

TRANSPORT AND THE ENVIRONMENT COMMITTEE

Wednesday 6 November 2002
(Morning)

Session 1

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TRANSPORT AND THE ENVIRONMENT COMMITTEE **30th 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

WITNESSES

Bob Christie (Convention of Scottish Local Authorities)
Glyn Evans (Fire Protection Association)
Heather Fiskin (Disability Rights Commission)
Iain Gray (Minister for Enterprise, Transport and Lifelong Learning)
Trisha McAuley (Scottish Consumer Council)
Jonathan Pryce (Scottish Executive Development Department)
Bob Renton (Scottish Association of Chief Building Control Officers)
Iain Ross (Scottish Association of Chief Building Control Officers)

CLERK TO THE COMMITTEE

Callum Thomson

SENIOR ASSISTANT CLERK

Alastair Macfie

ASSISTANT CLERK

Rosalind Wheeler

LOCATION

Committee Room 1

Scottish Parliament

Transport and the Environment Committee

Wednesday 6 November 2002

(Morning)

[THE CONVENER *opened the meeting in private at 09:22*]

09:34

Meeting continued in public.

Items in Private

The Convener (Bristow Muldoon): I welcome members of the press and the public. We have received apologies from Nora Radcliffe, Adam Ingram and Angus MacKay. Maureen Macmillan will have to leave for part of the meeting to attend a meeting of the Health and Community Care Committee.

Do members agree to take in private item 6, on the evidence that the committee took at stage 2 of the 2003-04 budget process?

Members indicated agreement.

The Convener: Do members also agree at next week's meeting to consider in private a draft report on stage 2 of the budget process?

Members indicated agreement.

Building (Scotland) Bill: Stage 1

The Convener: We have changed the agenda slightly. We will now proceed to agenda item 4, which is stage 1 consideration of the Building (Scotland) Bill. We have not yet considered item 2, but we will do so after item 4.

I welcome the first panel of witnesses. Heather Fiskin is from the Disability Rights Commission, Glyn Evans is from the Fire Protection Association and Trisha McAuley is from the Scottish Consumer Council. I understand that all three witnesses wish to make an opening statement. I ask them to keep those statements as concise as possible.

Heather Fiskin (Disability Rights Commission): Good morning. We welcome the opportunity to submit written evidence and to speak to the committee. Our approach to the bill is not born of expertise in building control systems or in how buildings are designed—we do not possess such expertise. Instead, we have considered what we think will be the impact of the proposals on disabled people in Scotland.

There are an estimated 800,000 disabled people in Scotland, which is approximately one in seven of the population. Such people may not be able to use buildings on an equal basis with the rest of society. The services or facilities in buildings are not accessible to them. It is not just the bricks and mortar that are important—what goes on in buildings is important, too.

When we talk about buildings and disabled people, a common presumption is that we are talking only about people with mobility impairments, but that is not the case. People with sensory impairments, people with learning difficulties and people with what might be called hidden disabilities do not have the same access to the built environment and services. They may have fatigue or epilepsy, for example. People with mobility disabilities are not the only people who are affected.

Such people miss out on essential services. Obviously, they miss out on leisure services, but they also miss out on health, education and legal services and on participation in civic activities and the political process. Recently, research was published on the accessibility of polling stations. Disappointingly, the research found that many polling stations are not fully accessible. People are being denied participation in the democratic process.

We have considered the duty that people have to provide services under the Disability Discrimination Act 1995. From 2004, if a physical feature prevents a disabled person from accessing a service equally, that feature will have to be

removed or altered, or a reasonable alternative to the service will have to be provided. It is important that builders and developers realise that if they build buildings that are not accessible, nobody will want them after 2004. A service provider who leases or buys a building will be liable to prosecution under the act if they do not make their services accessible.

I want to discuss the contents of the bill. We understand why the system is being revised. It will be brought up to date and modernised and account will be taken of European legislation. We hope that in the end it cultivates flexibility and innovation, because everyone, not just disabled people, likes good and interesting design. That benefits everyone in society. We hope that it will lead quickly to new solutions to access problems for disabled people and that it will bring about real change.

We have issues with some parts of the bill. Until now, the technical standards, which have mandatory status, have provided a level of access on which disabled people have depended. The bill will revoke that mandatory status and replace it with guidance. We understand why that is happening, but we are all disappointed that that is the solution and that it was felt necessary to do that. Therefore, we have examined other parts of the bill that we hope will strengthen the end-product in relation to access and usability for disabled people.

We have examined functional standards and the convenience standard, in relation to section 1. We understand that that is the language of the Building (Scotland) Act 1959, but we think that the bill is a good opportunity to modernise the language. The standard of accessibility and usability for disabled people rests on the word "convenience". The position is implied in the policy memorandum but we would prefer to see that language in the body of the bill. We would also like to see accessibility and usability explicitly detailed in schedule 1.

On the subject of building responsibilities, we hope that verifiers and approved certifiers of construction and design will be qualified and competent in equal opportunities and that their registration and continued accreditation take account of that.

On consultation and the make-up of the building standards advisory committee, our stakeholders—disabled people—are keen to participate in creating a good building system that benefits everybody, especially one that takes away the barriers that they have faced historically. They will appreciate it if future consultation on regulations and guidance takes account of disabled people's views, if consultation is accessible to them and if the membership of the BSAC takes account of

disabled people's accessibility and usability needs.

Finally, as I said in the written submission, when we spoke to people at the Dundee seminar which the Disability Rights Commission organised on behalf of the bill team, we asked them what they would look for in a building bill. They replied by listing peace of mind, physical and emotional safety, reliability and equality of opportunity.

Glyn Evans (Fire Protection Association): Convener, may I clarify whether you want me to make an opening statement or go through our evidence?

The Convener: An introductory statement will be fine.

Glyn Evans: I represent the Fire Protection Association, which is a non-profit-making organisation. It is a company limited by guarantee. Its roots are in the British insurance industry and it was one of a triumvirate of groups that consisted of the Association of British Insurers, the Fire Protection Association and the Loss Prevention Council. The FPA has moved away from its insurance roots and is now very much a fire community association. It has a wide-ranging advisory council, whose work stretches across the United Kingdom and many disciplines, and we welcome the opportunity to be here today to present evidence. We thank the committee for that.

Trisha McAuley (Scottish Consumer Council): We welcome the bill's general principles, which seek to modernise the system and make it flexible and responsive to consumers while ensuring that standards are in place and that consumers are protected.

As our submission states, the focus of our concern is the regulation of the construction industry. We work with the industry to improve self-regulation. The bill's approach to the national accreditation of constructors is an opportunity to do something about cowboy builders, who are the most common cause of complaints in Scotland and the UK. Last year, 110,000 people in the UK complained to trading standards departments about home improvements, repairs and maintenance, construction and double-glazing. That is just the tip of the iceberg. The problem is a huge one for consumers and the bill is an opportunity to do something about it.

The contents of the policy memorandum have not been brought to life in the bill. The bill is fragmented and process driven. We fear that lists of builders will end up gathering dust on shelves, while consumers continue to use builders who offer lower standards of service and less protection. Our submission contains some suggestions that might help and I am happy to elaborate on them.

09:45

The Convener: We will begin with general questions that are aimed at all three panellists, after which we will move to questions that are aimed at specific organisations.

Maureen Macmillan (Highlands and Islands) (Lab): Some of the witnesses have mentioned ways in which the bill might be improved. In as much as they have not already done so, I ask the witnesses to outline briefly the changes that their organisations want and to explain the reasons behind those proposals.

Trisha McAuley: I return to what I said about the processes in the bill. For us, they remain just that—a set of processes, which appear fragmented. The bill does not make it clear how the constituent parts will work together to secure the best outcome for consumers. The focus on process restricts the bill to addressing technical competencies in isolation from other key components of an effective framework, such as industry professionalism or consumer awareness.

For example, if the list of approved certifiers of construction—which we generally support—focuses only on technical merit, it has the potential to mislead consumers. If I want to build a house extension and I know that there is a national list of approved certifiers of construction, I will consult that list because we are told not to use cowboys. I might then hire a builder who has been proven to be technically competent and who can build a good extension that conforms to building standards. However, the builder might use unfair contract terms, such as asking me to pay up front, or his business could be financially insolvent and go down the tubes. Where would that leave me? I used a nationally accredited constructor, but technical competency is only part of the equation. Consumer awareness is another point. If people do not know about the lists, the system will fail.

I have read the evidence from previous witnesses and today's written evidence. Other bodies seem to be concerned about the lack of a joined-up approach. The SCC thinks that what is missing is an explicit reference to a central body in the bill. Such a body, which would join everything up and make the system work effectively, is mentioned in the policy memorandum. We want more about its roles and functions to be in the bill.

Glyn Evans: Our primary concern is the overlap with the existing fire safety enforcement regime in Scotland. Because the system is moving from a mandatory system to a functional system, in which the technical standards are guidance that people can adopt or not as they see fit, there will, in effect, be no consultation with fire authorities. It is important that fire safety measures are built in at the construction stage because once the building

is completed, it is far too late to ask for additional fire doors or staircases or for a fire alarm system to be added to the building, as the owner would have to hack off good plasterwork and so on. Under the new system, the fire authorities will be consulted only if there is a variation from the technical standards. At the moment, the system that Scotland has works well. We are moving to a system that is closely aligned to that in England in Wales, where there is a statutory consultation process that involves the fire authorities, the local authority, the building authority and a private approved inspector, if one is involved. In the bill, there is no statutory right of consultation with the fire authorities. Of course, that could be dealt with in secondary legislation: the building regulations could contain a requirement for the verifier to consult the fire authority.

Another concern is the effect of the approved certifier, who has considerable powers under the proposals. We can detect no requirement in the bill for that approved certifier to consult the fire authority—although, of course, that could also be dealt with in secondary legislation. As many of the decisions on fire safety in buildings are taken by fire safety engineers rather than through the mandatory standards, there must be careful consultation between the person who proposes the approach to fire safety and the fire authority, because, in Scotland, once the building is completed, the fire authority has responsibility for it under the Fire Precautions Act 1971 and the Fire Precautions (Workplace) Regulations 1997. Those two pieces of legislation are not particularly compatible. One is UK legislation and one is EU legislation that is designed to satisfy the framework and workplace directives.

The European legislation poses a problem. The bill gives the Scottish ministers the power to produce a continuing requirement. Under EU legislation that requires fire safety provisions in the workplace, the employer has responsibility, through a risk assessment, for providing fire safety arrangements in a building. Therefore, were Scotland to follow too closely the technical standards route, there is a possibility that people would end up not complying with the EU framework and workplace directives from which the Fire Precautions (Workplace) Regulations 1997 flow.

In England and Wales, Westminster is currently consulting on a completely new fire safety regime. At the moment, there are no such proposals in Scotland, and people will be left with the system that I have outlined, which is not particularly compatible.

