



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Wednesday 26 March 2014

Wednesday 26 March 2014

CONTENTS

	Col.
DISABLED PERSONS' PARKING BADGES (SCOTLAND) BILL: STAGE 1	3277
SUBORDINATE LEGISLATION.....	3323
Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Amendment Regulations 2014 (SSI 2014/53).....	3323
High Hedges (Scotland) Act 2013 (Supplementary Provision) Order 2014 (SSI 2014/55)	3323
Non-Domestic Rating (Valuation of Utilities) (Scotland) Amendment Order 2014 (SSI 2014/64)	3323

LOCAL GOVERNMENT AND REGENERATION COMMITTEE
9th 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:

Michael Brady (Glasgow City Council)
David Cabrelli (Law Society of Scotland)
Simon Cameron (South Lanarkshire Council)
Gordon Catchlove (City of Edinburgh Council)
Helen Dolphin (Disabled Motoring UK)
Grahame Lawson (Mobility and Access Committee for Scotland)
Assistant Chief Constable Wayne Mawson (Police Scotland)
Colin McNicol (Stirling Council)
Superintendent Craig Naylor (Police Scotland)
Sally Witcher (Inclusion Scotland)

CLERK TO THE COMMITTEE

David Cullum

LOCATION

Committee Room 6

Scottish Parliament

Local Government and Regeneration Committee

Wednesday 26 March 2014

[The Convener opened the meeting at 09:30]

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

The Convener (Kevin Stewart): Good morning and welcome to the ninth meeting in 2014 of the Local Government and Regeneration Committee. I ask everyone to ensure that they have switched off all mobile phones and other electronic equipment.

Our first item of business is an oral evidence session on the Disabled Persons' Parking Badges (Scotland) Bill. On our first panel, we have Simon Cameron, diversity adviser, South Lanarkshire Council; Gordon Catchlove, parking fraud prevention officer, City of Edinburgh Council; Colin McNicol, roads manager, support and public transport, Stirling Council; and Michael Brady, assistant group manager, parking projects and events, Glasgow City Council.

As no one wishes to make an opening statement, we will move to questions. Gentlemen, do you think that the policy intention has been met in the bill?

Gordon Catchlove (City of Edinburgh Council): Yes, I do. I have been involved in the enforcement of the blue badge scheme since I joined the City of Edinburgh Council in 2005. Over that time, I have become more and more frustrated with the limited powers that I have to do my job outside of what I call full investigations, under the Regulation of Investigatory Powers (Scotland) Act 2000. I believe that the work that we have done as part of the blue badge working group has helped to fill the void that exists.

Michael Brady (Glasgow City Council): Although I am here today to represent Glasgow City Council, I should let you know that I am also a director of the British Parking Association, as well as being a member of its board and of its council of representatives.

Glasgow City Council has similar issues with regard to the misuse of blue badges. Being an urban authority, we are in a different context from rural authorities. We have people who are misusing badges for financial gain. One of the benefits of the bill is that it would allow us to confiscate a badge that is being used in that way and pass it to its lawful keeper, notifying them of

its misuse. The confiscation powers are an important part of the bill.

Colin McNicol (Stirling Council): I agree. The bill's primary purpose is to improve enforcement of the scheme, principally by extending powers to local authorities. The general principle is sound, but it will be effective only if local authorities assign the necessary resources. I am from a small local authority, and we do not currently have enforcement powers. Those powers lie with Police Scotland. If Police Scotland is not going to do that enforcement work, the legislation will work only if all local authorities are assigned the necessary resources to carry out enforcement.

Simon Cameron (South Lanarkshire Council): The bill will definitely improve the situation by giving local authorities powers in relation to confiscation of the badge and so on, and it will give councils an opportunity to bring consistency to the scheme.

However, as Colin McNicol has just suggested, we must manage the public's expectations about what enforcement can be done on a day-to-day basis. What is reasonable in any given area must be considered. The important part for me is the public awareness work that must be done on the purpose of the scheme in the first place and the public's perception of it.

Anne McTaggart (Glasgow) (Lab): Good morning, panel.

What is the effect of blue badge misuse in your areas?

Gordon Catchlove: I maintain that, in Edinburgh, between 52 and 70 per cent of all badges that are on display will be being misused. That is based on exercises that we have done with the police over the years and what I see in my day-to-day role.

Anne McTaggart: Did you say 72 per cent?

Gordon Catchlove: I said 52 to 70 per cent.

The Convener: That is how many badges are being misused.

Gordon Catchlove: Yes.

John Wilson (Central Scotland) (SNP): That figure is interesting. What is your definition of misuse?

Gordon Catchlove: The use of a forged badge or the use of a genuine badge by a party other than the badge holder.

Michael Brady: As I said, Glasgow City Council is an urban local authority. Misuse is rife. The scheme is difficult to enforce because we have to approach the person who is misusing the badge, and we do not know when they will appear. Before

I came here, I asked the parking attendants to do a wee operation in one of our streets, which I thought would be beneficial. They found that there were 12 blue badges in the street between 4 o'clock and 6 o'clock. Of the three people who appeared during that time, one was a 30-year-old man whose badge said that he was a 66-year-old man; one was a 20-year-old girl whose badge said that she was a 55-year-old woman; and one was a genuine badge holder.

About 20 per cent of bays in Glasgow are occupied by blue badge holders. That is not an issue, if they are all genuine blue badge holders. However, we have evidence that there is a lot of misuse, although our figures are not as high as Edinburgh's. The reason why there is a lot of misuse is that it costs £3 an hour to park in Glasgow city centre, or people have to pay to park in a car park. That means that there is an attraction for people to misuse a blue badge, and the risks of getting caught are slim.

Colin McNicol: Stirling Council is not responsible for enforcement. We have no evidence on the level of misuse in the council area.

Simon Cameron: I have limited figures on misuse. However, when we first reviewed the blue badge process across South Lanarkshire a number of years ago, we issued around 800 penalty charge notices for the misuse of blue badges, and we ended up rescinding about 50 per cent of those. There is a degree of misuse, but it varies.

Anne McTaggart: So the scale of misuse is huge. Have you identified any trends in who fraudulently misuses blue badges?

Gordon Catchlove: It can be anybody. It could be anybody in this room. It could be a teenager, a student or a businessman. There is no demographic that misuses blue badges more than any other. In Edinburgh, the issue comes down to how much it costs to park, which means that there is an attraction to misusing a blue badge.

Michael Brady: I concur with that. There is a wide demographic. We have found people using their dead mother's badge. We have removed about 18 cars with fraudulent badges from the streets. We report them to the police. There is a wide and varied demographic involved. I could not say that one specific age group was involved or anything like that.

The Convener: Mr McNicol, I take it that you do not have an answer, because of your council's situation.

Colin McNicol: We do not have decriminalised parking enforcement, so we would not have that data.

The Convener: We will talk to the police later.

Simon Cameron: From the work that we have done, I can say that abuse ranges across the spectrum, from people who are legitimate blue badge holders but who do not understand how the scheme operates, because of the quality of the information that accompanies a badge, through to people at all levels of society who abuse the scheme. The public's perception is that it is not a scheme that is valued by wider society. People do not understand its purpose or the fact that, without a blue badge, many people would not be able to participate in simple day-to-day activities.

Cameron Buchanan (Lothian) (Con): I declare an interest, in that I have a blue badge.

My neighbour had a blue badge that was stolen, and there was no way of identifying who had it. Do you think that we should change the blue badges so that we can identify the person? At the moment, you show one side and not the other side. My neighbour never got her blue badge back—she had to apply for another one, and the original one is still out and about.

Gordon Catchlove: I totally agree. We have a database that records all lost and stolen badges that are reported to me. I have never come across a stolen or a lost—

Cameron Buchanan: It is luck.

Gordon Catchlove: Yes, it is. If I were doing my job and I came across a stolen badge being used, it would be down to sheer luck, because at the moment we do not have the technology to track the badges.

Cameron Buchanan: Can we not change the design of the blue badge so that there is a reader on it or so that it shows the person's picture or their name? At the moment, it depends on which way you put it up.

Gordon Catchlove: It does. The technology exists in the system, but its use depends on the cost to local authorities and the specifics of the technology itself, particularly for those authorities that have decriminalised parking enforcement and which use hand-held computers with scanners. They would need to be able to scan through the glass. We know that the technology is available, but there are issues to do with how it can be reproduced in a badge, whether the badge can be read through the windscreen glass and so on.

Michael Brady: I agree. The old orange badge—as I think it was called—had a photograph on the front and people had to show it, but there were issues with discrimination, so the process was changed when the new badge was brought in—I am not sure of the full details.

The new blue badge improvement service database that is being rolled out nationwide should allow for some sort of connectivity between local authorities over time, which will, it is hoped, assist with enforcement. Local authorities carry out enforcement in different ways and use different technologies. The question is how we can mesh all that together so that, if we see a stolen badge, we can take some form of action. The issue then is what action to take. As I have described, we have to catch the person, which means that we have to stand at the vehicle. Some councils do not use tow-aways, but we do, and if we find a fraudulent badge, we will remove the vehicle from the street and report it to the police.

Cameron Buchanan: What happens if I have a blue badge and I am in the car, but I go off and do some shopping, leaving my wife or somebody else in the car? A council officer may see them walking perfectly well towards the shops; that sort of thing has happened before. It is not fraudulent, but nobody is stopped.

Michael Brady: The wording on the back of the badge says that people are allowed to drop off and pick up the holder. I have no dispute with that, but we all have an issue with people who, when we approach them, say, "I've dropped my father off." That is a difficult situation, as we then have to ask them, "Where is your father?" The idea of such a conversation is not attractive, and it is not a good place for us to be.

However, people use the ambiguity in the wording on the back of the badge as a reason—which may be perfectly valid; I am not disputing that—to use it in such a way. For example, somebody may drive a person to their office, drive on to their own office and park up all day, and then drive back to pick the person up. Is that a valid use of the badge?

Cameron Buchanan: No, I would not have thought so.

Colin McNicol: My understanding is that, due to data protection issues or other reasons, the picture could not be displayed on the new badge, so it was put on the back. It is also my understanding that the badge contains the technology to enable it to be read through glass, so any enforcement officer could scan the badge and find out who the holder was.

All the badges are now in a national database to which everything can be relayed. What needs to happen now—as my colleagues have discussed—is that we move to the next stage, which will involve getting the technology, the people and the resources to carry out the enforcement. We have completed the first stage of building a national database, so we have a record of how many people have blue badges.

Cameron Buchanan: On the continent, the badges display a photograph. In France and Belgium, for example, the badges have the European Economic Community sign on the right—I know, because I have one—but the photo of the person is displayed so that people can see it. I do not think that that is a problem here.

Simon Cameron: My understanding is that the new badge has an identifier on the front, which is a coding that tells the authority the age and gender of the person who holds it. In some senses, in the debate about whether a picture is needed on the front, the question is whether a picture is needed on the badge at all, given the technology that we now have.

