



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Local Government and Communities Committee

Wednesday 29 March 2017

Session 5



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Pàrlamaid na h-Alba

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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE
10th Meeting 2017, Session 5

CONVENER

*Bob Doris (Glasgow Maryhill and Springburn) (SNP)

DEPUTY CONVENER

Elaine Smith (Central Scotland) (Lab)

COMMITTEE MEMBERS

*Kenneth Gibson (Cunninghame North) (SNP)

*Ruth Maguire (Cunninghame South) (SNP)

*Graham Simpson (Central Scotland) (Con)

*Alexander Stewart (Mid Scotland and Fife) (Con)

*Andy Wightman (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jackie Baillie (Dumbarton) (Lab)

Linda Bamford (Mobility and Access Committee for Scotland)

Morven Brooks (Scottish Disability Equality Forum)

Vycki Ritson (Aberdeen City Council)

Keith Robertson (Mobility and Access Committee for Scotland)

CLERK TO THE COMMITTEE

Clare Hawthorne

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Local Government and Communities Committee

Wednesday 29 March 2017

[The Convener opened the meeting at 10:01]

Disabled Persons' Parking Places (Scotland) Act 2009

The Convener (Bob Doris): Good morning, everyone, and welcome to the 10th meeting in 2017 of the Local Government and Communities Committee. I remind everyone to turn off mobile phones. As meeting papers are provided in digital format, tablets may be used by members during the meeting. If you see us on our computers, I promise that it is because we are looking at committee papers.

Apologies have been received from Elaine Smith, the deputy convener.

Agenda item 1 is post-legislative scrutiny of the Disabled Persons' Parking Places (Scotland) Act 2009. The committee will take evidence from Morven Brooks, chief executive officer of the Scottish Disability Equality Forum; Linda Bamford, convener, and Keith Robertson, member, of the Mobility and Access Committee for Scotland; and Vycki Ritson from traffic management and road safety at Aberdeen City Council. Thank you all for coming along to engage in our post-legislative scrutiny—we believe that the Parliament does not do enough of it.

We are also joined by Jackie Baillie MSP, who introduced the legislation that we are discussing. Thank you for coming along, Jackie.

Jackie Baillie (Dumbarton) (Lab): Thank you for the invitation, convener.

The Convener: You are welcome. We will move straight to questions.

Graham Simpson (Central Scotland) (Con): I have a general question for all the witnesses. Do you think that the act has helped to reduce the misuse of disabled persons' parking spaces?

Morven Brooks (Scottish Disability Equality Forum): I can go first if you like. We are a national, member-led organisation and we support 40 access panels throughout Scotland. Access panels are groups of disabled people and volunteers. Our members generally believe that the act has not been successful, especially from the point of view of monitoring and enforcement. As you will see in our written submission, we have

a lot of anecdotal evidence from our members, who say that they do not see any evidence that the act is being monitored fully, or that there is enforcement by local authorities and Police Scotland. Many of our members are also saying that there needs to be more campaigning nationally to raise awareness among the general public of the act and around the misuse of disabled parking spaces.

Keith Robertson (Mobility and Access Committee for Scotland): We feel that the act has been partially effective. When we received the call for evidence, we did a straw poll by phoning up half a dozen councils, and they all said that they had put a road traffic order on most of their bays, and that they were in the process of doing so for the bays that were still advisory. That is fine on its own. They also now comply with the Traffic Signs Regulations and General Directions 2016, which were just rewritten in, I think, September or October last year.

However, where there is a failing is in enforcement. There seems to be a difference between the local authorities' feeling about how effective that has been and what we experience. Although there is now the possibility of enforcement, the physical enforcement is not there. I am talking only about on-street parking—if I could get a chance to talk about off-street parking later, I would appreciate that, convener. In relation to on-street parking, I feel that the act has been partially effective.

Linda Bamford (Mobility and Access Committee for Scotland): To add to what Morven Brooks and Keith Robertson said, the feeling is that the act itself is fine, in the main, but that enforcement issues are creating some problems. There is a big strand relating to education about why disabled parking places should not be abused. A lot of people think that there needs to be an awareness-raising campaign—such as the see me campaigns that raise awareness of mental health issues—to highlight the issues and the need to keep disabled bays free for disabled people, but there also has to be enforcement, which is key to protecting disabled bays for those who need them.

The Convener: I know that Vycki Ritson does not speak on behalf of all local authorities, but she can give us a snapshot of the Aberdeen experience. What is your feeling, Vycki?

Vycki Ritson (Aberdeen City Council): In Aberdeen, we feel that the city centre locations and other busy locations can be enforced more vigorously than locations in the wider area. We have a decriminalised system, so we have our own city wardens and we can deploy them as we see fit. In the past couple of years, we have also taken on a blue badge enforcement officer and in

that time we have noticed an improvement in people's use of bays. He has been very effective at taking blue badges off people who should not be using them and who are taking up bays unnecessarily. Our warden service will also ticket anybody who is using the spaces without a visible blue badge.

One issue that we have is that, where somebody has requested a blue badge bay or a disabled parking bay, there is a period when the bay is not enforceable while we are progressing the traffic regulation order. Those bays can fall into disrepute, and that is probably where the majority of the disputes arise.

The Convener: I know that members wish to pursue some of those issues, but I want to check a factual element. I was reading through some of the evidence for the meeting and I saw evidence that alluded to the fact that there is no longer a requirement for signage beside each individual bay. Is that the situation now?

Vycki Ritson: The latest TSRGD has taken that requirement away.

The Convener: That is clearly a cost saving to local authorities. I helped to scrutinise the original bill as it went through Parliament. One of the discussions at the time was about cultural change. You do not ever want to have to enforce, because that means that there has been an abuse of the system. Do we lose something in terms of promoting a culture of responsible parking by no longer having the signs? I will bring Vycki Ritson back in on that, but will take Keith Robertson now.

