

ANGUS COUNCIL

COMMUNITIES COMMITTEE

25 SEPTEMBER 2018

TRANSPORT (SCOTLAND) BILL – SURVEY AND CALL FOR VIEWS

REPORT BY HEAD OF INFRASTRUCTURE

ABSTRACT

This report relates to the survey and call for views on the Transport (Scotland) Bill.

1. RECOMMENDATIONS

It is recommended that the Committee:

- (i) notes the introduction of the Transport (Scotland) Bill to the Scottish Parliament on 8 June 2018; and
- (ii) approves the draft responses to the survey and call for views as detailed in this report.

2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN

This report contributes to the following local outcomes contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

ECONOMY

- An inclusive and sustainable economy

PLACE

- Safe, secure, vibrant and sustainable communities
- An enhanced, protected and enjoyed natural and built environment

3. BACKGROUND

3.1 On 8 June 2018, Cabinet Secretary for Finance and Constitution, Derek Mackay MSP, introduced the Transport (Scotland) Bill to the Scottish Parliament. The Rural Economy and Connectivity Committee has launched a survey and call for views on the Scottish Parliament website with a deadline of Friday 28 September 2018.

3.2 The Bill seeks to introduce a number of new powers and requirements, which shall fall to Transport and Roads Authorities to exercise and enforce. This report sets out draft responses to be submitted to the Rural Economy and Connectivity Committee.

4. PROPOSALS

4.1 The key issues that are included in the Bill have been summarised in the following paragraphs of this report. The proposed substantive replies are contained within the Appendices 1 to 6 of this report.

Low Emission Zones

4.2 The Bill enables the creation and civil enforcement of Low Emission Zones (LEZ) by local authorities, and will allow the Scottish Government to set consistent national standards for a

number of key aspects including, but not limited to, emissions, penalties, certain exemptions and parameters for grace periods for LEZ.

- 4.3 Whilst not currently an issue within the road network in Angus the intended introduction of a LEZ within Dundee and other Scottish cities will have an impact on the bus fleet within our region. The proposed response at **Appendix 1** adopts a position of general support to the proposals for LEZ.
- 4.4 With the first LEZ to be introduced in central Glasgow on 31 December 2018, and the subsequent uplift in the restrictions on PCVs (Passenger Carrying Vehicles), through to 2022 when all PCVs entering the zone will be required to be Euro VI or better (with similar arrangements being progressed in various cities in England), the major bus operators could as a result, decant older buses elsewhere in the United Kingdom, to the detriment of authorities such as Angus. This redeployment of vehicles may be minimised by the availability of Central Government grants to retrofit vehicles, both in England and Scotland, and through subsequent promotion of LEZ elsewhere, including in Dundee.
- 4.5 A LEZ in Dundee could result in the operation of newer/upgraded vehicles on commercial and supported Local Bus services to/from Dundee (on the assumption that the former remains commercially viable), but could also result in the use of older vehicles on school transport services within the Angus, outwith the Dundee LEZ.
- 4.6 The wider implications on fleet transport operators across the region are less straightforward to assess but it is anticipated that when the details of a LEZ for Dundee emerge then there will be full engagement with the Tactran Freight Quality Partnership and other bodies.

Bus Services

- 4.7 As drafted the Bill proposals would see a range of new powers that would allow Authorities to enter into new service delivery arrangements and to obtain information from bus operators. In particular to:
- 1) Enter into more effective and comprehensive partnership arrangements, Bus Service Improvement Partnerships (BSIPs);
 - 2) Enable the introduction of Local Franchising of bus services;
 - 3) Directly operate local bus services, in order to meet social needs; and
 - 4) Obtain passenger and fares information from operators withdrawing or revising bus services.
- 4.8 The Bill also proposes powers to Scottish Ministers to require bus operators, local transport authorities and the Scottish Traffic Commissioner to make information available to the public on bus services, including on routes, timetables and fares, and also on the operation of services real-time information.
- 4.9 It may be that, in due course, the development of one or more Bus Service Improvement Partnerships will be the most appropriate means to deliver bus services in the region, which would be the subject of future consideration and reporting to committee as appropriate.

Ticketing arrangements and schemes

- 4.10 This section of the Bill proposes to:
- 1) Extend existing local transport authorities powers regarding multi-operator ticketing arrangements to include connecting rail and ferry services;
 - 2) Give Scottish Ministers the power to set a national technical standard for smart ticketing;
 - 3) Set up a National Smart Ticketing Advisory Board;
 - 4) Make changes to what a local transport authority ticketing scheme can include and the process for making one;
 - 5) Require local transport authorities to produce annual reports on ticketing arrangements and schemes; and,

- 6) Give Scottish Ministers the power to direct a local transport authority to make or vary a ticketing scheme.
- 4.11 Through/smart ticketing, and ticketing arrangements and schemes have already been introduced in the region and apply in Angus. The extension of powers as detailed in the Bill place additional requirements on local transport authorities in relation to reporting on ticketing arrangements, as might the powers of Scottish Ministers to set standards and issues directions.

