



### Scotland's Low Emission Zones – Transport Scotland Consultation on Regulations and Guidance – SPT response

**Committee** Strategy and Programmes

**Date of meeting** 7 February 2020

**Date of report** 15 January 2020

#### Report by Chief Executive

#### 1. Object of report

To recommend approval of SPT's draft response to Transport Scotland's consultation on the scope of future regulations and guidance covering Low Emission Zones (LEZs)<sup>1</sup>. SPT's draft response is attached at Appendix 1. The closing date for responses is 24 February 2020.

#### 2. Background

- 2.1 Scotland is facing legal (environmental), health and social justice challenges around air pollution, where non-compliance with domestic and European air quality legislation is due predominantly to road-based emissions. Poor air quality has been classified as the largest environmental risk to public health in the UK<sup>2</sup> and described by the World Health Organization as "a public health emergency"<sup>3</sup>. It is estimated that between 28,000 and 36,000 premature deaths in the UK every year could be linked to long-term exposure to air pollution<sup>4</sup>.
- 2.2 Pollution hotspots associated with nitrogen dioxide and particulate matter remain in a number of Scottish towns and cities. In Glasgow city centre, levels of harmful nitrogen dioxide were being recorded at levels which do not meet statutory expectations. The main source of this air pollutant within the city is from road traffic.
- 2.3 To help tackle these challenges, the 2018 Programme for Government committed to the introduction of LEZs into Scotland's four biggest cities between 2018 and 2020. Subsequently, the Transport (Scotland) Act 2019 enables the creation and civil enforcement of Low Emission Zones by local authorities, and allows the Scottish Government to set consistent national standards for a number of key aspects including emissions, penalties and exemptions.

<sup>1</sup> <https://www.transport.gov.scot/media/46548/scotland-s-low-emission-zones-consultation-on-regulations-and-guidance.pdf>

<sup>2</sup> Defra and Public Health England, Air Quality, March 2017, p.19

<sup>3</sup> The Guardian, Shock figures to reveal deadly toll of global air pollution, 16 January 2016

<sup>4</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/734799/COME\\_AP\\_NO2\\_Report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/734799/COME_AP_NO2_Report.pdf)

- 2.4 A Low Emission Zone (LEZ) is an area where a person may not drive a vehicle, which does not meet a specified emission standard. LEZs are intended to reduce pollution levels and improve air quality in areas where standards are not being met. LEZs are based on a penalty notice approach to effectively ban non-compliant vehicles.
- 2.5 'Reduced Emissions' is a key outcome of the current Regional Transport Strategy (RTS). SPT is in the process of developing a new RTS and has embedded consideration of the impacts of climate change and emissions into the development process.
- 2.6 The Scottish Government published its air quality strategy 'Cleaner Air for Scotland – The Road to a Healthier Future' (CAFS) in 2015<sup>5</sup> bringing together partner organisations across the public and private sectors to take forward the actions across major policy areas relevant to air quality - climate change, transport, planning, health and energy within one overarching framework. The CAFS vision is for Scotland to have the best air quality in Europe and the strategy sets out 40 actions relating to these policy areas, with the primary focus being on urban air quality.
- 2.7 SPT is a member of both the CAFS Governance Group and the National Low Emission Framework (NLEF) Steering Group. NLEF contributes to the CAFS vision by helping to improve local air quality in areas where Scottish Air Quality Objectives (AQOs) are exceeded, or likely to be exceeded, and where transport is identified as the key contributor.
- 2.8 In late 2018, the Scottish Government announced a review of CAFS<sup>6</sup> to assess the progress of the Strategy and recommend priorities for further action. The review published its findings in August 2019 and concluded that while Scotland is performing relatively well by EU comparisons, more remains to be done. In particular, the review states "There are clear challenges around the leadership and management of the transport context. There is a great deal to do around achieving modal shift, faster uptake of cleaner engines, counteracting the continued increase in private car use, tackling congestion."
- 2.9 Glasgow City Council became the first local authority in Scotland to introduce a LEZ in Glasgow city centre on 31 December 2018<sup>7</sup>. Glasgow's LEZ is being phased in, and to start with, only applies to local service buses. By 31 December 2022, when the LEZ is fully implemented, all vehicles entering the zone will require to meet specified exhaust emission standards. SPT has worked closely with Glasgow City Council and bus operators in the roll out of the Glasgow LEZ providing advice and technical support on its implementation.
- 2.10 The LEZ consultation seeks views on the scope of national regulations and guidance covering: emission standards; exemptions; penalty charging; enforcement regime; consultation; performance of the scheme; purpose and objectives; and the approved devices to be used to monitor compliance. In addition to seeking respondents' views on the proposed regulations and guidance, the consultation also seeks views on the ambition to achieve "a transformative shift to zero or ultra-low emission city centres by 2030."

