

# **TRANSPORT AND THE ENVIRONMENT COMMITTEE**

Wednesday 4 October 2000  
*(Morning)*

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## TRANSPORT AND THE ENVIRONMENT COMMITTEE

23<sup>rd</sup> Meeting 2000, Session 1

### CONVENER

\*Mr Andy Kerr (East Kilbride) (Lab)

### DEPUTY CONVENER

\*Nora Radcliffe (Gordon) LD)

### COMMITTEE MEMBERS

\*Helen Eadie (Dunfermline East) (Lab)

Linda Fabiani (Central Scotland) (SNP)

\*Donald Gorrie (Central Scotland) (LD)

\*Robin Harper (Lothians) (Green)

\*Janis Hughes (Glasgow Rutherglen) (Lab)

\*Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab)

\*Mr Kenny MacAskill (Lothians) (SNP)

\*Des McNulty (Clydebank and Milngavie) (Lab)

\*Mr Murray Tosh (South of Scotland) (Con)

### THE FOLLOWING MEMBERS ALSO ATTENDED:

Sarah Boyack (Minister for Transport and the Environment)

Bruce Crawford (Mid Scotland and Fife) (SNP)

Fiona McLeod (West of Scotland) (SNP)

### CLERK TO THE COMMITTEE

Shelagh McKinlay

### SENIOR ASSISTANT CLERK

Richard Walsh

### ASSISTANT CLERK

Alastair Macfie

### LOCATION

Committee Room 1



# Scottish Parliament

## Transport and the Environment Committee

*Wednesday 4 October 2000*

*(Morning)*

[THE CONVENER *opened the meeting at 10:06*]

**The Convener (Mr Andy Kerr):** Good morning. I apologise for my slightly late arrival. I welcome the press and public to the 23<sup>rd</sup> meeting this year of the Transport and the Environment Committee. We will be joined by the Minister for Transport and the Environment in due course. I have received an apology from Linda Fabiani, who is attending the Holyrood progress group.

I welcome all members of the committee and extend a very warm welcome to a new member—Donald Gorrie. Donald is replacing Tavish Scott. I also welcome a couple of other MSPs who may join us in future, although they have not yet joined us formally. I must formally ask Donald Gorrie whether he has any interests to declare to the committee.

**Donald Gorrie (Central Scotland) (LD):** I am the owner of a modest motor car and I have two legs that are slightly past their sell by date. Those are my methods of transportation.

## Transport (Scotland) Bill: Stage 2

**The Convener:** While we are waiting for the minister, I will explain to members of the press and the public—and remind committee members—what we are about to do in this stage 2 process. Some of you are seasoned veterans at this game; I have to declare that I am not and that this is the first stage 2 process that I have chaired. I look forward to it with some trepidation. It will be interesting.

Members should have a copy of the bill, and the marshalled list of amendments and suggested groupings of amendments for day 1 that were published this morning. The amendments are grouped to give some order to the debate and to assist us in our work. The order in which they are called and moved is dictated by the marshalled list. All amendments will be called in turn from the marshalled list and they will be taken in that order. We cannot move backwards in the marshalled list: once part of it is gone, it is gone. The groupings were for me to decide under rule 9.10.12 of standing orders.

There will be only one debate on each group. In

some groups there may be several amendments—some may be technical, some may be more substantive. I will call the proposer of the first amendment in the group, who should speak to and move the amendment. I will then call other members, including the proposers of all the other amendments in the group. Those members should note that they should not move their amendments after speaking to them; I will call them to do so at the appropriate time. At that time, it would be helpful if members would indicate whether they intend to move their amendment. If any member does not want to move an amendment, they should simply say, “Not moved,” when I call the amendment.

The minister will be called to speak on each group. Other members should indicate a wish to speak in the usual manner—a nod or a wave. Following the debate on a group, I will clarify whether the member who moved the first amendment still wishes to press it to a decision. If not, he or she may seek the agreement of the committee to withdraw it. If it is not withdrawn, I will put the question on the amendment to the committee. If we disagree at that point, we will have a division by a show of hands. It is important that members keep their hands raised until the clerks have recorded the vote. I will then read out the result.

I remind MSPs present that only members of the Transport and the Environment Committee may vote. Other MSPs may speak to and move amendments, but they may not vote. After we have debated the amendments, committee members must decide whether to agree to each section or schedule of the bill as a whole. Given the size of the bill, we are not required to have debates on those decisions. If members do not want to speak, they do not have to.

Members will have seen the announcement in yesterday's business bulletin that states that we will not go beyond section 11 of the bill today—although it is by no means guaranteed that we will get to section 11 today. We will consider our progress and publish details in the business bulletin of the decided end point for our next meeting.

The veterans will have understood that; the new ones may have some questions.

**Bruce Crawford (Mid Scotland and Fife) (SNP):** I want to be sure that I have understood. I think you said that if a member's amendment is the first one in any given group, the member should move it at that point, but that if it is not the first one, the member should not move it at that point but wait until called to do so later. Is that right?

**The Convener:** Yes, it is.

We begin with amendment 52, which is in the name of Robin Harper and stands on its own.

**Robin Harper (Lothians) (Green):** I will explain amendment 52 and then move on to the arguments for it. I note a look of concern on the minister's face.

**The Minister for Transport and the Environment (Sarah Boyack):** I thought that there would be opening remarks from me on this stage of the bill, but it is all right—we will come back to them.

**The Convener:** We wrote to the minister about her making some opening remarks on how she sees the bill unrolling. As far as I am aware we received no response, so I did not allow for any. It would, however, be useful to hear the minister, so I am happy if she wants to speak. The committee would like to hear her overall view of the bill, so rather than call Robin Harper I ask the minister to make her opening remarks.

**Sarah Boyack:** During the stage 1 debate in the Parliament, I was conscious that we were dealing with this at breakneck speed. Although I gave out some information as I went through my speech, I probably did not get into the detail of the Executive's view of the direction that the bill should take. It might be helpful if I do that now. I apologise for the lack of a letter confirming that we would be happy to kick off this meeting.

I would like to thank committee members and, of course, the clerks to the committee for their work in pulling together their report. It was extremely useful to the Executive; it was constructive and balanced. The way in which you were able to pull together a range of comments was very useful.

There will be a lot of common ground in our discussions. We may disagree on amendments, but I think that there is broad acceptance of the overall purpose of our proposals. A discussion to take stock of the situation would be useful at this stage.

I will set out the thrust of the amendments that I propose to introduce during stage 2—that will give you notice of areas in which you may wish to lodge amendments. I notice that we have already lodged many amendments on the same topics. I will also highlight areas in which I have not accepted the need for amendment—we can debate that at this stage.

10:15

I am wholly in agreement with the committee on the critical role that the Executive has to play in any joint strategy and in progressing our vision at local, regional and national level. As our announcement on the framework for economic development made clear, we intend to build on

last month's spending announcement with a forward delivery plan that will pull together the UK airports review, our work on rail franchising and the transports studies on the A8, A80 and M74 corridors. That plan, which will be published early next year, will also build on the legislation.

The bill's proposals on joint strategies provide for long-stop powers to help local partners work together, across boundaries, to produce a regional view on challenges, opportunities and priorities. Those powers would be invoked only when progress on a voluntary basis had not proved possible. There is no difference between the views that were expressed in the committee report and the intentions that underlie the proposals. The issue is the detail of how those proposals are achieved—that will be our second debate this morning.

I have considered very carefully your report and the Subordinate Legislation Committee's concerns about the breadth of the proposed powers, but am not persuaded that we need to modify the bill. I could return to that in more detail later.

The purpose of the bus service provisions in the bill is to give local authorities a toolkit of options to alter dramatically the experience of bus users throughout Scotland. We inherited a bus system that was fragmented and open to change. We want to provide more certainty, introduce co-operation and enable major investment by the bus companies—and to do so in a way that reasserts the balance that was lost after deregulation. The bill must deliver quality partnerships, quality contracts, further powers for local authorities to enhance service provision, enhanced powers for the traffic commissioner and better information for the travelling public so that there is a step change in the quality of bus services. My mailbag, like that of other members, is stuffed full of complaints about individual bus services. The bill offers the opportunity to set a new framework and to gear the bus industry up to manage expansion rather than decline—that would be a new ball game for the bus industry.