Keith Robertson: When we looked at the TSRGD, it was felt that poles with the signs on were not required. There was sufficient demarcation in the signage on the roads—the hatchings and so on. Users would often park their car, try to open the door and smack the door off the pole. Alternatively, the pole can make it impossible to get a wheelchair out. If I am on my own, my wheelchair is in the passenger seat beside me and, even though the door might not have hit the pole, it can sometimes be impossible to get my wheelchair out because the pole is in the way. That means that I have to move the car half out of the bay, for which you can get a parking ticket. The poles were more trouble than they were worth.

The Convener: That is very helpful.

I will let Linda Bamford in and then, with my apologies, bring Vycki Ritson back in to discuss the benefits of the legislation and the feeling that the legislation may be evolving to make it more workable and practicable.

Linda Bamford: To add to Keith Robertson's point about the poles, I say that know that a lot of

local authorities are looking at streetscapes and street clutter. The poles are a barrier for people with visual impairments and for people going by in wheelchairs or with buggies and things like that. It is beneficial to the flow and movement of people if the poles are not there.

The Convener: That brings a lot of clarity. Vycki—do you want to add anything on the positive nature of the change?

Vycki Ritson: I agree that the change is reducing street clutter. A lot of our streets are quite narrow, so removal of the signs will allow more space for wheelchairs and the like.

One difficulty—perhaps it is more of a cultural thing—is that when our advisory spaces are put ahead of the promotion of a traffic regulation order, we only put in the road markings. There is therefore no distinction now between an enforceable bay and an advisory one in the interim period. We sought guidance on that.

The Convener: That is helpful.

Graham Simpson: Could you explain the TRO process, how long it takes and why you think we should not have to go through it?

Vycki Ritson: If we propose to put in a disabled bay, we take that proposal to committee. We also put out an instruction for an advisory bay to be marked on the street. The committee will decide whether that proposal can go forward, through the consultation process. We then take it through statutory consultation and public consultation. If we receive objections during that time, we have to take the matter back to committee for a decision on the objection. We can then implement the proposal.

We have about five committee cycles each year. We will take proposals on disabled bays to each of those committees. Taking proposals to the committees and promoting them and advertising them on the street is quite resource intensive for our team.

Graham Simpson: How long can it take? Can it take up to a year?

Vycki Ritson: I would say six to nine months.

Graham Simpson: Is there a cost involved?

Vycki Ritson: Yes. Officer time is needed to prepare reports, go through the consultation process and review feedback. There is also the delay to the customer. Somebody who does not have a blue badge could use the space in the interim, and there is nothing that we can do to enforce the use of the space.

10:15

Graham Simpson: Do you think that simplification of the act would help so that you would not have to promote a TRO to make a bay legally enforceable?

Vycki Ritson: Yes.

Ruth Maguire (Cunninghame South) (SNP): Good morning. SDEF's written evidence highlights concerns about local authority progress in converting advisory bays to enforceable bays. Are you satisfied that local authorities have taken sufficient action on that front? Do they have processes in place to ensure that all new bays that are created are enforceable and that redundant bays are removed? We have heard a little about that.

Morven Brooks: That is a difficult question to answer, because there is no consistency across local authorities. Obviously, Aberdeen City Council is taking steps, it has processes in place, and it is taking action where necessary, but a number of local authorities are not complying with the act.

Because our organisation is a national one, we hear the voices of disabled people throughout Scotland, and we hear that there is no enforcement in certain local authority areas. Obviously, that raises a red flag, but it is a difficult issue. As a national organisation, we are trying to say that there needs to be consistency in how the act is enforced, how blue badge holders are treated and how the communication is taken forward, if that makes sense.

I hope that I have answered the question.

Linda Bamford: I want to pick up on what Morven Brooks said. Six of the 32 local authorities are in the process of applying for decriminalised parking enforcement, and nine have not applied for that and have no intention of doing so in the near future. Therefore, just under 50 per cent of the local authorities in Scotland do not currently have decriminalised parking enforcement powers.

Keith Robertson: There seems to be more enthusiasm, for want of a better word, on the part of authorities that have decriminalised parking to place road traffic orders on bays and change them from advisory, than there is among ones that have not decriminalised parking. I refer to what Linda Bamford said. Currently, 18.75 per cent of councils are in the process of applying for decriminalisation and 28.13 per cent of councils have not, and have no intention of, decriminalising, from what I can make out. Therefore, the only way for roughly 47 per cent of the local authorities in Scotland to enforce their parking bays is through Police Scotland. With respect to Police Scotland, enforcing parking would be pretty low down on its list competing resource priorities; it is simply not its

job. Traffic wardens have been done away with, so something has to be done to get local authorities to decriminalise parking because, without that, there is no enforcement at all. If there is no enforcement, there is no drive to put road traffic orders on advisory bays. To use a cliché, it is really a bit of a postcode lottery.

Ruth Maguire: Enforceable residential bays can be used by any blue badge holder. Is there a need for residential bays to be allocated to specific blue badge holders? I am thinking of a few people in my constituency who have trouble getting parked in the space near their house because it can be used by anybody.

Linda Bamford: That is a tricky one. A couple of my local council colleagues have told me that some of the applications for disabled parking bays outside residential properties are either withdrawn or not progressed once it is explained to the people that they would not be for their sole use. I think the fear is that, should it be marked as a disabled parking bay and there are other disabled neighbours nearby, or it is a busy residential area, they may not get the use of the parking bay at all, even though it would be outside their house. That acts as a barrier to the individual making an application.

The Convener: Does anyone else have any views?

Morven Brooks: I support Linda Bamford. We have heard from a number of members who have been through the process of successfully applying for a bay, only to find that either non-blue badge holders are misusing the bay or other blue badge holders are using it. For disabled people, the fact that they will be unable to use a disabled space in a residential area for themselves is a huge barrier to applying for one.

