



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Wednesday 2 April 2014



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**LOCAL GOVERNMENT AND REGENERATION COMMITTEE**  
**10<sup>th</sup> Meeting 2014, Session 4**

**CONVENER**

\*Kevin Stewart (Aberdeen Central) (SNP)

**DEPUTY CONVENER**

\*John Wilson (Central Scotland) (SNP)

**COMMITTEE MEMBERS**

\*Cameron Buchanan (Lothian) (Con)  
\*Mark McDonald (Aberdeen Donside) (SNP)  
\*Stuart McMillan (West Scotland) (SNP)  
\*Anne McTaggart (Glasgow) (Lab)  
\*Alex Rowley (Cowdenbeath) (Lab)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Keith Brown (Minister for Transport and Veterans)  
Stuart Foubister (Scottish Government)  
Sharon Grant (Transport Scotland)  
Jill Mulholland (Transport Scotland)  
Dennis Robertson (Aberdeenshire West) (SNP)

**CLERK TO THE COMMITTEE**

David Cullum

**LOCATION**

Committee Room 3



# Scottish Parliament

## Local Government and Regeneration Committee

*Wednesday 2 April 2014*

[The Convener *opened the meeting at 10:00*]

### Disabled Persons' Parking Badges (Scotland) Bill: Stage 1

**The Convener (Kevin Stewart):** Good morning and welcome to the 10th meeting in 2014 of the Local Government and Regeneration Committee. Item 1 is an oral evidence session on the Disabled Persons' Parking Badges (Scotland) Bill. I welcome our panel: Keith Brown, the Minister for Transport and Veterans, Dennis Robertson, the member in charge of the bill, Jill Mulholland, head of transport, accessibility and road safety at Transport Scotland, Sharon Grant, the bill manager at Transport Scotland, and Stuart Foubister, divisional solicitor in the Scottish Government legal directorate. I invite the minister to make his opening remarks.

**The Minister for Transport and Veterans (Keith Brown):** To set the bill in context, the blue badge scheme is an important parking concession that enables improved mobility, and therefore accessibility, for disabled people. We have around 245,000 badges in circulation in Scotland, and it is my intention to ensure that the scheme remains fit for that important purpose.

In the past four years, Transport Scotland has been working closely with agencies and third sector groups to ensure that the scheme is easier to access and is used by those who are eligible, and that it is easier to enforce and more efficient to administer. The reforms that we have had so far have included clarifying the eligibility criteria, introducing independent mobility assessments undertaken by occupational therapists, redesigning the badge to make it harder to tamper with or to forge, and introducing a United Kingdom-wide database of badge holders, which should be fully populated by the end of 2014 and will allow up-to-date information to be held by local authorities.

I support Dennis Robertson's bill, which complements the recent reform programme, and Transport Scotland officials have been working with Dennis to develop the bill. Two multi-agency groups that include local authority staff and disability representative groups are also working with him to develop the important guidance and the content of the regulations to underpin the bill.

Misuse of the badge is a problem. I receive complaints from the public about third parties' misuse of the badge scheme, and recent Transport Scotland research, which interviewed around 800 blue badge holders, concluded that badge holders value the concessions that are provided by the blue badge, although the majority reported that they had experienced misuse of the badge.

The bill responds to the views of blue badge holders by enhancing the existing powers that we have to enforce the scheme. It also helps to send out the message that blue badge misuse is socially unacceptable. The relevant provisions of the bill are strong preventive measures; those powers do not seek to catch more abusers, but rather to discourage and prevent abuse of the system in the first place, thereby saving time and money for enforcement agencies and, crucially, freeing up spaces to be used by blue badge holders.

I am pleased that the bill will further strengthen the scheme by providing a process that will allow people who have been refused a blue badge on grounds of eligibility to request a review of that decision. That will provide a fairer and more consistent approach across the country.

The bill is about on-street parking, as that is the area that the wider blue badge scheme legislation covers. However, I am aware of blue badge holders' frustrations at misuse of disabled parking spaces in private car parks, such as those that are owned by large retailers. Members of the Scottish Retail Consortium are aware of the issues that disabled people face and some take action to encourage patrons to park sensibly. Although the Scottish Government has no jurisdiction to legislate in this area, I believe that Dennis Robertson's bill will raise awareness and encourage private owners to emphasise that disabled parking bays should be left for those who need them.

A need to raise awareness of the blue badge scheme came through strongly in the Transport Scotland research and Dennis Robertson's consultation on the bill. I want to address that, and officials are working with multi-agency groups to identify how messages about the purpose and the dos and don'ts of the scheme get to badge holders, the public and those who are responsible for its enforcement. A substantial amount of guidance is already out there, but messages need to be distilled and simplified so that badge owners understand how their badges should be used. Enforcement officers must understand the sensitivities that are required when they carry out their duties and the general public must understand that misuse of badges is not a victimless crime.

I will ensure that the changes resulting from the bill are publicised in advance of introduction of the powers. As I said, the bill is not about catching more abusers of the scheme; it is about making people think about proper use of the badge, making people aware of the consequences of misusing blue badge parking spaces and discouraging and preventing systematic abuse of the scheme. The clear aim is to send a strong message that abuse of the blue badge scheme will not be tolerated and to ensure that the rights of the blue badge holder to use the concession to access their work, leisure and support services are upheld.

