

RURAL ECONOMY AND CONNECTIVITY COMMITTEE

TRANSPORT (SCOTLAND) BILL

SUBMISSION FROM FIFE COUNCIL

Part 1 Low Emission Zones

Part 1 of the Bill enables the creation, and civil enforcement, of Low Emission Zones (LEZs) by local authorities and allows the Scottish Government to set consistent standards for emissions, penalties and certain exemptions from such zones.

The most polluting vehicles would be banned from entering a LEZ during its hours of operation. Any banned vehicles entering a LEZ would be subject to a penalty charge, with enforcement carried out using Automatic Number Plate Recognition (ANPR) cameras - technology currently used for bus lane, red light and speed limit enforcement.

The Bill would grant Scottish Ministers the power to approve all LEZs and to set national rules for their operation. Do you support or oppose these proposals? Please choose the option which most closely matches your opinion - Strongly Support, Support, Neither support nor oppose, Oppose, Strongly Oppose or No Opinion.

- Scottish Ministers must approve all LEZ proposals – **Oppose**
- Scottish Ministers' will have the power to specify certain types of vehicle that will be exempt from any LEZ scheme, e.g. emergency service vehicles – **Support**
- Scottish Ministers' will be able to order a Council to review a LEZ and direct it to implement changes following that review – **Support**

However these are really for City Authorities in Scotland.

The Bill would grant Councils the power to set the rules governing the operation of individual LEZs. Do you support or oppose these proposals? Please choose the option which most closely matches your opinion - Strongly Support, Support, Neither support nor oppose, Oppose, Strongly Oppose or No Opinion.

- Councils must specify a grace period of between 2 and 6 years for residents (1 -4 years for non-residents) following the introduction of a LEZ, during which penalties will not be levied – **Support**
- Councils will be able to suspend a LEZ for an event, held in or near the zone, that it considers to be of national importance – **Support**
- Councils can grant exemptions from LEZ requirements for individual vehicles, or types of vehicle (up to one year) – **Support**

How might the LEZ proposals in the Bill be improved? Please summarise any suggested improvements that you would like to see made in the box below:

The provisions for the creation and enforcement of low emission zones, as detailed in the Transport (Scotland) Bill documentation, are considered satisfactory and will assist local authorities in the introduction of low emission zones into Air Quality Management Areas (AQMAs) where the National Low Emission Framework (NLEF; as described in the Scottish Government's *Cleaner Air for Scotland: The Road to a Healthier Future* (November 2015) strategy document) appraisals advocates such mitigation.

The Bill allows enforcement by Automatic Number-Plate Recognition (ANPR), this would have an impact on Fife Council for enforcement requiring more back office staff, more appeals etc.

Fife Council agrees that the Scottish Government should decide what vehicle types could be restricted within a LEZ area. However, Fife Council wishes the power to add any additional vehicles as necessary to meet local circumstances.

Fife Council requests that schemes cover the ongoing maintenance of air quality monitoring equipment through the funding generated as part of the scheme, which is not currently stated in the Bill.

Part 2 Buses

Part 2 of the Bill provides local transport authorities with powers to improve local bus service provision through statutory partnership working with bus operators, the creation of local bus service franchises and the ability to operate services themselves - where these are not in competition with commercially operated services.

Part 2 gives Scottish Ministers powers to make regulations setting out what service and timetable information bus operators must make available to passengers and local transport authorities.

The Bill would provide Councils with the following powers, aimed at improving local bus services. Do you support or oppose these powers? Please choose the option which most closely matches your opinion - Strongly Support, Support, Neither support nor oppose, Oppose, Strongly Oppose or No Opinion

- Provide bus service(s) where no commercial service is provided – **Support**
- Work in a formal partnership with commercial operators to improve services – **Support**
- Specify all aspects of local bus services, which will be provided by commercial operators following a tendering exercise – **Support**

The Bill would require bus operators to share information on routes, timetables and actual running times with third parties - to make it easier for passengers to know when their bus will arrive and how much it will cost.

