

TRANSPORT AND THE ENVIRONMENT COMMITTEE

Wednesday 2 October 2002
(Morning)

Session 1

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TRANSPORT AND THE ENVIRONMENT COMMITTEE

27th Meeting 2002, Session 1

CONVENER

*Bristow Muldoon (Livingston) (Lab)

DEPUTY CONVENER

*Nora Radcliffe (Gordon) (LD)

COMMITTEE MEMBERS

*Robin Harper (Lothians) (Green)

*Mr Adam Ingram (South of Scotland) (SNP)

*Angus MacKay (Edinburgh South) (Lab)

*Fiona McLeod (West of Scotland) (SNP)

*Maureen Macmillan (Highlands and Islands) (Lab)

*Des McNulty (Clydebank and Milngavie) (Lab)

*John Scott (Ayr) (Con)

COMMITTEE SUBSTITUTES

Bruce Crawford (Mid Scotland and Fife) (SNP)

Helen Eadie (Dunfermline East) (Lab)

David Mundell (South of Scotland) (Con)

Iain Smith (North-East Fife) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Mr George Reid (Mid Scotland and Fife) (SNP)

CLERK TO THE COMMITTEE

Callum Thomson

ACTING SENIOR ASSISTANT CLERK

Alastair Macfie

ACTING ASSISTANT CLERK

Rosalind Wheeler

LOCATION

Committee Room 3

Scottish Parliament

Transport and the Environment Committee

Wednesday 2 October 2002

(Morning)

[THE DEPUTY CONVENER *opened the meeting at 09:10*]

The Deputy Convener (Nora Radcliffe): I open this meeting of the Transport and the Environment Committee. Bristow Muldoon is expected at any moment, but the meeting was meant to start at 9.00 and it is now 9.10, so we will get cracking.

I welcome the press and the public. George Reid is in attendance and will join us at the table later.

Items in Private

The Deputy Convener: Agenda item 1 is consideration of whether to take items 4 and 6 in private. We normally consider draft reports in private. Item 4 is consideration of a draft stage 1 report on the Water Environment and Water Services (Scotland) Bill and item 6 is consideration of a paper by the committee's adviser on stage 2 of the 2003-04 budget process. Do members agree to take those items in private?

Members indicated agreement.

The Deputy Convener: At next week's meeting, the committee will consider lines of questioning for the Minister for Enterprise, Transport and Lifelong Learning as part of its scrutiny at stage 2 of the 2003-04 budget process. Do members agree to do that in private next week?

Members indicated agreement.

Highlands and Islands Ferry Services

The Deputy Convener: Agenda item 2 is consideration of a reporters' paper on the draft service specification for Highlands and Islands ferry services. Consideration of the item was postponed last week. The committee must consider the reporters' paper with a view to endorsing it as a whole. We would then forward the paper to the Executive for a response and submit it to the Executive's current consultation on the draft service specification. Does either reporter want to comment on the paper?

Maureen Macmillan (Highlands and Islands) (Lab): I do not propose to go through the paper in detail. We have picked up on all the issues that concern people in Argyll and the Western Isles and on the Clyde. It would be better if members asked questions about or commented on the paper and we responded.

Fiona McLeod (West of Scotland) (SNP): When I read the paper for the second time, one thing that occurred to me was that we received a petition a few months ago that asked us to consider a road equivalent tariff for ferries. To deal with that petition, I think that we agreed that the reporters should consider RET as part of the general reporting requirements. I think that we also said that we would expect the Scottish Executive to consider RET in its consultation. The paper does not mention RET and I understand that RET does not appear in the Scottish Executive's consultation.

Des McNulty (Clydebank and Milngavie) (Lab): We pursued the issue of RET with a number of consultees, particularly on our visit to the Western Isles. The general view among people to whom we spoke was that fares were the most relevant issue. We sought to put in the paper what the people to whom we spoke thought were the most relevant issues. From our discussions, there was nothing in particular to say about RET. The idea is theoretical, but it does not seem to have gained much currency in the Highland communities.

