Local Government and Transport Committee

3rd Report, 2005 (Session 2)

Stage 1 Report on the Transport (Scotland) Bill

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    Mr Frazer Henderson, Team Leader, Transport Bill Team, Scottish Executive;
    Mr Tom MacDonald, Head of Bus and Taxi Policy Branch, Scottish Executive;
    Mrs Caroline Lyon, Solicitor, Scottish Executive;
    Mr Laurence Sullivan, Solicitor, Scottish Executive;
    Bill Barker, Operations Manager, Strategic Waste Policy and Assets, Dumfries and Galloway Council, SCOTS;
    Grahame Lawson, Head of Planning and Transportation, North Lanarkshire Council, SCOTS;
    Councillor Duncan MacIntyre, Argyll and Bute Council, HITRANS;
    Councillor Gordon Mitchell, Shetland Islands Council, HITRANS; and
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Jim Lee, Managing Director, Travel Dundee and Chairman, Confederation of Passenger Transport Scottish Council;
Robert Andrew, Deputy Managing Director Stagecoach (Scotland), Confederation of Passenger Transport;
George Mair, Managing Director First Aberdeen, Confederation of Passenger Transport;
Councillor Charles Gordon, Leader, Glasgow City Council;
Marshall Poulton, Head of Policy and Planning, Glasgow City Council;
Michael Donnelly, Business Strategy Manager, Glasgow City Council;
Councillor Alistair Watson, Chair, Strathclyde Passenger Transport Authority;
Malcolm Reed, Director General, Strathclyde Passenger Transport Executive;
Douglas Ferguson, Director of Operations, Strathclyde Passenger Transport Executive; and
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Councillor Alison McInnes, Aberdeenshire Council, COSLA;
James Fowlie, Policy Manager, COSLA;
Findlay Taylor, Co-Chair, Roads Authorities and Utilities Committee (Scotland);
David Morrison, Managing Director, Turriff Contractors Ltd;
Stuart Ross, Operations Manager, Alfred McAlpine Infrastructure Services Ltd;
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Alan Watt, Chief Executive, CECA (Scotland); and
Iain Duff, Chief Economist, Scottish Council for Development and Industry

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Jess Barrow, Head of Policy and Public Affairs, Age Concern Scotland;
Jim Ferguson, Perth and Kinross Pensioners’ Forum, Age Concern Scotland
Ross Watson MYSP, Chair, Transport, Environment and Rural Affairs Committee, Scottish Youth Parliament;
Morven Neil MSYP, Scottish Youth Parliament;
Stephanie Veitch MSYP, Scottish Youth Parliament;
Kevin Smith, Member, Argyll and Bute Youth Forum
Frank Stewart, Engineering Build Services Manager, THUS plc and Chairman of NJUG;
John Taylor, Government Relations Manager, National Grid Transco;
Rodney Grubb, Scottish and Southern Energy
Domhnall Dods, Head of Regulatory Affairs, THUS and Director, UKCTA;
Tony Cox, Head of Policy and Public Affairs, BT Wholesale; and
Nancy Saunders, Kingston Communications, Board Director, UKCTA
Local Government and Transport Committee

Remit and Membership

Remit:
To consider and report on matters relating to local government (including local government finance), cities and community planning and such other matters (excluding finance other than local government finance) which fall within the responsibility of the Minister for Finance and Public Services; and matters relating to transport which fall within the responsibility of the Minister for Transport.

Membership:
Bristow Muldoon (Convener)
Bruce Crawford (Deputy Convener)
Fergus Ewing
Dr Sylvia Jackson
Paul Martin
Mr Michael McMahon
David Mundell
Tommy Sheridan
Iain Smith (10 June 2003 to 31 January 2005)
Margaret Smith (1 February 2005 to Present)

Committee Clerking Team:

Clerk To The Committee
Eugene Windsor

Senior Assistant Clerk
Alastair Macfie

Assistant Clerk
Euan Donald
The Committee reports to the Parliament as follows—

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Part 1

1. The Committee welcomes the Bill, although as this report has noted, there are a number of ways in which it can be improved during its progress through its Parliamentary stages. The Committee therefore calls on the Minister to note the contents of this report, to provide further information where requested, and, where appropriate, to bring forward amendments at Stage 2.

2. Subject to this caveat, the Committee recommends to the Parliament that the general principles of the Bill be approved.1

Consultation

3. The Committee considers that the consultation process on the proposals in the Bill has been satisfactory.

Secondary legislation issues

4. The Committee is concerned by the lack of detail in relation to many specific aspects of the Bill, as the report will indicate in due course. The Committee welcomes the Minister’s commitment to make available draft regulations ahead of Stage 2, although it would have preferred them to have been available in draft form at Stage 1. The Committee also notes the comments of the Subordinate Legislation Committee in this regard.

1 David Mundell dissented.

Fergus Ewing proposed that this paragraph be deleted and replaced by the following words: ‘The Committee recognises that there is support for the principle of having RTPs, but without detailed information as to their composition, boundaries, powers and responsibilities and funding, it is not yet possible to reach any firm conclusion as to the general principles of the Bill.’ The proposal was disagreed to by division: For: 2 (Bruce Crawford, Fergus Ewing). Against: 6 (Sylvia Jackson, Paul Martin, Michael McMahon, Bristow Muldoon, Tommy Sheridan, Margaret Smith). Abstentions: 1 (David Mundell).
5. The Committee calls on the Scottish Executive to produce relevant draft guidance and regulations for scrutiny no later than fourteen days prior to the start of Stage 2 of the Bill's progress through its parliamentary stages, in order to allow the Committee, if it chooses to do so, to take evidence in advance of Stage 2.

6. The Committee notes the commitments made by the Executive to consider points raised by the Subordinate Legislation Committee, and requests that a response is provided on each point to the SLC, and to this Committee, in advance of the commencement of Stage 2 of the Bill.

7. The Committee will expect appropriate amendments to be brought forward by the Executive at Stage 2 to give effect to the commitments already made to the Subordinate Legislation Committee.

The need for regional Transport Partnerships (RTPs)
8. Having considered the evidence, the Committee concluded that it supported the introduction of RTPs.  

9. However, the Committee considers that the ability of RTPs to deliver transport improvements will depend largely on the RTPs having strong powers and the required level of funding.

Membership, voting rights and structural issues
10. The Committee acknowledges that the Scottish Executive has tried to balance the need for a voting system which is fair to both large and small local authorities, involves outside members meaningfully and results in a board which is capable of being focussed and is of manageable size. The Committee also understands the difficulties in achieving these objectives within the current local authority structure, which lost its regional aspect at the time of the last local government reorganisation.

11. However, the Committee is not convinced that the balance has been correctly struck, and welcomes the Minister’s commitment to consider these matters again. The Committee also calls on the Minister to consider whether it would be appropriate for appointments to Regional Transport Partnerships to be subject to the approval of the Scottish Parliament.

12. The Committee is also not persuaded that it is appropriate for non-elected members of RTPs to be able to vote alongside their councillor colleagues to, for example, requisition funds from the constituent councils. In practice it is difficult to separate any question of policy from financial issues, and the committee therefore concludes that, whilst the RTPs should find ways of enabling the non-councillor members to express their views, only those board members who are appointed by the constituent councils should be entitled to vote on the Partnership board.

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2 David Mundell dissented.
Boundaries of the RTPs
13. The Committee acknowledges that the current proposals are for consultation, and may change in the light of that consultation. Nevertheless, the Committee concludes that Dumfries and Galloway’s case [to be a single-authority RTP] is a reasonable one. There appears to be very little justification, other than administrative convenience, for Dumfries and Galloway to be included within the Glasgow city-region. Although not a matter of general principle, this argument does have an impact on the principle that every local authority must be a member of a partnership together with at least one other local authority.

14. The Committee therefore concludes that there is a case for a greater degree of flexibility in the approach to the boundaries of RTPs. In particular, the Committee questions whether it is essential for each partnership to have more than one constituent authority. The Committee also questions whether it is essential that the boundaries of the RTPs need to be contiguous with local government boundaries, particularly when it is the case that the future local government boundaries may not remain as they are at present. Finally, the Committee believes consideration needs to be given to the question of whether individual councils may be constituent authorities in more than one RTP, and on whether it would be feasible for local authorities to have ‘observer status’ at neighbouring RTPs.

15. The Committee asks that the Executive considers these aspects and responds before the commencement of Stage 2, should the Bill complete its passage through the first stage of the Parliamentary process.

RTP functions

Rail
16. The Committee welcomes the assurances that have been given in respect of the successor body to Strathclyde Passenger Transport’s (SPT) role in respect of rail. However, the Committee would welcome a clearer commitment to the role of RTPs in rail policy and would call on the Executive to consider an amendment to ensure that this role is enshrined on the face of the Bill.3

Bus Quality Partnerships, Quality Contracts and ticketing schemes
17. The Committee was persuaded by SPT’s argument, and remains unconvinced that the proposal for these powers to be held simultaneously by both the proposed RTP and its constituent authorities is sound.

18. The Committee therefore calls on the Minister to consider this again ahead of Stage 2 of the Bill’s parliamentary process.

19. Except in respect of the issues discussed above in connection with bus quality partnerships and quality contracts in the west of Scotland RTP, the Committee is content in respect of the proposed functions.

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3 David Mundell dissented.
Financial issues

20. The Committee concludes that the information supplied in the Financial Memorandum and by the Scottish Executive in its evidence to the Committee and to the Finance Committee is insufficiently detailed to enable a judgement to be made about the adequacy of the proposed financial arrangements. The Committee therefore calls on the Executive to provide more detailed information, in particular in respect of the points raised by the Finance Committee, at least fourteen days ahead of the start of Stage 2 of the Bill’s parliamentary passage.

Part 2

Causes of congestion

21. Whilst there were arguments as to the precise figures for the causes of traffic congestion, it is clear to the Committee, firstly, that road works are only responsible for a limited proportion of traffic congestion, and so the proposals in the Bill are not a universal solution to this problem. Secondly, the Committee notes that both local authorities and utilities can be responsible for road works which cause congestion.

Equitable treatment of local authorities and utility companies

22. The Committee agrees with the utility companies that there should be a ‘level playing field’ in relation to fines imposed under the Bill, and recommends that the Executive considers how this can be achieved and amends the Bill accordingly at Stage 2, if the Parliament agrees to the general principles of the Bill. The Committee notes that COSLA and some local authorities did not appear to oppose such a suggestion in principle. There is likely to be an issue regarding how the new arrangements would work in practice, as it would not appear sensible for a local authority to both impose fines and be subject to them. However, the Committee challenges the Executive to bring forward proposals to subject local authorities to the same penalty system as utility companies which also avoids a situation in which local authorities ‘fine themselves’.

Scottish Road Works Commissioner – role

23. The Committee notes the concerns of some witnesses that the powers of the new Scottish Road Works Commissioner might not significantly differ from those currently held by the Road Authorities and Utilities Committee (RAUC(S)). However, the Committee also notes that, unlike the membership of RAUC(S), which comprises local authority and utility company representatives, the Commissioner will be a single independent figure monitoring road works in Scotland. A majority of the Committee supports the creation of the post, subject to reassurances being provided by the Minister that appropriate resources will be allocated to the appointee, and considers that the independent status of the Commissioner will mean that he or she will be able to take an impartial overview of national performance on road works, and, in particular, will have no conflicts of interest in relation to his or her duty to enforce offences under the 1991 Act. A minority of Committee members consider that it would be possible for the proposed functions of the Commissioner to be carried out by RAUC(S), if it were established on a statutory basis.
Scottish Road Works Commissioner – resources
24. Whilst the ability of roads works authorities to recoup the administrative costs of issuing fixed penalty notices is welcomed, this proposal does not really address the concerns raised by SCOTS in relation to cost implications of section 21 of the Bill (duty of road works authorities to co-ordinate road works). These potential costs are not specifically addressed in the Bill’s Financial Memorandum, and the Committee requests a response from the Executive to these concerns in advance of the Stage 1 debate. The Committee also seeks views of the Executive in relation to the budget of the Scottish Road Works Commissioner. The Committee wishes reassurances that sufficient resources exist for the Commissioner to carry out his or her role properly.

Power to restrict road works
25. The Committee supports the general policy intention behind the proposals to better manage road works. However, the Committee is also concerned at the potential economic impact of the proposals. The Committee requests clarification on what exemptions will be permitted to the ‘three year’ rule proposed in Bill. The UK Competitive Telecommunications Association (UKCTA) highlighted, for example, the case of road works where digging is required to meet customer orders or where works are minor and have little impact on traffic. The Committee would also like further information in advance of Stage 2 of the Bill as to how a balance will be struck between the proposals in the Bill to restrict works and the Minister’s statement that services such as broadband roll-out will be unaffected by the proposed legislation.

Other utility company concerns
26. The Committee requests a response from the Executive on additional concerns of utility companies set out in this report in relation to emergency works and competition within the telecoms market. In particular, the Committee requests a reassurance from the Minister that road authorities will not be able to use the powers of reinstatement in the Bill to make overly onerous demands on utility companies to reinstate sections of roads which have not been disrupted by road works. The Committee would welcome these responses no later than fourteen days prior to the start of Stage 2 of the Bill’s progress through its parliamentary stages.

Enforcement of the provisions in Part 2 the Bill
27. The Committee recommends that, if the Bill is passed, the Executive should monitor the use of the new powers in the Bill to ensure that they are more effectively enforced than those in the 1991 Act.

Part 3

General comments
28. The Committee recognises the difficulties that local authorities, operators and bus users have encountered within the current framework of sixteen different concessionary travel schemes.
29. The Committee was not convinced by the evidence it heard arguing for the management of the schemes to be transferred to the proposed RTPs. The Committee therefore welcomes the Executive’s announcement that a national concessionary fares scheme will be introduced by April 2006.

30. However, the Committee notes the concerns raised by SPT, COSLA and Dumfries and Galloway Council with regard to the possible financial impact of the introduction of the schemes on the provision of services and infrastructure.

31. The Committee therefore asks the Executive to provide details of the assessment it has carried out on the possible wider impact of the new funding being provided for the national concessionary travel scheme in respect of the funding available for the development of other services. The Committee requests that the Minister provides details of the timescale for the completion of this assessment and that it is made available to the Committee.

32. Finally, the Committee welcomes the commitment made by the Minister to come back before it in order that the Executive’s proposals in respect of the concessionary travel scheme may receive committee scrutiny.

Time restrictions of the scheme

33. The Committee welcomes the Minister’s announcement that the provision of free bus travel for older and disabled people will be non-time-restricted. The Committee also welcomes the announcement of additional funding to be provided to support bus operators in providing free travel and the proposed cap on the total cost of payments to operators.

Rail

34. The Committee is persuaded by the evidence it has heard on this matter and accepts that presently the rail network has insufficient capacity to support a national non-time-restricted concessionary travel scheme, although this might be possible at some future date. It might be more feasible to introduce a nationwide off peak concessionary rail travel scheme, and the Committee encourages the Minister to examine this suggestion further. Additionally, the Committee considers that there may be merit in rail concessions being offered at a local level in certain circumstances. The Committee would therefore suggest that the proposed RTPs may wish to consider whether to offer certain specific rail travel concessions within their own areas.

Other groups

35. The Committee supports the extension of concessionary travel to young people, notes the Minister’s plans to announce the specific details of this scheme in due course, and recommends that this announcement is made in the early part of this year.

Ferry travel

36. The Committee welcomes the Minister’s commitment to provide concessionary travel for young people on ferries and his proposal for older
people and disabled people to have a minimum of two free return journeys to the mainland each year. The Committee acknowledges that this is a minimum standard of provision and welcomes the fact that local enhancements will continue to be able to be provided.

Accessibility issues

37. The Committee notes the evidence from MACS and urges the Executive to ensure that, as far as possible, the concessionary travel schemes available to older and disabled people are genuinely accessible. Furthermore, the Committee would welcome a clear statement from the Executive on what measures it plans to put in place to encourage accessibility of public transport for disabled people ahead of the Disability Discrimination Act coming into force, and what the timescale is for these measures.

REPORT

38. The Transport (Scotland) Bill was introduced to the Scottish Parliament on 27 October 2004, by Nicol Stephen MSP, the Minister for Transport. The Bill is accompanied by a Policy Memorandum and Explanatory Notes.

39. The Bill was referred to the Local Government and Transport Committee as lead committee on a motion of the Parliamentary Bureau. Under Standing Orders Rule 9.6.1, it is for the lead committee to consider and report on the general principles of the Bill.

40. Reports were received on the Bill from the Subordinate Legislation Committee, the Finance Committee and the Enterprise and Culture Committee. These reports can be found at Annexe A.

BACKGROUND

41. The Policy Memorandum states that the Bill makes ‘substantive provision’ in relation to three major policy areas in transport (Transport Partnerships, road works and concessionary travel) and a number of minor provisions in relation to other transport areas. The policy memorandum sets out the contents of each of the three main parts of the Bill:

‘Part 1 provides a statutory basis for Transport Partnerships and enables them to receive and exercise transport functions transferred by the Scottish Ministers. These provisions aim to meet the commitment, given in the Partnership Agreement, to develop effective regional transport delivery partnerships.

Part 2 makes provision to improve the co-ordination and quality of road works carried out on Scotland’s roads. These provisions meet the objective of promoting economic growth by managing and maintaining road infrastructure and maximising its efficiency.

4 http://www.scottish.parliament.uk/business/bills/pdfs/b28s2.pdf
5 http://www.scottish.parliament.uk/business/bills/pdfs/b28s2pm.pdf
Part 3 of the Bill makes provision enabling the Scottish Ministers to run concessionary travel schemes at their own hand. It also details a range of miscellaneous provisions: abolishing the requirement on local authorities to inform the Scottish Ministers before a pedestrian crossing is established, altered or removed; amending the procedure for dealing with applications for Harbour Orders; modifying the Highlands and Islands Shipping Services Act 1960; and making minor amendments to the Transport (Scotland) Act 2001.\(^6\)

42. The overarching objective of the Bill, according to the Policy Memorandum, is ‘to promote economic growth, social inclusion, health and protection of our environment through a safe, integrated, effective and efficient transport system.’\(^7\)

Consultation

43. The proposals in the Bill have been outlined in a number of consultation documents and policy statements published by the Scottish Executive. The proposals contained in the Bill build on the broad commitments outlined in the ‘Partnership Agreement’ published following the Scottish election in May 2003.\(^8\)

44. In September 2003, the Scottish Executive consulted on the document ‘Scotland’s Transport: Proposals for a New Approach to Transport in Scotland’.\(^9\) This document set out a range of options for transport delivery in Scotland, including a new national transport agency and various regional delivery mechanisms. In October 2003, the Scottish Executive published a consultation document ‘Scotland’s Transport: The Regulation of Utility Company Roadworks’ which concerned how best to regulate utility road works.\(^10\) Finally, in June 2004, the Scottish Executive published a White Paper ‘Scotland’s Transport Future’.\(^11\)

45. The Committee considers that the consultation process on the proposals in the Bill has been satisfactory.

Policy memorandum

46. Under Standing Orders Rule 9.6.3, the Committee is required to report on the Policy Memorandum of the Bill. The Committee considers that the Policy Memorandum contains a satisfactory explanation of the policy intentions behind the Bill.

