RURAL ECONOMY AND CONNECTIVITY COMMITTEE
POST LEGISLATIVE SCRUTINY

SUBMISSION FROM SOCIETY OF CHIEF OFFICERS OF TRANSPORTATION IN SCOTLAND (SCOTS)

The Society of Chief Officers of Transportation in Scotland (SCOTS) wanted to take the opportunity to provide some representations on the Committee's Call for Evidence on potential Post Legislative Scrutiny and have focussed our response around the following questions outlined in the call for evidence:

Which Acts listed would benefit from post-legislative scrutiny by the Committee?
Transport (Scotland) Act 2001 and Transport (Scotland) Act 2005

Why do you think there is merit in reviewing these Acts?
The Society recognises the Committee's statement in the Call for Evidence around their desire to avoid duplicating existing legislative work. However, the forthcoming Scottish Government Transport Bill has a stated clear focus on smart ticketing on public transport and will tackle "obstructive and inconsiderate" parking. It also aims to enhance and improve the role of the Scottish Road Works Commissioner and make changes to the wider regulation of road works and well as bringing forward measures to help improve local bus services.

However, in the context of the ongoing review and development of a second National Transport Strategy (NTS2), the Society feels there is clear merit in the Committee also reviewing the 2001 and 2005 Transport Act passed by Parliament. This existing unamended legislation will clearly have significant roles to play in addressing the vision and strategic outcomes of NTS2. There has been over a decade since the Acts were passed and received Royal Assent, there was clear measurable outcomes meant to be achieved e.g. development, financing and delivery of Regional Transport Strategies and Delivery Plans under the 2005 Act, there wasn't in the case of 2001 or 2005 Acts clear policy review mechanisms built into the legislation around for example the review and effectiveness of Local or Regional Transport Strategies.

Even where the proposed Transport Bill legislation from Scottish Government could overlap with Post Legislative Scrutiny by the Committee we would still see merit in the work. For example in terms of the delivery of Statutory Quality Partnership and Contract schemes outlined under the 2001 Act. The proposed Bus Service Improvement Partnership (BSIPs) in the merging Transport Bill are an improvement on SQPs or SQCs and offer greater levels of flexibility, particularly in terms of the potential outcomes from the partnerships. However, SCOTS has concerns that in a multi-operator environment, there are a number of ‘veto’ opportunities for operators and the balance of powers should be more towards the transport operators than is currently suggested. The role of Regional Transport Partnerships in this mechanism should be looked at in greater depth. SCOTS is supportive of the proposal to extend the range of standards beyond those of a sQP to include setting service frequencies and maximum fares. We are also very supportive of the commitment to making any new arrangements genuine partnerships in development and delivery.
Moreover, we believe that the review of the bus network suggested by the proposal should be extended to “transport network” in order to take a truly integrated and coordinated approach to transport planning and delivery in the area concerned. Again, regional transport partnerships are ideally placed to take the lead in this. Taking the above proposal further, it is worth highlighting that the relevant Regional (or dependent on area, Local) Transport Strategy is the ideal vehicle for such a review, as it already has statutory powers, is enshrined in legislation and is ultimately approved by Scottish Ministers. Indeed, the requirements of such a review – or “Improvement Plan” – could be undertaken within the auspices of an RTS. In essence, a transport authority, having undertaken due process and consultation in developing an RTS, should be able to mandate the introduction of an Improvement Plan and Scheme.

SCOTS advocate that Regional Transport Partnerships should have the opportunity to have regional franchising powers to add to the 2005 Act list of powers under Section 10 (5) which includes sQPs. It may be worth considering that an interim step between ‘partnership’ and ‘franchising’ might be the Public Transport Authority being able to exercise ‘powers of direction’. Sometimes very simple changes could be made to services and routes to enable them to better meet public need, but are not made voluntarily by operators due to operational efficiency or expediency; ‘powers of direction’ could be a very useful tool in this regard.

Another related issue would be that both 2001 and 2005 Acts have been the legislative basis for the national concessionary fare schemes. Internal SCOTS discussions also highlighted concern from members about reimbursement of buses being on the basis of the single fare, with a clear potential social deprivation impact of not making regular journeys so can’t make season ticket saving and also high single fares put off people from “trying” PT in the first place. There was also concern over road safety of enforced car ownership and use into later life, even with NEC older people can’t give up the car because of limited networks and so are driving for longer. Members also highlighted the potential stigma about the use of public transport/Dial a Bus services outside cities, it’s seen as second class travel and how the scheme and general policy landscape seeks to address these perceptions will be vital to getting more people to use modally shift as much as ensuring resilience and accessibility of the network.

Whilst, there is potential for new transport legislation through the forthcoming Bill, it is not proposed to the Society’s knowledge to amend significantly either of the Bills in regard to for example provisions for Road-User Charging especially if needed for Low Emission Zones or travel restraint generally or Regional Delivery of Services via RTPs but there might be a requirement for the use of these legislative provisions following the conclusion of the NTS2 review in 2019/2020. Therefore, in our view post legislative scrutiny of this legislation would not be duplication but welcome scrutiny of existing legislation to ensure existing legislation is capable of delivering best value if needed post NTS2 publication.