**The Convener:** Thank you, minister. Mr Robertson, do you want to make any opening remarks?

**Dennis Robertson (Aberdeenshire West) (SNP):** I will be brief, as the minister has given a fairly full and comprehensive opening statement.

I reiterate that the bill's aim is to improve and support enforcement of the blue badge scheme. We have evidence to suggest that blue badges are being misused on a fairly grand scale, so we need to be able to tackle the issue.

I am grateful to the minister and the Government for supporting the bill. My gratitude also goes to Transport Scotland, which has supported me in taking the bill forward.

I have read the *Official Report* of last week's evidence session and I look forward to members' questions today.

**The Convener:** Thank you very much. You said that blue badges were being misused on a grand scale. Some members were taken aback last week by the evidence of Gordon Catchlove of the City of Edinburgh Council, who reckoned that between 52 and 80 per cent of badges are being misused on any day. Did you find that to be the case when you gathered evidence for the bill?

**Dennis Robertson:** The evidence and our consultation show that blue badge holders are concerned about misuse. Sometimes the misuse is fraudulent and sometimes it is third party—quite often, third-party misuse takes place without the knowledge of the blue badge holder.

Mr Catchlove's evidence is probably fairly significant regarding urban areas, but maybe not so much regarding rural areas. Dundee conducted similar research and again the results were quite staggering. The *Official Report* might say that Mr Catchlove said that the figure was between 52 and 70 per cent, convener, but I stand to be corrected.

**The Convener:** The clerks have already spotted that, Mr Robertson. You are dead right.

Do you have any comment on that point, minister?

**Keith Brown:** The 52 per cent figure is the same as the percentage of blue badge holders who believe that they have experienced abuse of the system. It is obviously a very real problem, which is why Dennis has introduced the bill.

**Stuart McMillan (West Scotland) (SNP):** My question is for Dennis Robertson. Are you aware of any marked difference in the level of misuse between urban and rural communities?

**Dennis Robertson:** I think that the situation for blue badge holders who are trying to gain access to parking spaces is the same in urban and rural communities. However, it is exacerbated in urban areas because of the number of cars and vehicles that are looking for a limited number of parking spaces.

The issue is not just about designated blue badge spaces in urban and rural areas; it is also about on-street parking, because the blue badge concession enables a person with such a badge to park on single and double yellow lines, where there are no restrictions. The problem is the same, regardless of the area. However, from my constituency perspective, sometimes my mailbag is quite full because people contact me about the misuse of blue badges in rural settings.

**Anne McTaggart (Glasgow) (Lab):** Good morning, panel. What do you think is the solution for reducing and eliminating fraudulent misuse of blue badges, given that it has been claimed that between 52 and 70 per cent of use of the badges is misuse?

**Dennis Robertson:** Raising awareness is probably one of the solutions and I think that the bill will assist by introducing enforcement powers. However, much of it is about education and awareness, which means education of the blue badge holders themselves, as well as education of the public at large, on what constitutes the right of a person to use the blue badge. I am sure that most people have seen the misuse of blue badge spaces, whether they are private or local authority spaces.

Misuse is a huge problem, but I think that the solution is raising awareness. We intend to raise awareness through guidance and the bill's provisions. We will launch an awareness campaign after the bill is enacted. Third sector organisations are asking us to produce a fairly concise script for people with blue badges. The booklet that people get at the moment is probably too large and complicated, with far too much information. That information is pertinent, but we probably just need some bullet-point information for blue badge users. I think that that in itself would reduce the level of misuse.

**Keith Brown:** I agree that awareness raising among the public is essential in eliminating the abuse of blue badges. In addition, the teeth in some of the bill's provisions will provide the necessary powers for local authorities to tackle the problem. We will leave it to local authorities to say how they want to do that. Some of them might experience the problem to a greater extent than others—Edinburgh has been mentioned in that regard—so they might want to make full use of the powers that the bill will make available.

The problem will be tackled by a combination of awareness raising and using enforcement powers. Increased awareness should mean that there will be less inadvertent abuse and people's awareness of the enforcement powers, along with some of the reforms that we have made to the system previously, should mean that there is much less inclination to abuse the system. People will be aware that if they abuse the system, there is a real possibility that they will be brought to account.

**The Convener:** At last week's meeting, it was suggested that blue badge holders should sign for the booklet and the badge and say that they have read, or will read, the booklet and stick to what it says. Mr Robertson said that the booklet is extremely large; I must be honest and say that I have not seen it. He also suggested having a shorter version of the booklet.

Are there other ways and means of getting the information across? For example, could a little DVD be used? Folk are more likely to look at that than to read a massive booklet. Do you have a comment on that, Ms Grant?

10:15

**Sharon Grant (Transport Scotland):** The application form requires the person to sign a declaration that they will read the booklet and abide by the scheme's rules. At the point of applying for the badge, the person has to make a number of declarations, and that is one of them. That is a first step at least to asking badge holders to take some responsibility for the scheme.