On guidance documents, there has to be a procedure for how the verifier and fire authority consult each other and what powers the fire

authority has. Unfortunately, consultation can mean that people are consulted, they give their views and they are ignored. We take the view that members may need to consider making an authority an appellant under the bill. Then, if a fire authority feels that its views have not been taken into account, it could appeal against the granting of a building warrant.

The power to apply building standards retrospectively is also offered to Scottish ministers. Although we can understand the need for that, it may overlap with the powers that fire authorities already have in Scotland. Were ministers minded to do so, they could double-bank the requirements. That could also lead to conflict between European law, through the 1997 regulations, and the technical standards.

We very much welcome the creation of the building standards advisory committee. It is eminently sensible. When ministers come to consider the constitution and membership of that committee, we urge them to consider including representatives of the fire community—fire authorities and other bodies represented in the community, including insurance interests.

That concludes my evidence. I am more than happy to take questions.

Heather Fisken: Our main bone of contention is the fact that the technical standards may no longer be mandatory. We feel that the impact of that could be negative, unless, through other facets of the bill, we can strengthen the application and observance of equalities and so strengthen accessibility and usability.

As I said, we would like the definition of convenience in section 1 to be expanded to include explicit reference to accessibility and usability for disabled people. That is implied in the policy memorandum and in the explanatory notes, but the word “access” could be taken to mean access to entrances. Given what we feel disabled people are losing through the bill, we feel that we must emphasise that elsewhere, wherever we can. I cannot emphasise that strongly enough. It is a good opportunity to modernise the language of the law. If we are going for a modern system, let us modernise the language as well.

The bill mentions convenience. If a building is not accessible to disabled people, it is a lot more than inconvenient. They may not be able to access the service at all or they may have to travel to another location to do so, and they may not have the opportunity or financial means to travel. Our research shows that many disabled people live in households with an income of less than £10,000 per annum. There should be more accessible transport to enable them to travel to another location to access services, goods or

facilities elsewhere. People who provide services will lose out on business and will fail in their duty to meet the DDA regulations.

Some of our suggestions for the bill relate directly to the regulations that will come later. When regulations are introduced on the functions and duties of verifiers and approved certifiers, they should take account of equal opportunities. We realise that local authority verifiers and enforcement bodies are already covered by schedule 5 to the Scotland Act 1998. It will be more difficult to cover independent people and non-public bodies, but it would be wonderful if the regulations could take account of equal opportunities, especially when they come to produce information or reports for Scottish ministers. That would help such bodies to focus on access and equality for disabled people. They will have to think about it. It would also mean that Scottish ministers have the information to ensure that the guidance and the functional standards are applied consistently throughout Scotland and across building types.

10:00

Ministers will also have the information to ensure that people are properly approved and have the right knowledge. Gas installers have certain standards and are accredited. Much more recently a register of accessibility consultants was set up. It is based in London and there are not very many people on it at the moment, but it is growing.

We understand that other regulations will come later and that there will be a relaxation of building regulations. We urge people to think about potential future users and about changes of building use, which happens quite a lot now. We want people to think about that because it is much harder and more expensive to convert a building once it is built than it is to design it to be accessible.

We would like the building standards advisory committee and the consultation process to take account of equal opportunities. We understand that the bill might not be the right vehicle, but if we can get equal opportunities, accessibility and usability extended within the bill, the regulations that follow will be in a better position to take account of those issues.

The Convener: Fiona McLeod has a supplementary. Once she has asked that, we will move straight to her questions to the Disability Rights Commission.

Fiona McLeod (West of Scotland) (SNP): Robin Harper is going to ask questions of the Disability Rights Commission and I might be pre-empting his initial question, but I was interested in the fact that each of the witnesses talked about

the move from mandatory technical standards to technical guidance. Why does it concern you that we are moving away from mandatory standards to guidance? Why do you think that the Executive has decided to take that route?

Glyn Evans: The difference between mandatory and non-mandatory guidance is that the mandatory system that is operating at the moment is well known. If someone wants a building warrant, they have to comply with the technical standards. If someone wants to deviate from those technical standards, they apply for a relaxation. At that point, the fire authority would become involved.

The move towards non-mandatory guidance means that all kinds of guidance will be able to be fed into the system because there will be only a broad functional requirement that the building materials will not spread fire. We have had such a problem in England and Wales. I am just using that as a demonstration. The approved certifier or verifier will have to use the submission that is put before them to determine whether that functional requirement is achieved. He or she could be presented with a wide variety of guidance.

As the bill stands, in Scotland there would be no consultation with the fire authority at that stage. That will leave a gap. Potentially, a fire authority could inspect a completed building that might pose them problems. That is the fundamental problem. The experience that we have gone through in England and Wales makes us concerned that there should be a clear, concise and statutorily guaranteed consultation process.

Heather Fiskén: The fact that the technical standards in Scotland are mandatory and prescriptive provides a level of access, although it is not necessarily a particularly high level. The standards include provisions about the gradient of ramps, for example. Unfortunately the standards are applied inconsistently. We have been advised that my colleagues in London look jealously on the mandatory status of technical standards in Scotland, because the approved document in England and Wales, which is the equivalent of the technical standards, has guidance status. I have been informed that it is expected that when the technical standards become guidance, people will follow the guidance and refer to it, as is the case in England and Wales. That seems to go against the idea of innovation, but there you go.

The standards are applied inconsistently, so we hope that the regulation of verifiers and certifiers means that they will be able to enforce the guidance and lead us towards a better solution and innovation that will provide access. We understand why the change is happening, but for us—disabled people—it is a great loss that the technical standards are to lose mandatory status.

We need to strengthen the bill elsewhere.

Trisha McAuley: We do not have a view on whether technical standards should be mandatory. We do not feel qualified to comment on that.

Robin Harper (Lothians) (Green): My questions are for Heather Fiskén. You have made your opinions on the move from mandatory standards to technical guidance clear, so I do not need to ask further about that, but it would be useful if you were to comment on the part that is played by private sector verifiers. Could they be relied upon to serve the public interest, particularly in relation to disabled access to buildings?

Heather Fiskén: That is, in a sense, difficult to visualise. However, I go back to my earlier point: when regulations are developed for certifiers or independent verifiers it will be important that they are, through being competent and qualified, charged with taking account of accessibility and usability. They should also perhaps be required to report on how they are doing things and why they are doing them. We would look for certifiers to present what is known as a statement of access that lays out how access will be provided if a design is particularly innovative and it is hard for people to see how that would happen.

It is difficult to give a yes-or-no answer to Robin Harper's question. I will say that we will welcome change, because the current system has attracted criticism from disabled people on access panels: the change could be positive. The answer to the question will depend on how the change is achieved, what regulation is placed on independent verifiers and how they are monitored by the new body the Executive may set up in three or four years' time.

Robin Harper: Thank you for that answer. Would you press for the mandatory technical standards to be kept?

Heather Fiskén: We cannot say yes in response to that question, because technical guidance is the solution that the Executive has presented in response to the European directives. We are disappointed about the loss of mandatory status, but provided that the bill will provide for and ensure access and usability, we cannot say that we want that to be done in a particular way. We are more interested in the end result.

Robin Harper: So, your observations on private sector verifiers are extremely important.

Heather Fiskén *indicated agreement.*

Robin Harper: Should the bill place a duty on local authorities to make building standards registers and standards documents available in accessible formats—for example, in Braille?

Heather Fiskén: Yes—absolutely. Access

panels are an important source of information for building control officers in some local authorities, although not all local authorities support local access panels. It is important that disabled people have access to that information, so that they can apply it themselves.

We make the point in our written submission that developers and so on have a channel of communication with verifiers, because they deal with verifiers when they apply for building warrants. However, disabled people and other members of the public do not have that channel of communication through which to say, "Excuse me; I think there's been a breach." We would welcome something like that from local authorities as enforcement agencies. Under the Disability Discrimination Act 1995, a disabled person who has been discriminated against can come to the DRC and we can mount a case against a service provider. However, if a building is in breach of the convenience function or other standards, there is no way for the public to report that or to ask the enforcement authority to take action.

The Convener: Fiona McLeod has questions specifically for the Fire Protection Association.

Fiona McLeod: The committee has heard evidence that the self-certification of design and construction could compromise the structural safety of major buildings. Do you think that it could also have implications for fire safety?

Glyn Evans: The issue revolves around the degree of control that exists over the certification process, which is the absolute bottom line. The degree of control and consultation that the bill requires between the building control authority—"the verifier", as it is termed in the bill—the fire authority and the approved certifier gives a lot of power. However, there does not seem to be much opportunity to challenge what is being certified. The way in which to deal with the problem is to ensure that private certification is controlled and that there exists the possibility of questioning it, which will ensure that what is being proposed is the best fit for a certain building.

I hesitate to say it, but that is the way in which the system has had to develop in England and Wales. Under the building regulations in England and Wales, there have been continual improvements to the approved inspector regulations so that, in such circumstances, those bodies or persons are involved in consultation with the fire authority. There is a system of checks and balances.

Fiona McLeod: Should the bill state that the fire authorities be statutory consultees?

Glyn Evans: Yes. Historically, Scotland has led England and Wales. Scotland was the first country in the UK to include in its building control

procedure a requirement for fire safety provisions, such as means of escape, fire alarms and the provision of access and facilities for the fire service. England and Wales trailed Scotland by 10 years and did not make such statutory provision on fire safety until about 1973. We are aware of how the fire safety situation has developed in Scotland.

Fiona McLeod: Should provision for fire authorities to be statutory consultees be included in the bill or in the guidance to the bill?

10:15

Glyn Evans: Our experience is that such provision should be statutory. However, the provision can be put into the bill or into secondary legislation in the form of regulations. In relation to the Building Act 1984, the provision for fire authorities' being statutory consultees is included the bill, as it is in the regulations. How that provision is dealt with in Scotland is a matter for the Scottish Parliament. On balance, we would prefer the provision to be in the primary legislation so that it is eminently clear to everybody that fire authorities should be statutory consultees.

Fiona McLeod: If fire authorities were statutory consultees, would that also ensure that all fire safety issues would be taken care of through the proposed private verifiers?

Glyn Evans: That is essential, because Scottish ministers will ultimately have the power to determine who the verifiers will be, whether they be private verifiers or verifiers from an existing local authority building control department. In any case, a verifier should be required to consult the fire authority before granting a building warrant. That would ultimately save money as well as enhance the fire safety requirements in buildings, which would be built in, rather than strapped on later at a cost.

John Scott (Ayr) (Con): My question is for the Scottish Consumer Council—the SCC. Will the introduction of private sector verifiers be in the interests of consumers?

Trisha McAuley: Our response must follow from what Heather Fiskin and Glyn Evans said. The keys to ensuring that the new system works are quality control, audit and the role of regulation. We have no problem with changing how the verification system works because there are sometimes many delays in building control, and the new system could be more convenient and quicker for consumers. It does not matter whether the verifiers are from the private or the public sector as long as they are transparent and accountable.