EVIDENCE

47. The Local Government and Transport Committee took evidence on the Bill on 16, 23 and 30 November 2004, and 7, 14 and 21 December 2004. The Committee took evidence from:

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\(^6\) Policy memorandum, paragraphs 5 to 7
\(^7\) Policy memorandum, paragraph 4
Mr Jonathan Pryce, Head of Transport Strategy and Legislation Division, Scottish Executive;
Mr Frazer Henderson, Team Leader, Transport Bill Team, Scottish Executive;
Mr Tom MacDonald, Head of Bus and Taxi Policy Branch, Scottish Executive;
Mrs Caroline Lyon, Solicitor, Scottish Executive;
Mr Laurence Sullivan, Solicitor, Scottish Executive;

Bill Barker, Operations Manager, Strategic Waste Policy and Assets, Dumfries and Galloway Council, SCOTS;
Grahame Lawson, Head of Planning and Transportation, North Lanarkshire Council, SCOTS;

Councillor Duncan MacIntyre, Argyll and Bute Council, HITRANS;
Councillor Gordon Mitchell, Shetland Islands Council, HITRANS;
Howard Brindley, Co-ordinator, HITRANS;

Marjory Rodger, Director of Government Relations Scotland, Confederation of Passenger Transport (CPT);
Jim Lee, Managing Director, Travel Dundee and Chairman, CPT Scottish Council;
Robert Andrew, Deputy Managing Director Stagecoach (Scotland), CPT;
George Mair, Managing Director First Aberdeen, CPT;

Councillor Charles Gordon, Leader, Glasgow City Council;
Marshall Poulton, Head of Policy and Planning, Glasgow City Council;
Michael Donnelly, Business Strategy Manager, Glasgow City Council;

Councillor Alistair Watson, Chair, Strathclyde Passenger Transport Authority;
Malcolm Reed, Director General, Strathclyde Passenger Transport Executive (SPTE);
Douglas Ferguson, Director of Operations, SPTE;
Valerie Davidson, Head of Financial Services, SPTE;

Gordon Dewar, Commercial Director, First Group;
Gavin Scott, Policy Manager, Freight Transport Association;

Robert Samson, Director, Rail Passengers Committee Scotland;
James King, Member, Rail Passengers Committee Scotland;

Neil Greig, Head of Policy, Scotland, AA Motoring Trust;

Councillor Alison Magee, Transport Spokesperson, COSLA;
Councillor Andrew Burns, Transport Spokesperson, City of Edinburgh Council, COSLA;
Councillor Joan Mitchell, Chair, Planning and Environment Committee, Dumfries and Galloway Council, COSLA;
Councillor Alison McInnes, Aberdeenshire Council, COSLA;
James Fowlie, Policy Manager, COSLA;
Findlay Taylor, Co-Chair, Roads Authorities and Utilities Committee (Scotland);

David Morrison, Managing Director, Turriff Contractors Ltd;
Stuart Ross, Operations Manager, Alfred McAlpine Infrastructure Services Ltd;
Jim Shields, Business Development Director, Alfred McAlpine Infrastructure Services Ltd;
Alan Watt, Chief Executive, CECA (Scotland);

Iain Duff, Chief Economist, Scottish Council for Development and Industry;

Roderick McLeod, Member, Mobility and Access Committee for Scotland;
Ewan Jones, Member, Mobility and Access Committee for Scotland;

Jess Barrow, Head of Policy and Public Affairs, Age Concern Scotland;
Jim Ferguson, Perth and Kinross Pensioners’ Forum, Age Concern Scotland;

Ross Watson, Chair, Transport, Environment and Rural Affairs Committee, Scottish Youth Parliament;
Morven Neil MSYP, Scottish Youth Parliament;
Stephanie Veitch MSYP, Scottish Youth Parliament;
Kevin Smith, Member, Argyll and Bute Youth Forum;

Frank Stewart, Engineering Build Services Manager, THUS plc and Chairman of NJUG;
John Taylor, Government Relations Manager, National Grid Transco;
Rodney Grubb, Scottish and Southern Energy;

Domhnall Dods, Head of Regulatory Affairs, THUS and Director, UKCTA;
Tony Cox, Head of Policy and Public Affairs, BT Wholesale;
Nancy Saunders, Kingston Communications, Board Director, UKCTA;

Dr Iain Docherty, School of Business and Management, University of Glasgow;

Professor David Begg, Chair, Commission for Integrated Transport;

Nicol Stephen MSP, Minister for Transport;
John Ewing, Head of Transport Group, Scottish Executive;
Jim Logie, Divisional Solicitor, Scottish Executive; and
Richard Hadfield, Policy Officer, Transport Bill Team, Scottish Executive.

48. In addition, the Committee received written evidence from:

Aberdeen City Council
Argyll & Bute Council
Association for Public Service Excellence (Scotland)
Dumfries and Galloway Council
Falkirk Council
Fife Council
GNER
49. The Committee is grateful to all those organisations and individuals who provided written and oral evidence to the Committee.

PART 1: REGIONAL TRANSPORT PARTNERSHIPS

50. The Scottish Executive’s proposal for the establishment of regional Transport Partnerships (RTPs) stems from its wish to ‘build organisational capacity throughout government in Scotland and promote a more strategic approach to the planning and delivery of transport at all levels.’

51. The Policy Memorandum notes that, prior to the reorganisation of local government following the Local Government etc (Scotland) Act 1994, local government transport functions were exercised by the nine regional councils, three island councils and Strathclyde Passenger Transport Executive. Following re-organisation, these functions transferred to the thirty two unitary councils, which in many parts of Scotland are much smaller in area than their predecessors. This has meant, says the Policy Memorandum, ‘that council boundaries often do not reflect travel patterns, with the result that decisions taken in one council can have an impact beyond its borders.’ This situation led to the establishment of four voluntary regional Transport Partnerships - HITRANS NESTRANS, SESTRAN and WESTRANS which cover 30 out of the 32 local authorities. These partnerships have, since 1999, been supported by the Scottish Executive, for example through direct financial contributions towards the costs of permanent staff and ad-hoc grants toward the cost of regional priority projects.

52. The achievements of the voluntary partnerships, notes the Policy Memorandum, are recognised by the Scottish Ministers, but they believe that ‘there is a need for more formalised, integrated transport bodies at regional level.’ The Bill therefore, if passed, will place a duty on the Scottish Ministers to create statutory regionally-based Transport Partnerships, covering every part of Scotland.

53. It is expected that the first regional Transport Partnerships will be established in spring of 2006, with the first set of appointments of members being made by the Scottish Ministers on the basis of nominations by the constituent councils. Those memberships are to last only until the next set of local government elections, scheduled for May 2007. Following the elections, the next set of external contributions will be made.

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12 Scottish Executive Scotland’s Transport Future, 2003
appointments to the partnerships will be made by the partnership, taking account of ministerial guidance. The appointments will require to be approved by the Scottish Ministers.

54. The partnerships will be expected to produce a ‘Regional Transport Strategy’ within a year of their creation. The strategy is required to ‘make the case for investment and infrastructure in that region to address transport needs and guide and co-ordinate the activities of the individual councils in the delivery of that strategy’. Strategies will require to have regard to guidance issued by the Scottish Ministers and to be approved by them.

55. The Policy Memorandum notes that the partnerships will have a duty to consult their constituent councils, and will be expected, in time, to ‘take on other transport functions, either solely or in partnership with their constituent local authorities’.

56. In respect of financial arrangements, the Policy Memorandum notes that the RTPs will be ‘able to receive funding directly from the Scottish Executive and other organisations, and will be able, if appropriate functions are conferred upon them, to engage in revenue-raising activities.’ It is however anticipated that the bulk of the partnership funding will be provided by the constituent councils.

57. Ministers plan to transfer the rail functions currently carried out by Strathclyde Passenger Transport Authority (SPTA) to themselves, and it is understood that amendments to this effect are likely to be brought forward at Stage 2, following the making of an order under Section 30 of the Scotland Act 1998.

Secondary legislation issues

58. The Committee noted that the Bill contains a large number of subordinate legislation provisions, and as a result there are large areas where the Bill will, if passed, have considerable impact, but which the Committee has been unable to scrutinise because little or only limited detail has been made available.

59. The Subordinate Legislation Committee has provided the Committee with an extensive report on the subordinate legislation provisions, and this is dealt with later in the report.

60. The Minister, responding to questioning on this issue, told the Committee—

‘I fully understand the committee’s concern about the lack of detail in the bill. By stage 2, we will have made available draft regulations. Although I am always concerned when there is a lack of detail in a bill, sometimes there are good reasons for that. In the present case, there are good reasons. We want to give the RTPs the flexibility to have constitutions and sets of powers that are specific to their circumstances; in other words, we are not opting for a one-size-fits-all solution.’

13 Policy Memorandum, p4
14 OR Col 1729
61. The Committee is concerned by the lack of detail in relation to many specific aspects of the Bill, as the report will indicate in due course. The Committee welcomes the Minister’s commitment to make available draft regulations ahead of Stage 2, although it would have preferred them to have been available in draft form at Stage 1. The Committee also notes the comments of the Subordinate Legislation Committee in this regard.

62. The Committee calls on the Scottish Executive to produce relevant draft guidance and regulations for scrutiny no later than fourteen days prior to the start of Stage 2 of the Bill’s progress through its parliamentary stages, in order to allow the Committee, if it chooses to do so, to take evidence in advance of Stage 2.

The need for RTPs

63. Most of the evidence received by the Committee welcomed the proposals to establish RTPs, and argued that, in combination with the proposed Executive Agency, Transport Scotland, they would have an important strategic role in the development of transport networks across the country. Glasgow City Council, for example, in its written submission, noted—

‘[…] there was a need to create a structure which aimed to deliver better transport projects and improved integration. The Council also accepted the Executive’s desire to see additional transport investment spent effectively and on time. It therefore concluded that this was best achieved through the development of Regional Transport Partnerships.’

64. The Scottish Council for Development and Industry (SCDI)—

‘welcomes the decision to increase the power of these bodies [the existing voluntary partnerships] by creating statutory Regional Transport Partnerships through this legislation.’

65. HITRANS, the existing voluntary transport partnership covering the highlands and islands indicated—

‘The organisational structure needs to be strengthened with dedicated staff and formal powers so that this strategic approach can be firmed up and fed into the delivery plans of Transport Scotland and our regional service providers.’

66. Some witnesses questioned whether there was a need for the establishment of regional Transport Partnerships, as provided for by the Bill. Strathclyde Passenger Transport, for example, was critical of the Bill’s proposals—

‘In SPT’s view, those parts of the Bill dealing with transport delivery at the regional level, whilst an improvement on last year’s consultation proposals, have little positively to commend them. In substantive terms, they add

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15 Glasgow City Council, written submission
16 SCDI written submission
17 HITRANS written submission to Local Government and Transport Committee
nothing that could not be achieved under existing legislation, while introducing profound uncertainties about the scope and method of future transport delivery in the west of Scotland.\textsuperscript{18}

67. West Lothian Council argued—

‘The main concern of this council is whether there is an actual need for the formation of SRTPs in the first place. The council has worked closely with neighbouring authorities as part of the SESTRAN voluntary partnership since its establishment and is of the opinion that SESTRAN has a good record of delivering regional transport projects and initiatives within a voluntary committee structure. This is done by working together and pooling skills and expertise in transport.’\textsuperscript{19}

68. West Lothian Council continued—

‘The council is therefore unconvinced of the need to establish SRTPs and would favour the establishment of joint committees. These committees could be supported on a day-to-day basis by a core management / support team. The arrangements for city region planning, which is closely aligned to, if not inseparable from transport, are still under consideration. Current indications are that unlike SRTPs, joint committees are the preferred option for managing city region planning and this should continue to allow for local democratic control.’\textsuperscript{20}

69. Glasgow City Council and WESTRANS also expressed a preference for joint boards over the system proposed in the Bill.

70. Some witnesses questioned whether the proposals in the Bill were sufficiently ambitious. Professor David Begg of the Commission for Integrated Transport (CfIT), for example, commented in evidence—

‘The proposals set out in the Transport (Scotland) Bill relating to the establishment of Regional Transport Partnerships are welcomed by CfIT as a positive first step in delivering more joined up transport planning and delivery. The Commission would have wanted to see the proposals go further, ensuring significant powers being transferred to regional bodies, however, it recognises the wider context within which decisions on the pace and direction of change are taken.’\textsuperscript{21}

71. Dr Iain Docherty of the University of Glasgow went further—

‘It is also true that when consultation on the bill started about 18 months ago, there was a general feeling that we would end up with meaty and strong regional structures. However, there is general disappointment that the bill does not propose the strong regional authorities that many of us had hoped to see. In particular, it is not clear that the basic level of powers that most of

\textsuperscript{18} SPT written submission to Local Government and Transport Committee
\textsuperscript{19} West Lothian Council, written submission to Local Government and Transport Committee
\textsuperscript{20} Ibid.
\textsuperscript{21} CfIT written submission to Local Government and Transport Committee
the new regional transport partnerships are likely to take up—at least in the short term—will make much difference to delivery of transport policy throughout Scotland. That is a major problem that the committee will want to probe further.

It is one thing to create strong regional structures to deliver transport policy, but if we are going to do that—I believe that it is the right thing to do—we must ensure that we get the political and decision-making structures of those bodies correct. Some of the proposals in the bill, particularly the form of political representation that is proposed for the new bodies, are quite weak and might constrain the new regional transport partnerships from being as effective as they might be.22

72. He also noted in his written evidence—

‘The arguments in favour of a stronger system of some sort of regional governance structure for transport in Scotland are well known. Indeed, within the last 18 months, the Scottish Executive commissioned independent research into best practice in transport governance across Europe. This research concluded that strong regional systems, with substantial autonomy from central government and their own funding streams, were the best means to deliver real transport improvements.23

73. Having considered the evidence, the Committee concluded that it supported the introduction of RTPs.24

74. However, the Committee considers that the ability of RTPs to deliver transport improvements will depend largely on the RTPs having strong powers and the required level of funding.

Membership, voting rights and structural issues

75. A number of issues were raised by witnesses in relation to the ‘democratic accountability’ of the proposed new bodies. Witnesses expressed concern over the provision in the Bill under which only one councillor from each constituent authority would be allowed to be a member of the partnership, and the related provision that voting within the partnership will be weighted so that the vote of a councillor members may count for up to four votes, broadly in line with the relative population of the council area.

76. Councillor Charles Gordon, the leader of Glasgow City Council, told the Committee—

‘To limit the number of the council’s votes to four will not properly reflect the population range in the west of Scotland regional transport area, nor will it reflect the level of budget that Glasgow City Council can expect to contribute or the weight of the city council’s transport responsibilities. We need a high level of safeguard on the extent and scale of majority voting in the new RTP

22 OR Col 1699
23 Dr Iain Docherty, written submission to Local Government and Transport Committee
24 David Mundell dissented.
in order to redress any potential democratic deficit and to ensure best value from spending of what is, after all, the public pound.\textsuperscript{25}

77. The Bill provides that two thirds of the voting members shall be councillors from the constituent councils. Councillor Alison McInnes, speaking on behalf of COSLA, noted in evidence that the proposed membership arrangements could lead to an unsatisfactory situation in the North East Scotland area—

‘[…] it will have a particular impact on the proposal for the north-east of Scotland regional transport partnership, which will be composed of only two councils. Under the bill, we would create a board of possibly only three people.’\textsuperscript{26}

78. A similar point was made in written evidence by FirstGroup PLC—

‘We believe that the requirement to have two-thirds representation from the local authority may impose an artificial constraint on the numbers of other members, particularly in the smaller RTPs such as NESTRANS. Subject to the principle above of efficiency, there may be a case to reconsider this requirement although we agree that the majority of voting members should be drawn from local authorities.’\textsuperscript{27}

79. Dr Iain Docherty told the Committee—

‘It might be interesting to consider the model for the passenger transport authorities and executives in England. Those bodies are in essence joint boards, but their political representation, which is drawn from member councils, involves some form of political proportionality. Not only is funding proportionate to the size of the councils, but representation is proportionate, too, and there is a requirement on organisations to try to reflect the politically partisan as well as the geographical nature of the areas that they cover. The authorities in England cover relatively small areas compared with the larger regions in Scotland that we are talking about. However, there is a case for considering the traditional joint board model more carefully, to ascertain whether we could construct partnerships that would be more reflective of wider regional priorities.’\textsuperscript{28}

80. Some witnesses questioned whether non-councillor members of the RTP should be allowed to vote on matters relating to the spending of public money. Councillor Charles Gordon of Glasgow City Council for example told the Committee—

‘[…] I have a difficulty with unelected persons voting to spend taxpayers’ money, be it national taxpayers’ money or local taxpayers’ money.’\textsuperscript{29}

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\textsuperscript{25} OR Col 1468.
\textsuperscript{26} OR Col 1545
\textsuperscript{27} FirstGroup PLC written submission
\textsuperscript{28} OR col 1705
\textsuperscript{29} OR Col 1473
81. The Committee questioned the Minister on these issues. On the question of ‘proportionality’ and the perception that larger councils would not receive the number of votes which would reflect their population, he noted—

‘I understand that argument, and exactly the opposite argument has been made to me by Shetland Islands Council and Orkney Islands Council. They have small populations and they are extremely concerned about being outvoted on the proposed Highlands and Islands regional transport partnership by the mainland councils—Argyll and Bute Council and Highland Council. They believe that they should have some sort of blocking vote to ensure that nothing is imposed on the islands that their communities would not want to happen. They want a more significant vote than they are being offered, which is the reverse of the other argument.’

82. The Minister appeared to rule out the possibility of joint boards—

‘We are not following the joint boards example. Having joint boards would mean that island communities in the Highlands and Islands area would be even more considerably outvoted. We are trying to offer a compromise solution and a balanced way forward. You are right to say that Glasgow and the other larger authorities, such as the City of Edinburgh Council, will not receive their full share of votes, but my view is that we do not want any authority to be dominant in any of the regional partnerships. We want a genuine partnership approach. I think that it is reasonable to offer the larger authorities up to four votes, which gives them significant power. It would have been difficult to convince the west of Scotland partnership to go for a one-authority-one-vote approach. [...]’

83. The Minister concluded—

‘Having considered all those issues, I made the proposals that are in the bill, but they are not absolute. If sensible, constructive suggestions are made for how we can address some of the issues, I will consider them carefully, but I do not want to end up with huge regional transport partnerships with significant memberships. Outside representation on RTPs is important and we need to encourage it—it has been successful in the voluntary partnerships in which it has happened; however, the RTPs need to be able to make decisions and need to be of a size that will work, which suggests to me that the overall size of the membership must be kept sensible’

84. Dr Iain Docherty highlighted the tensions involved in the creation of the new partnerships—

‘A fundamental problem with such a reform process is that we have inherited a set of local government boundaries that were of their political time and were—particularly in central Scotland—designed to institute unhelpful competition between local authorities and to break up the regional councils.

30 OR col 1732
31 OR Col 1732
32 Ibid
That set-up stopped the regional strategic approach to service delivery of the kind that is set out in the bill. It is difficult to try to stitch that fragmented system back together to deliver joined-up working instead of competition.\textsuperscript{33}

85. Professor David Begg put the same point more bluntly—

‘We are here only because the former regions were wound up—that is why the Transport (Scotland) Bill is being put on the statute book. The abolition of the regions in 1996 created a vacuum in strategic transport planning that has not yet been filled.’\textsuperscript{34}

86. The Committee acknowledges that the Scottish Executive has tried to balance the need for a voting system which is fair to both large and small local authorities, involves outside members meaningfully and results in a board which is capable of being focussed and is of manageable size. The Committee also understands the difficulties in achieving these objectives within the current local authority structure, which lost its regional aspect at the time of the last local government reorganisation.

