

TRANSPORT AND THE ENVIRONMENT COMMITTEE

Wednesday 1 November 2000
(Morning)

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TRANSPORT AND THE ENVIRONMENT COMMITTEE 25th 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)
Bruce Crawford (Mid Scotland and Fife) (SNP)
Fiona McLeod (West of Scotland) (SNP)

*attended

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 1 November 2000

(Morning)

[THE CONVENER *opened the meeting at 10:05*]

The Convener (Mr Andy Kerr): Welcome to the 25th meeting this year of the Transport and the Environment Committee. I welcome the Minister for Transport and her officials, and I welcome the press, the public and the organisations on the public benches. No apologies for absence have been received.

Item in Private

The Convener: Item 4 on our agenda is a discussion of the draft terms of reference for our water inquiry. Our usual practice is to discuss such items in private. After we have agreed on the terms of reference, we will make the details public. Do members agree to take that item in private?

Members *indicated agreement.*

Transport (Scotland) Bill: Stage 2

The Convener: We now continue with stage 2 of the Transport (Scotland) Bill.

After section 15

The Convener: We begin after section 15. Amendment 86, in the name of the minister, is grouped with her other amendments—87, 88, 89, 91, 102, 103 and 104.

The Minister for Transport (Sarah Boyack): This group of amendments is consequential to the group of amendments for section 12, which we discussed last week. Those amendments introduced our revised proposals for a minimum six-month mobilisation period before services under quality contracts could commence operations. Previously, a quality contract scheme had to specify when the quality contract would come into operation—not less than 21 months from when the contract was made. Everyone who had an interest in the quality contract would then know when it was scheduled to start.

The effect of the amendments is that an operational date will be specified in a quality contract only if that date is within the six-month period. Otherwise, it would become a matter for negotiation between the authority and the operator. In those circumstances, no one apart from the authority and the winning operator would know when the contract became operational. That would not be right. The public have a right to know when major changes in the bus network will come on stream. Losing operators have a right to know when their ability to provide services in an area will come to an end. Crucially, the traffic commissioner has to know, when he accepts registrations to run services, that not all operators will be able to operate and that some will have to be excluded.

Amendment 86 requires that—where the date is not specified in a quality contract—the authority must, within 14 days of letting the contract, publish a notice in a local newspaper to inform the public. At the same time, it must separately inform any affected operators in the area and the traffic commissioner. That will guarantee that those who need to know are made aware of changes.

Amendments 102 and 103 simply adjust the running order of the quality contract provisions so that they flow in a more logical and consistent manner through the quality contract process. The remaining amendments pick up consequential changes that result from the move to a six-month mobilisation period.

I move amendment 86.

Amendment 86 agreed to.

Section 16—Postponement of quality contract scheme

Amendments 87 to 89 moved—[Sarah Boyack]—and agreed to.

The Convener: Amendment 90 is in the name of Cathy Jamieson. It has already been debated with amendment 73 on day 2 of our stage 2 discussions.

Amendment 90 not moved.

Amendment 91 moved—[Sarah Boyack]—and agreed to.

The Convener: Amendment 93, in the name of Cathy Jamieson, was also debated with amendment 73 on day 2.

Amendment 93 not moved.

The Convener: Amendment 92, in the name of Bruce Crawford, has already been debated with amendment 73.

Amendment 92 moved—[Bruce Crawford].

The Convener: The question is, that amendment 92 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

MacAskill, Mr Kenny (Lothians) (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 92 disagreed to.

Section 16, as amended, agreed to.

Section 17—Effect of quality contract scheme

The Convener: The next eight amendments were all debated with amendment 72 on day 2.

Amendments 94 and 95 moved—[Sarah Boyack]—and agreed to.

The Convener: Amendment 96 is in the name of Bruce Crawford. Members should note that if amendment 96 is agreed to, amendments 97 and 98, in the name of the minister, are pre-empted and therefore cannot be called.

Amendment 96 not moved.

Amendments 97 to 101 moved—[Sarah Boyack]—and agreed to.

Section 17, as amended, agreed to.

Section 18—Tendering for quality contracts

The Convener: The next three amendments were all debated with amendment 86.

Amendment 102 moved—[Sarah Boyack]—and agreed to.

Section 18, as amended, agreed to.

Section 19—Exceptions from section 18(1)

Amendment 103 moved—[Sarah Boyack]—and agreed to.

Section 19, as amended, agreed to.

Section 20—Variation or revocation of quality contract scheme

Amendment 104 moved—[Sarah Boyack]—and agreed to.

Section 20, as amended, agreed to.

Section 21—Reports on quality contract schemes

The Convener: Amendment 105, in the name of the minister, was debated with amendment 72 on day 2.

Amendment 105 moved—[Sarah Boyack]—and agreed to.

Section 21, as amended, agreed to.

Section 22—Non-implementation of quality contract scheme

The Convener: Amendment 106, in the name of the minister, was also debated with amendment 72 on day 2.

Amendment 106 moved—[Sarah Boyack]—and agreed to.

The Convener: Amendment 107, in the name of the minister, is grouped with amendment 108 and is on the non-implementation of quality contract schemes.

Sarah Boyack: Amendments 107 and 108 introduce an important flexibility for transport authorities in relation to the introduction and operation of quality contracts.

As it stands at the moment, section 22 has the effect of nullifying the quality contract scheme if the contracts have not been let within 12 months of making the scheme. The amendments do two things. First, they ensure that the quality contract does not automatically cease to have effect if not all the contracts in the scheme have been let

within 12 months of making the scheme. The amendments are aimed at quality contracts that contain more than one contract, but would apply equally to single contract schemes. Secondly, the amendments would permit an authority to seek approval to vary a scheme within the 12 months. For example, an authority may seek an extension to the 12 months to enable it to let any outstanding contracts, or in a multi-contract scheme, an authority may seek to reduce the scope of the scheme by reducing the number of contracts within it.

10:15

The amendments are intended to add flexibility to the quality contract process. Under the section as drafted, a quality contract scheme that had, for example, five separate contracts, could technically cease to have effect if only four of those contracts had been let within 12 months of making the scheme. That would be counter-productive. Having said that, I hope that those powers will not need to be used because if an authority deems it important enough to introduce a quality contract, it should pull out all the stops to ensure that it is fully operational within the given time scales. However, it would also be prudent to have a degree of flexibility to plan for unforeseen circumstances.

I move amendment 107.

Donald Gorrie (Central Scotland) (LD): I understand what the minister is aiming at. However, amendment 108 does not say what will happen if the ministers approve. Is it taken for granted that the thing will go through or is there something missing?

Sarah Boyack: No, it would just progress.

Amendment 107 agreed to.

Amendment 108 moved—[Sarah Boyack]—and agreed to.

Section 22, as amended, agreed to.

Section 23 agreed to.

Section 24—Transitional provision as respects quality contract schemes

Amendment 109 moved—[Sarah Boyack]—and agreed to.

Section 24, as amended, agreed to.

Section 25—Ticketing arrangements

The Convener: I call amendment 110, which is grouped with amendment 111, on the subject of ticketing arrangements for bus services.

Sarah Boyack: Amendments 110 and 111 are technical, but important. They will enable smart cards to form part of the required ticketing

arrangements under section 25. That issue was identified by the committee in its stage 1 report.

As drafted, the bill envisages a transaction that involves the exchange of one ticket in return for payment. The amendments now make it clear that for the purposes of determining whether required ticketing arrangements are being met, it is the purchase of a journey or journeys that is important, rather than the purchase of a ticket as such. In England, pilot studies are under way on the use of smart cards. I understand that Lothian Buses is investing £500,000 with a view to bringing in that technology at the end of the year. However, as the committee recognises, technology is changing rapidly and we want to ensure that the provisions in the bill are wide enough to encompass the benefits of current and future technological changes in the purchasing of bus travel. That is the purpose of the amendments.

There are several ways in which smart cards might work. For example, smart cards could be pre-paid and debited at the point of use—like phonecards—or they may involve no pre-payment, but the user would be billed at the end of a set period. A further development in smart cards, which is already taking place in cities such as Hong Kong, is contactless cards, where there is no physical contact between the card and the reading device—rather like a supermarket bar code reader or the machines that read ski passes.

