

Cabinet Secretary for Transport, Infrastructure and
Connectivity

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Edward Mountain MSP

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Dear Edward,

I write following my evidence session to the Rural Economy and Connectivity Committee on 21 November regarding the Transport (Scotland) Bill. Again, I would like to commend the Committee for the diligent and purposeful approach it has taken to its scrutiny of this legislation. I hope my evidence – in what was a wide-ranging and fruitful session – aided these endeavours.

There were a number of issues which I committed writing to the Committee with further detail. Your clerks subsequently sent a written request and list of these, and responses are set out in-turn below for ease of reference:

1) Difference between Bus Service Improvement Partnerships in the Transport Bill and Quality Partnerships contained within the Transport (Scotland) Act 2001.

Stewart Stevenson MSP asked: *"Cabinet secretary, can you give me three sentences that identify the material differences? If the answer is as long as the provisions that are in the bill, a written answer might be preferable...I am specifically interested in the differences between the previous provisions and the new ones. That is what I am looking for"*

Bus Service Improvement Partnerships (BSIPs) differ from the Quality Partnership (QP) model in a number of ways and were devised following extensive consultation and engagement with local transport authorities, bus operators and others. Those differences are outlined below and, in addition, we provide a subsequent reference table to highlight key points where the two models vary.

The key overarching principle is that, unlike QPs, BSIPs encourage the development of a genuine partnership approach through joint working from the start and then throughout the partnership, initially by way of the development of the 'plan'. In comparison to QPs, BSIPs offer increased transparency and accountability for communities through the plan, which is consulted upon.

A QP is broadly controlled by the Local Transport Authority (LTA), which develops proposals ahead of any consultation and then reacts to points raised by operators. In a BSIP, however, both parties work together, based on a collaborative understanding of the current and future needs of communities for bus services, and operators are involved at significant key points during the lifetime of the scheme by virtue of the voting mechanism, under which if a sufficient number of operators in the area oppose the plan or scheme they have the ability to object.

Where a BSIP scheme is made, any operator who wants to run a service in the area to which the scheme applies will be required to comply with that scheme, with enforcement provided by the Traffic Commissioner. Unlike in a QP, it will not be possible for an operator to sidestep any requirements to which it might otherwise be subject by avoiding use of the relevant facilities.

QPs were solely based upon the provision of facilities by the LTA. These would typically involve infrastructure, for example improved bus stops. Whilst infrastructure may well be important in a given partnership, the BSIP allows the LTA to also introduce 'measures', which may make the bus a more appealing journey option as opposed to private vehicles, such as on parking policy. Such measures could be just as attractive to bus operators, but may not have the costs associated with infrastructure.

BSIPs also have more flexibility than QPs in terms of the standards that can be expected of bus operators. For example, within a BSIP maximum fares and/or maximum frequencies can be applied. These are things that local transport authorities have told us they want.

We expect BSIPs to be driven by data with parties tracking key metrics, be they patronage, bus journey times or user satisfaction. They will agree actions to address challenges and monitor progress and that will be reported upon with a new requirement to publish annual reports on the effectiveness of schemes.

Comparison Table – Quality Partnership and Bus Service Improvement Partnerships

Action	QP	BSIP
Development of proposal.	Local authority led, no involvement of other parties required.	Local authority led, operators must be invited to participate in the preparation of the partnership proposal, and have the opportunity to help shape it from the start.
Operators' ability to influence proposal.	No opportunity before public consultation.	A sufficient number of operators of qualifying services in the area must agree to the proposal going out to public consultation and have the opportunity to vote again if it is modified after consultation.
Requirement for operators to take part in a scheme area if the scheme commences.	Operators cannot run a service using the facilities provided by the LTA unless that service is provided to the standard required when using those facilities.	All operators in the area, including future entrants, are required to meet the operational service standards in the partnership area, regardless of whether they approved the scheme. The Traffic Commissioner must refuse an application for registration if the operational service standard is unlikely to be met.
Enforcement on operators during lifetime of the scheme.	Traffic Commissioner can take enforcement action if operators use facilities without meeting service standards, by issuing a fine or a condition on the operator's licence.	Traffic Commissioner may cancel a registration where the service is not being provided in accordance with the standard, in addition to the existing sanctions.
Local authority investment.	Facilities include infrastructure, but those facilities must have been provided in the last 5 years.	Facilities can be included, but so can 'measures', such as policies on parking to incentivise bus over car use.
Service standards that operator can be required to meet.	<ul style="list-style-type: none"> • Vehicle quality specifications. • Minimum frequency of services. 	<ul style="list-style-type: none"> • Timings of services. • Frequencies of services. • Vehicle quality specifications. • Maximum fares. • Ticketing requirements. • Multi operator travel card pricing. • Provision of information for the public. • Dates on which timings may be changed.
Reporting requirements.	Annual report to Scottish Ministers on effectiveness of scheme.	Annual report on effectiveness of scheme must be published.