87. However, the Committee is not convinced that the balance has been correctly struck, and welcomes the Minister’s commitment to consider these matters again. The Committee also calls on the Minister to consider whether it would be appropriate for appointments to Regional Transport Partnerships to be subject to the approval of the Scottish Parliament.

88. The Committee is also not persuaded that it is appropriate for non-elected members of RTPs to be able to vote alongside their councillor colleagues to, for example, requisition funds from the constituent councils. In practice it is difficult to separate any question of policy from financial issues, and the committee therefore concludes that, whilst the RTPs should find ways of enabling the non-councillor members to express their views, only those board members who are appointed by the constituent councils should be entitled to vote on the Partnership board.

**Boundaries of the RTPs**

89. It is acknowledged by the Committee that a separate consultation process is underway on the proposed boundaries of the RTPs, and that the specific boundaries are not matters of general principle in relation to the Committee’s formal role in the legislative process.

90. Nevertheless, there are issues of principle surrounding these matters upon which the Committee feels it is appropriate to comment, and inevitably these will touch on the Executive’s specific proposals.

91. The current proposals from the Scottish Executive provide for five RTPs—

\textsuperscript{33} OR Col 1702
\textsuperscript{34} OR Col 1711
92. One of the difficulties which the Executive appears to have faced in this process is that of reconciling the existing local government political boundaries with the need to have RTP areas which reflect realistic travel patterns.

93. Dr Iain Docherty summed up the difficulties in his oral evidence to the Committee—

“The Executive might have made a rod for its own back by stipulating that all of Scotland must be part of a partnership and that any partnership must have more than one local authority as a member. For example, Dumfries and Galloway does not sit easily anywhere. There is obvious disquiet in the region about being part of a large partnership in the west in which decisions on local bus transport might be made in Glasgow. Equally, because of its position at the corner of three regions, Stirling does not sit easily anywhere in a local government sense. However, if we consider transport flows, the majority of strategic movement to and from Stirling involves Edinburgh, Glasgow and the rest of the central belt. As a result, there is no credibility in the claim that an area that starts 10 miles outside Glasgow city centre and ends in Montrose in the north-east is a coherent region for transport planning.”

94. The Committee heard particular concerns from Dumfries and Galloway Council, which, in the Executive’s consultation, was placed within the West and South West RTP. Councillor Dr Joan Mitchell, speaking as part of the COSLA delegation giving evidence on the Bill, put the council’s concerns to the Committee—

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<td>Angus Dundee City Perth and Kinross Stirling</td>
<td>Aberdeen City Aberdeenshire</td>
<td>Argyll and Bute (less Helensburgh) Comhairle nan Eilean Siar Highland Moray North Ayrshire (Arran and Cumbraes) Orkney Shetland</td>
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35 OR Col 1703.
‘The first reason is the geography of the area. [...] We do not fit into any city region or any travel-to-work area of any city in Scotland. We are a large rural area. [...] The area is sparsely populated and rural and has little commonality with central belt travel-to-work areas.

[...] Dumfries and Galloway Council has a successful record of delivering the transport function locally. We have a consistent track record of delivering transport against national expenditure programmes and priorities, in consultation with partners. [...] We have no problem with partnership working. We believe and have an acknowledged record in community planning, because we have the great advantage—of which I am sure the committee has often heard—of coterminosity within our boundaries. We work closely with agencies and communities in our boundaries. We also have partnership links in transport with the private sector, with Northern Ireland, through our north channel partnership, and across the border to England. The authority is not one that does not work in partnership.[...]

The most important point is that we are being uniquely targeted as the only authority that will suffer compulsory removal of its transport function, staff and budget to an established statutory agency—SPT. [...]’

95. Councillor Mitchell concluded—

‘The committee will hear no strategic transport or service delivery justification for the proposal, because there is none. Agencies that we have worked with support the Dumfries and Galloway case. The committee will hear no governance or accountability argument for the proposal, because the proposal goes in the opposite direction. The only justification that members will hear for uniquely targeting a local authority is bureaucratic convenience and conformity. For a country as diverse as Scotland, that is unacceptable.’

96. The Committee did not hear specific representations from other parts of the country on the proposed boundaries, but noted some possible anomalies, particularly in the Central and Tay and South East RTP proposals. In the former, the Stirling area would appear to have little in common with the Dundee area, whilst Fife has links perhaps equally as strong with the Dundee area as it has with the Edinburgh area, yet has been placed solely in the South East RTP area.

97. The Committee acknowledges that the current proposals are for consultation, and may change in the light of that consultation. Nevertheless, the Committee concludes that Dumfries and Galloway’s case is a reasonable one. There appears to be very little justification, other than administrative convenience, for Dumfries and Galloway to be included within the Glasgow city-region. Although not a matter of general principle, this argument does have an impact on the principle that every local authority must be a member of a partnership together with at least one other local authority.

36 OR Col 1546
37 Ibid.
98. The Committee therefore concludes that there is a case for a greater degree of flexibility in the approach to the boundaries of RTPs. In particular, the Committee questions whether it is essential for each partnership to have more than one constituent authority. The Committee also questions whether it is essential that the boundaries of the RTPs need to be contiguous with local government boundaries, particularly when it is the case that the future local government boundaries may not remain as they are at present. Finally, the Committee believes consideration needs to be given to the question of whether individual councils may be constituent authorities in more than one RTP, and on whether it would be feasible for local authorities to have ‘observer status’ at neighbouring RTPs.

99. The Committee asks that the Executive consider these aspects and responds before the commencement of Stage 2, should the Bill complete its passage through the first stage of the Parliamentary process.

RTP functions

100. The Bill provides that it is the duty of each RTP to draw up a strategy for transport within its region. It also provides that Ministers may, by order, transfer additional functions, previously carried out by another body, including the Scottish Ministers, to an RTP. An RTP may, following consultation with its constituent councils, and having regard to such guidance as may be issued by the Scottish Ministers, request the transfer of such functions.

101. In October 2004, the Executive published a consultation document38 Scotland’s Transport Future: Proposals for Statutory Regional Transport Partnerships in which it set out three possible models for the proposed RTPs. These are described in the consultation document as:

Model 1: Regional Strategy and Limited Transport Powers

Model 2: Regional Strategy and Some Transport Powers Transferred

Model 3: Regional Strategy and Significant Public Transport Powers Transferred.

102. The guidance suggests that it will be helpful to have a ‘reasonably consistent approach’ across Scotland, although it will be possible to ‘evolve’ from one model to another.

103. The ‘base function’ of every RTP will be to produce a regional transport strategy. The strategy is intended to ‘identify regional priorities, how these are to be achieved with what resources and who should achieve them.’

104. The consultation document provides some examples of possible functions which could be undertaken by the RTPs, including developing and promoting Quality Bus Corridors, entering into quality partnerships and quality contracts. Under the higher level models, RTPs could be given responsibility for developing a regional centre of expertise in relation to bus contracts, developing parking policy

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38 Scottish Executive Scotland’s Transport Future: Proposals for Statutory Regional Transport Partnerships, 2004
and enforcement and integrated ticketing schemes. Some functions could be concurrently held by RTPs and local authorities.

105. At the highest level, the consultation document envisages an RPT model which ‘reflects the current arrangements in the SPT area in west-central Scotland.’

106. Most witnesses indicated that they were content with the proposals in the Bill and the models set out in the consultation document. However, the Society of Chief Officers of Transportation in Scotland (SCOTS) urged caution. In its written submission to the Committee it argued—

‘The provisions regarding the transfer of transport functions from one body to another require careful consideration. SCOTS believes that Councils currently would be unwilling to cede powers upwards to partnerships unless there was also a positive indication that the Executive was willing to transfer powers to the partnerships.’

107. WESTRANS, the current voluntary partnership in the west of Scotland, argued that—

‘The basic principle which should be adopted in considering options for transport delivery is that services should be delivered at the lowest appropriate level. The proposed new national transport agency for Scotland is to be welcomed, as is the production of a national transport strategy. Whilst that agency will have responsibility for promoting national transport projects, there is no reason why delivery on any aspect should not be devolved to regional partnerships or local authorities, where appropriate.’

108. CfIT argued that the RPT in the west and south west should also assume responsibility for roads—

‘In addition, there is significant debate over whether the new West and South West RTP should seek to adopt the roads powers of its constituent authorities. Whilst such a move would present the opportunity to achieve substantial integration of transport policy between modes, some observers have argued that the priority afforded to public transport would diminish under such a structure. CfIT believes such a proposal to be, on balance, beneficial with RTPs taking highway authority powers.’

109. The Roads and Utilities Committee (RAUC(S)) on the other hand argued—

‘[...] we believe that the strategic role envisaged for the Transport Partnerships means that it would not be appropriate for Scottish Minister to use their powers under the Bill to transfer Road Authorities’ powers/functions to RTPs. It is our view that splitting responsibility for overseeing road works

39 Ibid.
40 SCOTs written submission to Local Government and Transport Committee
41 WESTRANS written submission to Local Government and Transport Committee
42 CfIT written submission to Local Government and Transport Committee
between a number of different bodies would not be a sensible course of action."\(^{43}\)

110. The Committee questioned witnesses on whether congestion charging schemes could be pursued by RTPs. Dr Iain Docherty told the Committee—

‘Part of the balancing act of any regional reform is recognising that if an innovative and dynamic local authority wants to take difficult decisions—whatever they may be—it may be easier to have such decisions accepted locally within one boundary than under a regional system. The danger with congestion charging in a regional system is that councils that do not have strong and pressing congestion problems might seek to delay implementation of that policy. We must live with that. That does not mean that dealing with the matter from a regional perspective does not make sense."\(^{44}\)

111. This view was backed by Professor David Begg, who argued that—

‘[…] congestion charging is a key measure in achieving modal shift. However, the principle is much more important. If we are talking about strong regional transport partnerships that have strategic control of roads, railways, buses, planning and economic development, we must include congestion charging."\(^{45}\)

112. Questioned on the same issue by the Committee, the Minister did not rule out the transfer of congestion charging powers to RTPs, stating—

‘If any regional partnership wants to examine congestion charging, they should get the issue on to their agenda as soon as possible next year while they are developing their thinking. For the moment, the position is clear, and that position will not change for the existing proposal. However, I should not say anything more about that because I will have to give formal consideration to that proposal if it comes to me in due course."\(^{46}\)

Rail

113. The Committee notes that under the Bill, the rail powers currently held by Strathclyde Passenger Transport are to be transferred to the Scottish Ministers, following the making of a Section 30 order at Westminster under the Scotland Act 1998.

114. SPT has expressed some concerns over this proposed transfer of powers to the Scottish Ministers. It has however received assurances from the Scottish Transport Minister and from the Parliamentary Under-Secretary of State at the Scotland Office that SPT or a successor Regional Transport Partnership will continue to have a role in the development, management and monitoring of the franchise in the west of Scotland.

\(^{43}\) The Roads Authorities & Utilities Committee Scotland (RAUC(S)) written submission to Local Government and Transport Committee
\(^{44}\) OR Col 1706
\(^{45}\) OR Col 1715
\(^{46}\) OR Col 1733
115. The Committee welcomes the assurances that have been given in respect of the successor body to SPT’s role in respect of rail. However, the Committee would welcome a clearer commitment to the role of RTPs in rail policy and would call on the Executive to consider an amendment to ensure that this role is enshrined on the face of the Bill.  

116. The Rail Passengers Committee Scotland (RPC) told the Committee that one of the measures proposed in the UK Railways Bill was the dissolution of the regional passenger committees and their accession by a UK rail passenger body. 

117. Robert Samson of RPC Scotland suggested to the Committee that, following the demise of the RPC Scotland, the Transport (Scotland) Bill should be amended to establish an all encompassing public transport user group for Scotland. He suggested that such a body would be capable of influencing the proposed RTPs. 

118. In response to questioning from the Committee the Minister acknowledged the importance of representation for Scottish public transport users—

‘I am quite clear that, in Scotland, passenger representation should continue to have an important role and that there should be some sort of Scottish passenger council. We will consider the best arrangements for achieving that. As the new powers pass to Scottish ministers, we will take the opportunity to make known our views on the proposed rail passengers council. If we are serious about integrated transport, it is important that we do not end up having a rail passengers committee, a ferry passengers committee, a bus passengers committee and, in due course, a tram passengers committee. It is important that we ensure that there is a more integrated approach. I will examine those proposals carefully as we move forward. We do not have detailed proposals at present, but when we establish the agency and the regional partnerships, it is important that the voices of passengers and freight users are heard. We should not lose sight of the importance of freight to our transport strategy.’

119. The Committee notes the proposal to establish a nationwide public transport user group and welcomes the Minister’s agreement to consider the proposal.

Bus Quality Partnerships, Quality Contracts and ticketing schemes 

120. Under the Transport (Scotland) Act 2001, local authorities have powers to enter into quality bus partnerships and quality bus contracts with bus operators, and to initiate ticketing schemes. However, in the Strathclyde Passenger Transport area, these powers currently lie with the SPTA, and are not extended to the individual local authorities. 

121. Under the Bill as introduced, it is proposed that these powers are extended to individual local authorities within the SPT area. The Policy Memorandum notes

47 David Mundell dissented
48 OR Col 1742
that ‘many of the constituent authorities have received funding from the Scottish Executive to improve bus infrastructure, and it is logical to give them powers to include this infrastructure in a statutory QP scheme.’

122. In the rest of Scotland, it will be for each RTP to decide whether to seek, under Section 10, the transfer to it of functions held by individual councils. In some areas, RTPs may decide, following consultation with their constituent authorities, to seek transfer of the quality partnerships and quality contracts function. However, in the STP area, the RTP will inherit all the existing powers of the SPTA, with the exception of its rail powers, which are transferred to the Scottish Ministers. This will mean that both the proposed RTP and the constituent authorities will hold the same powers at the same time.

123. SPT, in its submission to the Committee, was highly critical of this aspect of the Bill—

‘SPT is disappointed that this provision has been included. So far as SPT is aware, there is no support from the councils within the SPT area for such a change, and it is at variance with the logic of the remainder of the White Paper, which emphasises Best Value and the achievement of economies of scale at the regional level. To legislate to create a situation where individual councils within the SPT area with no existing public transport functions and expertise might have to staff up to discharge complex bus responsibilities which remain more appropriately exercised at the regional level is therefore entirely contrary to the White Paper’s stated approach.

Furthermore, for the Scottish Executive to claim, as it does in paragraph 6.9 of the White Paper, that this change is to give effect to the original intentions of the Transport (Scotland) Act 2001 is entirely disingenuous – if this was indeed the legislative intent, it was a very closely guarded secret, as it was the only part of that Act’s proposals that was not consulted upon.’

124. The Committee was persuaded by SPT’s argument, and remains unconvinced that the proposal for these powers to be held simultaneously by both the proposed RTP and its constituent authorities is sound.

125. The Committee therefore calls on the Minister to consider this again ahead of Stage 2 of the Bill’s parliamentary process.

126. Except in respect of the issues discussed above in connection with bus quality partnerships and quality contracts in the west of Scotland RTP, the Committee is therefore content in respect of the proposed functions.

Financial issues

127. According to the Policy Memorandum, the Bill provides that—

‘The Transport Partnerships will be able to receive funding directly from the Scottish Executive and other organisations, and will be able, if appropriate

49 Policy Memorandum, p16
50 SPTA and SPTE, written submission to Local Government and Transport Committee
functions are conferred upon them, to engage in revenue-raising activities. Other funding, to support running costs, including the cost of borrowing, will be provided by the constituent councils from their mainstream revenues, including Aggregate External Funding (AEF). It is anticipated that the majority of a partnership’s funds will be provided by its constituent councils. The Scottish Executive proposes that the partnership itself will be responsible for agreeing how much each council should contribute. However, the Scottish Ministers would be able to intervene if an agreement cannot be reached.¹⁵¹

128. Some evidence received by the Committee argued that the Scottish Executive should provide 100% funding of any ‘new burdens’ under the Bill. Fife Council for example argued in its written submission—

‘Fife Council has serious concerns about the funding section of the consultation document. The Scottish Executive currently funds half of the current voluntary SESTRAN’s administration and the Partnership has made several successful bids to the Executive for PTF schemes and Preparatory Pool feasibility studies. Once the RTP’s become statutory, there is a strong argument that the Executive should not only fund their full administration costs to ensure a stable and secure source of funding, but also continue to be a funding partner in the development of projects and initiatives to ensure their delivery. Delivery is, after all, the Executive’s key objective for the restructuring of Scotland’s Transport.’¹⁵²

129. SESTRAN also made a similar point—

‘The Scottish Executive currently fund 50% of SESTRAN’s administrative costs. Once more formal and statutory RTPs are introduced there are strong arguments for 100% funding from the Scottish Executive based on an agreed structure for transport delivery. The new RTPs are additional to existing transport delivery structures and only when staff/functions move from Local to Regional level can a case be made for commensurate transfer of funding from the local to regional level. The new and additional costs of a core policy team should therefore be funded on a continuous basis directly by the Scottish Executive.’¹⁵³

130. WESTRANS however took a different view—

‘[…] in the interest of local democratic accountability, the Joint Committee sees no alternative to all of the running costs of the new organisation being funded by requisitions from constituent authorities.’¹⁵⁴

131. The Executive intends that ‘RTPs will receive the majority of their running costs through requisition from their constituent councils.’¹⁵⁵ The contribution to be made by each constituent council is to be decided by the RTP, but in the event

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¹⁵¹ Policy Memorandum, p4
¹⁵² Fife Council, written submission to Local Government and Transport Committee
¹⁵³ SESTRAN, written submission to Local Government and Transport Committee
¹⁵⁴ WESTRANS, written submission to Local Government and Transport Committee
¹⁵⁵ Scottish Executive, 2004
that the RTP is unable to decide, the contribution will be determined by the Scottish Ministers by order.

132. The Executive’s consultation document acknowledges that—

‘[…] requisition is not popular with councils. Nevertheless, requisition ensures that there is a proper democratic link to the spending decisions of the RTP - in particular that its constituent councils, through councillor members, have the major say on which transport projects or services are pursued by the RTP. It also avoids the situation where one council could have a power of veto over projects or refuses to co-operate in funding the implementation of the regional transport strategy - the discretionary funding arrangements currently supporting SPT have been a source of instability for the organisation.’

133. Strathclyde Passenger Transport, in its written submission to the Finance Committee, is particularly critical of the requisition powers—

‘The Scottish Executive’s current consultation on RTPs suggests that the power of requisition will overcome such funding difficulties in future and thus avoid problems of the type that SPT has experienced. But this proposal appears to rest on a misreading of the current legislation and a misunderstanding of its application. SPT already possesses the power of requisition: what the consultation document actually seems to describe is the power of precept. Even this, however, would almost certainly result in a system of informal political negotiation which would in practice limit RTPs’ ability to fund a needs-based budget through a draw on their contributing councils.’

134. A number of witnesses had criticisms of the proposed level of interim funding to be supplied by the Executive in connection with the initial start-up and running costs of RTPs. HITRANS, for example, noted—

‘[…] the current operating cost of HITRANS is about £250,000 and we estimate that, if it carries on as a model 1 partnership, the cost might become something between £400,000 and £500,000. If the Scottish Executive’s share of that cost is removed, the current share of about £100,000 that is borne by the local authorities would be multiplied by five. How the authorities divvy that up between them will vary if it is done by population share, but if the cost has to be borne from current local government finance without any additionality, the money will have to come from another pot.’