**Dennis Robertson:** The convener made a valid point about trying to ensure that the information is accessible to everyone in a format that is readily understood. Perhaps we could look at, for example, the production of a DVD or an audible version to ensure that the information is presented in a concise manner. That could simply look at the main aspects of using a blue badge. Perhaps we can take that back to the working groups and look at the feasibility of producing something like that. We must ensure that the information gets out to the blue badge holders in the appropriate format.

**The Convener:** Thank you. On what Ms Grant said, if I applied for a blue badge and signed a

declaration that I would abide by what the booklet says, by the time that I got the badge, I would probably have forgotten that I had signed to say that I would read the booklet.

**Dennis Robertson:** Absolutely.

**The Convener:** It could be helpful if that was done when the badge and the booklet were received. Could that be looked at? I see nodding. Grand.

**Alex Rowley (Cowdenbeath) (Lab):** Good morning. It has come across very clearly that there is widespread support for the bill. Nobody is jumping up and down and saying that it is a bad thing. However, last week's evidence focused on enforcement. From the user's perspective, there was a view that there is little enforcement out there on the misuse of blue badges and the misuse and abuse of parking bays. How will that be addressed? Will the bill in itself work simply by giving local authorities powers?

I tend to liken the proposals to what happened when I was a young driver and the compulsory use of seat belts was introduced. People did not comply until they realised that, if they did not buckle up, they would certainly be stopped and fined for breaking the law. For me, the key evidence last week was from people from organisations that represent disabled groups whose members predominantly have blue badges. Some 80 per cent of the members of one organisation have blue badges. Their perception is that nobody really bothers at the end of the day. If that is their perception of those who abuse the blue badge system, will anything really change?

**Keith Brown:** Effecting that change is the whole purpose of the bill, and of previous reforms such as ensuring that the design of the blue badge is much less susceptible to being fraudulently replicated. The database will help to do that, too. The vast majority of people who hold blue badges are aware of the previous reforms, and many of the groups and individuals are aware of the bill's progress.

Alex Rowley is right to say that there has perhaps been a feeling that there has been a bit of laxity about the system so far. The groups that I have talked to—I have not talked to them nearly as much as Dennis Robertson has—are aware of that. We should think back to what happened with seat belts and drink-driving. Peer and social pressure on people made them comply almost more than the legal remedies did.

I return to the convener's point about how we get the message out. We undertake social marketing in relation to the dangers of rural roads in particular. We did an exercise recently on the need for parents to demonstrate good behaviour when they drive, because the first time that a child

of whatever age goes into a car, they start to learn about behaviour in cars. We undertake such social marketing exercises. When the convener asked the previous question, I wondered whether we might want to look at what social marketing we can do, once the bill has progressed through the Parliament, to make it more socially unacceptable for people to abuse blue badges.

Dennis Robertson held a launch event for the bill with all the groups involved, which was pretty well covered in the media. The message is starting to get out there that we are treating the matter more seriously. The bill will enable local authorities to do things that they might want to do so that the matter is taken more seriously, if they see it as a problem.

**Dennis Robertson:** The purpose of the bill is to ensure that we widen the scope of the enforcement. At the moment, a parking attendant can look at a blue badge and say to the person using it, "I don't believe that you're the badge holder," but they cannot confiscate it, so the person can just drive off and retain the badge.

There are limited powers of confiscation, which lie with the police. The bill will widen the scope of that area, so it will provide an opportunity for the scheme to be enforced much more widely than it is at present. With the current limited powers, there is a reluctance to go forward given that very little can be done with regard to confiscation of a badge if a parking attendant, for example, thinks that the person is not the badge holder.

**Alex Rowley:** Enforcement will be down to each local authority. A question was asked earlier about the difference between rural and urban communities. I assume that in authorities where parking charges generally bring in significant resources—in the cities, in particular—we will find a lot more parking attendants and a lot more people who are enforcing. However, that will not be the case in local authorities, particularly in the rural areas, that have very few parking charges.

Is there a danger that we will have a spread of approaches across Scotland? Will the police still have a significant role to play, even though their traffic wardens are being removed? Earlier, I mentioned seat belts. People now generally belt up; I accept that part of that might be to do with social acceptability. Right now, we have people using phones in cars and the police have to enforce the ban on that; eventually that might go the same way as seat belts. Will the police still have a significant role to play in enforcement?

**Keith Brown:** Yes. They still have the same powers as before. Of course, the bill extends those powers because it will create a new criminal act, which is not just misuse of the badge—that is

currently a criminal act—but the use of a cancelled badge. The police will still have those powers.

You are right to say that it will be a case of different fits in different areas. To me, that is exactly right. The action should be proportionate to what the local authority believes the problem to be.

You are right to mention parking charges in cities, for example in Edinburgh. If one person misused a blue badge and took up a space for an entire year that he would otherwise have to pay for, I think that the cost could be about £6,000. That lost income would be significant to the City of Edinburgh Council, and I assume that the council would find it a good idea to ensure that resources go into maintaining income and driving down abuse.

The power in the bill is an enabling power. Local authorities can say that abuse of the scheme is not such a big problem in their area, or that they do not feel that the additional expenditure would be justified because they believe that they are already covered by their current provision as well as by the police. That is the right way to do it, rather than for us to prescribe the establishment of a new set of enforcement officers or other things. It is entirely right that local authorities should take that forward themselves.