It is important that we ensure that the bill gives us the ability to cater for all forms of new technology that do not require on-the-spot payment in exchange for a ticket. The amendments will not allow local authorities to be prescriptive about the type of technology to be used when determining ticket arrangements—the technology is moving too fast for that. In any event, it is probably better to leave bus operators the commercial discretion to decide which systems are used for the purchase of bus travel.

I hope that the committee will agree that the amendments are a welcome improvement to the bill.

I move amendment 110.

Des McNulty (Clydebank and Milngavie) (Lab): I welcome the amendments and the recognition of the use of new technology. I want to highlight the beneficial impact that it could have on users of bus services with certain disabilities. There is a significant benefit to be reaped from the use of smart card technology for people who are blind or who have impairments that make it difficult for them to use money or to negotiate getting on and off buses. Anything that can ease that process is to be welcomed. I hope that the minister, and the bus operators when they develop the

technology, will bear in mind the needs of people with disabilities, particularly blind people.

Donald Gorrie: I, too, welcome the amendments. However, in considering possible snags, I wonder whether a future electronic system might require two transactions and therefore whether the phrase “a single transaction” might be a hostage to fortune.

Sarah Boyack: We do not think that that would be a problem. We have drafted the legislation in such a way as to bring about the desired effect.

Des McNulty is right to say that technological change will open up opportunities. Currently, we have a voluntary scheme for people who are registered blind. However, there might be an issue for people who are partially sighted, but not registered blind. There is also the convenience factor—the prospect of having electronic smart cards, which allow passengers ready access to the bus, rather than tickets, will be welcomed by many people. I hope that the amendments will allow us to benefit from that technology.

Amendment 110 agreed to.

Amendment 111 moved—[Sarah Boyack]—and agreed to.

Section 25, as amended, agreed to.

Sections 26 to 29 agreed to.

After section 29

The Convener: I call amendment 53 in the name of Cathy Jamieson, which is grouped with amendments 54, 55, 56 and 57, on the subject of alterations to the scheduled timings of bus services.

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): I lodged amendment 53 having taken on board some of the comments that we heard in the evidence from the Convention of Scottish Local Authorities and other organisations about the necessity of some degree of stability in bus timetabling.

The amendment suggests that we limit changes to timetables to twice a year. I understand that COSLA would not be unhappy with a slight alteration to that, to allow for changes to be made four times a year. That would allow companies to take into account school holidays and so on. The amendment contains a provision to allow changes to be made at any time, following appropriate consultation, if that is in the best interest of the public. However, the primary reason for the amendment is to get a degree of stability to allow the public to be clear about when buses are running. I should be interested to hear the minister's comments before pressing the amendment.

The Convener: I call Donald Gorrie to speak to amendments 54, 55, 56 and 57 in his name.

Donald Gorrie: Most of my principal amendment 54 is similar to that of Cathy Jamieson. There was no sinister plot, but we were simply pursuing the same idea. The suggestion for the phrasing of the amendment came from the officials who mucked about with it—I am sure that they improved it.

Cathy Jamieson and I are aiming for the same thing. Like other members, I have been lobbied by user groups, councils and so on that find the frequent alterations to bus timetables difficult to cope with. As a member of another establishment, I have had a lot of lobbying from people who suffer from the bad bus services around the edges of Edinburgh and the frequent changes to them.

The objective is as Cathy Jamieson stated. The substantive difference between my amendment and hers is that mine suggests including nautical activities under the same heading. I am not an expert on such activities, and I am happy to listen to the minister on that subject. If the minister has better ways of dealing with those matters, and guarantees to do so, I am happy to go with that. My other amendments are merely consequential.

Our amendments raise important issues, and it is important that they are dealt with. If we are serious about improving public transport, the public must know about services. As a long-serving councillor, I discovered after many years that there was a sort of secret bus service that I had never heard of through part of my ward. Nobody else had heard of it either, so nobody used it, so it was a great surprise to everyone when it was cancelled. Information is critical. I hope that the minister will address that issue if she cannot accept our amendments.

The Convener: If no other members wish to speak on this matter, I will go straight to the minister.

Sarah Boyack: I am grateful for Cathy Jamieson's and Donald Gorrie's amendments, and I agree with much of what they said. The stability of bus services is critical if we are to convince people that services are reliable and that they can be confident about continuity of service. I acknowledge that there is a need to promote service stability, so we will amend regulations to extend the period of notice that is required for the registration of new services and for alterations to existing services, which I hope will bring about part of the required stability.

We have thought hard about extending the provisions on stability in the way that Donald Gorrie and Cathy Jamieson envisage. We consulted extensively on that matter through the buses sub-group of the National Transport Forum

for Scotland, and received firmly held but opposing views about whether fixed-date changes would deliver what is required. We concluded then that the restriction of timetable changes to just twice a year would bring about two potential problems: first, for the traffic commissioner's office in coping with the sheer amount of changes, which currently is in excess of 2,000 registration changes a year in Scotland; and secondly, for the operators and local authorities in giving them a degree of flexibility to respond to changed requirements that could not be anticipated sufficiently in advance.

However, having considered the issue further, I believe that there can be benefits in limiting timetable changes, provided that at the same time we put in place some sensible safeguards. Therefore, I am happy to accept the principle behind Cathy Jamieson's and Donald Gorrie's amendments, but I ask them not to press the amendments at this stage. I propose that the Executive should take away these amendments and redraft them in consultation with Cathy Jamieson and Donald Gorrie, to ensure that the intent to provide stability is maintained while enabling a degree of flexibility to respond to unanticipated circumstances.

I also want to explore whether giving a regulation-making power to the minister that allows changes to be made twice a year strikes the right balance on flexibility. The point that Cathy Jamieson made about school holidays, for example, is a relevant one that I wish to consider. It might be of more practical help to local authorities and operators in planning the service changes that they need if they are allowed to do so four times a year. I will lodge a revised amendment at stage 3 for the Parliament to consider. I hope that that will be helpful.

The one difference between the amendments is that Donald Gorrie's amendment suggests that we extend the scope of the measures to cover ferry services. I do not believe that that is necessary, because virtually all Scotland's passenger ferry services are subsidised. In respect of CalMac services, and ferries to Orkney and Shetland, the Executive is already responsible through the tendering exercises that we run, and are about to run, for specifying service requirements. Likewise, local authorities set their own timetables, so there is already the strong ability to set time scales and changes.

Given those reassurances, I hope that Cathy Jamieson and Donald Gorrie will feel able not to press their amendments at this stage, on the basis that I will lodge revised amendments to take forward the ideas that they have put on the table today. I will discuss those issues with them further before I lodge Executive amendments at stage 3.

The Convener: Donald, I am not asking you not

to move your amendments, but would you like to respond to what the minister said?

Donald Gorrie: Thank you for this opportunity, because there is one thing that I failed to say. My interpretation is that a timetable does not have to be the same throughout the six-month or three-month period. There can be more buses during the holiday season or fewer in term time. With regard to ferries, one might say that my amendment was just pushing the boat out, and I am sure that the minister's people know much more about that than I do.

10:30

The Convener: Cathy, would you like to respond, and indicate whether you intend to press amendment 53?

Cathy Jamieson: The minister's comments have been helpful. I am glad that she will take on board the points that were made, and in view of the fact that she will lodge amendments at stage 3 in consultation with us, I will not move my amendment.

Amendment 53 not moved.

Section 30—Information about bus services

The Convener: I call amendment 112, in the name of Bruce Crawford, which is grouped with amendments 113 and 114, on the provision of information about bus services.

Bruce Crawford (Mid Scotland and Fife) (SNP): I will move amendment 112 and speak to amendment 114. The minister's response to the previous amendments was helpful, and it was good to hear it. I am not sure that I will get the same response, but we will see how we go.

My motives should be clear on amendments 112 and 114. It is important that the bill empowers people in the community who are disabled or who come from an ethnic minority with the knowledge that they have a legitimate and rightful expectation to receive information on bus services.

It would be possible to deal with the matter by mentioning it in guidance or regulations, but these amendments should be up front. Indeed, it is a necessity for local transport authorities to consult disabled people and ethnic minorities, and that responsibility should stare such authorities in the face, so that they know that there is no way out of that obligation. It should be unavoidable. It is easy to say that local authorities do these things well, and on most occasions they do, but there are occasions when bad practice has occurred. The amendments would start to deal with areas of bad practice because it would be recognised early in the process that authorities must consider those issues.

I move amendment 112.

The Convener: I invite Des McNulty to speak to amendment 113, and to the others in the group.

