at the committee's meeting last week.

Dr Jackson: COSLA suggests that the system that is in place for minor motoring offences could deal with fixed-penalty notices and hearings. Will you go into detail about what is wrong with the bill and what should replace it?

Kathy Cameron: I will write to the committee about that, because I am not a legal expert on fixed-penalty notices and their associated hearings. I am happy to respond in writing.

Ms White: Councillor Anne Hall made an important point, in relation to which I will describe a scenario. The important point that Councillor Hall made is that we all want to get rid of dog fouling, as Keith Harding was right to say. The best way to progress is to pass a bill or to educate people. Councillor Hall talked about saying to somebody, "Pick that up and you won't get a fine." To do that, a council would require the same number of officers, but the money to employ those officers would not come back to the council. Would it be worth lodging an amendment at stage 2 to ask the Executive to give councils moneys for, say, 12 months? Would COSLA accept such an idea?

Councillor Hall: I am not averse to anything that has been suggested, but I do not want to be prescriptive.

Ms White: That is fine. Thank you.

The Convener: You know that the bill allows local authorities to determine who will be the appropriate staff members to issue fixed-penalty notices. The committee received evidence last week that suggested that local authorities could designate animal wardens, environmental health officers, traffic wardens or street cleaners to issue on-the-spot fines. Do you have any concerns about that provision?

Councillor Hall: That seems to be a good idea, but I do not know what capacity council officers who are employed to do another job have to take on that extra duty. Would they be in the right place to undertake the work? I am not clear about that and I would not like to comment.

The Convener: We have exhausted our questions. I thank the witnesses for attending. I noted that you will write to answer Sylvia Jackson's question, which will be helpful.

We will take a break while we change witnesses.

15:35

Meeting suspended.

15:40

On resuming—

The Convener: We move to the last part of this session on the Dog Fouling (Scotland) Bill. We welcome Keith Harding, who is the member in charge of the bill and also a member of the committee, and David Cullum and Ruaraidh Macniven, from the non-Executive bills unit in the Scottish Parliament. Keith Harding will speak first

and most of his remarks will be on enforcement, which will help us.

Mr Harding: I start by thanking the Deputy Minister for Finance and Public Services and his officials for their on-going co-operation in respect of my bill. It is a positive example of how Opposition members, with the assistance of the non-Executive bills unit, can work with the Executive to introduce legislation.

I introduced the bill to give local authorities the power to take action in respect of the offence of dog fouling, about which there are many complaints, as most committee members will be aware. The current legislation is enforceable only by the police and targets people in charge of dogs who allow their dog to foul in certain areas, irrespective of whether they then clean it up. My bill will give powers to local authorities to issue fixed-penalty notices in respect of the offence, but it will not remove any powers from the police. Indeed, it will also give them powers to issue fixed-penalty notices if they choose to do so. The bill will also change the law to make the offence failing to clear up after the dog, rather than allowing the dog to foul in the first place. I take the opportunity to point out that the registration and licensing of dogs are outwith the scope of my bill.

After hearing the evidence last week, and as a result of my on-going discussions with the Executive, I will lodge amendments at stage 2 in two areas. First, I will propose an amendment to section 15(1) to extend the definition of an assistance dog. As the bill is currently drafted, a person must be in charge of an assistance dog that has been trained by a Scottish charity in order to be exempted. My amendment will remove that restriction, and will ensure that people who are in charge of assistance dogs that have been trained elsewhere in the United Kingdom or abroad are also exempt.

Secondly, on an additional avenue for appeal, I will propose an amendment that will provide a mechanism for access to the courts by a person against whom an increased fixed penalty has become enforceable but who claims that a request for a hearing has been submitted or that they paid the original fixed penalty within the permitted time scale. That will allow the court to adjudicate in such instances and to set aside the increased fixed penalty if it is proved that the person indeed has paid the penalty or requested a hearing within the time scale.

Under section 5(2), local authority officers and police constables are to be given 72 hours after the offence has been committed to issue the fixed-penalty notice. That is to allow extra time for the officer issuing the notice to make inquiries as to the identity or address of the person in charge of the dog. It is generally expected that the fixed-penalty notice will be issued at the time of the offence. The time limit of 72 hours is to ensure that if the circumstances do not allow that, the fixed penalty notice will be issued as quickly as possible. It was thought that 72 hours was long enough. It was felt that the period should be as short as possible for reasons of fairness to the suspected offender. The evidence that we heard last week from City of Edinburgh Council indicated that it felt that the period was too short. I would be happy to propose an amendment to adjust the time period, and will be interested to hear the committee's views on what it thinks would be a reasonable time. As a committee, we could comment on that matter in the stage 1 report.