John Scott: That is fine. Is there a role for the Construction Licensing Executive Ltd, in which the

SCC is represented, in the appointment and monitoring of approved certifiers?

Trisha McAuley: I can foresee that there would be a role for that body. Our evidence shows that the building industry is working hard to clean up its act. The industry is following best-practice principles, from the consumer perspective. I am the vice-chair of the board of the Construction Licensing Executive and the representative of the Society of Chief Officers of Trading Standards in Scotland is in the chair. We like the bill's policy memorandum's approach to the effect that the Executive should work in partnership with the industry. There is no doubt that if the industry takes the initiative, it will be accountable for its actions. We would welcome that.

However, regulation and the Building Standards Advisory Committee's role will be crucial. The new framework should underpin the self-regulation that is happening through the Construction Licensing Executive. Those organisations must work together, but the role that we envisage for the CLE has an element of independence from the industry although it works in partnership with it. That independence is crucial.

John Scott: You have expressed concerns about the accessibility of the proposed building standards registers, which are to be maintained by local authorities. How could the bill be improved to ease those concerns?

Trisha McAuley: I think that we address that in our written submission. We go along with what Heather Fiskén said. The bill says that

"Building standards registers must be kept open",

which is a rather passive statement. There is a difference between availability and accessibility. It is vital that building standards registers be in accessible formats, that they be held in places to which the public go—such as libraries—and that local authorities have a duty to publicise their existence. There is also the thorny question of fees. I can elaborate on our views on fees, if members wish it. Charges will reduce accessibility.

John Scott: You may elaborate, but be brief.

Trisha McAuley: As I said, charging to see a register reduces its accessibility. That has a greater effect on those on lower incomes who are less able to pay such charges. In principle, no costs of the new system should be passed on to consumers. However, we realise that local authorities also have resource constraints and although we would prefer in principle that there be no fees, we cannot see why the situation should be any different from, or not fall under the requirements of, the Freedom of Information (Scotland) Act 2002 and the fee structure that goes along with that act.

The Convener: That brings us to the end of our questions to you. You have a final opportunity to make other points that you have not yet made.

Glyn Evans: I will make one quick point, which is in paragraph 1 of our submission. I plead that the committee consider defining the term "others"—which is used in section 1(1)(a)—in the interpretation section so that it includes emergency services personnel, in particular firefighters when they are carrying out rescues and firefighting. The bill would then also allow for their safety to be considered by those on whom its provisions fall.

There is a typographical error in paragraph 1 of our submission. It refers to

"Essential Requirement 5 of the EC Construction Products Directive".

That should read "essential requirement 2". I apologise to the committee for that error.

Heather Fiskén: I reiterate that disabled people rely on the building standards and the building control system to provide access. As reported at the end of the Dundee seminar that we held in June for the bill team, disabled people need reliability. They need to know that if they are going to travel somewhere to use a service or buy something, they can access it. That is very important from their perspective.

The Convener: I thank Heather Fiskén, Glyn Evans and Trisha McAuley for their evidence, which will assist in our consideration of the Building (Scotland) Bill.

I will allow the committee a two or three-minute break while we bring the next panel of witnesses to the table.

10:23

Meeting suspended.

10:27

On resuming—

The Convener: I welcome our second panel of witnesses on the Building (Scotland) Bill. Bob Christie is from the Convention of Scottish Local Authorities, and Bob Renton and Iain Ross are from the Scottish Association of Chief Building Control Officers. I understand that both organisations wish to make opening statements. I stress that I want those to be brief; we have a tight agenda and we need to make progress and get on to the question-and-answer stage. I invite Bob Christie to make his opening statement.

Bob Christie (Convention of Scottish Local Authorities): I thank the committee for the invitation to contribute evidence. COSLA, as the

committee knows from our written submission, supports the general principles of the bill. We acknowledge the open consultation process that the Scottish Executive has undertaken. We also acknowledge the professional expertise and practical experience of the Scottish Association of Chief Building Control Officers, who are with us today. They have some reservations about the bill, despite the general principles, and COSLA shares those.

Those reservations fall under two headings. First, the building standards system exists to protect public safety and to encourage sustainability. We believe that it is essential that the system therefore continue to meet the four criteria of being impartial, transparent, accountable and consistent. Impartiality is particularly important and we urge the committee to satisfy itself fully that the bill will meet those criteria.

Our second reservation is that, as with any change to the operation of a local government service, consideration must be given to resource implications. We share the reservations that have been expressed by the Scottish Association of Chief Building Control Officers about the resource implications that will arise specifically from three of the bill's proposals: the duty on local authorities to provide building standards assessments at the request of owners; the duty to comply with a ministerial direction requiring building standards compliance; and the duty to make building standards registers available for public inspection, to which—given the earlier evidence—we may return later. Those are all new duties that will have new resource implications.

10:30

I must make it clear that I have no personal or professional expertise or practical experience in this field, so I have little to add to the SACBCO evidence. I do not wish to comment on matters that are outwith my knowledge and so possibly mislead the committee, but it is important that COSLA should be able to advise the committee on matters that concern resourcing of a local government service. I am grateful for the opportunity to give evidence.

Iain Ross (Scottish Association of Chief Building Control Officers): My association represents the chief building control officials in the 32 local authorities in Scotland. At this stage, we want to place on record our appreciation of the work of the Scottish Executive's building standards division and of the amount of consultation that has taken place to prepare the bill. The bill as drafted addresses the reality of current building design and construction and it goes a long way towards meeting the shortcomings that have been identified in the present system.

The convener has asked me to brief, which I will be. The bill presents clarity of purpose in a clear and concise manner. It forms a robust base and includes credible enforcement powers. It builds on the experience of practising building standards professionals but—there is always a but—we have some concerns, which we highlighted in our written evidence and that we hope will be brought out later in the debate.

The Convener: The first group of questions is aimed at all of the panel, so I ask the witnesses to indicate whether they wish to answer. I note Bob Christie's wish to let Iain Ross and Bob Renton deal with technical matters. John Scott will open with some general questions.

John Scott: Several witnesses have expressed concerns about the fact that the bill will place the duty to apply for building warrants, amendments and completion certificates on building owners, rather than allow an agent to act on their behalf. Does the Scottish Association of Chief Building Control Officers share those concerns?

Bob Renton (Scottish Association of Chief Building Control Officers): In practice, we probably do not. The current system, whereby an agent acting on behalf of an owner can in effect fulfil the function of the owner, does not present difficulties. The legal position is that ultimately the owner has the legal responsibility to comply both with the minimum standards and with the procedures. The fact that an agent works on the owner's behalf is not considered to be a problem.

Iain Ross: I agree with Bob Renton. It has always been recognised that the bottom line is that the owner carries the final responsibility. I do not see another way of moving from that.

Bob Renton: I will clarify one aspect. There has been some debate about the position of tenants who seek authority for alterations through the warrant application process. Our written evidence suggests that much of the doubt about the responsibility of the owner could be clarified if a declaration was made at the stage at which the application for a building warrant was made. The application could clarify the status of the applicant and, if the applicant is not the owner, the application could clarify whether the owner has been advised.

Also, applications could seek a declaration of ownership of the property in question, especially if the application is for an alteration, extension or conversion. It is not unprecedented for a building warrant to be granted to a person who has no legal right to a building, so there are issues attached to that. However, the principle of an agent's acting on behalf of an owner is not considered to represent a problem.

John Scott: The City of Edinburgh Council's

written evidence to the committee argues that building controls should apply to areas such as car parking and footpaths in new housing developments. Does the Scottish Association of Chief Building Control Officers support that proposal?

Bob Renton: Absolutely. The requirement for safe access for the fire brigade and for access for the disabled should in effect start from the public road. These days, most of the roads in multiple housing developments and in private mews developments in particular are in private ownership. It is right and proper that building regulations should apply to such provision.

We support fully the suggestion that factors such as flooding and contamination through surface water should come within the remit of building standards.

The Convener: I want to return to John Scott's initial question, because I am a little confused myself. You say that you do not see a problem with agents applying for building warrants. My understanding is that, under the bill, the requirement to apply for building warrants would be placed on the owner instead of the agent.

Bob Renton: That was not our understanding from our discussions with the Scottish Executive. Although the bill specifically mentions the owner, our understanding is that it will not alter the status quo.

The Convener: When they gave evidence last week, the professional bodies that represent the surveyors, architects and so on were of a different understanding.

Iain Ross: If the situation were to change and an agent were not allowed to apply for a warrant, about 75 per cent of the applications that are submitted to Scottish local authorities would have to change their application deposit, because they come under the names of agents who are acting on behalf of an owner. I foresee severe problems, for example with owners not knowing how to make submissions.

The Convener: It is good that we have clarified the matter. I hope that it is simply a misunderstanding, but there is a clear difference between your view and the view that the professional bodies gave in evidence last week.

Fiona McLeod: Bob Renton and Iain Ross have said that there might not be a problem as long as the application has to state the owner. Perhaps we should feed that suggestion into the bill.

John Scott: Several previous witnesses have stated that they would like to see a duty placed on owners to make regular inspections of buildings. Would the witnesses support such a proposal and, if so, how could it be made to work?

Bob Renton: Our association supports that proposal in principle. After all, recent evidence from the Edinburgh fatal accident inquiry has indicated a lack of commitment from owners to maintaining their own buildings. We like the fact that the bill links defective and dangerous buildings, because a defective building can quickly become a dangerous one.

Since we submitted evidence to the committee, we have discussed the matter again and feel that we would like to investigate the duty placed on individual owners to carry out planned maintenance of their properties in order to avoid defects. However, it is difficult to know how that could be implemented through statute. Perhaps it could be included in the guidance documents that back up the whole system. By including that duty in guidance, we might increase awareness of the problem and allow the monitoring authorities and private individuals to engage in partnership working. That might even include people who own more than one property—for example, those who own tenements—because many problems arise because of landlords rather than private individuals. Problems with rectifying defects in such properties generally result in the need for enforcement action, primarily because individual owners cannot agree among themselves. As a result, no one actually carries out planned maintenance. As I have said, although the principle is important, we are not too sure how it can be implemented through statute, unless it happens through guidance.

John Scott: Fair enough.

Does your organisation have any concerns about the proposed system for setting fees and charges? If so, how could they be resolved?

Iain Ross: It is fair to say that, as we represent local authorities, we have a serious concern. We welcome much in the bill, but it places a considerable load on local authorities. Building assessment will be a huge demand. It replaces letters of comfort and qualifying statements, but could apply more widely than them.

We are interested in the fee structure. The changes to self-certification of design and installation provide the opportunity for a fee scale. Local authorities might not receive the full fee—that would depend on how a developer made his application. That also concerns us.

We are concerned that the bill refers to ministers not permitting local authorities to follow the tradition of vetting their own applications. We appreciate the reasons why that might be a difficulty, such as the need for transparency, but we must be aware of that proposal's significant implications for local authority income.