Des McNulty: I have raised a number of amendments, all of which are geared to achieving the same end, which is to ensure that the required information is made available by the operators to the transport authorities and, more broadly, to the general public. It is difficult, especially when the minister is introducing so many amendments as the bill progresses, to determine all the best points at which to address this important issue.

One of the problems in the management of bus services has been poor information flow. The minister is addressing that matter with longer notification periods and so on, but I lodged amendment 113 in the context of trying to place a general requirement on operators to provide information to transport authorities and the public. I would like to hear what the minister has to say on the package that is in the bill, to ensure that requirements for information are adequately met.

The Convener: As no members wish to comment on that subject, I ask the minister to respond.

Sarah Boyack: I believe that Bruce Crawford's intentions in relation to his amendments 112 and 114 are worthy. In a sense, I am pleased that the amendments were lodged, as that ensures that the issue that they raise is on the table and can be debated at stage 2.

The committee's stage 1 report highlighted the importance of making available information to meet the needs of disabled people. Amendment 112 adds to that agenda the needs of people from ethnic minority communities in relation to access to information. I am determined that good, clear and reliable information should be made available in an appropriate format and in a way that is accessible to all sections of our communities.

However, I do not believe that the best way of achieving that objective is to specify those needs in the bill. The most productive way forward would be to channel efforts into identifying best practice and issuing guidance. Bruce Crawford is absolutely correct: the role of local authorities is critical and it is important that we encourage them to work towards the right ends.

The issue raised in the amendment should be embedded in each local transport authority's approach to information provision, whether that information deals with general policies, local transport strategies or bus services. Our policy is to encourage each local authority to examine needs in their local area and to identify an appropriate strategy to deal with those needs.

It is important that we encourage local

authorities to do that work properly, rather than impose a blanket requirement from the centre. We must get the right kind of responses at local level, and the bill should give local authorities the right kind of flexibility. There should be consultation with local disability forums and racial equality councils, but that consultation should be appropriate to each local area, so that we can drive through the improvements to both information provision and issues of accessibility that will be brought about by other provisions in the bill.

I indicated already to the committee that we are committed to the establishment of a disabled persons transport group, which will consider physical accessibility and information provision. There is a huge amount that we can do to improve standards and, once that group is established, I hope that one of its first actions will be to offer me, as the relevant minister, advice on the travel information needs of people with disabilities. We will then pass on that advice as a backdrop for local authorities and bus operators. Following that, I intend to produce best practice guidance to raise standards and to encourage local authorities to ask questions about the different groups in their area. For example, different local authorities will have to meet different ethnic minority needs, and the information provided should reflect those needs.

I hope that the committee accepts that we are dealing with the issue appropriately. I also hope that Bruce Crawford accepts that I have responded to his amendments in a meaningful way that will move the issue forward.

I do not believe that Des McNulty's amendment 113 is sufficiently ambitious. I will explain what we intend to introduce in the bill. Our provisions on information apply to all types of bus services, irrespective of whether they are provided under quality partnerships, quality contract arrangements or whatever. Des's amendment refers only to those provided under contracts or partnerships. I want to put on record our intention that the information requirements contained in the bill apply to all areas where bus services are delivered, not just those covered by the new provisions, or toolkits, of quality partnerships and quality contracts.

Des may be concerned about the exchange of information between operators and local authorities, which his amendment may be trying to draw out. However, the new power that would be introduced by my amendment 119 covers that point. That amendment would require operators to provide local authorities with specified information on local bus services. I hope that I have shown that Des's aspirations are being picked up elsewhere in the bill.

In the overall scheme of things, amendment 113

is unnecessary, but I am glad to have had the opportunity to set out our wider ambitions for information and to assure members that the issues raised in the amendment are being addressed elsewhere in the bill.

The Convener: Do you wish to respond, Des?

Des McNulty: I am reasonably satisfied with the minister's comments. However, I want to know whether amendment 119 takes adequate account of frequencies and timings. I ask the minister to ensure that she is satisfied that the information that operators are required to provide to the authorities and, more generally, to the public is adequate and includes information on frequencies and timings of services. That is an important issue.

The Convener: Bruce, please wind up the debate on this group of amendments and indicate whether you wish to press or withdraw your amendment.

Bruce Crawford: I will not press my amendment. I am grateful for the minister's response, as the right way in which to deal with the matter is probably through best practice guidelines. I am glad that the minister recognised that and I thank her for her response. However, she should ensure that, as these provisions roll out, they are monitored robustly. If operators do not respond to best practice guidelines, we may be required to come back and devise, through legislation, guidelines that are tighter and harder to ensure that best practice is translated into action on the streets.

Robin Harper (Lothians) (Green): May I press amendment 112?

The Convener: You may.

The question is, that amendment 112 be agreed to. Are members agreed?

Members: No.

The Convener: We will have a division.

FOR

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)
 MacAskill, Mr Kenny (Lothians) (SNP)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Tosh, Mr Murray (South of Scotland) (Con)

The Convener: The result of the division is: For 1, Against 9, Abstentions 0.

Amendment 112 disagreed to.

Amendment 113 not moved.

Section 30 agreed to

Section 31—Duty of authority to make information available

Amendment 114 not moved.

Section 31 agreed to.

Sections 32 and 33 agreed to.

After section 33

The Convener: We come to amendment 115, which is in the name of the minister

Sarah Boyack: Members will probably remember that, during our previous stage 2 discussion, Donald Gorrie raised the issue of the relationship between the Transport (Scotland) Bill and the Competition Act 1998.

Amendment 115 provides for a competition test in order to ensure that the provisions of the bill are in line with competition law and that a framework is in place to enable the provisions on buses to be implemented in full. The amendment has been prepared in full consultation with the competition authorities—the Office of Fair Trading and the Department of Trade and Industry.

Amendment 115 is important. It introduces a new test, which will apply to quality partnerships, subsidised services and ticketing schemes, but will not impact on any other area of competition or transport law. It will not apply to quality contracts, which, by their nature, will be taken out of the ambit of the Competition Act 1998. The new test will be tailored to the circumstances of bus operations and will recognise that there may be an impact on competition when measures are put in place to drive up quality standards, to improve local services or to take account of environmental considerations. The new test is based on proportionality—are the proposed measures proportional to the effect that they would have on competition in terms of achieving the stated objective?

These important provisions will allow local authorities to secure the benefits of the new bus powers in the bill, including better vehicles or facilities, or service improvements. Their plans for reducing or limiting congestion, noise or air pollution will not be hampered.

The competition test on its own would be of little use unless we make provision for the enforcement of the test. Therefore, there is a need to provide a role for the director general of fair trading in relation to his application of the competition test. Because the functions of the DGFT under the Fair Trading Act 1973 are wholly reserved, it is necessary to make an order under section 104 of

the Scotland Act 1998 to allow the DGFT to apply the competition test. The order will require the OFT, when it considers proposals under the bill, not only to examine the effect that there may be on competition but to consider the wider public interest, including the interests of bus users and the community in general. The order will also provide a procedural framework for the DGFT's interaction with the bill. For example, local authorities and bus operators will be able to apply to the OFT for a decision on proposals before they are introduced.

10:45

It may interest the committee to know that the OFT has prepared a draft block exemption under the Competition Act 1998 for various joint ticketing arrangements, including through-ticketing or travel card schemes. That draft block exemption was the subject of wide public consultation during the summer, in which key bus, train and local government representative organisations were included. The OFT is considering the responses before it makes its recommendation to the DTI for approval.

I realise that my explanation was technical, but it was meant to give members a sense of how we will ensure that the bill links with the 1998 act and how we will make both pieces of legislation work together in the interests of the public. The amendment provides a special competition regime that takes proper account of public interest objectives, which local authorities can and should have when using their powers.

I move amendment 115.

Des McNulty: I hope that the OFT will take into account the use of smart cards when it considers the block exemption. If transport is to be integrated with other entitlements, the OFT should consider not just transport-only smart cards, but multi-purpose smart cards.

I have a question about proposed subsection (5)(c). Earlier, I lodged an amendment to add road safety to a list of issues of which account should be taken. The minister dealt with that point by saying that the authority could consider the broader issues in its transport planning. Will she reconsider subsection (5)(c) in that context and decide whether other items ought to be added to the list of purposes? Road safety and other issues could legitimately form some of the purposes that are listed.