The Deputy Convener: Do you want to add a sentence to the paper to that effect?

Maureen Macmillan: I think that one person in the Western Isles mentioned RET, but apart from that, the issue did not come up.

Fiona McLeod: Given that we decided to deal with the petition in the way that I mentioned, it would be appropriate to mention RET in our report.

The Deputy Convener: If the reporters are happy with that, it would tidy up a loose end.

John Scott (Ayr) (Con): This might open up a can of worms, but I would like to know what proposals there are to deal with the situation relating to Caledonian MacBrayne's Dunoon to Gourock route. The problems are clearly outlined but possible solutions are not.

09:15

Des McNulty: Paragraphs 41 and 42 propose that we adopt a twin-track strategy. One approach is to continue the negotiations and discussions with the European Commission in order to communicate the fact that that route is only one of many in a comprehensive tender, the overall objectives of which are to ensure continuity of services and to avoid private-sector monopoly provision. We are seeking some kind of derogation of the competition rules in this particular context. The other approach, which we would take at the same time, is to carry on further investigations in consultation with the local authority, as the minister suggested when he talked to us, to see whether a vehicle ferry could be operated profitably, as Deloitte & Touche suggested.

Both those approaches are better than the one that the minister flagged up, which was to go for the passenger-only service.

John Scott: There should be a better accountancy system as well. That would allow clearer decision making.

Des McNulty: Yes, that is the other dimension.

Maureen Macmillan: I think that that issue is raised later in the document. All we can do is provide pointers to directions that might be taken rather than evaluate what option is the best, as we are not competent to do that. If we were to get that competence, it would take a lot longer to get the report done.

John Scott: As I said to Des McNulty and Maureen Macmillan privately, I think that the report is comprehensive and very good.

Des McNulty: We record our thanks to Rosalind Wheeler, who has put an awful lot of effort into the document. Much of the core drafting was her work.

Maureen Macmillan: It was above and beyond the call of duty.

The Deputy Convener: As ever.

Maureen Macmillan: I enjoyed doing the report and spent a lovely summer travelling about in the Western Isles and Argyll.

The Deputy Convener: You are allowed to enjoy your work. We should encourage plenty of other people to follow in your footsteps to boost tourism in the Highlands.

Des McNulty: I got Gourock and Glasgow.

The Deputy Convener: Do we agree to approve the contents of the report with a sentence added to tidy up the loose end about the road equivalent tariff?

Members indicated agreement.

Des McNulty: The document might need a wee bit of work to ensure that it has recommendations for the Executive. The recommendation at present is for the Transport and the Environment Committee to consider and comment on the paper. Taking into account Fiona McLeod's point, we will try to shift slightly the burden of the paper so that it contains recommendations along the lines suggested, if that is agreeable to members of the committee.

The Deputy Convener: Do we want to see the document again after those changes have been made or are we happy to delegate the responsibility entirely?

Des McNulty: We should not bring it back to the committee. If we do, it will not get into the consultation process.

Robin Harper (Lothians) (Green): That sounds fine. Some parts of it should be in heavy print as well.

The Deputy Convener: Do we agree to the suggested action?

Members indicated agreement.

The Deputy Convener: I thank Des McNulty, Maureen Macmillan and Rosalind Wheeler for producing a very good report.

Petition

Organic Waste Disposal (PE327)

The Deputy Convener: Petition PE327 concerns the spreading of organic waste on land. We will consider correspondence relating to the petition and the draft motion for a committee debate in the chamber on our report on the matter. I welcome George Reid, who is interested in the petition.

Does anyone want to comment on the correspondence? Bearing in mind that we have a debate on the matter in a week's time, members might want to wait until then to comment in depth.