As you said, in some areas there are very few parking charges. In my area, in the town centre of Alloa, there is no costed parking provision that people need to pay for and there are very few regulations about where people can park other than the obvious ones about double yellow lines and so on. The approaches will therefore be different for different areas, but I think that that is the right way to do it. Local authorities will decide, on the basis of their own situation, what resources to commit to enforcement. In the case of Edinburgh, lots of people come into the city from outwith Edinburgh; there are costs and pressure on parking spaces. I think that it is right and proportionate that we do it in this way.

**Dennis Robertson:** Assistant Chief Constable Wayne Mawson stated at last week's meeting that the police would enforce the scheme and that they are committed to doing that. The police are right behind the bill and will continue to be so. Awareness will be raised amongst officers themselves, and I am sure that Police Scotland will continue to do that.

**Cameron Buchanan (Lothian) (Con):** I declare an interest in that I am a blue badge holder. First, I agree about the booklet being too large. It comes out before people get the blue badge. It is only when people get the blue badge that they can put it on the car and go. There should be one piece of paper with just the salient points on it, as Mr



Robertson said. It should cover just the five or six important points—you could have the booklet as well.

Things are not the same everywhere. When I was in London recently, I just had my blue badge, but Westminster does not have the same thing. There, people need to display a time clock if they are on a single yellow line, and they have to pay if there is a parking meter. That should be made obvious.

Is the position the same everywhere in Scotland? Does everywhere have the same rules, on single yellow lines in particular?

**Keith Brown:** Yes, it is the same across Scotland. It happens to be different elsewhere. You are right to say that we should ensure that people are aware that things might be different if they travel to London. I am not saying that the authorities there should mimic what we do here. However, things are the same in all areas of Scotland.

On your first point about the booklet, Dennis Robertson has said that he is willing to give the matter further consideration. We will do so, too. We were looking to raise awareness, and we will be considering how best that can be done, whether through a DVD, by improving the booklet or even through some social marketing exercises.

**Cameron Buchanan:** It should be kept simple. I wonder whether the piece of paper could state, “These rules only apply to Scotland.” It would not be necessary to say what all the rules are. Abroad, there is the European Union thing that says that it is for abroad, but we all know that things will be different abroad; we do not necessarily know that the rules will be different if we go down to Carlisle, for instance. In fact, in Carlisle they are the same as they are here, but in Westminster they are completely different. It is up to local authorities, and that should perhaps be emphasised on the blue badge.

There is quite a lot of fraud, and we addressed that point at our last meeting. Any fraudulent elements will be eliminated, because the badge will have an electronic thing on it so that the police can read it. Is that right?

**Jill Mulholland (Transport Scotland):** We have been working with the multi-agency group. We are considering having 10 top tips for blue badge holders to distil the information down. We have also had Scottish Government marketing colleagues working with us. We have case studies from blue badge holders, and we are considering a campaign nearer the time of the launch. We know that we have to distil the messages down, just as we have done for road safety. We have been successful in that regard, as the minister said.

We have been considering what we used to call freebies but are now apparently called objects for change—everyday things such as badge holders with messages on them. We would have simple, straightforward messages that people can understand, rather than presenting the information in a large booklet. That would make it clear to people what the rules and responsibilities are. I repeat that we are considering how to distil the messages down.

There is also a DVD about the impact of abuse of the scheme—it is perhaps already on YouTube. We are considering adding to the video the consequences of abuse of the scheme. It is a pretty hard-hitting DVD. It involves people talking about the effects that the abuse has on them on a daily basis. We can strengthen it, as I say, by adding some material about enforcement.

On the badge itself, it already has an indicator. I think that Mr Catchlove mentioned that last week. Although the photograph is face down, the indicator in the back of the badge will immediately tell enforcement officers, if they have a smartphone or a hand-held device, what the circumstances of the badge holder are. If officers do not have the relevant hand-held equipment, they can phone their back office.

Following last week’s evidence, we have been in contact with the police to see whether they can have direct access to that information as well. We are talking to the people who produce the badges, Northgate Systems, so that the police can gain access.

**Cameron Buchanan:** The photograph is virtually meaningless—it is not seen. When someone else is driving me, for instance, it is not their photograph that is displayed, but mine. I just got my licence back a few months ago so I was being driven all over the place by various different people, but it was my photograph on the blue badge. If I was not in the car at the time, because I was at the doctor’s, shopping or whatever, even for a minute or two, it could well have been open to abuse, I suppose. The photograph is not as important as the electronic tag.

**Jill Mulholland:** That is right. There is a chip on the badge that gives the badge holder’s information.

**The Convener:** You have mentioned the video on YouTube and various other bits, including the top tips. Are those new things that have come into play since the launch of Dennis Robertson’s bill? I know that you have been round the country with Dennis, talking to various folks. Have the various tips come from folks around the country?

**Jill Mulholland:** The DVD already existed because of the former reform process. The idea of putting the video on YouTube, of strengthening it

by referring to the new powers and of having the 10 top tips resulted from the bill. As we have discussed things with the working groups, they have raised the need for awareness and to distil information to make it much simpler. We have had conversations with local authorities and representative groups on the working groups, the feedback from which has been that we need to ensure that badge holders are aware of their responsibilities and that the wider community is aware of the impact of abuse on badge holders.

