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**SCOTTISH
GOVERNMENT
TRANSPORT BILL**

**GETTING
THE BILL
RIGHT**



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Summary: congestion suffered by buses had increased by c. 8% (0.9 percentage points)
not 0.9% in the period quoted.

Executive Summary

The Scottish Government's Transport Bill arrives amid a difficult transition in what we are asking our transport system to do. The central purpose of transport, to connect people and businesses, is as vital as it ever has been; but we are also increasingly aware of the secondary impacts that our transport networks have, on pollution, urban realm, equality and health. If the Scottish Government's goals of creating strong, inclusive and sustainable economic growth are to be realised then we will need to ask hard questions of how transport functions and how we need it to perform differently.

We want a transport system that supports liveable, people-centred places rather than blighting our cities with congested streets designed around the needs of car-users; we need transport to contribute to a significant decrease in carbon emissions and health-harming pollutants rather than lagging behind other sectors; we want to ensure all our citizens have access to affordable and convenient forms of transport, minimising social exclusion; and we want to promote healthy forms of active travel such as walking and cycling wherever possible, helping to fight Scotland's obesity epidemic.

Transform Scotland has been proudly advocating such a progressive agenda on transport since it was formed in 1997. And we are pleased to see that some of these objectives are now gaining broader support and translating into policy action. There have been a number of welcome commitments by Scottish Ministers in recent months: the doubling of funding for walking and cycling in the 2017-18 Programme for Government, committing to Low Emission Zones in our cities, and supporting an accelerated phase-out of fossil fuel-powered vehicles.

Yet despite this progress, many trends are failing to improve, and some continue to worsen. Unfortunately, it is by now evident that the previous general transport bills passed by the Scottish Parliament (the 2001 and 2005 Transport Acts) were largely ineffective in tackling the issues outlined above. Above all else, they failed to meet their stated objectives to deliver sustainable and integrated transport, tackle congestion, or reduce carbon emissions:

- **Share of journeys** made by public transport, walking and cycling is the same as it was in 1999;
- **Carbon emissions** from transport decreased by only 1.1% between 1990 and 2015;
- **Congestion** increased by c. 8% between 2003 and 2016 (0.9 percentage points);
- **Bus patronage** has declined by 14% since 2001.

As such, this year's Scottish Government Transport Bill provides an important opportunity to start turning round some of these adverse trends. We expect the Bill to bring forward useful measures on a number of important aspects of transport, including bus services, integrated ticketing, irresponsible parking, and road works.

But we are concerned that the Transport Bill will not go far enough and address the challenges outlined above with the urgency they require. This paper sets out how the Scottish Government can *get the Bill right*, and brings forward recommendations for a successful Transport Bill, including:

- Creating a **new decriminalised offence** to enforce bus lanes and cycle lanes
- Allowing local authorities to take on **lane rental powers and permit schemes**
- Simplifying local authorities' **powers for improving local transport**
- Introducing enabling legislation for **Private Non-Residential Parking Levy schemes**.

In particular, Scotland's large urban areas face severe problems of congestion and pollution, and, for this blight to be tackled, it is imperative for new road traffic demand management measures to be put in place. As such, the Bill will need to be bolstered to provide Local Authorities with the tools to take effective action. As we suggest in this report, the Bill should provide Local Authorities with the powers to implement Private Non-Residential Parking Levy schemes.

We look forward to welcoming many of the measures expected to be contained in the Bill. However, we are keen that it be sufficiently strengthened so that, unlike the earlier transport Acts passed by the Scottish Parliament, this new Transport Bill provides effective powers to deliver real change towards achieving a transformation in how our transport system functions. It would also help meet the Scottish Government's objectives of delivering strong, inclusive and sustainable economic growth.

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1. Introduction

The Scottish Government's *Programme for Government* of September 2017 confirmed the intention to bring forward a general Transport Bill. It is understood that the Bill will include measures on four principal topics: bus services, smart ticketing, parking, and road works:

The Bill will contain provisions on smart ticketing on public transport in Scotland and to tackle obstructive and inconsiderate parking. It will also enhance and improve the role of the Scottish Road Works Commissioner and the wider regulation of road works and provide local transport authorities with a viable and flexible set of options to influence the provision of bus services in their area to better meet local users' needs.¹

The Bill, which we understand is due for publication before the summer recess (at the end of June 2018), provides an opportunity to address challenges faced by public transport, those travelling on foot and by bike, and with transport more generally.