I have given further consideration to the position of under-16s. I thought that it might be helpful to explain why the bill does not make special provision for children. It is important to remember that the bill has two main aspects: the first is the criminal offence and the second is the fixed-penalty notice enforcement mechanism in respect of the offence.

If an amendment were to be agreed to that excluded those under 16 years of age from being issued with fixed-penalty notices, children over the age of eight would be committing a criminal offence as opposed to an offence for which they could receive a fixed-penalty notice, because the age of criminal responsibility in Scotland is eight years of age. In practice, as members of the committee will be aware, children who have committed criminal offences are usually referred to the children's hearings system rather than being prosecuted in the adult courts. However, the fact remains that the exclusion of those aged under 16 from the fixed-penalty notice provisions of the bill would lead to a situation in which children were treated more harshly than adults, which cannot be desirable.

15:45

I also believe that to exclude those aged under 16 from being issued with a fixed-penalty notice, or, indeed, from the offence provisions, might give out the wrong message. To eradicate the problem in the long term, which is the main aim of the bill, all members of the community must accept their responsibilities. Excluding children from either the offence provisions, or the provisions that relate to enforcement by means of a fixed-penalty notice, could also lead to attempts to circumvent the legislation, with children being sent out to walk dogs at all times.

Like earlier witnesses, I hope that councils will train their staff adequately to deal with the matter and that officers will behave sensibly and appropriately. It might be enough for an officer to point out to the child and their parents the offence

and its consequences. I invite the minister to consider the provision of guidance on the matter.

Confusion seems to have arisen around the enforcement procedures that are contained in the bill and, in particular, about how the hearing system will operate. I thought that it would be helpful to explain briefly how enforcement will work. I refer the committee to the flow chart that I have provided, which outlines the enforcement process. It is also set out clearly in the explanatory notes to the bill.

When an offence has been committed, an authorised officer can issue a fixed-penalty notice as an alternative to reporting the matter to the procurator fiscal with a view to prosecution. If the fixed-penalty notice is accepted and paid, the person in question will have no criminal conviction against them. If the person receives a fixed-penalty notice and refuses to pay it or to request a hearing within 28 days, the level of the penalty will increase automatically, which means that the £40 penalty will become £60.

The offence would then be enforceable by the local authority as a civil court decree, which means that there would be no need for court proceedings or registration. No criminal conviction would result and the council would not need to involve the courts. Mechanisms are included in the bill that allow the fixed-penalty notice to be withdrawn if it should not have been issued. It may become apparent that the offender has given a false name or that the recipient is a persistent offender who fails to pay the penalties issued, in which case he or she should be reported to the procurator fiscal.

As I mentioned, I propose to lodge an amendment to allow an appeal to the court in instances where the penalty has been increased and a dispute has arisen between the local authority and the recipient of the notice about whether the penalty has been paid or whether a hearing has been requested within the 28-day period that is set out in the bill. If the offender disputes the issuing of the fixed-penalty notice, they may request a hearing. Requests for hearings will be made to the local authority.

When one has been made, the local authority will provide the procurator fiscal with details of the alleged offence and of the fact that a hearing has been requested. The procurator fiscal will decide whether to initiate proceedings in the district or sheriff court. In effect, a request for a hearing will amount to a request by the suspected offender for criminal proceedings to commence in which the procurator fiscal will have to prove the offence beyond reasonable doubt.

The outcome of those proceedings will be that the person is acquitted or found guilty, in which case they will receive a criminal conviction and a fine of up to £500. It follows that a person who is issued with a fixed-penalty notice will have ample opportunity to have the matter aired in court.

I am pleased to answer questions from the committee.

The Convener: Thank you. As you have been a member of the Local Government Committee, you will be aware that we have received evidence that suggests that the provisions of the Dog Fouling (Scotland) Bill could have been made by amending existing legislation—the Civic Government (Scotland) Act 1982 and the Environmental Protection Act 1990 have been mentioned. Did you consider that route? If you did, why did you decide to introduce your bill?