Donald Gorrie: The amendment is a welcome attempt to tackle problems that several participants in the transport world have mentioned to me. It is difficult for a layman to read a bill and fully work out how it will operate. I will give the minister a positive example. A new hospital is

being built to serve an area that has rather poor transport links, and the council or councils that are involved get together with two or three bus operators to try to co-ordinate an arrangement to feed people to and from the hospital. If some other operator feels excluded, is that arrangement likely to have a

"significantly adverse effect on competition",

as specified in proposed subsection (3)(a)? The excluded operator might think so. Can the minister clarify whether she thinks that her wording would allow positive efforts to co-ordinate and provide a better transport service to stand up to legal challenge under the Competition Act 1998? We need reassurance that sensible transport planning will not be hampered by the act.

I support Des McNulty's point about road safety, which could usefully be added to proposed subsection (5)(c). Will the minister consider that?

Sarah Boyack: Some detailed points have been raised. On Des McNulty's first point, we want to examine smart cards that might be innovative and might let us take a more integrated approach, which is the objective of providing such powers.

We intended the amendment that I lodged on the relevant general powers and the local transport strategy to allow road safety to be a relevant factor. I will double-check that and find out how the bill will lie once all the stage 2 amendments are completed, just before stage 3. We think that the position is all right, but I will not be categorical about that today, so that we can take a final check.

I will now deal with Donald Gorrie's points about a new hospital. If the bus companies and the local authority got together under a quality partnership, they would be making an agreement to improve services and meet a designated quality standard. If a quality contract were used, the bus companies would have to compete for that exclusive contract. The bill gives bus companies the right to compete or to be part of a quality contract. Throughout the process, the companies have a right to be consulted and to ensure that their views are taken. Ministers' ability to examine every proposed quality contract is a safeguard, because it enables people to make objections to ministers if they feel that their needs are not being met by the process. We think that the bill contains safeguards. Local authorities will, in specified circumstances and in the public interest, be able to use the new toolkit that the bill provides. It is our intention that such circumstances should be taken on board.

Donald Gorrie: In my hypothetical example, could the councils co-operate with more than one bus company to produce their coherent transport strategy, and would that still avoid a challenge under the 1998 act?

Sarah Boyack: The answer depends on the aim of the councils. If they want to create an exclusive contract, a tendering process must be followed, as provided for in the bill. If they want a range of operators that would provide different frequencies of service and qualities of buses—for example, the councils might want a preponderance of low-floor access buses—that slightly more flexible approach could be achieved under the quality partnership powers. The bill provides different ways for local authorities and bus operators to reach agreements that attach weight to different considerations. The bill provides a toolkit of options. It is our view that the bill is sufficiently flexible both to let local authorities achieve their aims and to safeguard the bus operators' rights to be involved in a direct contract or a more voluntary relationship in a statutory framework. A local authority and local bus companies could reach a general agreement without using the statutory powers, but the bill gives them a range of options that are not currently available.

Amendment 115 agreed to.

Section 34—Grants to bus service operators

The Convener: We come to amendment 116, which is grouped with amendment 117.

Bruce Crawford: Amendment 116 recognises that a different level of service may often be needed if we are to come as close as we can to providing quality access to services for some groups. I do not think that any committee member doubts but that a different level of service may be needed to enable disabled people to enjoy the same access to services as able-bodied people have. That can be achieved only with a special level of support, but it would help to make the crucial difference to a disabled person's quality of life. That is why I chose the form of words that is used in amendment 116. The minister may have found another way of dealing with that aim. I will listen to her carefully. I would like to ensure that such a power is available.

Section 34 says:

"The Scottish Ministers may make grants to operators of eligible bus services".

I did not lodge an amendment about that wording, but I would like the minister to comment on why that power was not extended to local transport authorities. I would like to understand the thinking behind the provision.

As for amendment 117, the evidence that was produced at stage 1 clearly showed that there was significant backing for increased and improved support for school and community bus services. We need not await the outcome of the study that the Commission for Integrated Transport is undertaking before we give Scottish ministers the

powers to take action on that. If the commission later confirms that that requires to be done, at least the power will exist for ministers to use, provided that the resources are available. There will be a resources issue—I understand that—but it is important that the bill should contain that power.

I have travelled into Edinburgh for 25 years, using many different modes of transport. It is noticeable, especially if you are using your car, that when you come into the city first thing in the morning, there is a lot less traffic on the roads when the schools are on holiday than when they are not.

I hope that the power would enable resources to be targeted to ensure better provision of school bus services. I realise that, in a city such as Edinburgh, placement requests make that difficult, but there is scope for more innovative ways of achieving a greater load on school buses in the mornings—in Edinburgh or elsewhere—than has so far been achieved. Some grant assistance and persuasion might be necessary to enable that to happen. However, that explains the purpose of amendment 117.

I move amendment 116.

Des McNulty: I am unclear about how the provisions relate to services such as dial-a-bus, which is provided by local authorities. Typically, local authorities provide the resources for such services, which are targeted at disabled people in particular. I would be concerned if grants from ministers were going to provide school and community bus services, because that might take the locus of such services away from local authorities.

I am interested in the minister's response. What is section 34 intended to achieve? Does it apply to special circumstances, or is there a risk that the resources to make appropriate provision for people in the categories we have mentioned might be diverted away from local authorities?

Robin Harper: I strongly support amendment 116, which is a permissive amendment. The clear intention of many of Bruce Crawford's amendments is to get the bill to mention the needs of disabled people as often as possible. Judging by the lobbying, I think that those groups expect the bill to recognise their needs. I am sure that the minister's intention is to do as much as possible for ethnic minority and disabled groups. However, there are a few places in the bill where I would like to see their specific needs mentioned.

I am not so sure about amendment 117—I would rather have more children walking to school.

Des McNulty: Or cycling.

Robin Harper: Or cycling.

Donald Gorrie: The amendments are helpful. There is a slight risk with amendment 116 that the bus companies that have started improving their buses might feel miffed if the less active ones got grants to help them to do the same. Although that should be sorted out, I welcome anything that makes travelling easier.

Some years ago, I got two new hips from the Princess Margaret Rose orthopaedic hospital. I regarded the ultimate test as being whether I was able to get on and off the top deck of an Edinburgh bus while it was moving. Many buses are not disabled friendly—we should consider that.

I am interested in the community bus service issue in amendment 117. I accept Des McNulty's point that we do not want more central Government interference in local government, but there could be a fund for councils to help more community bus services in rural areas and on our large council estates, many of which have been denuded of local bus services. For example, the bus service from Coatbridge or Motherwell to Glasgow can be quite good, but getting around Coatbridge or Motherwell can be much less satisfactory. That should be pursued.

Bruce Crawford's point about school buses is related to the fee-paying school structure in Edinburgh, which involves a lot of travelling—perhaps such schools should have school buses. From the transport point of view, closing Edinburgh's fee-paying schools would have a good effect. I am not advocating that, but it is a serious issue.

Community bus services are an important issue and we could do much better than we are doing. Councils could have a role if they got money from central Government. I think that the amendments are good.

11:00

Fiona McLeod (West of Scotland) (SNP): Amendment 116 is important. In her replies to many of the amendments, the minister seems to accept that the needs of disabled people should be recognised and taken forward. However, as Robin Harper says, it is expected that a transport bill for the 21st century will mention specifically what we will do to ensure that the needs of disabled bus users are taken into consideration. The minister should think seriously about that.

On amendment 117, it is true that we want more children to walk to school. It is a sad fact that, when we remove school bus services, children do not walk to school—one of their parents drives them there. I speak from personal experience. When free bus passes in Westerton were taken away this year, most of the children were taken to school by car, rather than walking there. I have

been campaigning for a walking bus service. If East Dunbartonshire Council had been able to make a specific grant or had been able to ask the Scottish Executive to make a specific grant for the school bus route, we would have prevented an extra 60 or so cars leaving the village at 8.40 every morning. We would also have prevented a lot of local unrest.

It is important that we consider how we promote school and community buses in a way that is best for those communities. I will be interested in the minister's answer to Bruce Crawford's point about why it is the minister who is making grants and not the local transport authority. In the case that I mentioned, the decision would have been best made locally.

Sarah Boyack: There have been many questions. I will try to pick them up in my comments. I am sure that if I do not, members will remind me.