Partnerships and contracts will play distinct but complementary roles. Quality partnerships present an opportunity that we must not miss. No doubt we will debate the detail of those later. The partnerships approach is radical and innovative. The challenge for John Prescott is to increase the number of rail passengers by 50 per cent over the next 10 years, but it would be difficult for us to imagine a 50 per cent increase in the number of bus passengers. Why would that be so radical? How do we provide quality buses that people want to use?

Partnerships offer us the chance to build buses into our approach to tackling congestion and freeing up key routes, on which our businesses

regularly get stuck. Partnerships have to be part of an integrated approach and to have the interests of bus users at their core. The consultation aspects of partnerships and contracts will give a voice to ordinary bus users, who have one at the moment only if they know the system—it is a tortuous process. We must build in greater consultation and involvement at the start, and we must have a more robust, transparent and effective system to deal with complaints. The bill should deliver a new deal for bus users in Scotland.

Partnerships offer local authorities an opportunity to think long and hard about what they can bring to the table. They can provide better traffic management and they can reallocate road space, as has been done to great effect in Glasgow and Edinburgh. We must make the most of the opportunity to work with bus companies. We must learn from the very innovative partnerships in Leeds, Manchester and Sheffield. In the past five years, bus companies in Scotland have invested an extra £167 million, which has been targeted on key routes. The bill must deliver a balanced approach so that we attract people who have perhaps not used the bus for the past 10 or 15 years on to the key routes, where we need to add volume and high quality; we must be able to tell such people that there are new, more attractive and more frequent buses on those routes.

As a result of the greenways scheme in Edinburgh, there has been a 15 per cent increase in the number of bus passengers, and there have been increases of between 5 and 20 per cent elsewhere where partnerships are in place. There is an opportunity for a mix of partnerships and contracts.

As I said at stage 1, there is a big lesson to be learned from deregulation in the bus industry and privatisation in the rail industry. If we turn the industry upside down, there will be less investment—fewer new buses and trains and a poorer service for customers. We must get the balance right. The message to the bus industry is that the partnership approach must be matched by a contract approach. We need to plug the gaps. There must be a statutory framework for partnerships, but local authorities should have the enabling power to engage in contracts where they think it is necessary to do so. The bus sector should be under no illusions about that. If the industry fails to deliver a satisfactory level of service, local authorities will have powers to put contracts into practice.

In the light of your comments on the bill at stage 1, I have reconsidered the provisions on buses and agree that they could be improved. I give you notice that I will introduce amendments to replace the “only way” test for quality contracts with the

more appropriate test that a contract is necessary to implement relevant general policies. That is a more focused and less difficult test that will produce a better balance between contracts and partnerships. I also want to reduce the handover period after award of contract to a maximum of six months. Complex issues will certainly need six months, but the period could be shorter for simple contracts. That change will ensure that local authorities can act quickly if the circumstances require that they should.

I will also introduce a range of technical amendments to improve the effectiveness of partnerships and contracts. Those amendments arise from the committee report and from discussions that we held in the summer. They address such matters as the inclusion of existing facilities in partnerships, allowing partnerships to extend to trunk roads, duration of contract approvals, provision of information by bus operators, enforcement and ticketing options. We will cover some of those amendments today.

I will also lodge for discussion a new schedule to secure the compatibility with competition legislation of our proposals on partnerships, ticketing and information. That is a key issue in the committee's report. We were aware of that issue when we introduced the bill in June, but we have made progress on it since then. The schedule will inform our discussion.

The committee invited our views on the possible establishment of an integrated transport users body. The role of bus users has to be central to the implementation of new and improved bus services across Scotland. We have tried and tested customer representation arrangements for the rail and ferry industries. We have considered this issue over the summer and I intend to lodge an amendment to establish a much more open and independent complaints procedure for the bus industry. The current procedure is not transparent and it is difficult for the ordinary bus user to negotiate. A new procedure will buttress the more open and participatory approach that we will take with partnerships and contracts.

Although we will have detailed discussions on exactly what we will include in partnerships, we still need to examine some details of the schedule on competition. Those amendments must be discussed in much more detail.

I welcome the committee's broad acceptance of our proposals on road user charging. I realise that that acceptance is not unanimous and that we must debate the detail of the proposals. It is right that we haul those details over the coals, because people outside the Parliament expect us to be transparent. Many questions have been raised about the consultation and approval process for the charging scheme and I will set out our

intentions regarding the process before we reach the stage 2 debate on them. I expect to give the committee details of the consultation process a week before that meeting, to give the committee time to consider the detailed provisions and to raise questions or lodge amendments.

The committee also expressed reservations about the impact of workplace parking levies on congestion and wanted the Executive to provide further and more detailed evidence on the subject. I am happy to do that; again, it would be appropriate to provide that evidence a week before the committee's stage 2 discussions, to permit the committee to consider the information.

The provision of free parking at the workplace encourages employees to drive to work. Such journeys form a large proportion of peak-time congestion and many of them are made by drivers alone, often on routes where public transport is available or—crucially—where such a service could be provided. If the revenue from any workplace parking levy were ring-fenced for local transport improvements, peak-time congestion could be reduced in two ways. First, employers could be encouraged to review their parking provision and to think much more imaginatively, using green transport plans or other means, about how their employees get to work. Secondly, the levy would generate resources to improve public transport alternatives. We are happy to debate the detail of those core objectives. Research into the workplace parking levy confirms our arguments and two recent studies—on London and Nottingham—suggest that there might be reductions of 3 to 13 per cent in peak-time traffic. As this is a relatively new and innovative initiative, I am happy to give the committee further detail of the research.

I welcome the committee's support for our commitments on hypothecation, additionality and sharing revenues across local authority boundaries and I will lodge an amendment to clarify the point that consultation is a statutory duty on local authorities. I also propose to lodge an amendment to allow Scottish ministers to pay grants to assist local authorities with the introduction of charging schemes. That follows my announcement in June that the Executive would be prepared to offer matched funding where a local authority was seriously considering introducing a scheme. My commitment last week to an integrated transport fund provides an opportunity to do that. Furthermore, I will lodge a series of technical amendments to improve on and amplify our proposals, although I do not think that they will generate great debate in the committee.

After discussions with local authorities over the summer, I still do not think that trunk roads should be included in local charging schemes. In many

cases, trunk roads act as through routes for traffic travelling from one side of the country to the other and going nowhere near the relevant city centre. In such circumstances it would be difficult to justify a congestion charge to a motorist who is merely travelling through the area. I realise that we will return to that issue in more detail. Finally, I should emphasise that we will commission research on exemptions before we introduce any relevant regulations.

I welcome the committee's support for our proposals on concessionary fares. In a sense, I started that process with last week's funding statement in which I intimated our intention to introduce free bus travel for all Scotland's pensioners and disabled people within existing scheme boundaries and outwith the morning peak. The committee raised points about extending eligibility for concessionary fares to other groups. Although I am keen to take an enabling power to do so, I currently do not have the resources to implement that measure; that is a more long-term issue to consider. That said, I will lodge an amendment on that issue later during stage 2. I am happy to share with the committee our research study on concessionary fares, to show how we reached our conclusions in the spending review.

10:30

As for the committee's recommendations on bridges provision, I am happy to confirm today the principle of additionality. Your clerk is looking nervously at you, convener. I have only two very brief comments on home zones, which we will debate in detail later. Local authorities' considerable powers on home zones are not being used to their full extent. We are commissioning four home zone pilots that will start this autumn and will enable us to assess the effectiveness of existing legislation and whether there should be more best practice guidance. We will examine the impact of home zones before, during and after implementation and, if there prove to be any legislative obstacles, we will review the schemes. However, we do not think that we need additional legislative powers.

I will flag up three areas that are not covered by the bill and that might be of interest to the committee. I will lodge amendments that will extend the freight facilities grant to coastal and short-sea shipping in Scotland. *[Laughter.]* It is a difficult issue—I look forward to other members getting their tongues round it. Those provisions will complement the UK-wide provisions in the Westminster bill and give us more scope to extend freight opportunities from road to rail and/or sea. At the moment, we are quite restricted on what we can do.



