

# **TRANSPORT AND THE ENVIRONMENT COMMITTEE**

Wednesday 25 October 2000  
*(Morning)*

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## TRANSPORT AND THE ENVIRONMENT COMMITTEE

24<sup>th</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 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 2



## Scottish Parliament

### Transport and the Environment Committee

*Wednesday 25 October 2000*

*(Morning)*

[THE CONVENER *opened the meeting at 09:33*]

### Transport (Scotland) Bill: Stage 2

**The Convener (Mr Andy Kerr):** I welcome everyone to the 24<sup>th</sup> meeting this year of the Transport and the Environment Committee, particularly the minister. The public benches are packed with interested parties and I welcome the press and the public.

We are continuing our stage 2 consideration of the Transport (Scotland) Bill. We have a fairly lengthy and detailed meeting ahead of us, so we will take a short break for coffee at about 11 o'clock, which I am sure we will all look forward to as the morning lumbers on.

#### Section 3—Quality partnership schemes

**The Convener:** I call Des McNulty to move amendment 31, which is grouped with amendment 32.

**Des McNulty (Clydebank and Milngavie) (Lab):** Amendment 31 is intended to explore whether partnerships can cover bus corridors or groupings of routes, which may not be dealt with adequately by the word “areas” as specified in the bill. In rolling out partnerships, bus operators have found it convenient to start with particular groups of routes and push forward on an incremental basis. The purpose of the amendment is to explore whether the bill should include something that allows an incremental roll-out of partnerships in particular areas through a focus on specified routes—not just bus routes, but bus corridors or groupings of routes.

Amendment 32 is intended to introduce another dimension into the rationale for partnership schemes. The bill mentions the limiting of

“traffic congestion, noise or air pollution.”

I believe it appropriate to add the improvement of road safety as a criterion. I hope that the minister will consider that proposal.

I move amendment 31.

**The Minister for Transport and the Environment (Sarah Boyack):** I am grateful to

Des McNulty for raising these issues, which allows us to explore them in a bit more depth. I am happy to reassure him that the bill already covers the situation envisaged in amendment 31. That is highlighted in section 3(5)(a), which provides that specified facilities

“shall be provided at such locations . . . to which the scheme relates as may be specified in the scheme along routes served, or proposed to be served, by local services”.

Given that the bill already allows for what he proposes, I ask him to withdraw amendment 31.

I am also sympathetic to the arguments behind amendment 32, but I do not agree that inserting the phrase “improve road safety” as a criterion for making quality partnership schemes is the best way to proceed in this important area. Road safety is best dealt with as a core issue by local authorities rather than as part of a quality partnership. Section 39 of the Road Traffic Act 1988 already requires authorities to prepare and carry out a programme of measures designed to improve road safety. We need to ensure that an authority, in considering its proposals for quality partnerships in relation to implementing a relevant general policy, can take due account of its other relevant responsibilities. Amendment 32 has raised doubts about whether our initial definition of relevant general policies has been drawn too tightly, so we will lodge amendments later in stage 2 to widen the definition and permit local transport strategies and road safety elements of those strategies to be taken into account. I therefore ask Des McNulty not to press amendment 32.

**Donald Gorrie (Central Scotland) (LD):** I am sympathetic to both amendments. The minister's explanation of why amendment 31 is not needed may be acceptable if the issue is covered in the bill.

I am less happy with the explanation of why the second amendment is not needed. As I understand it—I am a newcomer to this—one of the criticisms of the bill has been that it does not contain enough about minor, local road improvements, road safety studies and works around schools. If road safety were introduced as a consideration in drawing up the quality partnership schemes, councils could negotiate with the bus operators about, for example, what routes they took through residential areas—they could specify safer routes. As I understand the bill, that would not happen, even with the minister's suggested additions. I would like the minister to be clearer about the ability of a council to promote schemes specifically with an eye to road safety.

**Sarah Boyack:** I restate my assurance to Donald Gorrie and Des McNulty that the Executive amendments will enable road safety to be taken into account. We are keen to ensure that road safety is covered everywhere. The bill will give

local authorities that power in their discussions with bus companies about routes.

**Des McNulty:** As the minister has given us assurances on the issues raised by the two amendments, I am willing to withdraw amendment 31.

*Amendment 31, by agreement, withdrawn.*

*Amendment 32 not moved.*

**The Convener:** I call the minister to move amendment 8, which is grouped with amendments 9, 11 to 16, and 51.

**Sarah Boyack:** This group of amendments enables the Scottish Executive to become a partner in a quality partnership scheme that includes a trunk road and to provide and maintain facilities on that trunk road. The amendments also ensure that the bill deals comprehensively with quality partnership schemes affecting trunk roads and traffic regulation orders.

A good example of how the power might be relevant—I do not want to give any financial commitments at this stage—is the work already being carried out by North Lanarkshire Council, Strathclyde Passenger Transport and bus operators on a bus corridor priority study for the A80. It would be relevant for the Executive to be involved in implementing such work and we need to have the powers made explicit in the bill.

The amendments provide that, where a quality partnership scheme facility requires the making of a traffic regulation order on a trunk road, the QP scheme is to be made jointly with the trunk road authority—the Scottish Executive. The key amendment is amendment 9, which allows the Scottish ministers to provide and maintain specified facilities on trunk roads as part of a QP scheme.

The amendments also clarify the position of the Scottish ministers and local transport authorities on quality partnerships that involve the making of a TRO. As the trunk road authority, Scottish ministers are empowered under the Road Traffic Regulation Act 1984 to revoke a TRO that affects a trunk road even if they did not make the original order. Where Scottish ministers or the secretary of state seek to vary or revoke a TRO, they are required to consult other authorities party to the scheme. Where any other authority seeks to vary or revoke the TRO, they must obtain the consent of any other authorities party to the scheme. The effect is that it is not possible to vary or revoke a TRO without consultation and an authority cannot vary or revoke a TRO without the consent of the other parties to the TRO. The overall effect is to ensure that, where there is a joint arrangement, no authority can undertake unilateral action that would affect that arrangement without proper

consultation. In the event that Scottish ministers decide that it is necessary to revoke a TRO that underpins the facilities within a QP scheme, they remain free to do so after consulting the other authorities that are part of the scheme and are therefore relieved of the obligation to provide and maintain the facility in question.

The amendments are a response to some of the representations that we received during the summer. I believe that they underline our policy of working in partnership with local authorities and others to deliver the step change that we want in the public transport system.

I move amendment 8.

*Amendment 8 agreed to.*

**The Convener:** Amendment 1, in the name of Janis Hughes, is grouped with amendment 10, in the name of the minister. I call Janis Hughes to speak to and move her amendment.

**Janis Hughes (Glasgow Rutherglen) (Lab):** This is a probing amendment, the purpose of which is to seek further information from the minister about infrastructure facilities that may already exist at the time that a partnership deal is discussed. I want to know how the minister intends to deal with such infrastructure.

I move amendment 1.

09:45

**Sarah Boyack:** It is important that we clarify this issue. I hope that amendment 10 will reassure Janis Hughes that the issue she raises has been addressed fully, and that she will feel able to withdraw amendment 1.

Amendment 10 clarifies whether local transport authorities can propose quality partnership schemes that include existing facilities. The bill as drafted does not exclude existing facilities from a QP scheme. Section 3(1) makes it clear that there must be genuine improvement of both local services and facilities. Authorities could not, for example, bring forward a QP scheme that was dependent primarily on existing facilities in the hope that a few small changes at the margin might justify demanding major investment from the bus operators. We believe that there must be a reasonable amount of additionality.

Already there are a number of quality partnership schemes, many of them established quite recently, with purposes similar to the statutory schemes that are set out in the bill. It has been suggested that there would be advantages in enabling authorities to incorporate existing facilities in a quality partnership scheme under the bill.

Amendment 10 covers existing facilities that are

not part of a voluntary quality partnership scheme. If a local authority has already invested substantially in a series of new bus shelters, those could be included in a statutory quality partnership scheme under the bill. There would be advantages in that for operators and authorities alike.

The new section that our amendment proposes would give ministers the power to make regulations in connection with QP schemes that involve existing facilities. We want to consult on those regulations, and we do not think that it is appropriate to include the detail of them in the bill. We believe that regulations are the right mechanism for doing this. They would enable operators and the authorities to engage in much more detailed discussion than should take place for the bill. Regulations would be designed to ensure flexibility for authorities and to protect operators who are using existing facilities.

I hope that that clarifies the issue and that Janis Hughes is happy to accept that regulations are a more appropriate way of moving forward.

**The Convener:** Do other members wish to comment?

**Donald Gorrie:** I support the thrust of what the minister is saying and what Janis Hughes was aiming at. However, I wonder whether the minister's proposals are excessively detailed and bureaucratic. Does she envisage drawing up regulations that would say that any bus shelters could be included in a scheme, or, if North Lanarkshire Council wanted to have a scheme in Cumbernauld, would it have to get specific approval for including bus shelters in Cumbernauld in its scheme? I am not sure whether the provision would be general, or whether each scheme would have to be approved in detail. The latter would be a mistake.

**The Convener:** Do you wish to respond, minister?

**Sarah Boyack:** This is not about our approving each scheme, but about drawing up regulations that provide a level playing field for the authorities and the bus operators when they negotiate on quality partnerships. The aim is to add depth to the understanding in the bill that existing facilities can be used. I do not think the bill is the place to debate where that balance should lie. Regulations are the place to do that. They will give both sides a way into the debate. This is not about ministers approving or rejecting individual schemes. It is about creating a framework for appropriate negotiations.

**The Convener:** I invite Janis Hughes to wind up and to indicate whether she wishes to press her amendment.

**Janis Hughes:** On the basis of the clarification

that the minister has given and the more comprehensive amendment that has been lodged in her name, I wish to withdraw the amendment.

*Amendment 1, by agreement, withdrawn.*

**The Convener:** Amendment 2, in the name of Janis Hughes, is grouped with amendments 58, 3, 59, 4, 5, 60, 6 and 7. I ask her to move amendment 2 formally after her opening remarks.

**Janis Hughes:** Amendment 2 seeks to add to the bill the facility for quality partnerships to include reference to maximum fares and minimum frequencies. As the bill stands, it stipulates that a specified standard may include requirements that the vehicles being used to provide services shall meet, but makes no mention of fares or frequencies. The evidence that the committee took at stage 1 demonstrated a desire on the part of various agencies to make such a reference. Those agencies included the Convention of Scottish Local Authorities, the SPTE, the Transport and General Workers Union, the Scottish Trades Union Council, the Highlands and Islands Integrated Transport Forum and the Association of Transport Co-ordinating Officers. ATCO felt that being able to stipulate minimum fares and frequencies would give security and help to promote partnerships. COSLA stated that those two issues had been shown in surveys carried out by the Department of the Environment, Transport and the Regions to be of the greatest concern to the travelling public.