How best could your Council or bus operator improve the ways it provides timetable and route information? (Please put the following options in an order were 1 is your favourite idea and 5 is your least favourite)

**Bus operator website
Bus operator app
Bus stop real-time displays
Bus stop paper timetables
Paper timetables**

Fife Council is unable to rank these options for public transportation information as depending on the situation different options would be more beneficial ie urban and rural locations, bus stops, hail & ride site.

Fife Council strongly supports Traveline Scotland, its website and app, as it provides information on ALL operators' services. Your above options refer to individual bus operators, as opposed to the joined-up approach of Traveline.

Do you think the proposed changes to bus regulation in the Bill could be improved? If so, could you briefly summarise the changes you would like to see made in the box below:

Fife Council welcomes the initiatives proposed in the Bill as they do go some way to addressing previous concerns about existing legislation, lack of local authority influence and lack of co-operation from the commercial bus sector.

Local Authority Operated Bus Services

The ability to operate our own bus services is an opportunity that Fife Council will certainly investigate. Reading the proposed revisions to existing legislation, we would query the following points:

- Section 28(4) introduces a new Section 71A to the 1985 Transport Act and refers to Councils running their own bus services where there is an '*unmet requirement*.' Whilst we are fairly comfortable with this wording, we do wonder if there could be opposition from the commercial sector in relation to a directly operated Council service either enhancing a commercial frequency or sharing roads on a commercial corridor. If such a situation arises, we would suggest that the Traffic Commissioner acts as arbiter and this should be enshrined in the Bill.

- The new Section 71A of the 1985 Act (and the separate *Explanatory Notes* document) makes it clear that the Council can only provide *local services*, as opposed to *public passenger transport services*, both of which are defined in the 1985 Transport Act. We are unclear as to why this has been restricted and are concerned that, in trying to meet the *unmet requirement*, a Council may be prevented from providing an innovative, flexible, demand responsive or low seating capacity service that isn't a 'traditional bus service.' This is in particular relation to Section 2 of the 1985 Transport Act (Definition of a Local Service) and Schedule 1 of the Public Passenger Vehicles Act 1981 (Sharing, Arranging and Advertising of Journeys).
- Will there be any protection for local authorities who, having invested in vehicles, depots and staff to provide a service because there is an *unmet requirement*, find themselves – at only 70 days' notice – on the receiving end of a commercial registration for the same route? Such gaming is not unknown when an incumbent contractor loses a contract to a competitor and the local authority is forced to withdraw the subsidy from the new contractor, usually resulting in the new contractor cancelling their journeys and the previous contractor only having to run their service commercially for 90 days. What safeguards will there be for a local authority, who has invested public money to provide a service, in the event that similar gaming takes place? Whilst commercial operators have been protected - as Councils cannot compete on commercial routes (a 'met requirement') - there appears to be no reciprocal protection for the public purse. Notwithstanding this concern, an Authority would welcome commercial operation of its routes but such a takeover should be conditional on a longer minimum operating period (>90 days) and the TUPE of staff.

Bus Services Improvement Partnerships

The proposed BSIPs and associated changes to the Transport (Scotland) Act 2001 are welcomed as a more flexible and achievable means of statutory partnership working. Whilst the new provisions are detailed and lengthy, they outline a clear procedure which is welcomed as an improvement over *Quality Partnerships*. It is unclear if BSIPs will be a priority for Fife Council. A BSIP still requires investment from the Council at a time when budgets are challenging.

We have one query in relation to BSIPs:

- Schedule A1(5) permits operators to object to the establishment of a BSIP and stop its progress if *a sufficient number* object. Whilst we understand the *sufficient number* will be defined in later regulations, consideration must be given to not just the number of operators objecting but the number of local services they operate, and their frequencies, in the proposed BSIP area. The *sufficient number* must be carefully assessed.

Local Services Franchises

Franchising is a welcome replacement for *Quality Contracts*. As with BSIPs, the proposals are lengthy and prescriptive and will certainly be challenging for any local authority who attempts to implement a Franchise. However, there is recognition that there will now be a clearer procedure and the inclusion of the audit step and independent approval panel will hopefully remove the possibility of the 11th hour failure that befell the NEXUS Quality Contract in England.