We will be interested in the fee structure. The

association has argued for a considerable time that the building control fee structure has never been fully investigated. On the surface, we as a building control authority deal with building warrants. In reality, we deal with building warrants and dozens of other matters for which we receive no fee. If we are considering the building control system's funding, we must consider it in the wider sphere and not consider only building warrants, because the playing field out there is far bigger, and local authorities do much stuff for which they are not paid but which is paid for from our budgets.

Bob Christie: I fully support the statements that have been made. The association has long called for a review of fees and charges. We welcome the Executive's recent initiative of writing to all local authority chief executives to start the review of fees and charges, which was announced after we submitted our written evidence. However, COSLA and building control officers want to be involved in analysing the information that all the local authorities provide and in discussing the setting of new fees and charges. That exercise must be owned by all stakeholders.

Robin Harper: My questions are for COSLA. COSLA's written evidence—it was reinforced by your remarks this morning—says that

“only local authorities are able to fulfil”

the criteria of impartiality, transparency, accountability and consistency. Given that, does COSLA support the proposed introduction of private sector verifiers? How do you justify your answer?

Bob Christie: That is a good question. We support verification by any organisation that can meet those four criteria. However, we do not give the criteria equal weight. Consistency is perhaps the least important criterion, although it was highlighted in earlier evidence. The system exists for public safety, so impartiality is the most important criterion and accountability is a close second. If the system exists in the public interest, it must be accountable to the public. Local authorities are accountable to the public. It is difficult to identify any other verifier that could hold that accountability and be held to account.

Robin Harper: How do you justify your position on consistency? You seem to relegate it to a lesser status.

Bob Christie: All four criteria are important. We have said that all four should be met. However, a judgment must be made about their relative importance. For us, consistency does not have the status of the others. However, we acknowledge that the bill provides for greater consistency throughout Scotland. If that can be achieved with the resourcing that is available to local authorities,

we will fully support it.

Fiona McLeod: My question is for the building control officers. If we have private verifiers, they will not be accountable in the same way that a local authority is, but how can we ensure that they are accountable individually and professionally?

10:45

Iain Ross: That is a very difficult question to answer. Essentially, my association accepts that there is an issue around private certifiers. If a level playing field is provided, and if private certifiers meet the same criteria that apply to others, we see no reason why they should not be introduced at some stage. The difficulty lies in making the guidelines and monitoring rigid enough.

Private certifiers have operated in England and Wales for five or six years, and it is felt that there is not enough evidence to show that they are independent, transparent and so on. Until that can be clearly demonstrated, we would have concerns about their introduction in Scotland.

Building control has always been about the health and safety of people in and around buildings. Everything is based on that. The building control profession, and indeed legislators in Scotland, can be proud about the lack of deaths through building failures in Scotland over history. Compared with other countries, we have a tremendous record on that, and we must ensure that it is retained. If it can be demonstrated that private certifiers are independent and transparent, and if restraints and checks can be put in place, their position becomes viable. However, we have to be sure that the checks are there before those certifiers are introduced—that is the bottom line.

John Scott: You say that not enough evidence has come from England and Wales to show that the private sector verifiers have been impartial, transparent, accountable and consistent, but is there any evidence to show that they have not been those things?

Iain Ross: It is probably fair to say that there has been no real in-depth investigation into that. On the basis that we do not have a clear, definitive guide, it would be a leap in the dark to allow private certifiers to work in Scotland at the present time. If someone could produce the necessary statistics or evidence, then there would be a case that they could be introduced immediately. Failing that, there has to be in-depth investigation into how the system is working in England and Wales. To my knowledge, such information is not to hand at this time.

John Scott: Is there dissatisfaction with how the system is working in England and Wales?

Iain Ross: Obviously, I cannot speak for

England and Wales, but we do liaise with our colleagues down south. I think—hopefully Bob Renton will agree—that there are some concerns with the system as it operates down south.

Bob Christie: Unfortunately, COSLA became aware of individual local authorities' submissions of written evidence only after we had submitted our own written evidence. I am conscious that the City of Edinburgh Council explicitly offered the committee the opportunity to take evidence from Birmingham City Council, Manchester City Council and Sheffield City Council, because of their concerns about the operation of the system in England. I hope that the committee will be able to avail itself of that informed practical evidence of how things have been operating down there.

Robin Harper: Is there an audit system built into the system in England and Wales?

Iain Ross: I cannot give you a definite answer to that, but I am not sure that there is one covering private certifiers.

Robin Harper: The policy memorandum proposes that local authority building control departments should be subject to audit by the central building standards body, the proposed building standards advisory committee, in addition to the work that is already undertaken by the Accounts Commission for Scotland. Do you support that proposal, and can you justify your answer?

Iain Ross: We support it 100 per cent. We see no reason why local government building control authorities should not be audited as thoroughly and rigorously as anyone else is. I add the caveat that the bill does not say that private certifiers should be audited. We would consider that, if private certifiers are to be introduced, they should be subject to the same rigorous examination as local authorities. The association has absolutely no problem with the proposal.

Robin Harper: That follows on from my question about the English system. I put the same question to Bob Christie of COSLA.

Bob Christie: We have to rely on the professional advice of our officers on this matter. If they believe that further auditing is in the public interest, so be it. However, I am conscious of the fact that there should be some opportunity for peer review in that auditing.

There is a relatively new Accounts Commission for Scotland initiative on local government's trading standards function. The commission produced its "Made to measure?" report in recent weeks, and the new system appears to have worked well. It is important that a review or audit of local government services should be informed by other local government experience—perhaps by

the experience of another group of local authorities.

Fiona McLeod: Guidance will be issued on the approval of the private verifiers. Given that local authorities will be audited, which you welcome, is it the case that confidence in the verifiers will rest in the guidance on their approval?

Bob Renton: As was suggested in earlier evidence, it will very much depend on how the system is controlled and monitored. I will re-emphasise what Iain Ross said. We expect private verifiers to be subject to the same rigours of audit and monitoring that apply to other verifiers.

We argue strongly that a person must have expertise in the building standards system in order to be a verifier of building standards. We made that point in our submission. It is not simply a matter of having expertise in a specific profession or trade; the verifier needs to have expertise in the system. One way of achieving that is to utilise the professional expertise of the building control profession.

We also have a slight concern that the proposed building standards advisory committee is charged with the appointment of verifiers and with monitoring their performance. It has been suggested that the local authority, as the enforcing authority, will also have a role in assessing the competence and performance of private verifiers. We are not sure how that will work in practice.

Our concern is with how the building standards advisory committee will carry out a monitoring role if it is also to operate as a verifier. It would seem that there is a need for two separate bodies: one that is charged with adjudication and monitoring and another with the verification role. There is a debate about how the detail of those arrangements should be rolled out.

To examine the principle of private verification we have to go back to the original aims of the bill, which were to increase innovation and flexibility and the individual's ability to access other forms of verification. Our association does not have a problem with that principle. As Bob Christie and Iain Ross said, we are concerned that there should be correct and robust monitoring of competence. The first test must be a correct assessment of competence. We have a long way to go in the detail that will be required to establish a level of competency that is suitable to meet the criteria that are defined in the principles of the bill.

Robin Harper: If all the caveats that you have expressed about the introduction of private verifiers were taken on board in the bill and in regulation, would the introduction of private verifiers drive up building standards?

Iain Ross: My gut reaction would be yes and

no. I would argue that the building standards standard of excellence is fairly high at the moment. The introduction of private verifiers would certainly put local authorities on their mettle, but I am not sure that private certifiers would deliver a higher standard than the local authorities are delivering at the moment. To be perfectly brutal, if competition is introduced, people have to look over their shoulder to see who is chasing them—they need to ensure that they have got their act together. That said, I defend the local authority building control system and doubt that a private certifier could produce a higher standard.

Fiona McLeod: I am interested in that. I know that you have said already that you cannot comment on England and Wales, but when we heard from the users of building standards, they were pleased that the introduction of the system in England and Wales—I cannot remember what it is called there, but it is similar to the proposed system of private verifiers here—had sped up the process, but thought that it had not driven up standards.

Bob Renton: Speed of approval is the aspect on which we find it difficult to defend our overall performance. The standards that have been applied throughout the past 40 years or so through local authority building control without debate have been successful in achieving safe buildings. However, we are aware of the performance levels with regard to speed of approval. I argue strongly that speed should not be the only measure. There must be recognition of the quality of the decision at the end of the day. Anybody can produce a fast approval, but will it be robust? That should not be forgotten. As Iain Ross said, competition is a challenge, but that challenge can be met only by adequate resourcing of local authority functions. We have made that clear.

Bob Christie: I reiterate the point that an offer has been tabled to let the committee benefit from three major English local authorities' experience of running a system for some time. As the committee has benefited from users' experience, it is probably only appropriate to gain the benefit of the English local government experience to counterbalance that.

The Convener: I have taken that point on board. It is unlikely that we will seek to take oral evidence from those local authorities, but we will seek written evidence from them.

Robin Harper: This is my last question. I remind Bob Christie of his comments on consistency. Some witnesses have highlighted concerns about inconsistency in decision making between local authorities. Do you acknowledge that that may be a problem and, if so, do you think that the bill will address it?

Iain Ross: Yes. I would have thought that any local government officer who said that there was consistency across the spectrum would be lying. There is inconsistency. The Scottish Association of Chief Building Control Officers has worked hard with its member authorities to try to remove some of that inconsistency but, ultimately, the interpretation of a regulation comes down to the individual officer who is looking at the regulation. Given the number of authorities and the number of officers that we have, there will always be inconsistencies, although we are working hard to eliminate them.

The bill will help. The concern about removing mandatory standards was mentioned earlier. We are not so concerned. The building industry is moving on dramatically. There are new innovations every week, and the technical standards are running to catch up. The bill affords the opportunity to allow designers and developers more flexibility in how they submit a design to the building authority for compliance. It is up to the building control authorities—whether private or public—to have enough professionalism to deal with those innovative designs and to get them to match the standards. Saying that something must comply, otherwise it is unacceptable, is not viable in this day and age. We need to say, "This is what we are trying to achieve. There are ways of doing this. This is our suggestion. Do you think that that fits the bill?" It is up to the local authorities, if I may speak for them, to say, "Yes, we think this works. We can accept that."

Bob Christie: One of the reasons why consistency is not so important to us is that we recognise—as I am sure the committee does—that different areas have different needs. That recognition is embodied in the bill as well. The example that is given in the explanatory notes is about access for fire engines on islands where one cannot get a fire engine.

Consistency does not really matter, so long as the building standards themselves are being complied with. That is the key point. Recognition that there is legitimate divergence between areas is perhaps quite a good thing, if we consider how the Scottish system has diverged from the English and Welsh systems on energy conservation.