135. The Finance Committee considered the Bill’s Financial Memorandum. In its report to the Local Government and Transport Committee, the Finance Committee recommends that—

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56 Scottish Executive Scotland’s Transport Future: Proposals for Statutory Regional Transport Partnerships, 2004
58 SPT written submission to the Finance Committee
59 OR Col 1446
‘[...] the Local Government and Transport Committee seeks further clarification from the Minister as to how local government will “secure the necessary resources”, and whether any mechanism will be put in place to ensure that this happens,’\(^{60}\) and

‘[...] the Local Government and Transport Committee considers further evidence sent to the Committee by the SPT, which was received too late for consideration in this report. This submission (contained in the appendix) highlighted the SPT’s concerns about concurrent bus powers and any costs associated with these; and the costs associated with the introduction of the national concessionary travel scheme in April 2006.’\(^{61}\)

136. The Finance Committee also notes in its conclusions—

‘It is clear that there is considerable disagreement between the Scottish Executive and SPT on the costs associated with this Bill, and the Committee believes that these should have been more fully discussed before the Financial Memorandum was presented. A number of organisations have highlighted a lack of consultation on the Financial Memorandum produced to accompany the Bill, and the Committee believes that this is a major oversight given the very large sums of money that are being committed to future transport spending.’\(^{62}\)

137. **The Local Government and Transport Committee concludes that the information supplied in the Financial Memorandum and by the Scottish Executive in its evidence to the Committee and to the Finance Committee is insufficiently detailed to enable a judgement to be made about the adequacy of the proposed financial arrangements. The Committee therefore calls on the Executive to provide more detailed information, in particular in respect of the points raised by the Finance Committee, at least fourteen days ahead of the start of Stage 2 of the Bill’s parliamentary passage.**

**PART 2: ROAD WORKS**

**Background**

138. The Scottish Executive states that one of the key aims of Part Two of the Bill is to improve the quality and co-ordination of road works in Scotland. According to the Executive, the standard of road works has been a particular issue in recent years, following the growth of utilities and new services such as broadband and cable television.

139. The main legislation governing the co-ordination of road works in Scotland is currently the New Roads and Street Works Act 1991. Under the Act, roads authorities are responsible for the co-ordination of road works. The key planning tool currently used by road works authorities to meet this responsibility is the Scottish Road Works Register (SRWR) which was established by the RAUC(S) to

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\(^{60}\) Finance Committee report, paragraph 25

\(^{61}\) Finance Committee report, paragraph 30

\(^{62}\) Finance Committee report, paragraph 29
meet the requirement for road works authorities to keep a register of road works as set out in the 1991 Act.

140. At the moment road works authorities have chosen to keep a central register for Scotland rather than each road works authority maintaining its own register. This is an administrative rather than a statutory arrangement.

141. According to the Scottish Executive, there are two principal problems with the current arrangements. Firstly, not all undertakers participate in maintaining the SRWR, whilst some participating undertakers do not comply with their obligation to provide information regularly. As a result, the Executive considers that it has been difficult for road works authorities to fulfil their co-ordination role, because the information held on SRWR can be incomplete or inaccurate. Secondly, the Executive considers that the quality and level of information held on SRWR could be enhanced to make it a more useful planning tool.

Proposals in the Bill

142. The Bill contains a number of new provisions in relation to road works.

143. First, a new public position is created in the Bill: the Scottish Roadworks Commissioner (SRWC). According to the Scottish Executive, the Commissioner will aim to improve and monitor national performance in relation to road works, by promoting good practice and ensuring that all parties comply with relevant legislation. An important role of the Commissioner will be direction-making power under sections 118 (General duty of road works authority to co-ordinate works) and 119 (General duty of undertakers to cooperate) of the 1991 Act. This means that utility companies can be fined for not meeting the requirements of the legislation, and roads authorities can be directed to carry out improvements to their practices.

144. Second, a single national register for planning and co-ordinating road works is created in the Bill: the Scottish Road Works Register (SRWR). This register has the same name as the existing register for road works in Scotland, but it is proposed that there will be differences between the two registers. It is proposed that the Commissioner will oversee and regulate the new SRWR. The Commissioner will also be able to carry out ad hoc inspections of the SRWR, and will carry out and publish an annual national level audit of the Register. The Bill places a statutory requirement on road works authorities, and those undertaking work, to provide the Commissioner with information.

145. Third, the Bill strengthens the regulations relating to the timing of road works and the reinstatement of the road following road works. The Bill also changes the enforcement regime of offences under the New Roads and Street Works Act 1991 to include fixed penalty notices (for example, section 119 relating to the duty of undertakers to co-operative in relation to road works). In addition, the Bill strengthens requirements in relation to training for those carrying out, supervising or administering road works. The Bill also amends the 1991 Act to strengthen the obligation on undertakers to satisfactorily finish road works, and provides new powers for road works authorities to require full or half-width resurfacing of the road when this is necessary to protect the road surface quality.
Impact of the Bill on local authorities and utilities companies

146. The Committee took evidence on how the provisions in the Bill would affect road works carried out by local authorities and by utilities companies. Some witnesses from the utilities sector complained that the provisions in the Bill relating to road works treated the private sector and local authorities differently. The Committee notes, however, that there did appear to be some confusion on this point. The Civil Engineering Contractors Association (CECA) (Scotland), for example, told the Committee that—

‘In the proposed legislation, the Local Authorities do not seem to be obliged to use the Scottish Roadworks Register to record their own works.’63

147. However, the Minister for Transport clarified that local authorities would be obliged to use the SRWR. He told the Committee that—

‘We need to invest in the register and to ensure that it works effectively, placing a duty not only on the utilities companies, but on local authorities to use it. That way, we will develop a better picture of the road works that are taking place and we will be able to achieve better co-ordination. It is difficult to co-ordinate road works if we do not let people know about them through the register.’64

148. It was clear, however, that the provisions in the Bill relating to the enforcement of the 1991 Act would apply differently to local authorities and utility companies, with new financial penalties being imposed on the ‘undertaker’ of the road works but not the roads authority. The written submission from the National Joint Utilities Group (NJUG) argued that—

‘Given that utilities and local authorities are equally responsible for unavoidable road works, NJUG has always argued that they should both be subject to the same rules. For Scotland to fully benefit from the enhanced co-ordination that these proposals aim to deliver, works must be treated in an equitable fashion.’65

149. The utility companies argued that a ‘level playing field’ should be established. The UK Competitive Telecommunications Association (UKCTA) told the Committee in its written submission that—

‘The Executive should […] go further in levelling the playing field by extending the various provisions that penalise private sector companies that infringe the Act to those in the public sector. Only by imposing the same penalties to both the private and public sectors when the Act is breached, can any degree of accountability be delivered.’66

150. COSLA appeared to support this position. In evidence, a COSLA spokesperson agreed with the proposition that regardless of who is involved in

63 CECA written submission to the Local Government and Transport Committee
64 OR Col 1750
65 NJUG written submission to the Local Government and Transport Committee
66 UKCTA written submission to the Local Government and Transport Committee
road disruption, there should be a system to provide for the earliest and highest-quality reinstatement, and that, if a fine system or a penalty system was introduced, it should be even handed and applied to local authorities as well as to private operators.\footnote{OR Col 1562} The Leader of Glasgow City Council appeared to agree, telling the Committee—

'We do not want a double standard. Glasgow City Council often undertakes road works on its own behalf. We should be subject to the same standards as utilities.'\footnote{OR Col 1476}

151. In its report to this Committee, the Parliament’s Enterprise and Culture Committee reached the following conclusion—

'The Committee considers that there would be benefit in ensuring that the public and private sectors are treated equally in terms of penalties for infringement of the Act.'\footnote{Paragraph 6, Enterprise and Culture Committee report}

152. In response to the evidence on this issue, the Minister for Transport told the Committee that—

'We have proposed that there should be significant powers in the hands of the new road works commissioner to take action that involves the local authorities, but we have stepped back from and fallen short of giving powers to introduce fines and fixed-penalty notices for roads authorities or the Executive. There are issues around whether fining a public authority to take money to another public authority is a sensible use of time and a sensible way forward.'\footnote{OR Col 1749}

153. The Executive officials put this issue in context—

'We are indeed looking at a bill that does not put the utility companies on the same basis as the road works authorities. That is inevitable, as the road works authorities are the owners of the asset. They are the owners of the road and [...] they have a statutory duty to deliver best value and to ensure the smooth operation of the traffic on those roads. The incentives for the utility companies, strong though they may be, are rather different. Because of that aspect, the road works authorities and the utility companies have a different background to their reason for being on the road and carrying out road works. The bill is not just about the carrying out of the road works; it also places a duty on the road works authority to co-ordinate the works that take place on its roads.'\footnote{OR Col 1416}

154. The Committee explored whether or not local authorities’ duty to deliver ‘best value’, referred to by Executive officials, would encourage good working practices in relation to road works. The Executive officials told the Committee that the Accounts Commission could ‘come down hard’ on a local authority if it was not
delivering best value. However, in follow-up evidence, the Executive confirmed that if local authorities failed to carry out road works within a set time frame or to a set standard—

‘The Accounts Commission does not have power to extract civil penalties in this manner. The Accounts Commission can consider any report on the performance of a local authority (e.g. Best Value Audits, Statutory Performance Indicator). If they think it is necessary then the Accounts Commission can hold a hearing into any matter that is raised in that report. Thereafter the Accounts Commission may make appropriate recommendations to the Scottish Ministers. There is no instance known where the Scottish Ministers have intervened in respect of a road works related issue.’

Analysis

155. The Committee sought evidence on the NJUG claim that utilities and local authorities were equally responsible for unavoidable road works. There was a lack of clear-cut information on this point. However, the Committee did receive information that 129,690 notices were entered on the SRWR in 2003-04, and that 114,620 (88.9 per cent) related to utility companies and 15,070 related to local authorities. However, the non-statutory nature of the current SRWR means these figures should be treated with caution.

156. The Committee also heard evidence from the Executive that 10 per cent of congestion was caused by road works, and works carried out by utility companies contributed to 6 to 7 per cent of congestion. CECA estimated that the figure for utilities was about 5 per cent. RAUC(S) backed this figure of 5 per cent, which it claimed was contained in a report by the Transport Research Laboratory, which was quoted in the ‘Highways Agency Business Plan 2002-03’. It is understood that this study was carried out in 1992.

157. Whilst there were arguments as to the precise figures for the causes of traffic congestion, it is clear to the Committee, firstly, that road works are only responsible for a limited proportion of traffic congestion, and so the proposals in the Bill are not a universal solution to this problem. Secondly, the Committee notes that both local authorities and utilities can be responsible for road works which cause congestion.

158. The Committee agrees with the utility companies that there should be a level playing field in relation to fines imposed under the Bill, and recommends that the Executive considers how this can be achieved and amends the Bill accordingly at Stage 2, if the Parliament agrees to the general principles of the Bill. The Committee notes that COSLA and some local authorities did not appear to oppose such a suggestion in principle. There is likely to be an issue regarding how the new arrangements would work in practice, as it would not appear sensible for a local authority to both

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72 Letter from Scottish Executive, 13 December 2004
73 Letter from Scottish Executive, 13 December 2004
74 OR Col 1413
75 CECA written submission to the Local Government and Transport Committee
impose fines and be subject to them. However, the Committee challenges the Executive to bring forward proposals to subject local authorities to the same penalty system as utility companies which also avoids a situation in which local authorities ‘fine themselves’.

Scottish Road Works Commissioner – role

159. The Committee heard different views on the merits of the proposal in the Bill to establish a new post of a Scottish Road Works Commissioner (SRWC).

160. A number of organisations, including the AA, Fife Council, and National Grid Transco, welcomed the creation of the post. The Confederation of Passenger Transport (CPT), for example, told the Committee that—

‘If having a commissioner will be a more effective way of sorting the problem, we will support that. We want resolution. We have not made a distinction in our submission between utilities road works and road works on trunk and local roads, because those are political definitions. We are just highlighting our perspective of how the passengers see the situation, which is detrimental to the image of public transport and to us as operators. We are saying that big problems exist and that effective action must be taken.’76

161. Glasgow City Council told the Committee that—

‘There are issues with the quality of reinstatement, for which better arrangements could be made. I guess that the commissioner could examine the performance of local authorities and utilities after the fact. By making it clear that the commissioner would apply sanctions, we could perhaps raise standards. It is worth a try, but I do not have complete faith that it will work.’77

162. The AA supported the creation of the new post, provided that the SRWC worked for the benefit of road users—

‘The detail of the targets that are set for the commissioner will be all-important to us. If those are customer-driven targets, such as reducing the amount of time wasted at road works, rather than simply targets for the number of fixed penalties issued, for example, that would go a long way towards allowing us to say that we think that it is a good idea.’78

163. However, the Committee heard some criticism of the proposed new post. In particular, there was concern that the post would duplicate the work of the Roads Authorities and Utilities Committee (Scotland). RAUC(S) is a national committee made up of members representing all major utilities, all 32 roads authorities and the Scottish Joint Utilities Group. The remit of RAUC(S) is to help all parties co-ordinate road works in the most effective manner and ensure that the utilities comply with the New Roads and Street Works Act 1991.

164. In a written submission, RAUC(S) stated that—

76 OR Col 1464
77 OR Col 1474
78 OR Col 1529
‘We are concerned that the creation of a Scottish Road Work Commissioner duplicates the current role of RAUC(S) without any added benefit certainly in terms of dispute resolution.’\(^{79}\)

165. In evidence to the Committee, the co-chair of RAUC(S) argued—

‘The right way forward is to have a single body, rather than a single person who tells everyone else what is required of them. RAUCS is the best body for the utilities and we would like the roads authorities’ work to come under the same umbrella.’\(^{80}\)

166. Various other witnesses, including the Aberdeen City Council, ntl, West Lothian Council and the Society of Chief Officers of Transportation in Scotland (SCOTS), suggested that the Road Works Commissioner would duplicate the work of RAUC(S). SCOTS also suggested in a written submission that the new Commissioner might not have sufficient powers to make a difference to the management of road works—

‘The Commissioner does not appear to have significantly different powers than Roads Authorities currently have and would thus appear have the same difficulties in getting New Roads and Street Works Act 1991 offences prosecuted.’

167. The Minister was more upbeat, saying that the new powers which the Bill proposes to give to local authorities and the Commissioner would be significant.

168. The Committee notes the concerns of some witnesses that the powers of the new Scottish Road Works Commissioner might not significantly differ from those currently held by RAUC(S). However, the Committee also notes that, unlike the membership of RAUC(S), which comprises local authority and utility company representatives, the Commissioner will be a single independent figure monitoring road works in Scotland. A majority of the Committee supports the creation of the post, subject to reassurances being provided by the Minister that appropriate resources will be allocated to the appointee, and considers that the independent status of the Commissioner will mean that he or she will be able to take an impartial overview of national performance on road works, and, in particular, will have no conflicts of interest in relation to his or her duty to enforce offences under the 1991 Act. A minority of Committee members consider that it would be possible for the proposed functions of the Commissioner to be carried out by RAUC(S), if it were established on a statutory basis.

**Scottish Road Works Commissioner – resources**

169. An issue which emerged during evidence taking was whether or not sufficient resources would be allocated to the Scottish Road Works Commissioner to enable the Commissioner to carry out his or her work.

170. The Financial Memorandum states—

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\(^{79}\) RAUC(S), written submission to the Local Government and Transport Committee
\(^{80}\) OR Col 1569
Local Government and Transport Committee, 3rd Report, 2005 (Session 2)

‘To assist the Commissioner in the execution of responsibilities a small administrative support unit will be required. Provision has been made by the Scottish Executive for the initial establishment and running costs of the unit, including the salary costs of the Commissioner, of £200,000. Expenditure of the unit will be higher in year one to reflect initial costs such as recruitment, IT, furniture and fittings. In subsequent years the costs are estimated to be in the region of £160,000.’

171. SCOTS raised concerns about the funding available to the Commissioner and stated—

‘We are concerned that, given that the commissioner will have a very small and lean staff, most of the work will be done by utilities companies and roads authorities on the commissioner’s behalf, which will create a burden for which some councils are not resourced.’

172. SCOTS indicated that this was a particular issue in relation to the provision in the Bill to strengthen the general duty of road works authorities to co-ordinate road works. In written evidence, SCOTS stated that—

‘Whilst strengthening co-ordination is to be welcomed, a number of councils have concerns about the resource implications of this duty.’

173. In evidence, the Minister reassured the Committee that—

‘We must also ensure that the local authorities are properly resourced and encouraged to make use of their new powers. That is partly why we are seeking to ensure that local authorities have the power to retain their administrative costs when they impose and deal with fixed-penalty notices.’

174. The Financial Memorandum explained the Minister’s comments further—

‘The Bill also introduces, at section 32, fixed penalty notices for certain offences committed by undertakers. These notices will be issued by the roads works authority who will be able to recoup the administrative costs associated with the issuing of the fixed penalty notice from the penalty raised. The net charge of the penalty will revert to the Scottish Consolidated Fund. The precise arrangements and level of retention to cover administrative costs will be established by regulations.’

175. Whilst the ability of roads works authorities to recoup the administrative costs of issuing fixed penalty notices is welcomed, this proposal does not really address the concerns raised by SCOTS in relation to cost implications of section 21 of the Bill (duty of road works authorities

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81 Paragraph 151
82 OR Col 1440
83 The Explanatory Notes state that, in practice, this means that the road works authority should update and use the SRWR as its daily planning tool for co-ordinating road works and fulfilling its traffic management functions. The Commissioner can issue a direction to the road works authority on how the authority should discharge its duty.
84 OR Col 1746
85 Paragraph 165
to co-ordinate road works). These potential costs are not specifically addressed in the Bill’s Financial Memorandum, and the Committee requests a response from the Executive to these concerns in advance of the Stage 1 debate. The Committee also seeks views of the Executive in relation to the budget of the Scottish Road Works Commissioner. The Committee wishes reassurances that sufficient resources exist for the Commissioner to carry out his or her role properly.

Power to restrict road works

176. Section 20 of the Bill amends section 117 of the 1991 Act which allows road works authorities to impose restrictions on works following substantial road works. It increases the length of time during which road works authorities may restrict works to up to 3 years.

177. This proposal was supported by some witnesses, including the SCOTS, SESTRAN, Fife Council, West Lothian Council and Scottish Water. SCOTS, for example, told the Committee in a written submission that—

‘The extension to 3 years is good news for road works authorities, but there are a significant number of exemptions for undertakers in the existing section 117 of the New Roads and Street Works Act 1991.’

178. However, NJUG objected to the proposed 3 year restriction, and stated in a written submission that—

‘NJUG has serious concerns regarding a power in the Bill that would enable local authorities to restrict all digging in a street for up to three years following substantial road works. There appears to be no accompanying explanation as to why the duration has increased by 300%. Utilities must be allowed to undertake unforeseen emergency works, works to restore severed services and to provide new customer connections.’

179. UKCTA told the Committee that, although the Bill contained exemptions to allow a road to be dug up again within 3 years to allow emergency work to take place, there should be an additional exemption in cases where digging is required to meet customer orders or where works are minor and have little impact on traffic. UKCTA noted that the roll out of broadband and other communication technologies may lead to demands for roads to be dug up more frequently than once every three years, to meet consumer and business demands for new services.