Keith Robertson: Whether it is a trunk road looked after by Transport Scotland or a road looked after by the local authority, the road is still a public highway and there is no mechanism to enforce a blue badge for a particular person. Even if there were one, an enforcement mechanism would put many complications into a system in which there are already many problems. For example, if the council was not told when a blue badge holder passed away, the bay would sit for God knows how long before being removed. I cannot see enforcement for individuals being possible. It would not work; it would be too complex.

The Convener: Do you have anything to add, Ruth?

Ruth Maguire: I am content, for now.

The Convener: I have a couple of bids from members for supplementary questions. I want to

make it clear, because we want to hold a structured session, that we are talking about the balance between enforceable bays and advisory bays in a residential setting. I will bring in Alexander Stewart first.

Alexander Stewart (Mid Scotland and Fife) (Con): The panel has indicated that a number of councils are not prepared to move on the issue. Do the panellists find that, in city areas where that is the case, the council is removing disabled bays? I have read about that happening and constituents have contacted me about councils removing bays in order to get out of enforcement. Do you have any information on that?

Morven Brooks: No, I have not. In fact, I have heard the opposite from our members, in that an increased number of disabled parking bays have been made available across all local authorities. The issue is how the parking measures are enforced.

Keith Robertson: I travel all over Scotland. Whether I am in Edinburgh, Perth, Aberdeen or Inverness, I tend to find that there are more bays and that councils are taking more cognisance of the percentage of the population that has mobility problems. The numbers have increased; the trend is not in the other direction.

If somebody has a space taken away from them—and that will probably be for a very good reason, such as a technical one and not one related to their physical use of it—they could be pretty aggrieved by that. That is probably why the issue has been fed through. However, in general, I would say that local authorities across the board are increasing their bays. I also agree with Morven Brooks's and Linda Bamford's points.

Jackie Baillie: I feel as though I need to be a witness rather than a questioner, convener. I thank the witnesses, because many of them helped to shape the bill way back in 2009.

I feel the need to start by setting out what the bill is not. The bill is not about the misuse of blue badges—that came later in separate legislation. Equally, the bill is not about designating bays for particular people, because that, too, is dealt with in separate legislation.

Perhaps I can pose a question to Vycki Ritson on the context and get a conversation going. The context is that local authorities rightly said that the traffic regulation orders process was far too difficult and long and therefore just wanted advisory bays. What we had in Scotland before the 2009 act came in was a situation in which there were more advisory bays than enforceable bays. Is that a correct understanding of the problem?

Vycki Ritson: Yes, that is my understanding.

Jackie Baillie: That is helpful. The 2009 act did not touch traffic regulation orders, because they come under the Road Traffic Regulation Act 1984, which is a reserved matter—I was surprised at the time to find that we could not change TROs. However, our 2009 act required local authorities, in the first 12 months of its implementation, to remove the advisory bays that were no longer used, consult people, and then make all the bays enforceable with one traffic regulation order. Is that the process that Aberdeen went through?

Vycki Ritson: Yes, it is. I could not say whether it happened within the first year of the 2009 act coming into force, but we have audited our spaces. We continue to do that, although it is generally done on advisement from the public and by reviewing the blue badges as and when people move house, or notify us that they have moved house, and when we are notified that someone with a blue badge has passed away.

Jackie Baillie: Okay, so in a one there was an instant difference made to the number of enforceable bays.

Vycki Ritson: Yes.

Jackie Baillie: I am assuming that you are a road specialist in a way that I am not, but it is my understanding that the legislation has changed in relation to bus clearways and that there is no requirement now for a traffic regulation order for a bus clearway. That was not the case in 2009, but it is the case now. Is that a route that local authorities would prefer to use in order to designate disabled parking places in future? Or is there a balance to be struck between a TRO, which notifies neighbours and other interested parties, and just giving the local authority the right to do it?

Vycki Ritson: I did a quick scout round the team before I came to the meeting and found that, with regard to the installation of all the disabled bays in Aberdeen, we have had only one valid objection to a disabled bay. As the TRO process did not provide much feedback during the consultation, I think that it would be better just to go straight to installation, if we could. There would still be a feedback system for members of the public, because they could tell us whether, for whatever reason, it did not suit, and we would still monitor the situation. However, we do not feel that the consultation process under a TRO has provided much valid feedback.

Jackie Baillie: So there is a way of making it even easier to designate disabled parking places, but what I am hearing from the panel is that the key issue thereafter is enforcement. There is not a problem per se with the legislation or the process, but there is a problem with implementation and

enforcement. I open that out to the rest of the panel for comment.

Linda Bamford: The information that we have been getting back from our members and those we have consulted is that the legislation is fine, albeit that there is acknowledgement that it might be a bit onerous for local authorities. However, the view is that the legislation is fine but the enforcement needs to be more robust.

Keith Robertson: If the Scottish Parliament was to remove the need for a road traffic order under the TSRGD, which I believe has just been devolved to the Parliament, the only concern that disabled people would have would be whether a parking place designated in that way would have the same enforceability as one made under a road traffic order—it would be crucial to persuade disabled people that that was the case. Enforceability is crucial because although the legislation has in the main done what it was meant to do for on-street parking—I stress strongly that that refers only to on-street parking—off-street parking is a totally different kettle of fish. If spaces are not enforced, word quickly gets around communities and everybody and their dog parks in the space. There is nothing more frustrating than driving 30 or 40 miles to a shopping centre, not being able to park and having to drive home again because you cannot get your wheelchair out.

10:30

Morven Brooks: To sum up what both Linda Bamford and Keith Robertson have said, enforcement is the main ask from our organisation and our members. Accessible parking is an essential part of independent living for a disabled person. As Keith Robertson said, if you drive for hours to get somewhere and are unable to park, it adds stress to a person's life and affects their health and wellbeing.

The Convener: Can we rewind slightly? I will come back and explore enforcement more, but I want to go back to what Vycki Ritson said about the potential desirability of not requiring an RTO, because it would be a speedier, smoother and more affordable system. You mentioned that there was only one occasion on which a valid objection was received. What does a valid objection look like? I am not clear about that. I would have thought that the disabled bay would be based on need and reasonableness.