Following last week's spending announcement, I wish to take powers in this bill to give Scottish ministers the important enabling power to pay grant to local authorities and public and private companies to fund specific transport projects under the integrated transport fund.

Finally, over the summer, I have been lobbied extensively on experimental redetermination orders. I propose to permit local authorities to introduce such orders to convert footpaths to joint pedestrian and cycle use, where appropriate. However, local authorities will have to go through various stages in that process.

I hope that those additional measures will help members to frame their amendments and give them a sense of what the Executive is keen to do in response to the committee's stage 1 report and to questions that have been raised over the summer.

**The Convener:** I open the meeting to questions to the minister on any issue that will help our consideration of the bill.

**Bruce Crawford:** Local authorities have a fund called the car park trading account, in which money derived from car parks is ring-fenced for car parks or traffic control. Would it be possible to examine how that fund could be freed up for wider public transport issues?

**Mr Kenny MacAskill (Lothians) (SNP):** Who will administer the proposed extension of the freight facilities grant to coastal and short-sea shipping and from whose budget will it be funded?

**The Convener:** Are there any other questions?

**Sarah Boyack:** I want to answer those two questions before I lose the thread. I would be happy to explore Bruce Crawford's point in detail. We have talked about the provisions for the workplace parking levy and road user congestion charging schemes, which would be separately accounted for and reported, but I am happy to consider the car park trading account to see whether there are useful provisions that we could introduce. I will report back to the committee on that.

On Kenny MacAskill's points, there would be powers for Scottish ministers to administer freight facilities grants, which would be funded from the Scottish funding allocation that we outlined in our spending statement. Members will have noted that that allocation increased last week, in recognition of the burgeoning number of proposals that are being submitted by companies. That gives us greater flexibility and the opportunity to include more integrated schemes. There is a good example near Ayr of a short-sea coastal shipping route that is sufficiently close to land not to be included in the wider area of the sea. It is entirely

up to us to administer, because it would be our power, and our money.

**Mr MacAskill:** In view of your comments on enhancing the powers of inspectors, are there any plans to extend fuel duty rebate to community buses, post buses and so on?

**Sarah Boyack:** That issue is similar to concessionary fares, in that we will consider how we want to implement the powers in the bill and shift the way in which we currently allocate fuel duty rebate. Those are precisely the issues that I want to address. A report is being prepared by the Commission for Integrated Transport that will consider fuel duty rebate and a wide range of issues along the lines that you mention. I want to see that report, to see whether there is a good argument for extending fuel duty rebate. To do that, we will need the powers in the bill, which is why I am introducing them.

**Donald Gorrie:** Will you clarify your policy on congestion charges? I may not have fully grasped the bit where you said that motorists driving through a city would not be included in the charge. Does that mean that somebody who drives through the middle of Edinburgh—along Queen Street, for example—does not pay? Glasgow has a motorway through the middle—would somebody be charged only when they went off it?

**Sarah Boyack:** Through traffic in Edinburgh uses the city bypass; it does not go through the city centre and along Princes Street. I am prepared to debate that in detail when we get to that stage, but we have considered the matter. We consider trunk roads to be national and regional routes—it would not be appropriate to place charging mechanisms on them. I have had detailed discussions with the local authorities that have raised the issue with me. We can achieve acceptable schemes that do not require us to charge on trunk roads.

**Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab):** I welcome the work that the minister has done on concessionary fares and the possibility that the scheme might be expanded in future. Would that expansion take account of a wide range of groups, for example young people? If the resources became available, would the bill enable us to consider expanding the range of groups for whom concessionary travel is available?

**Sarah Boyack:** The power is general, so it gives us that flexibility. I want to be clear and to manage people's expectations about what our short-term priorities are. The power gives us scope in the long run to shift those priorities, if the resources become available. The concessionary fares report will give us a range of funding options beyond our current commitments. However, account would

have to be taken of other priorities.

**Cathy Jamieson:** That is helpful. I wanted to be clear about that. I appreciate the difficulties—

**Sarah Boyack:** I want to be clear about how I intend to use that enabling power in the short term.

**Janis Hughes (Glasgow Rutherglen) (Lab):** One of the main transport issues that is raised at my surgery is transport to hospital facilities. Acute services reviews across the country will lead to major changes in the way that people visit hospitals. Will the minister consider guidelines on the provision of transport to hospitals, especially when people have to make longer journeys than they used to?

**Sarah Boyack:** There are different ways to come at this. You have exposed one of the problems with the bus network—that it is historic. As individuals, we all fight tooth and nail to prevent any changes in the network if one of our constituents might be affected. You are right—we lack a more forward-looking approach.

We have been keen to talk about green commuter plans for hospitals. There are two issues: staff at hospitals and visitors to hospitals. When the bill is passed, we would want to consider whether the new framework allows us to issue further guidance. We already have guidance on green commuter plans. That is regarded very much as guidance to businesses, but it would be equally applicable to major public sector organisations such as hospitals, further education colleges and universities.

We would all defend to the hilt the historic approach in Edinburgh, whereby almost every bus goes along Princes Street. However, we are at the stage when we need to rethink how buses work. I am keen to work out how we can add new routes, and to pursue a new framework for talking to the bus companies, through the partnership and contract approach. I would be happy to consider the issue of guidelines, as well as best practice on engaging in such discussions. You are right—it is not just the acute services review in Glasgow. There will be new hospitals around Scotland in places without traditional bus routes. We need to consider that matter, and I would be happy to pursue it further.

**The Convener:** There are no further questions, so I thank the minister for that overview of the bill. I advise members that the minister will not make such a statement at the start of every session. Today was a one-off, to ensure that we have a picture of how the minister sees the bill and the amendments that may be lodged.

## Before section 1

**The Convener:** I return to where we were, and invite Robin Harper to speak to amendment 52.

**Robin Harper:** I thank the clerks for their assistance in preparing the wording of my amendment, which applies to the beginning of the bill, before section 1. The new section would provide a statutory basis for local transport strategies. It would impose a duty on local transport authorities to prepare and publish a local transport strategy, setting out their policies for the promotion of safe, integrated, efficient, accessible and environmentally sustainable transport facilities in their areas.

Fundamentally, the new section would impose a duty on each local transport authority—defined in section 76 of the bill as local authorities or the Strathclyde Passenger Transport Authority—to formulate transport policies and publish them as a local transport strategy. The policies would have to promote safe, integrated, efficient, accessible and environmentally sustainable transport and have particular regard to the needs of the elderly and people with mobility problems.

They would also have to provide a framework for, inter alia, the promotion of improvements to bus services under the powers in part 2 of the bill and the introduction of charging regimes under part 3. A further subsection provides that strategies would have to be kept under review and altered if necessary; in any event, they must last no longer than five years.

Importantly, the new section would exempt a local transport authority from the requirement to produce such a strategy if they had already—before the date when the section came into force—prepared a document in a form and manner equivalent to that required under the bill for local transport strategies. The intention is that people would not have to do things twice. That document would be treated as a local transport strategy, but would have to be replaced no later than 31 October 2005—five years from the closing date set by Scottish ministers for the submission of local transport strategies.

The new section would impose requirements for consultation during the preparation of local transport strategies and for the publication of strategies; authorities would be required to make copies available at no more than cost.

The section would require local transport authorities to have regard to guidance issued by Scottish ministers and to the needs of the elderly and people with mobility problems.

I shall turn to the argument for the proposed section. Local transport strategies are the means by which local authorities should set out their

vision for improving public transport and tackling rising traffic levels. I call for those strategies to be made a compulsory requirement of local authorities. By leaving them as voluntary measures, the Scottish Executive will merely reinforce the view—taken by some at local government level—that tackling traffic problems is a medium priority.

10:45

In England, a provision for statutory local transport plans has been built into the Westminster Transport Bill. The Local Government Association, the English counterpart of the Convention of Scottish Local Authorities, has described local transport plans as the cornerstone of the integrated transport planning project, and has supported local transport plans being put on a statutory basis.