10:30

**The Convener:** Does Mr Robertson have anything to add to Ms Mulholland's comments?

**Dennis Robertson:** I do not think so. The issue has been well covered.

**John Wilson (Central Scotland) (SNP):** Good morning. The minister said that using a blue badge fraudulently could save someone up to £6,000. Are the penalties for fraudulent use of blue badges high enough?

**Keith Brown:** We and Dennis Robertson have identified that two of the main inhibitions on people undertaking fraudulent activity are societal pressure, which makes them realise how unacceptable such behaviour is, and the chance of being caught. Those aspects are better deterrents and will make more difference than increasing fines. That has been said in the feedback that we have had so far.

We can ratchet up the measures. We can have badges that are hard to counterfeit and a database that allows badges to be verified in the way that Jill Mulholland just described. We can go further than that and say that using a cancelled badge is an offence—that is not currently the case. Non-uniformed personnel could also undertake investigations and enforcement work. Those enforcement elements provide a better disincentive to fraud than increasing fines would. Does Dennis Robertson have a view on that?

**Dennis Robertson:** The minister is right. The fine is £1,000, but we are looking at prevention and reducing the amount of fraud.

**John Wilson:** It is fine to do all the campaigning to raise awareness of the misuse of blue badges, but we heard evidence last week and received follow-up written evidence about the number of cars that local authorities have towed away because of the fraudulent use of blue badges. The written evidence suggests that people are happy to pay the tow-away fine.

What will happen if the public awareness campaign fails to get the message over? As the minister said, the financial incentive for someone to misuse a blue badge can be up to £6,000 a

year. If that is multiplied over a number of years, the risk of paying a fine of up to £1,000 if they are caught might seem irrelevant, given what they could save by abusing the blue badge.

**Keith Brown:** If I try to put myself in a criminal's mind, I suggest that they make their calculation on the basis of not just the financial penalty but the likelihood of having to pay it. We are trying to address that. The feeling just now might be that, because some of the measures in Dennis Robertson's bill are absent, the chance of getting away with it is much greater.

I would have to ask the City of Edinburgh Council about its experience of co-ordinated abuse such as John Wilson describes, which becomes financially attractive over a period. However, that council has pretty assiduous enforcement measures in place, to which most of us who have tried to park in the city can attest.

Somebody might say, "It's fair enough—I can pay £200 or £300 to recover my car and I might pay a fine." If somebody repeatedly abused the system and was caught, I imagine that the courts would levy the maximum fine to discourage repeat behaviour.

However, it is much more to do with enforcement and with the social unacceptability of such abuse. It is about people who know that somebody is abusing the system feeling more confident to come forward and tell the authorities that the system is being abused. That is right and the penalty has to be proportionate. For that reason, although I agree that someone could see it as financially advantageous to take the risk, the point is that the bill tries to make the risk much greater, because there is much more likelihood of being caught.

**Dennis Robertson:** The design of the new badge and the ability to read the information that will be held in the chip within the badge will be a deterrent. The new badge came out in September 2012, so there will be an issue for three years. Those badges will be gone by 2015. The new badges will make it much more difficult for someone to abuse the system, and enforcement officers will be able to detect abuse. As Mr Catchlove said last week, he currently does an undercover operation to investigate the abuse and gather evidence, but the new badge will give him the necessary information. If a person in their mid-twenties or whatever gets out of the car when the badge has been issued to someone in their eighties, there is a case for confiscation. Detection will be made much easier with the new badge, so I envisage that abuse will decrease.

**John Wilson:** To paraphrase Cameron Buchanan, Westminster is completely different from Scotland—and not just in terms of the blue

badge parking restrictions. However, that is a debate for another day.

Mr Robertson commented on the parking restrictions that apply to parking on yellow and double yellow lines. How do we get the message over to blue badge holders that there may be other restrictions? A number of years ago, someone who is very close to me who has a blue badge parked in a street in Glasgow on a yellow line, only to find when they went back to their car after 4.30 that they had received a ticket because there was a parking restriction, which was publicised on a small sign by the side of the road. The sign was 6 inches by 4 inches and it stated that drivers were not allowed to park on that particular street between 4.30 and 6 o'clock.

How do we ensure that genuine blue badge holders are not penalised because local authorities fail to display properly the restrictions that are in place in their local authority? We know that blue badge holders rightly do not restrict themselves to the village or town that they live in and travel elsewhere. Is it necessary to get a message over to local authorities to ensure that they put proper signage in place so that genuine blue badge holders are protected against unnecessary parking fines?

**Dennis Robertson:** Mr Wilson makes a valid point. It is about ensuring that the appropriate signage is in place, is extremely visible and is not confusing. We have heard evidence in the past that signage is perhaps visible but can be confusing. Local authorities must ensure that signage about a parking restriction is in place.

However, if there are yellow lines and a parking restriction is in place, the restriction applies to the blue badge holder in the same way as it does to any other person. The concession is within the limits and the scope of that concession. If a person is given a parking ticket for a parking abuse outwith their concession, the consequences are the same for them as for any other person.