180. The Enterprise and Culture Committee backed the position of the utilities companies.

‘The Committee notes that, from the evidence it has received, overall economic growth and competitiveness may be affected by the use of this provision [...] The Committee recommends that the Executive should ensure that the power to restrict road works contains sufficient checks and balances
to ensure that there is no reduction in competition in the telecoms industry in particular.\textsuperscript{86}

181. The Minister reassured the Committee that—

‘Utility companies will retain their statutory and emergency powers. The assumption behind all our proposals is that those companies will continue to dig up our roads to access their services, because that work is necessary to deliver, improve and expand on those services. Broadband is a key example in that respect.’\textsuperscript{87}

182. The Committee supports the general policy intention behind the proposals to better manage road works. However, the Committee is also concerned at the potential economic impact of the proposals. The Committee requests clarification on what exemptions will be permitted to the ‘three year’ rule proposed in Bill. UKCTA highlighted, for example, the case of road works where digging is required to meet customer orders or where works are minor and have little impact on traffic. The Committee would also like further information in advance of Stage 2 of the Bill as to how a balance will be struck between the proposals in the Bill to restrict works and the Minister’s statement that services such as broadband roll-out will be unaffected by the proposed legislation.

Other utility company concerns

183. The utility companies raised a number of other concerns over provisions in the Bill relating to road works.

184. NJUG raised concerns about the Bill’s proposals in relation to the timing of road works and the placing of apparatus in roads. NJUG told the Committee that—

‘The bill does not seem to make any provision for emergency work being done on, for example, gas leaks and large water bursts, for which we could go in and do a repair as quickly as possible. Currently, if there is a serious gas leak or large water burst, we can go in immediately, without notice, to try to rectify the situation, although we must give retrospective notice. The bill seems to take away that right. We are also concerned about the bill’s possible impact on customer connections. Our fear is that the bill’s provisions would mean that we would have to tell customers that we could not give them a service for six months or whatever. That approach just does not work in the modern world.’\textsuperscript{88}

185. UKCTA’s suggested that the new powers in the Bill could place Scotland at a competitive disadvantage to the rest of the UK. UKCTA’s submission stated that—

‘That proposals to give local authorities power to direct utilities as to where and when they may install their infrastructure may have the effect of distorting competition in the telecoms market. The Executive has in the past

\textsuperscript{86} Enterprise and Culture Committee report, paragraphs 16 and 20
\textsuperscript{87} OR Col 1748
\textsuperscript{88} OR Col 1631
complained about the comparative lack of competition in Scotland when compared with England, but these powers have the potential to damage what competition has taken hold in Scotland’

186. Finally, the utility companies raised concerns over the new power in the Bill which would give road authorities the power to require utility companies to resurface a road in certain circumstances. UKCTA’s submission argued that—

‘Similar provisions were introduced in England and Wales and are causing widespread concern. It is difficult to calculate the impact of such a move but best estimates have suggested that a full width reinstatement of a road would increase the cost of a telecoms installation by some 385% - costs which would be passed on to the customer.’

187. During the evidence session with the Minister for Transport, there was not an opportunity to put these specific points him. The Committee therefore requests a response from the Executive on each of these concerns no later than fourteen days prior to the start of Stage 2 of the Bill’s progress through its parliamentary stages. In particular, the Committee requests a reassurance from the Minister that road authorities will not be able to use the powers of reinstatement in the Bill to make overly onerous demands on utility companies to reinstate sections of roads which have not been disrupted by road works.

Enforcement of the provisions in Part 2 the Bill

188. The Committee considers that the new provisions in the Bill will only have an impact if they are enforced adequately. If this is not the case, local authorities and utility companies will have little incentive to co-ordinate road works effectively. As background information, the Committee made inquiries as to the number of prosecutions which have taken place under the previous regime, set out in the New Roads and Street Works Act 1991.

189. The Solicitor General for Scotland told the Parliament in November 2004 that in the past two financial years, 22 charges were reported to procurators fiscal under the 1991 Act, of which four were prosecuted. Information is not held on prosecution rates prior to 2002. The Solicitor General for Scotland provided further information in a written parliamentary answer on 15 December 2004, which stated that—

‘Of the four cases in which criminal proceedings were taken under the New Roads and Street Works Act 1991 between 2002 and 2004, three were for contraventions of section 38 (1) (which relates to refusal to pay a toll) and one was for a contravention of section 124 (1) (a) & (b) (which relates to failure to ensure adequate guarding or lighting around road works).’

89 Meeting of the Parliament, 25 November 2004: [link]
89 The location of the three offences under section 38(1) of the act was the Skye Bridge and all three cases involve allegations that the accused deliberately refused to pay the toll on the bridge.
190. The Convener wrote to the Lord Advocate on behalf of the Committee to seek his views on why there appear to have been few prosecutions under the 1991 Act. In his response, the Lord Advocate declined to speculate on this issue. However, he went on to state that—

‘The Solicitor General referred to the proposed new provisions in the Transport (Scotland) Bill and the expectation that these would contribute to improving enforcement by separating out the administrative failings of utility companies, for which fixed penalties would be applied, from the more serious offences, which would attract an increased fine on conviction. In my view, this is a helpful step. It should mean that when the procurator fiscal receives a report of a criminal offence from the reporting agency, he or she will be aware that the reporting agency considers the offence to be at the more serious end of the scale and that a civil remedy is inappropriate. Of course, the procurator fiscal may disagree with the reporting agency’s assessment, but he or she will have more information on which to base their decision.’

191. In evidence, the Minister expressed his confidence that the new powers in the Bill would be much more widely used than those in the 1991 Act. He stated that he wanted to encourage ‘a far more effective enforcement system in respect of utility companies and their contractors’.

192. The Committee notes the comments of the Lord Advocate and the reassurances offered by the Minister. The Committee recommends that, if the Bill is passed, the Executive should monitor the use of the new powers in the Bill to ensure that they are more effectively enforced than those in the 1991 Act.

PART 3 OF THE BILL

193. Section 37 of the Bill provides Scottish Ministers with discretionary powers to establish national concessionary travel schemes. These powers will be exercised by the making of an order establishing a scheme. The Policy Memorandum explains that—

‘This order will include provision for the: administration of the scheme; reimbursement of operators; right of operators to participate; right of the Scottish Ministers to require participation; and appeals by operators about compulsory participation.’

In one case the accused was found guilty and was fined £50. One case has been marked “no further proceedings” by the Procurator Fiscal and the remaining case has been continued without plea until 20 December 2004 at Dingwall Sheriff Court.

The case involving a contravention of section 124 of the act was heard at Banff Sheriff Court and related to an allegation of inadequate use of warning signs around a section of the A98 road under redevelopment. The accused pled guilty and was fined £400.

91 Letter from the Lord Advocate, 10 December 2004
92 OR Col 1741
93 OR Col 1742
94 Policy Memorandum page 10
194. Currently, under the terms of the Transport (Scotland) Act 2001, free bus travel is provided for older people and people with disabilities by 16 different travel schemes. There are variations in the specific details of each scheme.

195. In an announcement on 22 December 2004, Nicol Stephen, Minister for Transport, informed the Parliament that, under powers to be conferred upon Scottish Ministers by the Transport (Scotland) Bill, a new national concessionary bus travel scheme would, subject to the successful passage of the Bill, be introduced for older and disabled people in April 2006—

‘Today, I can confirm that we will sweep away the local scheme boundaries. Older and disabled people will be able to travel free by bus, anywhere in Scotland. Passengers will be able, as at present, to travel free in their local area; they will also be able to travel free by bus to anywhere else in the country and to travel free on local buses at their destination. The new scheme will open up exciting new opportunities and it will dramatically improve the quality of life of those involved. The scheme will connect people and communities throughout Scotland.’95

General views

196. The Executive’s plan to establish a nationwide free bus travel scheme for older people and people with disabilities was supported by the majority of witnesses. Local authorities, bus operators and bus users favoured a simple and consistent national concessionary fares scheme rather than the current sixteen schemes or the proposed five schemes managed by RTPs.

197. CPT argued for the establishment of a national concessionary bus travel scheme, suggesting that there would be limited benefit in reducing the number of concessionary schemes from the current figure of sixteen to five. CPT was concerned that in reducing the number of schemes to five, the variations in benefits, definitions and entitlements, as experienced within the framework of 16 schemes, would remain. Marjory Rodger of CPT told the Committee that—

‘There must be one clear set of definitions and benefits and one set of reimbursement negotiations. We must have a standard for Scotland, so that we can manage the risk and so that everybody knows where we are going and how to deal with things. We support one national scheme.’96

198. Robert Andrew of CPT suggested that having five concessionary schemes, administered by the proposed regional Transport Partnerships would be likely to generate problems in relation to changes from the current boundaries. Robert Andrew gave the Committee the example of Moray Council—

‘I am thinking of, for instance, where Moray Council fits into HITRANS. Moray Council has a joint concession scheme with Aberdeenshire Council, which will be in NESTRANS. That could open a whole new can of worms.’97

95 OR Col 13167
96 OR Col 1465
97 OR Col 1466
199. A number of the witnesses argued that a national scheme would be a much less complex system than the present schemes and easier for bus users to understand. George Mair of CPT recounted to the Committee the difficulties he faces in explaining to older bus users in Aberdeen why they have a less favourable concessionary scheme than those in Aberdeenshire. A nationwide concessionary scheme would, he believed, end such anomalies.

200. In supporting the move to a national scheme, Age Concern Scotland also highlighted the complex and confusing nature of the current framework of 16 schemes. Age Concern Scotland echoed the views of CPT in relation to the difficulties that older people have encountered in making journeys which cross current scheme boundaries. Jess Barrow of Age Concern Scotland told the Committee that a national scheme would provide older people with a simpler and more user friendly system.

201. Marjory Rodger of CPT told the Committee that there would also be financial benefits from adopting a national concessionary scheme rather than five regional schemes—

‘There would be savings in management time on all sides. An incredible amount of time is being spent on the issue and I cannot see that there would be big savings with a reduction to five schemes.’

202. Whilst the majority of witnesses welcomed the move toward a nationwide concessionary scheme, a number of witnesses raised concerns about the possible adverse effects of the introduction of such a scheme.

203. SPT raised a number of concerns in relation to the proposed national concessionary scheme. Malcolm Reed of SPT cautioned the Committee that the allocation of the resources necessary to support a national travel concession scheme could have an impact on the provision of services for other users—

‘I made the point in evidence to the Parliament during the last session that any concession scheme can be only as good as the public transport system on which it is available. One of my concerns is that by giving so much priority to concessionary travel we are neglecting the core network. If money is pumped into concessionary travel at the expense of support for main line bus services for all users we are storing up a problem for ourselves. I would like to see any rolling out of a national concessionary scheme supported by more robust measures for financing the network for passengers who still have to pay a fare.’

204. Councillor Mitchell of Dumfries and Galloway Council, appearing as part of the COSLA delegation, highlighted the Council’s concerns about the financial impact of the establishment of a national concessionary fares scheme. She told the Committee—

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98 OR Col 1466
99 OR Col 1470
‘I want to raise an issue that we spoke about in Stranraer. I remind members of the concerns that we in Dumfries and Galloway have about the proposed concessionary scheme. Some of the funding that was used to establish an earlier, generous scheme in that area supports uneconomic rural services. We would be concerned if we lost that funding and ended up with free transport but no buses.’

205. COSLA also raised concerns in its written submission about the financial impact of concessionary fares schemes on local authorities—

‘Financial support must continue to allow councils to subsidise bus services on non-commercial routes. Without this assistance, there will simply be no buses for all the new concessionary travellers to use.’

206. In evidence to the Committee, Dr Iain Docherty intimated his support for regionalised management of concessionary fares schemes to enable passengers to make seamless journeys. Whilst not arguing against the adoption of a national scheme he did not see it as wholly necessary to ensure a cohesive and consistent system.

207. The Committee recognises the difficulties that local authorities, operators and bus users have encountered within the current framework of sixteen different concessionary travel schemes.

208. The Committee was not convinced by the evidence it heard arguing for the management of the schemes to be transferred to the proposed RTPs. The Committee therefore welcomes the Executive’s announcement that a national concessionary fares scheme will be introduced by April 2006.

209. However, the Committee notes the concerns raised by SPT, COSLA and Dumfries and Galloway Council with regard to the possible financial impact of the introduction of the schemes on the provision of services and infrastructure.

210. The Committee therefore asks the Executive to provide details of the assessment it has carried out on the possible wider impact of the new funding being provided for the national concessionary travel scheme in respect of the funding available for the development of other services. The Committee requests that the Minister provides details of the timescale for the completion of this assessment and that it is made available to the Committee.

211. Finally, the Committee welcomes the commitment made by the Minister to come back before it in order that the Executive’s proposals in respect of the concessionary travel scheme may receive committee scrutiny.

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100 OR Col 1567
101 COSLA, written submission to Local Government and Transport Committee
Time restrictions of the scheme

212. The Bill provides that a concessionary travel scheme shall specify the days and times during which travel concessions are provided. In his announcement to the Parliament on 22 December 2004, the Minister stated that the proposed scheme would not be time-restricted and would allow older people and people with disabilities to travel free by bus at any time of day.

213. This proposal had been supported in evidence by a number of witnesses who favoured the non-time-restricted scheme recently introduced in Wales. COSLA, for example, supported a non-time-restricted scheme although it indicated it had not costed such a scheme.

214. In response to questions, FirstGroup PLC told the Committee that it did not think it would be able to provide a non-time-limited travel scheme if compensation levels did not change. However, FirstGroup suggested that should compensation levels be increased to a level comparable to those in Wales it might support a non-time-restricted scheme.

Impact of the proposed scheme on operators

215. The Committee considered the possible impact of the proposed scheme on bus operators.

216. Gordon Dewar of FirstGroup outlined to the Committee the method of recompensing operators in respect of concessionary travel in Wales, and explained how it enables operators to re-invest in the provision of bus services. He told the Committee that—

‘[…] in Wales there is one formula that is well understood by all local authorities and operators. The formula takes into account the number of people who travel because a journey is free, as opposed to the number who would have travelled if they had had to pay. The formula also includes the costs to operators of having to put in additional resources. There is compensation to take account of lost fares and an adjustment to take account of people who are now travelling who would not previously have travelled. Compensation is based on the average adult fare. The formula is realistic and covers operators' costs with a bit of a margin. Operators are therefore in a position to invest further, to gear up to carry people, and to ensure that the fleet is kept up to date.’102

217. Professor David Begg, while suggesting that perhaps the Welsh model offered bus operators too high a level of subsidy, indicated that it had achieved positive results in that bus services had improved and people were using them. Professor Begg told the Committee—

‘Interestingly, it could be argued that the Welsh scheme has been too generous and has left bus operators a bit better off. However, that has produced a desired result. It has changed the economics of the bus industry in Wales and meant that private operators have invested much more and...’

102 OR Col 1503
shown decent levels of patronage growth, not only among people who pay concessionary fares but among full-fare paying passengers.\(^{103}\)

218. In its written submission CfIT was more cautious of supporting the Welsh scheme and advised the Committee of the potential for abuse of the system by operators—

‘However, CfIT would also point out that the scheme does have the potential to be abused by operators should they choose to do so. For example, on some Welsh routes fee paying passengers are in the minority meaning that, in theory, operators are no longer constrained by the potential loss of passengers if fares are raised. CfIT understands that the Welsh Assembly Government is about to commission a study which will examine some of the returns particularly where the costs have gone up significantly to determine whether this is due to volume increase or perhaps due to some especially high fare increases.’\(^{104}\)

219. In the announcement on 22 December 2004 the Minister told the Parliament—

‘The national scheme will have a single payment rate for all operators on all journeys. The rate will be 73.6 per cent of the average adult single fare. That is the same rate as the one that applies in Wales, where it is widely accepted as being fair to the operators and to the taxpayer. The rate will form the basis of our new approach. It will compensate for the revenue that passengers would have paid through the fare box if there had been no scheme and for any additional costs that the operator might incur, for example by putting on extra services.’\(^{105}\)

220. The Minister added that total payments would be capped at £159 million in 2006-07 and £163 million in 2007-08. This, the Parliament was told, would mean that the Executive and the taxpayer would be able to afford the scheme. He also announced that—

‘If in any year it becomes clear that the cap will be reached, there will be a mechanism involving the bus operators to adjust payments accordingly.’\(^{106}\)

221. The Committee welcomes the Minister’s announcement that the provision of free bus travel for older and disabled people will be non-time-restricted. The Committee also welcomes the announcement of additional funding to be provided to support bus operators in providing free travel and the proposed cap on the total cost of payments to operators.

Local enhancements to schemes

222. COSLA supported the creation of a national concessionary fares scheme but argued that local variations and enhancements should continue to be possible.

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\(^{103}\) OR Col 1722  
\(^{104}\) CfIT, written submission to the Local Government and Transport Committee  
\(^{105}\) OR Col 13168  
\(^{106}\) OR Col 13169
223. The Minister indicated in his announcement to Parliament on 22 December that local authorities would continue to be able to offer local enhancements such as concessionary fares on dial-a-taxi, dial-a-bus or rail services. He also indicated that further discussions would be held with COSLA in relation to the funding currently used to support the existing sixteen schemes.

**Rail**

224. Concessionary rail travel was not amongst the proposals announced by the Minister for Transport on 22 December 2004.

225. Most witnesses who gave evidence to the Committee did not consider that a free nationwide and non-time-restricted concessionary rail travel scheme to be viable.

226. Gordon Dewar of FirstGroup, for example, told the Committee that he did not consider the extension of free travel for older and disabled people on rail services to be practicable. He estimated that under a free scheme customer demand would generate twice as many journeys compared to the current fares regime. The rail industry would not have adequate resources, including infrastructure and rolling stock, to meet the demand.

227. The RPC also questioned the viability of extending free travel to rail services. Robert Samson of the RPC suggested that the capacity of the railways would be insufficient to meet the levels of demand at peak times if free travel were introduced. Robert Samson did argue however that concessionary travel should be offered on rail services during off peak times.

228. James King of the RPC told the Committee—

> 'Someone has to pay for the scheme. Mr Dewar's evidence made good sense in relation to where the pressure for payment comes from. We would generally favour some form of payment so that only those who needed to make the journey would make it and the operators would get some form of recompense.' 'Yes, you have to strike a balance between, on one hand, encouraging those who are entitled to the concessionary fare to use the service and, on the other, charging to use it, which could be restrictive.' ¹⁰⁷

229. The evidence presented to the Committee was predominantly opposed to the introduction of a nationwide free rail travel scheme for older and disabled people. The Committee is persuaded by the evidence it has heard on this matter and accepts that presently the rail network has insufficient capacity to support a national non-time-restricted concessionary travel scheme, although this might be possible at some future date. It might be more feasible to introduce a nationwide off peak concessionary rail travel scheme, and the Committee encourages the Minister to examine this suggestion further. Additionally, the Committee considers that there may be merit in rail concessions being offered at a local level in certain circumstances. The Committee would therefore suggest that the proposed RTPs may wish to consider whether to offer certain specific rail travel concessions within their own areas.