In Scotland, however, and without sufficient explanation in my view, there has been an acceptance of a voluntary approach for that important measure. The Executive has argued that a statutory basis for local transport strategies does not guarantee their quality. That much is true, but I feel that a statutory footing would make local authorities take more seriously their responsibilities regarding transport and protection of the environment. Measures for improving bus services, such as quality partnerships and quality contracts, may be put on a statutory footing, while local transport strategies—the glue that is meant to bind all authorities' policies together—remain completely voluntary. That inconsistency would be solved if the Executive accepted my amendment.

I move amendment 52.

**Sarah Boyack:** I do not think that there are any differences between us as far as the importance of local transport strategies is concerned. I would whole-heartedly sign up to the objectives that Robin Harper has introduced. If I was to introduce a provision in the bill to make local transport strategies a statutory requirement, it would probably look pretty much like what Robin Harper has drafted.

However, I do not think that we need statutory provision; that is where Robin Harper and I depart from each other. The key issue for the committee to consider is whether placing local transport strategies on a statutory footing would add anything to what we already have in Scotland. We have got off to a good start and I do not think that including a statutory requirement in the bill would do anything more than legislate for the sake of it.

All 32 local authorities, plus Strathclyde Passenger Transport, have submitted revised strategies, and they will all submit full strategies by the end of the year. I do not think that statutory

status would deliver a difference in that time scale, or indeed in the quality of the local transport plans. I do not think that statutory status would have any substantive effect, and it would certainly not be a guarantee of quality. To me, the critical issue is how good the local transport strategies are, how important they are and to what extent innovative thinking is being plugged in at local level.

Turning to the detail of the amendment, local authorities are already engaged in the process of consulting. We have issued two rounds of guidance to give them best-practice advice on whom to consult and how to consult them. The freight community was one of the business communities that we identified as needing to be plugged into that process. Historically, its needs have not been addressed by local authorities. We have provided local authorities with guidance to raise the quality of such consultation.

It is also important to say that local transport strategies need to link in with local air quality targets through the air quality process. They also need to relate to traffic reduction issues; that is specified in the guidance. If a local authority is making a submission to the public transport fund, or wants to consider using the powers in the bill on road user charging, members will note that they must be able to justify that through their local transport strategy. We have tried to build in incentives to get local authorities not just to produce strategies but to make them meaningful, real and of high quality.

I think that we all agree on that. The difference lies in whether we believe that making it statutory would help the process. The Executive does not think that it would make a substantive difference, so that is where we disagree with Robin Harper.

**Donald Gorrie:** I was not a member of the committee before, and I missed a previous discussion on the matter. However, I feel that I should support Robin Harper's amendment. In my experience of local government, when there are competing priorities for officials' time, statutory things go to the top of the list while something that is voluntary, however excellent, goes lower down the list.

It may not be a fair analogy, but in the world of education, all that happens in schools is compulsory, but community education is not compulsory and is therefore a poor relation. If delivering a transport strategy was compulsory, that would help to encourage the few councils that did not take the matter as seriously as they should. I support amendment 52.

**Mr MacAskill:** I have some sympathy with the amendment, but I do not know that it necessarily provides us with a solution. We seem to be mixing up two matters—the size of authority that should

produce a transport strategy and the nature of that beast, and whether it should be voluntary or statutory. We are in danger of putting a further burden on cash-strapped local authorities, with no indication of what additional resources would be provided for them to carry out that obligation.

The real problem in transport does not so much concern individual authorities acting alone, as no individual authority acting alone could possibly deal with the problems that we have. It is inconceivable that Clackmannanshire could consider a transport strategy without thinking about the implications for Perth and Kinross or Stirling, or that City of Edinburgh Council could consider a transport strategy without thinking about the implications for Midlothian, or indeed for Fife or the Borders.

The jury is out on whether transport strategies should be voluntary or statutory. To some extent, I take the same view as I do on partnerships and contracts. I am sceptical, but let us proceed with partnerships. If that does not work, let us make them compulsory. If transport strategies can be dealt with on a voluntary basis, that is what we should do.

Our current problem is the democratic deficit that has existed since the abolition of regional authorities. I am not calling for the return of regional authorities, but I think that we must beef up the south-east Scotland transport partnership and ensure that similar partnerships are replicated elsewhere. I agree with the drift of Robin Harper's argument, but I do not think that such things can be left to individual authorities. What needs to be done must be done on a trans-authority basis, not on a single authority basis. We must consider that, not just for transport but for some forms of planning.

**Des McNulty (Clydebank and Milngavie) (Lab):** I agree with Kenny MacAskill, perhaps for the first time, about the need for trans-authority transport planning and about the problems of the present local authority structure. Regional authorities were much more sensible planning authorities than are the current fragmented, smaller authorities. Transport and other strategic services cannot be organised effectively on a single authority basis. Some of us were saying that in 1994.

However, there is another important argument against Robin Harper's amendment. One cannot put a bracket round transport. We now have a system in Scotland, which I welcome and which was sponsored by COSLA in the aftermath of local government reorganisation. The effect of developing local community-based plans is to knit together the transport strategy, the education strategy and a whole series of other strategies with many partners who are involved in the

process. That is done voluntarily and must be flexible, without sharp boundaries between transport and other matters with which transport interfaces.

I would be concerned if we were to go along the route that Robin Harper suggests, with a statutory transport strategy that would sit in isolation from the whole series of other strategies that a local authority must get involved with. Transport planning is done without there necessarily being corroboration between one authority and the next. In my constituency in the west of Scotland, there is such a volume of cross-border traffic among West Dunbartonshire, East Dunbartonshire and Glasgow that operating on a single authority basis would be nonsensical in terms of governing the pattern of movement of most people. For those reasons, Robin Harper's amendment is not appropriate in the circumstances.

**Mr Murray Tosh (South of Scotland) (Con):** Having worked for a regional council and having dealt with regional councils from a district council point of view, I take a radically different view from that of Des McNulty. I suspect that the value of regional councils is a matter that we could debate on another occasion and for other reasons.

I like Kenny MacAskill's new, mature, measured, statesmanlike approach: I agree with what he says about giving the voluntary approach a fair wind.

I do not have many advantages as a list member, but one advantage is that I receive material from a range of local authorities across the south of Scotland. There is no doubt that councils are preparing strategies. They are publishing them and consulting about them. A process that appears to be working has been started, and I think it reasonable to continue on that basis. The opportunity will exist for the minister to propose further legislation if we discover at a later stage that, for whatever reason, the process is not working. What is in the bill as introduced is adequate, and I do not support the amendment.

**Cathy Jamieson:** I am about to ruin my credibility, as I agree not only with Kenny MacAskill but with Murray Tosh. I have great sympathy with what Robin Harper is trying to achieve: ensuring that we are all striving towards high-quality public transport and that people take the appropriate steps.

My constituency covers East Ayrshire and South Ayrshire. An Ayrshire-wide group is considering a joint strategy, and a lot of work has been done to try to ensure that it covers the points that Des McNulty made on social inclusion, that transport is not being dealt with in isolation for those who are interested in it, and that the strategy will deliver for people. If the Ayrshire local authorities, for

example, were encouraged to work only on their own, that would be to the detriment of the local community. We should encourage wider co-operation where possible. Where such co-operation exists, we should build on that good practice.

**Sarah Boyack:** I want to emphasise best practice, which should be spread among authorities. That will not be achieved by legislation, but by networking and seminars, and by talking with communities, building them into the transport process.

Local transport strategies are critical. They are just one of the tools that authorities have. I do not think that they need to be a statutory requirement, and I agree with Cathy Jamieson—which gets me off having to agree with Kenny MacAskill and Murray Tosh.

**The Convener:** But that is a consequential effect.

I invite Robin Harper to wind up on amendment 52 and, in so doing, to state whether he will press it to a vote.

**Robin Harper:** I will press it to a vote.

I want to emphasise a few things. There is a relevant example in England, where local authorities have specific capital allocation from the DETR, against which they draw up their local transport plans. Poor-quality local transport plans mean that local authorities receive fewer resources. That provides an incentive to draw up well thought out local transport plans.