We expect to welcome many of the provisions that the Government intends to come forward with as part of the Bill. However, we consider that there are practical ways in which the Bill's provisions could be strengthened. We discuss these in sections 2-5 of this report. Meanwhile, in sections 6-7, we set out two areas which, while already in full view of the Scottish Ministers, we understand are not at present due for inclusion in the Bill.

For the sake of delivering a sustainable transport system, it is critical that the Scottish Ministers bring forward an effective and powerful piece of legislation, and that the Scottish Parliament carry out its duty of scrutinising the Bill. This document sets out Transform Scotland's recommendations for strengthening the Transport Bill, and we look forward to discussing its proposals with the Scottish Government and in the Scottish Parliament.

2. Bus services

A national lead is certainly needed for bus services, but there are no universal solutions; the bus industry is as varied as the areas it serves. The decline in passenger numbers is currently unevenly distributed, with growth in the Highlands and Islands, a small increase in the South-East, but decline in the South-West, North-East, Tayside and Central, and particularly in Strathclyde. The task is to create the conditions in which bus patronage can grow, reflecting local needs.

Transport Scotland's 2017 consultation on bus services focused on the regulatory and ownership regime of buses; other consultations held during the same period (i.e. on smart ticketing; Low Emission Zones; and on concessionary fares) also addressed issues for bus services. However, as we set out in our response to the bus services consultation,² regulatory and ownership change is not sufficient to equip the bus industry to meet Scotland's economic, social and environmental needs. There is a risk of losing years of effort and resources, while services at least in some areas decline from ill-health to terminal.

There is therefore a need to focus on the key issues facing bus decline:

2.1. Congestion

Slow and unreliable bus journey times are a major deterrent to bus travel.³ The Transport Bill presents a unique opportunity to resolve this issue by tackling congestion, which is the leading cause of slow bus journey times. Reducing traffic levels has multiple benefits, including reduced journey times, lowered air pollution and carbon emissions, and increased economic activity through less time lost sitting in traffic. Local Transport Strategies

¹ Scottish Government (2017) *A Nation With Ambition: The Government's Programme for Scotland 2017-18*. Available at <<http://www.gov.scot/Resource/0052/00524214.pdf>>. This quote is from page 30 of the document.

² Available at <<http://transformscotland.org.uk/wp/wp-content/uploads/2017/12/Local-Bus-Services-in-Scotland-Transform-Scotland-response-2017-12-05.pdf>>.

³ Scottish Centre for Social Research (2010) *Understanding why some people do not use buses*. Available at <<http://www.gov.scot/Publications/2010/04/23115458/0>>.

(LTS) commonly set out plans to deal with congestion. Local Authorities once almost universally adopted and updated LTSs; however, this has largely fallen by the wayside in recent years. Local Authorities should be expected to set out a strategic approach to transport in their area, consistent with national goals on reducing congestion; increasing a modal shift to public transport, walking and cycling; and reducing air pollution and carbon emissions.

RECOMMENDATION 1: The Bill should require Local Authorities to produce, and keep up to date, Local Transport Strategies which are consistent with national objectives on transport. As well as on social and environmental objectives, LTSs' objectives should support and promote the expansion of bus services, walking and cycling.

The wider public sector has a significant role to play in achieving a modal shift to sustainable modes of transport and reducing congestion. As such, all Public Bodies should have a duty to support and promote walking, cycling and public transport in their plans, policies and strategies. Our own 2013 research found that 60% of Scotland's main public sector bodies had no plans in place to reduce their transport impacts.⁴ We have seen nothing in the interim to convince us that significant, concerted action has been taken to remedy this situation; in particular, the climate change public bodies duties appear to have been largely ineffective in driving change.⁵

RECOMMENDATION 2: The Bill should require all Public Bodies to actively support and promote walking, cycling and public transport in their plans, policies and strategies.