Vycki Ritson: To be honest, I do not know exactly what the objection was, but it would have been about the location of the bay being inappropriate. It may have been an officer error that resulted in the chosen location being inappropriate, for whatever reason.

The Convener: I am thinking not about town and city centres or about village main streets, but about disabled bays in suburban communities and housing schemes. Is any balance given to the percentage of parking spaces designated as disabled bays? There are some streets where there are a lot of poor souls with significant mobility issues who have blue badges. I am wondering about the balance between enforceable disabled bays and general parking spaces on the road. Is any consideration given to that?

Vycki Ritson: We have situations where that has occurred in mixed residential areas, and we try to balance the needs of all the residents. It is not always easy and residents are not always happy with the mix, because the disabled bays take up so much more of the available parking space if there are a significant number of them. We will generally audit the whole area. Obviously, those without mobility issues can park a bit further away and walk, if there is available parking in the area. We do not have a formula. We do it on a location-by-location basis.

The Convener: That may be a question for us to tease out in the future. If there were no consultation or objection process as there is under RTOs, it might be worth looking into that balance. If we can make the legislation work, and if we get enforcement right, there could be lots more disabled bays, so it is important to understand the criteria for balance.

Vycki Ritson also mentioned that Aberdeen City Council had taken the step of appointing an enforcement officer. Could you say more about how that works?

Vycki Ritson: The enforcement of the bays is carried out by the city wardens, but we have an additional blue badge enforcement officer. He looks into areas where people are parked with blue badges that are out of date, are copied, or are being used inappropriately. He tries to ensure that those who are using the blue badge spaces are the appropriate people.

The Convener: If someone without a blue badge parks in an enforceable bay and one of Aberdeen's wardens or the enforcement officer identifies that, what is the process for dealing with that?

Vycki Ritson: They will be issued with a penalty charge notice.

The Convener: How much is that?

Vycki Ritson: It is £60, but it reduces to £30 if it is paid within a short period.

The Convener: Obviously there are financial implications for local authorities. When you speak to constituents, they sometimes say that local authorities—without naming individual local

authorities, and this is not Aberdeen—are quite good at chasing a fine to maximise income. Some of my constituents might not like it, but it certainly appears as if a fine system could be an opportunity in that respect. Does anyone have comments on how enforcement does not necessarily have to be on a cost basis but could be in everyone's interest? I suppose that I am asking how we improve enforcement.

Linda Bamford: One of our members suggested an enforcement hotline. That could reduce the cost of staffing resources. There would be one main hotline that people could report to if a non-blue badge holder was parked in a designated disabled parking bay.

The cost issue is difficult. I feel—and our members probably feel—that a penalty is the way to go, but I do not know whether a penalty makes a difference to people's attitudes. At the end of the day, attitudes are causing the issue—people not understanding or appreciating the need for a disabled parking space. Education on that needs to be increased, as well as a penalty being enforced to ensure that people understand that there is a penalty for parking in those spaces.

The Convener: In my experience, there is nothing like a fine or points on your licence to focus the mind and raise awareness on parking offences. Have we got the balance right in terms of what the consequences are, whether they are fines or another form of enforcement?

Keith Robertson: No, convener, I do not believe that we do. I believe that if people were fined more, they would be less likely to do it again, basically.

Although the local authority service is not actually paying for itself through fines, there is a possibility that it could do in the future, especially if local authorities go down the road of collaborating. That is what we are starting to do in road maintenance—authorities are getting together to look at enforcement instead of having a piecemeal approach where every local authority has a different scheme and method of enforcement. I do not know why there is not more collaboration between local authorities, whereby they join up and look at enforcing all traffic or all parking together, and run one scheme between three, four or more local authorities. It is a rather new concept. It would make sense to do that.

It might interest you that, although I have no phone app for Edinburgh parking, when I parked out front today I got a message on my phone that read "Edinburgh City parking—please show that you are authorised to park in the disabled bay that you are in". If I had not gone to phone Linda Bamford to see which room the meeting was in, I would not have seen the message, because it did

not make a noise, but that is a petty point. I thought that that really was smart ticketing at its best. Even though you do not have an app, a message comes up on your phone basically to tell you to remember to put your blue badge on your windscreen. I thought that that was very good.

The Convener: I take your points about making cleverer use of technology and better working between local authorities—and even within a local authority—where there are dogs, litter, graffiti, parking and a whole range of things on which local authority staff are seeking to deal with infringements and enforcements.

Before we move on to the next line of questioning, are there any other suggestions on enforcement that you want put on the public record?

Morven Brooks: We are a member-led organisation and, as I mentioned earlier, we work with 40 access panels around Scotland. We do not govern them; we support them. We have been working for a number of years to get statutory consultee status for the access panels so that they are fully recognised as consultees by local authorities. Many access panels have good relationships with local authority planning departments and they look at general accessibility issues in communities.

This issue would be a good area in which to get access panels involved. They are groups of volunteers with various disabilities and their lived experience would be vital to local authorities in providing consultation support, knowledge and evidence to progress such issues.

The Convener: It would also be good for public support because, if access panels were to suggest enforcement strategies, there would be more consensus than if the council were looking to use another gimmick to get money from people.

Morven Brooks: Absolutely.

The Convener: Before we move on, does anyone else want to suggest anything?

Linda Bamford: People without a disability might knowingly use a disabled parking place—you cannot miss them due to the signage—but they might not be aware of the consequences. That takes me back to education and awareness campaigns on the use of disabled spaces. The other thing to do with that is to tie in making it morally and socially unacceptable to use the spaces.

The Convener: Thank you. That was very helpful.

Andy Wightman (Lothian) (Green): I want to talk about private car parks—or off-street parking—which Keith Robertson mentioned. It

would be helpful for the committee if you outlined the situation that existed before the act came into force and what the act attempted to do in relation to off-street parking.