Pavement Parking and Double Parking

- 4.12 This section of the Bill covers issues around pavement and double parking. It includes proposals covering the following;
- 1) Providing local authorities with powers to enforce a national ban on double parking and pavement parking;
 - 2) The ability for local authorities to promote exemptions from the national ban, but they will be required to meet strict criteria;
 - 3) The Bill provides exceptions to certain vehicles if they are involved in emergencies or delivering goods;
 - 4) Detailed standards and guidance will be produced for local authorities to deliver a consistent approach in how they enforce the new parking restrictions;
 - 5) Providing local authorities with powers to share services with other Councils to enforce the new restrictions; and
 - 6) Requiring local authorities to keep accounts in relation to the money they received from the enforcement of the new restrictions.
- 4.13 The proposals within the Bill seek to make it easier for local authorities to ensure our pavements, footways and roads are safer and more accessible for all. Double parking and footway parking can reduce safety by increasing congestion, reducing safe access and creating impediments for all users but particularly for those with wheelchairs, mobility scooters or buggies. Such parking can potentially force customers onto a live carriageway.
- 4.14 The introduction of Decriminalised Parking Enforcement (DPE) in Angus in 2017 and the establishment of back office resource provide evidence and a track record that the proposals around pavement and double parking could be implemented successfully in Angus. There may be a need for additional staff resource within the Enforcement team to ensure continued levels of enforcement of DPE and off-street car parking charges.

Road Works

- 4.15 This section of the Bill covers a number of key aspects of how Road Works are managed and inspected:
- 1) Clarification on the legal status of the Scottish Road Works Commissioner (SRWC);
 - 2) Compliance notices with enforcement consequences for those who fail to take the required steps;
 - 3) Non-compliance with a Compliance Notice will be an offence, which will mean that the SRWC will become a specialist reporting agency, and be able to submit reports to the Procurator Fiscal;
 - 4) An inspection function for the Scottish Road Works Commissioner with associated enforcement powers and new offences including for obstruction;
 - 5) A requirement for reinstatement quality plans (to establish that organisations have the necessary processes and competence to execute road works to the required standards);
 - 6) Requirements to notify actual starts and works closed within specified timescales to improve the accuracy of information relating to road works on the Scottish Road Works Register; and
 - 7) A requirement to place details of all utility apparatus onto the Scottish Road Works Register.

- 4.16 These proposals will put in place a tighter compliance regime around the management and inspection of roadworks, which will impact on all organisations carrying out works in our road networks. This will apply not just utility companies but also the work that we ourselves undertake as the Roads Authority.
- 4.17 Specific duties will be placed on Roads Authorities within the Bill in relation to training and qualifications for staff and quality plans for roadworks.

Miscellaneous and general

- 4.18 This section of the Bill includes a proposal to allow Scotland's Regional Transport Partnerships (RTPs) to hold and operate capital funds, renewal and repair funds and insurance funds in a similar way to Councils. This will assist the RTPs with larger capital investment projects which cover more than one financial year and in the preparation of annual financial forecasting.

5. FINANCIAL IMPLICATIONS

- 5.1 There are staffing and financial implications associated with elements of the proposals set out within the Bill. However, given the early nature of the proposals within the Bill it is not possible to identify the specific financial implications in any detail. Financial implications that are identified will be subject to future reporting to committee as appropriate.

6. RISK

- 6.1 Given the early nature of the proposals within the Bill it is not possible to identify the specific areas of risk in any detail. Risks that are identified will be monitored and reviewed by officers and will be subject to future reporting to committee as appropriate.

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NOTE: No background papers, as detailed by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

Appendix 1 - Low Emission Zones

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

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

The Bill would grant Scottish Ministers the power to approve all LEZs and to set national rules for their operation. Do you support or oppose these proposals? Please choose the option which most closely matches your opinion.

	Strongly support	Support	Neither support nor oppose	Oppose	Strongly Oppose	No opinion
Scottish Ministers must approve all LEZ proposals		•				
Scottish Ministers' will have the power to specify certain types of vehicle that will be exempt from any LEZ scheme, e.g. emergency service vehicles		•				
Scottish Ministers' will be able to order a Council to review a LEZ and direct it to implement changes following that review		•				

The Bill would grant Councils the power to set the rules governing the operation of individual LEZs. Do you support or oppose these proposals? Please choose the option which most closely matches your opinion.