2) Bus emissions abatement programme: comparison of Scottish Government funding with the UK Government.

You, as Convener, asked: *"Is the funding that the Scottish Government is giving to bus companies for retrofit the same as the funding that is being given to bus companies in the rest of the UK, or is there a difference?"*

Transport Scotland launched the BEAR Programme Phase 2 on the 26 October, following engagement with the bus sector during 2018 (particularly around the issue of State aid). The BEAR Programme is State Aid so it must comply with EC aid intensity limits which for large enterprises places a 40% funding cap on the BEAR funding offer, medium enterprises have a 50% cap, and small enterprises a 60% cap.

We allocated £7.89 million in 2018/19 to support the bus industry in preparing for LEZ introduction, primarily to support the upgrade of bus fleets ahead of any LEZ enforcement, related to both bus exhaust retrofit kit purchase and associated ancillary costs. This is additional to the £1.6m allocated for bus retrofitting in 2017/2018.

The Clean Bus Technology Fund (CBTF) delivered by the Defra/DfT Joint Air Quality Unit in England is worth £39.7m (2017-2019), or £0.66 per head of population (England and Wales). The BEAR 2 scheme is £7.89m in total, or £1.46 per head of population. This represents more than double the funding per head of population in Scotland. The BEAR 2 scheme also represents double the total amount of funding scaled to total numbers of buses in Scotland compared to England.

3) Information on measurable health impacts of low emission zones.

John Finnie MSP, in relation to a response from myself and a Transport Scotland official on the matter: *"That is reassuring. I hope that the committee can hear back about that. That takes me back to my earlier point about Government policies coming together. Surely preventative spend—I prefer to think about that in terms of the impact on people rather than on machines—is an important element that should be considered, too. Any information that you can provide on that would be welcome."*

Poor air quality caused by fine particulate matter (PM2.5 and PM10) and gases such as nitrogen oxides (NOx) affects the health of everyone in Scotland, but especially the very young and old and those with pre-existing heart and lung conditions. This is why the Cleaner Air for Scotland strategy has a vision for Scotland to have the cleanest air in Europe, with recent Programme for Governments outlining tangible actions to reduce air pollution, such as introducing low emission zones into Scotland's four biggest cities between 2018 and 2020 and into Air Quality Management Areas by 2023, where the National Low Emission Framework advocates such mitigation.

Health Protection Scotland (HPS) provided evidence to the Environment, Climate Change and Land Reform Committee in early 2018 as part of the Air Quality Inquiry and noted that: *"Air pollution does not cause recognisably distinctive diseases and so its effects are not obvious; it acts as one of many factors that increase the risk of developing commonplace health conditions over a lifetime. The elderly and people with poor heart and lung health are most at risk from short term high pollution levels."*

Figures quoted for the number of lives lost attributed to air pollution do not represent actual deaths of individual people. The numbers quoted are complicated statistical estimates based on modelling only. These numbers are not directly comparable to road traffic deaths, which relate to actual recorded individual deaths. The numbers of attributable deaths quoted are based on studies, which show that people exposed to higher levels of pollution die earlier (i.e. have shorter life expectancies) than people exposed to less air pollution. This premature mortality affects especially people who already have poor health due to heart disease or chronic respiratory disease. If air pollution levels are reduced then this would be likely to lead to a modest improvement in life expectancy, by perhaps a matter of weeks to months.

The HPS meeting which was referenced during my Committee session discussed that, although it is reasonable to assume that there will be benefits to health, especially for those with existing poor heart or respiratory health, at present there is no reliable methodology to calculate exactly what the beneficial health effects of introducing a low emission zone (LEZ) will be. Even though it will be very difficult to estimate any beneficial effect with confidence, reducing air pollution further will likely help reduce health inequalities.

It has not yet been possible in scientific studies to demonstrate in a real situation how an intervention such as a LEZ has reduced ill health at an individual person level. NHS Health Scotland and HPS are in the early stages of leading an 'evaluability assessment' for the Glasgow LEZ, with the final evaluation criteria to be agreed in February.

4) Methodology of estimating costs of low emission zones – including human costs.

John Finnie MSP asked: *"The Finance and Constitution Committee has heard criticism to the effect that the financial memorandum significantly understates the costs that are associated with the proposal. What is your response to that? Can you clarify what proportion of the costs relating to LEZs will be met by the Scottish Government and local authorities, respectively?"*

And: *"The conservative figure for the number of deaths that are associated with air pollution in Scotland is 2,500 a year, which is 10 times the number of deaths that are associated with road traffic accidents. I understand that the Scottish Government puts a figure on the cost of a life lost in a road traffic accident, and that it is a seven-figure sum. I think that more work could and should be done on the issue of costs in relation to LEZs, and that the costs should be considered in relation to the human cost of air pollution as well as the infrastructure cost."*

In relation to the cost forecasts in the Financial Memorandum (FM), the Committee will be aware that my officials answered questions on this to the Finance and Constitution Committee on 14 November and have also provided some follow-up information to that Committee.