Mr Harding: I considered amending those acts, and the matter is addressed in paragraphs 47 to 60 of the policy memorandum to the bill. We considered not only the two acts that you mention, but the UK Dogs (Fouling of Land) Act 1996. However, following our consultation, it became apparent that the scope of the Civic Government (Scotland) Act 1982 is not broad enough: the enforcement procedures could not be incorporated and the absolute nature of the offence is totally different. Also, the land that is specified in section 48 of the 1982 act fails to cover some of the categories of land that I have tried to incorporate in the bill, such as public land, and the enforcement procedures are totally different from what we are proposing. When I started work on the bill, I hoped to draft a single-page amendment to the Civic Government (Scotland) Act 1982; however, it developed into this lengthy bill.

The Convener: How many people did you consult when you considered the content of the bill?

Mr Harding: Initially, we consulted 71 organisations, including all councils and various bodies that have an interest in dogs. We received 43 responses, which is a high response rate. They were, with one exception, generally supportive of the bill.

The Convener: I assume that your reason for seeking to amend the acts that you mentioned and, eventually, for drafting the bill is your experience as a councillor and as an MSP of people complaining to you about dog fouling.

Mr Harding: Like you, I have been a councillor for many years—I still am. Dog fouling is one of the issues on which I have received most complaints. In my last local government election campaign, I promised to get rid of dog fouling. I never expected that I would have to do that through the Parliament; I was hoping to do it through the council. However, that is difficult without control in the council. I drafted the bill

because of the huge number of complaints that I have received about dog fouling. The support that I am receiving now that the bill is before the Parliament, in the form of messages, e-mails, telephone calls and letters, is remarkable. There is a genuine desire out there for the problem to be addressed.

Dr Jackson: I commend you for the procedural format with which you have provided us, which shows the various routes from the offence to conviction, non-conviction, and so on. It must be the science teacher in me, but I find it easy to follow.

I want to ask about the route that you have tracked whereby someone requests a hearing. Under what circumstances do you anticipate that someone might want to go down the hearing route? You also talked about appeals and possibly lodging an amendment to address that issue. Where will the appeals procedure fit into the process, and how will an appeal be different from a hearing?

Mr Harding: Appeals will most likely be made when someone denies the offence or feels that they have been unfairly charged—perhaps because they have cleared it up but there is a dispute. The amendment will address the concern, which several people have raised, that the bill did not appear to provide for a hearing or an appeal. As I explained in my opening address, if a hearing goes ahead, the matter will go to the courts and will be a matter for the procurator fiscal. They will have to prove beyond reasonable doubt that the offence happened. That raises the question of corroboration. If someone challenges the charge, the onus will be on the court to prove that the person is guilty.

Dr Jackson: I am sorry. Perhaps I am not picking up everything that you are saying, but I am still a little confused about the difference between a hearing and an appeal. Can there be a dispute in both cases, concerning whether the dog has fouled?

David Cullum (Scottish Parliament Non-Executive Bills Unit): In relation to the hearing, it is awkward to use the word appeal because there is nothing to appeal. In a non-technical sense—the lawyers will stop me if I go wrong here—a hearing could be regarded as an appeal, because someone would be appealing against the issue of the notice. However, it is not the notice itself that comes before the court; the offence becomes one of a slightly different nature.

People can choose to receive and accept a fixed-penalty notice. If the council does not accept that they were not responsible for the offence, that they were not in charge of the dog concerned or that the fouling took place on a piece of land that is excepted from the bill, their only option is to request a court hearing. That request would be made through the procurator fiscal. We guess that the case would be heard by a district court, but that is a matter for the procurator fiscal.

Would the committee like me to discuss the amendment that Keith Harding is proposing?

Dr Jackson: Yes. I now understand the previous point.

David Cullum: The amendment is designed to deal with a very specific and unlikely scenario. I am talking about a situation in which someone receives a fixed-penalty notice and pays the fine, but the council does not acknowledge receipt of it. The council would then increase the penalty from £40 to £60.

The amendment also applies to a situation in which the council issues a fixed-penalty notice and the recipient asks for a hearing, but the council continues to pursue them for the penalty of £40 or £60.