Whilst a useful option, it is not clear that Fife Council would look to implement a Franchise in the near future. In light of the Competition Commission's 2010/11 *Market Investigation into the Supply of Local Bus Services*, we have spent the last few years encouraging competition for contracts in Fife and there are now 12 operators available to provide transport of >16 passenger seats. If a Franchise excludes some or all operators from an area, there is a danger that some companies will leave or collapse and we will then have a reduced marketplace and little competition for a renewed Franchise.

Our Franchising queries are:

- Setting up agreements under a framework, that will ultimately give exclusivity rights to one or more operators who have made successful bids, will require sufficient advance route patronage and revenue information to be made available but there appears to be no provision for this in the Bill. Section 13D mandates a framework to include
 - (b) the local services which are to be provided under franchise agreements
 - (e) the standards to which services must be provided under franchise agreements

How can an authority accurately plan the above (bearing in mind it must pass an auditor's financial assessment too), decide whether to pay or be paid for the Franchise and how can prospective operators make an accurate bid, if commercial route information is not available in advance to make an accurate assessment? Such information is already provided to tenderers for our existing subsidised routes. Perhaps an adaptation of the later Section 33 (Provision of Service Information When Varying or Cancelling Registration) could be incorporated to permit commercial patronage/revenue information to be made available for Franchises.

- Section 13H(5) states that *Scottish Ministers must issue guidance in relation to the circumstances in which a local transport authority must prepare a new assessment of a proposed framework..* Such guidance will have to be clear and unambiguous to avoid a loop of costly reassessments after objections lodged at the consultation stage. Perhaps this could be in the later Section 13S(2)(a)(v) where Ministers can make regulations with respect to *the holding of inquiries or hearings in connection with objections or representations.*

Information Relating to Services

The ability to request patronage and revenue information for commercial service variation or cancellation is a significant help to local authorities when considering how to replace journeys at only 70 days' notice. However, the new Sections 33 & 34 do raise some queries:

- Section 33 introduces a new Section 6ZA to the 1985 Transport Act in which subsection (3)(a) prescribes patronage information to be made available as *the number of passengers using the service, the journeys made by those passengers and the fares paid by them*. We would question whether this is strong enough to avoid disputes with operators. Ideally, we need origin/destination data by individual journey and departure time. To be told that 100 passengers travelled between A and B and 70% were Concessions and 30% were Adult Singles, isn't detailed enough. We need to know if the 100 passengers travelled in the peak, throughout the day or in the evening, as this will be crucial if another commercial operator requires to consider replacement journeys or whether the Council will fund replacements.
- Section 33 introduces a new Section 6ZB to the 1985 Transport Act (Permissible Disclosure of Information) but 6ZB(2)(a) makes it clear that information can only be made available to those *expected to submit a tender to provide a supported service*. In these times of austerity, a Council's first action should be to discuss with other operators the possibility of taking over the journeys commercially, thus negating the need for a subsidised replacement and protecting the public purse. A Council should not be prevented from sharing the patronage and aggregated revenue information with an operator willing to provide some kind of replacement journeys on a commercial basis. The wording of this subsection should be revised to reflect this.
- Section 34 permits regulations to be made to require operators, local authorities and the Traffic Commissioner to provide prescribed information in a particular format. Whilst we understand the 'open data' ethos and the future proofing for technology that this section is designed for, it is not clear if any of the information providers – including Councils – could face additional costs simply to provide the information and in the format dictated by the regulations, if we do not currently hold it or in the format asked for. Some clarity would be appreciated here.
- Similarly, it is not clear from Section 34 how the proposals may impact existing *Bus Passenger Information Strategies*, required under Section 33 of the Transport (Scotland) Act 2001. Additional clarity would be appreciated.

Two final points in relation to possible improvements for bus services:

- Fife Council supports a return to the previous bus specific legislation that allowed negotiation between transport authorities and bus operators in order to enhance commercial networks through 'de minimis' agreement.

There has been a tendency of bus operators to provide a commercial offering during periods of higher demand, but to scale back their operations in the evenings and Sundays. It is suggested that there should be some thought given to the development of 'proportionate service levels' that would commit bus operators to providing a minimum off-peak service that was linked to the frequency of their daytime services. For example, an operator who provided a 15 minute frequency during the day would be expected to provide a commercial hourly service in the evenings.