Fiona McLeod: I wish to tease out the difference between consistency and flexibility. You said that you could deal with the change from mandatory technical standards to technical guidelines because it would allow flexibility. Would that apply to everything that you talking about? We have heard from the Fire Protection Association and about disability access. Do you not think that that flexibility may lead to inconsistency and that folk may achieve only the minimum rather than go for the best?

Iain Ross: That is a good question, and it touches on something that Bob Renton said. The granting of building control permission is about not speed but quality, and we need a professional service that is able to address such questions. There will be some legislation in tablets of stone for considerations such as means of escape from fire—for example, buildings must have X number of stairs to comply with the standard. How the stairs are designed may vary, and it is up to the professionals to come to a meeting of minds of how that is done. Therefore, although it might seem that there is a conflict, I am not sure whether it is as great as has been suggested.

11:00

Robin Harper: If I may reflect back, would it be correct to infer from what you are saying that we will gain considerably more from the swings of flexibility by moving to technical guidance than we will lose by abandoning the roundabouts of mandatory standards?

Iain Ross: I think that the association would agree with that comment completely.

Fiona McLeod: I have a few specific questions for the building control officers. In your written evidence, you highlight concerns about cowboy builders using exemptions from building control to avoid accepting responsibility for poor workmanship. Will you expand on those concerns and advise us how we should tackle them in the bill?

Bob Renton: There is a fundamental anomaly in the current standards whereby buildings are exempted through statute, sometimes simply because of their size. Exempted classes also cover buildings such as nuclear installations. We would argue strongly for the principle that exemptions should apply to a building type only if other equivalent regulations govern its construction. Equally, even if a building is exempt from the need for a warrant, it should not be exempt from the need to comply with building standards. We would want that anomaly to be removed, because it does not make sense to us as practising professionals.

I will give you an example. Someone might want to build an office extension to their house from which to run their own business. If they add an extension of 28 sq m, it will require a building warrant and full compliance with all the building standards. If they decide to erect a detached building of 28 sq m, it will be exempt from the need for a warrant and compliance with building standards. That issue needs to be addressed.

On the specific point about cowboy builders, if the buildings are not controlled, through either the warrant process or the need for compliance with

standards, what fallback does an individual owner have against a builder who does shoddy work? There are no standards that he needs to meet. If there were an inherent need to meet a standard of construction under the legislation, the question whether a warrant is needed would almost be a side issue. The fundamental principle would be that buildings must be built to minimum standards, and whoever builds them must meet those standards. That would contribute to the legitimacy of a builder.

The problem of cowboy builders is huge and includes the VAT position. Many fly-by-night builders take cash in hand and pay no VAT, so the individual owner gets a cheaper job. Therefore, building standards cannot control all the problems of cowboy builders, but we would argue that re-examination of the exemptions offers the opportunity to marginalise the activities of such rogue traders.

The other main opportunity that the bill presents arises from the guidance documents, which will form a significant part of the future. If those documents promote the use of competent tradespeople and highlight the consequences of using people who are other than competent, they will contribute to the main aim of having a robust building standards system.

The bill is not only about minimum safety standards; it covers welfare, convenience and the general good of buildings and the building standards system. The wider aims and scope of the bill provide an opportunity to target those elements. I do not necessarily mean that we need to control through building control, but that a general awareness is required.

Fiona McLeod: Will the extensive use of self-certification by design and construction firms lead to problems that are similar to those you mentioned in relation to exemptions?

Bob Renton: Self-certification is a double-edged sword. It might be acceptable to say that not all building types need a warrant, but, to reiterate, it is not acceptable to say that not all building types should comply with standards. One option is that approved certifiers of construction and certifiers of design could decide whether particular buildings meet the minimum standards. If that is a legitimate proposal, there should be a statutory requirement for such certification and for the certificate of minimum standards to be submitted to the enforcing local authority to be included in a building standards register.

Fiona McLeod: Might the new Construction Licensing Executive's approved codes of practice help to ensure that that happened? A private certifier would have to follow an approved code of practice or ensure that the builder or designer had

followed the approved code of practice.

Bob Renton: The principles are correct, but the implementation has a long way to go. I am concerned about licensing systems that are operated by the trade but which are not subject to audits or monitoring. I return to my point about the level of competency that is required for certifiers. The system must concentrate on more than a certifier's specific trade or profession and must take account of all the issues that are associated with building standards, including the competency under the licensing scheme of the builder or tradesperson. We support the principle of licensing schemes, but their detail and robustness is yet to be fully confirmed.

Fiona McLeod: On many issues, we await the guidelines, guidance and regulations. One concern is that we might be fragmenting who does what on which bit of a building. How can we ensure that we end up with an holistic system?

Iain Ross: That is a danger. As Bob Renton said, if—as is proposed in the bill—we are to have approved certifiers of design and approved certifiers of building, the register of those certifiers must be robust and must be audited and monitored continually.

I am sure that members are aware that certain trades have a list of approved members. For example, the Council for Registered Gas Installers has a list of approved installers. We have found, as have other local authorities, that when we are concerned about an installation, we might suddenly discover that the chap with the CORGI certificate no longer works for the firm involved. No checks are made on the list. If someone is approved as a certifier, we must know that that approval is valid on the day that he submits the certificate to the local authority. There is a huge gap, and we must tease out how we can ensure that the system is robust, because it will stand or fall on that. Your point is well made. If someone certifies a particular part of a building, the local authority, as the verifier, would check the list and be obliged to accept the certification. We would not know at that stage whether the certifier was a bona fide operator; we would assume that he was, because he was on the list.

We have to consider very carefully how to put checks and balances into the system, if we are not to go down the line of having fragmented buildings with parts that we are happy with and parts that we think might be okay. The emphasis would be shifted away from one authority being responsible for everything towards a triumvirate of authorities feeding into the centre.

Fiona McLeod: In written evidence you said that you support firmly the introduction of penalties for late applications for a building warrant, which is

a thorny issue. What penalties do you consider to be appropriate?

Iain Ross: I do not think that that is for us to decide. One applicant might make an application before starting work and might go through the full process of getting building control permission, while being monitored throughout. Another applicant might finish a two-storey extension to their house before coming to the local authority; that might sound daft, but it could happen. They are entitled to do that so long as they have not applied for or given notice of a completion certificate. Surely there should be a penalty on the latter applicant. Why should they take advantage of the system? How can a local authority know that the work has been done competently? The penalties must be heavy.

The association welcomes the introduction of stop notices in the bill, and I hope that we would pick up the illegal work. There are areas out in the country where buildings go up and nobody knows about them until they are well advanced. It is not for us to decide the level of penalty, but we would want it to be substantial.

Fiona McLeod: You support substantial penalties—presumably financial—but you also mentioned the stop notices. Should part of the enforcement procedure provide more power to ensure that a building can be stopped, rather than, on completion of the building, the process ending in legal battles with people saying, "Take it down by two feet or pay me money"?

Iain Ross: We would support 100 per cent the introduction of the stop notice. We tend to be fairly pragmatic and try to negotiate, even with people who break the rules. Unless the building work is horrendous, we are not in the business of telling people to take down the building and start again. We always try to negotiate.

Local authority building control would not go the whole way with the law, except as a very last resort, for two reasons. First, the legal system is not particularly supportive of building control's taking legal action against owners. Secondly, if things cannot be resolved, the implication is that local authorities should do the work themselves and recover costs. It is a brave local authority that goes down that road, for very obvious reasons of recovering costs and the hassles that go with that.

The stop notice would certainly be a benefit. It would be interesting to see how well it would work in practice. Local authorities serve notices and get general responses. On occasion, they serve notices and get absolutely no response. The same thing might happen with stop notices, but the stop notice would give us an immediate power, whereas the section that we serve gives the time span for someone to keep going and ignore us.

On that basis, we would support stop notices.

John Scott: Would self-certification be all right for minor projects, but not for major projects?

Bob Renton: The principle is the same. The correct measure is the competence of the certifier, and there might be a graduated competence level. Some certifiers might be perfectly capable of certifying small buildings but not capable of certifying large projects. It all comes down to the way in which the system is framed and monitored. There could be a graduated system. The important point is not the competence in a single expertise, but the competence of the overall project. Building standards are so linked between trades and professions that someone who is not capable of assessing the overall aim or requirement could not be an approved certifier.

The Convener: That brings us to the end of our questions for this panel of witnesses. I thank Bob Christie, Iain Ross and Bob Renton, whose contributions have been helpful. We will take up Bob Christie's suggestion and pursue evidence from English local authorities on the bill.

The committee will move into private session for a brief period. We shall reconvene in public in approximately 20 minutes, when we will take evidence from the Minister for Enterprise, Transport and Lifelong Learning.

11:15

Meeting continued in private.

11:42

Meeting continued in public.

Budget Process 2003-04

The Convener: I welcome the Minister for Enterprise, Transport and Lifelong Learning, Iain Gray MSP. Supporting Iain Gray are officials from the Scottish Executive Geoff Pearson, Jonathan Pryce and David Dow. Welcome to you all.

Item 5 on the agenda is our stage 2 consideration of the Scottish Executive's budget. This year, the Transport and the Environment Committee has chosen to concentrate on transport. I will give the minister the opportunity to make some introductory remarks in relation to the committee's findings on the Executive's budget. After that, we will move into questioning on the evidence that the minister has given and the written documentation that has been submitted in advance.

The Minister for Enterprise, Transport and Lifelong Learning (Iain Gray): The draft budget document was published last Thursday. It provides detail to level 3, fleshing out the shape of the programme that we announced in "Building a Better Scotland" on 13 September. Although I am sure that we will discuss that document in detail when members ask questions, it is worth reflecting on the extent of the change that we have made.

The outcome of the spending review is remarkable in three ways. First, it has meant, by any measure, a huge increase in the resources that are being allocated to Scottish transport. It is difficult to make comparisons over a long period, but it must be many years since transport commanded such a priority in Scottish spending. By the end of the budget period, more than £1 billion a year will be spent directly on change. Secondly, the budget takes a long-term view. That is inevitable, as many of the projects that we have in view are for complex infrastructure improvements that will take several years to deliver. We cannot deliver those projects in a stop-go way. The budget is a demonstration of our commitment beyond the budget period. Thirdly, this transport budget is centred on people and their needs. Our focus should be getting people and goods to where they want to go economically and sustainably.

I hope that the committee will welcome the increased investment in transport. However, that investment brings certain problems—although they might be welcome ones—in relation to translating the resources into reality. Moving the transport effort up a gear is part of my work now. I am conscious that simply putting the money on the table does not drive the action and that we need to

change the way in which we tackle the task. The budget gives some pointers in that regard.

11:45

By the end of the decade, Scotland's transport infrastructure will have been transformed. The M74 will be complete and open all the way to the centre of Glasgow. New rail links will be open and under construction across the country, including the rail connections to Glasgow and Edinburgh airports. There will be significant improvements in public transport in and around our cities, with the first new tramline for decades in Scotland and with the missing links in our motorway network—the A8 and A80 upgrades—well under construction, if not completed. With those enhancements in place, I believe that there will be continuing increases in the use of public transport.