The amendment is not prescriptive. It refers only to maximum fares and minimum frequencies, and states merely that a partnership "may include" agreements on those issues. Within those limitations, it would be perfectly feasible for operators to compete with one another—for example, by charging lower fares than the specified maximum, which would not inhibit competition.

The minister has expressed concerns about the Competition Act 1998, and her advice is that including reference to minimum fares and frequencies in the bill might contravene that legislation and lead us down the contract route. However, I consider that the powers within the bill to specify vehicle standards would also have the effect of limiting competition. In most major cities taxi fares are regulated, but that does not appear to create problems with the Competition Act 1998 or to distort competition.

Failure to include reference to maximum fares and minimum frequencies for bus travel would mean less consumer protection of the sort that is currently provided for rail passengers. It would fall short of standards that apply throughout Europe and the USA. Contrary to the Executive's stated aims, the inevitable result would be to force local

authorities to move more quickly in the direction of quality contracts.

I move amendment 2.

**The Convener:** I invite the minister to speak to amendments 59 and 60.

**Sarah Boyack:** None of us can have failed to notice that, for the past few months, minimum frequencies and maximum fares in quality partnerships have been the subject of wide and intense discussion between all the parties that are interested in delivering high-quality bus services—MSPs, bus operators, local transport authorities, the SPTE, voluntary bodies and the Office of Fair Trading. The evidence that was given at stage 1 has provoked an enormous amount of discussion.

The Executive's response is based on careful consideration of the range of issues that Janis Hughes has put before us this morning. This matter goes to the heart of the bill—the philosophy underlying the parts of it that deal with buses. I want to elaborate on the issue at length because, as Janis Hughes said, it is a fundamental aspect of the bill.

At the outset, I want to clarify that I have been persuaded that minimum frequencies should be capable of being included in quality partnerships. There are strong public-interest arguments for that. Some of Janis Hughes's amendments aim to achieve that end, but they also cover maximum fares and it is not possible to separate the two issues.

Executive amendments 59 and 60 would achieve the inclusion of minimum frequencies in quality partnerships. Once I have explained the background, I hope that those amendments will be acceptable to Janis Hughes and to the committee.

We believe that the new toolkit for local authorities includes two separate approaches. Quality partnerships, which—unlike the current voluntary arrangements—will be statutory, will give local authorities new powers to set overall standards for bus services as a condition of the use of the facilities provided. We believe that that is clearly in the public interest and that it is encapsulated in the new statutory mechanisms. Quality contracts give local authorities much broader powers and are a different mechanism. They give authorities the power to determine all the details of bus services in a particular area, including fares and timetables.

There are different procedures for the two concepts. Partnerships are entirely a matter for negotiation by local authorities and bus companies and are not referred to ministers for approval. They are to be dealt with wholly at a local level, and the framework for achieving them is set out in the bill. Contracts are a much more far-reaching

mechanism and we believe that they should require the consent of the Scottish Executive. That is a significant departure from current practice, although I have lodged amendments to the sections that deal with quality contracts to take on board elements of the discussion that took place over the summer and to respond to the committee's stage 1 report.

I believe strongly that if—in addition to defining minimum frequencies, which is the intention of our amendment—we put maximum fares into a partnership, we would give partnerships some of the key elements of contracts. We should not blur those two concepts.

It is important that the fixed service requirements that we could have under quality contracts go through a proper tendering process. There must be competition between the bus companies because, at the end of the day, the contract process is an exclusive relationship. Only the company that wins the contract gets to operate on the range of routes that are covered. It is important that the overriding set of powers in the contracts does not get blurred into the partnerships.

As the bill stands, quality partnership standards should apply evenly to all the bus operators who play a part. The standards should be set and publicised, and all bus operators should know where they stand. It is a simple test: the operator either meets the specified standards or they cannot use the partnership facilities. Partnerships, being statutory, can be tough. It is a question of how much we should put into the partnerships and how much would be appropriate for the contracts, because they are two different elements. It is worth emphasising that if the authority makes a QP scheme, the bus operators have to give an undertaking to the traffic commissioner that they will meet the specified quality standards; otherwise, they are not allowed in the quality partnership area. It is a tough power, and we think that it should be proportionate.

However, if the local authority had the power to set both the minimum frequencies and the fares, it would be taking a view on every local bus service that was provided in an area or a corridor. Every operator would, in effect, be negotiating fares and minimum frequencies for each service with the local authority. We think that that is the job of a contract; we should not confuse that with partnerships. It is important that we do not make the partnerships overly bureaucratic. A strong process is set out in the contracts—we will come to that later. We want to keep partnerships and contracts separate.

There is an issue about competition law and the attitude of the Office of Fair Trading. We think that broadening the powers under the quality partnerships, as Janis Hughes suggests, could



lead to uncertainty about the whole quality partnership mechanism. It could cause delay, as the OFT is likely to become involved, and it potentially makes partnerships less attractive. We believe that if fares and affordability issues are seen as essential and core, the authority should think about a quality contract, rather than a quality partnership. The amendments that I will lodge on quality contracts will clarify the process by which authorities set them up.

At the heart of this discussion is balance, and making available to local authorities a toolkit of different options, to be used where appropriate. Quality partnerships are new powers. Because they do not represent an exclusive contract, they allow local authorities the opportunity to require bus operators to meet certain standards—a significant step forward—without going through the tendering process that is appropriate in contracts. The two concepts are different. Local authorities can be brought fully into play. It is about using traffic management, enforceable conditions and the local facilities that local authorities can bring to the table. However, it is also about delivering a degree of flexibility to the bus operators, enabling them to play to their strengths, to use their operational judgment and to improve the quality of services for all concerned.

Quality partnerships enable local authorities and bus operators to invest with confidence. They mean that, where it would undermine the quality standard, low-quality bus operators cannot make use of the free facilities provided.

I hope that that has been helpful, that it has explained fully where the Executive is coming from and that amendment 59 on minimum frequencies moves a long way towards what the committee was after when it produced its report at stage 1. We have considered the matter at great length. I hope that the committee agrees that we have struck the right balance and that it will consider the amendments in the context of the other amendments on contracts.

I believe that the aims of Cathy Jamieson's amendment 58, which is also in this group, would best be achieved through negotiations between employees, their representatives, trade unions and operators. We might be straying into employment law, which is another matter and should not be dealt with in the bus elements of the bill. Having said that, we want to put on record that the Executive believes that we need a modernised bus industry. The bill sets a new challenge for operators. A stakeholder approach is important. Good employer-employee relationships should be developed. We need a motivated and trained work force, not only in quality partnerships but throughout the whole bus industry. I agree with the aspirations behind Cathy Jamieson's amendment,

but I do not agree that it is appropriate to include the detail in the bill.

10:00

**The Convener:** Before other members comment, I invite Cathy Jamieson to speak to amendment 58.

**Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab):** I welcome the minister's comments that the aspiration is to ensure that the trade unions and the work force generally are seen as stakeholders in the delivery of decent bus services. I lodged the amendment partly to probe that issue.

I will come to this when I speak to some of my other amendments later, but I felt that it was unclear whether the trade unions were considered to be among the range of organisations that were to be consulted on various matters. I recognise that that relates to issues that are a matter for negotiation between the operators and the appropriate trade unions and that there is a danger of straying into employment law. None the less, I felt that it was important that we should have something on the record, especially in light of current concerns about public safety in public transport systems. In earlier sessions, we heard compelling evidence from the Scottish Trades Union Congress and the Transport and General Workers Union about problems in working conditions, especially in relation to drivers. If the minister assures us that it is intended that the trade unions would be consulted as a matter of course and that those matters will be taken on board, I will not press my amendment at this stage.

**Bruce Crawford (Mid Scotland and Fife) (SNP):** I thank the minister for explaining so well her position on minimum frequency of services. It is useful to understand the thought processes behind that.

I am with Janis Hughes on maximum fares. We hear the word "challenges" a lot; we need to challenge the operators to recognise that bus passengers have legitimate rights and expectations. When passengers get on a bus, one of those rights and expectations is at least to know the maximum fare that they will be charged. They should know what they are getting themselves into.

When I hear the minister speak, I wonder whether this is about balance or about compromise—trying to make every side happy. I do not think that that can be done. I hope that Janis Hughes moves her amendments, especially on maximum fares. If she does not move amendment 7, I will consider moving it myself.

**Donald Gorrie:** I am not quite clear about the purpose of amendment 60—the minister did not deal with it. It would insert the word “maximum”, so that section 3 would say that any specified standard “may not include requirements as to the maximum frequency or timing of services.” Will the minister clarify that at an appropriate moment?

Will she also clarify her interpretation of “minimum frequency of services” in amendment 59? Does the frequency of services cover the point at which they start and finish? Among the more disputed aspects of bus services are the early morning, when people who start work before most of us cannot get to work because there is no bus service, and late at night, when people who work late or are out enjoying themselves cannot get home. The point at which the frequency starts and finishes is important, as are Saturday and Sunday services.

I understand where the minister is coming from—she wants to make the partnerships work and she thinks that mentioning fares would reduce the chance of that happening. She also thinks that to mention fares may present problems in relation to the Competition Act 1998. I was in the House of Commons when that act, which seems to me to be quite the most extraordinarily bad bit of legislation, was passed, so I take my share of the blame—we cannot be right all the time.

The minister has had legal advice—although the one thing that ministers are never officially allowed to say is that they have had legal advice, which is one of the many lunacies of our system—but she has still not persuaded me on the issue of fares. In any system, the fares and the frequency of the service are central. I am not adamant about the amendment, and I am open to persuasion. The minister gave quite a good story, but I still do not give her exam paper a pass mark. If she could clarify the points that I have raised and rehearse, for my perhaps slow brain, the argument against the fares, I would be obliged.

**Linda Fabiani (Central Scotland) (SNP):** The minister said that maximum fares were for the contracts. However, it seems anomalous that those local authorities that are not being allowed to go straight to quality contracts and must go through quality partnerships first cannot take the maximum fares issue on board in quality partnerships.

**Des McNulty:** I take the minister's points about the structure of the bill, and about partnerships and contracts being separate mechanisms. She said that the sense of partnership would be destroyed if we tried to include too many contract-like mechanisms. That is fair enough. I am concerned about the burden on local authorities if they get too far into the commercial calculation process, which I presume the operators must

involve themselves in when deciding the financial viability of services and fares. There is a danger that the authorities become mini-regulators of the commercial operators in the process of partnerships if fares are included in the bill.

I would be more comfortable about going along with the minister's proposal if there were a process whereby the bus industry could demonstrate that it was acting entirely reasonably in increasing fares. There have been examples of unreasonable increases by bus operators. If I were to go along with the minister's suggestion, I would want to watch carefully the behaviour of the companies in the partnership. If it emerged that there was a lack of reasonableness on the operator's part within the partnership, the committee would have to return to the issue of fare regulation. Perhaps we could do that in a different way in due course. If we accept the minister's amendment, we will definitely have to keep the process under constant review to ensure that the fact that the partnership does not include maximum fares does not result in operators behaving unreasonably towards passengers. I want to put down a marker. Other members of the committee may share that view.