Part 3 Smart Ticketing

Part 3 of the Bill would create a national technological standard for smart ticketing and provide local transport authorities with further powers for smart ticketing arrangements and schemes.

Smart ticketing is the name given to a system where an entitlement to travel (or ticket) is stored electronically rather than being printed on a paper ticket. Most smart ticketing schemes store payment and ticket data on a smartcard, such as London's Oyster card.

Do you support or oppose the following? (which are all proposed in the Bill)

- National technological standard for smart ticketing – **Support**
- National Smart Ticketing Advisory Board – **Support**
- Requirement for local authorities to produce annual reports on use of ticketing powers – **Oppose**
- Power for Scottish Ministers to direct local authorities to implement ticketing schemes – **Oppose**

What are the reason(s) behind your answers above?

Transport Scotland - "Our role is to help operators modernise their equipment and infrastructure to bring a standardised consistent travel experience for the customer, for all public transport."

Fife Council is supportive of one standardised scheme providing the users with one ticket for public transport regardless of mode or area.

The detail in the Smartzones section of the Transport Scotland website indicates that this Bill is to enable local authorities and other small operators to implement individualised, local schemes. Fife Council requests that a nationally integrated scheme be adopted.

Clarity is required on whether the Saltire card is to be rolled out across Scotland to act as an equivalent to the Oyster card.

The Bill does not propose a consistent approach across Scotland for all public transport modes. A recognised brand would help to increase customer awareness and confidence and encourage great modal shift to active and sustainable transport.

The Bill makes provision that bus operators must link to train and ferry tickets, however, there is no detail of how ferry and rail operators integrate to bus ticketing.

Fife Council would be concerned regarding the burden in administration caused by running local multi-operator ticketing schemes. Even if the scheme is a national one, there will be implications for the administrative effort in managing the existing national entitlement card. Any such powers coming to local councils should be properly resourced given pressures already on local councils' already stretched budgets.

Part 4 Pavement parking and double parking

Part 4 of the Bill would prohibit double parking and parking on the pavement, subject to a number of exemptions.

Do you support or oppose the proposed prohibitions on:

- Pavement parking – **Support**
- Double parking – **Support**

What are the reason(s) behind your answers above?

Whilst recognising the impact footway parking can have on pedestrians and other network users the Council welcomes additional powers to be able to tackle these issues. However the introduction of this Bill will require a significant resource and cost to identify and sign those areas and streets that the Council may wish to exempt from the restrictions. Fife Council would require a significant lead in time prior to implementation.

The Bill proposes a number of exemptions to the prohibition on pavement parking and double parking. These are:

- **Emergency service vehicles responding to an incident**
- **Vehicles used in undertaking road works**
- **Bin lorries**
- **Postal service vehicles**
- **Vehicles used by medical practitioners responding to an incident**
- **Vehicles being used for deliveries**
- **Vehicles in a parking place**
- **Vehicles parked at the direction of a police officer**
- **Vehicles parked for the purpose of saving a life/similar emergency**
- **Vehicle parked to provide roadside assistance**

It is worth noting that the Bill requires vehicles that benefit from an exemption to only use it where it is unavoidable and for the shortest time possible to complete the task in hand (with a limit of 20 minutes on vehicles being used for deliveries).

Overall, do you support or oppose the proposed exemptions?

- Overall view of proposed exemptions – **Support**

Do you have any concerns about the proposed exemptions, or wish to see additional exemptions added? If so, please briefly summarise what change(s) you would like to see made and why you think these are necessary.

Fife Council has concerns over the scale of enforcement, given current staffing levels. It is as it is anticipated that there will be a significant increase in enforcement requests.

Fife Council's view, as part of the earlier consultation which led to the development of the Bill, is that it may be more proportionate for this Bill to be restricted to double parking and parking across dropped kerbs.

Should legislation be made in relation to ban parking on footways, the guidance to exempt areas and define the criteria for intervention needs to be robust so that it can be applied equally across all Local Authorities.

When will the guidance be available for consideration by Local Authorities?