I listened carefully to Bruce Crawford's explanation of the intent behind his amendments. I am strongly of the view that we should not accept them. I would like to set out the purpose of section 34 and to pick up on Bruce's points and Des McNulty's questions.

The purpose of section 34 is to set out a new statutory base from which grants to the operators of bus services can be paid. It provides a more flexible power than the current statutory provisions on the bus fuel duty rebate. It enables the scheme to be run on a different basis from the current one and includes powers to regulate the different classes of public service vehicles for which grant may be paid. It also makes it possible to change the method of calculation of grants. Those are all important features for the future.

The bill enables us to devise a scheme that meets our needs and aspirations in Scotland. It allows us to target grant where we believe it is needed. The fact that we are about to receive the Commission for Integrated Transport's report on the effectiveness of the current arrangements is important. Once we have received that report, considered its findings and consulted interested parties, we will decide whether we think that the existing scheme is the right one, or whether we need to revise it or introduce a successor scheme. I want to consult on the detail of that. In advance of that report, it would not be sensible for us to change the bill today to meet circumstances that we will not be able to debate fully. It would be wrong to prejudge that debate today.

On Bruce Crawford's amendment 116, the existing provisions of the bill allow us to include as eligible expenditure the cost of improving services to meet the needs of disabled people in any grant scheme introduced by Scottish ministers if we

want to amend the basis of the scheme in that way. The primary purpose of this section is to provide support for the operation of bus services rather than directing support for specific purposes. Operators already have a duty to comply with the provisions of the Disability Discrimination Act 1995. I have no intention of relieving them of those obligations.

There are already flexible approaches such as dial-a-bus schemes and taxi card schemes. Those are important as disabled people need a range of services that are customised to their needs. The big bus operators are now running much more accessible buses. The new design of bus services is much more accessible not only for people with disabilities who might be registered disabled people but for pensioners who find it difficult to get about.

I will pick up on the important point that both Fiona McLeod and Robin Harper made about how we go about giving people much more accessible services. I disagree with the principle that we should include a specification for disabled people in each section of the bill. It should be about the bill as a whole. If we were to mention a specification for disabled people in each section, we would have a lot more amendments.

We have the Disability Discrimination Act 1995 and we will introduce guidance. It is those, taken together, that are important; it is not about amending each section of the bill. Members have not done that, but they have tried to amend one or two sections of the bill. We will bring together the equal opportunities legislation that we have and the provisions in the bill, after which it is a matter of what the local operators and bus authorities do. It is important to monitor how the provisions in the bill are implemented and to consult on the guidance that we will prepare. We have discussed this matter before, but I thought that it was worth re-emphasising that point.

On Bruce Crawford's amendment 117, it is important to clarify to the committee that, under the existing scheme, any school services or community transport services that are registered as local services are already eligible under the bus fuel duty rebate scheme. School transport services are, by their nature, also funded through public expenditure. While bus fuel duty rebate expenditure is currently running at £50 million to operators of Scottish services, local authorities spend about £80 million a year on school bus services. They also support other bus services through subsidies. There are already powers which are being used.

In addition to fuel duty rebates, I am providing significant resources for community transport projects under the rural community transport scheme. Last week, I announced almost £1 million

expenditure for such projects. That brought the total amount that we have so far awarded under that scheme to more than £2.7 million. A lot of money is going into such projects and I will monitor their effectiveness. I do not want the good work that we have carried out in the past two years to be undermined or projects to fail because of a lack of funding.

The sustainability of community bus services, which fill a local need, is vital. That is why I announced earlier this year that I would be prepared to consider grants that continued funding. It was not only about new funding, but continued funding for schemes that currently receive grants. The announcement that I made last week included nine schemes that were successful continuation bids. I am committed to delivering long-term sustainability.

I accept Bruce Crawford's point about innovation and pick up on Fiona McLeod's points about improving the school services. That is possible in the bill through the section that we are currently debating. I therefore ask members not to accept amendments 116 and 117. I do not think that they are needed. It would be a mistake to prejudge the Commission for Integrated Transport report. You, as a committee, and I, as transport minister, must consider its recommendations. I want to consult on how we make progress. The flexibility in the bill will enable me to do that.

I ask the committee to defend the bill as it currently stands, without the amendments that Bruce Crawford has suggested. I hope that he might feel able to withdraw them, but that is his prerogative.

The Convener: I ask Bruce Crawford to wind up and indicate whether he wishes to press or withdraw amendment 116.

Bruce Crawford: It is a fine balance as to what to do in these circumstances. I have listened carefully to the minister's comments and I understand the points that she has made. We have a new statutory basis, different classes, and grants are targeted more effectively. The minister said that the bill enables Scottish ministers to include, if they want, aspects such as services for people with disabilities. I am not sure that it should be about what the ministers want; it should be a fundamental requirement. Perhaps I picked it up wrong, but that is what I heard.

If it is down to what ministers want and what scheme they bring forward, it is the committee's job today to say that there should be a requirement for the bill to include the power for ministers to give grants to operators to improve services for disabled people, especially in relation to innovation. There have been a lot of improvements in kerbside ramping and low-deck

buses. However, those innovations did not come cheaply, so we cannot tell what the next innovation will be in the development of access to services. I would like to retain the capacity to award grants to operators for specific aspects when a new service is being introduced. We cannot foresee what that might be and it might need more resources. It is important that that is in the bill.

I understand the issues that the minister has raised about the Commission for Integrated Transport. If it produces certain recommendations, the Executive can add those to the bill. Why should we wait for that commission's report if we think that it is right to do this now? It is right to put that power in now. Even if the commission did not make that recommendation, this committee can make its own mind up about what it thinks is appropriate.

A lot of what the minister said on community bus services and school bus services was right, but a lot of it was in respect of registered services that run from specific point to specific point daily. However, a lot of those services do not run from point to point daily and are not registered and therefore cannot be covered. There should be a mechanism in the bill to cover services that are not registered to enable grants to be made. This is also about giving the capacity if ministers wish, because it is not something that they shall do—they may do it. It gives an extra power for ministers to give extra grants to school and community bus services and gives extra leverage by way of new resources if they think it fit to do that. That might deal with some of the issues that I mentioned earlier in relation to trying to get more kids on buses if we cannot make them walk.

I am loth to withdraw the amendment. I will press it.

The Convener: The question is, that amendment 116 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

FOR

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

AGAINST

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

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

Amendment 116 disagreed to.

Amendment 117 moved—[Bruce Crawford].

The Convener: The question is, that amendment 117 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

FOR

MacAskill, Mr Kenny (Lothians) (SNP)
Gorrie, Donald (Central Scotland) (LD)

AGAINST

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

ABSTENTIONS

Harper, Robin (Lothians) (Green)

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

Amendment 117 disagreed to.

Section 34 agreed to.

Sections 35 and 36 agreed to.

After section 36

The Convener: We now move to amendment 137, in the name of the minister, which is grouped with amendment 131 and is on the subject of a bus user complaints tribunal. I ask the minister to move and speak to amendment 137 and to speak to amendment 131.

11:15

Sarah Boyack: I am particularly pleased to speak to this group of amendments, because an important part of the framework that we are creating through this bill is protection of the interests of individual bus users. Although amendment 131 is first on the list, amendment 137 is the defining amendment in this group.

In the policy memorandum that accompanied the bill, I made it clear that our aim of giving the bus user a voice in securing better services through the introduction of statutory consultation procedures would be achieved in the bill. We are doing that in several ways: through the consultation requirements that are built into the development of quality partnerships and contracts, through ticketing schemes and through provision of information requirements. In addition, when they are completing their annual reports on the effectiveness of quality partnerships or contracts, local authorities will be required to take into

account user representations.

The policy memorandum also noted that the Executive was considering further amendments that might be necessary to improve the position of the bus user. After careful consideration, I have concluded that we need a statutory body to undertake that role. The new section that amendment 137 would introduce provides the framework for establishing a Scottish bus user complaints tribunal, which will give bus users a new statutory appeals procedure in the event that a bus operator does not satisfactorily resolve a complaint.

The section provides Scottish ministers with the power to establish, by regulation, a tribunal whose remit will be to consider complaints that are made by individuals about the delivery of local registered services that have not been resolved by a bus operator. The tribunal would have a convener and two other members, who would be appointed by the Scottish ministers. I envisage that the convener would have a sound knowledge of the bus industry but that he or she would be wholly independent of it. The other two members of the tribunal might represent bus users and the industry, to provide a balanced approach.