Keith Robertson: Before the act came into force, there was a mixture of ways in which off-street parking—private parking bays—was signed out; as in, how the bays were drawn on the tarmac or other surface. There were no signs up saying that the bays would be enforced and there was no enforcement—actually, there is still no enforcement. You might see a sign in a supermarket car park saying, “You will be fined £100 if you park here,” but I have never seen an enforcement officer in a private car park and I have used a wheelchair for nearly 40 years. I might be wrong, but I think that those signs are put up as a tick-box exercise.

There is no consistency in private car parks. When I phoned some local authorities for a straw poll, I asked them why they thought that that was the case, anecdotally, and two main reasons were given. One was that private car park owners, whether supermarkets or owners of actual car parks, did not want to spend money on putting proper markings in place. The other reason was that they did not want to fine the majority of their customers.

I have had personal experience of that. I went into a supermarket and said, “Look, out of X amount of disabled parking bays, nearly half of the cars in them have no blue badges. Can you do something about it?” and they said, “No”. I said, “Why?” and they said, “Because we look after our customers.” I said, “I’m a customer,” and they said, “Yeah, but you’re in the minority.” It was not an unusual experience to go to use a supermarket’s car park on a Saturday and find that, out of 14 cars in disabled parking bays, six had no blue badges. The people who were coming out were obviously not disabled and did not have mobility problems of any kind.

The bays are not enforced, which is a huge problem, and it will not happen unless legislation is put in place.

Andy Wightman: Just to be clear, the legislation provides that local authorities should enter into negotiations about making the bays enforceable. In evidence to us, the City of Edinburgh Council said that it sent 19,000 letters to non-domestic rate properties and that only 32 of the 5,300 responses that it received indicated a desire for enforcement. What is the scale of places that private operators are agreeing to have enforceable across Scotland?

10:45

The Convener: I will let Keith Robertson back in, but others might want to give a view on private spaces and the use and abuse of enforcement first.

Morven Brooks: I do not have any figures on the scale of the issue. The majority of our members tell us that the biggest problem that they have with disabled parking is in private, off-street parking, particularly at supermarkets and health centres—it is a huge issue and there is no enforcement there.

As an organisation, we go out and deliver information and advice to employers quite widely. We are going to start providing training soon. Employers feel uncomfortable challenging people. Keith Robertson was right to say that they do not want to lose people’s business, but there is an issue there. We need to tackle education and awareness of disability equality. Organisations like ours can tackle that, but there is a need for a wider campaign across Scotland on accessibility in general, which should home in on particular issues, such as accessible parking and housing.

A widespread change in cultural attitudes needs to happen. The biggest issue for our members is private parking. They know that it is not enforceable and you and I who are not disabled know that it is not enforceable—if people know that it is not enforceable, some of them will abuse it.

Linda Bamford: I want to pick up on the issue of local authorities engaging with people who provide private off-street parking. I know that almost 20,000 letters are a lot to send out to get only 30 returns. However, from what I have seen, not one of those returns was followed up. If the letters had been sent out with the right intent, there would have been follow-up in the hope that changing the system in some of those 32 off-street private car parks might have led others to follow. The fact that they were not followed up showed that the letters were probably a tick-box exercise.

Morven Brooks mentioned health centres. Disabled parking seems to be a really big issue at health centres. I have spoken to a few people about the issue and some of them had not attended a general practitioner appointment because they could not get parked and had to go away again. There are hidden costs to the health service from missed GP appointments.

The Convener: I want to bring Vycki Ritson in at this point. Thank you for giving evidence and for coming along. Poor Aberdeen—this morning’s meeting is the Aberdeen show as far as local authorities are concerned.

Would Aberdeen City Council enter into discussions with large supermarket chains that have got car parks? I will pluck an example from thin air. If a private supermarket said that it would give the council a few thousand pounds a year if the council added the car park to its public space for enforcement, that would help to fund enforcement officers and wardens, and the supermarket could forget about the conflict between its customers, because it could just blame on the council. Is there not a much more sensible way of doing this?

Vycki Ritson: When the changes were made, we approached all the private car parks and, again, we did not get much of a response and no processes were taken forward from that. We engage with upcoming developments—new projects or those where changes are being made—and we try to get them to take it on, too. There is not much take-up. If organisations were to come to us and offer money to assist with enforcement costs, that would be great. I do not think that I would be stepping out of line to say that it would be thoroughly acceptable.

The Convener: We might have to compel them to do so, Ms Ritson, but the Parliament does make laws, so that is a thought.

Andy Wightman: It is interesting that off-street parking is a catch-all covering everything that is not on the public highway, including such things as health centres. It concerns me that we have a particular problem with public facilities that are paid for by the public purse, particularly health centres and hospitals. It also strikes me as a bit bizarre that we have to go down the route of making those parking bays enforceable under traffic regulations for there to be a guarantee that people with disabilities can access a place to park their vehicle. Do you share my surprise? It is one thing to have expectations of what businesses such as a law firm or a small furniture retailer might do with a car park that is available to their customers, but for health centres the current situation seems a bit bizarre.

The Convener: I apologise to Keith Robertson—I said that I would let him back in earlier and I did not, so we will hear from him now.

Keith Robertson: I will answer the last question first. The TSRGD legislation specifies how a disabled bay should be laid out. It does so for a reason. With private bays, some are not wide enough, some have no hatchings at the side or at the back, which is essential for rear-access vehicles, and some are not long enough—it is just a mish-mash. Disabled parking bays have to have a particular layout and that layout is enforceable. Without that, disabled parking will not work, unless we start to have a mish-mash of mobility bays and

disabled bays, which I would not recommend. A disabled bay should be a disabled bay.