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<sup>5</sup> <https://www.gov.scot/publications/cleaner-air-scotland-road-healthier-future/>

<sup>6</sup> <https://www.gov.scot/publications/cleaner-air-scotland-strategy-independent-review/pages/15/>

<sup>7</sup> Update to Partnership on Glasgow LEZ, December 2019:

[http://www.spt.co.uk/documents/latest/SPTP131219\\_Agenda9.pdf](http://www.spt.co.uk/documents/latest/SPTP131219_Agenda9.pdf)

### **3. Outline of proposals**

3.1 SPT's draft response to the consultation is attached at Appendix 1. The key points of the response are as follows:

- While SPT is supportive of the ambition to achieve zero or ultra-low emissions by 2030, we highlight that this will only be achieved by committing strong leadership, funding and resources dedicated to the task. In particular, from a transport perspective this will require significant and sustained investment in sustainable travel to promote modal shift away from over-reliance on the private car.
- Moves toward zero or low-emission city centres must also be undertaken on the basis of a "just transition" i.e. in line with the Paris Agreement and the Scottish Climate Change Act 2019. In effect this means taking into account the impacts of the introduction of the LEZ on a range of groups – from people and communities through to industry (e.g. bus operators) to ensure that its impact does not adversely affect specific groups disproportionately, particularly those in our most vulnerable communities who have the greatest reliance on some public transport services.
- SPT supports the proposed penalty charge proposals outlined which are in line with current arrangements for parking and bus lane penalties.
- SPT considers that there is a case to exempt Community Transport (CT) vehicles given the vital role CT plays in keeping communities connected, helping to tackle poverty and inequality and reducing social isolation.
- The proposed guidance includes a list of bodies that local authorities would be required to consult when proposing a LEZ and also a list of bodies it does not need to consult. The latter includes trade bodies representing the transport sector and users of public transport. SPT's response calls for these groups to be included in future consultation. This should include both the Confederation for Passenger Transport and the Community Transport Association, the former representing the bus and coach sector, and the latter representing Community Transport operators. Similarly, users of public transport could be represented via Bus Users Scotland (BUS) and Passenger Focus who monitor the transport network and act as the voice of transport users.

### **4. Conclusions**

In line with the Transport (Scotland) Act 2019, Transport Scotland is currently consulting on the regulations and guidance for LEZs. SPT has prepared a response to the consultation attached at Appendix 1. SPT officers will continue to keep the Committee apprised as the guidance progresses.

### **5. Committee action**

The Committee is recommended to approve the response at Appendix 1.

## 6. Consequences

Policy consequences	<i>In line with current and emerging RTS.</i>
Legal consequences	<i>None at present.</i>
Financial consequences	<i>None at present.</i>
Personnel consequences	<i>None at present.</i>
Equalities consequences	<i>None at present.</i>
Risk consequences	<i>None at present.</i>

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**Title** Chief Executive

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## Appendix 1

### Transport Scotland Consultation on Low Emission Zones Regulations and Guidance – SPT response

#### Emission Standards

Question 1a Do you agree with the proposed present-day emission standards for Scottish LEZs? If not, why not?

*SPT response: Yes*

Question 1b What are your views on Scotland making a transformative shift to zero or ultra-low emission city centres by 2030? Please be as specific as possible in your reasoning.

*SPT response: We would note that while reference is made here to achieving “zero or ultra-low emission city centres by 2030” that the Scottish Government is yet to consult formally on this ambition. In our view it is not appropriate to consult on this ambition through this consultation which is on the technical and administrative arrangements for LEZs.*

*That said, these are hugely ambitious targets which we support on the proviso that the ambition is matched by intent, resource and decisive action. In particular, we would wish to see commitment to policies which will result in genuine modal shift from private car use to sustainable transport in order to significantly reduce transport’s impact on overall emissions, which are the single greatest contributor.*

*In addition, moves toward zero or low-emission city centres must also be undertaken on the basis of a “just transition” i.e. in line with the Paris Agreement<sup>1</sup> and the Scottish Climate Change Act 2019<sup>2</sup> such that we “plan, invest and implement a transition to environmentally and socially sustainable jobs, sectors and economies, building on Scotland’s economic and workforce strengths and potential.” It is worth noting that “... expenditure on transport infrastructure in London is over five times greater per head of population than in Scotland.<sup>3</sup> As such a quantum leap in investment in sustainable transport will be required if this target is to be achieved.*