John Scott: I refer members to page 3 of the paper, in which Ross Finnie is quoted as saying that the Executive is trying to alter the "burden of proof". He also said that:

"Those who intend to spread waste would have to demonstrate agricultural benefit before spreading."—*[Official Report, 12 September 2002; c 13697.]*

If we are talking about blood and guts, that is fine by me. However, other products from which there is no agricultural benefit are spread on agricultural land. At present, it is possible for spent sheep dip to be spread under a Scottish Environment Protection Agency licence. It is also possible to spread the water from dairy farms that is known as dirty water. Little or no agricultural benefit results from either of those products being spread on the land.

I seek clarification, probably from the minister, that products such as those—and others that I have not thought of—would not necessarily be affected by the new burden of proof.

The Deputy Convener: Are those activities exempt at present? Surely they would be.

John Scott: I am honestly not sure of the category into which they fall.

The Deputy Convener: Perhaps the safest thing to do would be to write to the minister. We could advise him that, if the change in the burden of proof is made in too blanket a fashion, it could have unintended consequences.

John Scott: Yes.

The Deputy Convener: That would be the way to do it. As the changes are under preparation, it would be a good time to raise our concerns.

John Scott: If that meets with the approval of other members.

The Deputy Convener: Are members happy that we do that?

Robin Harper: There is already a question over the application of sheep dip.

John Scott: Yes, but SEPA recognises that one way of disposing of spent sheep dip is to spread it on land where it is not likely to contaminate groundwater. Farmers pay a licence fee to undertake that practice, which is not the case in England.

The Deputy Convener: Said with feeling.

John Scott: Indeed.

Fiona McLeod: I refer to the letter from the minister, which is dated August 2002. Before I do so, I want to make a slight aside by way of a recommendation to the Executive. When we receive letters from the minister, they are dated with the month and the year but never the day. If we receive more than one letter in a month from the minister, that can give rise to confusion.

In the penultimate paragraph, the minister sets out that:

"This is not an instant solution ... However, it would bring about change to the current regime ahead of the EU Regulation."

I question the time scale under which the proposed amendments to the Waste Management Licensing Regulations 1994 will be made. Our consideration of PE327 has been under way for nearly two years. As George Reid can tell us, the subject of the petition has been highlighted for many more years than that. How much longer will it be before the Executive acts on the recommendations that we made a number of months ago?

As the minister recognises that the proposed amendments are not an instant solution, will he give us a timetable for lodging the amendments? That would enable us to consider whether other, more instant, solutions could be implemented.

The Deputy Convener: I wonder whether the minister will reply to the debate?

John Scott: I support Fiona McLeod's proposal. If the timetable is a couple of months, or even four or five months, that is acceptable. However, if it is much longer than that, we need to consider other options.

The Deputy Convener: At least the Executive has considered how to deal more quickly with the problem. We can ask the minister to confirm the time frame. If we have the debate on the subject, that will give us another opportunity to question the minister.

Maureen Macmillan: I was going to ask about the time frame. I also want to ask about the European regulations that would sort out the problem.

The Deputy Convener: In the fullness of time.

Maureen Macmillan: Yes.

The Deputy Convener: I think that we have to give credit to the minister for finding a mechanism to do something about the problem more quickly than might otherwise have been the case.

Des McNulty: I have two points. First, I appreciate that the long-term solution to the issue might be to deal with it through an amendment to the Waste Management Licensing Regulations 1994.

The minister describes the circumstances in question as "isolated and extreme". It would have been helpful if the minister had indicated more clearly what steps might be taken to avoid repetition of those circumstances at this particular site. I believe that the minister has powers to do that.

It would be appropriate if the minister, as well as dealing with the general circumstances through the Waste Management Licensing Regulations 1994, indicated what guarantees he could give to the people who live in these extreme circumstances that they will not be subjected to repetition of the application of untreated blood and gut content to land.