**Keith Brown:** The restrictions that apply tend to be about safety or access. The safety of the blue badge holder is also an important consideration. It is vital that they do not park in a place where they could cause accidents or inhibit legitimate and important access.

We would encourage local authorities to ensure—as we are obliged to do for the trunk road network—that signage is clear, so that people understand the restrictions, especially if they have the preconception that, because they have a blue badge, they have a dispensation. It is right to say that the restrictions should be made clear to people.

**The Convener:** I think that Ms Grant wanted to come in on the previous point—sorry, but you caught my eye right at the end, Ms Grant.

**Sharon Grant:** I wanted to go back to Mr Wilson's point about the effect of a £1,000 fine. The person will receive a criminal conviction, so the effect is probably a bit more than just the fine. As with drink-driving, there is the longer-term impact of having the conviction. In London last year, there was a case in which a lady paid £500 for a fraudulent badge. She was investigated and spotted using the badge over a period of weeks. In London, she would have been saving a lot on parking. She was prosecuted and fined £1,000 or £1,500 or whatever but, as she worked for a bank, she had put her livelihood in jeopardy because she had abused trust. The impact on her—and probably on her family—as a result of her attempts to get free parking was much wider than just the fine that was imposed. That is another aspect to consider.

**John Wilson:** Given that Ms Grant has raised the issue of fines and the criminal records that go with them, does the Scottish Government hold any figures on the number of cases in which people have been taken to court and fined for abuse or misuse of blue badges?

**Keith Brown:** We do not have that information centrally. Even the estimate of the number of people whom we believe to be involved in fraudulent activity is an extrapolation from UK figures. Because these things are determined locally, we do not have the figures.

**Mark McDonald (Aberdeen Donside) (SNP):** At our previous meeting, concerns were raised about the provision enabling non-uniformed officials to undertake enforcement action. One witness representing a disability organisation said that that might present difficulties for vulnerable individuals, who might not consider somebody who is not in a uniform to be undertaking enforcement. I ask Mr Robertson to give us information on the purpose behind including the provision.

**Dennis Robertson:** Inclusion Scotland feels that many people with disabilities might be disadvantaged if non-uniformed people approach them. I do not share Inclusion Scotland's concern and nor does a range of other disability organisations. Whether someone has a uniform is not really the issue. The relevant point is that people can identify themselves with the appropriate identification. Sometimes, being approached by someone in uniform can raise even more anxiety among people in some vulnerable groups. Inclusion Scotland gave the example of people with cognitive or sensory impairments, but such people will no doubt have a third party with them. I suspect that there will be someone else

with such people when the identification is produced. Therefore, to be perfectly honest, I do not see that as an issue.

**Keith Brown:** I agree with Dennis Robertson. We have had a number of discussions about the issue. As Dennis Robertson says, other groups are supportive of the provision, because they see it as a key element in reducing abuse.

**Mark McDonald:** I am grateful to the member for outlining that reasoning.

Another issue that came up was confiscation. The point has been made that a blue badge can often be abused without the knowledge of the person who holds the badge, and that confiscation can result in difficulties for the holder of the blue badge. Have you looked into that as part of your consideration of the confiscation powers? What is your expectation of how local authorities ought to deal with that situation?

10:45

**Dennis Robertson:** Yes we have. Certainly the working groups have been looking at that in great detail. We think that what we are proposing in the bill and the guidance that will accompany it is a reasonable action. Badges that are confiscated will be returned as quickly as possible to the badge holder. We are trying to ensure that badges that are being misused by a third party are returned to the badge holder as quickly as possible. A person misusing a badge for on-street parking is denying a legitimate badge holder access to a parking space. I believe that Inclusion Scotland felt that what we are proposing would disadvantage the badge holder, but the badge holder is being disadvantaged anyway by that third-party misuse of their badge. The badge will be returned as quickly as possible, with a letter explaining that the badge was withdrawn and is being returned and reinforcing the need to use the badge appropriately and the rules for doing so. I hope that that answers Mr McDonald's question.

**Mark McDonald:** It does indeed.

A point was raised previously about the number of prosecutions that will arise. I think that we had figures from Police Scotland at the previous meeting that showed that the number of cases passed for prosecution was quite low. Do you agree that we ought not to measure the bill's success on the basis of the number of prosecutions or cases that are passed for prosecution, because what you are trying to do is to modify behaviour? The hope would be that abuse of the blue badge scheme will reduce as a result of people being aware of the bill, which might help to reduce the number of prosecutions that are required.

**Dennis Robertson:** I agree that the bill is about prevention rather than anything else. If we ensure that blue badges are used appropriately, that will be to the good of the blue badge community who are trying to get parking spaces. Misuse is a real problem. I do not think that the conviction rate is particularly high, but if we can raise awareness, that is good and I think that we will see a significant reduction in misuse of the badges.

**Stuart McMillan (West Scotland) (SNP):** I have some questions regarding the role of the non-uniformed enforcement officers. What level of training will be required for those who are non-uniformed to participate in enforcement?

**Keith Brown:** That will be different in different areas, although some fundamentals will remain the same. Local authorities undertake training for their staff in all sorts of areas, and we believe that they can readily do this training, either by adding it on to other training that is undertaken or by covering it through customer service in other areas. Perhaps the most fundamental part is dealing with people in difficult situations in a non-confrontational manner. A vast number of local authority staff have to do that on a daily basis, so we think that the training falls within the current training environment that local authorities are involved in in any event.

