Local Government and Transport Committee

17th Meeting, 2006

Tuesday 13 June 2006

The Committee will meet at 2 pm in Committee Room 1

1. **Petition PE 758:** The Committee will take evidence on the issue of home safety officers from—

   Laura McDermott, Home Safety Projects Officer, Dundee City Council; and
   
   Bob Sutherland, Community Safety Manager, Angus Council.

2. **Subordinate legislation:** George Lyon (Deputy Minister for Finance and Public Service Reform) to move motion S2M-4425—

   S2M-4425 Mr Tom McCabe: The Draft Electronic Communications (Scotland) Order 2006— That the Local Government and Transport Committee recommends that the draft Electronic Communications (Scotland) Order 2006 be approved.

3. **Subordinate legislation:** Tavish Scott (Minister for Transport) to move motion S2M-4424—

   S2M-4424 Mr Tom McCabe: The Draft Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Treatment of Public Transport Users’ Committee for Scotland as Specified Authority and Amendment of Specified Authorities) Order 2006— That the Local Government and Transport Committee recommends that the draft Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Treatment of Public Transport Users’ Committee for Scotland as Specified Authority and Amendment of Specified Authorities) Order 2006 be approved.

4. **Subordinate legislation:** The Committee will consider the following negative instrument—

   The Public Transport Users’ Committee for Scotland Order 2006, (SSI 2006/250)

5. **Petitions PE 875, PE 896 and PE 961:** The Committee will consider an approach paper on three petitions on the issue of common good assets.

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Agenda Item 1
Submission from COSLA

Agenda Item 2
Covering note on the Draft Electronic Communications (Scotland) Order 2006
Draft Electronic Communications (Scotland) Order 2006 and accompanying documents from the Scottish Executive

Agenda Item 3
Covering note on the Draft Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Treatment of Public Transport Users' Committee for Scotland as Specified Authority and Amendment of Specified Authorities) Order 2006
Draft Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Treatment of Public Transport Users' Committee for Scotland as Specified Authority and Amendment of Specified Authorities) Order 2006

Agenda Item 4
Covering note on the Public Transport Users’ Committee for Scotland Order 2006, (SSI 2006/250)
Public Transport Users’ Committee for Scotland Order 2006, (SSI 2006/250)

Agenda Item 5
Approach paper from the Clerk on Petitions PE 875, PE 896 and PE 961
Petition 758 on Home Safety Officers

Written Evidence for Local Government & Transport Committee
June 2006

1. Introduction

The Convention of Scottish Local Authorities (COSLA) welcomes the opportunity to contribute to the Local Government & Transport Committee evidence gathering.

This briefing paper has been prepared by COSLA in advance of the meeting of the Scottish Parliament Local Government & Transport Committee on 13th June on the above petition, where this written response will be supplemented by evidence that will be presented to the Committee by 2 local government officers.

This paper sets out the key issues, which COSLA believes should be borne in mind by the Scottish Parliament in the examination of this Petition.

2. Summary of key issues

Resource issues

Overall, COSLA welcomes the suggestion that increased resources be made available to further enhance the development of home safety solutions at a local level. All councils, along with their local community safety partners, are engaged in measures to tackle home safety in their areas. This is facilitated through the use of existing funding for community safety, and the resources committed by local community safety partners. However, every such partnership in Scotland would welcome additional resources in order to build upon their existing work.

Policy issues

COSLA agrees that home safety is an important element of overall community safety, and that all community safety partnerships should include home safety as one of their priority areas. How they choose to do this locally should not be prescribed.

It would be inappropriate to make home safety a statutory responsibility of local authorities, when there may well be a better-placed local delivery mechanism, e.g. in some areas the Fire Service deliver aspects of this as their partnership contribution to the overall local partnership’s approach to community safety issues.

We do not agree with over-prescription such as a requirement to employ dedicated home safety officers, and always advocate devolving responsibilities to a local level so that local partners can develop solutions that best meet their local needs. It is our firm view is that it is a matter for democratically accountable local authorities to determine their own staffing policies and to determine how to address all aspects of community well-being, including home safety, within the context of their own local circumstances and priorities. COSLA therefore cannot support the use of statutory requirements in such specific
aspects of local authority practice. Such a measure would run contrary to the ethos of locally responsive and accountable local governance in this country.