**Cathy Jamieson:** The public—users of bus services, in which I include myself—can become confused about the fare structures that are in operation. I have discussed that with the minister. To give an example from my area, it costs £2.10 single and £3.40 return to travel from Ayr to Cumnock, £2.25 single and £4.15 return from Cumnock to Kilmarnock, and 95p single and £1.50 return from Kilmarnock to Irvine in the neighbouring area—all journeys of broadly the same mileage. I recognise that social inclusion and the provision of services in rural areas will not all be included in the quality partnership scheme—they will be relevant to quality contracts—but if those are our aims, the people who use bus services must have affordable, regular services, or they will not use them. I hear what the minister says, but I am concerned that the bus operators should not be able to impose unreasonable fare rises, especially on the people who can least afford them and in rural areas where bus services are less frequent than in other areas.

If we go along with the minister's suggestion, I would expect the situation to be kept under regular review. I would add the caveat that if the system does not work, there will be an opportunity for the committee or the Parliament to introduce something at a later stage, if required, to increase the level of regulation.

**Fiona McLeod (West of Scotland) (SNP):** We are talking about a partnership, which should be a partnership of equals. Ensuring that the ability to set a maximum fare is included in the bill would allow equality of partnership between the bus

operator and the bus user. In this situation, bus users are always the more vulnerable, so it is more important that their rights are protected in legislation. I have concerns about producing legislation that we are already saying we may have to amend because we have doubts that it will work if it is passed in its current form. Janis Hughes's amendment is essential to ensure that there is equality of partnership for all.

**Donald Gorrie:** We should explore Des McNulty's suggestion further and ask the minister to consider lodging an amendment at stage 3. That amendment need not allow councils to fix fares—I can see her objection to that—but it could give councils the opportunity to blow the whistle if fares become unreasonable in the way that Cathy Jamieson described. I am sure that we could all give similar examples from our areas. That would be constructive. Personally, I think the minister is wrong, but we have to accept that sometimes even ministers are right. She may well be right and she should get the chance to put her ideas into effect.

I will take this opportunity to say something that I forgot to say before about the issue raised by Cathy Jamieson in amendment 58. I think I understood what the minister was saying, but any member with local government experience will have long experience of contractors who work for local government—under either compulsory competitive tendering or other arrangements—who have hellish personnel arrangements, which the council can do nothing about. Cathy Jamieson raises an important issue. I would be reluctant to abandon the amendment. I hope that the minister will take the issue seriously.

**The Convener:** If there are no further comments from members, I will take the opportunity to speak. I have not involved myself in any of the discussions so far. Minister, I accept that your amendments deliver a fairly major concession on frequencies. I welcome the balance in the toolkit available to local authorities and the amendments that relate to more flexible and easier use of quality contracts. However, members have expressed concerns and the committee may want to revisit the process in future if it considers that the process is not delivering as you said, in your opening remarks, that you envisaged. You may want to revisit the matter yourself.

I would be interested in your comments on the impact that fares could have on the progress and delivery of the Transport (Scotland) Bill. We must all take cognisance of the potential impact. Rest assured that the committee will maintain a close eye on the matter. I ask you to respond to the comments that have been made.

**Sarah Boyack:** To pick up on that last point, I hope that I can clarify the situation.

I do not see any need for future changes to the legislation. The issue is where the balance should lie—that is a challenge to the bus companies as well as to the local authorities. I suggest that we should not move tomorrow to widespread contracts everywhere. There is provision in the bill for Scottish ministers to give approval to contracts when, under the new test, that is seen to be necessary for implementation of a local authority's transport policies.

10:15

I accept the points that members have made about the importance of affordable fares. It is important to put it on the record—to clarify the point that was made by Linda Fabiani—that there is nothing to stop local authorities deciding that the quality contract is their preferred option from the current toolkit of quality partnerships, quality contracts and straightforward subsidised bus services. There is nothing to stop authorities moving straight to that phase if they think that that is justified by local circumstances. The issue is not about changing the legislation, but about how the legislation is implemented.

I take the points that Andy Kerr, Des McNulty and Donald Gorrie made about the need to monitor the impact of the legislation as it rolls out and local authorities and bus companies use the powers in the bill to the fullest possible extent. There is more than one way to influence fares on buses. The sections in the bill on ticketing arrangements give new powers to bus companies and local authorities to work together on ticketing. Other initiatives on ticketing will open up access to different modes of transport—for example rail—that will be important in the long term.

There are issues about transferring between different bus companies or within the same bus company on different bus services. That opens up opportunities to have a more sensible approach to ticketing. A member—I cannot remember who—mentioned a bus service in their area, which used to cost about 90p for the route, but the bus routes changed and it now takes two bus journeys to make the same journey. The new cost is about £1.50.

Under the range of mechanisms for joint ticketing and through-ticketing arrangements, it should be possible to deliver initiatives such as that which is taking place in the south-east of Scotland through the south-east Scotland transport partnership initiative. That will enable a more integrated approach to ticketing between the different bus companies. That is not in the bill, but it is coming—it will be allowed by the Competition Act 1998.

Donald Gorrie commented that, when the

Competition Act 1998 went through Westminster, it was not possible for every MP to understand how it would impact on every aspect of our lives. I hope that the Transport (Scotland) Bill, incorporating the amendments that we are lodging on competition, will enable the Competition Act 1998, the Transport (Scotland) Bill and the provisions that come through it to work together in partnership. The objective is to enable competition in the bus industry. Where a contract would be more appropriate, that could also be delivered under the bill.

I emphasise that we can tackle fares in a range of ways. Local authorities and bus operators will be able to engage together in partnerships. Irene McGugan's comment was important. The partnerships are about partnership; they are not compulsory. A contract approach is required in a compulsory relationship. Members will recall that there is a requirement on local authorities to consult on both partnerships and contracts. They must consult bus users and bus companies. It is important that there is user input at the first stage, when the local authority is considering the approach in its area. An authority must make the case to the people in its area that its approach is the best one. It is about monitoring. I hope that that has answered members' questions.

Another issue is the balance in the bill. I hope that I have convinced members by adding minimum frequencies. On Donald Gorrie's question about maximum frequencies, that is a legal matter. It is a technical provision to make the system work so that we can have minimum frequencies.

We see the quality partnership routes as being key in trying to tackle traffic congestion where competition—rather than being between bus companies—is between the car and the bus and the bus is not an attractive option because the services are not frequent enough or of a high enough quality. Quality partnerships are meant to deliver a step change and quality contracts would offer a comprehensive approach when a local authority needed the full range of powers to tackle fares.

I hope that that has given members the sense that there is a range of mechanisms. As ministers, we will actively review the position. We will report back to the committee and place the research that we carry out in the Scottish Parliament information centre, so that the committee can take an independent view on how ministers are acting.

I hope that that has reassured members and that they feel that the Executive has taken on board the comments that were raised in the committee's report at stage 1 and that we have gone over the matter thoroughly. We have explored with the Office of Fair Trading the

interrelationship between its views, the Competition Act 1998 and the elements that we want to introduce through the bill. Those can work together, but it is very much up to the transport operators and local authorities to use the full range of powers. If we feel that the operators are not engaging positively and seriously with the new powers in the bill, the contract power exists and the test has been changed. That is a sensible and balanced approach.

I hope that I have convinced Janis Hughes that she does not need to press or move all the amendments in her name and that the points that I have made on the record to the committee are enough to reassure members that we have got the bill right. We will review the progress of the bill, if enacted, as it is implemented. I hope that the committee and I will have the opportunity to examine and publish the results of the research and monitoring that we carry out.

**The Convener:** I ask Janis Hughes to wind up and say whether she wants to press or withdraw her amendment.

**Janis Hughes:** I thank the minister for the concession on minimum frequencies—we must ensure that buses turn up regularly. The main thing that I want from the section of the bill that relates to buses is to be able to offer people a better and more reliable service than they have experienced for many years.

I have grave concerns about fares, perhaps because I represent a constituency in the west of Scotland where we have major difficulties with fares being hiked up. A Glasgow bus company recently increased the price of its monthly ticket by a massive percentage. That is the kind of thing that is happening. Cathy Jamieson mentioned what has happened in Ayrshire.

I understand the arguments behind the potential legal issues in relation to competition—that issue could be pushed further, but I accept that a balance must be struck.

Sarah Boyack has accepted my point on frequency. I am reassured by the comments that she made about through-ticketing. It is an important issue because when people have to get two or three buses, they incur more expense than when they have to get only one. I was interested to hear about the research that the Executive will conduct on that, because many issues that the minister might not have been aware of have been highlighted. It is useful that there is more awareness of the problems that we have with fare increases.

It is regrettable that we might push people into contracts when we have accepted that partnerships are the best way to go. Some of the other amendments that the minister has lodged to

make contracts easier are helpful, but we might have to live with pushing authorities into contracts because of fare problems. I echo Cathy Jamieson's comment that we must monitor the situation. We might bring the matter back to the committee in future if it becomes a problem.

I seek to withdraw amendment 2, in the light of the amendments that the minister has lodged with regard to frequencies. At this stage, I will not move the other amendments in my name.

**The Convener:** Does the committee agree that amendment 2 be withdrawn?

**Bruce Crawford:** Although I am not a committee member, I understand that I can still press the amendment, because I do not accept some of the arguments that I have heard today. I do not know whether I am allowed to speak in support of it.

**The Convener:** No—I will go straight to putting the question because I am advised that that is the way to proceed.

**Bruce Crawford:** I understand.

**The Convener:** The question is, that amendment 2 be agreed to. Are we all agreed?

**Members:** No.

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

**FOR**

Fabiani, Linda (Central Scotland) (SNP)

**AGAINST**

Eadie, Helen (Dunfermline East) (Lab)

Gorrie, Donald (Central Scotland) (LD)

Harper, Robin (Lothians) (Green)

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 1, Against 9, Abstentions 0.

*Amendment 2 disagreed to.*

**The Convener:** We now come to amendment 58, in the name of Cathy Jamieson, which has already been debated with amendment 2. Do you wish to move your amendment, Cathy?

**Cathy Jamieson:** In view of the minister's assurances, and of the possibility of further discussion, I will not move the amendment.

*Amendments 58 and 3 not moved.*

*Amendment 59 moved—[Sarah Boyack]—and agreed to.*

*Amendments 4 and 5 not moved.*

*Amendment 60 moved—[Sarah Boyack]—and agreed to.*

*Amendment 6 and 7 not moved.*

*Amendment 9 moved—[Sarah Boyack]—and agreed to.*

*Section 3, as amended, agreed to.*

### **After section 3**

*Amendment 10 moved—[Sarah Boyack]—and agreed to.*

### **Section 4—Consultation as to proposed quality partnership scheme**

**The Convener:** Amendment 33, in the name of Bruce Crawford, is grouped with amendments 34, 35, 61, 37, 38, 39 and 41. I ask Bruce to speak to the amendments, and to move amendment 33.