Cameron Buchanan: I would not have thought so.

Simon Cameron: That is one of the points to consider.

There is also the question of what we provide to blue badge holders to enable people to read the badges and see images, with key fobs and all the rest. Should we give people a holder that places the badge firmly on the windscreen so that the technology can be used appropriately instead of relying on people to place their badge on a particular part of the dashboard?

We have had tax discs in a certain place on car windscreens for however long that system has been in place. Why do we not have the same system for the blue badge, which could be easily removed on a day-to-day basis when necessary?

09:45

Alex Rowley (Cowdenbeath) (Lab): I find it quite staggering that 50 to 70 per cent of the badges that are issued are misused. If the legislation goes through and the new enforcement officers are able to act, what will local authorities need to do? Simply having the powers will not solve the problem, will it?

I also note that the Scottish Government says that the scheme has no cost implications, but we see potholes here, there and everywhere, and local authorities and transport services are under massive pressure. How far will the legislation take us?

Michael Brady: At present we approach people; we have a misuse form that we have been using for many years, and this year the parking attendants have reported that 118 badges have been misused. PAs currently cannot take a badge away from people on the street, so the fact that the legislation will allow us to do that and get the badge back to the original keeper is a step forward. The local authority will be able to write to the original keeper to inform them that their badge

has been misused and that they should retain it and not hand it to the person who is misusing it. I am also told that the keeper will be given guidance on how they should use the badge in future.

Working in an urban authority, I often see misuse, but there are obviously huge advantages for those who require blue badges and need access. The legislation will give us the power to take a badge off the street at the point of misuse; it is not a conclusion or the end of the journey, but it is certainly a step forward for us. Parking attendants who have been talking to a person who has misused a badge find it very frustrating if the person can just drive off.

Gordon Catchlove: I agree with my colleague Michael Brady. We are not dealing with a one-size-fits-all scenario, and the legislation is not ideal, but it gives us another weapon in our armoury for dealing with misuse. The committee might hear later this morning from organisations that want us to be able to inspect badges but to hand them back rather than confiscate them. However, with my experience over the past few years, when I speak to someone with a blue badge, I get a gut feeling about or just know whether the badge is being misused.

The ability to confiscate the badge there and then will stop misuse. I can put my hand on my heart and say that, if I were to speak to somebody this morning and I suspected that misuse was going on, I would know that it would not have been the first time that that person had misused the badge—it would have been the first time that they had been caught misusing it.

If we were able to take the badge off them, we could stop that misuse straight away; after all, if we gave it back to them, we would just be allowing them to move around the city and use it elsewhere. It takes perhaps five days to get a warning letter to the badge holder, which means another five days of the person in question misusing the badge before the badge holder even knows about the misuse. By taking the badge there and then, we can stop misuse dead in its tracks.

The Convener: Do you agree that it should be an offence to use a badge that has been cancelled? Should that be liable for summary conviction?

Gordon Catchlove: Yes, because it would clarify things. If somebody was reported for using a cancelled badge, there would be no argument—they would know. Under the bill's provisions, a badge is considered cancelled only after a letter of cancellation is sent to the badge holder; as a result, cancellation would not take effect straight away. However, once that has happened, we could seize the badge and, if need be, report the

misuse as a summary proceeding under criminal legislation.

Colin McNicol: The question was about resources in councils, and Gordon Catchlove talked about having an armoury. Along with all the other councils that do not have DPE, Stirling Council needs to establish the armoury to begin with, and the legislation can be added to that. Currently, however, all the small councils that do not have DPE still have to rely on the police and traffic wardens for enforcement.

If the legislation goes through, Stirling Council and other smaller councils will need to decide whether they want to go down the DPE route. If there was a business case for having DPE, the legislation would just be added to it, so it would have advantages as another part of the armoury.

Alex Rowley: Another danger is that, as local authorities take on this role, the police do not continue with the work. Because local authorities are cash-strapped, they might not resource enforcement properly, and because police budgets are being slashed throughout Scotland, the police are cutting back on enforcement.

What is the relationship with the police like now? In addition to the 70 per cent level of misuse, a telephone survey found that, for about 76 per cent of respondents who had experienced misuse, the main problem was the use of disabled spaces by people who did not display or did not even have badges. It seems to be a major problem for people who have badges that they cannot find parking spaces. Enforcement is a real issue, and at the moment the police are responsible for dealing with the matter, because it is a criminal act.

The Convener: We will have the opportunity to speak to the police later.

Alex Rowley: I am trying to get at what the relationship is like right now.

The Convener: That is what I was just going to ask Mr Catchlove. What is the relationship with the police like?

Gordon Catchlove: In Edinburgh, I have had a very good—indeed, fantastic—relationship with the police, who are more than happy to help. Over the years, I have carried out training with the police not only to bring them up to speed on the legislation but to ensure that they can identify fake badges and know what the information on the badges means so that, when they are out, they are able to do something about the problem. Over the past three or four years in particular, the police's experience in relation to blue badge fraud and misuse has grown, and they now know about the legislation and how to deal with people who misuse the badges. Personally, I think that the relationship with the police is very good.

Michael Brady: The relationship with the police has been fine, but the reality is that the scheme is not something that they enforce on a day-to-day basis. When we undertake joint operations, we have to approach them because they are the only ones with the power to seize badges.

To be honest—and I concur with others on this—the police are moving away from enforcement anyway; in fact, they have already announced as much, and the traffic warden service is going to be all but disbanded. The police can speak for themselves, but I do not see it being a core function of what they do. We need the power to seize badges, because I do not think that we can rely on the police to do so.

Colin McNicol: Generally, our relationship with the police is very good. However, as Michael Brady has said, the police have, in light of their limited resources and what they see as their priorities, decided to move away from enforcing the scheme. As a result, local government is being pushed towards having to deal with it.

The Convener: Apart from the situation with traffic wardens, do you have any other evidence that the police are moving away from enforcing the scheme?

Colin McNicol: All we have is the fact that the traffic warden service is being withdrawn. There used to be six traffic wardens in the Stirling area; now there are three, and the police had been planning to remove them completely this year. However, after discussions between council members and Police Scotland, an agreement was reached to extend traffic warden cover in Stirling until the end of April. I am not sure what will happen after that.

The Convener: Do you have any figures for the enforcement that traffic wardens were carrying out? For example, do you know the number of tickets that were issued compared with the current situation?

Colin McNicol: No.

The Convener: So there is no evidential basis.

Simon Cameron: We have always had a positive relationship with the police in South Lanarkshire. When we ran our be fair or be fined campaign on the misuse of disabled parking bays and blue badges, the police carried out a number of purges with us. Our parking team comprises between 12 and 14 wardens, but the area that we cover is so large that, starting on the M74, you have to travel for almost an hour to get to the bottom of it. In addition, 80 per cent of our population lives in an urban area that covers only 20 per cent of South Lanarkshire; the rest is rural.

We have close to 1,000 on-street disabled parking bays in the area, and enforcing those

meaningfully on a day-to-day basis will be extremely challenging. If misuse is reported, we will have to rely on people in the local area going out and seizing a badge, but, given the time that it might take them to get there, the car might not be there any more. That is one of the problems that we face.

Alex Rowley: I would hate to build up people's expectations that the bill will solve all the difficulties. You are saying that local authorities will have to apply significant resources to enforcing the scheme if the bill is to have the impact that it needs to have to address the issues that you are flagging up.

Gordon Catchlove: I would not say that significant resources will be required. The bill will allow local authorities to consider how they can enforce the blue badge scheme in their areas. That can be done on an ad hoc basis or in a more committed way, as Edinburgh does with a full-time investigation team. I read in the submissions that Glasgow would like to deploy parking attendant teams in plain clothes, as long as they have written authorisation to carry out such operations. The issue is about using the legislation in the best way possible to allow local authorities to enforce the scheme effectively, based on their resources.

Michael Brady: I do not know how high the expectation is, but we will have to manage that. Whistleblowers write to us and say that a badge is being misused, but finding the person who is doing that or getting them to approach their car when the parking attendants are around is very labour intensive. We have significant issues with that. When we do what we call stings in the morning, we have several PAs out, but we find that people just do not park up—they drive somewhere else and park. It is incredibly difficult to enforce.

Colin McNicol: We would first need to look at a business case for introducing decriminalised parking enforcement, which might or might not wash its face. If Stirling Council decided to proceed with DPE, by default we would be assigning the resources to deal with all parking offences, including blue badge offences.

Simon Cameron: Although the bill has absolute merit and will help us to improve the scheme in general, I come back to the point that we need to carry out general public awareness raising if we are to have an effect on people's choices on a day-to-day basis. People need to realise that, by doing something as simple as driving into a bay and getting on the train because they are running late, they are taking away a life opportunity for somebody else. Frankly, it is as serious as that—people become prisoners in their own homes because of other people's unwillingness to walk a few yards further when they could do so perfectly easily. We have to put an emphasis on that.

The Convener: By being lazy, someone can get a £1,000 fine, but that in itself does not prevent the deterioration of some folks' quality of life.

Simon Cameron: No, it does not. That is the point. We need a campaign that raises the profile of the issue and says that the scheme is absolutely valid and worth while and that everyone in society should value it because, at some stage in our lives, we might rely on it.

John Wilson: I want to concentrate on Mr Catchlove's answer about the 50 to 70 per cent misuse of blue badges, which I think will be the headline from today's meeting. How many blue badges does the City of Edinburgh Council issue in a year?

Gordon Catchlove: I am sorry, but I do not know. I can tell you that, currently, 17,000 badges are on issue to Edinburgh residents, but that excludes commuters and tourists coming from outside Edinburgh.

John Wilson: I understand that it is difficult to calculate the number of people who travel to and park in Edinburgh from surrounding local authority areas where blue badges are issued, but—

Gordon Catchlove: I am sorry, but I cannot tell you that.

John Wilson: I know that it is difficult to calculate that. Is the 50 to 70 per cent the figure for misuse?

Gordon Catchlove: It is for misuse. It relates to third parties using a badge to park up in the city somewhere—it does not have to be within the controlled parking zone.

John Wilson: As I have said, the headline will be that 50 to 70 per cent of blue badges are being misused. Is it 50 to 70 per cent of the blue badges that are being used to park in the city of Edinburgh?

Gordon Catchlove: Yes—I am sorry. It is those that are currently being used and which are on display.

John Wilson: That is different from 50 to 70 per cent of blue badges being misused. As I have said, the headline from this meeting will be that 50 to 70 per cent of blue badges in Edinburgh are being misused.

Gordon Catchlove: It is 50 to 70 per cent of those that are on display today.

John Wilson: So it is the percentage of those that are on display today that might be being misused.

Gordon Catchlove: Yes.