*As noted in the consultation document, it will be essential to ensure that early consideration is given to the potential impacts on bus operators of emission standards including any future proposals to make the standards more stringent. This will include consideration of the necessary investment to ensure that the bus fleet is compliant in terms of the 2030 ambition for zero or ultra-low emission city centres. We consider that commitment should be given to a supporting programme of investment in retrofitting and new green buses in partnership with bus operators, Regional Transport Partnerships, local authorities and other stakeholders.*

*While focus on city centres is crucial, we would be concerned if the consequence of LEZs was that older, more polluting buses were to be deployed outwith city centres or that there was any reduction in services as a consequence of the challenge of ‘greening’ the fleet. This is all the more important given that bus is by far the largest public transport mode providing vital links for some of our most deprived communities.*

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<sup>1</sup> [https://unfccc.int/files/meetings/paris\\_nov\\_2015/application/pdf/paris\\_agreement\\_english\\_.pdf](https://unfccc.int/files/meetings/paris_nov_2015/application/pdf/paris_agreement_english_.pdf)

<sup>2</sup> <http://www.legislation.gov.uk/asp/2019/15/contents/enacted>

<sup>3</sup> <https://www.gov.scot/publications/just-transition-commission-background-report/>

## National Exemptions

Question 2(a) Which of the proposed national LEZ exemptions do you agree with? Please be as specific as possible in your reasoning.

*SPT response: We support the proposed national vehicle type exemptions as outlined. However, in relation to potential time limited extensions we would wish to see as much consistency of approach as possible to avoid confusion and uncertainty across local authority areas. Such extensions should only be introduced in exceptional circumstances to ensure the integrity of the LEZ.*

*As noted in the consultation document, it will be important to have clear guidance around the arrangements for blue badge, which are assigned to the person and not the vehicle.*

Question 2(b) Are there any other LEZ exemptions you would propose? If so, what should these exemptions be and why?

*SPT response: Yes. We consider that there is a case to exempt Community Transport (CT) vehicles given the vital role CT plays in keeping communities connected, helping to tackle poverty and inequality, and reducing social isolation. Given reductions in commercial bus services and the limited funding available to provide public support for socially necessary services, CT is becoming an increasingly important part of the transport mix, helping to plug gaps and also providing opportunities for communities to link to the wider bus network. This is particularly vital in rural and remote rural areas where the level of bus service available can be limited. However, it is also the case that Community Transport plays a vital role in our cities.*

*While SPT and our local authority partners do provide much needed funding to support the sector e.g. in Glasgow SPT provides support for North Area Transport Association (NATA) and Community Transport Glasgow (CTG), funding is nonetheless constrained and will not address the need for a compliant CT fleet. As such serious consideration should be given to exempting the CT sector, or alternatively to provide ring-fenced support for new compliant vehicles.*

## Penalty Charges

Question 3a Do you agree with the proposed base level and subsequent tiers of penalty charges for each vehicle type as outlined in Table 5? Please explain your answer.

*SPT response: Yes. This would appear to be the most equitable approach. We would suggest that penalty charges should be linked to RPI or CPI to reflect inflationary impacts and to ensure the impact of penalty charges on compliance does not diminish over time.*

Question 3b Which surcharge 'curve' in Figure 1 represents the best approach to designing a surcharge?

*SPT response: As per proposed tiered approach proposal outlined at paragraphs 61 – 64.*

Question 3c How should the surcharge approach be applied in order to discourage non-compliant vehicles from driving within a LEZ?

*SPT response: As per proposed tiered approach proposal outlined at paragraphs 61 – 64.*

Question 3d How many days should lapse before a registered keeper of a vehicle returns to the base tier of the penalty charge?

*SPT response: As per paragraph 64.*

## **Enforcement Regime**

Question 4 Do you agree with the general principles of the LEZ enforcement regime? If not, why not?

*SPT response: Yes.*

## **Prior Consultation**

Question 5 What are your views on the proposed list of 'other persons' that local authorities must consult with on their LEZ plans?

*SPT response: We note the list of persons / organisations the SG intends for LAs not to consult. This list includes 'Trade Bodies representing the transport sector'. In our view both the Confederation for Passenger Transport and the Community Transport Association should be consulted, the former representing both the bus and coach sector, (particularly given that 'coach companies' are also on the list of those not to be consulted), and the latter representing 'Community Transport Operators' (again, on the list of those not to be consulted). The approach outlined is to some extent at odds with those listed who will be consulted e.g. Section 80 includes 'such persons as the authority considers represent the interests of (amongst others) – the bus and coach industry'*

*Moreover, 'Users of public transport' and 'bus users', are on the list of those not to be consulted. It is our view that it is essential that the views of public transport users should be captured and this could be effectively done through organisations such as Bus Users Scotland and Transport Focus.*

## **Performance of a scheme: Direction to carry out a review and actions following a review**

Question 6 If a LEZ scheme review was undertaken, what elements would you expect the review to investigate and how would the review ensure transparency and accountability?