¹⁰⁷ OR Col 1524
Other groups

230. In its written submission to the Committee, the Scottish Youth Parliament argued for the extension of concessionary fares schemes to young people—

‘Young Scots should be encouraged to use public transport by the provision of free local and education related bus travel for all those under the age of 16 and concessionary fares for those under the age of 25 in full time education. Reduced price rail travel should also be available at all times of the day to people in full-time education.’\(^{108}\)

231. David Begg argued that instead of introducing free travel for older people, the Executive should—

‘[…] extend 50 per cent concessionary travel to excluded groups, to 16 to 18-year-olds who are in full-time education and to people who receive means-tested benefit.’\(^{109}\)

232. The Minister for Transport indicated in his announcement to the Parliament that a travel concession scheme for young people would also be introduced in April 2006—

‘We are doing further work on the scheme for young people, which is more complex and involves operators of a variety of transport services, such as ferries and trains as well as buses. However, I hope to confirm the 2006 implementation date when I make the announcement to Parliament in the spring.’\(^{110}\)

233. The Committee supports the extension of concessionary travel to young people, notes the Minister’s plans to announce the specific details of this scheme in due course, and recommends that this announcement is made in the early part of this year.

Ferry travel

234. A number of witnesses supported the extension of the proposed scheme to cover ferry travel.

235. The Scottish Youth Parliament, in its written submission to the Committee, argued—

‘With this all in consideration we would like to propose, that alongside a concessionary fares scheme on land-based public transport, that CalMac offer a discount to under-25s carrying a valid Young Scot card on their person when travelling as a foot passenger on any CalMac service.’\(^{111}\)

\(^{108}\) Scottish Youth Parliament written submission to the Local Government and Transport Committee

\(^{109}\) ORCol 1723

\(^{110}\) OR Col 1713

\(^{111}\) Scottish Youth Parliament written submission to the Local Government and Transport Committee
236. Argyll and Bute Council argued that concessionary ferry travel being 
extended to older and disabled people was a higher priority than providing 
concessionary travel to young people—

‘Clearly, given the likely high costs of this provision, the highest priority 
should be given to achieving the aim of introducing a satisfactory, national 
scheme for the elderly and disabled before diluting effort on the introduction 
of a national scheme for young people.’\textsuperscript{112}

237. Dr Iain Docherty considered that extending concessionary fares to ferry 
services could have adverse economic effects on the communities that they 
serve—

‘On ferries, there is always an interesting argument about a two-way street. If 
we encourage people to travel out of remote communities, especially island 
communities, and to service their needs elsewhere, subsidised by public 
money, that will always have a knock-on effect on the level of service 
provision at local level at the remote end of the journey link. If we decide to 
subsidise ferry links to the extent that has been suggested, we must be 
careful about the economic impact that that will have on people who do not 
want to travel from the islands or other remote communities to consume 
services.’\textsuperscript{113}

238. Professor David Begg, however, whilst acknowledging a possible economic 
impact on island communities, did not consider this impact significant enough to 
rule out an extension of the scheme.

239. In his statement to the Parliament, the Minister for Transport indicated that 
concessionary fares would be extended to ferry travel for young people—

‘The concessionary travel commitment for young people will enable them to 
use ferries and trains, as well as buses, at a reduced rate, which will be good 
for their education and their ability to access all parts of Scotland. Too many 
young people have rarely travelled away from their local communities and 
areas; they ought to get the opportunity to see all Scotland.’\textsuperscript{114}

240. The Minister for Transport also announced that older and disabled people on 
Scotland’s islands would be entitled to a minimum of two free return journeys to 
the mainland by ferry each year. In making this commitment the Minister indicated 
that this would not affect any local concessionary ferry travel schemes currently 
offered.

241. \textbf{The Committee welcomes the Minister’s commitment to provide} 
concessionary travel for young people on ferries and his proposal for older 
people and disabled people to have a minimum of two free return journeys 
to the mainland each year. The Committee acknowledges that this is a 
minimum standard of provision and welcomes the fact that local 
enhancements will continue to be able to be provided.

\textsuperscript{112} Argyll and Bute Council written submission to the Local Government and Transport Committee 
\textsuperscript{113} OR Col 1710 
\textsuperscript{114} OR Col 1722
Accessibility issues

242. The Mobility and Access Committee for Scotland (MACS) saw accessibility as higher priority than travel concession schemes.

243. Ewan Jones of MACS argued that concessionary schemes were being assessed in terms of those who used them rather than giving consideration to those who did not currently use the services available to them. He noted—

‘In work in which I have been involved in the past, much consideration has been given to the mechanics of concessionary fares schemes and to whether they work. In my view, that has concentrated on assessing whether such schemes work for the people who use them rather than on asking how we get to the people who do not use them. That theme has come through in the work that I have been doing in Scotland for the past 10 to 20 years. I still come into regular contact with community transport groups that organise services for people who are entitled to concessionary fares, but have no services to access. They end up paying to use community transport, for example, when they could use a free scheme if there were services on which they could use their concessionary passes.’

244. MACS argued that in order to increase disabled and elderly people’s access to transport, concessionary travel should be offered on more accessible means of transport. Ewan Jones invited the Committee to consider recommending an extension of the scheme to such services as dial-a-ride and car schemes.

245. The Minister announced to the Parliament that the Executive would be carrying out a survey into disability issues during 2005, and that issues of access to transport would form part of this work. In the meantime he also informed parliament that support would be given to accessible transport schemes such a dial-a-ride schemes.

246. The Committee notes the evidence from MACS and urges the Executive to ensure that, as far as possible, the concessionary travel schemes available to older and disabled people are genuinely accessible. Furthermore, the Committee would welcome a clear statement from the Executive on what measures it plans to put in place to encourage accessibility of public transport for disabled people ahead of the Disability Discrimination Act coming into force, and what the timescale is for these measures.

SUBORDINATE LEGISLATION

247. The Committee has discussed a number of issues relating to secondary legislation in the body of this report, particularly in relation to the lack of detail on the face of the Bill regarding the proposed new regional Transport Partnerships.

248. The Subordinate Legislation Committee (SLC) reported to this Committee on the Bill. The full report of the SLC is attached at Annexe A. However, the

115 OR Col 1609
Committee notes that the Executive has accepted a number of the SLC’s recommendations and has agreed to bring forward amendments at Stage 2 of the Bill on the following issues—

- **Section 17 (the Scottish Road Works Register):** The SLC noted that section 112 of the 1991 Act enabled regulations under that section to provide for the charging of a fee for registration, whereas it was not provided for in the new section 112B as it currently stands. This was not an intended omission and the Executive has undertaken to bring forward an appropriate amendment.

- **Sections 18 and 19 (directions as to timing of road works and placing of apparatus in roads):** Section 115 of the 1991 Act is amended by section 18 of the Bill to bring that section partly into line with new section 115A. The SLC, however, noted that it is not amended to include a provision on the lines of subsection 5 of section 115A, which provides for appeals. The Executive has undertaken to bring forward an appropriate amendment to address this omission.

- **Section 32 (fixed penalty offences):** The SLC noted that this new section does not state that an order made under it will be made in the form of a statutory instrument and asked the Executive if it intended to make an appropriate amendment. The Executive has agreed to consider an amendment to the 1991 Act to clarify this.

249. The Committee will expect appropriate amendments to be brought forward by the Executive at Stage 2 to give effect to these commitments.

250. In its report, the Subordinate Legislation Committee also noted that the Executive had agreed to consider various other points identified by the Committee. These were as follows—

- **Section 10 (other transport functions of RTPs):** The SLC noted that the transfer of functions is currently one-way to an RTP and that there did not appear to be any provision in the bill that would allow for functions to be transferred back, unless an RTP is dissolved under section 2. The SLC considered that this needed to be addressed by the Executive and drew to the attention of the lead Committee the Executive’s undertaking to consider the matter further.

- **Section 29 (resurfacing):** The Committee noted that new section 132D(3) allows criminal offences to be created in regulations rather than by the Act itself. The Committee was also of the view that no power is conferred on Ministers to alter the level of the fine, only a power to create an offence. The Executive has given an undertaking to consider this matter.

- **Section 33 (civil penalties for certain offences):** The Committee considered that, as this section allows Ministers to decriminalise offences by subordinate legislation, it should be subject to affirmative rather than negative procedure. The Executive in response has drawn the Committee’s attention to similar schemes where negative procedure is used. However, the Executive has
also stated that it is considering the Committee’s point and may amend the form of procedure currently adopted.

- Section 35 (fixed penalty offences under the Roads (Scotland) Act 1984): The Committee considered that this section, where it gives Ministers the power by regulations to select relevant offences from those listed in the new Schedule 8A, should be subject to affirmative procedure rather than the negative procedure contained in the Bill. The Executive is considering the point raised.

- The Committee considered that this provision raises issues similar to those raised under section 33. The Committee considers that it is a wide power and asked the Executive for comment as to whether it should be subject to affirmative rather than negative procedure. The Executive, similarly to points raised on section 33, has undertaken to consider the issue and has indicated that it may amend the form of procedure outlined.

251. The Committee notes the commitments made by the Executive to consider points raised by the Subordinate Legislation Committee, and requests that a response is provided on each point to the SLC, and to this Committee, no later than fourteen days prior to the start of Stage 2 of the Bill’s progress through its parliamentary stages.

FINANCIAL MEMORANDUM

252. Under Standing Orders, Rule 9.6.3, the Committee is required to consider and report on the Bill’s Financial Memorandum. The Committee has made various comments on the Financial Memorandum in the body of this report.

CONCLUSION

253. The Committee has considered the Transport (Scotland) Bill at some length, and believes it has been subjected to an appropriate degree of scrutiny. The Committee acknowledges the considerable efforts of all its witnesses who provided evidence, and of the Minister for Transport and his officials, who co-operated fully with the Committee’s Stage 1 inquiry.

254. The Committee welcomes the Bill, although as this report has noted, there are a number of ways in which it can be improved during its progress through its Parliamentary stages. The Committee therefore calls on the Minister to note the contents of this report, to provide further information where requested, and, where appropriate, to bring forward amendments at Stage 2.
255. Subject to this caveat, the Committee recommends to the Parliament that the general principles of the Bill be approved.\textsuperscript{116}

\textsuperscript{116} David Mundell dissented.

Fergus Ewing proposed that this paragraph be deleted and replaced by the following words: ‘The Committee recognises that there is support for the principle of having RTPs, but without detailed information as to their composition, boundaries, powers and responsibilities and funding, it is not yet possible to reach any firm conclusion as to the general principles of the Bill.’ The proposal was disagreed to by division: For: 2 (Bruce Crawford, Fergus Ewing). Against: 6 (Sylvia Jackson, Paul Martin, Michael McMahon, Bristow Muldoon, Tommy Sheridan, Margaret Smith). Abstentions: 1 (David Mundell).
Local Government and Transport Committee, 3rd Report, 2005 (Session 2)
ANNEXE A

ANNEXE A: REPORTS FROM OTHER COMMITTEES

REPORT BY THE ENTERPRISE AND CULTURE COMMITTEE

The Committee reports to the Local Government and Transport Committee as follows—

Introduction

1. On 3 November 2004 the Parliament agreed to appoint the Enterprise and Culture Committee as a secondary committee on the Transport (Scotland) Bill. We took written and oral evidence on 14 December 2004 from:

- Confederation of British Industry (CBI) Scotland;
- British Telecom;
- Federation of Small Businesses (FSB) Scotland;
- National Joint Utilities Group (NJUG);
- Scottish Water;
- UK Competitive Telecommunications Association (UKCTA);
- Civil Engineering Contractors Association (CECA) Scotland;
- Scottish Airports Park and Ride Association (SIAPRA); and
- MacRoberts Solicitors (supporting SIAPRA).

2. On 18 January 2005 we took written and oral evidence from BAA plc and Glasgow Prestwick International Airport plc.

3. The written and oral evidence submitted are attached to this report at Appendix 1.

4. We took evidence on a broad range of important issues, including those of congestion and the creation of Regional Transport Partnerships. However, we were asked to focus specifically on those issues of direct relevance to the Bill itself. Therefore, we have focused on:

- ensuring a level playing field;
- road management issues; and
- airport access charges.

Level playing field

5. Several witnesses told us that to gain full benefit from the Bill it would be important for the public and private sectors to be treated equally. In written evidence, UKCTA welcomed the fact that the Commissioner would ensure that all road works were included in the register, and further stated that the Executive should:

‘go further in levelling the playing field by extending the various provisions that penalise private sector companies that infringe the Act to those in the public sector. Only by imposing the same penalties to both the private and public sectors when the Act is breached, can any degree of accountability be delivered.’ (bold as original submission)\(^\text{117}\)

6. The Committee considers that there would be benefit in ensuring that the public and private sectors are treated equally in terms of penalties for infringement of the Act.

Level of detail

7. A number of witnesses told us that there was not enough detail in the Bill as to how various elements of it would work in practice\(^\text{118}\). The Scottish Executive published a consultation document on the detail of the Bill after the Bill proposals were published. CBI Scotland told us that:

\(^\text{117}\) UKCTA, written submission
\(^\text{118}\) see for example UKCTA written submission, NJUG written submission
"The best example of the skeletal nature of the bill is the question of reinstatement. There is no meat in respect of how long a utility company will have to wait before getting a bill through the post, which might say, "Please pay for the work that you carried out 20 years ago." As was said earlier, there is no detail given on who will assess which company should pay the bills.

Further, there is no meat in respect of how decriminalisation will work, how local authorities will deal with the new powers that they will be given and who will pound the beat, for want of a better phrase."\textsuperscript{119}

8. The Committee considers that it would have been more helpful for those responding to the Bill to have been able to have done so with a fuller awareness of the proposals for the detailed implementation and operation, particularly for example with relation to the provisions on resurfacing.

Road Management

Sections 14-16: The Scottish Road Works Commissioner

9. There was strong support from business representatives for the creation of a Scottish Road Works Commissioner. We heard that the existence of an arbitration route might help all parties involved to reach agreement more quickly.

10. The Committee welcomes the creation of the Scottish Road Works Commissioner.

Section 17: The Scottish Road Works Register

11. There is currently a voluntary register, known as the susiephone, which has been established by industry. Utilities representatives welcomed the recognition of the usefulness of this data source. They were keen to ensure, however, that the register would be used by local authorities as well as utilities, to provide a true picture of the reasons for road works across Scotland.

12. The Committee welcomes the establishment of the Scottish Road Works Register, which builds on the good practice developed by the industry and which will include records of all road works, whether originating from the public or private sector.

Section 20: Restriction on works following substantial road works

13. Several witnesses referred to the importance of utilities infrastructure for Scotland’s competitiveness, and we ourselves have previously reported to Parliament on the importance on the roll-out of broadband. Witnesses called for a balance to be struck between the need to reduce congestion and the need to ensure that development is not held back by lack of appropriate infrastructure.

14. One witness raised a particular anti-competitive issue in relation to the provisions in the Bill on restriction on works following substantial road works. The UK Competitive Telecommunications Association (UKCTA) told us in written evidence that:

"If companies are barred from digging in a particular street outright or are delayed in so doing, customers are likely to cancel their orders and move to the company with ubiquitous network coverage, BT, thereby undermining the effectiveness of the market and reinforcing the market dominance of the former monopoly provider."\textsuperscript{120}

15. BT also told the Committee:

\textsuperscript{119} Official Report, Enterprise and Culture Committee, 14 December 2004, cols 1437-38

\textsuperscript{120} UKCTA, written submission
ANNEXE A

“If we consider the matter dispassionately, we can see that there is a potential impact on competitiveness. Consider the situation when a company—whichever company, it need not necessarily be BT—provides a service to a particular customer: if the customer wants to consider alternatives for their physical infrastructure but restrictions on road works mean that the new service would be delayed or could be provided only at substantial additional cost, that would impact on the competitiveness of the industry.”

16. The Committee recommends that the Executive should ensure that the power to restrict road works contains sufficient checks and balances to ensure that there is no reduction in competition in the telecomms industry in particular.

17. In relation to competitiveness more generally, CBI Scotland told us that:

“The reality is that companies have met difficulties in situations in which local authorities have decided to impose a one-year moratorium on street works to prevent disruption. You can see the logic behind such a decision from the point of view of someone sitting behind a desk who has spent a lot of money on resurfacing or whatever. However, the marketplace does not operate in that sort of long-term, structured way. Customers want changes to their premises, accidents happen, new water supplies and gas mains are required and so on. The poor state of the water infrastructure in Scotland will mean that a great deal of work will be required in years ahead. It would therefore seem illogical to have moratoriums that would prevent that work being done.”

18. We heard one example of a local authority which breached its own moratorium:

“A local authority to the west of the city had imposed a voluntary moratorium on works—to which we all agreed—because it had resurfaced a road. During that period, it said, "We are delighted to award you a contract for a big, fat telecoms pipe to connect our offices and upgrade our infrastructure." We said, "We would love to help you but can we discuss the contract in a year's time when the moratorium has expired?" The answer came back, "Never mind that—we need the work done now," and the moratorium was waived. Commercial concerns are well understood when they affect local authorities themselves. We would like to see some safeguards; we are not saying that there should be no powers whatsoever, but there have to be checks and balances in the system.”

19. We also heard concerns about moratoria preventing urgent work to reconnect services. Scottish Water told us that:

“Clarity is required when using the word “emergency”, because under the New Roads and Street Works Act 1991 "emergency" refers to life and limb-threatening situations. Utilities have a lot of urgent works to restore services. There is a need for clarification in the bill as to the meaning of "emergency".”

20. The Committee notes that, from the evidence it has received, overall economic growth and competitiveness may be affected by the use of this provision. Again the Committee recommends that the Executive should ensure appropriate checks and balances are in place to ensure development is not hindered by the use of this provision.

Sections 28-30: Resurfacing

21. The utilities representatives raised concerns about the Bill in relation to the proposals for resurfacing. NJUG told us that the proposals in the Bill if enacted:

“would lead to a perpetual contingent liability on utilities when they dig anywhere in a street, thus increasing regulatory and balance sheet uncertainty. This would force all utility
companies to make financial provision for the possibility of being required to resurface any part of a street (not even necessarily the part where they had dug) for all time.”

22. CBI Scotland concurred, giving the example of:

“a utility company that digs up 10 yards of the Royal Mile outside the Parliament. Under the bill as currently drafted, that company could in theory be liable to restore the whole of the Royal Mile in five years’ time. Another example is that companies that dug up the road 20 years ago could be asked to cover the costs of the restoration of the Royal Mile. How can a business do any forward planning on that basis? How does one decide which companies should share the costs?”

23. BT told us that:

“We are certainly not saying that a utility company that digs up a road and then puts it back together should not be held responsible for any failure of restoration. However, the guarantee period must be reasonable, because the quality of a road surface can be affected not just by the digging of holes but by all sorts of factors, such as the amount of traffic that flows over it.”

24. In addition, BT raised concerns about:

“half-lane and perhaps full-lane reinstatement, whereby we might be required to resurface a whole stretch of road, far beyond the hole that we needed to dig to provide or restore our service. We would incur much greater costs and there would be much greater congestion while we resurfaced the much greater area of road, to the discomfort of all.”

25. UKCTA gave evidence on the potential costs involved:

“a study [in England] showed that, where my company did that on a voluntary basis, the eventual cost was 385 per cent of what it would otherwise have been. That will have an extreme impact on marginal business cases for rolling out broadband networks, especially in Scotland, which has more remote territory.”

26. The Committee considers that there is clearly an urgent need for more detail on how this section of the Bill would be enforced.