John Wilson: Right—that is fine.

I believe that Glasgow did some work last year on this issue. Mr Brady said that 118 blue badges were found to have been misused in the centre of Glasgow.

Michael Brady: I will clarify that. Of the people approached by the parking attendants, there were 118 cases of what is termed "misuse". The attendants fill in a form, and we record the information.

In preparation for this meeting, I asked the police to tell us how many badges were in the city centre. On 20 March, there were 669 badges on display; there are 3,400 bays, which means that 20 per cent were occupied by vehicles with blue badges. I do not have an equivalent figure to the one that Gordon Catchlove has for misuse. I bow to his superior knowledge, but on any one day there are 669 badges on display in Glasgow city centre.

10:00

John Wilson: Mr Brady indicated that parking attendants carry out enforcement of the blue badge scheme in Glasgow. Would parking attendants be suitable for providing enforcement in the areas of the other panel members, rather than the police?

Colin McNicol: If we went down the route of decriminalised parking enforcement, we would do it with our own parking attendants.

Simon Cameron: Yes—we would look to use the parking attendants and the parking unit in general to enforce the blue badge scheme.

The Convener: It is not decriminalised in South Lanarkshire at the moment, then.

Simon Cameron: It is decriminalised.

Stuart McMillan (West Scotland) (SNP): Good morning, gentlemen. Following on from my colleague John Wilson's comments, I have a couple of questions on enforcement officers. In the local authorities that you represent, what type of additional training would be required, either for the parking attendants that you currently have or for additional members of staff?

Gordon Catchlove: I have an enforcement background. I was in the Royal Military Police for 22 years, so I went from one law enforcement environment to another law enforcement environment. Parking attendants and officers such as myself would need to know the legislation extremely well to be able to make judgments on whether a badge had been misused. That would come with experience.

The necessary diversity training and disability awareness training would be required, as well as communication training. Here in Edinburgh

especially, the reputation of parking attendants is not that high, so we would need to ensure that they were fully qualified if they were deployed in that role in Edinburgh.

Michael Brady: We already approach people with blue badges, and we have in place training scenarios for parking attendants. Since we started making such approaches in 1999, I can remember only one formal complaint about a parking attendant and their approach.

We find that genuine blue badge holders are happy that people are approaching them. They are happy to give the proper and appropriate information, and there is no issue with that. Referring to the documentation, there seems to be some concern about the diversity training, but we have been approaching people since 1999 and no issues seem to have arisen.

The training would have to be beefed up a bit with regard to how the actual confiscation should be approached and the appropriate wording to use when that is done, but genuine blue badge holders in the city have nothing to fear. Any feedback that we have had about those approaches has been positive.

Colin McNicol: We have parking enforcement officers who deal with enforcement of the council's own off-street parking places. We generally carry out diversity training, customer care training and dealing-with-difficult-people training. That is standard practice to ensure that our parking enforcement officers are equipped to deal with any situation that arises.

Simon Cameron: Our training, too, is already in place—diversity training, customer service training and dealing with challenging situations. The focus would be on the changes to the law.

Stuart McMillan: One issue that has been raised in relation to the bill concerns plain-clothes enforcement officers. Do you envisage any challenges with that being rolled out?

Simon Cameron: It is a matter of public perception and how we assure people that the officers in the role are acting for the right reasons and are legitimately doing a job. It is a matter of ensuring that the public are aware of the officers' role.

Colin McNicol: I appreciate that there might be concerns about non-uniformed council officers doing what is seen as enforcement. I would have thought that most local authorities would have suggested that uniformed and non-uniformed members of staff should be involved, to ensure greater flexibility in the enforcement arrangement. That would provide more effective surveillance and would allow us to make best use of our resources.

However, I can understand the issue from the point of view of blue badge holders. They might not feel comfortable about the task being performed by someone who was not in uniform. Most people expect traffic wardens or parking enforcement officers to be in uniform.

Michael Brady: We have not thought very deeply about whether we would have any non-uniformed officers dealing with the matter. Once the bill is implemented, we will start to think about that a bit more. Initially, we would just use parking attendants. We have not gone down the road of considering the use of non-uniformed staff.

However, I understand that, in other areas, the council uses non-uniformed officers, who carry identification. You are right that when someone approaches a person in a vehicle, there is an issue of vulnerability, and that has to be dealt with sensitively.

Gordon Catchlove: I have been working under cover, for want of a better expression, since 2006 and I have never had an issue. I introduce myself. On my council ID, which I produce if I approach anyone, it says "Fraud Officer". Regardless of whether the person has been the badge holder, they have complied. I have never got involved in a confrontational situation while doing my job. If it is done correctly, I do not think that such a situation should ever arise.

Stuart McMillan: There are local authorities that have community wardens. Could the role in question be added to their responsibilities?

Gordon Catchlove: I think so. The more, the merrier. If we get more people out there dealing with the issue, that will act as a deterrent. In Edinburgh, we have environmental wardens, who are out and about every day. If the public know that they have similar powers and that they can report back or can speak to people themselves, that will be another weapon that will reinforce the scheme and local authorities' commitment to enforcing it, and it might just reduce the level of misuse.

The Convener: Do any members of the panel have an alternative view?

Michael Brady: Some councils already use their environmental wardens to carry out parking attendant duties. I suspect that they would include the role as part of those.

Mark McDonald (Aberdeen Donside) (SNP): I come from an area in which the local authority has decriminalised parking enforcement. Indeed, it has gone further than that and has banded parking enforcement with other forms of enforcement, such as environmental enforcement.

Mr McNicol, you talked about the possibility of Stirling Council going down the route of

decriminalising parking enforcement. Is that issue likely to appear on the council's agenda at some point in the near future? I appreciate that that is for elected members to decide, but is it an issue that is being actively discussed by the council?

Colin McNicol: It is being actively discussed.

Mark McDonald: You mentioned the production of a business case. One of the issues that the committee is concerned about is the costs that will be associated with the enforcement process. For Stirling Council, there would probably be a start-up cost that would not be incurred by other authorities. Do you know the rough costs that might be associated with Stirling Council pursuing the enforcement for which the bill provides?

Colin McNicol: Some business case work has been done in the past—I recall some work being done about 10 years ago, which showed that the idea did not stack up. It would depend on the level of enforcement that was put in place. The issue is being looked at again to find out whether there is a better model. We are in the process of doing that. The expectation is that it might take up to two years to go through the process.

Mark McDonald: You mentioned that some form of parking enforcement already takes place in relation to the parking bays that the council operates. For the record, how much wider would you have to make that activity under the terms of the bill?

Colin McNicol: I honestly do not know all the detail of that, because I do not deal directly with that side of things. However, my understanding is that a parking office would need to be set up. It might be better if you directed that question at the authorities that already have DPE, as they will have gone through the pain of setting it up.

The Convener: I do not want us to go too deeply into the realms of decriminalised parking enforcement; I would prefer us to stick to the bill. Whether local authorities choose to decriminalise parking enforcement is a matter for them, but they will have to do the enforcement for which the bill provides.

Mark McDonald: I just wanted to clarify where this would take local authorities in terms of widening the legislation. However, I am happy to open up the discussion to other panel members on the costs associated with the legislation in their local authority and whether they have had a look at the figures and crunched the numbers.

Simon Cameron: The numbers have to be crunched. We need to gather the data and look at where the hotspots are before deciding on the best approach in order to target the abuse that is taking place and enforce the legislation appropriately.

Michael Brady: The cost to us will probably not be any more than it is now, because we already do enforcement. We might target resources—we do so already. We sometimes target areas in which we think there is abuse of blue badges. We gather a lot of data; we gather information on the age and the sex of the person from the number. We gather that information and, as the new blue badges next year will be the final new blue badges, we will be able to gather quite a lot of that data, which will allow us to target resources. That is a genuine part of the enforcement that we have to do. I have no issues or concerns about it, as it is part of our current role, except that we will have the additional power to seize the badge. We will still be targeting any blue badge abuse that we can.

Gordon Catchlove: I agree with Michael Brady. As a local authority, we have been doing this work actively since 2006. Local authorities will have to look at their budgets to decide on the best way to enforce the legislation. I sometimes get telephone calls from non-DPE local authorities saying that they cannot enforce because parking enforcement is not decriminalised. However, the misuse of a blue badge is a criminal offence, so the local authority has that power. Some non-DPE local authorities have that misconception.

Mark McDonald: Would any implications spread beyond your department to other areas of the local authority?

Gordon Catchlove: What do you mean by “implications”?

Mark McDonald: Are the cost implications likely to go beyond your department into other areas of the council?

Gordon Catchlove: I do not think so. As I said, blue badge enforcement is part of parking operations within the council, so it is in that budget. We do not go into any other budget streams within the City of Edinburgh Council for the role.

Michael Brady: I am not sure that I concur with that, because there is obviously the administration side of the blue badge scheme. In Glasgow, when badges are seized and given back to the local authority an administration process will have to be undertaken to write to the keeper of the badge. In addition, the bill proposes that a review panel will have to be set up, so some costs will be associated with those aspects.

Colin McNicol: I agree with Michael Brady. I think that costs will be associated with the review panel, administration and so on.

Simon Cameron: Yes. The costs will cut across not only our parking unit in one resource but our

social work resources, when there are review panels and so on and administration is involved.

The Convener: Cameron Buchanan has a very brief question.

Cameron Buchanan: I want to look at the other side of enforcement. What happens when someone who is ill—who has broken their back or something—recovers? Do you monitor those people after three or four years and ask them how they are getting on? A lot of people are not permanently disabled.

The Convener: Very briefly, gentlemen.

Gordon Catchlove: I would say yes. A temporary badge lasts for a minimum of 12 months and up to three years, so we have the flexibility to ask whether the person still needs the badge.

Michael Brady: I give the same answer.

Colin McNicol: I give the same answer.

Simon Cameron: I, too, give the same answer.

The Convener: Grand. Finally, I turn to the review process, which has just been touched upon. What are your views on the review process for the confiscation of blue badges that is envisaged in the bill?

Gordon Catchlove: A robust review process is required to ensure that badges go to the people who deserve them. Perhaps we should consider having third-party assessors to do the reviews so that the process is independent from the local authority, or the local authority could use a neighbouring authority to do the assessment or to review it.

Michael Brady: Yes; I think that the local authority is probably the best place to do that.

Colin McNicol: I agree.

Simon Cameron: I also agree.

The Convener: Thank you very much for your evidence, gentlemen. I suspend the meeting briefly to allow for a changeover of witnesses.

10:14

Meeting suspended.

10:17

On resuming—

The Convener: For our second panel, I welcome Grahame Lawson of the Mobility and Access Committee for Scotland; Sally Witcher, who is chief executive officer of Inclusion Scotland; and Helen Dolphin, who is director of policy and campaigns for Disabled Motoring UK.

Would the witnesses like to make opening statements?