Local Authorities require funding from Central Government to implement parking restrictions as there is no funding within existing Local Authority budgets.

Local Authorities requires additional powers so that they can exempt areas from the parking restriction, ie where this could be detrimental to the existing community environment.

Specific Comments:

Para 47 Exceptions to parking prohibitions

(2) “for naval, military or air force purposes”

It is not clear why these vehicles would be considered in the same class as emergency service vehicles such as Police, Fire and Ambulance. It is suggested that, rather than issue a Penalty Charge Notice these vehicles could be dealt with through the appeals process.

(5) Clarification is required on how vehicles being used by medical practitioners would be identified as these are often private vehicles. It would not be considered appropriate for a notice/note to be placed on the windscreen as these can be abused. It is considered that a national permit system would be required.

(6b) Clarification is required on how vehicles being used by delivery companies/couriers would be identified as these are often private vehicles. As stated previously it would not be considered appropriate for a notice/note to be placed on the windscreen as these can be abused. It is considered that a national permit system would be required.

(6c) It is suggested that a vehicle loading/unloading should not be permitted to do so for a period of 20 minutes or more. There will be occasions when there will be a requirement for longer periods of loading/unloading activity. It is suggested that in these cases, the Local Authorities have powers to issue dispensation to allow longer periods of parking where deemed necessary.

Para 48/49 Imposition of penalty charges/Enforcement of parking prohibitions

It is not known what the level of penalty charge would be. It would make sense to keep the charge, process of recovery of the charge and appeal process in line with the current legislation used under DPE powers.

The Bill mentions the use of “approved devices” that can be used in the detection of a contravention. It is assumed this refers to devices such as CCTV and ANPR technology? At the moment, the Council is unable to issue a PCN by post (under DPE legislation) as the notice must be served to the vehicle or to the person in control of the vehicle. It is assumed that this aspect of the Bill would be similar in its execution

to that of the Bus Lane enforcement. However, it would be useful to know how and what legislation would enable such PCNs by post.

It is not envisaged that in Fife there would be many instances where it would be required, practical or cost effective to install devices to detect this offence and in the vast majority of cases the enforcement would be carried out by manual means. It is welcomed however that the ability to use such “approved devices” if required, along with the legislation to enforce this, is included within the Bill.

This section also mentions that the regulations may include the provision of creating a criminal offence that would be triable summarily and punishable with a fine not exceeding level 5. It is envisaged that by creating a criminal offence this would lead to a more onerous process and one that local authorities currently operating DPE are not familiar with. Further clarification is required on how this process would work.

The Bill would allow local authorities to exempt any footway from the prohibition on pavement parking, as long as it has had regard to any guidance issued by Scottish Ministers. Do you support this proposal?

- **Support**

What are the reason(s) behind your answer above?

Should legislation be made in relation to ban parking on footways, the guidance to exempt areas and define the criteria for intervention needs to be robust so that it can be applied equally across all Local Authorities.

Part 5 Road Works

Part 5 of the Bill would strengthen the role of the Scottish Road Works Commissioner and improve the regulation of road works.

The Scottish Road Works Commissioner is an independent public official who aims to improve the planning, co-ordination and quality of road works throughout Scotland. The Commissioner monitors performance and promotes and encourages good practice across both utility companies and roads authorities. The Commissioner has powers to impose financial penalties on roads authorities who systematically fail in their duty to co-ordinate roadworks and on utility companies who systematically fail to co-operate when undertaking road works.

The Scottish Road Works Commissioner is NOT responsible for works being

undertaken in roads on Scotland - which rests with local authorities, utility companies and their contractors.

The Bill would give the Scottish Road Works Commissioner, and Commission staff appointed as inspectors, the power to inspect roads works, documents etc. to establish the facts in possible cases of non-compliance with road works related legislation that falls within the Commissioners remit.

The Bill would grant the Commissioner, and Commission staff, new powers to investigate and take enforcement action against organisations that failed to comply with statutory road works requirements.

Do you support or oppose these powers? Please choose the option which most closely matches your opinion - Strongly Support, Support, Neither support nor oppose, Oppose, Strongly Oppose or No Opinion.