The tribunal would have the power to deal with complaints about the delivery of local services that had not been resolved satisfactorily by a bus operator. That might result in a finding against the operator concerned, and the tribunal might require the operator to pay compensation for out-of-pocket expenses.

I will give the committee an example of how the system might work. A frustrated bus passenger might have to take a taxi if a bus connection were missed or if a bus simply failed to turn up. In such circumstances, it is only right that a bus user should receive compensation for expenditure that would not have been incurred if the bus had run to its registered timetable.

One issue that is not spelled out in the new section is the reporting of the new tribunal's activities to Scottish ministers. If we are establishing a new bus tribunal, it should report annually on its work. Between now and the stage 3 debate on the bill, we will consider whether we need an amendment to deliver that in practice.

This is another important piece of the jigsaw that we are putting together to provide bus users with the confidence to use buses, in the knowledge that there are statutory procedures to assist them if things go wrong.

I move amendment 137.

Helen Eadie (Dunfermline East) (Lab): I do not want to suggest changes to the proposals, but simply to welcome them warmly. Perhaps the

minister could consider making representations to the rail industry about establishing a similar tribunal in that sector. If such a tribunal existed at present, the industry might be bankrupt.

Donald Gorrie: New subsection (3)(d) states that the minister will bring forward regulations about appeals from determinations of the tribunal. I am never sure how that word tribunal is pronounced—I have always pronounced it with a long "i" but I may be wrong. If a person had to take a taxi because a bus had failed to arrive, wanted their money back and the tribunal rejected their complaint, would they be able to seek redress from a minister? Would the tribunal be the last court of appeal?

Des McNulty: I have a couple of concerns about this proposal, which the minister may want to address. How big and costly might this operation be? If every bus passenger who missed a connection were able to mount a challenge and seek compensation, the tribunal could end up as a large and bureaucratic organisation, with a considerable amount of business to attend to. We need to define how the tribunal would work. It would be appropriate if it focused particularly on the handling of complaints. That needs to be spelled out in more detail than is contained in the amendment. Under the new section as it stands, it is possible to imagine both a tribunal of large dimensions and one that is more limited. I would like that to be clarified.

The Convener: I have a question about the role of third parties. Are we likely to end up with numerous civil actions from bus companies against Transco because it has dug up the road and stopped buses getting to their destination? Currently airlines are suing one another because of debris left on runways. Although those disputes are on a much larger scale, what are their implications for whether someone can blame someone else for a bus being late?

Sarah Boyack: We will ensure that the new arrangements are fully advertised. Bus users who have had experiences will take their complaints to the bus company. In the past year there were something like 200 unresolved complaints in the UK, out of 4 billion bus journeys. Arguably, if we publicise a complaints procedure more widely, people may use it more.

Under the new system, users would still take their complaints to the bus company, and the vast majority of complaints would be resolved at that level. The tribunal would come into play only if someone felt that the bus company had not given them a fair hearing or fair treatment. It would be entirely independent of the bus operator. I do not expect that the tribunal will hear thousands of complaints. However, we have committed ourselves to funding this process. It is important

because the tribunal would act as a final arbiter—something that does not exist at the moment—and would provide clarity. I hope that that deals with the questions that Helen Eadie and Des McNulty asked.

The regulations should be defined once Parliament has agreed in the bill to proceed with the establishment of the tribunal. We will have to consult with the traffic commissioner about the implementation of the proposal, as it relates to the commissioner's powers.

I will not deal with the convener's question today, as it has wider implications and is difficult to answer, but I have responded to the other points that members have made. The vast majority of complaints are already dealt with satisfactorily. But it can be argued that we need to publicise the complaints procedure more effectively and to give people who do not feel that their complaints have been dealt with properly by bus companies another opportunity to get a fair hearing. That is the point at which the tribunal would come into play. It would be independent and act as a long stop, strengthening the existing process.

Mr Murray Tosh (South of Scotland) (Con): I am sure that the minister will know the answer to my question instantly. Did the financial resolution that accompanied the bill include provision for the payment of the costs that in this amendment Scottish ministers indicate they will pay?

Sarah Boyack: When I issued the policy memorandum, I indicated, as you remember, that I was bringing forward proposals on the matter, but that we had not clarified at the time what those would be. The costs in the financial memorandum were quite general—not specific.

Mr Tosh: There is a warning to us all. *[Laughter.]*

Sarah Boyack: The point is covered, and I thank Mr Tosh for giving me the opportunity to clarify it.

The Convener: I think that we could say that a couple of googlies were bowled at the end of that exchange.

Amendment 137 agreed to.

Section 37 agreed to.

After section 37

Amendment 119 moved—[Sarah Boyack]—and agreed to.

The Convener: Amendment 120, in the name of the minister, is grouped with amendments 128, 129, 132 and 133, and relates to civil penalties for bus lane contraventions. I ask the minister to speak to and move amendment 120, and to speak

to the other amendments in the group.

Sarah Boyack: Amendment 120 and the related amendments provide a framework for those local authorities that choose to decriminalise parking regimes to enforce moving bus lane offences through the imposition of a civil charge rather than the present criminal procedures. We believe that the decriminalisation of parking has effectively tackled stationary offences, and that there is little point in local authorities investing in expensive bus lanes if they become clogged with cars, with buses being unable to gain a time and reliability advantage. Authorities that use the new powers will be able to enforce bus lane priorities more effectively than police can currently manage, given their conflicting priorities.

Trials in some London boroughs have proved such steps to be very effective in reducing bus lane violations, by up to 70 per cent. I am sure that this committee and local authorities will welcome similar powers in Scotland. The buses sub-group of the National Transport Forum has endorsed them. Such civil enforcement powers could be introduced to support, for example, the setting-up of quality partnership schemes by local authorities and bus operators.

I wish to clarify that we will be limiting the powers to authorities that are taking on, or have taken on, decriminalised parking schemes rather than to those authorities that have no such plans. The processing arrangements for penalty charging will be similar in both cases, and it would not be cost-effective to decriminalise the enforcement of bus lane offences in isolation. The measures will also ensure that local authorities take a comprehensive approach to enforcement. There is not much point in enforcing moving offences in a bus lane if parking is not tackled at the same time.

The provisions of subsection (5)(f) of the new section proposed under amendment 120 are important from the point of view of local authorities. That subsection states:

“Regulations . . . shall include provision . . . that any sums paid by way of charges to an approved authority shall be available only for . . . the purpose of . . . facilitating the achievement of policies in such authority's local transport strategy.”

That is an important linkage, and we see this as a virtuous circle: revenue raised from charges for offences in connection with bus lanes can be reinvested in projects in order to achieve the objectives of a local transport strategy. Those regulations will not confer power to stop vehicles; that power is the preserve of the police, and we do not propose to alter that in any way. I believe, however, that the new power can help foster joint working between local authorities and bus operators. The reliability of services is increasingly vital if we are to encourage people to use public

transport.

Amendments 128, 129, 132 and 133 are purely consequential to those proposals.

I move amendment 120.

Des McNulty: I have two points. First, I understand that there has been some difficulty with the use of photographic evidence for speeding, with regard to European legislation. Were similar evidence to be used in cases of bus lane contravention, would that be potentially problematic?

Secondly, on a more general point, I want to highlight the extent to which some local authorities—I am thinking of the City of Edinburgh Council in particular—seem to be constructing bus lanes all over the place, irrespective of whether there is a sufficient volume of buses to justify their use. There is a danger that any difficulties with the enforcement procedure may bring about public acceptability problems for the whole process of bus lane construction if authorities continue with their programmes.

I absolutely support bus lanes where there is a large volume of buses, and where it can be demonstrated that bus traffic is speeded up. However, a lot of people using arterial roads in Edinburgh are getting extraordinarily annoyed with situations in which large volumes of road space lie unused because of the small volume of buses using the lanes. We should pause and think about the issue of imposing penalties on people, and about whether to conduct some tests into traffic flow and volumes of bus traffic before we introduce bus lanes willy-nilly, as appears to be happening in Edinburgh.

11:30

The Convener: I see a very eager Robin Harper wanting to contribute.

Robin Harper: As a staunch defender of the policies that I hope the City of Edinburgh Council is beginning to adopt, I would say that, although this is something of a chicken-and-egg argument, I do not see how large volumes of buses can be created without introducing the bus lanes in the beginning. This is perhaps another argument—I do not know why Des McNulty introduced it at that point—but I felt that I had to defend my local authority at that point.