Helen Dolphin (Disabled Motoring UK): Disabled Motoring UK is a representative body of disabled people. Around 99 per cent of our members are blue badge holders. We hear a lot from our members; we communicate to them through a magazine, and our postbag is always full. I would say that 80 per cent of the correspondence that we receive is from members who can no longer park because of abuse of the blue badge scheme. We are therefore very concerned about how the scheme is being managed in respect of who gets badges; about the fact that many local authorities do very little to enforce the scheme; and about the fact that many people see what happens as a victimless crime although, in fact, many people suffer a great deal because they cannot park when they go out.

Sally Witcher (Inclusion Scotland): As members may be aware, Inclusion Scotland is a national organisation of, as opposed to for, disabled people and their organisations. It exists to try to ensure that disabled people's views inform policy making, and to draw attention to the barriers of many kinds that they confront.

We, too, have experience, of course, of disabled people's issues around misuse of blue badges. It is clearly an important issue, and I think that we all share the concern about ensuring that disabled people's independent living is not unjustifiably compromised by the misuse of blue badges. However, we also need to be absolutely sure that it is not compromised by attempts that are made to address that misuse. I will expand on that in my evidence.

Grahame Lawson (Mobility and Access Committee for Scotland): To clarify for the record, my name is spelled "Grahame", not "Graham", which is on my nameplate.

The Convener: Thank you, Mr Lawson.

Grahame Lawson: In a previous existence, I was head of roads and transportation in North Lanarkshire Council, so I have had direct involvement in administering roads and parking matters.

My involvement in blue badge issues goes back to 1996, when it was the orange badge, and I was a member of the disabled persons' transport advisory committee in London. I have a long history—I hesitate to use the word "pedigree"—in development and review of the orange badge and blue badge systems.

The Convener: Thank you all very much. We move to questions. Will the bill meet the intended policy objectives?

Sally Witcher: The bill has the potential to meet the aim of addressing blue badge abuse. However, a number of issues about how the system is enforced could make the difference between the legislation's being effective and its creating a new tranche of issues that would impact adversely on legitimate blue badge holders.

We very much welcome the fact that the badge will be more difficult to forge, which is important. Powers to cancel and confiscate blue badges could be very helpful, but the big proviso is that it is important to distinguish between where inadvertent casual misuse takes place because people are not aware or have not realised that they are misusing the badge, and blatant, systematic and purposeful misuse.

I was a little concerned by the tone of some of the previous witnesses. Disabled people commonly experience demonisation in the media on issues around benefits fraud and so on. We do not want to set up a system that would potentially exacerbate the view that disabled people are scroungers, are fraudulent and so on. While acknowledging that misuse is an important issue that must be addressed, we must have regard to how people view legitimate badge holders and disabled people in general. That is one concern.

We have particular concerns about the use of non-uniformed officers. The committee might want to explore that issue later on. How are disabled people to identify non-uniformed officers? Will they be consistent in how they make themselves identifiable? For example, disabled drivers have been known to cross local authority boundaries. What about the scope for abuse? What about training issues and how they would recognise whether people are legitimate blue badge holders? A whole raft of issues must be dealt with. Some of that can be picked up in regulations and guidance, but it is important to consider some of those issues now.

The Convener: We will, without a doubt, come on to a lot of that line of questioning later, but you are happy with the bill's general principle, and that the bill would be an improvement.

Sally Witcher: As I said, elements of the bill would most definitely be an improvement, but other aspects of it require to be addressed to ensure that genuine blue badge holders are not impacted adversely.

Helen Dolphin: I will stick with generalities as I suspect that you will come on to the finer points. Generally, we support the bill, mainly because we see a lot of abuse. We heard some incredibly high statistics earlier about how much the blue badge system suffers from abuse—which was no surprise, considering what we hear from our members.

The system's loopholes need to be closed. It is slightly ludicrous when you know that a badge is being used fraudulently but can do very little about it. That situation should not exist.

Like Sally Witcher, I have a few concerns about the non-uniformed officers and how that will be dealt with. I guess we will go into that later.

Grahame Lawson: MACS generally supports the bill's principle but, as members will know, the whole scheme—from the orange badge to the blue badge—has evolved and has been enhanced and improved over the years. Changes to the eligibility criteria have been dealt with in the scheme's application and administration.

The third aspect of the review is to strengthen enforcement. We have improved how the badge system is delivered and we made that more consistent. The administration is more consistent, too. We now need to make enforcement more consistent.

I agree with the other panellists. I am happy with the bill in principle, but there are issues about the detail.

Anne McTaggart: You have made clear your wealth of experience of misuse of the blue badge scheme. What do you think is the solution that would reduce or eliminate such fraudulent misuse?

Sally Witcher: A lot of what is already in place or is being proposed could help, but we need to address certain issues that could have adverse impacts. For example, non-uniformed officers must not have face-to-face contact with or challenge disabled people; they need to be identifiable, because if they are not the process will be open to abuse.

The Convener: What is the difference between non-uniformed council officers in this regard and non-uniformed council officers throughout Scotland dealing with disabled people on other matters? Identification is paramount here but, as Mr Catchlove said in the previous evidence session, he does this sort of thing a lot and has never had any difficulty. He simply shows his ID. What is the difference between wearing and not wearing a uniform?

Sally Witcher: It is, to some extent, about the setting. After all, this could happen out in the street. Anyone walking past could be a non-uniformed officer, so how would the person in question identify that individual? We just need to be alert to the potential for abuse, because someone who is not a legitimate enforcer could be going around, checking people's blue badges. I do not want to sound overly paranoid, but we need to think through how we ensure that the people who check badges and have that kind of interaction

can be identified as having the authority to do that job. It is an important issue that needs to be sorted out.

The Convener: You think that a uniform will make a difference.

Sally Witcher: I think that it will help.

The Convener: Any naughty person who wants to play such games would find it easier to get a uniform that looks like some of the uniforms that are already out there than they would to fake an ID badge. What is different about this area of council business from other areas in which non-uniformed folk simply carry ID that other folk normally think is okay?

Sally Witcher: I do not have a solution that would ensure that a person was able to demonstrate unequivocally, in any situation, that they are a council officer, but I can tell you that it is easier to identify a uniform than it is to identify some bit of paper or document. After all, we are talking about people who have a variety of impairments, some of which will make it more difficult for them to recognise these people. They might also have communication impairments. We will not be able to rule out absolutely everything—we will never be able to do that—but certain measures can be taken that will make things easier or more difficult. That is the best that we are ever going to get.

Another issue is the rapidity with which people get their badges back.

The Convener: We will come on to that later. I want to cover the various issues in tranches, if I can.

Helen Dolphin: On the question about how we think the scheme should be managed, the most important issue is to ensure that enforcement happens and that it is known to be happening. In certain areas, there is close working with, for example, the local media; publication of the numbers of people who have been caught and prosecuted can act as a deterrent. If people know that such measures are being enforced, they are less likely to park in disabled spaces.

The greatest amount of abuse happens in private parking areas, such as those in supermarkets, where there is less enforcement, because people think, "It doesn't matter if I park there because no one's going to do anything about it." If people know that in certain areas nothing is going to happen, they will never stop doing what they are doing. Enforcement must be carried out and must be seen to be carried out, and the figures for it must be published so that people see that it is being carried out.

10:30

Grahame Lawson: Helen Dolphin touched on a point about supermarkets that I would like to return to later.

When a blue badge is issued, it comes with a little booklet about the blue badge holder's rights and responsibilities. The badge holder is supposed to read that and anybody who takes them in the car is asked to read it, but in practice nobody does. People all think that they know the answers because they have had a badge before.

It is vital that we deal with enforcement. The wording in the bill will help to strengthen that.

Anne McTaggart: Have you seen any solutions that are not mentioned in the bill?

Grahame Lawson: We have talked in the past about police enforcement and the use of wardens. The wardens and the police have a wide range of duties to carry out. The difference with the parking attendants whom councils employ is that they are dedicated to a single purpose, so the opportunity exists to target resources more effectively and give greater emphasis to enforcement of the blue badge scheme. All I can say is that there is an opportunity.

Stuart McMillan: Good morning, panel. I will follow on from the previous point. I asked the previous panel about extending community wardens' powers. The idea is that more people being involved in enforcement might yield better results in catching people who misuse badges, or in finding stolen badges. Mr Lawson's comments seem to disagree with that.

Grahame Lawson: Community wardens are the community's eyes and ears. If they observe things, they can pass on the information to their local authority colleagues who are parking attendants and enforcement officers. It does not matter whether wardens are directly or indirectly involved, but eyes and ears are important to enforcement issues.

Helen Dolphin: I agree. The more people who are out there looking out for issues, the better. It would not be a problem, as long as people have appropriate training and know exactly what they are doing. The issue is that authorities seem to think that they do not have a problem and that they need not do anything.

Sally Witcher: I agree with my colleagues.

Stuart McMillan: The bill does not cover leisure trusts and arm's-length organisations that provide services that previously fell within local authorities' powers. Is there scope to consider such organisations and the parking facilities that are under their control?

Grahame Lawson: I am not quite sure where you are going with the question. We have expressed concern in our submission to the committee. The blue badge relates purely to on-street parking but, as Helen Dolphin has shown, a lot of the problems relate to off-street parking.

The Convener: We understand that you would like much more enforcement across the board. I do not want to curtail the debate, but our difficulty is that the bill does not cover what you raise, which involves reserved issues. If we can, I would prefer to stick to the bill as it is than to stray into other matters.

John Wilson: Good morning. Ms Dolphin said that her members had identified in surveys an 80 per cent abuse rate. The Scottish Parliament information centre provided information to the committee on a survey of blue badge holders by Transport Scotland, which found that 76 per cent of respondents had experienced abuse of the scheme. A previous witness said that 50 to 70 per cent of badges are abused.

My question follows on from the convener's point. When blue badge holders identify abuse, is that abuse of blue badges or abuse of designated parking bays for disabled drivers and users?

As the convener said, there are two areas of legislation. The committee needs to be clear about the views of the disabled community in relation to the abuses that are taking place. I was shocked when I heard that 50 to 70 per cent of blue badges are being abused. I want to find out whether the issue for your members is abuse of blue badges or abuse of parking bays that are supposed to be set aside for disabled drivers and where blue badges might not be being used?

Helen Dolphin: The figure that I referred to was that 80 per cent of the correspondence that we receive is to do with abuse of blue badges. I will home in on exactly what that means. There are all sorts of blue badge issues. One is to do with people who do not use a blue badge at all—the chancers who think that they will get away with it because they are not stopping for long, and who just park and might or might not get a ticket. That type of abuse tends to happen mostly in off-street or private parking for supermarkets, where people know that it does not really matter if they park in a disabled bay.