Building on that, the FM referenced a methodology for estimating hypothetical small, medium and large Scottish LEZs developed by consultants in September 2017 based on their knowledge of the London Ultra Low Emission Zone (ULEZ). Recent discussions between Transport Scotland and local authorities does not indicate any kind of significant underestimation regarding infrastructure costs for implementing LEZs.

The FM also makes clear that the financial management required to deliver low emission zones will require a joint/partnership effort between the Scottish Government and local authorities. This work is ongoing with a combination of funding being offered to local authorities (as outlined recently to the Finance Committee) and the Bill offering provision for penalty charge monies to be used for LEZ operations.

In regard to human costs, the FM sets out some work which has been undertaken in this area from sources such as The Royal College of Physicians, the Department for Environment, Food and Rural Affairs and impact assessments on the London ULEZ. The human cost of air pollution extends beyond the financial cost, and should include issues such as people's perception that they are unable to enjoy the outdoors or that they do not feel safe to use active travel. These aspects will also be incorporated into the aforementioned NHS Health Scotland and HPS 'evaluability assessment'.

In addition to infrastructure cost, there are significant uncertainties about the real-term net cost savings for the NHS from reducing air pollution. It is possible that a reduction in air pollution levels (due in part to LEZs being implemented) could result in a reduction in use of medications and fewer hospital admissions affecting people with chronic heart or respiratory illnesses. However, an improvement in air quality should increase the life expectancy of people with serious chronic cardiovascular and respiratory conditions which paradoxically could potentially increase the total lifetime costs of providing such people with NHS care over the long term. Whilst the goal must always be to improve health by reduce air pollution, financial modelling associated with the reduction of air pollution must also account for the fact that extending the life spans of people with chronic pathologies may increase the total lifetime costs to the NHS.

It would be difficult to quantify changes that could be directly attributable to an LEZ with any degree of confidence. This is due to the multiplicity of other factors that also determine any one individual's disease experience, so beneficial health effects from LEZs alone are likely to be modest.

5) Potential for wholesale reform of the Decriminalised Parking Enforcement system via the Bill.

Colin Smyth MSP asked: *"Are we not missing a trick, then? Why are we not using the bill to completely decriminalise parking? Since Police Scotland scrapped traffic wardens—a short-sighted decision, in my view—more and more local authorities have moved towards decriminalisation. However, the process is lengthy, expensive and bureaucratic. It involves bringing Scottish statutory instruments for every individual local authority before this committee and the Parliament. Should we not be using the bill to simplify that process at the very least?"*

We could have a single line in the bill that says that if a local authority wants to decriminalise, it can do so immediately instead of having to go through the current very bureaucratic process. Alternatively, should we not just completely decriminalise parking? Otherwise there will be a two-tier system under the bill: one tier for pavement parking, and the second for other parking offences that are not decriminalised at the moment."

During discussions between my officials and local authorities, they have been informed that the process to apply for Decriminalised Parking Enforcement (DPE) powers can appear to be burdensome, particularly in terms of consolidating historical Traffic Regulation Orders to enforce parking restrictions.

My officials are working with our stakeholders to explore the issues and how we can make the application process clearer for prospective local authorities. However, making any legislative changes to the DPE process on the face of the Transport (Scotland) Bill is unlikely to resolve the problem as local authorities still need to review and consolidate all their local TROs. Instead, we will work with local authorities to develop detailed guidance (for instance, parking standards) incorporating case studies and lessons learned, which have been drawn from the experience of local authorities who have gone through the process recently.


6) Current legislative requirement for Scottish Canals to keep canals open and navigable

Mike Rumbles MSP asked: *"Can you write to the committee to let us know under what legislation Scottish Canals has that requirement? I am not clear about that."*

Section 105 of the Transport Act 1968 sets out the duty of the British Waterways Board, now operating as Scottish Canals, regarding maintenance of the waterways.

This provision states that, with a view to securing their general availability for public use, Scottish Canals has a duty to maintain the commercial waterways in a suitable condition for use by commercial freight-carrying vessels and to maintain the cruising waterways in a suitable condition for use by cruising craft (vessels constructed or adapted for the carriage of passengers and driven by mechanical power). The Caledonian and Crinan Canals are classified as commercial waterways and the Union and Forth and Clyde Canals as cruising waterways.

I trust that the Committee will find this further detail and information useful in its continuing scrutiny and consideration of the Transport (Scotland) Bill.

Best wishes


MICHAEL MATHESON