- Inspection power – **Support**
- Power to issue compliance notices – **Support**
- Power to issue fixed penalty notices for non-compliance – **Support**
- Requirement to provide annual reports to Scottish Ministers on use of powers – **Support**

Do you have any comments or concerns about these proposed powers? If so, can you briefly summarise them below?

Such measure would help drive improvements in safety and compliance.

The Bill would create place new duties/requirements on those undertaking road works on behalf of a local authority. Do you support or oppose these powers? Please choose the option which most closely matches your opinion - Strongly Support, Support, Neither support nor oppose, Oppose, Strongly Oppose or No Opinion.

- New statutory duty on local authority road works to meet fencing and lighting requirements – **Support**
- Ministers can issue a code of practice for safety at local authority road work sites – **Support**
- New statutory requirement for local authority road works to be supervised by a suitably qualified person – **Support**

Do you have any comments or concerns about these proposed powers? If so, can you briefly summarise them below?

This would provide a consistent approach by both Roads Authorities and Statutory Undertakers and improving safety for all.

The Bill would create place new duties/requirements on those undertaking road works. Do you support or oppose these powers? Please choose the option which most closely matches your opinion - Strongly Support, Support, Neither support nor oppose, Oppose, Strongly Oppose or No Opinion.

- New requirement for actual commencement and completion date notices to be placed in the Road Works Register within a prescribed period – **Support**
- Anyone undertaking road works, or works to a road (except roads authorities) must have either a site specific, or general road reinstatement quality plan in place – **Support**

Do you have any comments or concerns about these proposed powers? If so, can you briefly summarise them below?

Quality plans would strengthen the requirement for works to comply with relevant codes of practice and legislation. The introduction of quality plans should be reviewed to ensure the continued improvement in the quality and durability of the reinstatement. Quality plans need to be site specific not generic.

Generally the response detailed is in line with the response given to the consultation carried out last year “Improving the Quality of Road Works”. It is considered that the majority of the proposed legislation will drive safer working practises, good coordination and improved quality or reinstatement. These will also apply to Roads Authorities as well as Undertakers and will have resource implications for Roads Authorities in order to comply with the revised methods of working.

There were reservations regarding changing when works phases commence are notified on the Scottish Road Works Register (SRWR). The main concern was the ability to comply with this requirement. However, subsequent improvements to the SRWR has resulted in the roll out of a mobile app which can allow operatives to provide this information in time.

There is a general concern that the powers now being proposed for the SRWC could, in certain circumstances, be superior to and contradict powers currently held by the Roads Authority (RA) particularly in relation to inspection of RA works and also requirement to provide Plans for RA works. Roads Authorities are already subject to scrutiny by current regulation, Members and the public.

Part 6 Scottish Canals/Regional Transport Partnership finance

Part 6 of the Bill would give Regional Transport Partnerships more financial flexibility and allow Scottish Ministers to vary the membership and structure of the Scottish Canals Board.

The Bill would allow a Regional Transport Partnership to establish:

- **A capital fund**
- **A renewal and repair fund**
- **An insurance fund**

Do you support or oppose these proposals?

- **Support**

What is the reason for your answer?

Fife Council is supportive of the Regional Transport Partnerships being given powers to develop and hold capital funds. Thus allowing them to own assets, run and maintain facilities, such as Park & Ride sites.

All Local Authorities will have the opportunity to agree funding through RTPs.

The Bill would expand the size of the Scottish Canals board, increasing the number of members appointed by Scottish Ministers from "between one and four" to "at least 4 but no more than 9". The aim being to allow the appointment of members with a wider range of skills and experience than at present. Do you support or oppose this proposal?

- **Support**

What is the reason for your answer?

Ensuring a public board has access to the widest range of skills and experience is positive – happy to support the proposal.

Anything else

Do you have any other comments about the Bill, particularly any changes you would like to see made. If so, please briefly summarise these in the box below.

It would be helpful if reference was made in the Bill to the integration with rail services.

It would be helpful if there was information on how the Bill would impact on Transport Scotland.

Many of the proposals if implemented could have significant cost implication for Local Authority on already over stretched budgets.