The Convener: Well defended, Robin. I now ask the minister to wind up on this group of amendments.

Sarah Boyack: On that last point, judgments about bus lanes must be made by the local authorities, and must fit into their overall transport strategy. By delivering this bill, we will give

authorities more ability to negotiate with bus operators to deliver the bus services that need, as Des McNulty has rightly identified, to begin at the same time as bus lanes. The whole point of allocating road space for buses is that they are subsequently used by buses, which will pass through towns more swiftly.

Des McNulty rightly raised a particular point about the Human Rights Act 1998—and some related issues need resolution. There needs to be further discussion and consultation before we move to the end point. The regulation-making power enables us to take such points on board once we get resolution from the discussions, and we intend to specify that in the regulations—which would, of course, be the subject of consultation.

Amendment 120 agreed to.

Section 38 agreed to.

Section 39—Interpretation of Part 2

Amendment 121 moved—[Sarah Boyack]—and agreed to.

The Convener: Amendment 123, in the name of the minister, is grouped with amendments 124 and 125, and relates to interpretation.

Sarah Boyack: I thank Des McNulty for raising these issues—among the many detailed matters that he has brought to the attention of the committee. Last week, we discussed amendment 32, in Des's name. It considered the inclusion of road safety as an objective of quality partnerships. That amendment highlighted a possible gap in the drafting of the bill in relation to the definition of relevant general policies. My amendments are intended to fix that gap by including authorities' local transport strategies in that definition. Given that road safety will feature in those strategies, it will feature in the considerations that authorities have to make to implement their bus proposals.

I move amendment 123.

The Convener: Do any other members wish to comment on this group? Des McNulty is silent, so he welcomes the amendments. If no members wish to comment, I suggest that the minister does not need to wind up.

Amendment 123 agreed to.

Amendments 124, 125 and 127 moved—[Sarah Boyack]—and agreed to.

Section 39, as amended, agreed to.

The Convener: We have reached the end of part 2 of the Transport (Scotland) Bill, which we agreed we would not progress beyond. I thank the minister for her participation. On behalf of the committee, I congratulate her on her continuing role as the Minister for Transport.

I remind the committee that we agreed that we would not go beyond the end of part 3 of the bill at next week's meeting.

Mr Tosh: Are you in a position to advise us whether it will be necessary to formulate and lodge amendments to those parts of the bill that deal with workplace parking levies?

The Convener: If only I could, but I cannot. Thank you for the question though; it was a good shot.

All amendments to part 3 of the bill must be lodged by Monday 6 November. Given that few additional amendments were necessary for today's meeting, members of the committee and of the Executive, to whom I may drop a line, will be in a position to lodge their amendments this week. It is helpful to members, committee clerks and the organisations that assist us as well as the Executive to have all amendments in good time. That is an appeal. Today we had an opportunity to bring forward amendments a bit more quickly. I appreciate members' co-operation.

I see that members are getting up, so we will take a five-minute break.

11:36

Meeting adjourned.

11:41

On resuming—

Petitions

The Convener: I reconvene the meeting. I thank committee members for their patience and co-operation during the previous part of the meeting.

We move to agenda item 3, which is consideration of public petitions. The first petition before us is PE3 from the Hospitalfield Area Residents Committee on oilseed rape crushing. The petition is accompanied by an additional letter from the petitioners.

I refer members to the covering note on the petition, which includes information on the position received from the Scottish Environment Protection Agency and Angus Council. The covering note identifies those requests in the petition that are not within the committee's remit. It also contains a reminder that the committee should not take a view or recommend further action in respect of individual cases. It may therefore be helpful, as a minimum, to write to the petitioners to pass on that information.

As for the next step, we have a number of options, which are set out in the paper. Please note that option D should have been labelled option C. It is, as always, open to us to take any other competent action that we feel necessary. I open the matter up to members for discussion.

Mr Tosh: I was not going to discuss; I was just going to make suggestions on the response that we might make to the petitioner. Des McNulty may want to jump in.

Des McNulty: I had a general point about how we handle petitions. It might be better to deal with Murray Tosh's point and I will make my general point afterwards.

Mr Tosh: I was going to suggest that we do what is recommended at the first bullet point of paragraph 25: that we write to the petitioners advising them of your comments, convener, send them the responses received, as indicated at paragraph 21, and explain to them why there has been a delay in giving them a response. We should invite the Scottish Executive to consider the related paperwork and to decide whether it wants to consult on amending the industrial use class order or the remit of SEPA to deal with such cases. We should also undertake to advise the petitioners in the fulness of time of the Scottish Executive's response.

Nora Radcliffe (Gordon) (LD): I am not sure whether the difficulties have arisen because of the

planning regime or because of the environmental conditions put on a planning application. Looking at paragraph 13, it seems that the problems were caused by the company having failed repeatedly to comply with the conditions of the authorisation and that, despite enforcement action taken by SEPA, such breaches continue to occur. I do not think that it is the system that is wrong; it is how it is applied, or the sanctions that bodies such as SEPA can take in trying to get compliance from people who do not want to comply. That is where the problem is—not in the planning regime or the existing provisions, but in the way in which they can be enforced.

The Convener: Would you agree that the action that Murray Tosh has suggested would cover that point?

Nora Radcliffe: Yes.

The Convener: I take the substantive point that you are making.

Mr Tosh: Nora Radcliffe makes a valid point. In advising the Scottish Executive of this specific case, and in inviting it to consider the used classes order and the remit of SEPA, we should also ask it to consider enforceability across a range of environmental issues.

11:45

Nora Radcliffe: A lot of problems around planning issues do not arise because of the planning regime or what action is open to planning or environmental authorities, but because of the business of enforcement and ensuring compliance. That is where the system breaks down.

Donald Gorrie: I would like to emphasise the same point. We should urge the Executive to consider the issue of enforcement. In my experience as a councillor, enforcement was the feeblest part of the whole planning system; in fact, it was non-existent in many cases. It would be better to have a much more vigorous enforcement regime.

It is difficult to know whether a potentially antisocial activity can be stopped before it starts, as it cannot be known whether it will be antisocial. However, once it has got going, there should be a better enforcement system. What Murray Tosh has suggested is fine, but we should urge the Executive to beef up the enforcement procedures of the councils.

The Convener: Are we agreed to proceed according to Murray Tosh's suggestions on how we should deal with this petition?

Members indicated agreement.

Des McNulty: I have two points to make on the

general issue of petitions. First, we had a discussion on the way in which we handle petitions. As a member of the conveners group, can you update us on the feelings of other committees on that? Can we begin to advance on our mechanism for handling petitions?

Secondly, there is a danger that the Parliament might be being used as a kind of tribunal of last resort in relation to local authority decisions and decision making. Given that there is a mechanism whereby appeals can be made against those kinds of decisions, the question arises of when it is appropriate for us to deal with such matters and when they should be referred to the local government ombudsman as a more appropriate mechanism for detailed investigation, especially in cases of alleged maladministration. That is a procedural issue, which could perhaps be referred to the Procedures Committee.

The Convener: That is one of the question marks hanging over the petitions system. The convener of the Public Petitions Committee will present a paper to the conveners group in the near future. A discussion took place on the matter—although not a lengthy discussion—and it was agreed that the convener of that committee would write a paper for the conveners group.

I invite Murray Tosh, as the convener of the Procedures Committee, to say whether any additional information can be given to us.

Mr Tosh: The matter was discussed at the conveners group, and it has been referred to the Procedures Committee. As part of the continuing work load of that committee, the petitions process will be reviewed, but that will not happen immediately as everybody must have a full input. We might want to make the point that we have agreed before, and which Des McNulty has just restated, about not being snared into running the rule over local authority decisions. It might be appropriate for this committee to explain that to the Public Petitions Committee, in an attempt to have that committee exercise stricter judgment on when it is appropriate to refer a petition to a committee.

The Convener: I am happy to write to the convener of the Public Petitions Committee. This is a fluid situation. Reports have been received and I am happy to take members' views. However, bearing in mind the work that is being undertaken elsewhere, I ask members to keep their points concise and appropriate.

Robin Harper: It is already in our power to refer a petition to a local authority ombudsman if we so wish.

The Convener: Indeed. I understand that to be the case.