There is a mechanism that would allow such cases to be taken to the courts, but they would have to be referred to the Court of Session, through the judicial review procedure, which is highly expensive and not desirable as a way of dealing with such minor matters. We are talking about an administrative dispute between the recipient of a fixed-penalty notice and the council, in which the recipient of the notice claims that they have paid the penalty or requested a hearing, but the council has lost the record of that. The amendment is intended to deal with that situation. We do not anticipate that the problem will occur, as we expect councils to keep records and to act reasonably. However, the problem could occur.

Elaine Thomson: I want to ask about where the bill will apply. I understand that it will apply to all land that is not agricultural land or private land. The bill refers to "any public open place". Do you intend that the bill should apply to all land that is not agricultural land or private land? Are there likely to be difficulties in defining those terms?

Mr Harding: Elaine Thomson's interpretation of the bill is correct. We have chosen to use a term that applies so widely to ensure that the bill is not open to challenge. If we specify types of areas to which the bill applies, we may run into all sorts of problems. The bill applies to all public land, excluding agricultural land. It applies to places such as bridle-paths.

Elaine Thomson: Do you not expect that to cause enforcement difficulties?

Mr Harding: Not really. I do not envisage council officers standing behind trees in remote areas and waiting for people to break the law. We must be realistic.

Elaine Thomson: I know. I can think of various areas that could be defined as public open places. They are public land that is used for recreational purposes, but they are also areas in which people regularly exercise their dogs.

Mr Harding: If dog fouling were a problem in such an area, I would expect the council to address that. We are trying to educate irresponsible owners, rather than to penalise dog owners in general. I believe firmly that if the bill becomes law and a few fines are imposed, the public's perception will change materially overnight. Dog fouling will clearly be a problem in areas where people exercise dogs. Children also play in such areas.

Elaine Thomson: I understand that various groups of dog owners and handlers will be exempted from the provisions of the bill, and that generally that has been welcomed. What about people who are partially sighted and the very elderly and infirm, who are not exempted from the provisions of the bill but would have difficulty complying with it?

Mr Harding: As the member knows, the bill lists some exemptions. We do not want to widen the exemptions too much, because that would weaken the legislation. If we have failed to identify a particular type of assistance dog—for example, one that assists the disabled—the minister has the power to address that issue.

Ms White: I want to pick up from where Elaine Thomson left off. You have talked about the disabled, the elderly and children aged under 16 or eight. In the evidence from local government and others, most people said that such decisions would be left to the discretion of the dog warden, or whatever the person might be called. Are you happy to leave that to wardens' discretion, or would you prefer the minister to amend the bill to address the issue?

16:00

Mr Harding: As I said, the power exists for the minister to change it if he wants, but I think that we have gone far enough with the exemptions. I expect the designated officers to be responsible and understanding. The bill is not about imposing fines; it is about educating people and persuading people to pick it up. That is the idea behind the bill. Council officers whom I know welcome the initiative and I am sure that they will use it tactfully and sensibly.

Ms White: We hope that they will, because there would be nothing worse than an old, frail or disabled person going to court. As you said, that is not what the bill is about.

I want to ask you about the corroboration aspect, which has bothered many people, including Councillor Hall today. We are concerned about the matter. What are your views?

Mr Harding: As I said last week at the committee, the situation would be the same as for any other offence. The police prosecute murders, but people only rarely see the physical attack on the victim. It would be a matter for the courts. People can be hounded under the existing legislation, but does it happen? It does not happen, and I feel that it would not happen. If there is a genuine problem area, for example a close, and the problem is reported, I would expect the council to send someone along to see whether there was a problem and address it through the bill. There would not be any question of corroboration, because the officer would impose the fine. If it came down to corroboration, it would be a question for the courts, which would have to determine whether the case is proven. I do not foresee a problem.

Ms White: My final question concerns the person who will be a designated warden, officer or enforcer—whatever it may be. We are basically talking about animal wardens and environmental health people, but there are other employees of the council, such as traffic wardens and street cleaners. Do you think that they should be designated as wardens in the bill?

Mr Harding: Such designation should be at the discretion of the local authorities, and it should be reasonably wide. I should point out that it does not have to be a local authority employee. It could be a person designated by the council. I have spoken to one or two road sweepers, and I think that they would welcome the opportunity. After all, they are the people who have to pick it up and whom the problem most affects. I do not think that we should be prescriptive, and I would expect councils to make the right decisions. I do not believe that the bill will result in additional staff being required.