**Bruce Crawford:** The purpose of amendment 33 will, I hope, be obvious to all members. From some of the minister's amendments, it seems that the point has perhaps been accepted that it is important to remind local transport authorities that some people in society might need particular help in inspecting a notice. People with disabilities and people from ethnic minorities need to be taken into consideration.

I hope that amendment 34 is also self-explanatory. People might be able to read a notice, but they need also to be able to access it in order to do so. It is important for people in the local community to know exactly where a particular notice can be inspected.

Amendment 35 is about ensuring that local authorities, not only Scottish ministers, may be notified if they are affected by the action of a local transport authority. That is a technical step to ensure that everybody is made aware of what a given partnership scheme is trying to achieve, and of its effects on others.

Amendments 37 and 38 are probing amendments. I am not sure about some aspects of the bill as introduced, particularly in relation to issues concerning England. Would it be possible for a partnership scheme to extend to or affect Wales, and should that possibility therefore be included in the bill? Amendment 38 covers that question.

I understand that there are both metropolitan and district councils in England, so amendment 37 would differentiate between the two and make it clear that not only metropolitan but district councils might be affected.

The purpose of amendment 39 is to ensure that a local transport authority is prepared to return to consultees after initial consultation and to inform

them of modifications. However, I am not sure whether the amendment would achieve that purpose—difficulties might be created and a rogue operator could be allowed to rely on the amended section in an effort to stall the process. Perhaps the minister will reflect on that and consider the introduction of a feedback mechanism for those who have been consulted, to make the process as visible as possible.

Amendment 41 would ensure that the bill recognised that people with disabilities and people from ethnic minorities have rights as to the form that any notice will take.

I move amendment 33.

10:30

**Cathy Jamieson:** Amendment 61 runs along similar lines to those that I have described before. I am looking for clarification. Are the sections on consultation with operators of local services and

“such other persons as the authority think fit”

intended to include the trade unions? It is important to have an answer on the record, because we are talking about a partnership approach, and the trade unions would clearly be major partners in delivering a service. I have therefore lodged probing amendment 61 to find out whether the bill includes trade unions.

**Sarah Boyack:** I will give the good news first. I am happy to accept Bruce Crawford's amendments 33 and 41, because they add value to the bill. They will benefit people with disabilities who want to inspect quality partnership scheme proposals, but are unsure about the format of those proposals. For example, it would be unacceptable for a blind person to have to inspect a scheme that was not presented in an appropriate format.

The committee's agreement to the amendments would alert the authorities to consider the appropriate format and would enable them to engage in a proactive approach—which I am sure that all authorities take—to consultation and information. That is important for public transport information provisions in general. Such information should be accessible in appropriate forms to all members of the community. We accept that for people with disabilities there are many barriers to using public transport. Research is under way at UK level into audio and visual announcements on buses—I look forward to seeing the results of that research.

The bill enables the Executive to provide guidance to authorities on best practice. I intend to establish a transport advisory group that will involve transport bodies and representatives from groups that have an interest in disability. We have

consulted on the remit and membership of that group and I intend to announce proposals later this year. I hope that that group, the general powers in the bill and the guidance that we will subsequently produce will raise standards and create an experience that people with disabilities do not have currently with regard to general access to information and services. We will create that in conjunction with the powers in the Disability Discrimination Act 1995. It is worth while putting those matters on record as part of our general commitments.

I will deal now with the other amendments. Amendment 34 would extend the requirements on how proposals for quality partnerships are made available for inspection. That would put an unnecessary level of detail in the bill. Local authorities have vast experience of making information available. That issue is covered by section 4(2)(b), which deals with the matter more effectively than the amendment does.

Amendment 35 would require an authority that was making the proposal to consult other authorities, if the proposed scheme would affect them. The amendment is not necessary because section 38 requires that authorities have regard to the desirability of introducing a scheme jointly with another authority. Given that approach, there will be contact between authorities at an early stage in the development process. It will become apparent quickly whether a scheme will have such an impact.

Amendment 61 would require authorities to consult trade unions that represent employees of operators of local services. I want to put on record the fact that the Executive would expect authorities to consult trade unions on their proposals as a matter of course. At stage 1, we had a discussion about not specifying every relevant group in the bill. I hope that the reassurance that I have given will be sufficient.

I acknowledge that amendments 37 and 38 were, in a sense, probing amendments. In that spirit, I will be happy to lodge an amendment at stage 3 to tighten the wording. The relevant authority is the transport authority. It does not matter whether it is a district or a metropolitan authority, but it matters whether it is the relevant transport authority. I am happy to amend the bill at stage 3 to clarify that.

I wondered what Bruce Crawford was trying to achieve with amendment 38. The Executive cannot see how, under the current boundary arrangements, a Welsh authority would be relevant with regard to a local bus service. Unless Bruce has other plans that he wants to reveal to the committee, I hope that the amendment can be viewed purely as a probing amendment and that it can be agreed that it does not require inclusion in

the bill. With regard to Scotland, only other Scottish local authorities and certain English local authorities are likely to be affected.

We think that amendment 39 could stop a quality partnership proceeding if a transport authority did not resolve all outstanding issues with any of the parties that made representations in the consultation process. I do not think that the committee or Bruce Crawford would want that to happen. The purpose of the consultation is to consult everybody to enable their views to be reflected and to develop schemes that benefit the majority. We will never get a scheme that will please everybody all the time but the process must involve consultation. Important though a minority view might be, I do not think that it would be reasonable for that view to stop a scheme between authorities and operators that could bring big benefits for the majority.

In the light of my comments, I ask Bruce Crawford to withdraw amendment 33 and not to move the others that have been lodged in his name. I hope that I have also persuaded Cathy Jamieson that she need not move amendment 61.

**The Convener:** I invite Bruce Crawford to wind up and indicate whether he wishes to press or withdraw amendment 33.

**Bruce Crawford:** First, I would like to clarify the process. If I withdraw amendment 33 because I recognise the fact that the minister has already introduced other amendments, does that mean that amendment 33 will not go in the bill and that the bill will not contain the words "in what form", although the minister accepts that their inclusion is a good idea?

**The Convener:** My advice is that, if the Executive is prepared to accept the amendment, you should press it.

**Sarah Boyack:** To clarify, I have supported amendments 33 and 41. I do not intend to oppose them.

**Bruce Crawford:** In that case, I will press amendment 33.

**The Convener:** The question is, that amendment 33 be agreed to.

*Amendment 33 agreed to.*

**The Convener:** We come to amendment 34, which has already been debated with amendment 33.

**Bruce Crawford:** I will not move other amendments, but I want to move this one.

I move amendment 34.

**The Convener:** The question is, that amendment 34 be agreed to. Are we all agreed?

**Members:** No.

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

**For**

Fabiani, Linda (Central Scotland) (SNP)

**AGAINST**

Eadie, Helen (Dunfermline East) (Lab)

Gorrie, Donald (Central Scotland) (LD)

Harper, Robin (Lothians) (Green)

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)

**ABSTENTIONS**

Tosh, Mr Murray (South of Scotland) (Con)

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

*Amendment 34 disagreed to.*

*Amendment 35 not moved.*

**The Convener:** We come to amendment 61, in the name of Cathy Jamieson, which was debated with amendment 33.

**Cathy Jamieson:** I am reassured by the minister's comments, which I welcome, so I will not move amendment 61.

*Amendment 61 not moved.*

**The Convener:** We come to amendment 36, in the name of Bruce Crawford, which was debated with amendment 26 at our previous meeting.

**Mr Murray Tosh (South of Scotland) (Con):** Since the substantive amendment fell, it should not be moved.

*Amendment 36 not moved.*

*Amendments 37 and 38 not moved.*

**The Convener:** The question is, that section 4 be agreed to. Are we all agreed?

*Section 4, as amended, agreed to.*

### **Section 5—Making of quality partnership scheme**

**The Convener:** We come to amendment 39, in the name of Bruce Crawford, which was debated with amendment 33.

*Amendment 39 not moved.*

**The Convener:** We come to amendment 62, in the name of Des McNulty.

**Des McNulty:** The purpose of the amendment is to try to include in the framing of the quality partnership schemes an agreement between operators and authorities on what information they must make available to each other. That has been

a considerable problem, particularly with timing and frequency and the period of notice that is required to make revisions. That bus services are changed suddenly and without proper periods of notification is a constant source of concern to my constituents and—I am sure—to other members' constituents. The authorities are not given enough time to notify the public properly. The amendment's intention is to get arrangements for that into the scheme. There might be other ways of doing so, but that seemed to me the simplest way.

I move amendment 62.

**Sarah Boyack:** I acknowledge the point that Des McNulty is making in his amendment to section 5. We accept that the provision of clear, reliable and accessible passenger information is vital if we are to improve the quality of bus services for passengers and increase the use of buses. Sections 30 and 32 set out our proposals on the provision of information, including the provision of a duty on each local authority to determine what bus information should reasonably be made available locally to the public. That will apply to the entire bus industry and to all services, not only to those in quality partnerships. We want to see a general improvement in the quality of information. The bill as drafted gives local authorities the ability to determine what information should be available locally and to ensure the provision of that from the outset. I emphasise that the bill offers a new framework for the provision of information, which is a huge improvement on what we have at the moment. We will debate the provision of information in more depth later today under subsequent amendments.

I support the intention of Des's amendment but I do not think that it is necessary. On the point about notice for changing bus services, we accept that that is a problem, so we are extending the notice periods and including a requirement that bus passengers should be better informed about changes than they are at present. I hope that reassurance is acceptable to Des.

**Donald Gorrie:** If I understand correctly, Des McNulty is making two points, one of which the minister has addressed. The first part of his amendment relates not to public information, but to the negotiation of information between the local authority and the bus companies, which he wants to be regulated. I hope that the minister will take account of that point as well as of the publicity for the general public, which is covered in section 30.

**Sarah Boyack:** We think that that is covered in the bill at the moment, which is why I am happy to accept the points that Des McNulty has made. Nevertheless, I do not think that his amendment is required.

**Des McNulty:** I am reassured, to some extent, by what the minister has said. However, I am not sure that, in the bill as it is drafted and the amendments that I have seen, adequate attention is given to the need for the operators and authorities to provide information to each other, which would allow them to carry out their respective functions. I would like some attention to be given to that issue—if not at this stage, perhaps at later stages of the bill's progress.

10:45

I have another concern. I have read the minister's draft amendment 119, on the power to obtain information about local services. Several matters are specified in that amendment, but timings and frequencies are not included.

I wonder whether the bill will include an adequate mechanism to achieve all the things that I am indicating. I accept the minister's assurances that she intends to deal with those matters. However, I am not sure that the amendments that she has lodged deal with all the points that I require to be addressed.