	Strongly support	Support	Neither support nor oppose	Oppose	Strongly Oppose	No opinion
Councils must specify a grace period of between 2 and 6 years for residents (1-4 years for non-residents) following the introduction of a LEZ, during which penalties will not be levied		•				
Councils will be able to suspend a LEZ for an event, held in or near the zone, that it considers to be of national importance		•				

	Strongly support	Support	Neither support nor oppose	Oppose	Strongly Oppose	No opinion
Councils can grant exemptions from LEZ requirements for individual vehicles, or types of vehicle (up to one year)		•				

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

Angus Council is in general support of the LEZ proposals within the Transport Bill. The impact on Angus will be from a neighboring authority, which may lead to adverse impacts on the quality of the buses and environmental impacts should older buses from the Dundee LEZ be redeployed on Angus routes. These adverse impacts need to be addressed through the introduction of LEZ, for which specific standards will be required to be set by Scottish Government to mitigate adverse impacts on areas outside LEZ.

Appendix 2 - Buses

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

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

The Bill would provide Councils with the following powers, aimed at improving local bus services. Do you support or oppose these powers? Please choose the option which most closely matches your opinion.

	Strongly support	Support	Neither support nor oppose	Oppose	Strongly oppose	No opinion
Provide bus service(s) where no commercial service is provided		•				
Work in a formal partnership with commercial operators to improve services		•				
Specify all aspects of local bus services, which will be provided by commercial operators following a tendering exercise		•				

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

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

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

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

Angus Council is in general support of the bus services proposals within the Transport Bill.

However, the proposed local transport authority powers to directly operate local bus services only in circumstances where there is no provision by the commercial sector is too limited. Whilst the opportunity to directly operate local bus services as an operator of 'last resort' would be welcomed, the proposals in the Bill as currently drafted places too high a financial risk on local transport authorities to do so. An authority could, in order to maintain service delivery, commence direct operation of a route or network or routes, increase the viability of that service or group of services only to find that some or all of the services become commercially attractive. A private operator may then enter or re-enter the local market, requiring the authority to cease direct operations despite the financial and other investment (e.g. in vehicles and depot infrastructure)

incurred to that date. It is considered that the Bill requires to be amended to protect local transport authorities from such a scenario, by either allowing the authority exclusive rights to continue to operate such services and/or the ability to compete with the commercial sector under that scenario.

Appendix 3 - Smart Ticketing

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

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

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

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

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

The proposal to require a national technological standard for smart ticketing is supported and is required to ensure interoperability of ticketing schemes and equipment, to the benefit of both the promoters of smart ticketing and the travelling public.

The creation of a National Smart Ticketing Advisory Board is also supported, provided that this Board is constituted in a manner that allows the requirements and expertise of all interested parties, operators, local transport authorities, regional transport partnerships and Transport Scotland to be fully represented.

The requirement for local (transport) authorities to publish annual reports on the use of their ticketing powers is not supported as it is not considered that this additional administrative burden on the relevant authorities without a material improvement in the delivery of ticketing schemes or availability of performance and information that is not already freely available in the public domain.

The proposed power for Scottish Ministers to direct local (transport) authorities to implement (or amend) ticketing schemes is not supported as it is considered that local transport authorities should retain the discretion to implement those ticketing schemes that they consider will be to the benefit of the public travelling to/from and within their administrative area(s).

Appendix 4 - Pavement parking and double parking

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

Do you support or oppose the proposed prohibitions on:

	Support	Oppose
Pavement parking	•	
Double parking	•	

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

Angus Council is supportive of the proposed prohibitions within the Bill. Parking on a footway can lead to reduced safe walking space to everyone. In particular it can be particularly detrimental to:

- very young children in prams/buggies and by extension, the maternity category i.e. parents pushing the prams;
- those in wheelchairs and those who require assisted walking; and
- Users of mobility buggies may be particularly adversely affected by footway parking in locations distant from dropped kerbs.

All of the above users of our footways could be forced onto a live road where footway parking occurs. Greater restrictions on footway parking would therefore have a beneficial impact on the user groups above and for all users of the footway network.

Making parking on footways illegal should create a safer environment for pedestrians and if the proposals were to reduce damage to footways caused by overrunning vehicles, this would have a positive impact on the environment owing to the reduced requirement for new materials for repairs.

Angus Council has implemented Decriminalised Parking Enforcement and therefore has already established back office systems that could support the enforcement of pavement parking and double parking. However, the implementation of pavement parking and double parking would place a financial burden on this service and the council, for which adequate funding would be required through Scottish Government settlements.

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

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

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

Overall, do you support or oppose the proposed exemptions? Please choose the option which most closely matches your opinion.

	Strongly support	Support	Neither support nor oppose	Oppose	Strongly oppose	No opinion
Overall view of proposed exemptions	•					

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

Whilst, within this survey, it states that “Bin lorries” will be exempt Part 4 of the Bill, Article 47 Paragraph (3) (a) (iii) only allows for “the collection of waste by or on behalf of the local authority” to be exempt.