Following on from what Linda Bamford said earlier, local authorities have tried their best to get private car park owners to enforce their car parks through the local authority, but all the owners need to do is to say that they are not interested. I suggest from anecdotal evidence that if the uptake figure is not zero, it is very close to zero, and even if there was a decent uptake, half of the local authorities in Scotland could not enforce that because they have not decriminalised parking. Only a touch over 50 per cent of local authorities could enforce it—it is a waste of time for those local authorities that have not decriminalised parking. There has to be consistency as well as an education programme.

Linda Bamford: Keith Robertson picked up on most of the points that I wanted to make, but I clarify that some of the NHS buildings, such as the larger hospitals, have private operators that enforce parking—all parking, not just parking in the disabled bays. Most health centres do not have enforceable parking and, therefore, they are more liable to experience abuse of the disabled spaces.

The Convener: Do other witnesses want to add anything to that before I bring Andy Wightman back in?

Morven Brooks: I agree with Linda Bamford.

Andy Wightman: In Edinburgh's case, as an example, the council said that the 32 businesses were advised that they were responsible for meeting the standards that Mr Robertson outlined for disabled bays before a TRO could be progressed, but since 2009 not one TRO has been progressed. That might not be typical of the whole of Scotland, but would it be fair to say that the 2009 act has made very little difference to the provision of disabled spaces in off-street parking?

Morven Brooks: I repeat what I have said before—the majority of our members agree that it has not been successful.

The Convener: Okay. There are a couple of supplementaries on off-street parking.

Graham Simpson: I want to be absolutely clear in my understanding of off-street parking. Let us take the example of a multistorey car park that is owned by a private operator. That might have half a dozen disabled bays marked out. Legally, is there anything that the operator can do, if it chose to, to enforce those bays without involving a council?

The Convener: The witnesses are allowed not to be sure, incidentally.

Linda Bamford: To my knowledge, places that use private enforcement companies will fine people for parking outwith the time of the ticket or in a disabled bay without a blue badge. There are fines or penalty charge notices across the board where there is a private enforcement provider with a service-level agreement with the car park for that purpose. However, in other places that have private off-street parking and no agreement with a private company for enforcement, the bays are not enforced at all.

The Convener: Of course, the involvement of the private company does not make the bay enforceable. It just means that a private company pursues the person. I am wondering about enforcement. It is fine if the witnesses are not sure.

Keith Robertson: A private car parking company does not recognise a blue badge, so somebody with a blue badge does not get free parking. They face the same expense as anybody else, so given that only 42 per cent of disabled people in Scotland are in employment, the cost means that most cannot afford to park in those very expensive car parks, even though they might be laid out properly.

We must not get that mixed up with the likes of supermarket car parks and health centre car parks, where a blue badge would be recognised and there would be no charge but the legislation is not enforced. There is a difference between the two situations. With a private car parking company, purely and simply, if somebody does not pay, they cannot get through the barrier.

Graham Simpson: That is a really interesting distinction. In most cases, in the situation that I described, people would have to go through a barrier, get a ticket and then pay to get out. I used to use a multistorey car park in Glasgow—I will not name the company, but it was a major parking company. Able-bodied people routinely ignored the disabled bays and nobody ever got ticketed. It struck me as a ridiculous situation, but you have described it perfectly. Should we tackle that? If so, how?

The Convener: Keith Robertson is nodding his head. The difficult bit is how we tackle it.

Jackie Baillie has caught my eye. I suspect that she is really keen to ask a question but perhaps also to make a suggestion. I promise that, at some point, we will have her as a witness as well. Perhaps, with Graham Simpson's permission, we should allow her to ask a question.

What do you think, Graham?

Graham Simpson: That would be appropriate.

Jackie Baillie: It is amazing how much I remember from back in 2009. I will ask Vycki

Ritson about our principal problem. When the legislation was introduced, was it not the case that we could not legislate in respect of private car parks and off-street parking, particularly if it was owned by a business?

Vycki Ritson: I will have to be honest and say that I am not entirely sure. I suspect that that was the case.

Jackie Baillie: It was, indeed, the case, which is why the act is framed in the way that it is. If I remember correctly, it did a number of things. First, it asked local authorities to identify all the off-street car parking and private car parks at the date on which the act came into force. Then, where parking was council owned or managed, the council was to promote a TRO to make the bays enforceable. The third bit, on which we could not really legislate, was to get local authorities to encourage private sector companies to do the right thing. Is that a fair interpretation?

Vycki Ritson: Yes.

Jackie Baillie: That is great. It was helpful to lay that out.

The Convener: That could be called leading the witness, Ms Baillie, but it is helpful to the committee.

Jackie Baillie: I am asking closed questions to facilitate everybody's understanding.

The intention of the act related to private car parks but only those to which the public had access. Car parks in office buildings and so on were already covered by disability discrimination legislation. I turn to Morven Brooks for confirmation that that is a correct understanding.

Morven Brooks: It is.

11:00

Jackie Baillie: I turn to the meat of the issue. You are absolutely right: the weakness was that all that we could do was encourage. My recollection is that, at that time, some supermarkets were falling over each other to compete for the customer base and were putting in disabled car parking and getting private companies to enforce it. To this day in my local area, Asda still does enforcement. It puts the money that is generated into grant-making activities, and does so in a great blaze of publicity. For Asda it is all about the business case. After it surveyed its customers, it understood that it was not just disabled people who thought that it was a good idea, but a huge percentage of its customer base.

Can that kind of thing be encouraged in the future? The 2009 act encouraged some of that, but how can we encourage more of it? That is less

about legislation and more about businesses understanding their customers.

I think that that was kind of a question.

The Convener: It was definitely kind of a question. I suppose that I should kind of confirm that I have a large supermarket in my constituency that does the same thing. It is very keen for me to go along and have my picture taken beside what it does. It might or might not be Asda, Ms Baillie.

That was kind of a question that Morven Brooks is going to answer. *[Laughter.]*

Morven Brooks: It comes down to consistency across Scotland, does it not? You have really good supermarkets operating in that manner—bigger supermarkets in bigger cities doing the right thing correctly—but I live in Alloa, and I have never witnessed our local supermarkets enforcing the correct use of any parking bays.