Other priority projects should be completed or well under way, but progress will be dependent on the commitment of our partners in delivery. Examples of those projects are the Aberdeen western peripheral route, the Aberdeen crossrail project, the central Borders rail link, the redevelopment and expansion of Waverley station and many of the public transport improvements in the central Scotland corridor. The budget provides the money to take those projects on to the next stage, but we cannot deliver them alone; they will require close working with partners across the public and private sectors.

By the end of the decade, many of the improvements that business and the public need will be in place. We will start now on the preparations for building the A8 and A80 motorway upgrades, we will continue to improve the existing trunk road network, we will let a new Scottish passenger rail franchise, building on the service enhancements provided since 1997, and we will press ahead with our partners on the development of our priority public transport infrastructure projects.

The draft budget document makes it clear that the allocation entitled "Other Public Transport" moves to centre stage. That is not a catchy name for a key budget item, but I hope that an investment of £296 million in 2005-06 will catch the committee's eye.

The public transport fund proved, over the past five years, to be able to respond to a wide range of projects from local authorities. The integrated transport fund, which started this year, takes the best of that approach and offers a flexible fund that we can target on the core priorities and projects.

We want to be sure that those are the right projects and the Scottish transport appraisal guidance—STAG—will help us to decide that. The

projects must be put in place as quickly as possible, which may well involve new ventures yet to be developed. We want to work in partnership with local authorities, business, the transport industry and the statutory bodies. This is a budget that is balanced in favour of jobs, services, the economy and, above all, people.

The Convener: Given that we are discussing the condition of Scotland's transport and the need for transformation, a member who suffered transport difficulties on the way to the committee may ask the first question. I call Des McNulty.

Iain Gray: Would it help if I apologised?

Des McNulty (Clydebank and Milngavie) (Lab): I think that it would be better if the Strathclyde Passenger Transport Executive apologised, but never mind.

At stage 1, we raised a number of questions about the STAG process. Can you give us an update on the position in relation to the allocation of funding to each of the 10 transport delivery report projects? The committee was concerned that, if the STAG analyses were not completed, there was a danger of the cart coming before the horse. We want to press you on the deliverability of each of the projects, as there is some scepticism about some of them.

Iain Gray: In general, the delivery of transport projects is an exercise in carts and horses—I am speaking metaphorically; that is not the kind of transport that we want—in that the complexity of many projects means that a number of different elements have to be put in place. There is a danger of reaching a point at which we cannot progress in one area, as we are waiting for progress in another area. That becomes a barrier to progress.

The budget is important. We have identified transport priorities and specific priority projects in the transport delivery report and we have now put in place resources to take the projects forward. Delivery is the key. I can go through the 10 priorities, but that would take time—perhaps I could go through them in detail in writing. I think that the committee understands that the priorities are at different stages in the process and many of them precede the introduction of STAG.

Other priorities have gone through an appraisal process that is analogous to STAG, although it is not exactly the same. I will give an example. The central Borders rail link has not been through the STAG process, but we expect that it will have to do so. Nonetheless, we have provided funding and have recently increased that funding to ensure that things are not held up. There are questions about putting the cart before the horse. Our priority has been to ensure that we do not allow delays.

The rail links to Glasgow and Edinburgh airports are far along in the appraisal process, although in those cases the Strategic Rail Authority's appraisal process is being pursued. That process is similar but not identical to STAG. Stage 4 in the process has been reached. Specific routes and solutions are being considered and, in each case, four potential routes have been shortlisted, as members know.

Some of our priorities have not gone through STAG and will not go through STAG, as they predated its introduction. Some priorities will have to go through the whole STAG process and some are, in essence, part way through it. STAG is under development. The most significant piloting of STAG as an appraisal process took place in the central Scotland corridor studies. We continue to work towards finalised appraisal process guidance.

Des McNulty: I suppose that the committee's interest lies in recognising that some projects are urgent and clearly justified by an objective appraisal system, whereas others might turn out to have found their way on to a priority list by mistake, as evidence unfolds. Is a rigorous system in place to ensure that the prioritisation of and substantial commitment of resources to projects will take place only when those projects are clearly justified and have a strong economic case?

Iain Gray: Yes. However, I want to make two points. First, I do not think that any of our transport delivery report priorities found their way on to the list by mistake; they found their way on to it for a variety of reasons, which drove them to be seen as significant priorities.

Secondly, the priorities will have to go through a rigorous process. We have always made it clear that some are further along in that process than others are. However, we believe that we have the resources in the budget for the next three years to deliver all the work that will be required in that period to take all the priorities forward. That is important.

Des McNulty: You have drawn attention to the sizeable increase in the transport budget over the course of the spending period. What key indicators and milestones will allow you to assess whether the increased spending makes a difference?

Iain Gray: The stabilisation of traffic overrides the other objectives. The TDR was designed to reduce congestion within and between our cities. As the committee knows, that principal objective spans a period of 20 years—our objective is to stabilise traffic at 2001 levels by 2021. The Scottish transport statistics that we publish annually will let us know whether we are moving in the right direction. Because traffic levels are increasing, I emphasise that going in the right

direction will mean slowing the growth and then reversing it over that 20-year period.

The Convener: The target of stabilising traffic growth by 2021 is well known and, by and large, people agree with it—although some might want it to be more aspirational, no one would reject it as a target. The key issue is that we need to set some staging posts to show where we expect to be at various points along the way, as it is not likely that you will be the Minister for Enterprise, Transport and Lifelong Learning in 2021, no matter how desirable that might be.

Iain Gray: I am wounded.

The Convener: The issue is how we judge your performance and the Executive's performance over the target period.

Iain Gray: There are two potential approaches. The committee might feel that our approach is not the one that it would prefer. It would be right for us to discuss that over time. To be successful, the traffic stabilisation initiative will have to create a trend of slowing growth in traffic in the early years and a trend of decline in the later years. That approach is determined not simply by the fact that the trend is going the wrong way at the moment; it represents an acknowledgement of the fact that the priorities for transport delivery that we have identified as being vital to our aims will not have an impact until later on in the 20-year period. In my opinion, that is a legitimate approach.

We could try to predict the course of the trend and we could measure our achievements against that prediction. However, rather than taking that approach, we set priorities and targets for the projects that will contribute to what we want to achieve. For example, we measure our success in increasing passenger use of the railways and buses and we take account of that in relation to the improvements that we look for in those parts of the industry. Another example is our target for removing freight from roads. Our primary policy instrument in that respect is the freight facilities grant, which has succeeded in removing 18 million lorry miles per year from the roads. We have a target of removing 21 million lorry miles per year by 2003.

I believe that such targets contribute to the overall goal. We do not break down the overall target by time; instead, we break it down according to the individual instruments that we use to achieve the shift in modalities.

The Convener: I have further questions on some of those issues, but I realise that other members have questions, so I will not hog the floor.

Robin Harper: Are you saying that you do not have even a notional forecast of when, in the 20-

year period, traffic growth will level out and when it will decline? If you have at least a notional forecast of when growth will begin to level out, is there a worse-case scenario for whether the current road network will be able to carry the increase in traffic?

12:00

Iain Gray: We have significant targets for producing the modal shift. However, if the question is whether we have laid out a path of milestones between 2001 and 2021, the honest answer is that we have not. My question is how useful such a forecast might be; that is a valid debate to have. I repeat that it is not the case that we will not consider the progress that we are making until 2021. We publish the statistics annually, as Mr Harper knows, so we have constant feedback into the loop of considering how successful our targets have been. We would certainly have to reconsider those targets if we felt that they were not going to get us where we wanted.

John Scott: With regard to targets, have you taken into account the fact that, if you make rail freight facilities better, you will grow the market, creating more journeys as well as taking existing journeys from road to rail?

Iain Gray: We have. That important point is germane to the current debate on how congestion in Edinburgh can be reduced. The City of Edinburgh Council would argue first of all that public transport must be improved. However, given the research by the transport industry and by academics who have an interest in transport, it would also argue that, although that improvement would lead to an increase in the use of public transport, it would not lead to a commensurate reduction in congestion without some kind of demand management as well. John Scott's point is an important one in those debates.

Des McNulty: Your letter of 30 September to the convener refers to newly established delivery teams in the transport division. What is the role of those teams and what tools will they have to ensure that progress is seen to be made?

Iain Gray: Part of the answer is to do with the organisation of my department, which is not strictly a matter for me to answer on. I have certainly worked with the private secretary of the development department to ensure that the transport division is organised in a way that is focused on delivery and on the key priority targets. One of the changes that we have made is the shift towards the integrated transport fund, which gives us a greater focus on strategic priority projects. I expect the department to focus on those projects. I have created a transport delivery group at the highest level within the department. It reports to

me fortnightly to pursue progress on our priorities.

In the delivery of major infrastructure projects, around 90 per cent of the time between the conception or agreement of a project and its completion is traditionally spent in preparation, planning, technical preparatory work and design, whereas only 10 per cent of the time is spent on the construction of the project. My department is considering what we can do to accelerate that preparation period, as it is that period that leads to frustration for those who have an interest in delivery. A small amount of the programme resources that are needed to progress the priority projects might have to be spent on such things as expertise to accelerate that 90 per cent preparation period. However, where delivery of projects is a priority, that would be a legitimate use of a small proportion of the resources.

Des McNulty: You have highlighted the fact, which we accept, that there are fairly substantial increases in transport allocations in this budget year and over the next three years. However, full expenditure for many of the 10 major projects that we have highlighted is probably further off than this spending round. Do the additional resources that are available give you greater scope to introduce smaller projects in the meantime and to accelerate some of the things that can be practically achieved within a shorter time frame?

Iain Gray: Yes. We have spent some time trying to do that in the weeks since the Scottish budget settlement was agreed. The additional resources also give us the capacity to accelerate some of the bigger projects. For example, we have made the first four allocations from the new integrated transport fund on strategic projects. Those allocations are about accelerating the process.

One of the projects is the Airdrie to Bathgate link. We responded to a bid from the two local authorities that have an interest in the rail link to do the preparatory engineering studies. They were looking for resourcing to do the studies over a two-year period. We are negotiating with them to provide the resource so that they can do that work within a 12-month period.

Such acceleration, to bring forward smaller projects and work on bigger projects, is one of the things on which our minds are focused. The budget allocation was finalised only five or six weeks ago and I expect that the fruits of those discussions will become apparent over future weeks and months.

Des McNulty: We have highlighted the long-term goal of stabilising road traffic. Are there any quick wins that could be introduced to reduce congestion within a shorter time frame, such as the period of the three-year funding allocation?

Iain Gray: Yes. Measures could even be

introduced prior to that. We are considering bids to the public transport fund from local authorities throughout Scotland and expect to announce the outcome of the process within the next week or two. When you examine the bids that have been submitted or—when the announcement is made—the bids that have been successful, you will find that the theme that you mention runs through them. The bids are about matters such as improved bus priority and new or extended park-and-ride facilities in our cities. Those projects can be completed relatively quickly, within the time scales that we are discussing, and can have an almost immediate impact on traffic levels.