2.2. Bus priority

Bus priority measures are one of the best tools to reduce bus journey times. However, Local Authorities appear reluctant to progress new bus priorities, and sometimes to enforce existing ones. Few if any new bus lanes have been installed in Scotland in recent years, despite their clear benefits. This may be because of road space conflicts or the cost of installation. A programme of new measures in Edinburgh took from 2003 to 2008 to implement, but bus lane hours were quickly reduced in 2015. In 2016, Lothian Buses patronage fell for the first time since 1998 (apart from two years' disruption during tram construction). In December 2017, the operator warned of the need to extend bus lanes. Less visible priority measures such as at traffic signals are valuable, but do not send the clear message that a highly visible bus lane does. Bus lanes are often poorly maintained, sending out a message that they are not valued.

Specific measures to encourage the development of bus lanes must simplify and reduce the cost of doing so, so that it is at least no more difficult and expensive than withdrawing or de-scoping them. One step could be to use the existing Bus Stop Clearway Order as a template, but ensuring reasonable provision for consultation. Councils should also be actively encouraged to introduce bus priority measures in their area through Traffic Regulation Orders.

Poor enforcement of bus lanes and other infrastructure means that one ineligible vehicle can significantly affect journey times. Static bus lane cameras are useful, but need either to be much more numerous, or to be complemented by on-bus cameras (which can record static as well as mobile vehicle offences). Bus Stop Clearways and other TROs at bus stops also need to be enforced. The use of Automatic Number Plate Recognition (ANPR) systems should be considered to aid enforcement.

Using on-board bus cameras to enforce bus lanes would also be a powerful enforcement tool. For a number of reasons, no Scottish Local Authority currently does so, but of the factors involved none are insurmountable:

1. Cameras on buses need technical certification for each type of bus model/camera combination. However, this has been achieved in London, and it is not clear why that system cannot be applied in Scotland. The Transport Bill should streamline this process.
2. There could be issues with buses' onboard telematics, which would need to be rectified before applying for certification. A type specification could be introduced by the Bill.

⁴ Transform Scotland (2013) *Doing Their Duty?*. See <<http://transformscotland.org.uk/what-we-do/research/doing-their-duty/>>.

⁵ Sustainable Scotland Network (2018) *Scottish Public Bodies Climate Change Reporting 2016/17 Analysis Report*. Available at <<https://www.keepsScotlandBeautiful.org/media/1560977/ssn-cc-analysis-report-300118-v2.pdf>>.

3. Agreement with third party bus companies, including access to service equipment, could be made a statutory requirement (potentially similar to measures required for a Smartcard system).

RECOMMENDATION 3: The Bill should streamline the process for certifying bus model/camera combinations, and address onboard telematics. This should also provide for agreements between bus companies and local authorities intending to use the new provisions, providing for access to service the equipment.

2.3. Service standards

A final issue relates to passenger expectations and perceptions. There is currently no mechanism to define a reasonable level of bus service, or whether it is being met. Therefore it is impossible to identify reasonable expectations, and it is difficult to compare services in different areas. The Scottish Government could indicate, for example, standards for:

- Desirable network coverage, operating hours, frequencies, fares;
- Fleet environmental standards;
- Cleanliness and comfort;
- Personal security;
- Customer care.

Such standards would not be set out in the Transport Bill, but in associated regulations or guidance; allowing flexibility to update them from time to time without fresh legislation. However, the Bill would establish that the Government should do so. When the time comes to setting the standards, they should avoid systems which lead to the manipulation of services to meet targets rather than actual need, and the creation of a bureaucracy to monitor them.

RECOMMENDATION 4: The Bill should establish that expected service standards for bus services be set out in associated regulations or guidance.

3. Smart Ticketing

Smart ticketing is a vital tool to make public transport easier and more attractive to use. Smart ticketing is also increasingly important in light of potential future disruptive technologies, such as the 'Mobility as a Service' concept, which implies a future in low car ownership and a much greater flexibility of modal choice.