In Scotland, the block grant means that local authorities can, in effect, do as they please for their local transport strategies. The block grant arrangements may make it less likely for local authorities to get money from challenge funds such as the public transport fund. Although the minister has already commented on this, I still feel that the quality of local transport strategies will not be regarded as critical. In recent years, there has been a decline in the resources that local authorities devote to transport, and I feel that a voluntary approach will do little to reverse that.

On the point made by Kenny MacAskill and Des McNulty, section 3(d) under amendment 52 mentions, among the consultees,

“every other local authority whose area appears to them likely to be affected by the strategy”.

In effect, that would introduce an area element to any transport strategy. A proposal to make that provision more robust might have been a better way of dealing with the amendment than speaking against the amendment as a whole.

The amendment does not just include the possibility of consultation; it lays down a

requirement on local authorities to consult other authorities that will be affected by their strategies. I think that that copes with the objections that were raised by Kenny MacAskill and Des McNulty.

**The Convener:** The question is, that amendment 52 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**For**

Gorrie, Donald (Central Scotland) (LD)  
Harper, Robin (Lothians) (Green)

**AGAINST**

Eadie, Helen (Dunfermline East) (Lab)  
Hughes, Janis (Glasgow Rutherglen) (Lab)  
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
Kerr, Mr Andy (East Kilbride) (Lab)  
MacAskill, Mr Kenny (Lothians) (SNP)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Radcliffe, Nora (Gordon) (LD)  
Tosh, Mr Murray (South of Scotland) (Con)

**The Convener:** The result of the decision is: For 2, Against 8, Abstentions 0.

*Amendment 52 disagreed to.*

### Section 1—Joint transport strategies

**The Convener:** Amendment 18 is in the name of the Minister for Transport and the Environment, and is grouped with amendments 21, 23, 25, 27 and 28.

11:00

**Sarah Boyack:** I welcomed the committee's support for the overall approach on joint strategies. Amendments in this group relate to consultation before making an order, consultation in preparing a strategy and consultation before issuing a direction.

The Convention of Scottish Local Authorities and local authorities themselves were very concerned that Scottish ministers should consult fully before introducing an order. The Confederation of British Industry, the Confederation of Passenger Transport UK and the Freight Transport Association were all concerned that the existing provision does not require public bodies to consult.

We have considered those views, and have made it clear that we intend the Scottish Executive to consult interested parties as a matter of course. The order would place a similar obligation on public bodies.

Given the level of concern, it is important for that obligation to be included in the bill. I want the requirement to be given statutory weight so that it can be put beyond doubt. Amendment 18

therefore places a statutory obligation on Scottish ministers to consult interested parties before they make an order under part 1. Amendment 23 provides that any such order shall include a requirement for public bodies to consult named parties when preparing a joint strategy.

To a great extent, my amendments cover the same ground as Des McNulty's amendments 21 and 27, and I hope that he will feel able to withdraw them on the basis that our amendments 18 and 23 deliver what he is trying to address.

Bruce Crawford's amendment 25 relates to the amendments in the fourth grouping. I think that it should not be agreed to, for reasons that I will explain later.

Bruce Crawford's amendment 28 raises important issues. I agree that, in certain circumstances, it might be reasonable for Scottish ministers to be required to consult and to publish the consultation responses before issuing a direction. However, I think that that is probably more relevant to section 2(1)(b), which involves a degree of subjectivity, than to a clear-cut case of failure to comply under section 2(1)(a). We would also need to ensure that consultees were not prevented from submitting private responses.

I understand Bruce Crawford's intention. If he was happy to withdraw amendment 28, I would be happy to consider further the intention behind it and to revisit the issue at stage 3. I agree with what he is trying to achieve, but I do not think that amendment 28 is the right way to do it.

I move amendment 18.

**Des McNulty:** As Sarah Boyack indicated, she and I are trying, in essence, to do the same thing: to improve the processes of consultation. The minister has taken account of the key elements of what I was trying to do.

Amendment 21 would allow Scottish ministers to require authorities to set in train procedures for consultation. In her amendments, the minister has focused on the fact of consultation and the bodies that are consulted. I saw the need for something more structured, perhaps allowing processes of public consultation in the broadest sense, rather than simply consultation with specified bodies.

The amendment would also allow ministers to lay down the format for consultation in certain circumstances, and would give them the safeguard, as would amendment 27, of being able to intervene if proper consultation, as set out, was not conducted.

In a sense, my amendments strengthen the position of ministers with regard to the procedures and effectiveness of consultation more than the minister's own amendments do. Perhaps what I am looking for could be addressed differently, not

through a legislative process but through direction. However, it is important that consultation is not just a formal process, but a real process and that people have the opportunity to get involved. It is important that ministers can intervene on authorities that do not carry out effective consultation, not just because the authority has not prepared or submitted a plan, but because it has not consulted effectively on the plan. That is the aim behind my amendments.

**Bruce Crawford:** Amendment 25, which seeks to replace "may" with "shall", would ensure that consultation took place, instead of leaving it to the will of the public body involved. I know that most public bodies do not need to be told to undertake consultation, but it is important that consultation is an absolute prerequisite. That would enable those who might reasonably expect to be consulted to say, "Hey, hold on a minute, public body. I have something important to say, and I have a legitimate expectation that you will listen to me." That is why "may" should be changed to "shall".

I understand what the minister is trying to achieve, and I thank her for trying to move towards what I am trying to achieve, but amendment 28 is about consultation before direction. The intent behind the amendment is to remove what I think is an unnecessarily blunt instrument with which to beat public bodies. We hear much from Government—we have heard it from the minister this morning—about partnership and working together, and we all agree with those sentiments, but the wording in the bill means that the Government will be saying to the public body, "You will do what I command, no matter how you feel about it." While it may be appropriate that the Government should have the final say, it is also important that when a decision is arrived at following a period of consultation, that should be done openly and transparently. I hope that that explains my amendments.

**The Convener:** Are there any comments on this group of amendments?

There are none. I offer the minister the opportunity to wind up on amendment 18.

**Sarah Boyack:** I have a couple of detailed points to make. To address Bruce Crawford's last comment, Executive amendment 23 will require an order to specify the persons who must be consulted, which removes the need for Des McNulty's amendment 27. It is important that local authorities have to consult, and that that requirement should be set out. People's rights must be taken into account. We do not want to make that an excessively onerous process, but it is a democratic safeguard.

The bill already takes on board the points that Des McNulty made, especially at section 1(2)(c),

where there is a requirement for procedures that, with our amendments, can deliver what Des intends. Section 2(1)(b) also provides the opportunity for us to take on board the issue of consultation. Given the existing sections in the bill and the Executive amendments, the bill will do what Des McNulty intends.

*Amendment 18 agreed to.*

**The Convener:** We will deal with the other amendments in the group later.

Amendment 19, in the name of Murray Tosh, is grouped with amendments 20, 22, 24, 29 and 30.

**Mr Tosh:** I will be brief, because I am aware that time is passing rapidly this morning. I said at stage 1 that I support the principle of joint working across local authority boundaries. However, the potential use of the power—as envisaged in the policy memorandum that was published with the bill—to impose road charging schemes on local authorities that do not wish to implement them, would be oppressive. Were the west of Scotland transport partnership to impose workplace parking levies, which I assume will become law, across its area, South Lanarkshire Council, for example, might resist that move yet find the powers being used to impose a scheme in its area; the bill appears to make that possible. That would not be acceptable.

In Edinburgh, where we are talking about the possibility of a cordon charge along the A720, which passes through two local authority areas, it is somewhat perturbing to envisage the possibility that the Executive and Midlothian Council could use the powers to impose a scheme in Edinburgh. That might not happen in reality, but it is appropriate to mention it in relation to this section and the next. I am interested to hear what the minister has to say about the intended use of those powers.

**The Convener:** I invite Bruce Crawford to speak to amendments 20 and 29.

**Bruce Crawford:** The purpose of inserting

“such matters to include the environmental, social and economic impact of the strategy”

is to ensure that public bodies are clear about what will be acceptable as the minimum core content of a strategy. As well as dealing with the technical content of strategies, it is important that the bill lays down a marker that in-depth consideration must be given to the development of a strategy.