**The Convener:** And therefore are you pressing or withdrawing?

**Des McNulty:** I will withdraw.

*Amendment 62, by agreement, withdrawn.*

**The Convener:** We will revisit amendment 109 as we proceed. I call Des McNulty to speak to and move amendment 63.

**Des McNulty:** Amendment 63 is an amendment to the period of a scheme's operation. It would be inconsistent if one set of timings was applied in the context of contracts and another set of timings was applied in the context of partnerships. Having examined the two formulations, I thought that a period of between three and seven years would allow a degree of flexibility that would be helpful. The amendment is designed to make that adjustment.

I move amendment 63.

**Sarah Boyack:** We accept the principle behind amendment 63 and have re-examined the logic behind the minimum period of five years for the continuation of a quality partnership scheme. If there is no substantial investment by either party, there is no need for a longer payback period than three years. A period of three years might encourage local authorities to explore the benefits of quality partnerships before they consider longer-term arrangements. A ceiling of seven years would be sensible, as it would build in a point at which the parties to a partnership could review its success and determine whether it should continue. I am therefore happy to accept



the principle behind amendment 63.

However, I cannot accept the exact terms in which amendment 63 is drafted. Providing for a period of between three and seven years would, strictly speaking, exclude any period of three years or seven years. I am sorry, but that is our interpretation of it. We will lodge an amendment at stage 3 that will address the exact points that Des McNulty has rightly made in his amendment. We accept that the spirit behind Des McNulty's amendment is a more intelligent approach than was evident in the original draft of the bill. I hope that Des is reassured that we have considered his points and that we will return with a correctly worded amendment.

**The Convener:** I ask Des McNulty to wind up and to press or withdraw his amendment.

**Des McNulty:** I presume the logic is that I should seek to withdraw my amendment.

*Amendment 63, by agreement, withdrawn.*

**The Convener:** I move to amendment 40, in the name of Bruce Crawford, which we discussed at our previous meeting with amendment 26. It relates to a substantive amendment that was disagreed to.

*Amendment 40 not moved.*

*Amendment 41 moved—[Bruce Crawford]—and agreed to.*

*Section 5, as amended, agreed to.*

#### **Section 6—Postponement of quality partnership scheme**

*Amendment 42 not moved.*

*Section 6 agreed to.*

#### **Section 7—Effect of quality partnership scheme**

*Amendment 11 moved—[Sarah Boyack]—and agreed to.*

**The Convener:** Next is amendment 43, in the name of the minister, which is grouped with amendment 44.

**Sarah Boyack:** Earlier in the meeting, I may have inadvertently referred to Fiona McLeod as Irene McGugan. I want to be up front and open about that mistake, in case it is corrected in the *Official Report*.

We recognise that section 7(1) could lead to a local authority that is a party to a joint quality partnership with another local authority being liable to provide all the facilities that are required from local authorities if any other local authority failed to provide its share of the specified facilities. Amendments 43 and 44 are important to ensure

that a local authority is responsible only for the provision of specified facilities that it has agreed to provide and is not liable for the failure of any other local authority. The amendments should overcome any potential difficulties that could arise under the provisions as they are drafted.

I move amendment 43.

**Donald Gorrie:** The amendments seem sensible. If there are two councils and some bus operators in a partnership and one of the councils fails to provide the facilities that it is supposed to provide, it is right that the other council should not have to provide those facilities. Who should supply them? Will there be pressure on the defaulting council to provide them?

**Fiona McLeod:** I want to ask about a matter on which I am not clear—it is almost the opposite of Donald Gorrie's point. Under the amended provision, would local authorities have to provide facilities only within a scheme? If there were routes running outwith the scheme, would the local authority not have to provide facilities?

**Helen Eadie (Dunfermline East) (Lab):** In the SESTRANS area, Fife Council might find itself being liable for something that was provided in the Borders if the Scottish Borders Council did not deliver. That would be an interesting scenario for people in Fife.

**Sarah Boyack:** I will clarify Fiona McLeod's point. The whole point is to try to lever in extra investment. Local authorities in quality partnerships would agree with bus operators what extra facilities councils would provide. That absolutely does not rule out the provision of investment across the whole local authority area. This is about making a commitment to bus operators that, if they invest more money, the local authority will play ball and invest an agreed amount.

On Donald Gorrie's point, the sanctions have the weight of statute and it is, in a sense, down to the agreement between the bus operators and the local authority. A local authority that could not or did not meet its obligation to provide facilities would move a variation to the partnership scheme, to which there would have to be agreement. If there were no agreement, it would be up to the bus operators to decide what sanctions to pursue through the courts. That is the statutory framework, and I hope that my response answers members' questions.

*Amendment 43 agreed to.*

*Amendments 44 and 12 moved—[Sarah Boyack]—and agreed to.*

**The Convener:** Next is amendment 45, which is in the name of Bruce Crawford.

**Bruce Crawford:** Amendment 45 is quite logical.

Section 7(2) of the bill talks about people being “unable to provide the facilities owing to circumstances beyond their control.”

I wanted to bring similar wording to section 7(4)(a) by introducing the phrase

“except in circumstances beyond the operator’s control”.

I think that the minister will accept my amendment anyway.

I move amendment 45.

**The Convener:** As no other members wish to comment, I will go straight to the minister.

**Sarah Boyack:** I do not think that amendment 45 will detain us for long. I recognise that Bruce Crawford’s amendment is similar to the current test for local authorities in temporary situations and that it will not affect the overall balance of our proposals. Given those arguments, I am prepared to accept amendment 45.

*Amendment 45 agreed to.*

*Section 7, as amended, agreed to.*

*Section 8 agreed to.*

### **Section 9—Reports on quality partnership schemes**

*Amendment 46 not moved.*

**The Convener:** I tend to have a wee break at around this time of day. I offer members a 10-minute break for a cup of coffee.

10:56

*Meeting adjourned.*

11:11

*On resuming—*

**The Convener:** Moving straight back into business, amendment 47 is grouped with amendment 49, both in the name of Bruce Crawford.

**Bruce Crawford:** Section 9(1) places a responsibility on a local transport authority to prepare and submit to the Scottish ministers a report on the effectiveness of a quality partnership scheme. I was a little concerned that, once that report is received by the Scottish ministers, there is no compulsion on ministers as to what to do with it. It seems that, if ministers so choose, they could put the report on the shelf and that would be the end of that.

It is important that ministers should respond to the report in some way. The best way in which that

could be done would be for ministers to publish a response to reports that are received under section 9(1). My amendment suggests an appropriate time scale for that response. It is also important that the persons who were originally consulted when the joint transport strategy was drawn up under section 1(3) should be informed that the Scottish ministers have taken a view, whether good, bad or in between, on reports submitted to them by a local transport authority.

Amendment 49 is a probing amendment and attempts to find out whether we can streamline the process by making information available. It also suggests when such information should be made available and proposes a period of three rather than six months, as three months might be more appropriate. While the three months might constrain local authorities and make it difficult for them to turn round a report, a period of six months would mean that local authorities would be almost on the point of preparing their next report. I am trying to find the right balance.

I move amendment 47.

**Sarah Boyack:** Our provisions are designed to ensure that both local authorities and operators monitor the effectiveness or otherwise of their quality partnerships. The submission of reports to the Executive will allow Scottish ministers to assess the overall effectiveness of partnerships and how they are working across the country. We would then aim to assess the overall impact and to disseminate and update guidance on best practice as the range of quality partnership analyses comes in from across the country. We certainly do not intend to question whether specific quality partnerships are operating as intended or whether they could be improved. That is a matter that should be dealt with at local level. It is a matter for local government and local democracy, and we do not intend to get into the game of passing judgment on individual partnerships.

11:15

Amendment 49 concerns the imposition of a requirement for local authorities to produce a report within three months of the end of the period to which it relates. That sounds reasonable, but it fails to recognise the fact that some local authorities would have difficulty in meeting such a deadline. In setting our requirement for six months, we consulted local authorities, the industry and the traffic commissioner. The procedure requires the collation and verification of information, which might include requiring the operator to acquire information. It could also involve consultation with the traffic commissioner on the proposed content of the report.

We believe that those steps, and the

consideration of the report by the relevant committee of an individual local authority, could make it difficult for local authorities to complete the process within three months. We believe that a six-month deadline strikes the right balance by giving local authorities sufficient leeway to ensure that they have prepared the report properly and scrutinised it effectively. Our time limit is not intended to delay the production of reports unnecessarily; it reflects what we are asking local authorities to do.

I hope that, having listened to those arguments, Bruce Crawford will understand that I cannot accept his amendments, and I hope that he will not press them.

**Bruce Crawford:** I understand the balance that the minister has described and I am therefore happy not to move amendment 49. However, I am not entirely convinced by the arguments that she has put forward about ministers deciding whether a report on a partnership scheme was robust or reasonable. The bill says that the report would be on the effectiveness of a scheme. If a local transport authority submits a report that says something negative, I cannot understand why ministers should not take a view about what should be done to put things right. Otherwise, why should that be mentioned in the bill? For that reason, I feel that I must press amendment 47.

**The Convener:** The question is, that amendment 47 be agreed to. Are we agreed?

**Members:** No.

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

#### FOR

Fabiani, Linda (Central Scotland) (SNP)

#### AGAINST

Eadie, Helen (Dunfermline East) (Lab)

Gorrie, Donald (Central Scotland) (LD)

Harper, Robin (Lothians) (Green)

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)

#### ABSTENTIONS

Radcliffe, Nora (Gordon) (LD)

Tosh, Mr Murray (South of Scotland) (Con)

**The Convener:** The result of the division is: For 1, Against 7, Abstentions 2.

*Amendment 47 disagreed to.*

*Amendments 48 to 50 not moved.*

*Section 9 agreed to.*

*Sections 10 and 11 agreed to.*

## Section 12—Quality contract schemes

**The Convener:** Amendment 64, in the name of Sarah Boyack, is grouped with amendments 65 to 69. I invite the minister to speak to and move amendment 64 and to speak to the other amendments in the group.

**Sarah Boyack:** It is clear from our discussions on quality partnerships, frequencies and fares, that we have had an intense debate about the balance between partnerships and contracts. I know that the “only way” test for the introduction of quality contracts has attracted a great deal of debate and discussion, and we have considered our position on it carefully. As I said during the stage 1 debate in Parliament, I have looked again at this provision in the light of the comments that were made, primarily those that were made by the committee, and I agree that it can be improved. Amendment 64 introduces a replacement to the “only way” test for quality contracts, with the more appropriate test that a contract

“is necessary for the purpose of implementing”

the relevant general policies. Amendments 65 and 66 are technical and consequential amendments.

I will briefly outline where I think we are in relation to quality contracts. They have a role to play in the implementation of our policies for buses, where it can be demonstrated that they are necessary to implement the local authority’s relevant general policies. That does not mean, as I said earlier, that quality contracts can only go ahead where quality partnerships have been tried and failed—I want to emphasise that. It is possible for local authorities, if it is their first choice and they believe it is necessary, to go to the quality contract process and argue for one. If bus operators in a specific area are not willing or able to deliver a suitable and satisfactory level quality of service for its customers, and for potential customers, in the light of the provisions in this bill, I would expect some transport authorities to pursue the option of quality contracts. I can see the possibility of quality contracts being approved. Make no mistake about that.