My second point concerns the powers of senior public health people to intervene in circumstances that are plainly prejudicial to health. I know that the issue is very sensitive. However, in the past, public health considerations have been allowed to override all kinds of other circumstances and that has been important in stopping infections. If there is a specific concern about the health consequences of a particular act, public health people can use their powers to intervene.

I wonder whether we should not accept what Margaret Smith has said on behalf of the Health and Community Care Committee—that it is very busy with whatever it is very busy with. We should ask the committee and the Minister for Health and Community Care to identify what powers directors of public health—or those in equivalent posts—have to act when health is prejudiced. That is a registered, notified post and it carries distinct powers. What power do directors of public health have and how is that power exercised?

We do not necessarily have to relate the question to the circumstances we are discussing today. We can ask about broader circumstances in which there are strong grounds for believing that health is being prejudiced.

The Deputy Convener: Would you be happy if we wrote to the Minister for Health and Community Care in the first instance and asked for that information?

Des McNulty: That would be helpful.

Mr George Reid (Mid Scotland and Fife) (SNP): I was in Prague with the cross-party

delegation of MSPs until the early hours, so I have just skimmed through the documents.

The original petition had two legs to it. Leg one was about the environment and leg two was about health. We have made progress on the environmental question. As Des McNulty said, I would prefer to know what happens in isolated incidents. However, at least we are now in a situation where we split waste disposal and agricultural benefit and we shift the onus to the right place. We have made good progress.

When we come to health, I am not at all satisfied. It was singularly unfortunate that the initial petition was batted back by the Health and Community Care Committee and it has now been batted back again. I will take a few minutes to consider that.

In the villages, there has always been a problem with the threat of litigation. At no point have I made any correlation between ill health and spreading or composting. I do not know if there is a correlation; I am not a scientist. We have to consider the matter.

I know that when Andy Kerr went to Blairingone, he was presented with a long list of allegations. I do not think that those allegations have been properly investigated. I do not, therefore, think that the terms of the original petition have been satisfied. I will give the committee two allegations—again, I make no correlation, but I have seen them.

A child nearly died in Stirling royal infirmary. There was spreading near his home. That child's parent is a highly qualified doctor. No evidence has been taken.

I have seen photographs of children—this goes back to Duncan Hope's original evidence—with blisters the size of half crowns on their backsides. Those have never been investigated.

I am certainly not satisfied with the letters from the environmental hazard investigation team. Again, I stress that, for reasons of litigation, I make no correlation. The two meetings of EHIT did not consider that evidence. I made it my business to give SEPA a long summary of the evidence, and SEPA was under an obligation to make the evidence available to Dr Roworth. Although the evidence was available by the February meeting, it had not been available for the initial two meetings. I find it completely unsatisfactory that a conclusion was reached and that, although the committee itself had indicated that contractors had no bearing on the matter, the evidence was made available to them and they promptly sprayed the agricultural press with statements.

09:30

The correspondence claims that Mr Duncan Hope, who is the chairman of the Blairingone and Saline Action Group, refused to meet EHIT. Mr Hope did no such thing. He was invited to come to Stirling and give evidence on behalf of the whole village. Quite reasonably, he said that he could not get into issues of patient confidentiality, and that there must be some form of hearing in the village of Blairingone. I know for a fact that SEPA was prepared to hire a scientific researcher to collect that evidence. If that evidence had been taken, the health side of the matter would probably have died and honour—and the villagers—would have been satisfied.

Although the Transport and the Environment Committee has made considerable progress on the petition's environmental aspects, I really do not believe that the Parliament has satisfactorily examined the health aspects.

Robin Harper: In the light of what has been said, surely our only recourse is to refer the petition back to the Health and Community Care Committee yet again. It is not appropriate for us to consider the health aspects of the petition.

Fiona McLeod: Could we recommend that in the motion that will be debated in the Parliament next week?