As set out in our response to Transport Scotland's smart ticketing consultation, any scheme must be fully integrated with all modes of public transport, convenient and easy to use. A national smartcard which simply stores value (an 'e-purse') is not sufficient; instead it must provide value-for-money and seamless travel on public transport:

- Being fully integrated with all public transport modes, including cycle hire schemes;
- Ensuring transport centres (e.g. rail and bus stations) are fully able to sell tickets across Scotland;
- A national network of agents able to sell tickets;
- An online point of purchase;
- Ensuring it allows users to clearly choose the best value option.

RECOMMENDATION 5: The Bill should implement a national smart ticketing scheme, with a smartcard providing value-for-money and seamless travel on public transport.

4. Parking

4.1. Pavement parking

Transport Scotland's consultation on parking was geared towards addressing parking on pavements. Our response agreed that this is a significant issue. A ban on pavement parking should be implemented, as set out in our response.

4.2. Parking in bus lanes, bus stops and cycle lanes

Transport Scotland's parking consultation largely missed the opportunity to discuss the issues created by parking in bus lanes, at bus stops (discussed above), and in cycle lanes. Parking in cycle lanes causes significant disruption to people choosing to cycle. This also presents serious safety issues, and is arguably a factor which puts people off choosing to cycle in urban areas. It is essential that the Transport Bill addresses the issue of parking in bus and cycle lanes as well as pavement parking. Creating a new decriminalised offence allowing traffic attendants to enforce stationary bus lane offences (e.g. parking in a bus lane in operational hours) without need to reference waiting and loading restrictions would avoid the need to promote or amend waiting and loading restrictions to advertise TROs, and be quicker. It would therefore reduce costs. In turn this might make bus lanes affordable for smaller local authorities which have decriminalised parking. These measures would make it easier and cheaper to introduce bus lanes and enforce them.

RECOMMENDATION 6: As well as implementing a ban on pavement parking, the Bill should create a new decriminalised offence allowing traffic attendants to enforce stationary bus lane and segregated cycle lane parking offences.

5. Road works

5.1. Impact of road works on bus services

Significant problems arise for bus operations from the unpredictability, duration and volume of road works, and poor provision for buses when they take place. We understand that the Scottish Government will shortly make an announcement on the powers of the Road Works Commissioner. This announcement particularly needs to reflect the limited alternatives for bus services when works take place. Buses can be diverted, but there is much less flexibility than for other traffic. However, road works planning often tends to treat them the same as all other traffic. This often also applies when special events resulting in street closure take place.

5.2. Lane rental for utility companies

There is a need to implement measures which minimise the impact of road works on bus services (and all road passengers more generally). Lane rental schemes see utility companies charged a fee for the use of a section of road. Fees can vary depending on location and time of use. Evidence shows that lane rental systems decrease the length of road works and utility company occupancy time, increase the number of road works completed at the first attempt, and improve public perception of congestion.⁶

RECOMMENDATION 7: The Bill should put in place enabling legislation to allow local authorities to take on lane rental powers and permit schemes, as is the case in England and Wales.

⁶ Edinburgh Napier University Transport Research Institute (2017) Briefing note 'Utility works in roads: impacts in England of permit schemes under the Traffic Management Act (TMA) 2004; and lane rental under the New Roads and Streetworks Act (1991)'. Available upon request from Professor Tom Rye.

6. TRO & Redetermination Order legislation

Traffic Regulation Orders (TROs) can be an effective measure to improve local conditions for public transport, walking and cycling. However, the current process for implementing TROs is complex and requires significant resources for Local Authorities, both in terms of cost and time. Given the increasingly limited resources at the disposal of Local Authorities, TROs are not utilised as often as they should be. For example, hearings for objections can delay even simple TROs, adding extra cost and time required. Furthermore, the level of public consultation required is often disproportionate to the scale of the measure being implemented, again leading to increased time and cost implications for Local Authorities.