When taken together, the amendment to the “only way” test and the others that I will speak to later reduce the handover period after the award of contracts and provide a bus policy framework that offers a more flexible and more practical route to quality contracts. Quality contract schemes will be approved where Scottish ministers are satisfied that it is in the interests of the public to have a scheme, and in particular where the scheme is necessary to implement the authority’s relevant general policies, and where it will implement those policies in a way that is economic, efficient and effective.

Some commentators have said—and I do not

disagree—that there could be areas where it is more likely that quality contracts will be necessary to improve the delivery of bus services. I have had extensive discussions with individual committee members on where the balance is likely to be struck. It has been suggested that quality contracts are less likely to be appropriate within our major urban centres, where the great bulk of services can be provided commercially and the threat of competition is able to keep operators on their toes in a more effective way than in, say, rural areas or some inter-urban areas. But each case has to be considered on its merits.

I reiterate my earlier point about taking the right approach, whether it is contracts, partnerships or subsidised services. It is important that local authorities take a view on what is most appropriate. From that point of view, I am happy to introduce amendments 64, 65 and 66.

Convener, do you want me to speak to the other amendments in this group?

**The Convener:** Yes.

**Sarah Boyack:** Cathy Jamieson's amendments are unnecessary. I will explain why. Operators are already working within a strict regulatory regime for safety standards, and they also have a common-law duty of care for their employees and bus passengers. In addition, they have a duty to their employees to provide a safe system of work. In any event, authorities can specify in quality contracts the standard of vehicles that they require. A set of safeguards is already in place that bus operators need to look to when providing services; therefore, we do not need Cathy Jamieson's amendments. I hope that she will withdraw them.

Bruce Crawford's amendment 68 seeks to remove from the process of quality contracts "economic, efficient and effective" as a test and insert

"environmentally, socially and economically sustainable".

Quality contracts are all about letting contracts and managing the process of competition with the bus industry, and in that context, Bruce Crawford's tests would be inappropriate. He does raise issues that could more properly be viewed in the wider context of a local authority's relevant general policies and local transport strategy. The tests that Bruce Crawford suggests are relevant to the local transport strategy, and I hope that they can be taken into account when local authorities consider how to develop their quality contracts and schemes. We should not confuse those wider policy objectives with the specific tests that a local authority should consider when going through a contract or tender process. I ask Bruce Crawford to withdraw his amendment.

I move amendment 64.

**Cathy Jamieson:** The minister has indicated that she believes amendments 67 and 69 to be unnecessary in light of other regulatory and legal frameworks. My reason for lodging the amendments was to bring to the fore the issue of safety on public transport both of the public and of employees. I welcome the minister's statement that public safety and the safety of workers would apply not only in quality contracts but across the board. We will obviously continue to press that point with the operators.

Safety is not only about the types of vehicle that are used. Previously, I have talked about the working conditions of drivers and other staff in the transport sector who have a key role to play. I accept the minister's assurances on safety and I hope that safety will continue to be prioritised.

**Bruce Crawford:** I am a bit confused by the minister's answer. On the first day of our stage 2 discussions, I moved amendment 20. I wanted to insert a phrase in section 1 of the bill so that, as part of a joint transport strategy, a local transport authority should consider the

"environmental, social and economic impact".

From what I have heard today, the minister is now conceding that that is where such a phrase should have been included. Her thinking on this has confused me. The bill has to have the issue of sustainability stamped on it somewhere. The partnership document tells me that sustainability is important for environmental issues but the minister seems to find it difficult to include something about sustainability in the bill.

Amendment 68 represents an improvement for a number of reasons. First, it is entirely possible for a scheme to be efficient or effective—as it should be—but also to be socially unacceptable, environmentally unacceptable, or both. Although unlikely, that could happen, and we have to get the legislation right. Secondly, efficiency may be achieved by cost reduction, but that may be at the expense of what we are trying to achieve on a social front. The measure of success of a scheme cannot always be cost. We should concentrate on environmental and social issues as well as on economic sustainability. The amendment would also allow a more flexible approach and encourage more innovative schemes.

The minister knocked me back on the first day of our stage 2 consideration. Now that I have heard her, in effect, agreeing with me, I do not think that we should let amendment 68 slip.

**The Convener:** I invite other members to comment.

**Des McNulty:** I welcome Executive amendments 64, 65 and 66. It is important that we

move away from the rigid test that the draft bill contained towards something that makes contracts more feasible for authorities when they consider that contracts are appropriate. The barrier to local authorities introducing quality contracts will be financial—it will depend on their ability to make a contribution. We do not need unnecessary legislative barriers to the contract route, if authorities believe that, on other criteria, taking that route is justified. I welcome the minister's amendments and I think that the committee will do so as well, because our earlier concerns have been addressed.

**Robin Harper (Lothians) (Green):** I always have a problem with rigid notions of efficiency in service provision. It can be inappropriate to apply such notions in the health service, for example. If efficient means efficient at providing a service, that is fine. However, it could be interpreted as meaning economically efficient—sometimes services incur extra costs and people could say that the services are not economical, as they are subsidised. The inclusion of the phrase

“environmentally, socially and economically sustainable”

would improve the bill, as economic sustainability does not discount the possibility of a service being run at a considerable discount.

11:30

**Donald Gorrie:** The minister's amendments are helpful. Cathy Jamieson's amendments are pushing in the right direction. Whether the bill is okay without them or not, I am not quite sure.

I have a lot of sympathy for Bruce Crawford's amendment, which proposes the use of the phrase “environmentally, socially and economically sustainable”.

I am not sure why members would want to delete “economic, efficient and effective”—I am all for schemes being economic, efficient and effective, as long as there are no ill effects. Bruce Crawford makes an important point about judging a contract scheme on its social and environmental desirability and its sustainability. A council might want to promote a scheme that was not—in short-term accounting—economic, but which was much better in the long run and economically sustainable. Such a scheme might use a new form of wind-power-driven buses, and the amendment might be helpful. Although I have some slight problems with the amendment, the points that Bruce Crawford is making are important and should figure in the bill in some form. I would be interested in the minister's response to them.

**Fiona McLeod:** It is important that the bill specifies the fact that we are looking for strategies that will produce a sustainable transport policy for Scotland. From my reading of the stage 1 debate,

I believe that the committee is keen for that to happen. That was also reflected in the debate on amendment 20. The minister now says that section 1 is the appropriate place to address this issue. However, at the time she rejected the amendment.

I echo what Donald Gorrie says. Although the minister might say that she believes in a sustainable transport policy, at no stage will we have that specified in legislation. Therefore it is important that the principle is accepted and included in the bill.

**Des McNulty:** I have some difficulty with the way in which amendment 68 is being proposed. I have no difficulty with the argument that a service should be environmentally, socially and economically sustainable. However, an authority might initiate a quality contract scheme precisely because a specific bus service is not economically sustainable. There seems to be a gap between the intention of the amendment and its effect, especially given the section in which it would appear. I am happy to accept the principle of sustainability, but in a context in which the purpose of a quality contract scheme would be to avoid difficulties with sustainability. The amendment is not sensible in its context.

**Sarah Boyack:** I shall first respond to Cathy Jamieson's comments about safety. We regard safety as paramount. I understand the strong arguments for passengers knowing that they are safe on buses: that involves not just the mechanics of buses, but the context in which they are operated. That should be equally valid for people working in the bus industry. Having said that I do not think that her amendments are necessary, I just want to put that on record.

On guidance and value for money, it is important that I take the committee through what is in the bill. No one doubts that we need a sustainable transport system, which is why the guidance for the production of regional and local transport strategies strongly emphasises sustainable, integrated, socially inclusive transport. Such a notion is part of the relevant general policies that every authority has to deliver. We believe that local authorities should, having produced those general policies, consider the best way of delivering those policies. If they want a contract to do so, they will still need to think about the efficient use of public money. Those principles must work together and must not be seen as opposites.

Section 33 deals with agreements for subsidising buses. The current rules are inappropriate as they allow local authorities to consider only the cheapest tender. We need a broader test, which is where the concepts of efficiency, economy and effectiveness come into play. Section 33 should convince members that

we are taking a sensible approach to the issue. Local authorities should have regard to economy, efficiency and effectiveness and consider the relevant general policies and the reduction or limitation of traffic congestion and noise or air pollution. Our robust approach, which is explicitly outlined in the bill, will allow local authorities to consider a range of issues.

Local authorities will have to justify how much they spend and be satisfied that they are getting the right deal with the bus operators. That is why the bill's other provisions on information that might be commercially sensitive are important, as they will enable the authorities to come to a view on what constitutes a reasonable deal with bus operators. The bill contains chapter and verse on this matter and I hope that members will be reassured about the importance of our amendments and what is already in the bill.

I should outline the broad circumstances in which quality contracts might be approved, as members have raised the issue during stage 1 discussions and in the stage 1 report on the bill. As for local authorities' considerations of what they need to deliver locally, contracts can ensure a frequency level and a fare structure that meets local authority social inclusion objectives for bus services that would not otherwise be provided commercially. They are also potentially important for connecting bus services and for intermodal connections that are either not there or are seriously deficient. Furthermore, they could be used to address inadequate service provision, perhaps in rural areas or on inter-urban routes where the services cannot be provided commercially. Where necessary, links could be provided to particular groups of people who are not currently being served, such as shift workers, people visiting hospitals, young people who require access to leisure facilities or activities or people who need access to employment opportunities in areas such as business parks. Indeed, we are considering some good examples of such services to employment opportunities, which might require either a contract or a more voluntary approach. As the committee can see, contracts might be appropriate in many cases.

I wanted to spend a few minutes putting that information on the record and outlining the Executive's position for the committee. The bill contains a raft of interlinking elements. We have got the balance right and the new test clarifies the situation to local authorities that are considering the range of options. However, local authorities must still justify their approach. I hope that my clarification of this combination of local and regional transport strategies, the relevant general policies and the tests of efficiency, effectiveness and what is economically deliverable will allow members to support our amendments and our

position on Bruce Crawford's amendment.

*Amendment 64 agreed to.*

*Amendments 65 and 66 moved—[Sarah Boyack]—and agreed to.*

*Amendment 67 not moved.*

*Amendment 68 moved—[Bruce Crawford].*

**The Convener:** The question is, that amendment 68 be agreed to. Are we agreed?

**Members:** No.

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

**For**

Fabiani, Linda (Central Scotland) (SNP)  
Harper, Robin (Lothians) (Green)

**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 68 disagreed to.*

**Bruce Crawford:** On a point of order. I am a bit confused about the process. The minister was able to discuss amendment 68 in her opening remarks and other members were able to say something after I introduced it. However, I did not have an opportunity to reply to the points that were made about the issues that I raised, whereas in winding up the minister was able to say more about amendment 68. I do not dispute her being able to do that, but I would like to understand the process.