Sections 31-33: Enforcement of 1991 Act

27. CBI Scotland told us that:

“One instinctively thinks that decriminalisation should be welcomed, but experience shows that if local authorities, which claim to be operating on a tight spending allocation, are given powers to levy charges, that income will be an incentive for those whose job it is to find ways to levy charges. For example, if a company has said that it will be digging at 100 Arcadia Avenue when in fact the company typist should have typed 110 Arcadia Avenue, the person whose job it is to impose the fine for the mistake would do so. There is a concern that unless the decriminalisation of road works offences is properly monitored by the new commissioner, the proposed measure could lead to local authorities using it as a means to increase revenue.”

28. Scottish Water also told us that:

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125 NJUG, written submission
126 Official Report, Enterprise and Culture Committee, 14 December 2004, col 1426
127 Official Report, Enterprise and Culture Committee, 14 December 2004, col 1432
128 Official Report, Enterprise and Culture Committee, 14 December 2004, col 1433
129 Official Report, Enterprise and Culture Committee, 14 December 2004, col 1448
130 Official Report, Enterprise and Culture Committee, 14 December 2004, col 1425
“there are concerns that local authorities might consider that fixed-penalty notices offer an income stream when their budgets are restricted. From a utilities point of view, we need to make sure that the imposition of fixed-penalty notices is done in an independent manner. We therefore suggest that the commissioner is best placed to impose fixed penalties.”

29. UKCTA cited the experience in England and Wales, where:

“The fixed-penalty schemes are not for generating revenue, but they are raising money that is then being spent on the scheme itself.”

30. UKCTA told the Committee that increased costs to utilities arising from these penalties would be passed on to contractors and consumers.

31. The Committee considers that there would be merit in the Scottish Road Works Commissioner monitoring the implementation of the decriminalisation of road works offences.

Airport Park and Ride

32. Scottish Airports Park and Ride Association SIAPRA told the Committee in written evidence that:

“Under section 63 of the Airports Act 1986, private companies, including airport management companies, have the power to make byelaws relating to airport land. These byelaws must be approved by Scottish Ministers.”

33. SIAPRA went on to state that:

“In recent years, there have been attempts to introduce new bye-laws at least one Scottish airport to facilitate access charging for competing operators, none of whom carry on business within the facility.”

34. SIAPRA told the Committee in oral evidence that:

“SIAPRA members acknowledge that, in being able to bring passengers to an airport in an environmentally friendly way and in a way that enables the passengers to take advantage of off-site parking at a more modest price, they accept that their passengers are getting a service. That service is being provided by the airport and there is no objection whatever from any member of SIAPRA to paying for those services. However, they see payment for access as being the thin end of a decidedly undesirable wedge.”

35. SIAPRA told us that its members:

“seek a minor piece of legislative tidying up to be done in the bill to ensure that any future intention to charge for access would be subject to approval by the relevant local authority. That process would provide proper democratic accountability.”

36. We agreed to take written and oral evidence from BAA plc and Glasgow Prestwick International Airport plc at our meeting on 18 January 2005, to enable them to address these concerns.

37. Glasgow Prestwick International Airport plc’s (GPIA’s) written statement rejects the need for an amendment to the Bill on the grounds that existing EU competition law sufficiently addresses the

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131 Official Report, Enterprise and Culture Committee, 14 December 2004, col 1451
132 Official Report, Enterprise and Culture Committee, 14 December 2004, col 1451
133 SIAPRA, written submission
134 Ibid
135 Official Report, Enterprise and Culture Committee, 14 December 2004, col 1457
136 Ibid

56
matter. GPIA also contest SIAPRA’s position on the environmental benefits of park and ride facilities at airports as follows:

“Large car parks close to airports do not have the environmental benefits claimed for them by the Park and Ride Associations. They are not genuine park and ride facilities, which typically reduce car use by enabling early transfer to public transport, usually from outskirts to urban centres. Extensive supplies of cheap airport parking promote car use over longer journeys, at the expense public transport. As such, they are probably counter-productive to the Scottish Executive’s proposals under the Integrated Transport Bill.” 137

38. BAA plc’s written statement says that:

“BAA Scotland has no plans to introduce such a charge at any of its airports but will continue to charge for the high-quality facilities which are developed and built for the benefit of passengers and those who provide passenger services.” 138

39. BAA plc state that airport byelaws “are in place simply to ensure that airport forecourts can be managed safely and securely, free of congestion.” 139

40. The Committee considers that it is not appropriate for this issue to be addressed as part of the Transport (Scotland) Bill.

137 GPIA plc, written submission
138 BAA plc, written submission
139 Ibid
The Committee reports to the Local Government and Transport Committee as follows—

Introduction

1. Under Standing Orders, Rule 9.6, the lead committee in relation to a Bill must consider and report on the Bill's Financial Memorandum at Stage 1. In doing so, it is obliged to take account of any views submitted to it by the Finance Committee.

2. This report sets out the views of the Finance Committee in relation to the Financial Memorandum of the Transport (Scotland) Bill, for which the Local Government and Transport Committee has been designated by the Parliamentary Bureau as the lead committee at Stage 1.

Background

3. At its meeting on 23 November 2004, the Committee took oral evidence from Dr Malcolm Reed, Director General; Valerie Davidson, Head of Financial Services; and Hilary Howatt, Policy Development Manager, Strathclyde Passenger Transport; and from Councillor Andrew Burns, Transport Spokesman for City of Edinburgh Council; and James Fowlie, Policy Manager, COSLA. Oral evidence for this meeting can be viewed by clicking here.

4. It also took limited oral evidence at this meeting from Scottish Executive officials - Jonathan Pryce, Head, Transport Strategy and Legislation Division; Frazer Henderson, Bill Team Leader; and Claire Dunbar-Jubb, Group Accountant, Roads Policy and Group Finance Division, Scottish Executive Enterprise, Transport and Lifelong Learning Department. The Committee took more detailed evidence from the same officials on 14 December 2004, after it had received additional written evidence from them. Oral evidence for this meeting can be viewed by clicking here.

5. The Committee also received written evidence from COSLA, Scottish Power, HITRANS, Stagecoach Scotland, CBI Scotland, Cable and Wireless, National Joint Utilities Group, NESTRANS, Strathclyde Passenger Transport, Susiephone Ltd, Lothian Buses plc, Scottish Water and WESTRANS. The Committee thanks all those who took the time to comment on the Bill. Written evidence is reproduced as Appendix A to this report.

Financial Memorandum

6. The Policy Memorandum sets out the policy objectives of the Bill: Part 1 provides a statutory basis for Transport Partnerships and enables them to receive and exercise transport functions transferred by the Scottish Ministers. Part 2 makes provision to improve the co-ordination and quality of road works carried out on Scotland's roads. Part 3 of the Bill makes provision enabling the Scottish Ministers to run concessionary travel schemes at their own hand. It also details a range of miscellaneous provisions: abolishing the requirement on local authorities to inform the Scottish Ministers before a pedestrian crossing is established, altered or removed; amending the procedure for dealing with applications for Harbour Orders; modifying the Highlands and Islands Shipping Services Act 1960; and making minor amendments to the Transport (Scotland) Act 2001.

7. The costs on the Scottish Administration (which have been identified so far) are set out at the end of the Financial Memorandum:

<table>
<thead>
<tr>
<th>Table 1: Breakdown of start up costs to the Scottish Executive arising from the provisions contained within the Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Initial start up costs for the Scottish Executive</strong></td>
</tr>
<tr>
<td>Initial Staffing and administration costs for Transport Partnerships</td>
</tr>
<tr>
<td>Members’ expenses to attend Transport Partnerships</td>
</tr>
<tr>
<td>SPT transition costs resulting from creation of successor Transport Partnership</td>
</tr>
<tr>
<td>Initial accommodation costs for Transport Partnerships</td>
</tr>
</tbody>
</table>
Table 2: Breakdown of ongoing costs to the Scottish Executive arising from provisions contained within the Bill.

<table>
<thead>
<tr>
<th>Ongoing costs to the Scottish Executive</th>
<th>£m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staffing and administration costs for SRWC</td>
<td>0.16</td>
</tr>
<tr>
<td>Concessionary Travel</td>
<td>(subject to proposals in secondary legislation)</td>
</tr>
</tbody>
</table>

Written evidence

8. The written evidence which the Committee received highlighted some concern about the provision to improve the co-ordination and quality of road works. ScottishPower’s submission suggested that there are likely to be ongoing annual costs for the Statutory Undertakers, in the region of £500,000 per annum, and warned that “utility companies will seek to recover any imposed additional costs of new regulations, which if approved by our Regulator, will inevitably lead to higher electricity prices”. Similarly, the National Joint Utilities Group stated that while it could not reliably estimate all costs associated with the Bill until it had seen the relevant secondary legislation, it would “expect the costs to be extremely large by any standard of measurement”.

Oral evidence

9. In taking oral evidence, the Committee’s discussion focussed primarily on the financial implications of the proposed Regional Transport Partnerships (RTPs), although there was some questioning of the operation of concessionary travel schemes, particularly the measures that will be put in place to combat fraud.

10. While the Bill is concerned simply with making provision to enable the Scottish Ministers to run concessionary travel schemes at their own hand, the Committee is nevertheless keen to stress that it will support every effort made by the Executive to prevent fraudulent claims.

11. Strathclyde Passenger Transport (SPT) outlined a series of fundamental criticisms of the functioning and financing of the proposed RTPs and how these are discussed in the Financial Memorandum. SPT witnesses even questioned the actual need for the Bill - and the evaluation process that was carried out – claiming that some of the proposed functions of RTPs are ones which could be assumed by the voluntary partnerships under existing powers or legislation. SPT’s written submission claimed that the £7m cost of establishing RTPs and the Transport Agency could be more effectively spent on actual transport provision.

12. While COSLA was more positive about the concept of RTPs and regional transport strategies, it shared some of the SPT’s concerns. For example, both organisations were clear that the transitional funding from the Executive for the establishment of RTPs should last for more than one year:

   “there is no question but that they [RTPs] will result in significant changes to regional delivery of transport and to local government delivery of transport infrastructure and provision. However, it will take much more than one year to work through the financial requirements that will be imposed by the changes, especially on the local authorities that will make up the RTPs”\textsuperscript{140}.

\textsuperscript{140} Burns, Official Report, 23 November 2004, Col 1953
13. SPT claimed its own experiences show that going to councils for such extra funding would mean being in competition for resources for front-line services and that funding for transport may not even be available from local authorities.

14. Councillor Burns, Transport Spokesman for City of Edinburgh Council, was sceptical of the possible economies to be gained from RTPs sharing services or pooling resources, as envisaged in the Financial Memorandum. While he acknowledged that there is an example of this having been achieved by a local transport initiative in Edinburgh, he supported Dr Reed’s view that there are some specialised services - for example legal services - which the RTPs will need but which cannot be provided by individual local authorities.

15. Both organisations said that it was difficult to be explicit about the full costs associated with the Bill, as there are certain key aspects which are still out to consultation, for example the structure of RTPs and the method by which their funding and governance will be determined.

16. While the question of allocations within RTPs remain to be determined, Dr Reed said that the system of requisitioning from member local authorities will continue to operate, but that this is a flawed system:

“It is very difficult to get a budget that exceeds the willingness of the least wealthy partner to pay. There have been situations when some councils in the SPT area have indicated a willingness to pay more but, because we have to operate with all 12 councils, our increase has been held back to what the smallest, or least well-resourced, council can afford.”

17. A more specific concern of the SPT relates to a matter that it believes has not even been considered in the Financial Memorandum. It claims that one effect of the Bill could be that most councils in the SPT area will now be able to exercise certain bus-related functions which have hitherto been the sole preserve of the SPT. The Committee notes the Executive’s reply that “since the local authorities in the SPT area would have discretion in whether to use the proposed concurrent powers on bus measures there is no requirement on them to incur any additional expenditure”, and trusts that there will be no subsequent costs which have been omitted from the Financial Memorandum.

18. The Committee shares the concerns raised by several organisations, that as there are major parts of this bill still out to consultation, this means respondents are unable to discuss fully the associated costs of this legislation. The Committee believes that this is one of the contributory reasons for there being a relatively large degree of dissatisfaction with this Financial Memorandum. Once again, the Committee highlights the Executive’s financial guidance note 2003/01 on the preparation of financial memoranda states:

"Where a Bill proposes powers, or implementation is dependent on the detail in secondary legislation (or further primary legislation), it may not be possible to be precise. In these cases, the Memorandum should say so. But this should be supported by an outline of what the current intentions of the Executive are, what the financial implications of these intentions will be, and what the effect of varying the major assumptions will be."

RTP Funding

19. An example of the uncertainty which the ongoing consultations has helped create, is the question of the transitional costs needed by RTPs. As noted, COSLA and SPT both believe that funding will be needed for more than one year. However, the Executive has made it clear that this first year funding is solely for the purpose of meeting additional costs associated with RTPs producing their transport strategies (i.e. a new duty for them). Assuming that an RTP simply assumes the most basic functions possible, it will not need any greater resources than it does at

141 Davidson, Official Report, 23 November 2004, Col 1955
142 Reed, Official Report, 23 November 2004, Col 1951
143 Reed, Official Report, 23 November 2004, Col 1960
144 Submission from SPT.
145 Scottish Executive submission.
present because the Executive already provides funding to the existing voluntary partnerships for their key functions and will continue to provide similar funding to the new statutory partnerships.

20. The Executive officials were also clear that there is potential for additional funding for RTPs in future years, as long as any benefits are demonstrated to the Scottish Executive:

“We are prepared only to put in transitional resources upfront to get the framework up and running…If regional transport partnerships devise good regional transport strategies that make strong cases for projects, they should be able to access some of the increased Scottish Executive spend on transport that will be available through the spending review as well as any additional resource that they might need for staffing in order to deliver those good strategies.”¹⁴⁶

21. While the Committee understands the reasoning behind the Executive not committing additional funding to RTPs until they are seen to be functioning effectively, its approach does lend weight to SPT’s complaint that this Bill is not necessary if powers to develop transport partnerships already exist; why would the Executive go to the effort of giving statutory weight to RTPs but not provide them with their full powers immediately?

22. On a related point, the Committee attempted to reconcile the statement in the Financial Memorandum that “no increased costs for local authorities are anticipated as a consequence of the establishment of Transport Partnerships (paragraph 143)”, with the fact that the Executive is committed to a very ambitious new transport programme which will impact on local government beyond the transitional year¹⁴⁷.

23. While the Bill may not lead directly to additional RTP (or local authority) expenditure, it seems to the Committee that increased expenditure by local authorities is inevitable, given the major planned increases in transport expenditure; the intention to provide an extra £96m in 2006-07 and £100m in 2007-08 for concessionary travel schemes¹⁴⁸; and the current delivery problems acknowledged by the Minister for Transport in a separate meeting:

“…deliverability is the biggest challenge for transport in Scotland, and it is my biggest responsibility as the Minister for Transport. To be frank, we do not currently have the capability or the resource to ensure delivery, which is why we are establishing an agency and why we accept that we must recruit new people with engineering and project management skills.”¹⁴⁹

24. Executive officials confirmed that there will be a financial impact on local government:

“I emphasise that it is inevitable that an increase in transport activity and project delivery at local government level will lead to additional spending by local government. There will therefore be scope for local government to secure the necessary resources from the Executive.”¹⁵⁰

25. **The Committee recommends that the Local Government and Transport Committee seeks further clarification from the Minister as to how local government will “secure the necessary resources”, and whether any mechanism will be put in place to ensure that this happens.**

**Funding**

26. If RTPs are established and assume transport functions from their constituent local authorities, Members are keen that this novel level of decision-making should not create any confusion. For example, the Committee outlined the potential pitfalls of allowing RTPs to borrow prudentially:

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¹⁴⁶ Pryce, Official Report, 14 December 2004, Col 2134
¹⁴⁷ McNulty, Official Report, 14 December 2004, Col 2135
¹⁴⁸ Correspondence from the Scottish Executive.
¹⁴⁹ Stephen, Official Report, 14 December 2004, Col 2120
¹⁵⁰ Pryce, Official Report, 14 December 2004, Col 2135
“A council might have already borrowed prudentially on the basis of its support from the Executive and then the transport partnership might decide to borrow prudentially and assume that various member councils will have enough spare cash to contribute. There is scope for the borrowing to be less prudential than it should be.”

27. Executive officials agreed that a dialogue between RTPs and constituent local authorities would be vital in order to avoid such assumptions being made. The Committee remains concerned however, that other aspects of the financial arrangements are still the subject of consultation, for example how RTPs will determine the share of their expenses that is to be paid by constituent councils.

Conclusions

28. The Committee highlights the difficulties in being certain about the financial costs associated with this Bill given the ongoing consultations. We believe that there will be future increased spending on transport projects by RTPs, but we cannot say what this figure will be because the Bill only creates the framework for powers to be transferred to them.

29. It is clear that there is considerable disagreement between the Scottish Executive and SPT on the costs associated with this Bill, and the Committee believes that these should have been more fully discussed before the Financial Memorandum was presented. A number of organisations have highlighted a lack of consultation on the Financial Memorandum produced to accompany the Bill, and the Committee believes that this is a major oversight given the very large sums of money that are being committed to future transport spending.

30. We also recommend to the Local Government and Transport Committee that it considers further evidence sent to the Committee by the SPT, which was received too late for consideration in this report. This submission (contained in the appendix) highlighted the SPT’s concerns about concurrent bus powers and any costs associated with these; and the costs associated with the introduction of the national concessionary travel scheme in April 2006.

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Local Government and Transport Committee, 3rd Report, 2005 (Session 2)

ANNEXE A

REPORT BY THE SUBORDINATE LEGISLATION COMMITTEE

The Committee reports to the Local Government and Transport Committee as follows—

Introduction

1. The Subordinate Legislation Committee at its meetings on 11 January and 18 January 2005 considered the delegated powers provisions in the Transport (Scotland) Bill. The Committee submits this report to the Local Government and Transport Committee, as the lead committee for the Bill, under Rule 9.6.2 of Standing Orders.

2. The Executive provided the Committee with a memorandum on the delegated powers provisions in the Bill, which is reproduced at Appendix 1.

3. The Executive’s response to points which the Committee raised during its consideration is reproduced at Appendix 2.

Delegated Powers

4. The Committee considered each of the delegated powers provisions in the bill. Having considered the following delegated powers with the assistance of the Executive’s memorandum, the Committee approves them without further comment: sections 3, 7, 12, 13, 16, 24, 26, 27, 28, 30, 34, 43, 46 and schedules 5 and 7.

5. The Committee makes recommendation on the following powers—

Section 1 Establishment of Regional Transport Partnerships (RTPs)

Section 2 Dissolution of Regional Transport Partnerships (RTPs)

6. The Committee was concerned that section 2 contained a power that could enable Ministers, either directly or indirectly as read with section 1, by dissolving all the RTPs, to repeal section 1 and render the other provisions of Part 1 ineffective. The Committee also felt that it was not clear whether, if an RTP is dissolved under section 2, by virtue of section 1 subsection (1) Ministers must establish a new RTP.

7. The Executive has explained that it is not the policy intention nor does it consider that it would be competent to dissolve all transport partnerships rendering Part 1 ineffective. With regard to the establishment of new RTPs, the Executive explained that the bill provides for the mandatory division of Scotland into regions and the mandatory creation of an RTP for each region.

8. The Committee acknowledged the full explanation given by the Executive but felt there were still concerns in relation to the provisions for the establishment and dissolution of RTPs. The Committee was particularly concerned as to whether Ministers are obliged to make a new order under section 1 immediately an order is revoked under section 2 and the consequences of any potential delay. The Committee considers that the drafting of these sections requires greater clarity and draws them to the attention of the lead Committee on these grounds.