The Convener: I will ask a supplementary question. The minister is right to highlight some of the bids to the PTF. It remains to be seen which bids are successful. We look forward to those decisions being made. There are other potential early wins, in particular in the rail industry, where relatively inexpensive projects such as platform extensions can increase capacity considerably. The Strategic Rail Authority has identified many such projects in its forward plans, but it has not yet turned the forward plans into action. Progress does not yet seem to have been made on some projects identified for the current year. I do not expect the minister to talk about individual projects, but perhaps he could say what sort of discussions the Executive is having with the SRA to ensure that some of those relatively inexpensive projects reach the delivery stage.

Iain Gray: We have constant discussion with the SRA and other players—previously Railtrack, now Network Rail. To indicate that those discussions can bear fruit, I draw the committee's attention to the case of the new station at Edinburgh Park, a project that had previously reached an impasse.

Some of the decisions that we have been able to make have been helped by decisions taken by the rail regulator on the performance management regime. The SRA has decided that it will release the resources for the Edinburgh Park project. At the Scottish rail summit today, my deputy will make it clear that we will also provide the resources for the additional rolling stock that is required to ensure that the franchise holder can make use of the new station at Edinburgh Park without impacting on the existing service.

I would put that in the category of an important but relatively small—in financial terms—improvement that could and should be delivered through our working together with the relevant bodies. We have been successful in this case and I see no reason why that kind of co-operation cannot exist in some of the other projects to which you refer.

The Convener: That is a welcome answer.

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

You mentioned the extra resources that will be made available to develop projects—what about the resources that you have already had? We have commented on the size of the underspend in the budget, which was about 8 per cent at stage 2 last year. What measures is the department taking to reduce that underspend, and what is the projected figure for 2002-03?

Iain Gray: For 2002-03, our intention is to spend all the resources that we have. Our priority must be the delivery of actual improvements through those resources. To manage that process, we have established a more rigorous monitoring of continuing expenditure. We have also been considering potential projects of exactly the sort to which Mr McNulty and Mr Muldoon have referred—projects that could be brought forward into this financial year if other projects, for whatever reason, were being delayed, meaning that the resources could not be spent on them. We do not project an underspend in the department, and those are the mechanisms that we intend to use to try to achieve that.

Mr Ingram: So you have tightened up within the department.

Iain Gray: The department has tightened up. Generally, a greater rigour is being imposed throughout the Executive.

Des McNulty: Under the projections over the next period, the Strathclyde Passenger Transport Authority allocation—which is a separate allocation in the budget round—looks very stable, whereas many of the other budget areas are highlighted for increases. Bearing in mind the quality of some of the rolling stock that is in operation in west central Scotland—particularly on the rail route—do you not think that putting additional resources into the SPTA would pay dividends through improved quality of transport and through its meeting some of the various targets?

Iain Gray: Rail services, including those in the SPTA area, are essentially delivered through the franchise. It is, therefore, impossible to say what the investment in rail will be after 2004, as we will go through a tendering process.

Des McNulty: In the budget document the budget line for the SPTA flatlines. Is there any significance in that? Are you sympathetic to spending money on the SPTA to allow it to expand, develop or improve the services that it provides?

Iain Gray: The budget line is shown as Mr McNulty describes. If the franchise expenditure goes up after 2004, that budget line will go up as well.

Des McNulty: Okay, thank you. That is helpful.

12:15

Mr Ingram: The first target that has been set for roads expenditure is to reduce the time taken for trunk road journeys on congested or heavily trafficked sections of the network by 2006. Is continuing monitoring of that situation being carried out? How are you going to measure that target? Why have you not quantified the target or the current time taken?

Iain Gray: Although continuing monitoring is being carried out, there has also been some discussion about improving it. Jonathan Pryce will say a word about that because he has been involved in considering possible improvements.

Jonathan Pryce (Scottish Executive Development Department): The target that is set out in the spending review documentation was set before we had all the data that we needed. We identified heavily congested parts of the network and set them out in the transport delivery report.

We are currently considering how best to monitor the traffic and congestion on those parts of the network. There are a number of ways of doing that. For example, there is the floating car method, which involves sending vehicles onto the network and measuring how long they take to get from one point to another. Alternatively, we can use automatic number plate recognition technology to measure all cars travelling on the network to find out how long it takes them to get from one point to another at different times of the day and the year. We are using that information to find out how we are doing as far as network congestion is concerned.

Mr Ingram: Are you at the early stages of modelling all this?

Jonathan Pryce: We are at an early stage in defining precisely how we will carry out the monitoring. We have a number of options and want to find the best one. We are piloting a scheme at the moment and I hope that we will be clear about things by the end of the year. We have set out the background to the target in the technical notes that are available on the Executive's website. We could certainly make those available to the committee on paper if that would help.

Mr Ingram: Do you have any figures for current trends?

Jonathan Pryce: No. The transport delivery report sets out the extent of the congestion, what it looks like and how it has been gradually increasing in recent history.

Mr Ingram: The next target is to reduce the

proportion of the trunk road network that requires close monitoring to 6 per cent for motorways and 8 per cent for dual carriageways by 2006. What is meant by "close monitoring"?

Iain Gray: That is also a technical question, and I will ask Jonathan Pryce to deal with it.

Jonathan Pryce: Network management colleagues in the Executive and the operating companies have to carry out close monitoring when a stretch of road has reached or is getting close to the end of its useful life. At that point, it is more likely that there will be failures in the road surface and that potholes will appear. The more useful life that is left in the road, the less the risk of small-scale potholes appearing in it. As a result, we intend to keep as much as possible of the road network with a residual life to ensure that it does not require that kind of close monitoring. However, it is not value for money to have the whole network in pristine condition with, for example, 20 years' residual life. We are trying to strike the right balance. The 6 per cent target comes from looking at what state we should try to have the road network in to provide the best value for money.

Mr Ingram: What are the current figures for close monitoring with regard to those targets? To what do the figures relate?

Jonathan Pryce: The current figures are approximately at that level. The figure for close monitoring of the base network in 1997 was 8 per cent. In 1998, that improved slightly to 7.9 per cent. At the moment, we are not quite at the target level, but we are moving in the right direction.

Mr Ingram: The target is not exactly ambitious.

Jonathan Pryce: The target has been set at that level because that is what we think will provide the optimal value for money. It would not be good value for money to reduce the target for close monitoring to 0 per cent.

Mr Ingram: Why not?

Jonathan Pryce: That would mean spending more money on keeping something in a newer condition than it needed to be. The issue is similar to the question of whether one should change one's car every three months or every three years. The issue is about what represents the best value for money in terms of the residual life of the asset.

Maureen Macmillan: I want to talk about how we can use the freight facilities grant to keep lorries off the roads. Argyll and Bute Council has highlighted a problem connected with timber extraction. The fact that timber lorries can go to a railhead or get a ship from Campbeltown keeps them off the A82, A84 or A9, but the lorries still need to get to the port or railhead. Often, they do that over minor roads, which have weak bridges. The freight facilities grant is thus not helping

remote rural areas to look after their roads. Can the freight facilities grant, or something similar, be used to help road maintenance in such circumstances?

Iain Gray: We recognise the issue that Maureen Macmillan has raised. I guess that a bit of a balance is required, as we view the timber industry as important for Scotland. Some efforts have been made to encourage the timber industry to create forestry roads on its own land so that, as much as possible, the transportation of the extracted timber does not take place on the local public roads. Beyond that, I can say only that the problem is understood and acknowledged.

It is unlikely that the freight facilities grant would be extended in a way that would help with that, although we have agreed some interesting extensions to the grant. For example, I think that we are close to finalising an agreement to allow the freight facilities grant to be used for coastal shipping more widely than it was previously.

Apart from encouraging the timber industry to look for solutions within its own land, I have to say that there is a continuing problem. Clearly, that forms part of the dialogue between the relevant local authorities and the Executive.

Maureen Macmillan: I hope that a solution will be found in the near future.

I have one or two more general questions about the freight facilities grant. The minister mentioned that 18 million lorry journeys had been taken off the roads and that he hoped that that figure would rise to 21 million. What percentage of lorry journeys that have been taken off the roads does that figure represent?

Iain Gray: I do not know the answer to that. The measurements have always been made in terms of the lorry miles that have been taken off the roads. I am happy to go away and seek that information and, if it is available, provide it to you in writing.

Maureen Macmillan: The committee would be interested to see what the mileages represent in percentage terms.

Iain Gray: I think that the mileages, in terms of journeys, represent a significant number of lorries.

Maureen Macmillan: We just want an overall picture of how successful the freight facilities grant has been.

Iain Gray: Perhaps I could reply to that in writing.

Maureen Macmillan: I am also interested in whether particular parts of the country are using the freight facilities grant more than other parts. Is it used more for short distances or for long distances?

Iain Gray: I think that the answer is that it is used for both, and for cross-border journeys. We have an agreement with the Department of Transport and Industry whereby cross-border lorry journeys are taken off the road, as it were, through the freight facilities grant. The grant is allocated proportionally to the Scottish Executive and the DTI according to how many cross-border miles are on Scottish roads and how many are on English roads.

The freight facilities grant is based on individual projects applying for it, so to that extent it is demand led.

Maureen Macmillan: How much do you encourage companies to take advantage of freight facilities points? Do you promote them?

Iain Gray: Yes. I think that companies are encouraged to take advantage of the points. That is certainly something that I expect and that I have seen. For example, the enterprise networks suggest to companies who want to expand or locate somewhere that they could use freight facilities points as a way of improving the efficiency and effectiveness of their businesses. I have seen examples of that in places such as Lockerbie and Ayr.

I went to Ayr with John Scott, where the Timberlink scheme is an example of what we are talking about. That scheme came about through discussions that involved the enterprise networks, local authorities and others. Therefore, in that sense, yes, I think that we do encourage companies to consider freight facilities points as a way to reshape their business.

Maureen Macmillan: Could I give you a list of all the lorries that I get stuck behind as I go up the A9?

The Convener: Not today, Maureen.

Maureen Macmillan: You could encourage them to go by rail instead.

The Convener: Perhaps I can ask the minister one further question. An issue that was recently brought to my attention by campaigners for increased rail freight to the north east is the number of gauge problems between Aberdeen and the central belt of Scotland, which hamper the development of rail freight. I understand that those groups have met the Deputy Minister for Enterprise, Transport and Lifelong Learning to explore that. Can the minister respond on whether there has been any progress? If he cannot respond directly just now, perhaps he could respond in writing.

Iain Gray: It would be more appropriate to ask my deputy to respond in writing because he has pursued the issue.