**The Convener:** I did not ask you specifically whether you wished to reply, but I asked members whether there were any other comments. You were entitled to speak then.

**Bruce Crawford:** So I could have come back in before we reached the vote.

**The Convener:** Indeed, although time considerations mean that there should be a health warning on that.

**Bruce Crawford:** So there is no right to sum up.

**The Convener:** That is correct.

**Bruce Crawford:** Fine.

**The Convener:** Shelagh McKinlay has made the point that it is convention for the person speaking to the lead amendment—on this occasion, that was the minister—to have an

opportunity to sum up.

**Bruce Crawford:** I understand that.

*Amendment 69 not moved.*

**The Convener:** We come to amendment 70, in the name of Bruce Crawford, which is grouped with amendments 78, 79 and 134, also in the name of Bruce Crawford. I invite Bruce Crawford to move amendment 70 and to speak to the other amendments in the group.

**Bruce Crawford:** Thank you for being so patient with me, convener, and for explaining things so well.

The purpose of all the amendments is to streamline the decision-making process and to cut bureaucracy. I am sure that we all want quality contract schemes to be brought into being at the earliest possible date once a decision has been taken to proceed with that option. I find it difficult to believe that it is necessary for a local transport authority to apply to the Scottish ministers, provided that the local transport authority, the operators and the public are content with the arrangements or agreements that have been arrived at.

However, if objections are raised, it is important that a process of representation should be available to the objectors. I submit that the right moment for Scottish ministers to become involved is when there is a dispute or when a representation is made by a party that feels aggrieved. In other circumstances, why should we bother involving ministers? I know that it will be argued that, because this is a new process, the involvement of ministers is necessary. However, it will not be easy to find a slot later to change this legislation to make it work more effectively and to get rid of the bureaucracy. We would be better trying to get it right first time.

Local authorities and operators have more expertise in this area than Scottish ministers and their advisers, and are probably more likely to get things right. The view that I am espousing today has been supported by the Association of Transport Co-ordinating Officers and the Convention of Scottish Local Authorities. On page 1 of its stage 1 report, this committee also supported that view.

If the amendment is agreed to, it will be necessary for section 20, which deals with variation or revocation of quality contract schemes, to reflect some of the changes. I have already discussed the matter with the clerk and I believe that she has discussed it with the convener.

My proposals are about removing bureaucracy and letting local authorities get on with their jobs. If there is no disagreement, why introduce into the

debate people who have not been involved in drawing up the process and who probably do not have the same expertise as is available on the ground?

I move amendment 70.

11:45

**Sarah Boyack:** I thank Bruce Crawford for his detailed explanation of the amendments, but I cannot commend them to the committee. A key element of the bill is to create a balanced framework that engenders real partnership between the operators and the authorities and utilises the best skills and knowledge of both. I hope that there will be both quality partnerships and contracts, where appropriate.

Where authorities are considering the necessity of a quality contract, the bill requires them to consult on their proposals and to apply to the Scottish ministers for approval where the scheme is important for implementing the relevant general policies and will implement the contract in an economic, efficient and effective way.

There are several strong reasons why that should be the case. This is not about the newness of the legislation, but about striking the right balance. For the past decade, there has been a deregulated bus market in Scotland. Bus operators have been able to make commercial decisions on entry into and exit from the market.

The implementation of a quality contract scheme, by its nature, establishes a monopoly bus service provider and can in effect remove existing operators from the market in the area. It is right for ministers to be involved in that significant change in the bus market, as the change is fundamental to the way in which buses in Scotland operate.

Quality contracts and the scheme-making process allow for consultation with other parties, including neighbouring authorities and bus operators, both within and outside the quality contract areas. They allow those other parties to voice objections. The parties' transport strategies and business opportunities may be affected by scheme proposals and might suffer adverse consequences, perhaps in the case of commuter routes into an adjacent authority's urban area.

I hope that authorities would overcome any such problems long before a scheme came to ministers for approval. However, it is only right that ministers should be satisfied that, in the light of the authority's relevant general policies, a scheme will be in the interests of the public. The representations made to ministers, and any relevant and reasonable wider issues, must be considered properly. We will be publishing guidance on quality contracts and will consult

widely as we prepare that guidance. I expect the guidance to set out the sort of considerations that I have mentioned—where contracts might be appropriate and what sort of problems might need to be addressed. It will take into account where authorities might consider a quality contract scheme necessary and the criteria that we would apply in the approval process. We will act openly and transparently and consult on what we do.

I believe it appropriate to have a ministerial overview of the process. Moreover, we should publish the criteria that we would apply to that process. I think that that is justifiable, so I cannot accept Bruce Crawford's amendments.

**Donald Gorrie:** This may be my prejudice, but I see the matter as a fairly straightforward local government versus central Government issue. The question is whether local government should have the right to get on with things. If the amendments were agreed to, ministers would still have the right to submit objections if they wanted to. The bill says that each local authority

"shall apply to the Scottish Ministers for their approval of the proposed scheme."

It might help if the minister could guarantee that a response would come within one month, one year, one decade or whatever. We all have experience of things getting lost in central Government, which is overburdened because it always interferes in matters in which it should not interfere.

I am taken with the thrust of the amendments, which is that a council should get on with its scheme. It has to notify the ministers. If they are seriously worried, they have the chance to get their skates on, read through the scheme within two weeks and make an objection. That is my concept of democracy, so I am inclined to support the amendments. To make every local scheme go through the mill, with Executive officials crawling all over it, is not the way to conduct a democracy.

**Helen Eadie:** I want to reflect more carefully on what Donald Gorrie is saying. At stage 1, we called for a much more strategic approach and what he is saying contradicts that. The minister is saying that we need to ensure that there is a good strategic overview so that the delivery of services at a local level matches the aims and objectives of the strategy. Although I accept that we do not want to delay matters unduly and that we should give local authorities space in which to make progress, I wonder whether the amendments would contribute to a more strategic approach and an integrated bus service across Scotland.

**Linda Fabiani:** The minister said that it would be a major step to enter into a quality contract because of the re-regulation of a bus service that would be required and because there would be one operator working exclusively. However, the

policy memorandum says that quality contracts

"would replace on the road open competition with an exclusive franchise awarded to a single operators (or group of operators)".

Will the minister clarify whether she is talking about re-regulation to one exclusive operator? Will she accept that that is not the case, as a franchise could be awarded to a group of operators?

**Mr Tosh:** The creation of a local monopoly is relatively undemocratic. Certainly, operators who were prevented from operating in an area might feel that it was not entirely desirable. Therefore, it is appropriate that quality contracts should have to go through some sort of scrutiny by the Executive.

Amendment 70 is the first asterisked amendment that we have dealt with today. The asterisk indicates that the amendment is new or altered. Given that amendment 70 is a substantive amendment introducing a group, I assume that it is altered, rather than new. Has there been a manuscript amendment or is there something to which the committee's attention should be drawn?

**The Convener:** There was a minor redraft of the amendment that was originally submitted.

**Mr Tosh:** Would it be helpful to indicate amendments that are in effect manuscript amendments, with alterations made for minor technical reasons, separately from those that are new? Presumably, a new amendment in this context would be a consequential amendment that had to be introduced separately and subsequently. It might be helpful if the two types of amendments could be classified separately by using different symbols.

**The Convener:** I am assured that the answer to that question is yes. We will take into consideration the points that you have raised.

**Sarah Boyack:** I will kick off by saying that in response to the debate at stage 1, we have softened the tests for moving to contracts substantially. The term "only way" implied that a contract was very much a second-best option, which was only to be considered at the end of a long process, but that was not really our intention. By stating that a contract has to be "necessary", the test is made more even. It still means that a local authority has to justify and consider it properly, but it does not imply that a contract is a lesser option. It is important also to take into account my previous comments about where contracts might be appropriate.

Helen Eadie is right: we are trying to deliver a strategic approach and we are moving forward from an entirely deregulated approach. We are trying to provide local authorities with the right range of mechanisms for delivering the services that they need. I will clarify Linda Fabiani's



question. A quality contract scheme may include more than one contract and more than one operator. For example, if an authority has batched a set of routes together, it may be appropriate for a group of small operators to put in a joint tender for that scheme.

There are lots of fine details to be considered. The critical issue is that once the bus operators that have signed up to a quality contract have agreed that contract with the local authority, only they are allowed to operate the routes in that area. That is why we think that there should be a proper test that is managed appropriately. There must be a proper tender process, so that all operators have the right and the ability to engage in that competition.

Donald Gorrie made some valid points about the need for central Government to think carefully about the extent to which it should intervene in decision making. We are trying to establish a partnership and get the balance right. The Scottish Executive's involvement with one local authority that delivers a contract that covers one route would differ from its involvement with another local authority that delivers a contract that covers an entire local authority area in both the level of response and the time scale. The Executive's response must be proportionate.

We are moving to a new system, which is why our guidance will be important to help local authorities through the process. At the moment, local authorities can only subsidise routes or enter voluntary partnership agreements. We are entering a new era for the relationship between local authorities and bus companies. We need to manage that process sensibly and in a way that encourages best practice and enables local authorities and the bus industry to gear up to a very new climate. The bill now strikes the right balance. We have listened to a range of interested parties and, with the amendments, the bill has reached the right place. I hope that members will support the Executive's position.

**Bruce Crawford:** I will press my amendment to a vote, but I understand the minister's view, which is obviously sincerely held. She says, rightly, that we must get the balance right. The balance should also ensure that decisions are taken at the most appropriate level. For the first part of the process, the expertise lies with the operators and local authorities, not with central Government. My amendments provide built-in safeguards. If there were more regulation and the situation started to have elements of monopoly, and a contractor recognised that, that contractor could make appropriate representations to the minister at the right time and have the balance redressed. If there are other adverse impacts on operators, they will still be able to make representations. All the

safeguards about which the minister talked are available in my amendments.

All that I am saying is that we should give a bit of trust to the people out there who know what they are doing. The local authorities involved in the process have much common sense and can be trusted to get on and do the job with the operators. If something goes wrong, a process will provide redress. As the minister said, Helen Eadie was right to talk about the strategic issues, but I remind Helen that in paragraph 50 on page 8 of the stage 1 report, the committee supported

"the alternative approach suggested by ATCO, where local authorities would be able to introduce a Quality Contract, with the safeguard that an operator has the right to appeal to the Scottish Executive if they consider that the council has acted unreasonably."

**The Convener:** The question is, that amendment 70 be agreed to. Are we all agreed?

**Members:** No.

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

#### FOR

Fabiani, Linda (Central Scotland) (SNP)  
Gorrie, Donald (Central Scotland) (LD)

#### AGAINST

Eadie, Helen (Dunfermline East) (Lab)  
Harper, Robin (Lothians) (Green)  
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 70 disagreed to.*

**The Convener:** For the information of the public and members, I intend to close the meeting at an appropriate break in our business at around 12.30.