Another sort of abuse involves people using a badge that belongs to a family member, a fake badge or one that they have doctored or obtained through illegal means. Our members will not know that such abuse is happening, because they will not see it. They might see someone whom they think is not disabled but, as we say all the time, none of us can really judge whether a person is disabled. We might think that a person looks fine,

but they could have a fluctuating condition, such as multiple sclerosis. We always try to get over the point that no one, unless they are a medical professional, can make such judgments about someone who is doing their shopping. People do not really know about that, although they can have their opinions.

A type of abuse that our members can see involves someone, possibly the badge holder, sitting in the car while a non-disabled person does the shopping—basically, they leave granny in the car. That allows someone to take advantage of free on-street parking, but the person who is left in the car does not benefit at all, although we recognise that, in a small number of situations, it can be an advantage for a non-disabled person to leave a disabled person in the car, so that they can keep an eye on them when popping into a shop, for example.

The main abuse that our badge holders see and report is only really when people do not show a badge at all, because otherwise our members do not know. They do not have the skills that enforcement officers have and they do not know whether a badge is doctored. I do not know whether the committee has seen many doctored badges, but some of them are fantastic forgeries and are very difficult to spot, even with an open eye. That is the sort of abuse that our members talk about.

Sally Witcher: I have similar points to make. It is difficult for disabled people and others to know whether an individual has an impairment that qualifies them for a badge, especially if they are not interacting with that person. However, disabled people can talk about the implications of misuse and abuse and the impact on them of illegitimate use of badges, which affects how they get around and compromises their independent living.

Grahame Lawson: I respect what the convener said about not broadening out the debate to supermarkets, but the perception of the effectiveness of enforcement relates to all provision for blue badges, and that is part of the problem. On abuse, we can begin to get into semantics. There is abuse and misuse, and we could consider how much of the abuse is deliberate misuse of badges and how much of it is accidental misuse. Many people see the blue badge as some form of compensation for having a disabled family member and think that it is to make their life easier in looking after that disabled person. However, the badge is not for that; it is to allow the disabled person to go about his or her life and to make it easier for them.

Helen Dolphin talked about a disabled person being left in a car while a member of the family or whoever goes to the shops. Again, that is not the purpose of the badge. The badge is to allow the

disabled person to do that. My mother, who is a blue badge holder, wanted to go to the bank, and the most convenient place to park was outside the bank. I said, "Right, there you are, mum. Off you go." She said, "Will you go and get the money for me?" I told her that I was sorry, but I could not because I know the rules about the blue badge, and that the badge's purpose is to allow her to go. If I was to go, I would have had to go round the corner, find a parking place, and then get the money for her, which is what happened in the end. Those are the sort of problems that we have with distinguishing between deliberate abuse and accidental abuse of the scheme. At the end of the day, it is abuse.

John Wilson: One thing that comes to mind is education in the use of the blue badge. Mr Lawson rightly identified that the blue badge is issued to the disabled person but can be used by other drivers to assist that disabled person to carry out their day-to-day duties.

I would like the panel's views on one of my concerns. Earlier, we heard from the local authorities about the inference that is sometimes drawn when a car displaying a blue badge is parked up from 9 o'clock until 5 o'clock every day in the city centre. The person might genuinely be carrying out their normal day-to-day activities and holding down a full-time job while being disabled. We need to get the message over to those who abuse the blue badge scheme and the general public that some people might not look like they have a disability but still have a disability that means that they require the use of the blue badge to carry out their duties.

How can we educate and get that message out to wider society, particularly to those individuals who abuse the blue badge scheme?

Sally Witcher: I am not sure that there is a simple answer as it is part of a bigger problem around how people understand disability and their attitudes towards disabled people.

It is entirely plausible that a legitimate blue badge holder could be parking as John Wilson has described. They might be in full-time work. Because of some of the media coverage and because of people's low expectations of disabled people, there is already potentially a default position that disabled people using their badge in that way would not be doing so legitimately. There is therefore a huge job of work to be done to challenge attitudes towards disabled people in general.

The bill could provide a useful peg for doing some concerted work around that kind of awareness raising. The message is that people should not prejudge. We will come down hard where there is evidence of misuse and abuse,

particularly when it is deliberate, but people should not make assumptions about who is and who is not disabled on the basis of what might appear to be the case.

The issue is not straightforward, which is why training is so important for the officers who will be involved in the process. Getting it wrong could have a major impact on disabled people who are entirely genuine.

Helen Dolphin: It is complicated, but one reason why we have so many people thinking that they have to police the scheme themselves is because they do not see proper enforcement happening. They know that nobody else in their local authority is policing the scheme, so they take it upon themselves to be blue badge enforcers who wonder whether people are disabled or whether they are abusing the scheme. People feel that they have to do it because they do not think that anyone else is doing it.

I go back to what I said earlier. If the scheme is seen to be enforced, fewer people will think that they have to be their own personal blue badge enforcer. Last year, we had a death in a car park when someone accused someone else of misusing a parking space. They punched them and that person died. I do not think that any of us wants to see any repeat of that. I still believe that things like that happen because people feel that no one else is doing the policing and so take it on themselves.

I come back to the responsibility of badge holders. Holders get a blue badge book, but they do not read it. Perhaps they should have to sign something—not a book; something much clearer—that means that they agree to abide by the rules. If they then say, "Oh, I didn't know", the response could be, "Well, you signed it—did you sign something that you didn't read?" People have to take responsibility as badge holders. We cannot keep saying, "Oh, the poor disabled person didn't read it." They or, if they are not able, someone on their behalf must take some responsibility.

10:45

Grahame Lawson: As Helen Dolphin says, the badge holders themselves must take some responsibility. In addition, the information that we give out to badge holders and their families must be better and should perhaps be given out more regularly.

There is also scope for publicity campaigns through national media and so on. If the bill becomes an act, there will be an opportunity to make a very definite statement that life has changed because blue badge enforcement has gone up a gear and that if people misuse a badge they are more likely to be caught.

There are signs all over the place warning us about speed cameras. In the same way as people know that there are now speed cameras all around the country, we need to raise people's awareness and get the message over that enforcement officers are out to get them if they are misusing the blue badge but that they have nothing to fear if they are not misusing it. It should be clear that this bill will enhance the facilities and opportunities for a disabled person but that, if anyone abuses those facilities and opportunities, they should fear the consequences.

Cameron Buchanan: Some written submissions suggest that the enforcement penalty should be a fine, and others suggest that it should be penalty points on the driving licence. What does the panel think? If somebody is misusing their blue badge, should they be fined or should they have penalty points on their licence?

The Convener: Again, unfortunately, penalty points are a reserved matter.

Cameron Buchanan: Okay.

The Convener: As most folks know, the Scottish Parliament has only a certain amount of powers at the moment. However, I am willing to take very brief responses to Mr Buchanan's question.

Grahame Lawson: There are practical problems for enforcement. For example, the blue badge holder is not necessarily the driver of the car—in fact, several drivers could be involved. As the convener said, the practicality of adding penalty points to a licence for misuse of a blue badge would have to be considered in another forum. On the £1,000 fines, I do not know how many have been levied, but if we increased the incidence of those or of penalty charges being incurred, I think that that would make a big difference.

Helen Dolphin: I think that, in principle, penalty points should be added to people's driving licences for misusing blue badges. If it is the driver of the vehicle who is caught, they are responsible for the fact that the badge has been displayed on their vehicle. I do not think that that aspect would be as difficult to deal with as might be imagined—it would be possible. We must also remember that the £1,000 fine is for each incident of blue badge abuse, so there is nothing stopping the fine from being more than £1,000. For example, if an enforcement officer sees a car being parked for five days in a row through misuse of a blue badge, why can the fine not be £5,000?

Sally Witcher: A fixed-penalty notice for illegal parking is certainly one way to go. The only additional observation that I would make is that poverty is often a real issue for disabled people, so we should be clear about what is the most

appropriate way to address blue badge abuse that will not inadvertently penalise disabled people in a way that is unjustifiable. Other than that, fines might be appropriate, as indeed might points on people's licences—I think that either is possible.

Alex Rowley: Good morning. I have a brief question on the current situation and on your members' views on, and their experience of, traffic wardens and the police. We will hear from the police shortly, but what has been your experience when abuse of blue badges has been reported? What do your members perceive the current role of the police to be in that regard?

Helen Dolphin: Their perception at the moment is that nobody does anything. Very few local authorities have blue badge fraud hotlines for them to phone. They phone us and say that they know someone is abusing a blue badge and ask us what can be done. In most instances, we cannot do anything.

Our members' general opinion is therefore that nobody really cares about blue badge abuse and that nobody really does anything about it. The message that we get is that they would like to see enforcement. Genuine badge holders have nothing to fear. Indeed, many people are proud of the fact that they are genuine holders and are happy to show their badges. The general opinion that we hear is that more enforcement is warranted and our members would like it to happen.

The Convener: Do you want to comment, Mr Lawson?

Grahame Lawson: I do not have anything to add to that.

The Convener: Ms Witcher?

Sally Witcher: I agree absolutely that the absence of apparent enforcement is the overriding issue. As a small aside, I wonder whether having uniformed officers as opposed to non-uniformed officers might be one way to convey that enforcement is happening.

Mark McDonald: I note that Ms Dolphin highlights in her submission the potential unintended consequence of a confiscation or cancellation depriving a disabled person of their mobility, particularly if the badge has been used by their carer or relative without the disabled person's knowledge. I ask her to touch on the issues that she has with the review process for confiscation or cancellation and what she would like to happen.

Helen Dolphin: We come back to saying that the disabled person has to take some responsibility for their badge—that should go with the badge.

That said, we have had people ring us up and tell us that, for example, their son will not do their shopping unless they let him use their blue badge. Sometimes, family members force the disabled person to let them use the badge, and there needs to be a separate way to deal with such people.

In a way, it is not that lady's fault. She has signed the paper saying that she will not lend badge to other people but, if she does not, what will happen to her daily or weekly food shop? She will not get any food. There needs to be some way of dealing with that kind of case without the badge holder suffering any detriment. The son is the abuser in more ways than one.

If badges are confiscated and then found to be genuine, I would like them to be returned quickly to their genuine holders, but that cannot continue happening again and again. There must be a point at which it is decided that we cannot keep returning the badge to the holder for someone else to be caught using it again. I would not be particularly generous on how many times we allow that to happen.

There need to be proper warnings, but I do not want people who are put in difficult situations, such as the one that I described, to suffer because of it.

Grahame Lawson: I have a lot of sympathy with what Helen Dolphin said: many blue badge holders are vulnerable people and it is easy to put them under pressure. However, it is difficult to quantify the incidence of that. I do not know how serious an issue it is, but we know that there are instances, and Helen Dolphin can give the committee details of them.

We must ensure that the badge is returned to the badge holder and that they are reminded of their responsibilities under the scheme. If the issue is abuse by the family, we need to educate the family as well. It might be that a much wider approach is needed to deal with the matter, perhaps involving social work services. I do not know.