Dr Jackson: Following on from that, I want to ask about the local authority officers. Obviously they may issue the fixed-penalty notice, but they have not got the power to obtain the personal details of an alleged offender. Will you clarify the procedure and the possible difficulties?

Mr Harding: In evidence, City of Edinburgh Council, which is one of the few councils in Scotland that already issues the fines, said that it had not experienced any difficulties, apart from one when a person did a runner, as it was put. The officer waited for the dog to come back and followed him home.

You are talking about whether the officers should have the right to ask for someone's name and address. We considered that in great depth, but in the face of opposition from the police during the consultation process, we felt that it was going

too far to give unprecedented powers to civilians. I welcome the minister's comments that the Executive is considering the creation of an offence of obstructing a local authority officer. If that is forthcoming, that should address the concerns. I was particularly pleased last week to hear from City of Edinburgh Council that it did not experience problems. The majority of people are law abiding, and all dog owners are nice people, because they love animals.

The Convener: This afternoon, we heard evidence from COSLA on the financial implications of the bill. First, the cost to all 32 local authorities is expected to be £6,630. How did you come to that figure? Secondly, COSLA pointed out that the training of local authority staff and the maintenance of administrative systems do not appear to have been taken into account in that analysis. Do you agree with that? Would you be in favour of a cost analysis, or are you satisfied with the financial memorandum as it stands?

Mr Harding: I do not think that it is up to me to be satisfied. The fact that the Presiding Officer is satisfied speaks volumes. I ask David Cullum to tell you how the matter was assessed.

David Cullum: I will speak a little about the methodology. In many ways, the hardest part of the whole exercise is putting together the financial memorandum. We tried to find something to base the memorandum on. We had a good look at the English experience, where fixed penalties are issued for dog fouling. We spoke in detail to Gateshead Council, and it can be seen from the financial memorandum that we give a fair amount of statistics from Gateshead, but we did not rely entirely on that council. We managed to get national figures for England, and compared them with the Gateshead figures grossed up, to estimate the amount of activity that there could be under the bill. We did not get a perfect match, which was to be expected, because not all parts of England enforce measures on the dog fouling of land. That was our starting point for numbers.

We then spoke to City of Edinburgh Council about the likely costs that would arise from the bill. The council was extremely helpful and gave us a lot of the detailed information that is set out in the memorandum. From that, we produced the overall cost to councils. It is based on not many notices being issued, which is the experience from south of the border. As it happens, that also meets the policy objective that Keith Harding has put forward, which is education, not enforcement. That is how we came up with the figure.

We also considered the costs if anybody requested a hearing and the matter was taken to court. We costed that in some detail and set out the figures. At the end of the day, we came out with a figure for the whole of Scotland that surprised us, but we had no other basis on which to calculate, because no further information was available to us. There is a veneer of a scientific basis to the figure. I am not claiming that it is absolutely accurate, but we examined what happened elsewhere and based the figure on that.

Mr Harding: There will be savings as well. COSLA said today that councils need more resources for dog bins. Under the bill, every litter bin will be utilised, so there will be no necessity to have separate bins. In addition, all the signs that people read and ignore will no longer be necessary, so there will be savings.

The Convener: I take it that the £100,000 that the Deputy Minister for Finance and Public Services announced today is welcome, and that you see it as part of selling your bill if it becomes an act.

Mr Harding: I was absolutely delighted to hear that. It fits exactly with what I am trying to do, which is to educate irresponsible dog owners. The money will go a long way towards assisting the bill to deliver that.

The Convener: Thank you for your evidence. We now go into private session.

16:08

Meeting continued in private until 17:09.

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

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Thursday 21 November 2002

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5
Meetings of the Parliament annual subscriptions: £350.00

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

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £3.75
Special issue price: £5
Annual subscriptions: £150.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75
Annual subscriptions: £150.00

Standing orders will be accepted at the Document Supply Centre.

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0131 228 4181 Fax 0131 622 7017

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 020 7242 6393 Fax 020 7242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 028 9023 8451 Fax 028 9023 5401
The Stationery Office Oriel Bookshop,
18-19 High Street, Cardiff CF12BZ
Tel 029 2039 5548 Fax 029 2038 4347

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

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers

Printed in Scotland by The Stationery Office Limited

ISBN 0 338 000003 ISSN 1467-0178