People often post pictures on our social media of somebody without a blue badge parking illegally—although you cannot really call it illegal, can you?—in a disabled parking bay. Those pictures are being posted on Facebook, and there will be screens and screens of comments.

Hidden disabilities is a huge issue that is not being picked up. Someone does not have to be a wheelchair user to use disabled parking bays.

We should follow the good example of good supermarkets. We need to spread the message and encourage all supermarkets to do the same. I am an Aldi shopper, and it is awful.

The Convener: Other brands are available, I should say to anyone watching.

Morven Brooks: Every time I go there, I see the workmen sitting in their vans. I am one of those annoying people who will ask them whether they have a blue badge. I am more aware of the issue and I know what is right and what is wrong. It comes down to attitudes and awareness.

The Convener: Jackie Baillie was right to talk about “encouraging”. That language is used carefully, because the issue is about what things we have the power to dictate.

I know that this is a big ask, but if we put to one side where the power sits to dictate in legislation, would it be reasonable to suggest that any private car park—be it for a supermarket or whatever—that does not have a verifiable approved enforcement system for disabled bays should have to be part of the local authority strategy and contribute to any expense around that, and that that should be enforceable? If that requires a law change, then that is what is required. It seems crazy that we have to rely on the goodwill of large multinational companies that are making millions of pounds, including off of disabled people. If there

has to be a law change, should we just work out how to do it?

Keith Robertson: I agree with you. It would help local authorities’ enforcement schemes to become more cost effective if private companies were buying into local authority enforcement, and the public would have more confidence in it.

I know of one supermarket that used to police its bays and give a certain percentage of the proceeds of that to charity. After the 2009 act came into force, it scrapped that scheme.

However, it also leaves users open to what can only be described as hate crime. I have faced that before. A man in a 4 by 4 parked with a boat behind it was blocking off four or five bays. I put my head out of the car window and said, “Excuse me, pal, could you move it because I need to park in there,” and he wanted to drag me out of the car and beat me up. I got my wife to put my wheelchair out and he saw that and it dawned on him and he went, “Ah.” Sometimes the abuse that you take from people who are parked where they should not be is nothing short of a hate crime. It can be quite frightening at times, and I am not 4 feet 8 inches tall, although I look it; I am 6 feet tall. However, if somebody is looking down at you, it is still quite frightening.

The Convener: It does not matter what size you are—no one should be afraid of harassment. Thank you for putting that on the record.

We are not designing what a law change would look like or asking whether it is achievable. We are asking whether it is desirable.

Linda Bamford: The system that you described would be desirable but on the back of that, there is the system that Ms Baillie described. It is not about the penalty charge notices and generating income; it is about reinvesting in the community with grant schemes and then raising awareness about that. That link back into reinvesting in the local community would be very important for all the people in the community who use that supermarket or that car park.

The Convener: I recall that the Scottish Government introduced a large retailer levy for retailers above a certain square footage that sell alcohol and tobacco. The levy was quite controversial at the time but it raised cash. There are always procedures by which Governments can look at incentivising the private sector to do the right thing. Are there any additional comments in relation to law changes and so on?

Morven Brooks: It makes sense to go down the route of making private landowners and private car park owners more accountable to local authorities for parking spaces. At the moment, there is an attitude that private owners need to take no

responsibility whatsoever, which riles people up and causes confusion about what is right and what is wrong.

The Convener: Thank you very much. Do committee members have any additional questions at this stage?

Alexander Stewart: At the very beginning, a public awareness campaign was mentioned. Mr Robertson has just talked about the aggression that he has experienced. What should be put in place to manage that campaign so that we get the message out to the public about disabled parking and the abuse that takes place across the piece?

Morven Brooks: We need to go down the route of what has been done with the mental health campaigns that we have had. I think that there are hate crime campaigns out there as well.

We need a hard-hitting visual campaign that uses plain English, which is simple to understand. The campaign needs to be really hard hitting about the fact that people who use disabled parking spaces when they should not be really affect disabled people's lives. That is what needs to be targeted. Yes, there are cost implications and resource implications for local authorities and private car park owners. However, a hard-hitting campaign to raise awareness and change people's attitudes generally towards disabled people and their needs really needs to focus on saying, "Do you know what? They are the same as us." It needs to get across the message that a wheelchair user has the right to a disabled parking space so that he can go to his local health centre or do his weekly shopping.

Raising awareness of hidden disabilities is also important, so the campaign should not just target its message about wheelchair users; it has to be about disabilities across the board.

The Convener: Keith Robertson, before I let you in, we are drawing towards the close of the session, so I will give everyone an opportunity to come back in at this stage. The committee is considering what further scrutiny to do in relation to this particular piece of legislation. We will decide how we want to take things forward but this is your opportunity to say what you might like us to focus on or what you might like us to do.

Keith Robertson: Thank you, convener. There are resource implications for the people who own supermarkets and suchlike, but I spend my money in the supermarket like anybody else so surely I have the right to the same credibility as anyone else?

For me, an education programme or a publicity programme would need to be in two parts. One part would be bottom up, informing members of the public about what is right and what is wrong

and about what is decent and what is not decent to do.

The other part of it would be a top-down exercise to inform and educate the businesses. You would need to start with the management, because they make the decisions. They have to understand first that what they are doing is wrong. That then needs to get fed down to the workforce.

Therefore there are two parts to it—a public, bottom-up part, and then a top-down part for the actual owners of the car parks, supermarkets, or whatever.

The Convener: Thank you very much. Does anyone else want to put something on the record before we close the evidence session?

Morven Brooks: I will repeat what I said earlier—we need a consistent approach to enforcement across all local authorities. Good work is being done—we can see that—but there is more to be done. The general consensus from our members is that not enough is being done. We need a more consistent approach to enforcement. We also definitely need a national awareness and education campaign. The culture of our society needs to include an awareness of disabled people's needs.