In addition, the amendment helps to make clear to any reader of the bill the minimum issues that they might expect a strategy to explore and discuss. In that way, any individual, community or organisation with an interest will have a clear steer

as to what they might legitimately expect from a public body in the development of a strategy. That can only be good for transparency and understanding, and for accountability.

Amendment 29 would delete the words “as they think fit.” The amendment is about the language of the bill. With partnership issues being to the fore, I am not sure that it is necessary that those words should appear to give the minister the power to direct a public body.

**The Convener:** I invite Des McNulty to speak to amendment 22.

**Des McNulty:** You will remember that paragraph 16 of the committee’s stage 1 report said:

“The Committee supports the inclusion of provisions in the Bill which enable Ministers to give the voluntary approach the force of law if local authorities or other public bodies demonstrably fail to address important cross boundary issues.”

That statement gave rise to amendment 22, which seeks to give Scottish ministers the ability to require, as part of an order,

“joint working, partnership or resource management arrangements”

to be put in place in relation to neighbouring local transport authorities. The amendment is not the perfect way of doing that, but it was the only effective way that I could see, given the way in which the bill is drafted. I envisage this power as one that ministers could use if they felt that things were not working in a particular joint arrangement. I would not expect ministers to use the power routinely, but the intention is to write it into the bill in such a way that ministers could lay orders on joint working. That would enable them to intervene when people were not co-operating, to knock heads together and to make requirements to ensure effective joint working.

11:15

**Sarah Boyack:** It is the Executive’s strong view that amendments 19, 24 and 30 are politically and legally unnecessary. I acknowledge the points that Murray Tosh has raised, and which have been raised by others, but I want to record that it is not our intention to use the powers to impose the introduction of charging on any local authority. From a legal perspective, any use of those powers would have to be seen in the context of the primary purpose of section 1, the intention of which is not to force any local authority to introduce charging. Any authority that wanted to go down that route would have to operate under later sections of the bill, which we will come to. The procedures in part 3 must be followed. I am happy to confirm that it would not be possible to short-circuit the other procedures by trying to slide

them through in section 1.

I envisage circumstances in which I will expect local authorities to consider the case for charging along with other options. However, that is different from requiring them to implement a charging scheme and that distinction is crucial. We do not think that the example that Murray Tosh gave could happen.

The intention is to be clear about the fact that public bodies are required to consider issues when they formulate strategies to deal with transport problems. The intention is not to require them to adopt any specific means of addressing those problems. We want to get people together, not tell them what their conclusions must be. It is useful that the lodging of amendments 19, 24 and 30 has given me the opportunity to make that point clear. I suggest, however, that the commitments that I have given mean that those amendments do not have to be agreed to.

I agree with the spirit of what amendment 20, in the name of Bruce Crawford, attempts. I confirm that it is the Executive's intention to require, where appropriate, that submitted strategies include an assessment of their environmental, social and economic effects—we intend to deliver that. An assessment such as that which the amendment would require is important as part of a wider framework, but to specify those issues alone in the bill would give them undue prominence and might cause other matters—which might be the real reasons for introducing a regional transport strategy—to be ignored.

I have a lot of sympathy with what amendment 22, in the name of Des McNulty, would do. However, the amendment is inappropriate—the thrust of section 1 of the bill is to enable the preparation of strategies; it is not about prescribing the specific arrangements for preparing those strategies. The amendment would take section 1 into new territory. It implies a move towards a more corporate transport entity. We have accepted that there is the need for a corporate transport entity in Strathclyde—the Strathclyde Passenger Transport Authority—and we are considering the need for a transport authority in the Highlands and Islands. If we decided that the transport partnerships were not working at a regional level, we would have to move to a different form.

To avoid confusion, it is important that we retain the focus on the strategy-making process, rather than get into the funding arrangements. That would put us in a situation in which we would be telling authorities that they needed to invest certain amounts of money. Following that, a formalised transport authority would be required. I agree with the spirit of amendment 22, but it is important that we do not amend the bill in the way

that that amendment suggests.

The key argument for amendment 29—which is also in the name of Bruce Crawford—relates to the wording of the bill. We are in the hands of the solicitors. The wording of the bill is their best call in terms of legislative phraseology—they felt that what is in the bill was the best way to word the Executive's intention. That amendment would not be helpful. It would raise a question about what section 2 would deliver if we took out the words about what the Executive was able to do.

**Nora Radcliffe (Gordon) (LD):** The minister's objection to Bruce Crawford's amendment 20 was that to state that such matters

"include the environmental, social and economic impact of the strategy"

might mean that other issues would be left out. What issues would not be included under those three headings?

**Donald Gorrie:** This is an interesting group of amendments. I am not inclined to support Murray Tosh's amendments, but I have sympathy with Bruce Crawford's amendment 20, which Nora Radcliffe mentioned. Like Nora, I cannot see what other issues there might be.

If we say that agreement to the amendment would include A, B and C, that does not mean that E, F and G would be demoted. With due respect, that argument is rather feeble. Des McNulty's efforts to get councils and bodies to work together are admirable. I am inclined to support amendment 22 on that subject.

**Robin Harper:** I congratulate Bruce Crawford on lodging amendments that are consonant with various aspects of the amendment that he voted against. I shall support those amendments, which make the bill more robust and clearer.

**Des McNulty:** I listened to Sarah Boyack's responses, but I would like clarification on a couple of points. The committee recommended that there should be a force of law for when things break down. If amendment 20 is not an appropriate vehicle for addressing that recommendation, how does the minister plan to address it? That important issue was discussed extensively by the committee, but saying that the amendment takes that section of the bill into new territory does not address it.

If there are to be strategic discussions on a joint transport strategy, I do not see how such discussions cannot include resource issues. The only meaningful strategies involve resource commitments. I accept that it is not for the minister to say what those resource commitments should be, but it is reasonable that the bill should require a mechanism for ensuring that there is discussion about resources between the relevant authorities



that are trying to produce a joint strategy.

The fact that the amendment mentions resources is not a valid objection to it. It might be that there is a different mechanism that could deal with the matter, but it is not clear from the minister's answer what that would be.

**Sarah Boyack:** First, I will answer the points that were made by Nora Radcliffe and Donald Gorrie.

It is important to give members a flavour of the issues that we were thinking about when we drafted section 1 and considered Bruce Crawford's amendment. We considered, for example, whether there would be a freight-driven strategy, which would potentially not have major social implications. Safety and congestion issues might have environmental impacts and there would certainly be economic impacts, but the drivers of such a strategy might not be environmental, social or economic issues.

I made the commitment to Bruce Crawford that we expect to address those issues. It is not that we do not think that they are important, but we did not think that they should be the only issues that were highlighted in drawing together a regional transport strategy. I hear what members are saying, but it would not be appropriate to highlight those issues outwith the context of what might be the critical reasons for pursuing a regional transport strategy.

We do not disagree with the objective of local authorities working together. In a sense, that is the purpose of regional transport strategies—to deliver on the issues that were identified by Kenny MacAskill and Des McNulty. Local authority boundaries are too small to allow us to deal with the complex traffic problems within them.

I want to clarify the point that was raised by Des McNulty. If we get to a stage where it is impossible for the partners in a regional transport partnership to agree on financial issues and resource allocation, we will be led into a different kind of framework. We are entirely relaxed about directing people to work together, but getting them to agree about outcomes is another issue. That takes us back to the point that was made by Murray Tosh. We can require authorities to work together and to set an agenda, but we cannot reach the points of agreement for them—they must do that. If that does not work, there will have to be a different statutory process and a different framework. That is not the intention of the Transport (Scotland) Bill. If we decide to introduce transport authorities, there must be a separate legislative vehicle for that.

**Bruce Crawford:** That is new information about what could be involved in any strategy that came, for example, from the freight community. Even if a

policy did not have a social impact on any group, community or organisation, is not it desirable to require consideration of whether there could be an impact? If no impact was identified, there should be a requirement to comment on that in the strategy.

**Sarah Boyack:** We intend that such matters would be covered in the legislation.

**Bruce Crawford:** I see.

**Sarah Boyack:** We agree with the intent behind amendment 20. The question is whether it should be included in the bill—I do not agree that that would be appropriate.