It might be that not all local authorities will want to go ahead with non-uniformed officers, but we think that it is best left to them and that it will not present a huge problem for them. We are working with a multi-agency working group to develop guidance as a result of the bill for inclusion in training. It is important to ensure that the information is readily understood by the public. Those who are involved in local authority training might have to go through the bigger booklet. We have to make sure that we provide the right tools for them, but they can take on the job.

**Dennis Robertson:** The minister is absolutely right to say that training already exists. Whether it is parking attendants or non-uniformed people who make the approach, it is about being non-confrontational, and we would ask them to exercise appropriate caution. We do not, as some of the user groups and third-party organisations have suggested, expect people to take an overzealous approach. The appropriate training already exists, and it is awareness raising that will be key to successful enforcement of the blue badge scheme.

**Stuart McMillan:** Do you expect community wardens across Scotland to get additional training and to incorporate the responsibility into their current role?

**Dennis Robertson:** I say again that it will be entirely up to each local authority to decide how it wishes to exercise the powers in the bill.

**Stuart McMillan:** Finally, what role will be undertaken by plain-clothes enforcement officers, whom we discussed last week?

**Dennis Robertson:** This is all about the use of appropriate enforcement powers that already exist. I think that Mr Catchlove suggested that such officers could be used to gather intelligence but, again, I emphasise that it will be up to each local authority to decide how it wishes to use the powers in the bill.

**Keith Brown:** As Mr Robertson suggested, plain-clothes enforcement officers could be involved in longer-term investigations and in building up a picture of what is going on, particularly with regard to John Wilson's point about considered, measured and calculated abuse of the system—that is where they could really come into their own. The other obvious benefit of being non-uniformed is that they will be able to undertake that work discreetly.

**John Wilson:** If I picked up Mr Robertson correctly, he said that it will be up to local authorities to interpret the regulations that will be introduced and to determine how they will use the powers in the bill. Would it not be better to have guidance that makes it clear that the powers should be applied equally across Scotland? As I said, blue badge holders do not restrict themselves to their own village, town or city but move around, and conflict might arise given how the regulations are interpreted in one part of the country and in the neighbouring local authority—for example, in Aberdeen city and Aberdeenshire.

**Dennis Robertson:** The framework of the legislation and the guidance will be in place and will make things very clear. However, I also point out that the bill enhances the current situation in that it gives local authorities the powers instead of placing them under a duty, which means that they will have to exercise their own judgment as to whether they apply them.

**Alex Rowley:** I acknowledge that, but I have a question—it is perhaps for the minister more than for Mr Robertson. Going back to Mr Wilson's point about parking restrictions, I note that at last month's meeting of Kelty community council, which the police and I attended, council members raised yet again the on-going problem of drivers parking their cars at the cross in Kelty, where there are double yellow lines, and nipping into the bookies. Two questions arose from that discussion.

First, when community councillors said that the police were simply driving past and not doing anything about the problem, the police made the

point that parking in Fife has been decriminalised and that the local authority is now responsible for the issue. Can you confirm that the police have a responsibility in this matter and that they are able to act where they see illegal parking?

Secondly, the police also made the point that it could be blue badge holders who were parked on those double yellow lines. Blue badge holders can park on yellow lines, but who determines whether they are parking dangerously? There are yellow lines at Kelty cross because of the danger that parked cars pose to those who are driving around the cross. Is it up to the police to decide whether someone is parking dangerously? Under the provisions in the bill, would parking attendants and local authority officers pick up that sort of thing?

**Keith Brown:** The answer to your first question is yes. The police have the power and indeed the responsibility to ensure that the law is observed, and that will continue to be the case regardless of whether decriminalised parking enforcement is introduced to a local authority area. That said, the police make a judgment on when to enforce the power. I live quite close to Kelty, but I have never been to the bookies at Kelty cross and, to be honest, I am not familiar with that road layout. However, whether the police take action will depend on how dangerous they believe the parking to be.

People need to know what the restrictions are before they can obey them. If the local authority has put parking restrictions in place at a particular location and, because of access and egress or safety issues, they also apply to blue badge holders, people should know about them. After all, blue badge holders as much as anyone else have to understand what the restrictions are. If restrictions do not apply to blue badge holders, they are perfectly entitled to park on single and double yellow lines.

As for the question of who would take responsibility if the police were not present, again, it would be up to Fife Council to decide that any problem that existed, not just in Kelty but throughout Fife, was sufficient to be addressed with the use of non-uniformed officers.

Coming back to John Wilson's point, I believe from my time in local government that, in such areas, discretion should be left with local authorities wherever possible. The powers have to be the same across the land, and that will still be the case. However, as with DPE, in which authorities decide to decriminalise parking enforcement, they should also take the decision on this issue. That is the right approach. If they perceive there to be a particular problem at Kelty cross or, indeed, in other areas and they think that it is worth their while to put in place non-uniformed employees, they will be able to take that decision.

That said—and to go back to John Wilson's previous point—I add that they must also make any parking restrictions clear to people to ensure that blue badge holders know that, even though they can usually park on single or double yellow lines, they cannot do so where restrictions apply for safety or other reasons.