Linda Bamford: I know that we have spoken quite a bit today about the enforcement of the disabled bays and the decriminalisation of parking enforcement for local authorities. However, we should remember that the ultimate objective of that was to achieve 100 per cent compliance with the restriction, with no penalty notices. The enforcement of disabled bays is not about generating income or about putting out penalty notices for inappropriate parking; it is about getting 100 per cent compliance with the Road Traffic Act 1991.

Vycki Ritson: I support the statements that have been made and I ask again for the process to be looked at to see whether we can reduce the resource implications for councils in getting those bays out there in the first place. That might also help in negotiations with private car parks.

The Convener: I thank all our witnesses this morning. The session has been very helpful. We will be returning to the issue. I also thank Jackie Baillie for coming along to join the committee this morning. We look forward to hearing from you in the future when we consider the matter further.

That ends agenda item 1. We will suspend briefly to allow the witnesses to head off.

11:13

Meeting suspended.

11:15

On resuming—

Petition

Freedom of Information (Scotland) Act 2002 (Housing Associations) (PE1539)

The Convener: Welcome back. Agenda item 2 is consideration of PE1539, in the name of Anne Booth, which calls on the Scottish Parliament to urge the Scottish Government to make an order under section 5 of the Freedom of Information Act (Scotland) 2002 to make all housing associations subject to the provisions of that act.

At this point, I declare an interest. Anne Booth is a constituent of mine, and I also know Sean Clerkin, who is associated with the petition. I welcome them to the gallery. At this point in the proceedings they are not, unfortunately, allowed to contribute, but we welcome them both.

The petition was previously considered by the session 4 Infrastructure and Capital Investment Committee, which agreed to keep it open until the Scottish Government had consulted on whether registered social landlords should be covered by the freedom of information regime. That was not due to happen until this session, so the petition was handed over for this committee to deal with.

The committee agreed during its business planning meeting that it would consider the petition following closure of the Scottish Government's consultation. That consultation has now closed and it received 71 responses, which have been published. It is less clear, however, when the Scottish Government will be in a position to provide a formal response.

I invite members' comments.

Andy Wightman: This important petition, which has now been running for two and a half years, calls on the Scottish Parliament to urge the Scottish Government to bring RSLs within the freedom of information regime. The Scottish Government has consulted on the matter and is considering the consultation responses and its next steps. We do not have the power to introduce an order; Government ministers would have to do that. My view is that we have urged as much as it is possible to urge, so it might be advisable to close the petition.

The Convener: Are there any other comments?

Members: No.

The Convener: We have some options. I will run through them now. I invite members to consider whether we wish to take any action in relation to the petition. Mr Wightman has suggested one of those actions: we could close

the petition. We could also wait until the Scottish Government provides a formal response before we consider our next steps, or we could write to the Scottish Government for an update and an indicative timescale for the outcome of its consultation, then update the petitioner in due course.

With the committee's agreement, I would like to give my views on our options. We will clearly have to close the petition at some point, but I think that the appropriate time to close it will be when the Scottish Government has made its final decision on whether to introduce legislation. I think that it is reasonable for the committee to seek certainty about a timescale, as well as for the petitioner to get such certainty. While noting that we are moving towards the petition eventually being formally closed, I suggest that we agree to keep it open for the time being, that we write to the Scottish Government for an update and an indicative timescale for the outcome of its consultation and, as I said, that we update the petitioner in due course. Is that agreeable to the committee?

Alexander Stewart: I am happy to support that suggestion. It is important that there is clarity for both the committee and the petitioner, so it would be appropriate to write to the Scottish Government to ask for more clarity on the timescale. When we get that, we can work towards closing the petition.

Kenneth Gibson (Cunninghame North) (SNP): As Alexander Stewart said, the convener's suggestion seems to be a fair and reasonable way forward.

The Convener: There is a wider issue about petitions that stay open for a number of years and about giving certainty and finality to petitioners, and we are very aware of that. It is also worth noting that, when the petition is eventually closed, the Scottish Government, should it introduce legislation, will do so by means of an instrument that will be subject to affirmative procedure. At that point, the petitioners and others will be able to provide written evidence to the committee, and we will look at that.

For confirmation, do members agree that we will write to the Scottish Government for an update and an indicative timescale for the outcome of its consultation, and that we will update the petitioner?

Members *indicated agreement.*

The Convener: Thank you.

Subordinate Legislation

Non-Domestic Rates (District Heating Relief) (Scotland) Regulations 2017 (SSI 2017/61)

Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2017 (SSI 2017/64)

Local Governance (Scotland) Act 2004 (Remuneration) Amendment Regulations 2017 (SSI 2017/66)

Non-Domestic Rates (Transitional Relief) (Scotland) Regulations 2017 (SSI 2017/85)

11:20

The Convener: Under agenda item 3 the committee will consider the four Scottish statutory instruments that are listed on the agenda. They were laid under the negative procedure, which means that their provisions will come into force unless the Parliament votes to agree a motion to annul them.

SSI 2017/85, on non-domestic rates, has been laid fewer than 28 days before coming into force; it will come into force on 1 April. A letter from the Scottish Government to the Presiding Officer explaining the reasons for the delay in its being laid is included in the papers. At this point, it might be useful if I put on the record what the Delegated Powers and Law Reform Committee said in bringing the matter to our attention. It said:

"The Committee finds the failure to comply with section 28 to be acceptable in the circumstances, as outlined in the letter from the Local Government & Analytical Services Division in the Scottish Government to the Presiding Officer dated 16 March 2017 supplemented by a written response to the Committee on the Regulations."

I note that no motion to annul has been lodged. No members have indicated that they wish to speak, which suggests that no member has any significant comments or concerns. Does the committee agree that it does not wish to make any recommendations on the instruments?

Members *indicated agreement.*

The Convener: Thank you for that. We move into private session for agenda item 4.

11:22

Meeting continued in private until 12:32.

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The deadline for corrections to this edition is:

Friday 28 April 2017

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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