**The Convener:** I ask Murray Tosh to wind up and to indicate whether he intends to press the amendment.

**Mr Tosh:** I wind up not only on my behalf, but on behalf of Bruce Crawford who did not have a vote and so did not deserve the remarks that Robin Harper made about him accidentally.

**Robin Harper:** I withdraw that comment.

**Mr Tosh:** In introducing my amendments, I think I used the word declaratory. I should have said exploratory, which is what the amendments are. They were based on paragraph 15 of the policy memorandum. I am reassured by what the minister has said and therefore will not press my amendment. I did not and was not made to move amendment 19, so I do not need to ask for leave to withdraw it.

**The Convener:** I am advised that you must formally withdraw amendment 19.

**Mr Tosh:** I did not move the amendment, but if I must formally withdraw that which I did not move, I will do so.

*Amendment, by agreement, withdrawn.*

**The Convener:** We move to amendment 20, which has already been debated. Do you want to move the amendment, Bruce?

**Bruce Crawford:** Yes. I am not sure that the minister said anything that detracts from what I said earlier. From the point of view of transparency, it is important that people who read the bill—communities and individuals—know what will be at the core of any strategy and—

**The Convener:** You need merely to move your amendment.

*Amendment 20 moved—[Bruce Crawford].*

**The Convener:** The question is, that amendment 20 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Gorrie, Donald (Central Scotland) (LD)  
 Harper, Robin (Lothians) (Green)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Radcliffe, Nora (Gordon) (LD)

**AGAINST**

Eadie, Helen (Dunfermline East) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Tosh, Mr Murray (South of Scotland) (Con)

**The Convener:** The result of the division is: For 4, Against 6, Abstentions 0.

*Amendment 20 disagreed to.*

*Amendments 21 and 22 not moved.*

*Amendment 23 moved—[Sarah Boyack]—and agreed to.*

*Amendment 24 not moved.*

11:30

**The Convener:** Amendment 25, in the name of Bruce Crawford, has already been debated.

**Bruce Crawford:** I move amendment 25.

**The Convener:** The question is, that amendment 25 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Gorrie, Donald (Central Scotland) (LD)  
 Harper, Robin (Lothians) (Green)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Radcliffe, Nora (Gordon) (LD)  
 Tosh, Mr Murray (South of Scotland) (Con)

**AGAINST**

Eadie, Helen (Dunfermline East) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)

**The Convener:** The result of the division is: For 5, Against 5, Abstentions 0. It therefore falls to me, as convener, to use my casting vote. This is the first time that we have had such a situation in the committee, and no established convention for dealing with it exists in the Parliament. However, I have taken into account what has happened in other committees. My casting vote is in favour of what I see as the status quo—the bill as it stands. I therefore vote against the amendment.

*Amendment 25 disagreed to.*

**The Convener:** I now call amendment 26, in the name of Bruce Crawford, which is grouped with

amendments 36, 40, 42, 46, 48 and 50.

**Bruce Crawford:** The theme of amendment 26 is consultation and involvement. If public bodies are serious about improving the quality of life for people in communities, they must do more than simply consult: they must address issues of ownership and participation. Public bodies must take people and communities with them on the journey towards improving the quality of life; they must not simply take them for a ride. The Transport (Scotland) Bill must lay down some minimum standards for people's involvement and participation, especially for groups that have not always found it easy to impact on public policy. If that is to be real, people must be involved from the beginning.

Members will see that my amendment has left the catch-all phrase,

"other persons as those bodies consider appropriate".

That is in recognition of the fact that not all groups in society can be named in the bill.

The minister said, I think, that she would produce guidance. I understand that such guidance will be necessary, but it will lead only to an expectation, not a requirement, that public bodies should consult on particular matters.

Like amendment 26, amendment 36 is about public bodies taking people and communities with them. Once public bodies start involving people, they must keep doing so, to ensure that people stay on the journey to a better quality of life and are not let off the bus at the first convenient stop. Section 1(3)—as I would like it to be amended by amendment 26—would be all about trying to involve groups whose voices are often not heard.

Amendment 40 is about telling the participants in a consultation that a scheme is going ahead, and about ensuring that there is feedback and that people continue to be involved. If a scheme were postponed, it would surely be right to go back to the people who were consulted to tell them that. Amendment 42 also addresses that point.

Amendment 46 is also about feedback and continuing the journey for those who have been involved since the beginning. Amendment 50 is the final piece in the jigsaw—it would ensure that, once a project reached its end, people would know about that.

I move amendment 26.

**Sarah Boyack:** There is a relationship between Bruce Crawford's amendments, and I acknowledge the intention that lies behind them. I agree with the objective of consulting people who have hitherto been excluded—especially some of the people who are listed in amendment 26. However, agreeing to the amendment would mean

mentioning in the bill one set of people, without including everybody else whom we might want to include. It is important to consider that.

The bill has been drafted to provide the key objectives and framework. It was drafted broadly to indicate that a range of people must be consulted in the process of developing strategies, and that there is no single group of people who are important. It would be important to consult everybody who is suggested in amendment 26, where that would be relevant. However, it is up to local authorities to identify the key groups and to implement a consultation process that relates to them.

We expect other interested parties to be consulted, such as environmental groups, business groups and transport operators. It would be crucial to involve them in discussions about a quality partnership. We have not listed other groups in the bill because it might be appropriate to consult groups in addition to those that I listed and that are listed in Bruce Crawford's amendment 26. The best place to list those groups is not in the bill, but in guidance. If we identify some groups in the bill, that might imply that those groups have more prominence than others do.

Our approach must be to guide authorities clearly through the relevant orders and through the guidance that the Executive will issue. Best practice means identifying the key interest groups that should be consulted and how they should be consulted. It would be inappropriate to identify in the bill some groups, but not others. That is not to say that I do not expect local authorities to consult the list of groups that have been identified by Bruce Crawford, but other people must be consulted as well. The best way in which to do that is to issue good guidance and to follow best practice.

**Fiona McLeod (West of Scotland) (SNP):** The minister makes the point that many of these problems can be solved through guidance. I went through that procedure recently when we were considering the Standards in Scotland's Schools etc Bill. Members wanted to ensure that all the appropriate people were involved in consultation and listened to; we believed that people had a right to be involved. We raised many points about the issue, but we were constantly told by the Deputy Minister for Children and Education that guidance would solve the problem. We have yet to see guidance from him and I worry that now the Minister for Transport and the Environment is saying the same thing and that we will have to wait, because she can issue guidance as and when she sees fit.

The groups included in amendment 26 comprise vulnerable members of the community who are often entirely reliant on transport that is provided

by public authorities. If those groups are not specified in the bill as having a right to be consulted and, more important, if their views are not listened to and acted on, the minister will be letting them down.

A transport bill for Scotland must ensure that everyone in Scotland is part of the transport solution. I urge the minister to accept that specifying those groups in the bill will give them rights. If they are not included in the bill, we will have to wait until the minister decides to go ahead with the guidance.

**Donald Gorrie:** I am slightly happier to accept the minister's arguments about amendment 26 than I was her arguments on a previous amendment. Bruce Crawford's list is not complete and, although section 1(3) as amended would incorporate a sort of catch-all phrase, it might be more appropriate to include such a list in the guidance.

I would like the minister to give me an absolute assurance that the categories in amendment 26 will be included in that guidance. In particular, I would like an absolute assurance that the guidance will ensure that transport organisations talk to young people, who are not as well organised as other social groups and are often grossly neglected on transport issues.

**Cathy Jamieson:** I have a great deal of sympathy with Bruce Crawford's attempt to ensure that every group of people that has suffered some kind of disadvantage is given an opportunity to comment. However, I am concerned about including the list in the bill, as the amendment does not give any indication of how such consultation is to be carried out. If we agree to amendment 26, perhaps only one or two organisations would be consulted and those organisations might not be representative of a particular area.