Mr Reid: I do not want to give any credibility to scare stories. I had hoped that the evidence would have been taken discreetly and considered, and that a conclusion would have been reached. That has failed to happen. I am not sure whether it is right to raise the whole issue in public yet again, but I believe fundamentally that the villagers should be listened to on a one-to-one basis.

Des McNulty: We need to go back and get an answer from Ross Finnie about this isolated and extreme circumstance. Moreover, it is probably legitimate for the committee—particularly in next week's debate—to flag up the fact that health issues remain. In the interim, we should write to the Minister for Health and Community Care to ask about procedures. That is probably as far as we should go now; after all, the debate has still to take place. That said, we could also write to the Health and Community Care Committee to point out that there are important issues that it should examine and to reiterate that those issues should be raised. We might want to return to the issue following the debate, but the convener could address that question at that time.

Angus MacKay (Edinburgh South) (Lab): I am concerned that once the issue comes up for debate next week and has its day in court, it might just blow over before everything has been fully explored and every avenue exhausted. For the reasons that George Reid outlined, there is also a

matter of concern not so much about whether the matter raises serious health issues but about whether the appropriate organisations have proper procedures in place to conduct fully the examination that is required in these circumstances.

That is why it is absolutely appropriate for the committee to write to the minister and to raise the matter directly with the Health and Community Care Committee. Goodness knows that other committees are not slow in raising with us matters that they think we should be looking at. If it is not our role to investigate such matters—and I accept that it is not—it is our role to raise the issue with other committees, so that they can satisfy themselves whether there are appropriate procedures and what is to be done. They can take up the issue with ministers and organisations.

I understand why Fiona McLeod wants to debate the subject next week, but, as George Reid said, rather than blowing the issue up, perhaps we should fly below the radar and put some acute pressure on those responsible to justify their position and the process that they use. If we find gaps, we can revisit the issue, but we should certainly raise it with other committees and individuals.

Robin Harper: I shall be brief, as Angus MacKay has covered the points that concerned me. There may be a health issue, but there has definitely been a lack of appropriate procedure to deal with it.

The Deputy Convener: So we want to establish whether there is a procedure that has not been followed or whether there is no procedure and something should be done about that.

Robin Harper: There might not be a procedure written down on paper, but what has happened has certainly not been appropriate.

John Scott: We are writing to the minister to establish whether there is a procedure to deal effectively with a situation that we believe must be dealt with, even though the Health and Community Care Committee—I daresay for the best of reasons—refuses to deal with it. Given that it may take the minister and the Presiding Officer some time to consider the matter, should we seek to postpone the debate until such time as we have an answer? As Angus MacKay said, the debate, when it takes place, will probably be the Parliament's last word on the matter.

The Deputy Convener: We are debating our report, which covers the environmental issues. If we flag up the fact that more needs to be done on the health side, I imagine that the Health and Community Care Committee could be persuaded to take the matter on, and there would be a subsequent debate on whatever report that

committee might produce. I do not think that we should not debate our report in the meantime.

John Scott: I did not mean that we should not debate the report. I am suggesting that we could postpone the debate for perhaps a month until the situation becomes clear.

The Deputy Convener: As George Reid said, there are two legs to the matter. If we wrap up one leg, we will be making progress on that front. We are not sure how much will come out of the health side of the issue, which we feel merits further exploration. However, further exploration may reveal that there is not much more that needs to be done.

Does the committee want to go ahead with the debate on our report and to write to the Minister for Health and Community Care along the lines that we have been discussing and to Ross Finnie about time frames? Paragraph 2 on page 3 says that Ross Finnie is issuing a consultation in the autumn, so we can ask him about the time frame associated with that. That consultation must be coming fairly soon, but we can ask for more details. Bearing in mind those points, does the committee agree to go ahead with the debate on the motion before us?

Members *indicated agreement.*

The Deputy Convener: I thank George Reid, and members of the press and public, for attending.

09:38

Meeting continued in private until 12:37.

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