Thank you for the opportunity of presenting evidence to the Committee on the Transport (Scotland) Bill 2018. This submission will address three parts of the Bill, parts 2, 3 and 4.

The Equality and Human Rights Commission is the National Equality Body (NEB) for Scotland, England and Wales. We work to eliminate discrimination and promote equality across the nine protected grounds set out in the Equality Act 2010: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

We are an “A Status” National Human Rights Institution (NHRI) and share our mandate to promote and protect human rights in Scotland with the Scottish Human Rights Commission (SHRC).

The context of transport and equality and human rights.

Both service providers and those carrying out public functions must ensure they don’t breach the Equality Act 2010. The areas of discrimination that have particular relevance for this consultation include:

- Indirect discrimination which occurs when a service provider applies an apparently neutral provision, criterion or practice which puts people who have or share a protected characteristic at a particular disadvantage.
- Discrimination which may occur where a disabled person is treated unfavourably because of something arising in consequence of their disability and the treatment can’t be justified.
- The duty to make reasonable adjustments requires positive steps to be taken to ensure that disabled people can access services. This goes beyond simply avoiding discrimination. It requires a service to anticipate the needs of disabled people and take action to meet those needs.

As well as prohibiting unlawful discrimination against those who have or share a protected characteristic, section 149 of the Equality Act places a duty on Public Bodies, including the Scottish Government, to give due regard to

- Eliminating unlawful discrimination
- Advancing equality of opportunity and
- Fostering good community relations.

The Fairer Scotland Duty, which came into effect in April 2018, requires Public Bodies covered by the duty to “have due regard to the desirability of exercising them (their functions) in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage”. This duty does not fall on Transport Partnerships but it is relevant to the functions of the Government including Transport Scotland, Councils, and Health Boards.
The Transport Bill is likely to primarily impact on people who share the protected characteristic of age (both younger and older people), disability, and sex. The Bill also has the potential to impact on people who live in deprivation. The EHRC notes that the Scottish Government are required to conduct Equality Impact Assessments on the Bill and any resultant policy that emerges from it as well as considering its duty under Section 1 of the Equality Act 2010, the “Fairer Scotland Duty”.

The UN Convention on the Rights of People with Disabilities (CRPD) is also relevant.

Article 19 requires Government to recognize and facilitate the right of all disabled people to live in the community including ensuring that community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

Article 20 requires Government to take effective measures to ensure mobility and the greatest possible independence for disabled people, including by:

(a) facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;

(b) facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost;

(c) providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities;¹

(d) encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.

The EHRC encourages the Committee to consider the Bill in the light of these responsibilities.

The EHRC believes that an accessible transport system, streets and cityscapes are fundamental prerequisites for disabled people’s full inclusion in society.² Without such provision disabled people are unlikely to realise their full rights to work, or to participate in the social and cultural life of their communities.

¹ See also “In debates on the Bus Services Act 2017 the then UK Transport Minister, Andrew Jones, confirmed that disability awareness training would be a legal requirement from 1 March 2018 and that “even after we have left the European Union, our policy objective of ensuring that bus drivers are equipped with the knowledge and skills to assist disabled passengers will not change. That obligation will not be removed” HoC Library, 5/3/18 “Access to transport for disabled people”.

² Being disabled in Britain, EHRC 2017, “Ensure that essential services, such as housing, health, transport and justice, meet the particular needs of disabled people and support their independence and wellbeing”. https://www.equalityhumanrights.com/en/publication-download/being-disabled-britain-journey-less-equal
Part 2 of the Bill - bus services

The intention of this part of the Bill is to provide local transport authorities with options to improve bus services in their areas. This could include partnership working with operators, local franchising or running their own buses. Part 2 also aims to improve the information given to passengers.

In relation to Clause 29, which amends the Transport (Scotland) Act 2001 by introducing a new section 3 (C) (1-6), we recommend that disability access is named as a service standard to which all proposed vehicles used are subject to, noting that compliance with Public Service Vehicles Accessibility Regulations (PSVAR) is already an obligation.

In the consideration of service improvements local transport authorities should consider all necessary information, for example the demands on routes by groups such as parent carers and disabled people. This information can help in making decisions where more transport provision would be necessary.

In relation to the introduction of a new Section 3(C) 3(b) about the setting of fares this has direct relevance to the Fairer Scotland Duty which applies both to Scottish Government and local government functions. Consideration of setting of fares which reduce inequalities by facilitating travel to work and college could assist in narrowing gaps in income and promoting solidarity.

In relation to the introduction of a new Section 3(C) 3(c) & (e) it should be noted of the existing legal requirement that information must be provided inclusively, with reasonable adjustments being made to enable disabled peoples full access to it.3

With these provisos the EHRC supports this section of the Bill.

Part 3 of the Bill - smart ticketing

The intention of this part of the Bill is to create a national technological standard for smart ticketing to assist the spread of smart ticketing across public transport in Scotland, and provide local transport authorities with further powers for smart ticketing arrangements and schemes.

As set out above all ticketing services must be fully accessible to disabled people to promote their autonomy in line with Articles 19 & 20 of the CRPD. Reasonable adjustments must be considered and made prior to the introduction of any smart ticketing system to ensure that disabled people are afforded equal access at the commencement of the service. This must be a part of the service standard as set out above.

With these caveats the EHRC supports this section of the Bill.

Part 4 of the Bill - responsible parking

The intention of this part of the Bill is to improve safety for roads users and pedestrians by prohibiting double parking and parking on pavements.

---

3 See also Section 17 of the Bus Services Act 2017
A number of disability groups, for example Guide Dogs, have raised the issue of the impact of inconsiderate parking on disabled people. Visually impaired people, people who require mobility aids and wheelchair users may all need to use most if not all of the current pavement space in getting around. On pavement parking prevents disabled people from completing their journeys, and also reduces their confidence in making journeys more broadly. It can have the impact of restricting the choices and opportunities available to disabled people and can deny them broader participation in Scottish society.

Similar issues will apply to families with young children who use buggies or prams.

At worst inconsiderate parking may force disabled people, parents and older people to use the road to get around cars parked wholly or partially on the pavement, with the attendant dangers and risk that this creates.

As noted, Section 149 of the Equality Act requires due regard to be given to advancing equality. The prohibition of on-street parking advances equality for disabled people, by affording them greater access to other goods facilities and services. It also affects disabled people’s autonomy, relevant to Article 19 and their right to mobility relevant to Article 20(b) of the UNCRPD.

The EHRC supports Part 4 of the Bill.