We move to amendment 71, in the name of the minister, which is grouped with amendments 119 and 127, which are also in the name of the minister. I call the minister to speak to and move amendment 71 and to speak to the other amendments.

**Sarah Boyack:** I am pleased to introduce these amendments, which I believe will be widely welcomed. Amendment 119, which introduces a new section, is the critical amendment in this group. Amendments 71 and 127 are consequential and of a technical nature.

12:00

The new section is aimed at allowing local authorities access to reasonable statistical

information held by bus operators. In response to our initial proposals document, ATCO, COSLA, Aberdeenshire Council and Midlothian Council pressed for a power to oblige bus operators to divulge information that might be considered commercially confidential.

In our response to the consultation exercise, we indicated that we thought that sufficient powers to obtain information were contained within the QP and QC provisions. However, following further consideration, we concluded that there was a distinction to be drawn between the provision of information to measure the effectiveness of schemes and the provision of information to aid planning by local authorities. The matter was discussed extensively at our buses sub-group, which involves operators and local authorities, and we have managed to deliver broad agreement that such a power would be useful. I am happy to say that everyone has signed up to that.

The new section gives local transport authorities the power in the formulation of relevant general policies to require bus operators to supply information that they hold. Such information may relate to passenger journeys, bus mileage or fare structures in respect of journeys throughout the area or in part of an area. The information may be requested in any form, subject to a test of reasonableness. There is, however, an important caveat: information may not be disclosed without consent, except in tightly defined exceptions. Contravention will be subject to a fine up to level 5, which is £5,000 on the standard scale. In requiring bus companies to provide information to local authorities, it is important that local authorities use the provision sensibly and that there is a degree of protection for the bus companies.

The new power exposed two areas of potential conflict. The first is between the new power and the requirements to prepare annual reports on the effectiveness of quality partnerships and quality contracts, which are set out in sections 9 and 21. That has been overcome by including as an exception in subsection (5)(b) of the new section disclosure of information provided as a requirement of those sections. The second relates to the concern expressed by ATCO that information gathered in respect of commercial services should be able to be used to inform tender procedures if such services are subsequently deregistered. Subsection (5)(f) ensures that that is the case.

I hope that the committee will agree that this broad package is a welcome improvement to the bill. It ensures that authorities, not only in support of their functions relating to local transport strategies but more generally, have access to the appropriate statistical information held by the bus

operators. It also safeguards the bus operators' interests by ensuring commercial confidentiality. Amendment 119 is a significant improvement to the bill, which we have been able to negotiate with the parties concerned. I hope that members will feel able to support it.

I move amendment 71.

**The Convener:** Does any member want to question the minister on the amendments?

**Fiona McLeod:** I do not want to question the minister, because I am quite pleased with what I heard. When I first read the bill and examined section 4, I was concerned that we were gathering information, and then holding it rather than making it available. I am pleased to hear the explanation of subsections (5)(b) and (5)(f), which allow the local authorities to use the information once they have it in a way that provides a better service to the public. My professional background is as an information specialist. There is nothing worse than gathering information and keeping it to yourself, so that no one else has access to or can use the same information to make their case. I am pleased that subsections (5)(b) and (5)(f) will ensure that the information can be used to the benefit of the travelling public.

**The Convener:** No other member has indicated that they want to speak and the minister has indicated that she does not wish to respond. I will therefore put the question.

*Amendment 71 agreed to.*

*Section 12, as amended, agreed to.*

### After section 12

**The Convener:** We move to amendment 72, in the name of the minister, which is grouped with a number of amendments, as indicated on the groupings sheet. I call the minister to speak to and move amendment 72 and to speak to the other amendments.

**Sarah Boyack:** This group of amendments has one purpose. It removes the previous provision in section 15(2)(b), which provided for a minimum 21-month period from the date when the scheme was made until the date when it was to come into operation, and replaces it with a completely new provision. Before setting out those new provisions in full, I should point out that they overtake amendments 81 and 82, in the names of Bruce Crawford and Des McNulty.

Amendment 96, in the name of Bruce Crawford, seems rather strange, as it would have the effect of nullifying the whole quality contract process, because it removes the provision that excludes services outwith the quality contract from operating in that area. Bruce Crawford will have the opportunity to respond to that criticism, but I

think that he should consider whether he wants to move his amendment.

Amendment 72 provides that the authorities themselves are to decide on an appropriate mobilisation period, with a minimum period of six months. If an authority considers that a mobilisation period of less than six months would be appropriate, that must be specified in the proposed scheme and is one of the details that must be consulted on and approved by Scottish ministers.

Amendments 80, 83, 85, 99, 100, 105, 121 and 130 are all consequential to that initial change. The amendments simply revise the formula provisions to make them flow through the quality contract process in a more logical manner. They do not change the effect of the provisions—they either tidy up the presentation or are purely technical or consequential.

The group also contains amendments 95, 97, 98, 106 and 109, which are all aimed at ensuring that a quality contract scheme with more than one contract can be introduced incrementally. That gives more flexibility to the local authority. When combined with the “only way” test that we have agreed to, those amendments provide a framework that offers a more flexible and practical route to quality contracts for local authorities.

I move amendment 72.

**The Convener:** I invite Bruce Crawford to speak to amendments 81 and 96.

**Bruce Crawford:** I will not move amendment 81.

**The Convener:** We shall come to that when we decide on the amendments in this group.

**Bruce Crawford:** The minister is right to say that provisions that have now been introduced negate the provisions in amendment 81. I will not press amendment 96, but I think that an explanation is required. I also have a question for the minister. Some of the minister's amendments introduce provisions that I was trying to introduce, but I did not know how to do it, to be bluntly honest. I lodged that amendment as a mechanism to start asking questions, and I still have one question about Executive amendment 99. The final line of that amendment still includes the phrase “in the area”. The definition of the word “area” concerns me; I would like an explanation of what area actually means. If too wide a definition is drawn, that could cause difficulties for other service providers. I am quite content with everything else. The minister's amendments do a good job, but I would still like the minister to explain that point.

**Des McNulty:** Amendments 72 and 80 remove the requirement for amendment 82, so I shall not

move that amendment.

**The Convener:** We will come to that in a minute. As no other members want to comment, I invite the minister to respond.

**Sarah Boyack:** I would like to clarify the one outstanding point that Bruce Crawford raised. Amendment 99 introduces new subsection (2), which contains the phrase:

“be provided in the area to which the scheme relates.”

The definition of the scheme will identify the area. As I clarified earlier, that could be a single route, several routes or a whole geographical area. That refers back to the scheme as defined by the local authority. I hope that that is helpful.

*Amendment 72 agreed to.*

### **Section 13—Consultation as to proposed quality contract scheme**

**The Convener:** I now invite the minister to speak to and move amendment 73, which is grouped with amendments 74, 75, 76, 77, 84, 90, 92 and 93.

**Sarah Boyack:** As a number of members have observed, when they lodge amendments the Executive sometimes responds with alternative versions of those amendments. In relation to Bruce Crawford's amendment 74, when we discussed partnerships, I said that I would look at the drafting of the bill and return with a geographically appropriate wording at stage 3.

The proposal in amendment 92 seems excessively onerous and bureaucratically burdensome. We do not think that it is necessary.

We have been over the ground of most of the other amendments today, and we do not need to go into detail on all of them. I am keen for the committee to support amendments 73 and 84.

I move amendment 73.

**The Convener:** I invite Bruce Crawford to speak to amendments 74, 75, 77 and 92.

**Bruce Crawford:** I do not want to speak to amendments 74 and 75. We have been through that discussion already.

It is okay to consult the groups that are listed in section 16(3). However, it is also reasonable to ask whether all those who are consulted under section 13(3) would have the right to expect to be given notice of any postponement, as they were original consultees. Surely they would have the right to be told that the process in which they were involved at the discussion stage had been postponed. It should be possible for a local transport authority to be so polite and informative. That is what amendment 92 is trying to achieve—nothing dastardly.

**The Convener:** Never.

I invite Cathy Jamieson to speak to amendments 76, 90 and 93.

**Cathy Jamieson:** Amendment 76 has probably already been covered in discussion of the quality partnerships. It raises the same issue in relation to quality contracts, asking for an assurance that consultation with the trade unions would be regarded as an essential part of the consultation process.

Amendments 90 and 93 deal with the possibility of the postponement of quality contract schemes. Nothing in the bill seems to give the trade unions the right of access to specific information, although a postponement may have an impact on jobs or conditions of service for workers in the transport industry. I seek assurances that the trade unions could expect to be given that information and would be consulted during the consultation process.

**Fiona McLeod:** Amendment 92 is about making the consultation process an actual consultation process, ensuring that all those who were consulted feel that their input is recognised. If, after people have been consulted and provided their views, a contract is postponed, part of a consultation process that values what they have to say would have to be to inform them.

**The Convener:** I invite the minister to wind up.

**Sarah Boyack:** This issue is about ensuring that people are made aware both of the completion of schemes and of any postponement of schemes. The bill contains provisions that require the local authorities to publish notice if they have either completed a scheme that has been agreed or postponed a scheme, for whatever reason. I am not sure that the bill should require authorities to write back to every individual who has been involved in the consultation process. It must be up to authorities to communicate effectively and broadly.

I pick up Cathy Jamieson's point about ensuring that information is published broadly. We expect trade unions to be able to acquire that information, along with all the other user and interest groups that have a relevant interest in the scheme.

It is all about best practice. The wording of Bruce Crawford's amendments makes them excessively onerous. They do not add much to the process and they would be bureaucratically burdensome—which contradicts his earlier statement that we should attempt to streamline the process.

*Amendment 73 agreed to.*

*Amendments 74 to 77 not moved.*

*Section 13, as amended, agreed to.*

## **Section 14—Approval of proposed quality contract scheme**

12:15

*Amendment 78 moved—[Bruce Crawford].*

**The Convener:** The question is, that amendment 78 be agreed to. Are we all agreed?

**Members:** No.

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

**For**

Fabiani, Linda (Central Scotland) (SNP)  
Gorrie, Donald (Central Scotland) (LD)

**AGAINST**

Eadie, Helen (Dunfermline East) (Lab)  
Harper, Robin (Lothians) (Green)  
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 78 disagreed to.*

*Amendments 79 and 134 not moved.*

*Section 14 agreed to.*

## **Section 15—Making of quality contract scheme**

**The Convener:** I remind members that, if amendment 80 is agreed to, that will pre-empt amendments 81 and 82, which will not be called.

*Amendments 80, 83 to 85 and 13 moved—[Sarah Boyack]—and agreed to.*

*Section 15, as amended, agreed to.*

**The Convener:** Given the time that we have available to us and the fact that we are about to move on to a new section in the bill, I choose to close the meeting at this point.

I thank members, the minister and the members of the public in the gallery for their attendance.

*Meeting closed at 12:18.*

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