The Convener: There is adult protection legislation as well for such a situation.

Grahame Lawson: Yes. That is what I had in mind.

Sally Witcher: The point is that misuse and abuse can happen for a wide variety of reasons and can take many different forms. Therefore, it is important that the redress that is available is appropriate and fitting to the nature of the misuse or abuse.

We are concerned that a disabled person could, for reasons that are not of their making and which they had no part in creating, end up not having access to their blue badge and, as a

consequence, be unable to go out to work, see friends and live their lives. That is clearly a really important issue.

Once again, we are touching on a much bigger issue. It concerns the importance of services such as independent advocacy. Colin McNicol talked about social work and the convener mentioned adult protection. The other important way of addressing the issue is through the role of centres for inclusive living—local organisations that work to support disabled people—and the services that they provide to deal with the kinds of situations that might arise, such as the one that has been described in which family members hold somebody to a situation in which they have no choice but to allow the abuse to happen.

The Convener: That is outwith the scope of the bill, Ms Witcher. I know exactly where you are coming from, but I do not want to deviate too much from the proposed bill, although I understand the role for advocacy and for other things as well.

Anne McTaggart: I have a wee supplementary question. I do not want to go off scope even further, but would some of the misuse be due to the length of time it takes for a renewal? I find the lengthy time that it takes for a renewal included within my bag of constituents' complaints. What would you advise the disabled person to do within that lengthy time?

The Convener: Again, we are going out of scope. I will take very brief answers on that. I really want to stick to the bill rather than the generalities. It is important that we do that.

Sally Witcher: There is a need to ensure that systems are fit for purpose so that people are not left in a situation in which they are waiting for a badge to show up. That is the challenge.

Helen Dolphin: There used to be reminders from local authorities, but they have been stopped in many areas. It is very difficult after three years to remember that your badge has expired.

Grahame Lawson: My views are very much along the same lines as regards better information and better follow-up. The blue badge scheme itself has been substantially enhanced. Overall in Scotland, people get their badges much more quickly than they ever did in the past. Some councils used to be very quick; some used to be very slow. Now the process is much more consistent and it is consistently quick.

Anne McTaggart: For it to be consistently quick, the resources need to be there to enable that to happen.

Grahame Lawson: Absolutely.

The Convener: I have a final question on the review process for the confiscation of blue badges.

You have touched on that to a degree, and basically you have given examples of where common sense should come into play. Unfortunately, we cannot legislate for common sense—I wish that we could. What are your views on the review process for confiscation as it is envisaged in the bill?

Grahame Lawson: The bill raises expectations about how things will be enforced. We have concerns about the confiscation of badges, as there is potential for abuse by people pretending to be enforcement officers.

The situation is very difficult. For example, when my mother was a driver, if she was sitting in a car and somebody came up to her and asked to see her badge, she would just give it to them. She would not worry about whether the person flashed a piece of ID in front of her; she would just hand over the badge. That is one of the difficulties that we have: many blue badge holders are relatively vulnerable people.

Helen Dolphin: I agree. I do not have such a problem, as Sally Witcher does, with non-uniformed enforcement officers. I have been out with some fraud teams and seen the work they do, and it is quite important that we have the non-uniformed officers as well because otherwise it is very easy to see that officers are there.

The officers need to be carrying some kind of information that can be easily verified by a telephone call or something like that. I do not open my door to people unless I can verify them. I would do the same for someone who wants to take away my badge. It is important, if that is going to happen, that disabled people are made aware of what they can do.

I do not think that a uniform makes a blind bit of difference because I go to many shows and I know that people can buy uniforms for £20. I think that badges should be confiscated when necessary because we need to get those badges, especially the fake ones, off the market and away from ever being used again.

Sally Witcher: I agree that fake badges should not be allowed to continue, but the question was about the nature of the review process. We would want an independent review where possible.

It is important to have consistency in how the scheme is dealt with across Scotland. Indeed, consistency is an important principle throughout. We have accepted it in the design of the badge, and it is also important with regard to how the scheme is enforced and the nature of the review process that is in place. There needs to be consistency across the piece.

The Convener: Thank you all for your evidence. I suspend the meeting to allow for a comfort break and a change of witnesses.

10:59

Meeting suspended.

11:10

On resuming—

The Convener: We move on to the morning's third panel. I welcome Assistant Chief Constable Wayne Mawson, local policing west, Police Scotland; Superintendent Craig Naylor, lead on reform and local engagement, Police Scotland; and David Cabrelli, member of the equalities law sub-committee, Law Society of Scotland. Welcome, gentlemen. Would you like to make any opening statements?

Assistant Chief Constable Wayne Mawson (Police Scotland): We welcome and thank you for the opportunity to provide evidence to the committee today.

Police Scotland is committed to keeping people safe—that is our core business. We are changing the way in which we conduct parking enforcement by removing the traffic warden role. However, we are committed to tackling dangerous or obstructive parking and the misuse of blue badges, including parking in disabled bays. That commitment will remain after the traffic warden service ceases. We are determined to work with councils to tackle all forms of abuse in that regard.

David Cabrelli (Law Society of Scotland): The equalities law sub-committee of the Law Society of Scotland welcomes the proposals to strengthen enforcement powers in relation to the blue badge scheme. We are supportive of the policy intent behind the bill, which is to identify and minimise the abuse and misuse of that valuable scheme and to reduce its exploitation by those who are engaged in fraudulent activities. However, we have some reservations in relation to three sections.

The Convener: Do you want to talk about those reservations now, Mr Cabrelli?

David Cabrelli: I suspect that we will touch on them in questioning, but if you would like me to go ahead I would be happy to do so.

The Convener: Given that the committee received word of your concerns only this morning, it would be useful for us to hear you spell them out.

David Cabrelli: I am happy to do so.

The first issue relates to section 4 and the offence of using a cancelled badge. The section

introduces a new strict-liability criminal offence that, in our view, is disproportionate. To use a cliché, we would characterise it as a sledgehammer and nuts. We recommend that the most appropriate method of addressing the policy intent behind the bill would be through civil penalties—fines—rather than a criminal offence. We suspect that that would strike a fairer balance between addressing wrongful use of blue badges and creating a fair and just process in relation to the blue badge scheme.

There are a number of reasons for that. First, the misuse or abuse of a blue badge is already covered under the common-law offence of fraud. Secondly, in relation to the proposed strict-liability criminal offence, we are concerned that the requisite intention to defraud would be lacking. Someone could be prosecuted and convicted under section 4 without having had any motive or intention to defraud. Therefore, our concern is about, first, unnecessary duplication and, secondly, the absence of any mens rea for the commission of an offence.

We need to be careful when we criminalise individuals and should stop to think before we do so, particularly when the existing common law is extremely flexible and can be used to address the situation. That is our first issue, and it relates to section 4.

The Convener: Let me stop you before you move on from that issue. We have received evidence today from the City of Edinburgh Council that the level of misuse is between 52 and 70 per cent. We have also heard evidence from disability organisations that the existing legislation is not helping folks who are affected by that misuse. You mentioned the strict-liability criminal offence. Surely that would be used because prosecution would be in the public interest.

11:15

David Cabrelli: Yes. The statistic of 50 to 70 per cent has been quoted in respect of misuse, but I do not know the facts behind those cases. Some of them could—I have no idea whether they do—relate to individuals who have reported a badge lost and then found it, but because the badge has been cancelled they are breaching the law. A carer or relative may not know that a badge has been cancelled or confiscated and may use it in such circumstances. Although there may be misuse, we do not know the exact circumstances behind each of those cases.

The Convener: Surely the prosecutor would take those things into account before they decided whether a case would go to court. That would be the norm for any other offence.

David Cabrelli: The circumstances would be irrelevant because, under section 5, misuse of the badge would be a strict-liability criminal offence, and the commission of the act would be sufficient in itself to prosecute.

The Convener: Perhaps the police could comment on that issue, which the Law Society of Scotland has raised for the first time today.

Assistant Chief Constable Mawson: I have a slightly different view on the issue. Quite often local authorities cancel a badge for a serious reason, such as theft or some sort of fraud, and taking that type of offence to a civil court is quite a step. Perpetrators of that type of crime probably view prosecution in the civil court less seriously than they view prosecution in the criminal court. I would say that what the legislation proposes is right.

The Convener: Thank you.

What is your second point, Mr Cabrelli?

David Cabrelli: Can I come back on the previous point?

The Convener: Yes—briefly.

David Cabrelli: The Law Society of Scotland is not saying that abuse or misuse of a blue badge should not be prosecuted. We are making the point that there is already criminal law in place to address that. All that we are saying is that if someone misuses a badge, there would be two avenues. One would be the criminal route, under the common-law offence of fraud, and the second would be the civil penalties route.

The Convener: How many prosecutions have there been under the existing fraud legislation?

David Cabrelli: For misuse of the blue badge scheme?

The Convener: Yes.

David Cabrelli: I do not have those figures, so I cannot answer that question.

Superintendent Craig Naylor (Police Scotland): My understanding from the Crown Office and Procurator Fiscal Service is that, in the past three years, no more than 30 such cases have been submitted for prosecution.

The Convener: Okay.

Mr Cabrelli, you can move to your second point.

David Cabrelli: My second point relates to section 5(4), which allows the use of plain-clothes enforcement officers. The Law Society has concerns about the absence of uniformed officers to police the misuse of the blue badge scheme; we would prefer the enforcement officers to have

some type of outward display, through a uniform, of their ability to enforce the scheme.

One must bear in mind that many of the individuals concerned will be vulnerable, and the sensitivities are such that we would prefer the existence of the authority to be conveyed through a uniform, as that would avoid needless confrontation. If a plain-clothes enforcement officer presented a badge or some sort of identification, the individual concerned would have no way of knowing whether it was genuine, and no way of checking.

The Convener: I will play devil's advocate. A huge amount of enforcement is carried out by non-uniformed council officers. In your opinion, what makes this area so different from other areas in which environmental wardens and others carry out their day-to-day business throughout the country without a uniform?

David Cabrelli: It is the context, which is extremely different. We are dealing with individuals—

The Convener: What is the difference in context between the situation that we are discussing and a non-uniformed officer approaching someone in the street who has committed a litter offence or has allowed their dog to foul?

David Cabrelli: The average holder of a blue badge may be vulnerable, and we need to take that into account. They may be confused, and such situations may be difficult. There is the potential for needless confrontation, which needs to be considered. That is not necessarily the case with an environmental warden.

The Convener: You say that a person may be vulnerable and confused, but a person who has littered may also be in that position. We are putting people in boxes, which I do not particularly like doing.

David Cabrelli: I would not characterise it in that way. We need to address the reason why someone has been given a blue badge: it is because they are disabled, and as such they may have mobility, dexterity or mental health problems. The context is extremely different, and the ability to identify enforcement officers by an outward display of authority is crucial to avoid upsetting individuals in that context.