Section 5 Formulation and content of regional transport strategies

9. The Committee asked the Executive whether it considered that any of the guidance issued under section 5 subsection (3) should be laid before the Parliament or subject to some form of Parliamentary scrutiny, given that RTPs are to be under a duty to have regard to such guidance when preparing their transport strategies.

10. The Executive does not intend to lay the guidance before Parliament, although it will be published and a copy lodged with SPICe. The Committee, however, considered that it was important to include a provision to lay the guidance in order that sufficient notice is given to Parliament to scrutinise the document. It therefore recommends to the lead Committee that a
laying power should be included in the bill for general guidance issued under section 5 subsection 3.

Section 6 Procedure before and after the drawing up of transport strategies

11. The Committee noted that this section did not include any detail of Parliamentary involvement in the finalisation of a transport strategy and therefore asked the Executive for its views on securing scrutiny and proper publication of any strategy. The Executive explained that publication of any transport strategy would be left to individual transport partnerships and outlined the requirements for them to consult on their content.

12. Whilst the Committee recognises that the strategies will be local in nature, it notes that in some instances this would cover considerable areas and involve significant amounts of expenditure. The Committee considered that this, together with the powers granted to Ministers for the approval of these strategies, should lead to a recommendation that the Parliament’s attention is drawn to any strategy. The Committee therefore recommends to the lead Committee that the transport strategies should be required to be laid before Parliament.

Section 8 Duty of Constituent Councils and other Public Bodies in respect of Transport Strategies

13. The Committee asked for clarification on the type of public bodies covered by this provision and was content with the Executive’s response.

Section 10 Other Transport Functions of RTPs

14. The Committee was concerned at the width of the Henry VIII power under this section, which at subsection (1) allows the Executive to amend primary legislation. The Committee in this instance did not consider that affirmative procedure provided an appropriate level of scrutiny, given the width of the power, and suggested that the Executive might examine adopting super-affirmative procedure. The Executive was of the view that affirmative procedure would provide adequate scrutiny and achieve the same ends.

15. The Committee, however, remains concerned at the width of the power granted by this section and recommends that the Executive adopts super-affirmative procedure. This procedure would allow the laying of proposals in draft, enabling the Parliament to suggest amendments before the draft order itself is laid before the Parliament for approval.

16. The Committee noted that the transfer of functions is currently one-way to an RTP and that there did not appear to be any provision in the bill that would allow for functions to be transferred back, unless an RTP is dissolved under section 2.

17. The Committee considers that this needs to be addressed by the Executive and draws the Executive’s undertaking to consider the matter further to the attention of the lead Committee.

Section 11 Manner of performance of RTPs’ functions

18. The Committee noted that paragraph (b) obliges the RTP to comply with the directions of Scottish Ministers and considered that, when general directions, these would have a degree of legislative effect.

19. The Executive did not agree with the Committee’s proposal that any directions should be included in a formal legislative document. However, given what it considers to be the legislative effect of these directions, the Committee recommends to the lead Committee that a formal process, subject to a degree of Parliamentary scrutiny, should be attached to the ministerial directions when general in nature.
Section 17  The Scottish Road Works Register

20. The Committee noted that section 112 of the 1991 Act enabled regulations under that section to provide for the charging of a fee for registration, whereas it was not provided for in the new section 112B as it currently stands. This was not an intended omission and the Executive has undertaken to bring forward an appropriate amendment. The Committee therefore draws the attention of the lead Committee to the Executive’s undertaking to bring forward an amendment.

Section 18  Directions as to timing of road works

Section 19  Directions as to placing of apparatus in roads

21. Section 115 of the 1991 Act is amended by section 18 of the bill to bring that section partly into line with new section 115A. The Committee, however, noted that it is not amended to include a provision on the lines of subsection 5 of section 115A, which provides for appeals.

22. The Executive has undertaken to bring forward an appropriate amendment to address this omission. The Committee therefore draws the attention of the lead Committee to the Executive’s undertaking to bring forward an amendment.

Section 23  Enforcement of section 119 of 1991 Act

23. Section 23(2) inserts section 119A(1) to the 1991 Act to enable the Scottish Ministers to make regulations about the notification, enforcement, level and payment of penalties as well as the appeals process against the imposition of penalties by the Scottish Road Works Commissioner, effectively replacing criminal sanctions with civil penalties. The Committee asked the Executive how it was planned that this would work in practice and for explanation as to why all of the penalties are to be set out in subordinate legislation.

24. The Executive explained that it considers this provision to be a last resort and that the penalty would only apply where long term failure to comply with road works authority has occurred. The Executive also pointed out the establishment of a working group, part of whose remit would be to consider appropriate penalties.

25. The Committee, particularly given that this represents decriminalising to some degree, is content with the Executive’s explanation of this power.

Section 29  Resurfacing: regulations and guidance

Section 132D

26. The Committee noted that new section 132D(3) allows criminal offences to be created in regulations rather than by the Act itself. The Committee was also of the view that no power is conferred on Ministers to alter the level of the fine, only a power to create an offence.

27. The Executive has given an undertaking to consider this matter and the Committee therefore draws this provision to the attention of the lead Committee as needing further explanation from the Executive.

Section 132E

28. The Committee examined the authority this provision gives Scottish Ministers to issue or approve a code of practice for the exercise of powers and the discharge of duties under sections 132A to 132D. The Committee noted that there is no procedure attached to the issue or approval of the Code and considered that there is a case for procedure.

29. The Executive informed the Committee that the Code at this section is in addition to other Codes of Practice under the 1991 Act, none of which are subject to any form of procedure, and that it therefore did not consider that this Code should be treated any differently.
30. The Committee, however, did not accept the Executive’s view and recommends to the lead Committee that the Code should be subject to some form of procedure, for example laying before Parliament, in order to promote the scrutiny of its content.

Section 32 Fixed Penalty Offences

31. The Committee noted that this new section does not state that an order made under it will be made in the form of a statutory instrument and asked the Executive if it intended to make an appropriate amendment. The Executive has agreed to consider an amendment to the 1991 Act to clarify this.

32. The Committee therefore draws this provision to the attention of the lead Committee as requiring an amendment to the 1991 Act to provide for orders under section 32 to be made in the form of a statutory instrument.

Section 33 Civil Penalties for certain offences under the 1991 Act

33. The Committee considered that, as this section allows Ministers to decriminalise offences by subordinate legislation, it should be subject to affirmative rather than negative procedure. The Executive in response has drawn the Committee’s attention to similar schemes where negative procedure is used. However, the Executive has also stated that it is considering the Committee’s point and may amend the form of procedure currently adopted.

34. The Committee recommends that this section is subject to affirmative rather than negative procedure and draws the attention of the lead Committee to the Executive’s response.

Section 35 Fixed Penalty Offences under the Roads (Scotland) Act 1984

35. The Committee considered that this section, where it gives Ministers the power by regulations to select relevant offences from those listed in the new Schedule 8A, should be subject to affirmative procedure rather than the negative procedure contained in the bill.

36. The Executive is considering the point raised and the Committee draws this consideration to the attention of the lead Committee together with the recommendation that affirmative procedure should be adopted for this provision.

Section 36 Civil penalties for certain offences under the Roads (Scotland) Act 1984

37. The Committee considered that this provision raises issues similar to those raised under section 33. The Committee considers that it is a wide power and asked the Executive for comment as to whether it should be subject to affirmative rather than negative procedure.

38. The Executive, similarly to points raised on section 33, has undertaken to consider the issue and has indicated that it may amend the form of procedure outlined.

39. The Committee draws the attention of the lead Committee to the Executive’s undertaking to consider the points raised and recommends that affirmative procedure is adopted.

Section 37 National Travel Concession Scheme

40. The Committee asked for clarification of the interaction between subsections (4)(e) and (6), as it was concerned that there was some overlap between these provisions.

41. The Executive explained that these provisions are intended to address different circumstances. Subsection 4(e) relates to participation by an operator in a national travel concession scheme which would cover voluntary or compulsory membership by operators. Subsection (6) relates to compliance with a scheme by operators which are part of the scheme and prosecution would cover
the possibility that an operator might seek to evade obligations. The Committee is content with
the Executive’s response and draws this issue to the attention of the lead Committee for
information only.

42. The Committee noted that affirmative procedure is proposed for subsection (1), whereas
negative procedure is proposed for subsection (7) and considered that the difference in procedure
could cause serious difficulties with the exercising of the powers. The Committee draws this
issue to the attention of the lead Committee as requiring clarification from the Executive.

Conclusion

43. The Executive has accepted points made by the Committee and undertaken to bring forward
appropriate amendments at Stage 2 in relation to the following sections—

Section 17 The Scottish Road Works Register
Section 18 Directions as to timing of road works
Section 19 Directions as to placing of apparatus in roads
Section 32 Fixed penalty offences

44. The Committee however noted the Executive’s undertaking to consider points raised on the
following sections—

Section 10 Other Transport Functions of RTPs (section 10 (1) in relation to the transfer
of functions)
Section 29 Resurfacing: regulations and guidance (132D)
Section 33 Civil Penalties for certain offences under the 1991 Act
Section 35 Fixed Penalty Offences under the Roads (Scotland) Act 1984
Section 36 Civil Penalties for certain offences under the Roads (Scotland) Act 1984

45. The Committee wishes to draw the attention of the lead Committee to the above considerations
still to be taken forward by the Executive and draws its attention to the concerns raised, with a view
to informing stage 2 consideration.
LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

MINUTES

23rd Meeting, 2004 (Session 2)

Tuesday 2 November 2004

Present:

Bruce Crawford JP (Deputy Convener) Fergus Ewing
Dr Sylvia Jackson Paul Martin
Michael McMahon Bristow Muldoon (Convener)
David Mundell Tommy Sheridan

Apologies: Iain Smith MSP

The meeting opened at 2.10 pm.

1. Transport (Scotland) Bill (in private): The Committee agreed its approach to its consideration of the Bill at Stage 1.

The meeting closed at 5.54 pm.
LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

MINUTES

25th Meeting, 2004 (Session 2)

Tuesday 16 November 2004

Present:

Bruce Crawford JP (Deputy Convener)       Fergus Ewing
Michael McMahon                             Bristow Muldoon (Convener)
David Mundell                               Tommy Sheridan
Iain Smith

Apologies: Dr Sylvia Jackson MSP and Paul Martin MSP

The meeting opened at 2.04 pm.

2. Transport (Scotland) Bill: The Committee took evidence at Stage 1 from—

   Mr Jonathan Pryce, Head of Transport Strategy and Legislation Division, Scottish Executive;
   Mr Frazer Henderson, Team Leader, Transport Bill Team, Scottish Executive;
   Mr Tom MacDonald, Head of Bus and Taxi Policy Branch, Scottish Executive;
   Mrs Caroline Lyon, Solicitor, Scottish Executive;
   Mr Laurence Sullivan, Solicitor, Scottish Executive;
   Bill Barker, Operations Manager, Strategic Waste Policy and Assets, Dumfries and Galloway Council, SCOTS;
   Grahame Lawson, Head of Planning and Transportation, North Lanarkshire Council, SCOTS;
   Councillor Duncan MacIntyre, Argyll and Bute Council, HITRANS;
   Councillor Gordon Mitchell, Shetland Islands Council, HITRANS; and
   Howard Brindley, Co-ordinator, HITRANS

The meeting closed at 5.33 pm.
LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

MINUTES

26th Meeting, 2004 (Session 2)

Tuesday 23 November 2004

Present:

Fergus Ewing   Dr Sylvia Jackson
Paul Martin   Michael McMahon
Bristow Muldoon (Convener)   David Mundell
Iain Smith

Apologies: Bruce Crawford JP MSP (Deputy Convener) and Tommy Sheridan MSP

The meeting opened at 2.10 pm.

2. **Transport (Scotland) Bill**: The Committee took evidence at Stage 1 from—

Marjory Rodger, Director of Government Relations Scotland, Confederation of Passenger Transport;

Jim Lee, Managing Director, Travel Dundee and Chairman, Confederation of Passenger Transport Scottish Council

Robert Andrew, Deputy Managing Director Stagecoach (Scotland), Confederation of Passenger Transport;

George Mair, Managing Director First Aberdeen, Confederation of Passenger Transport; Councillor Charles Gordon, Leader, Glasgow City Council;

Marshall Poulton, Head of Policy and Planning, Glasgow City Council;

Michael Donnelly, Business Strategy Manager, Glasgow City Council;

Councillor Alistair Watson, Chair, Strathclyde Passenger Transport Authority;

Malcolm Reed, Director General, Strathclyde Passenger Transport Executive;

Douglas Ferguson, Director of Operations, Strathclyde Passenger Transport Executive; and

Valerie Davidson, Head of Financial Services, Strathclyde Passenger Transport Executive

The meeting closed at 4.12 pm.
LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

MINUTES

27th Meeting, 2004 (Session 2)

Tuesday 30 November 2004

Present:
Bruce Crawford JP (Deputy Convener) Fergus Ewing
Dr Sylvia Jackson        Paul Martin
Michael McMahon         Bristow Muldoon (Convener)
David Mundell            Tommy Sheridan

Apologies: Iain Smith MSP

The meeting opened at 2.06 pm.

1. Transport (Scotland) Bill: The Committee took evidence at Stage 1 from—

   Gordon Dewar, Commercial Director, First Group;
   Gavin Scott, Policy Manager, Freight Transport Association;
   Robert Samson, Director, Rail Passengers Committee Scotland;
   James King, Member, Rail Passengers Committee Scotland; and
   Neil Greig, Head of Policy, Scotland, AA Motoring Trust

The meeting closed at 4.34 pm.
Present:

Bill Butler (Committee Substitute)    Bruce Crawford JP (Deputy Convener)
Fergus Ewing                        Dr Sylvia Jackson
Michael McMahon                    Bristow Muldoon (Convener)
David Mundell                      Tommy Sheridan
Iain Smith

Apologies: Paul Martin MSP

The meeting opened at 2.08 pm.

3. Transport (Scotland) Bill: The Committee took evidence at Stage 1 from—

Councillor Alison Magee, Transport Spokesperson, COSLA;

Councillor Andrew Burns, Transport Spokesperson, City of Edinburgh Council, COSLA;

Councillor Joan Mitchell, Chair, Planning and Environment Committee, Dumfries and Galloway Council, COSLA;

Councillor Alison McInnes, Aberdeenshire Council, COSLA;

James Fowlie, Policy Manager, COSLA;

Findlay Taylor, Co-Chair, Roads Authorities and Utilities Committee (Scotland);

David Morrison, Managing Director, Turriff Contractors Ltd;

Stuart Ross, Operations Manager, Alfred McAlpine Infrastructure Services Ltd;

Jim Shields, Business Development Director, Alfred McAlpine Infrastructure Services Ltd;

Alan Watt, Chief Executive, CECA (Scotland); and

Iain Duff, Chief Economist, Scottish Council for Development and Industry

The meeting closed at 5.35pm.
Present:

Bruce Crawford JP (Deputy Convener)  
Dr Sylvia Jackson  
Michael McMahon  
David Mundell  
Iain Smith  
Fergus Ewing  
Paul Martin  
Bristow Muldoon (Convener)  
Tommy Sheridan

Also present: Robert Brown MSP and Tavish Scott MSP, Deputy Minister for Finance and Public Service Reform

The meeting opened at 2.10 pm.

4. **Transport (Scotland) Bill**: The Committee took evidence at Stage 1 from

- Roderick McLeod, Member, Mobility and Access Committee for Scotland;
- Ewan Jones, Member, Mobility and Access Committee for Scotland;
- Jess Barrow, Head of Policy and Public Affairs, Age Concern Scotland;
- Jim Ferguson, Perth and Kinross Pensioners’ Forum, Age Concern Scotland;
- Ross Watson, Chair, Transport, Environment and Rural Affairs Committee, Scottish Youth Parliament;
- Morven Neil MSYP, Scottish Youth Parliament;
- Stephanie Veitch MSYP, Scottish Youth Parliament;
- Kevin Smith, Member, Argyll and Bute Youth Forum
- Frank Stewart, Engineering Build Services Manager, THUS plc and Chairman of NJUG;
- John Taylor, Government Relations Manager, National Grid Transco;
- Rodney Grubb, Scottish and Southern Energy;
- Domhnall Dods, Head of Regulatory Affairs, THUS and Director, UKCTA;
- Tony Cox, Head of Policy and Public Affairs, BT Wholesale; and
- Nancy Saunders, Kingston Communications, Board Director, UKCTA

The meeting closed at 6.36pm.
Local Government and Transport Committee, 3rd Report, 2005 (Session 2)
ANNEXE B

LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

MINUTES

30th Meeting, 2004 (Session 2)

Tuesday 21 December 2004

Present:

Bruce Crawford JP (Deputy Convener)  Fergus Ewing
Dr Sylvia Jackson               Paul Martin
Michael McMahon                Bristow Muldoon (Convener)
David Mundell                  Iain Smith

Apologies: Tommy Sheridan MSP

The meeting opened at 2.08 pm.

2. **Transport (Scotland) Bill**: The Committee took evidence at Stage 1 from—

   Dr Iain Docherty, School of Business and Management, University of Glasgow

   Professor David Begg, Chair, Commission for Integrated Transport

   Nicol Stephen MSP, Minister for Transport;

   John Ewing, Head of Transport Group, Scottish Executive;

   Jim Logie, Divisional Solicitor, Scottish Executive;

   Frazer Henderson, Team Leader, Transport Bill Team, Scottish Executive; and

   Richard Hadfield, Policy Officer, Transport Bill Team, Scottish Executive.

The meeting was suspended from 3.38 pm to 3.43 pm.

The meeting closed at 5.23 pm.
Local Government and Transport Committee, 3rd Report, 2005 (Session 2)
ANNEXE B
LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

MINUTES

4th Meeting, 2005 (Session 2)

Tuesday 25 January 2005

Present:

Fergus Ewing    Dr Sylvia Jackson
Paul Martin    Michael McMahon
Bristow Muldoon (Convener)    David Mundell
Iain Smith    Tommy Sheridan

Apologies: Bruce Crawford JP (Deputy Convener)

The meeting opened at 2.01 pm.

5. **Transport (Scotland) Bill (in private):** The Committee considered the possible contents of its report.

The meeting closed at 3.59 pm.
Present:

Bruce Crawford JP (Deputy Convener)  Fergus Ewing
Dr Sylvia Jackson    Paul Martin
Michael McMahon    David Mundell
Bristow Muldoon (Convener)  Tommy Sheridan
Ms Margaret Smith

Also present: Brian Monteith MSP

The meeting opened at 2.03 pm.

5. **Transport (Scotland) Bill (in private):** The Committee agreed the contents of its report subject to specified changes being made. During its consideration of the report the Committee voted on the following amendment to the report—

Fergus Ewing proposed that paragraph 209 of the draft report be deleted:

‘Subject to this caveat, the Committee recommends to the Parliament that the general principles of the Bill be approved.’

And the following text inserted:

‘The Committee recognises that there is support for the principle of having RTPs, but without detailed information as to their composition, boundaries, powers and responsibilities and funding, it is not yet possible to reach any firm conclusion as to the general principles of the Bill.’

The proposal was disagreed to by division: For: 2 (Bruce Crawford, Fergus Ewing). Against: 6 (Sylvia Jackson, Paul Martin, Michael McMahon, Bristow Muldoon, Tommy Sheridan, Margaret Smith). Abstentions: 1 (David Mundell).

The meeting closed at 4.24 pm.
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