Des McNulty: Just before we move off roads, I would like clarification of the spending on motorways and trunk roads as shown in table 8.14 of the Executive's written submission. I refer to the two categories at the top of the table: "Capital Construction" and "Roads Improvements". The former category shows substantial increases over the next three years from 2003-04 to 2005-06, whereas the latter category shows a reduction over the same period. Can the minister explain those figures?

Iain Gray: The additional resources in "Capital Construction" are to allow the restart of the road building programme after the imposed moratorium. The programme includes significant projects for new roads, such as the M74, so their cost would be found in the capital construction line. However, I hope that the new roads will not need improvement as early as 2005-06; the reduced figure for road improvements arises from that consideration.

Des McNulty: So it is not really an issue between bigger and smaller projects. There is an argument that some small trunk road projects would assist considerably in dealing with congestion if they were progressed quickly. Capital construction involves small and large projects.

Iain Gray: Most projects that would be likely to have the impact to which Mr McNulty refers would be found within the capital construction line, so they are covered by the increase in resources.

12:30

Des McNulty: Is the routine and winter maintenance figure—which seems to be emerging as £43.4 million before it uprates—your estimate of how much the new arrangements will cost? How does it differ from the previous costs?

Iain Gray: That resource is to cover the estimate of how much the new arrangements will cost; the amount is sufficient to do so.

Des McNulty: Do you believe that it represents a substantial saving on what might have existed under the previous arrangements?

Iain Gray: Yes.

Des McNulty: Can you quantify that saving?

Iain Gray: We will probably have to examine what the projections would have been, given that you are asking me about the period that was discussed at the time of the change. However, we can make an estimate and provide it for the committee.

John Scott: The problems of local road, bridge and pavement maintenance are well known. The committee suggested that the Executive should

consult the Convention of Scottish Local Authorities to ensure that money that is provided to improve roads is spent on doing that. How will you ensure that that happens, and what difference do you think the £27.6 million will make in reducing the road-maintenance backlog?

Iain Gray: That funding has the potential to make a significant difference and it is, to a certain extent, different from some of the resources that have been provided previously. The £26.7 million forms part of the £95 million quality-of-life fund and local authorities had to submit plans for how they intended to use those resources. Therefore, that proportion of the programme will be spent on local roads because local authorities have made the explicit choice to do so and have agreed that with the Executive. That would be more difficult with the general allocation that local authorities receive, so additional money has been made available. That includes an extra £70 million in capital allocations between last year and next year and an extra £20 million in the previous financial year to speed up maintenance activity on local roads and bridges. Those resources were additional.

In terms of trying to assure ourselves that the resources have been spent on local road and bridge maintenance, we are seeking evidence from local authorities that that has been done, but the money has not been formally ring fenced. The £26 million is in a different position because it was part of an agreed programme; it is part of the £95 million quality-of-life fund.

John Scott: So such local maintenance will be delivered.

Given the importance of the private sector in trunk road maintenance, do you have any alternative arrangements in place—a plan B—should the private sector companies be unable to meet their obligations? What might that cost?

Iain Gray: In terms of the withdrawal of winter maintenance, an emergency situation would be created and we would respond through emergency procedures. However, I am not sure whether Mr Scott means that or a withdrawal from the contract.

John Scott: I will leave it at that.

The Convener: We move on to rail issues, on which Robin Harper will lead.

Robin Harper: The committee report proposed actions that should allow increased rail capacity in the short term. We recommended that a higher passenger target should be adopted for the period 2002-06 and that a rail-freight growth target should be set for 2003-06. What is the minister's view of the committee's recommendations?

Iain Gray: Do those recommendations form part of the report on the rail inquiry?

Robin Harper: Yes. Is that right?

The Convener: Yes. The recommendations form part of the rail inquiry report.

Iain Gray: The right and proper thing for Mr Harper to do would be to await my response to the committee's report. We have welcomed that report but, until today, I have been saying to the press, for example, that we will consider the report and respond to it in good time. That seems to be appropriate.

Robin Harper: In "Building a Better Scotland", you said that the rail budget is to be increased by £31 million over each of the next three years, as the result of a baseline transfer from the UK Department for Transport for re-profiling the Scottish rail passenger franchise. Will you explain what the transfer relates to?

Iain Gray: Yes. Re-profiling took place earlier this year—my predecessor made a statement about it at the time. We are, in a sense, in a process of transition. In the previous situation, the resources for the ScotRail franchise came from Whitehall, with an agreement that the responsibility and the resource would transfer to us. That has now happened. The transfer includes the agreed resource for re-profiling, which will also appear in figures for future years.

Robin Harper: I think that that clarifies matters. In your introductory remarks, you said that you felt that the balance of the budget was in favour of the economy and jobs. It is also acknowledged that investment in our transport system should produce environmental and social benefits. In the context of those two observations, how much subsidy per passenger journey does the overall franchise subsidy represent? Does the level of subsidy that is required suggest that funds could yield better value for money in any other transport programme?

Iain Gray: I do not know the answer to that. We can do the calculation for the first part of Mr Harper's question, although the figures would apply to the current rather than the future franchise. The calculations that are done in the Scottish transport appraisal guidance programme are not set out quite as was suggested by the question. The essence of STAG is that an objective is set and STAG decides what is the best way of delivering the objective. That process includes environmental objectives. We expect STAG to do something like what Mr Harper suggests in deciding on the best transport improvements that will deliver environmental improvements.

The Convener: I note that one of the targets that was set for rail services in Scotland is to reduce overcrowding on ScotRail services by the end of 2005-06 so that no passenger has to stand

for more than 10 minutes on any journey. Given that a number of the rail lines on which passengers suffer more than 10 minutes standing time go through West Lothian, I am sure that my constituents will welcome that, as will passengers in other parts of Scotland. I say that with the proviso that that should not be done using the rail industry's traditional method of managing demand, which has been to increase prices. I am sure that the minister does not intend to do that. I take it that the minister intends an expansion of capacity so that some of the congested rail lines can carry more passengers. What analysis of the level of that capacity expansion will be necessary to achieve that aim?

Iain Gray: We have targets to increase rail passenger usage and a target to reduce overcrowding. The convener is right that the traditional rail industry approach would not allow us to achieve both of those targets.

The committee knows well that the directions and guidance for the next franchise—our key instruments for delivering progress towards targets—identify the priority improvements that we want in the re-let franchise. The committee knows that the second of those priorities is a reduction in overcrowding. It is no surprise that the convener's constituents raised that issue with him, because the directions and guidance are derived from the survey and are the priorities of the Scottish rail-travelling public, who want overcrowding to be dealt with. It is right and proper that we set ourselves an extremely challenging target for that.

Des McNulty: I have two questions, one of which is highly specific. The new transport concessions for elderly people and the shifts in concessions have been much welcomed in the past two or three years, but an outstanding issue, which was raised with the committee when it considered the Transport (Scotland) Bill, was the position of carers—particularly carers for blind people or for people who have physical disabilities. Are costings available for extending to such carers concessions such as free bus travel? Are proposals for such groups under consideration? Blind people's organisations have raised that issue with me—the matter is well worth considering at a time when budgets are increasing.

Iain Gray: I am unaware of accurate costings or any costings for extending the service as Mr McNulty suggests. Our focus has been on delivering the enhancement to existing local concessionary fare schemes that we undertook to make, which was implementation of a national minimum concession of free local off-peak bus travel for older people and the disabled. That scheme has recently been put in place. To an extent, it is early days, but we have established

research on the volume and pattern of take-up, although the costing for which Mr McNulty asked has not been undertaken.

Des McNulty: Will some research be done on that issue? I draw to your attention the fact that the issue is outstanding.

Iain Gray: I take the point.

Des McNulty: Much research has been conducted over the years on the different patterns of transport access and use that men and women display. The Equal Opportunities Committee and groups such as Engender are concerned that we must not lose sight of those differences, which relate to issues such as security in stations, when services are planned and how and what priorities are allocated. Are you and the new transport delivery team considering those gender differences and their policy implications for how you prioritise issues when working out how best to spend the new resources that are available?

Iain Gray: Those issues are considered to an extent. For example, I recently launched the significantly extended closed-circuit television coverage of rail stations in the SPT area. I do not doubt that among the reasons for our, and SPT's, support for that investment were that we should create a general sense of security for passengers and that we should address a particular concern about women passengers' security at those stations. It is another matter of which the STAG appraisal process takes account and, in a sense, it is built into the rigour of the system that we are creating.

12:45

John Scott: We have dealt with the freight facilities grant and the declared intention to take freight off the roads. Is there provision in the budget to facilitate transfer of freight from rail to air? I speak specifically about Prestwick airport, where there could be more air freight if there were encouragement to transfer freight from rail to air.

Iain Gray: The honest answer is that consideration of the development of the air-freight industry lies with the aviation consultation process. The issue is under fairly intense consideration, although that does not arise from the budget process but from concern for the general development of aviation. When we debated aviation in the Parliament, Mr Scott and I both referred to freight, which is not surprising given the significant performance of our three major airports in different areas of freight. For example, Edinburgh airport deals with mail and Prestwick deals with belly-hold freight. Consideration of how to encourage air freight is under way, but in the debate on the aviation strategy.

Maureen Macmillan: Des McNulty made a point

about accessibility of public transport. I have written to the minister about the matter, but rather than waiting six weeks for an answer, I might get one now. In my constituency, there is a problem with bus stops. Many buses go along trunk roads and, in the past, the stops were often informal—people were let off at crossroads and so on. The police have now said that that is dangerous and that buses are not allowed to stop at such places, which means that people who live outwith villages or towns cannot access public transport. Who is responsible for building proper bus stops on trunk roads? Is it the Executive?

Iain Gray: We think that we are probably responsible for building them, but that would have to be done in agreement with bus companies. The matter is important. The budget secures an increased amount—in fact, its funding is doubled—for the Mobility and Access Committee for Scotland, although that amount is relatively small. Given that the issue is access to transport in rural areas, particularly for those who have no alternative to public transport, it might be for that committee to consider it. Who knows? That might be what the reply that Maureen Macmillan will receive says.

Maureen Macmillan: The one that I will get in six weeks.

Iain Gray: I hope that it will be sooner than that.

The Convener: That brings us to the end of questions. I am not entirely sure how connected with the budget that last question was, but I will let Maureen Macmillan get away with it.

Maureen Macmillan: I was chancing my arm.

The Convener: I thank the minister for his evidence. We asked for further written evidence on a number of issues. If that evidence is to inform our consideration of the budget process, it is necessary that we have the responses by the end of the week, given the time scales that have been set for us by Mr McNulty and the Finance Committee. I realise that that might not be possible in relation to all the information that we requested, but where the information is to hand and can be provided, I request that it be supplied to the clerk. For which information will that not be possible and when we can expect a response?

Iain Gray: The request is reasonable and we will endeavour to reply with information that is available but which was not to hand today. We will indicate for the remaining information whether or when it will be available to the committee.

12:50

Meeting continued in private until 13:27.

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