3. Conclusion

We are aware that councils are already working with their local community safety partners to deliver action to address home safety. This is sometimes in the form of dedicated home safety staff, and sometimes in the form of more generic community safety staff. It has also been developed as a partnership initiative in some areas, where individuals from different organisations take on home safety actions within their wider community safety work plan. COSLA would welcome additional resources to enhance this provision, but we believe that over-prescription on how home safety action is delivered would damage existing work and possibly stifle the effective use of any extra resources made available.

For further information please contact:

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SSI Cover Note For Committee Meeting

SSI title and number: The Electronic Communications (Scotland) Order 2006, (SSI 2006/draft)

Type of Instrument: Affirmative

Meeting: 17th meeting, 13 June 2006

Date circulated to members: 12 May 2006

SSI drawn to Parliament’s attention by Sub Leg Committee: No

Purpose: The purpose of instrument is to use powers contained in the Electronic Communications Act 2000 to amend 7 pieces of legislation to enable the use of electronic communications.
ANNEX G

THE DRAFT ELECTRONIC COMMUNICATIONS (SCOTLAND) ORDER 2006

AUTHENTICATION

Background
When an electronic transaction is being carried out by or on behalf of government there is a need to ensure the services provided are available only to those entitled to receive them. U.K. Government guidance provides a framework for Registration to manage the risk of the right person receiving information at the appropriate level and for Authentication to ensure secure access to the information. As transactions are carried out at different levels, the “lower value” transactions for example booking a sports hall where it does not require an electronic payment requires lower levels of registration and authentication. “Higher value” transactions, for example transactions involving personal data or financial transactions i.e. legally significant transactions, require tighter registration and authentication requirements.

Authentication Approach For Each Area of Legislation Being Amended
This draft Order amendments 7 different pieces of legislation and the authentication required is different due to the different levels of the electronic communication being undertaken. For clarity an explanation of the level of authentication required for each area of legislation is explained below:

Deer (Scotland) Act 1996
When in a position to introduce the option of an electronic facility for their stakeholders, the Deer Commission for Scotland will consult and discuss in detail with their stakeholders. This will ensure the service meets the stakeholders needs and takes account of government guidelines to ensure it is secure for those who will use the facility.

Education (Scotland) Act 1980
Education Authorities can accept placing requests, or issue decisions and notifications by electronic means provided the Education Authority has agreed (by resolution) to accept them electronically. The electronic request is an initial step in the placing process which will require some written verification by importing and exporting schools, before the pupil transfer is complete. Guidance notes will be issued by the policy area on authentication,
taking into consideration the work underway in the Customer First programme to consider the Government Gateway as a possible single authentication model for Local Authorities services.

**Education (Student Loans) (Scotland) Regulations 2000**
Students currently have to undertake a registration and authentication process that involves the verification of their National Insurance number as well as other verified records if they wish to use online services. The vast majority of Students claim for their full loan entitlement upfront meaning the number of top up applications and the value of money paid out is low. A Student applying for a top up loan application online will undergo the existing online authentication process.

**Fire (Scotland) Act 2005**
IT is already widely used within the Fire & Rescue Service in Scotland and the electronic communication of notice of works affecting water supply and fire hydrants will comply with the levels of authentication already in place, which require clear identification of notifier and if this is not Scottish Water, subsequent liaison with Scottish Water will clarify authenticity of notification.

**Gaelic Language Scotland Act 2005**
The Gaelic Language (Scotland) Act 2005 contains a reference to the Bòrd issuing a notice in writing to any relevant public authority requiring the authority to prepare a Gaelic language plan. Further the Act provides for the resignation and removal of Bòrd members to be in writing. The proposed amendment will ensure that references in the Act to anything written or done in writing, will not exclude electronic communications. In such cases there is no requirement for special authentication beyond the relevant individual's recognised signature. It is proposed to state in the Bòrd's standing orders that notices are only valid if signed or sent from the e-mail account of the Chief Executive.

**Water (Fluoridation) Act 1985**
Health Boards and Water Authorities will be able to accept electronic water fluoridation applications/ withdrawals via nominated and authorised personnel.
**Zoo Licensing Act 1981**

The Local Authority will decide which of its officials will be given authorisation to send electronic documents from an authorised email address and must satisfy itself of the validity of the individual.