Cathy Jamieson: I would not want people to feel that they could not petition the Parliament appropriately and I would defend their right to do so. However, I am concerned about the scale of the backlog of petitions that this committee will have to deal with. Is there a way of fast-tracking some of them, to clear them out of the way so that we will be able to adopt quickly any new system of dealing with petitions?

The Convener: We have agreed to hold a special meeting to deal solely with petitions. If the clerks have time, we will bundle all the petitions up and bring them to the committee in a way that will make it easy to see which ones can be fast-tracked and which ones members will want to act on. Cases will come before us, which the committee will have to deal with.

Helen Eadie: At the Public Petitions Committee meeting last week, I raised the specific point that Des McNulty brought up. Aided and abetted by several members, who shall remain nameless, petitioners are using the Parliament as a court of first resort rather than as a body to consider legislative proposals. Too often, cases are brought to the Scottish Parliament that would be better addressed through the appeals procedure at a local level. We are trying to get that point over through the clerks and we need the co-operation of members, as some MSPs are also using the Parliament in that way.

The Convener: Obviously, we cannot condone such abuse of the system. We always have the option of recommending that petitioners appeal through local appeals procedures, and we should bear that in mind when we consider petitions.

Nora Radcliffe: The petitions procedure has been one of the strengths of this Parliament, and we do not want to discourage people from submitting petitions. Joe Public has no idea of the appropriate appeals mechanisms or of the people who should be approached locally, and I do not think that it is necessarily a bad thing for people to use the petitions process to get a steer in the right direction—as a gateway to other routes—as long as the Public Petitions Committee is disciplined in redirecting them.

The Convener: That issue can be raised when the paper is produced and cascaded down the committee system of the Parliament. Your point is well made and has been noted.

The next petition is PE17, from the Western Isles Council, on Skye bridge discounting options for Western Isles residents. I suggest that we consider this petition in conjunction with PE27, from Skye and Kyle Against Tolls—SKAT—on the introduction of toll concessions. I refer members to the covering note on the petitions, which includes responses that we have received on them from the

Scottish Executive and Highlands and Islands Enterprise.

The covering note reminds us that we do not have the power to undertake the direct actions that are requested by the petitioners—for example, direct negotiation with Sky Bridge Ltd—but that we can take a view on the issues that they raise and submit a report to the Parliament or express that view in a letter to the appropriate bodies. We have various options for either concluding or proceeding with consideration of the petitions. Those options are not exhaustive. Whatever option is chosen, I think that we should write to the petitioners, informing them of the responses from Highlands and Islands Enterprise and the Scottish Executive.

I invite members to air their views on these petitions.

Mr Tosh: This is a good example of petitions that have run up against our lack of powers, but on which we have been able to raise issues with the Scottish Executive to obtain a degree of clarification for the petitioners. I suggest that we conclude consideration of petition PE17, as it has been before us for a long time. In addition to sending the petitioners copies of the information that has been received from HIE and the Scottish Executive, it might be appropriate for us to give them the note that was prepared by the clerk—which is a public document anyway—which summarises our position. The only other thing that we could do at this stage would be to write to the Scottish Executive and ask it to expedite, if possible, the decision on the issue of date stamping on the discount tickets.

The Convener: Do any other members want to comment? Murray Tosh has set out the choices before us. Are we happy to accept what he says?

Members indicated agreement.

The Convener: That deals with that petition.

The final petition for the day is PE23 from Save the Wemyss Ancient Caves Society. It is accompanied by a covering note that includes responses from Fife Council and the Scottish Executive. One option is that we pass copies of those responses to the petitioners and the Education, Culture and Sport Committee, which has also been considering the petition. As we can do anything that committee members agree on, I open up the matter for discussion.

Helen Eadie: I would be glad if it was passed to the Education, Culture and Sport Committee. This is an example of an occasion when a petition to the Scottish Parliament has made a difference. The local authority, with the then Minister for Finance, have moved to assist with this case. I am pleased about that. It would be helpful if we were to get that part of the Wemyss area referred to the

Education, Culture and Sport Committee.

Cathy Jamieson: What would we be asking that committee to do?

The Convener: We would pass on our information for them to either note or take further action on.

Cathy Jamieson: So we would not be making any further recommendation as to what we wanted the committee to do with the matter?

The Convener: That is correct.

Helen Eadie: I want to stress that the caves contain examples of drawings that are unique in the UK. We want the Education, Culture and Sport Committee to note that fact and come up with appropriate ways to preserve them. A range of options has been put forward by all sorts of professionals.

The Convener: We must bear in mind what the petition says and what we can do. We should think about the options that exist.

Mr Tosh: This petition is useful because it has helped us to consider issues and raise matters. We have identified that all we can do is pass the matter to the Education, Culture and Sport Committee. It is for that committee to decide what to do with the matter as it is outwith the remit of this committee. It is a matter for Fife Council and the Scottish Executive. If the Scottish Parliament wants to talk to the Scottish Executive about the matter, it should be through the Education, Culture and Sport Committee rather than the Transport and the Environment Committee.

Des McNulty: I agree that it is an issue for the Executive and Fife Council. I would be inclined to pass the responses to the Education, Culture and Sport Committee for information but not to draw anything in particular to the attention of that committee. All the committees have business problems and it is important to ensure that we do not simply pass the parcel, especially as we have been told that progress has been made and that the matter is in hand.

Helen Eadie: Could we also pass the *Official Report* of this discussion to the Education, Culture and Sport Committee? I would like that committee to understand that, although progress has been made, certain issues still have to be addressed.

The Convener: Okay.

Cathy Jamieson: The reason I asked my question before was that I am a member of the Education, Culture and Sport Committee and I thought that it would be useful to know what the views of this committee were so that I could communicate them to my colleagues.

The Convener: In addition to the actions that

we have already discussed, we will ensure that the Education, Culture and Sport Committee receives a copy of the *Official Report*.

Donald Gorrie: The key point is contained in paragraph 9 of the briefing paper. The council says that it has not been

“possible to show that a scheme to protect the caves would meet the required economic criteria to receive Scottish Executive approval.”

The council's view is that it is up to the Executive to sort out the economic value of prehistoric remains of great significance and to better examine the question of providing funding for sea defences. Are we going to draw the matter to the attention of the Executive?

The Convener: We were sent this petition because of the environmental erosion question. We have investigated that matter and I think that it is for the Education, Culture and Sport Committee to decide on the other elements of the matter. We are not passing a value judgment—to use that word again—on what is in the caves. We are saying that we have investigated the matter, have received responses from the main players and that the matter is now for the Education, Culture and Sport Committee. We are not adding any weight to the cultural issue as that is outwith our remit.

Robin Harper: I strongly back that point. The rock is soft and will erode and it would be difficult to include the area in a general coastal defence scheme in an attempt to prevent erosion of that particular set of caves. The issue is to do with historical matters and should be considered by the Education, Culture and Sport Committee. As paragraph 9 says, a method of valuing heritage assets would have to be established.

Helen Eadie: Fife is the only council in Scotland that has a coastal management plan. The council has identified parts of Fife where the sea simply cannot be held back. It has also identified areas where, for economic, social or employment reasons, it is important to protect the defences. East Wemyss is one such area. The point that Robin Harper makes is sound, but it must be borne in mind that Tam Dalyell and others have written articles in *The Scotsman* and other newspapers saying that there are sound reasons for protecting the caves. The issue is controversial: some people say that we should not protect the caves and some say that the caves must be protected for the sake of Scotland's heritage.

Mr Tosh: I agree with Helen Eadie and I find the attitude taken by the Scottish Executive surprising. I wonder what Historic Scotland is playing at. However, the point still stands that such issues are outwith the remit of this committee. The issues relate to the remit of the Transport and the

Environment Committee. We have enough to do with our work load without taking on the work load of other committees.

The Convener: I thank you for your support with regard to matters raised previously, Murray.

12:00

Robin Harper: I want to clarify the point that I made. The level of protection that would be provided by the local coastal protection scheme might not prevent the erosion that will destroy the historic value of the caves.

The Convener: We have agreed that the Education, Culture and Sport Committee will get a copy of the *Official Report* of our discussion. That will allow that committee's members to take cognisance of the views that we have expressed.

As well as that action, do we agree to the actions as indicated by Murray Tosh?

Members *indicated agreement.*

The Convener: We have agreed to take the next agenda item in private.

12:02

Meeting continued in private until 12:40.

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