Trade waste collections, particularly in larger towns and cities, may be undertaken by private waste management companies, without any involvement of the local authority. The Bill should therefore read “the collection of waste” with “by or on behalf of a local authority” removed from the sentence.

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

•	Support
	Oppose

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

Angus Council considers that the legislation should be framed to allow the Traffic Authority to make Traffic Orders permitting footway parking in specified areas.

The Road Traffic Regulation Act 1984 already contains adequate provisions for the Traffic Authority to make Traffic Orders permitting footway parking in specified areas. Any new Act should be written in such a way as to ensure this power is not limited.

Exemptions would allow Local Authorities to permit footway parking where:

- a ban would cause serious problems; and
- loading or unloading could not have been satisfactorily performed if the vehicle had not been parked on the footway.

Angus Council would also comment that any Parking Standards document should indicate:

- that loading/unloading exemptions would only apply if the carriageway would otherwise be completely blocked;
- there should be a requirement to ensure a minimum of 1.2metres clear footway width is maintained to allow for unimpeded pedestrian passage, where an exemption is permitted; and
- how living streets and shared road spaces are to be accommodated by the proposals in the Bill.

Appendix 5 – Road Works

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

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

The Scottish Road Works Commissioner is NOT responsible for works being undertaken in roads on Scotland - which rests with local authorities, utility companies and their contractors.

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

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

Do you support or oppose these powers? Please choose the option which most closely matches your opinion.

	Strongly support	Support	Neither support nor oppose	Oppose	Strongly oppose	No opinion
Inspection power		•				
Power to issue compliance notices		•				
Power to issue fixed penalty notices for non-compliance		•				
Requirement to provide annual reports to Scottish Ministers on use of powers		•				

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

The stated intention of the Bill is to grant the Commissioner and Commission Staff new powers to investigate and take enforcement action against organisations that failed to comply with statutory road works requirements. Although in most respects the proposals as drafted would apply equally to all parties undertaking works in the road, there are a couple of restrictions on the powers of the commissioner to inspect works by third parties with permission under the Roads (Scotland) Act 1984 (RSA) and works taking place without the necessary permission from the roads authority. The Commissioner would not have the power to examine or conduct tests on any equipment used on such works or to enter premises being used by those undertaking such works. Works in the road by developers with permission under RSA can be very substantial and it works without permission would raise particular concerns regarding compliance. It is, therefore, suggested that the same powers should be available to the Commissioner in relation to all works in the road.

Amending the proposals would allow the Commissioner to take action against those working in the road unlawfully without compromising the ability of the roads authority to require remedial measures to be taken or in default to undertake such measures and recover the costs.

The Bill would create place new duties/requirements on those undertaking road works on behalf of a local authority. Do you support or oppose these powers? Please choose the option which most closely matches your opinion.

	<i>Strongly support</i>	<i>Support</i>	<i>Neither support nor oppose</i>	<i>Oppose</i>	<i>Strongly oppose</i>	<i>No Opinion</i>
New statutory duty on local authority road works to meet fencing and lighting requirements		•				
Ministers can issue a code of practice for safety at local authority road work sites		•				
New statutory requirement for local authority road works to be supervised by a suitably qualified person		•				

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

Angus Council considers that this represents best practice in the execution of works in the road and supports the proposals in the Bill.

The Bill would create place new duties/requirements on those undertaking road works. Do you support or oppose these powers? Please choose the option which most closely matches your opinion.

	Strongly support	Support	Neither support nor oppose	Oppose	Strongly oppose	No opinion
New requirement for actual commencement and completion date notices to be placed in the Road Works Register within a prescribed period		•				
Anyone undertaking road works, or works to a road (except roads authorities) must have either a site specific, or general road reinstatement quality plan in place		•				

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

It is agreed in principle that actual commencement and completion notices should be placed on the Road Works Register.

However, it will be important when drafting the regulations to take account of the limitations on mobile network cover in areas such as Angus Glens which may delay the transmission of such notices from site to the register.

A requirement for reinstatement quality plans may assist in the promotion of good practice but past experience suggests that these are not infallible and so there will still be a need for some inspection and testing by the roads authority.

Appendix 6 - Scottish Canals/Regional Transport Partnership finance

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

The Bill would allow allow a Regional Transport Partnership to establish:

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

Do you support or oppose these proposals?

•	Support
	Oppose

What is the reason for your answer?

Angus Council is of the view that it is necessary to clarify whether a Regional Transport Partnership is able to build up, and carryover, a financial reserve from one financial year to the next.

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

•	Support
	Oppose

What is the reason for your answer?

Angus Council supports the approach to ensuring that a public board has as wide a range of skills and experience as possible.