FCSD, Efficient Gov. Group

8 June 2006
SSI Cover Note For Committee Meeting

SSI title and number: The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Treatment of Public Transport Users’ Committee for Scotland as Specified Authority and Amendment of Specified Authorities) Order 2006, (SSI 2006/draft)

Type of Instrument: Affirmative

Meeting: 17th meeting, 13 June 2006

Date circulated to members: 19 May 2006

SSI drawn to Parliament’s attention by Sub Leg Committee: No

Purpose: The purpose of instrument is to extend the Commissioner for Public Appointments in Scotland’s remit to include the Public Transport Users’ Committee for Scotland.
SSI Cover Note For Committee Meeting

SSI title and number: The Public Transport Users' Committee for Scotland Order 2006, (SSI 2006/250)

Type of Instrument: Negative

Meeting: 17th meeting, 13 June 2006

Date circulated to members: 19 May 2006

SSI drawn to Parliament’s attention by Sub Leg Committee: Yes (see Annex)

Purpose: The purpose of instrument is to establish a Public Transport Users’ Committee for Scotland.
ANNEX

Extract from 23rd report of the Subordinate Legislation Committee

The Public Transport Users’ Committee for Scotland Order 2006, (SSI 2006/250)

1. The Committee asked the Executive to explain the purpose of the words “from the date of the coming into force of this Order” in article 3.

2. The Executive, in its response in Appendix 1, explains its intention but accepts that it may have been better to have omitted the words. It considers that it is sufficiently clear that the reference to “this Order” in article 3 links to the reference to “this Order” in article 1(1) and that the Public Transport Users Committee for Scotland will be established on 1 January 2007.

3. The Committee considers that as well as being unnecessary, the words are seriously misleading as the Order specifies 2 dates for the coming into force of the Order. However, reading the instrument as a whole, the Committee is inclined to agree that the date for the purposes of article 3 would in all probability be interpreted as intended by the Executive.

4. The Committee reports to the lead Committee and the Parliament on the grounds of defective drafting.

APPENDIX 1
The Public Transport Users’ Committee for Scotland Order 2006, (SSI 2006/250)

On 16 May 2006 the Committee asked the Executive for an explanation of the following matter.
“The Committee asks the Executive to explain the purpose and meaning of the words “from the date of coming into force of this Order” in article 3, particularly when article 1 of the order specifies 2 commencement dates.”

The Scottish Executive responds as follows:

1. We thank the Committee for drawing this to our attention. The intention is that the Order with the exception of article 4 will come into force on 1 January 2007 and that the Public Transport Users’ Committee for Scotland will be established as at that date. The reason for delaying the coming into force of article 4 is to ensure that the functions (currently being carried out by the Bus Users’ Complaints Tribunal) will not be conferred on the Committee until such time as the new sub committee is established under article 10. Although it may have been better simply to omit the words “from the date of coming into force of this Order”, we think that it is sufficiently clear that the reference to “this Order” in article 3 links to the reference to “this Order” in article 1(1) and that the Public Transport Users Committee for Scotland will be established on 1 January 2007.
LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

PETITIONS PE875, PE896 and PE961

Submission of petitions

1. This paper asks the Committee to consider petitions PE875, PE896 and PE961, which have been referred to it by the Public Petitions Committee.

2. Petition PE875\(^1\) by Mary E Mackenzie calls for the Scottish Parliament to urge the Scottish Executive to ensure that all moveable and all heritable common good assets throughout Scotland are properly recorded, audited and insured and to introduce legislation to ensure such assets are properly safeguarded.

3. Petition PE896\(^2\) by Florence Boyle, on behalf of West Dunbartonshire Heritage Ltd., calls for Local Authorities to be required to conduct structured and meaningful public consultation before any disposal of listed buildings, common land or related endowments held in public ownership or trusteeship.

4. Petition PE961\(^3\) by Sally Richardson calls on the Scottish Parliament to urge the Scottish Executive to introduce legislation to provide greater protection and increased powers for local communities in respect of the ownership and use of common good land.

Consideration by Public Petitions Committee

5. The Public Petitions Committee, at its meeting of 5 October 2005, considered PE875 by Mary E Mackenzie. It agreed to seek the views of Audit Scotland, Historic Scotland, COSLA, the Accounts Commission, the Registers of Scotland and the Minister for Finance and Public Service Reform.

6. At its meeting of 9 November 2005, the Public Petitions Committee considered PE896 by Florence Boyle. It agreed to seek the views of the Scottish Executive, COSLA, Historic Scotland and the Scottish Civic Trust.