3. What is the likely benefit/outcome from reviewing this/these Acts?
It would enable legislation to be reviewed and scrutinised to ensure they are fit for purpose following the publication of NTS2. It could also clearly inform future

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legislation or amendments to legislation later in the Parliamentary term that might be necessary to progress an ambitious and challenging NTS2 Vision and Strategic Outcomes. It would also enable the comparison of road user charging provisions with emerging discussions around Workplace Parking Levies to ensure both options are fit for future purpose and fit with emerging legislation for Low Emission Zones. SCOTS is supportive of the general principles of LEZs, if they are delivered as part of a wider local or regional sustainable transport strategy, both strategies have there basis in the 2001 and 2005 Acts respectively.

In light of the stated desire for greater action on Active Travel, the 2001 Act included potential enabling provisions around Home Zones (Section 74) and it would be helpful to know whether this legislation is in the opinion of stakeholders fit for purpose or needs further amendment to enable implementation as part of an ambitious NTS2 and also “Active Nation” vision for Scotland.

Also, at present it would appear that the draft Climate Change Plan (RPP3) strategic approach is very much focussed on a supply-side revolution of fuelling of vehicles but if the incentives outlined in the document are not sufficient to change certain long-standing behaviour patterns, we lobbied that it would also be prudent to ensure that RPP3 also have policies and proposals to restraint demand in terms of equitable and re-distributive schemes e.g. workplace parking charges or road pricing. At the most basic level the core aim to reduce the need to travel must be reflected in the RPP3, new planning bill, National Transport Strategy, City Region Deals and all the wider strategic reviews currently in process. And as statutory requirements that cannot be ignored. That comment notwithstanding SCOTS welcome proposals for access limitation policies for certain vehicles e.g. Low Emission Zones and would welcome further discussions Scottish Government over how these can be resourced and rolled out over the period of 2017-2032. There will clearly be synergies to be achieved with the emerging proposals for preferential local and potentially regional incentives across access management and parking policies as well as demand management e.g. road user charging provisions within the 2001 Act.

Certainly, given the large number of reviews at present on new strategies and Bills, a key outcome of post legislative scrutiny would be to ensure that existing legislation is fit for purpose moving forward given the pressing timescales around Climate Change legislation for example.

4. Do the Acts raise any equality or human right issues?
The 2005 Act and associated guidance on RTPs speaks of getting a greater diversity of membership on RTP Boards, it would be useful if the membership guidance and limits on length of appointment for non-councillor members could be subject to post legislative committee scrutiny. At present, RTP non councillor board appointments are non-regulated and they differ from other public appointments, which can create issues of consistency across public appointments. We’ve raised this with the Scottish Parliament EHRIC committee previously by a SCOTS member authority: http://www.parliament.scot/S5_Equal_Opps/Inquiries/SEStran.pdf

The Society is aware RTPs, have done work on these matters which we have previously raised with SG officials and we have suggested that it would be desirable if our appointed Board members could be paid to encourage a greater socio-economic diversity of members as well as widening private sector representation. The original order with the 2005 act allowed for expenses rather
than remuneration but that this was to be subject to review in 2007, our understanding is that this review has not occurred yet:


We are aware that RTPs diverse response to our recent adverts but in discussions with Scottish Government Public Appointments officials they have stated paying members is a key tool to improve diversity especially socio economic diversity which would be hugely helpful to have such lived experience on RTP boards with the advent of the Fairer Scotland duty on socio economic inequalities. At the moment we can only pay reasonable expenses, could this be a subject for post legislative scrutiny of the 2005 Act in terms of getting better diversity of representation on regional transport bodies moving forward? As at present it would seem to present a clear financial barrier to greater inclusion of all groups in transport decision making.

Another issue is the emerging proposals for National Concessionary Travel Scheme which could be seen to have a negative impact on the age characteristic. The proposed inclusion of only Modern Apprentices up to 21 years old in the free bus scheme we believe creates a disparity with older Modern Apprentices and other younger people who access employment through different channels but also experience the same cost barrier in their uptake and retention of a job.

SCOTS also highlight that whilst not part of the public sector duty, any proposals implemented by Orders based on the 2001 or 2005 Act could have a potential socio-economic impact which is relevant for Scottish Ministers as a proposed public authority under Part 1 of the Equality Duty: socio-economic inequalities “Fairer Scotland Duty”. On that basis it would be helpful to have a impact assessment in regard to this duty available to stakeholders and consultees. Accessibility and mobility is vital for inclusive growth of Scotland as outlined in Scotland’s Economic Strategy, therefore given the “significance” of the changes proposed it would seem that this area is relevant for Scottish Ministers to have “due regard” for analysing the socio-economic impact of any change alongside the equality impact of any proposals.

SCOTS was founded in 1996 and preceded by the County Surveyors Society in Scotland since the 1930s. SCOTS is a strategic body comprising of transportation professionals from all the 32 councils and the seven regional transport partnerships. The society's work involves improving performance and innovation in the design, delivery and maintenance of transportation systems. Our vision is for:

“A connected, inclusive and sustainable Scotland, delivered and supported by excellent transport infrastructure and dedicated, motivated and innovative transportation professionals”.

In this context, we would be happy to provide further information to the Committee on any of the points raised above and appear before Committee if any of the Transport Acts were chosen for post legislative scrutiny.

Society of Chief Officers of Transportation in Scotland
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