*SPT response: The principal consideration in any review should be whether improvements in air quality and emission reductions are being met and whether rates of contravention are reducing.*

*To ensure transparency, democratic oversight and public accountability any review should be undertaken by local authorities in conjunction with Regional Transport Partnerships.*

## **Guidance**

### **Purpose and objectives of a LEZ**

Question 7 What secondary objectives should be created for LEZ schemes? Please be as specific as possible in your reasoning

*SPT response: The measures included on page 31 of the consultation document form a good basis for secondary or supporting objectives.*

*While such objectives are welcome, other measures will be needed to drive improvements in air quality, reduce emissions and make our cities more attractive. These include higher parking charges, investment in greener buses, tackling transport affordability, and higher density development with adjacent public and active travel, among other measures.*

### **When a LEZ comes into effect**

Question 8 Do you agree with the steps outlined in Figure 2 for enabling a LEZ scheme to come into effect? If not, why not?

*SPT response: Yes, but the step structure shown in Fig 2 p32 should reflect the need for statutory measures, and not simply voluntary measures with limited impact.*

*Such is the scale of the challenge to meet the ambitious target for zero / low-emission cities, we will need to use “sticks” and not simply “carrots”. As noted earlier, this will require leadership and commitment to change.*

### **Approved devices and technological opportunities**

Question 9 How can local authorities maximise the technological opportunities available from the deployment of approved devices?

*SPT response: By working in collaboration with the private sector and partners in the academic sector.*

### **Assessing Impact**

#### **Equality impact assessment and Fairer Scotland duty**

Question 10 What positive or negative impacts do you think the LEZ proposals outlined within this consultation may have on:

- (a) particular groups of people, with particular reference to ‘protected characteristics’ listed above
- (b) the very young and old
- (c) people facing socioeconomic disadvantages

*SPT response: The proposals have the potential to improve the accessibility and equity of the transport network in the longer term for all people with protected characteristics as they will make our city centres safer and more attractive places. However, as noted earlier, moves toward zero/low-emission cities should meet the principles set out by the Just Transition Commission. In reviewing the performance of LEZs it will be important to address the extent to which access to public transport has been affected and whether communities have been negatively impacted by service withdrawals where operators have been unable to commit to investment in new or adapted vehicles. It will be important to review air quality impacts outwith LEZs to ensure negative impacts have not simply been transferred. Such negative impacts are likely to be borne by women, older people, young people, people with a disability and people facing socioeconomic disadvantage since they are most reliant on public transport and in particular, bus services.*



*To this end, any surplus revenue from penalty charges should be ring fenced and diverted to investment in services and infrastructure which supports sustainable travel particularly to support our most vulnerable communities.*

*The introduction of LEZs should also be seen as an opportunity to deliver a step change in sustainable transport and an opportunity to deliver significant modal shift. Simply viewing LEZs as a way to deliver air quality improvements through transition to greener vehicles should not be the be all and end all. While the transition to hybrid and electric cars is welcome and necessary without restraint measures and investment in sustainable alternatives, private cars will continue to contribute to poor air quality, congestion and road accidents in turn reducing our safety, the quality of our city centres and affordability and attractiveness our public transport and active travel networks.*

## **Business and Regulation**

Question 11 Do you think the LEZ proposals outlined within this consultation are likely to increase, reduce or maintain the costs and burdens placed on business sectors? Please be as specific as possible in your reasoning.

*SPT response: They may possibly increase costs in the short term but overall provide cost benefits for businesses generally as city centres become more attractive places to live, work and visit, and where people have access to sustainable, affordable and attractive public transport and active travel solutions. In particular, moves to encourage more people to live in our city centres will contribute to the sustainability of our high streets and reduce the impact of unsustainable car trips.*

## **Data Protection Impact Assessment**

Question 12 What impacts do you think the LEZ proposals outlined in this consultation may have on the personal data and privacy of individuals?

*SPT response: With careful governance arrangements in place, this should not be an issue.*

## **Environment**

Question 13 Do you think the LEZ proposals outlined in this consultation are likely to have an impact on the environment? If so, which ones and how? Please be as specific as possible in your reasoning.

*SPT response: There is the potential for displacement of negative air quality impacts e.g. to town centres and out of town shopping centres. There is also the potential that only limited overall reductions of carbon emissions will be achieved without bold measures to reduce private car use.*

Question 14 Do you have any other comments that you would like to add on the Scottish Government's LEZ proposals outlined within this consultation?

*SPT response: LEZ proposals should be part of a wider strategy to support sustainable transport in line with National, Regional and Local Transport Strategies.*