The TRO process should be simplified in order to reduce the complexity, cost and time associated with implementing localised schemes. By doing so, measures to prioritise buses, walking and cycling can be more easily introduced and enforced. As well as TROs, the Bill provides an opportunity to reform the Redetermination Order process, where currently an order is needed to change footway to cycleway or roadway to footway, and any objections have to go to Transport Scotland / Scottish Ministers for approval. The Transport Bill should set out proposals to amend and simplify the TRO & Redetermination Order processes, such as:

1. Giving supporters of a TRO the same legal weight as objectors;
2. Introducing a proportionate level of public consultation, relative to the scale of the measure in question;
3. Simplifying the experimental order process, as has been done in England;
4. Allowing objections to Redetermination Orders to be resolved by Local Authorities rather than Ministers;
5. Limiting objections to a defined set of transport and accessibility issues, and avoiding hearings on objections for relatively straightforward matters (e.g. loading restrictions, one-way streets).

RECOMMENDATION 8: The Bill should simplify the TRO & Redetermination Order processes to reduce complexities, cost and time restrictions for implementing local transport measures.

7. Private Non-Residential Parking Levies

The low relative cost of car use and high priority given to private cars in urban areas is resulting in high levels of congestion, which has a substantial impact on economic activity. Additionally, this is causing serious problems for air quality, public health, carbon emissions, road safety and the quality of the public realm. It is therefore necessary to pursue legislative change which focuses on reducing the priority given to private cars in urban areas.

The Bill should put in place enabling powers for transport authorities to implement Private Non-Residential Parking Levies, the most well-known of which is the Workplace Parking Levy (WPL). WPLs have been proven to reduce the use of private cars in urban areas, whilst increasing the use of public transport and active travel. Parking levies are one of the most effective and publicly acceptable ways to control the use of private cars in urban areas, as the charge is levied on premises, not individuals. Nottingham Council's well-studied WPL has resulted in a significant increase in modal shift to public transport, walking and cycling; a 33% reduction in carbon emissions; and has raised over £25 million of revenue which has been reinvested in the city's transport infrastructure.⁷ At a time where Local Authority budgets are increasingly stretched, and funding for sustainable transport infrastructure (such as bus lanes, segregated cycle routes and pedestrianised areas) is limited, parking levies offer a clear solution to fund improved transport infrastructure whilst simultaneously tackling issues with air pollution, carbon emissions and congestion. At present, Local Authorities are unable to introduce their own parking levies. Enabling Local Authorities to implement Private Non-Residential Parking Levies, which could cover workplaces as well as other types of premises, should be a key addition to the Transport Bill.

RECOMMENDATION 9: The Bill should put in place enabling legislation for the creation of Private Non-Residential Parking Levies, with funds raised through Levies hypothecated for investment into sustainable transport.

⁷ WWF Scotland (2016) 'International Case Studies for Scotland's Climate Plan: Workplace Parking Levy, Nottingham, UK'. Available at <<https://www.wwf.org.uk/Transport-case-studies>>.

8. Conclusions and Recommendations

The Transport Bill presents a unique opportunity to tackle issues facing buses, cycling and walking. However, we are concerned that the Bill risks misdiagnosing the solutions needed to tackle key problems such as bus passenger decline and congestion. This risks wasting years of effort and resources, during which problems will continue to persist and perhaps worsen.

We recommend that the Bill should:

- 1. Require Local Authorities to produce, and keep up to date, Local Transport Strategies which are consistent with national objectives on transport. As well as on social and environmental objectives, LTSs' objectives should support and promote the expansion of bus services, walking and cycling.**
- 2. Require all Public Bodies to actively support and promote walking, cycling and public transport in their plans, policies and strategies.**
- 3. Streamline the process for certifying bus model/camera combinations, and address onboard telematics. This should also provide for agreements between bus companies and local authorities intending to use the new provisions, providing for access to service the equipment.**
- 4. Establish that expected service standards for bus services be set out in associated regulations or guidance.**
- 5. Implement a national smart ticketing scheme, with a smartcard providing value-for-money and seamless travel on public transport.**
- 6. Create a new decriminalised offence allowing traffic attendants to enforce stationary bus lane and segregated cycle lane parking offences.**
- 7. Put in place enabling legislation to allow local authorities to take on lane rental powers and permit schemes, as is the case in England and Wales.**
- 8. Simplify the TRO & Redetermination Order processes to reduce complexities, cost and time restrictions for implementing local transport measures.**
- 9. Put in place enabling legislation for the creation of Private Non-Residential Parking Levies, with funds raised through Levies hypothecated for investment into sustainable transport.**

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