I also have a great deal of sympathy with Donald Gorrie's comments about young people. Traditional methods of consulting young people have not been user friendly. I would prefer the minister to give a clear commitment that the guidance will specify a range of people who should be consulted and that such consultation will be conducted in a manner that is appropriate to the needs of the individuals involved. I would be concerned if we specified in the bill who should be consulted and then found that lip service was paid to the consultation process. It is more important to get the consultation process right.

**Mr MacAskill:** I take on board what Cathy Jamieson and Fiona McLeod have said. There may be an argument for dealing with this matter in guidance. However, given what members of various parties have said about having an

opportunity to scrutinise and comment on the guidance, I would like to know what the time scale for the guidance will be and what involvement the committee will have in it. Will the guidance return to the committee—irrespective of whether I am still a member of the committee—for its comments?

**Nora Radcliffe:** Most of the groups that are listed here, with the possible exception of disabled people and older people, include the sorts of people who do not naturally come forward. If they are to be consulted properly, they have to be sought out; an effort has to be made to make contact from the centre. What force would guidance have to ensure that local authorities made the extra effort that is needed to contact these groups? If the requirement to consult these groups is included in the bill, public bodies will be compelled to make the effort, but I wonder whether guidance will provide that compulsion.

**Des McNulty:** A problem with Bruce Crawford's amendment is that it would apply a single model of consultation in a variety of circumstances. It is difficult to construct a set of consultative elements that would apply in all cases. A reason for including procedures for consultation elsewhere was to ensure that there was consultation and to allow a framework that could apply in different kinds of circumstances.

The minister is trying to define consultation by considering who should be consulted. There is an argument that the procedures for consultation need examination. They should be tailored for particular circumstances—for rural or urban areas, or for areas in which issues arise that do not arise elsewhere. That can best be done through guidance. The minister's difficulty is that the bill gives her no real powers to oversee procedures for consultation; her power is in relation to who is consulted. That is perhaps an issue that needs to be teased out.

**Sarah Boyack:** I agree with what nearly all members have said about the importance of meaningful consultation, which has to be at the core of the bill. It is intended that guidance should be listened to and acted on. Local authorities respect guidance from the Executive, which gives them an idea of the process and takes them through best practice. It prevents each local authority from having to reinvent the wheel. In response to Kenny MacAskill in particular, I make a commitment to consult widely on the guidance to ensure that we get it right, as it has to apply to the whole of Scotland.

The telling point has been made that everyone is part of the transport solution. The guidance will say that we need to consult all sorts of groups such as those to which he refers—people who are disadvantaged and those who have traditionally been excluded from consultation. I agree that

effective consultation is about best practice, but it is also about attitudes—it is about wanting to hear what people say when we consult. What people say needs to be fed back into the process. This is about local authorities wanting to consult people and engage them in the process. People must believe that regardless of what we put into the bill to deliver it in practice.

11:45

The guidance is important. I take the point that Nora Radcliffe made about something looking more important if it is in the bill. However, we have a long-established practice of guidance being implemented by local authorities, which generally view the guidance as meaningful. We need to get the guidance right and, in that respect, Donald Gorrie's comments about young people hit the nail on the head. Historically, young people have not been seen as important. They have different travel patterns and aspirations, yet, in relation to access to transport, they are one of the groups that are excluded through not being consulted.

I agree with the mood of the committee, which is that we need to have proper and wide consultation and that we have to ensure that people who are excluded or who do not live in the main towns are consulted if a partnership that will affect them is proposed. Environmental groups, business groups and transport operators also have to be consulted. It is important that everybody is involved. I strongly believe that the guidance is the best way of ensuring that that happens. By consulting widely, we will get the right guidance. In drafting the guidance, we will refer back to the discussions that we have had in committee. When we put the guidance out to consultation, people will have another chance to give us their views. I hope that, with those assurances, Bruce Crawford will feel able to withdraw his amendment.

**Mr MacAskill:** Will the guidance come to the committee, perhaps in draft form?

**Sarah Boyack:** I produce guidance all the time. It is readily available and the committee can discuss it if it wants to. If the committee wants to make points, we would be happy to hear them, as we want as wide a response as possible.

**The Convener:** Bruce Crawford, would you wind up and indicate whether you seek to press your amendment?

**Bruce Crawford:** I will seek to press my amendment, because it is about more than just consultation; it is about empowerment for groups in society that have not had the opportunity or, sometimes, the ability to participate and influence public policy. We have to say to groups that they have a right to be listened to. Environmental groups, business groups and transport operators

should be consulted—fair enough—but those groups are traditionally involved in the lobbying scene and have the means to lobby effectively. Guidance is the right way in which to deal with those groups and it is a good way of ensuring that good practice is shared. However, we have to put down a marker to say that all the other groups that we have mentioned have a fundamental right to be consulted. They have to feel that they can go to their town hall and say, “By the way, Jimmy, I want a chance here.”

**The Convener:** The question is, that amendment 26 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Harper, Robin (Lothians) (Green)  
MacAskill, Mr Kenny (Lothians) (SNP)  
Radcliffe, Nora (Gordon) (LD)

**AGAINST**

Eadie, Helen (Dunfermline East) (Lab)  
Gorrie, Donald (Central Scotland) (LD)  
Hughes, Janis (Glasgow Rutherglen) (Lab)  
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
Kerr, Mr Andy (East Kilbride) (Lab)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Tosh, Mr Murray (South of Scotland) (Con)

**The Convener:** The result of the division is: For 3, Against 7, Abstentions 0.

*Amendment 26 disagreed to.*

*Section 1, as amended, agreed to.*

*Amendment 27 not moved.*

**The Convener:** The question is, that amendment 28 be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

**FOR**

Harper, Robin (Lothians) (Green)  
MacAskill, Mr Kenny (Lothians) (SNP)

**AGAINST**

Eadie, Helen (Dunfermline East) (Lab)  
Gorrie, Donald (Central Scotland) (LD)  
Hughes, Janis (Glasgow Rutherglen) (Lab)  
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
Kerr, Mr Andy (East Kilbride) (Lab)  
McNulty, Des (Clydebank and Milngavie) (Lab)  
Radcliffe, Nora (Gordon) (LD)  
Tosh, Mr Murray (South of Scotland) (Con)

**The Convener:** The result of the division is: For 2, Against 8, Abstentions 0.

*Amendment 28 disagreed to.*

*Amendments 29 and 30 not moved.*

*Section 2 agreed to.*

**The Convener:** We shall now cease our stage 2 consideration of the bill, as there are other items of business on our agenda.

## Subordinate Legislation

**The Convener:** We have to consider a negative instrument: the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (SSI 2000/320). A copy of the instrument has been circulated to members and is accompanied by the usual covering note. In addition, there is an Executive note on the instrument, accompanied by a regulatory impact assessment and extracts from the covering directive, 97/11/EC, amending directive 1985/337/EEC.

The order came into force on 5 October 2000, with the time limit for parliamentary action being 6 November 2000. We are required to report on the instrument by 30 October 2000. Consequently, any member who wants to lodge a motion to annul must do so in advance of the meeting on 25 October 2000.

The Subordinate Legislation Committee considered the instrument at its meeting on 19 September 2000. In its 33<sup>rd</sup> report, it determined that the attention of the Parliament need not be drawn to the instrument. Do members have any comments on the instrument?

**Mr Tosh:** I have no comments on the instrument as such, because I am quite satisfied by the Executive note about the nature of the regulations, the level of consultation and the various certificates of competence that will no doubt be signed in due course. The Executive note was brief and easily understood. We know what the instrument is about and the note highlighted the differences that the order makes and why it has been introduced. I suspect that that is all we need and that this huge amount of material could have been sent electronically for us to browse through if we wanted to, without someone having to photocopy the works every time. Could we consider whether we can reduce the paper chase?

**The Convener:** That is a valid point. The envelope with all this paper in it made a severe thud as it landed on the doormat on Saturday. We shall look into the matter. I have to confirm that the committee is content and has nothing to report. Are we all content?

**Members:** Yes.

**The Convener:** I advise members of the press and public that the committee previously agreed to take the next two agenda items in private, to consider the contents of our report on genetically modified organisms and our approach to the next stage of the budget process. I thank members of the press and public for attending today's meeting.

11:53

*Meeting continued in private until 13:02.*

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