The Convener: Okay. What is your third point, Mr Cabrelli?

David Cabrelli: My third point relates to section 6. The Law Society's sub-committee is concerned about the absence of a procedure for appealing a local authority's internal decision to a sheriff. The machinery that the section envisages means that any decision that a local authority takes to cancel,

refuse or not to renew a badge would simply be dealt with in-house. We are slightly concerned that that process would breach article 6 of the European convention on human rights.

The existence of the judicial review process is, in our opinion, insufficient in itself to ensure compliance with article 6, bearing in mind the access to justice issues that arise where an individual is seeking to overturn a decision of a local authority before the Court of Session. The only procedure through which judicial review could be undertaken would be through the Court of Session.

The Convener: Do you accept the following comment from the House of Lords? It has stated that judicial review was sufficient for the purposes of article 6 where

"the issues to be determined"

by a review body

"required a measure of professional knowledge or experience and the exercise of administrative discretion".

David Cabrelli: I would always defer to the judgment of the House of Lords—who am I to question it?

Our concern is the costs that would be involved in taking a judicial review to the Court of Session; we are talking about an average cost of £40,000 to £50,000. If someone's application for a blue badge has been refused, or if their badge has been cancelled or not renewed, is it likely that they will have £40,000 to £50,000 lying around in their bedroom to instruct counsel and go to the Court of Session? I suspect not.

Why should we not put in place a simpler procedure to enable a decision to be appealed to a sheriff in the sheriff court, which would cost substantially less and require fewer resources?

The Convener: It is obviously for the committee and the Parliament to decide whether judicial review is a disproportionate remedy.

I ask you to clarify your point. With regard to the breach that you say would exist, the House of Lords says that there would be no breach in that regard. You are really arguing about whether the costs are disproportionate rather than whether it would be wrong to proceed in that manner.

David Cabrelli: Judicial review is compatible with article 6 in the sense that it offers people an avenue to go down in seeking to review a decision that a public body has made. However, behind that lie the actual cost of doing so and the access to justice issues that arise.

Is it reasonable and proportionate to expect someone to spend that amount of money to try to overturn a decision that a public body has taken?

The Law Society's position is that it is not and that there is a much simpler route, which is to enable a review to be undertaken by the sheriff.

The Convener: Do you have case law to support that?

David Cabrelli: No. We have our members' evidence on the amount of money that it generally costs to take a case to judicial review. That would not be found in case law, because the issue is really an access to justice one rather than a point of law as such.

The Convener: Okay. Thank you very much.

My next question is for ACC Mawson. We heard from previous witnesses that there may be a difficulty with the withdrawal of traffic warden services and that perhaps the police do not take such offences seriously enough. I recently visited Elgin with John Finnie for the Justice Sub-Committee on Policing and was told that, since the withdrawal of the traffic warden service in Moray, more folk have been dealt with for traffic offences than were dealt with by the wardens, if my memory serves me right. What is the situation across the country? How seriously do you take these matters?

Assistant Chief Constable Mawson: We take them extremely seriously. For me, anything that significantly and disproportionately impacts on people who have less mobility or some kind of physical impairment has to be tackled, and Police Scotland is absolutely committed to doing that.

On where we are currently across Scotland, roughly half the councils have gone down the line of decriminalised parking enforcement, and more will potentially move down that line. We have found that, as you said, there has been no significant impact since the traffic warden service was largely removed on 3 February. We have 11,000 front-line operational divisional police officers in local policing, and we have made it absolutely clear to every one of our 14 divisional commanders that we have to be robust and that people who have no blue badge and who park in on-street disabled parking bays have to be dealt with. Where off-street parking is involved, we need to link up with our statutory partners and community groups, listen to them and deal with problems in partnership, and we are doing that.

So far this month, we have already had days of action and weeks of action, and we have issued tickets where they have been needed. Therefore, we are changing the way in which we enforce. We have not walked away from enforcement—quite the reverse, in fact: we are absolutely committed to it.

The Convener: Mr Cabrelli said that parts of the proposed legislation are a sledgehammer to crack

a nut. Do you think that the proposed legislation is a sledgehammer to crack a nut?

Assistant Chief Constable Mawson: I do not. I think that it is long overdue and that the sections that apply to Police Scotland, particularly section 3, on the power to confiscate a badge, and section 4, on the offence of using a cancelled badge, which we have already discussed, are welcome.

I would like to touch on one issue that remains a concern. In practice, when patrolling officers come across a blue badge, it is quite difficult for them to know whether it is forged, cancelled, withdrawn or whatever, unless it is really obvious. The specialist knowledge lies with the local authorities. If an incident takes place between 9 and 5, Monday to Friday, we can start the process of trying to get the right person in the right council area on the end of a phone, but we would really like a joined-up mechanism that makes it easier, particularly out of hours, for patrolling police officers to get instant access to the 32 different information technology systems—the 32 different databases—in which all the information is contained. That would be a really big step forward.

The Convener: Obviously we cannot legislate for that, but I am sure that that plea has been heard.

Anne McTaggart: That answers one of my questions about some of the solutions for reducing or eliminating the fraudulent misuse of blue badges. If the witnesses can think of any more solutions just now, they would be more than welcome to share them. I put that question to Mr Cabrelli, too.

11:30

David Cabrelli: I do not have anything to add on that point.

Assistant Chief Constable Mawson: We try to gather as much information as we can. Every local area commander at chief inspector level has weekly or bi-weekly tasking meetings with all their statutory partners, which invariably include people from the local council. We are trying to get information informally and to update our own intelligence databases where we can, but the system needs to be more joined up.

Alex Rowley: The evidence that we have heard this morning would suggest that there is widespread abuse of the current blue badge system. It is perhaps not Police Scotland but your predecessors and local authorities throughout Scotland that would have to ask themselves whether the issue has been taken as seriously as it should have been.

You spoke about the fact that there have been no more than 30 prosecutions under the existing

law. It is not necessarily to be taken as read that the law was therefore wrong. It seems to have been suggested this morning that the existing law has not been policed.

Referring to the different evidence that exists, the groups representing people with disabilities have said that their members simply do not see anything happening. How do you respond to that? The picture that has been painted this morning suggests that the matter has not been taken seriously by many people.

The final part of my question concerns information about the parking bays themselves. The survey that was carried out by Transport Scotland suggested that 75 per cent of respondents said that the biggest problem was abuse of the parking bays.

Assistant Chief Constable Mawson: There are a number of facets to your question. First, Police Scotland is responsible for on-street parking in the remaining council areas where DPE has not been adopted. That is an important point. Where we are responsible for dealing with on-street parking, we are very proactive in issuing tickets to people who are parking in bays where they should not be parking.

I have already made the point that it would be good if we had access to the information that is held on the 32 different council systems regarding which badges have been withdrawn for what reason, which badges have been cancelled, which badges might be subject to fraud and so on. That information would be good for the future—to increase the number of proper misuses of blue badges. Unless it is really obvious to the patrolling officer, that can go unnoticed. You are absolutely right that we need to increase prosecutions, working in partnership.

Alex Rowley: I was encouraged by what you said about divisional commanders being told that the issue is serious, and by what you said about the joined-up mechanisms. I wonder about the involvement of community planning partnerships with regard to the powers. Everyone has welcomed the proposed legislation, and we can take it as read that people generally think that it is the right way to proceed. How do we ensure that the measures are not viewed as the police passing matters across to the local authorities? How do we join things up so that, if we have the new powers, we can get them to work better to achieve the bill's objective?

The Convener: I will add to Mr Rowley's point, which I think is important. Is there a role here for the local commanders and the local policing scrutiny committees to get together and co-ordinate that spread of information where possible,

so as to make your job easier and to make the local authorities' jobs easier?

Superintendent Naylor: The key aspect as far as enforcement is concerned is the proportionality that we spoke about earlier, and ensuring that we are targeting the right places at the right time with the right resources.

Part of the problem that we have is the lack of knowledge of where abuses are happening. Some of the paperwork that SPICe pulled together mentions that people say that it is hard to get in touch with a police officer to deal with abuses, and we have also heard that today. It has never been easier to get in touch with a police officer through 101 and the various other methods that we have in place in Police Scotland. Evidence of an abuse does not go away when the vehicle moves. The evidence is there in the vehicle being parked and in the badge that is on it, and if a traffic warden, police officer or parking attendant sees that, they can take notes, which provide strong evidence. However, it seems that we are not getting that joined-up approach.

It is absolutely appropriate that we feed back in through our chief inspectors tasking processes that we encourage our partners to share that information with us if they come across it, and not to be frustrated at the side of the road when someone drives off in their car.

The Convener: I have the great privilege of sitting in the convener's seat, and I can see the public gallery as our discussion is going on. I can see some of the witnesses who have appeared previously, and I see various nods and shakes of heads and their general body language.

You pointed out how the public can share information with you, but how much communication do you have with local authorities on the issues? Are there regular liaison meetings about this and other community safety issues? How can the position be improved? As I have said a number of times, the bill is fine, but we cannot legislate for common sense or communication.

Superintendent Naylor: I have not had the privilege of seeing what is behind me, so I will try not to be too controversial. On 2 February—the day before we went live with the removal of the traffic warden role—three journalists phoned our on-call media office complaining of parking issues in various areas of the country. I am glad that we had a sharp and astute media officer who said, "Why are you phoning the media office? Phone 101 and we will send a police officer to deal with it." We need to go back to that commonsense approach whereby people can report abuses and tell us about issues. Whether it is a Police Scotland matter or a parking attendant matter, we can then farm out the issues.

Local discussions are on-going through community planning partnerships about Police Scotland policing plans for next year, and I know that a lot of them are being presented to local scrutiny boards as we speak.

On national work, I am involved with a group that has representation from the Convention of Scottish Local Authorities, the Society of Local Authority Chief Executives and Senior Managers, the Society of Chief Officers of Transportation in Scotland, the Scottish Government and Transport Scotland. That group is looking not only at blue badge issues—there is a working group on blue badges—but at the totality of parking enforcement across Scotland, how councils can move towards decriminalised parking enforcement and alternative methods, perhaps involving consortia. The group is also looking at how we can reassure our communities that, where Police Scotland still has the legislative responsibility, the 11,000 officers that we have out there are well tasked and well briefed and have the necessary knowledge and understanding of the legislation to do an effective enforcement job. However, part of that has to be down to our communities and our representatives in communities telling us where the problems are.

John Wilson: Good morning. Following on from Alex Rowley's questioning about an answer that Superintendent Naylor gave earlier, I want to clarify whether the 30 cases that were mentioned were prosecuted or just reported.

Superintendent Naylor: The information that I received from the Crown Office and Procurator Fiscal Service as part of our equality impact assessment was that, over the past three years, on average, 30 cases a year were reported. I do not know how many were prosecuted, I am afraid.