**Cameron Buchanan:** With regard to the suggestion of putting the rules and instructions on one sheet of paper, I wonder whether the sheet could be laminated and sent out at the same time as the blue badge. After all, pieces of paper get lost. If the sheet of paper containing all the bullet points were to be laminated, it would keep things simple.

**Keith Brown:** Those are all good and practical ideas and we will undertake to look at them.

**The Convener:** With regard to Ms Mulholland's earlier response, I note that the working group is looking at a huge number of matters and it seems that things have cracked on apace since the beginning of the consultation on the bill. Am I right in thinking that you will take note of all the points that have been made, Ms Mulholland?

**Jill Mulholland:** Yes.

**The Convener:** Finally, in its evidence last week, the Law Society of Scotland expressed concern about

"the absence of a procedure for appealing a local authority's internal decision to a sheriff"—[*Official Report, Local Government and Regeneration Committee*, 26 March 2014; c 3311.],

which it believes is not compliant with article 6 of the European convention on human rights. Do you have any comments on that? Perhaps the minister will go first.

**Keith Brown:** I read the remarks that were made last week. When we discussed the matter with Scottish Government legal officers, they were of the firm view that there is no breach of article 6 and that the bill is ECHR compliant. Over and above that, we have been concerned to ensure that there is, as has been mentioned, an appeals process, which will be independent of the person who made the first decision but which will still be carried out within the local authority. Other forms of redress include the local authority ombudsman and the legal remedy of judicial review. Remedies are available, and the information and advice that we have received is that the bill is ECHR compliant.

As this is the final question, convener, I want to make a final point in response to an earlier question from Mark McDonald. He is absolutely right to say that, if the Parliament passes Dennis Robertson's bill, its success should not be judged on the level of convictions. One might argue that a

lower level of convictions would be a mark of success, but the fact is that one can only guess at that. Instead, we should try to drive down the 52 per cent of users who believe that the system is being abused. If, when we carry out another survey, we find that percentage to be much lower, I think that that will be a mark of success, rather than the conviction rate.

**The Convener:** When the minister referred to legal points, he looked at Mr Foubister. Do you wish to add anything, Mr Foubister?

11:00

**Stuart Foubister (Scottish Government):** Yes, convener. Frankly, I think that the Law Society's point is misconceived. It has mixed up the availability of judicial review with its cost. The availability of judicial review provides compatibility with article 6, and, by putting in place the rather simpler internal review procedure, the bill simply reflects the fact that judicial review is neither a cheap nor a terribly user-friendly procedure.

**The Convener:** I leave the last word to Mr Robertson.

**Dennis Robertson:** Thank you. With regard to the issue of an appropriate review, I point out that the criteria remain the same; the independent mobility assessment, which was introduced in 2012, follows the strict criteria that are set out in the guidance. Under the bill, if a person's application is denied, they can request a review of the decision, and although it will be carried out within the local authority, the issue will be examined by different line managers. Because they will follow existing guidance and criteria, as I said, there will be no need for the matter to be reviewed externally. The costs of such work will be borne by the local authority but, in any case, we do not envisage any significant costs arising.

As I said, the aim of my proposal is to ensure that those who have a blue badge use it appropriately and that those who apply for a blue badge meet the criteria.

**The Convener:** Thank you for your evidence. I suspend the meeting for a couple of minutes to allow the witnesses to leave.

11:01

*Meeting suspended.*

11:03

*On resuming—*

## **Subordinate Legislation**

### **Ethical Standards in Public Life etc (Scotland) Act 2000 (Register of Interests) Amendment Regulations (SSI 2014/50)**

**The Convener:** Agenda item 2 is consideration of two negative instruments. Members have a paper from the clerk that sets out the purpose of each instrument and contains comments from the Delegated Powers and Law Reform Committee.

The Delegated Powers and Law Reform Committee has drawn our attention to the defective drafting of regulation 4. Although the Scottish Government has accepted that there was an omission in the drafting, it has assessed that the drafting error can be highlighted during the process of approving new codes of conduct under section 3 of the Ethical Standards in Public Life etc (Scotland) Act 2000.

As members have no comments, does the committee agree to make no recommendation to the Parliament on the regulations?

**Members** *indicated agreement.*

### **Town and Country Planning (Hazardous Substances) (Scotland) Amendment Regulations 2014 (SSI 2014/51)**

**The Convener:** The amendment regulations, which relate to the control of major accident hazards involving dangerous substances, insert “heavy fuel oils” into the list of such substances.

The Delegated Powers and Law Reform Committee has drawn our attention to the relatively short delay in implementing article 30 of the directive, but also to the transitional provisions that cover a person who does not presently need hazardous substance consent but who, from 29 March 2014, will immediately require such consent. The Scottish Government acknowledges the short delay, which happened because of competing resource pressures within the policy department, and it has assessed that it is unlikely that many sites will be affected by the transitional exemption.

As members have no comments, does the committee agree to make no recommendation to the Parliament on the regulations?

**Members** *indicated agreement.*

**The Convener:** Thank you very much. As agreed, we now move into private session.

11:05

*Meeting continued in private until 11:22.*





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