7. The Public Petitions Committee, at its meeting of 19 April 2006 agreed to link PE875 and PE896 together. It considered the responses of the

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\(^1\) [http://www.scottish.parliament.uk/business/petitions/docs/PE875.htm](http://www.scottish.parliament.uk/business/petitions/docs/PE875.htm)

\(^2\) [http://www.scottish.parliament.uk/business/petitions/docs/PE896.htm](http://www.scottish.parliament.uk/business/petitions/docs/PE896.htm)

\(^3\) [http://www.scottish.parliament.uk/business/petitions/docs/PE961.htm](http://www.scottish.parliament.uk/business/petitions/docs/PE961.htm)
bodies whose views it had sought and it agreed to refer the two petitions to the Local Government and Transport Committee.

8. At its meeting of 17 May 2006, the Public Petitions Committee agreed to link PE961 by Sally Richardson with the other two petitions and refer it to the Local Government and Transport Committee.

9. The petitions, together with their supporting papers and responses received from the bodies whose views the Public Petitions Committee had sought, are attached as Annexe A. Extracts from the Official Report of the meetings of the Public Petitions Committee referred to above are attached as Annexe B.4

Views expressed in relation to the petitions

10. Mary E Mackenzie, in a written statement in support of her petition PE875 expressed her concern that records of common good assets are not properly maintained, that such assets may not be properly insured and that they may be lost to the community. She believes that it is now time to legislate unambiguously to safeguard all the exiting moveable assets at common good property throughout Scotland.

11. The Minister, in his letter to the Public Petitions Committee in relation to PE875, stated that local authorities are bound by the Duty of Best Value and that there is an Advisory Note in place on asset management. He concluded:

“Audit Scotland currently assess asset management as part of their annual audits of local authorities. As local authorities are bound by the Duty of Best Value, and there are procedures in place should an authority be found to have acted illegally, I consider that adequate safeguards are in place to ensure that moveable and heritable common good assets are properly safeguarded. There are currently no proposals to introduce legislation.”

12. The Keeper of the Registers of Scotland, in relation to PE875, commented that information on heritable property in Scotland is held in the General Register of Sasines and the Land Register of Scotland. He noted that the petition seeks the establishment of a more thorough record of common good assets and stated that he does not consider that the property registers can themselves act as this, though clearly they can be of assistance.

13. Historic Scotland, in relation to PE875, described its role in relation to the Listed Building Consent process. It stated that it is committed to ensuring

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4The Official Reports may be viewed on the Public Petitions Committee’s webpages at http://www.scottish.parliament.uk/business/committees/petitions/meetings.htm The relevant papers can be found in the following pdf document, starting from page 9 of the document: http://www.scottish.parliament.uk/business/committees/petitions/papers-06/pup06-07-current2.pdf
that the historic environment is used and managed in a sustainable way. It noted that an owner of a listed building is not obliged to insure against more risks than would be covered for any building of similar use or value. It had reservations about putting in place a statutory mechanism that could result in the owners of historic properties being compelled to retain ownership when they do not have the financial resources to ensure due care and maintenance.

14. COSLA, in relation to PE875, stated that it does not consider that there is any need for legislative change. It stated that common good property of all kinds is already recorded and audited as part of the legislative audit regime and there is a requirement to keep a separate common good account.

15. Audit Scotland, in relation to PE875, stated that while acknowledging the concerns expressed in the petition, there has to be a question whether the extent of identified problems with common good assets in proportion to the overall finance of councils would merit the additional burden of regulation by statute. It suggested that if there are areas where further clarity is required it may be possible for this to be addressed through guidance by the Scottish Executive to councils as to what is expected of them.

16. Support for the petition was expressed by letters from Dingwall Community Council and from Peebles Civic Society.

17. The petitioner submitted a number of press articles to the Public Petitions Committee, which are attached for the information of members.

18. The Scottish Executive and Historic Scotland wrote, in relation to PE896, in similar terms to their comments on PE875.

19. The Scottish Civic Trust, supported the content of PE875 and, in relation to PE896 argued, amongst other points, that: the community should have a right of involvement in the management of the common good fund; it is essential that a full audit of common good assets should be carried out by each local authority; councils must do more to publicise the existence of, and activities undertaken by, their common good funds; each local authority should create a register of burdens and endowments in its assets; and a review of legislation covering common goods funds also need to be undertaken.

Recommendation

20. The Local Government and Transport Committee is invited to consider its views on the proposals contained within the three petitions and in so doing to consider whether or not to carry out any further examination of the issues raised.

Martin Verity
Clerk to the Committee