John Wilson: That is why I asked the question. It is fine that 30 cases have been reported, but we also need to consider the level of prosecution. Earlier today, a witness said that 50 to 70 per cent of vehicles with blue badges that are parked up in the city of Edinburgh today are parked fraudulently or illegally or are abusing or misusing the blue badge system, and the evidence on Glasgow shows that, in one trawl, 118 misuses of blue badges were reported.

I find it surprising that we have such a low incidence of the reporting of such incidents, given the seriousness of some of the issues that we are trying to cover in the legislation, and the seriousness of the abuses that are taking place in relation to the fraudulent use of the blue badge. Why do we have such a low level of reports? Do you think that the level would increase if the bill were passed?

Superintendent Naylor: I think that the reporting levels would increase. One of my concerns is the implications and the knock-on effect for organisations such as the Procurator Fiscal Service of an increase in reporting. Would there be a financial impact?

Of course, however, the councils that you mentioned operate decriminalised parking enforcement and have responsibility for the enforcement of parking offences on the streets. We have issues around the ability of parking attendants to seize badges when they see abuses on the streets. They do not have that power at present, and the bill will introduce it. That is a strong move.

The Convener: Assistant Chief Constable Mawson, do you want to add to that?

Assistant Chief Constable Mawson: No, I think that Superintendent Naylor has covered that perfectly well. I think that it will lead to a rise in cases reported, but that is what we want.

David Cabrelli: I do not have any way of knowing whether reporting would rise as a direct result of the legislation. The Law Society is concerned about situations in which individuals will be prosecuted and convicted when they have no intention to defraud.

John Wilson: Given the number of cases that have been reported—30 in the past three years—we do not have high levels of prosecution at the moment. One of the challenges might be to get the message out about the lack of evidence in terms of prosecutions and to make a determined case for the public to be made aware of the situations in which they would be abusing the blue badge. I take on Mr Cabrelli's point about whether something is deemed to be fraudulent use of the blue badge. However, if someone has a fake blue badge in their car, that is clearly fraudulent use of the blue badge system, and they should therefore be prosecuted.

Earlier, ACC Mawson made a comment about the co-ordination of who is issued a blue badge. One of the problems that was identified is that each of the 32 local authorities is responsible for issuing the blue badges in their areas. How easy would it be to get a central database of where blue badges have been issued and who has been issued with one? If one of the problems is that, between 5 o'clock on a Friday evening and 9 o'clock on a Monday morning, we cannot determine whether abuses of the blue badge system are taking place, what would be your solution, bearing in mind the fact that we have 32 issuing authorities at present?

Assistant Chief Constable Mawson: That is a really good question, to which there is no easy answer. The solution will be complex, it will take

time and there will be a cost implication, but that is exactly the kind of thing that, through Superintendent Naylor's group—

The Convener: Can I ask a question at this point? Sometimes I can be a little simplistic about these things but there are 32 local authorities with 32 programmes that are probably quite basic things, and I do not think that it would be that difficult to haul that information together. As I said, I can be a little simplistic when it comes to IT, but perhaps that could be added into i6, when it is up and running.

Assistant Chief Constable Mawson: I am not up to speed on the exact technical abilities of i6, but we will certainly consider the idea. The group that Superintendent Naylor goes to has all the right people around the table and is clearly the right forum to take the issue forward. However, you are right to say that we need to do something.

The Convener: From my perspective, all that you need is 32 Excel spreadsheets from 32 local authorities. Those will need to be changed regularly, which could be done by email. Maybe I am far too simplistic in such things. There are often difficulties to do with data protection, but we sometimes make mountains out of molehills on such issues. I get a little sick fed up of it.

Sorry to interrupt your line of questioning, Mr Wilson.

11:45

John Wilson: That is okay, convener.

The issue that I was going to move on to was that, although we have 32 issuing authorities, they now use standardised blue badges. How easy would it be to transfer the data, bearing in mind data protection legislation, to Police Scotland to allow it to have a centralised database that is tied into the local authorities? That could work like the electoral roll, which is updated on a monthly or daily basis, depending on the valuation board. Would it be possible to co-ordinate such an arrangement with local authorities so that Police Scotland has a central database?

Superintendent Naylor: Your example of the electoral register is a good way of looking at the issue. We would like access to the information, but we do not want to own the data—it is not our data. In that way, the data protection issues would not be for us, but we would get sight of the data. I am keen for us to have something like that, but I am reluctant to say that i6 should be the solution, because i6 has a particular focus.

The Convener: You could have a simple Excel spreadsheet, then.

Superintendent Naylor: That would be lovely, convener, thank you very much.

Stuart McMillan: As someone who was not previously a local authority member, I will have to have a chat later about what i6 is.

The Convener: It is nothing to do with local authorities. It is a new super-duper—so we are told—police information and communications technology system. We await it with anticipation.

Stuart McMillan: Thank you.

I asked the previous panel about non-uniformed enforcement officers. What are the witnesses' opinions on such officers carrying out the function?

Assistant Chief Constable Mawson: My view on that is, like the convener's earlier view, fairly simplistic. The preventative and reassurance value of mainly having enforcement officers in uniform is obvious. That is where we get the most value from them. However, it is equally important to have the option in the legislation of having plainclothes enforcement officers. We sometimes come across sustained and really problematic abusers of disabled parking bays and blue badges and it would be useful to have the tactical option of deploying an enforcement officer in plain clothes to gather evidence. We would welcome the option, but we see it as probably the exception rather than the norm.

Superintendent Naylor: I will add a touch of tactical information on the issue. The Regulation of Investigatory Powers (Scotland) Act 2000 is the legislation that would cover such officers. Significant powers have to be put in place, and senior officers in a body—the council, the police or whoever—would authorise such activity. So there are appropriate safeguards on that. The points that were made earlier about the identification of plainclothes officers are absolutely right. I would be slightly concerned if we were to have a significant amount of enforcement by plainclothes officers, although they are excellent for gathering evidence and intelligence.

Stuart McMillan: The previous panel raised concerns about that and said that many people who have a blue badge might be vulnerable. Is the existing legislation strong enough or would there need to be amendments or discussions with the organisations that represent people who are disabled and who have blue badges to ensure that non-uniformed enforcement officers are used as the exception rather than the norm?

Assistant Chief Constable Mawson: You are absolutely right. There are two key issues. First, a communications strategy must be developed that involves all partners, including people with disabilities. We have to get that right. Secondly, a

little bit of extra training is probably needed for people who would be specifically deployed in the plain clothes role, so that they have good quality identification and they know how to interact with people. What is proposed would mean carrying out enforcement differently and we need to make sure that those involved approach it in the right way.

David Cabrelli: The Law Society would support that. It would be useful to have a mechanism whereby a member of the public could check—if enforcement officers are not to wear uniforms—the identification of the plain-clothes enforcement officer in order to verify their identity, so that appropriate safeguards are in place. That would, I hope, reduce tension and confrontation between the member of the public and the enforcement officer.

Superintendent Naylor: We have gone down the road of standardised badges across Scotland for the blue badge scheme. It would be sensible to go down that route for plain-clothes enforcers, too, so that there is parity between the users and the enforcers.

Stuart McMillan: I posed questions to a previous panel about the potential extension of community wardens' powers to undertake such an enforcement role. Wardens have various powers; they also have identification. Would your suggestion mean that they would have to carry two different badges, a hybrid badge or what?

Superintendent Naylor: I would love to give you an answer to that, but I do not know what the position would be. However, it would be good if someone, whether they were working in Duns or Dundee, had the same style or nature of badge, and to have only one way to contact the issuing authority to confirm who the person is.

The Convener: It is not beyond the wit of man to print a double-sided badge with the local authority's details on one side and universal details on the other. Again, I am being simplistic. I am sure that that happens elsewhere.

Superintendent Naylor: Or you carry two badges.

The Convener: Or you carry two badges.

Cameron Buchanan: Somebody mentioned attaching the blue badge somewhere on to the windscreen with a holder, which is a rather good idea. I should declare an interest in that I am a blue badge holder. A holder would allow you to transfer the badge from one car to another. It is very often the case that you cannot see the badge, but with a holder you could see both sides of it, which could be read with a reader. What do you think of that?

The Convener: I ask Superintendent Naylor to respond, although he is probably about to say that the badge goes with the person and not the car.

Superintendent Naylor: Indeed, it does. However, it is beneficial to have some easy way to read the badge. We have had tax discs for many years and police officers are well used to walking past a car, glancing at the disc, seeing whether it is in date and, if it is not, going back and doing some further work. If it was possible to slide a badge easily into a holder, that would be very beneficial.

Cameron Buchanan: That was my point. I am well aware that the badge belongs to the holder and not the car, but if you have two cars or you are driving in your wife's or mother's car, you could slot the badge into a holder attached to their car.

Assistant Chief Constable Mawson: I agree with Superintendent Naylor. That seems to be a commonsense proposal.

The Convener: Mr Cabrelli, do you have anything to add?

David Cabrelli: I am supportive of the proposal.

The Convener: Mr Buchanan, would you like to come back in?

Cameron Buchanan: I am perfectly fine, thank you.

The Convener: I thank you very much for your evidence, gentlemen. I suspend the meeting briefly to allow the witnesses to leave.

11:53

Meeting suspended.

11:56

On resuming—

Subordinate Legislation

Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Amendment Regulations 2014 (SSI 2014/53)

High Hedges (Scotland) Act 2013 (Supplementary Provision) Order 2014 (SSI 2014/55)

Non-Domestic Rating (Valuation of Utilities) (Scotland) Amendment Order 2014 (SSI 2014/64)

The Convener: Item 2 is consideration of subordinate legislation. We have three negative instruments before us. Members have received a paper from the clerks on the purpose of the instruments. The Delegated Powers and Law Reform Committee considered the instruments and had no comments to make. Do members have any comments?

Cameron Buchanan: I want to ask Mark McDonald about the high hedges order.

The Convener: I am quite sure that Mark will not be able to answer your question, Mr Buchanan.

Cameron Buchanan: Oh! I am sorry.

Mark McDonald: You never know. [*Laughter.*]

The Convener: You can ask him outside later on.

Cameron Buchanan: That was me told.

The Convener: Does the committee agree to make no recommendations on the instruments to the Parliament?

Members *indicated agreement.*

11:57

Meeting continued in private until 12:10.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice to SPICe.

Available in e-format only. Printed Scottish Parliament documentation is published in Edinburgh by APS Group Scotland.

All documents are available on
the Scottish Parliament website at:

www.scottish.parliament.uk

For details of documents available to
order in hard copy format, please contact:
APS Scottish Parliament Publications on 0131 629 9941.

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@scottish.parliament.uk

e-format first available
ISBN 978-1-78457-079-8

Revised e-format available
ISBN 978-1-78457-093-4