

## Partial Business and Regulatory Impact Assessment

### Title of Proposal

Low Emission Zones – The Transport (Scotland) Bill measures

### Purpose and intended effect

- **Background**

The Scottish Government aims to deliver environmental protection and minimise environmental impacts by measuring, monitoring and managing transport impacts on air quality, whilst complying with statutory air quality limits. However, despite reducing air pollution in Scotland in recent years, hotspots of poor air quality remain in our towns and cities.

“*Cleaner Air for Scotland: The Road to a Healthier Future (CAFS)*”, published in 2015, is Scotland’s Air Quality Strategy. The strategy sets out how the Scottish Government and its partners propose to reduce air pollution and fulfil Scotland’s legal responsibilities as soon as possible.

The Scottish Government is committed to working with local authorities to introduce low emission zones (LEZs) into its biggest four cities between 2018 and 2020, as stated in its Programme for Government (PfG) 2017. This work is being led by Transport Scotland, as the national transport agency of the Scottish Government.

As well as introducing LEZs into our four biggest cities between 2018 and 2020, the Scottish Government has also committed to introducing LEZs into all other Air Quality Management Areas by 2023 where the National Low Emission Framework (NLEF) appraisals advocate such mitigation.

The Transport (Scotland) Bill (‘the Bill’) – published 11 June – offers to create a legislative framework regarding the creation, enforcement and revocation of LEZs in Scotland. Specific detail on these provisions can be seen in the Policy Memorandum accompanying the Bill at:

[http://www.parliament.scot/Transport%20\(Scotland\)%20Bill/SPBill33PMS052018.pdf](http://www.parliament.scot/Transport%20(Scotland)%20Bill/SPBill33PMS052018.pdf)

Given this milestone in delivery of the wider aims above, publication of this ongoing BRIA (which will be updated as required following on-going discussion with stakeholders) has been undertaken to accompany it. It is likely that the scale and (vehicle) scope of specific LEZ schemes will vary at local level (with local authorities rightly being in the position to design and operate their own LEZs), whilst a number of the key national levers will be determined via secondary legislation enabled by the Bill. Such factors will have a key influence on the associated impacts for business and industry, so this BRIA is a fluid document which will be updated and refined, taking into account engagement and consultation, to ensure ongoing assessment of

impacts as roll-out of LEZs evolves.

- **Objective**

LEZs are a form of vehicle access regulation which sets an environmental limit on certain road spaces, to improve air quality by allowing access to only the cleanest vehicles, particularly at locations where air quality does not meet Scottish legal objective values.

- **Rationale for Government intervention**

CAFS states that, in Scotland in 2010, fine particulate matter was associated with around 2,000 premature deaths and around 22,500 lost life-years across the population. The impact of poor air quality on health has been estimated to cost around £15 billion per year whilst the total annual cost of air pollution to the UK's economy may be as much as £54 billion.

At the same time, Scotland is yet to achieve full compliance with the EU and Scottish legal requirements for air quality.

CAFS aims to contribute to the following National Outcomes:

- Our children have the best start in life and are ready to succeed.
- *We live longer, healthier lives.*
- *We have improved the life chances for children, young people and families at risk.*
- *We live in well-designed, sustainable places where we are able to access the amenities and services we need.*
- *We value and enjoy our built and natural environment and protect it and enhance it for future generations.*
- *We reduce the local and global environmental impact of our consumption and production.*

## **Consultation**

- **Within Government**

The proposals for LEZs in the Bill have been developed in a collaborative way with extensive contributions from officials across the Scottish Government and associated public bodies, including, but not limited to:

- Trunk Road and Bus Operations Directorate and Policy Directorate (Transport Scotland);
- Environmental Quality Directorate (Scottish Government)
- Scottish Government Legal Directorate
- Scottish Environment Protection Agency (SEPA)

- **Public Consultation**

Recognising that collaboration and partnership working is at the heart of the successful delivery of LEZs, Transport Scotland launched a public consultation called 'Building Scotland's Low Emission Zones' to garner the views of stakeholders

and the general public. The consultation took place between 06 September and 28 November 2017. The consultation document and associated feedback is available at the following link:

<https://consult.gov.scot/transport-scotland/building-scotlands-low-emission-zones/>

This process helped to inform the LEZ policy making process that subsequently helped to shape substantive elements of the LEZ component of the Bill.

In total, 967 responses were received:

- 225 **Substantive** responses,
- 732 **Campaign** responses
- 10 **Campaign Plus** responses.

The responses where respondents gave their own views and did not use any Campaign text were classified as “substantive”. The 225 **Substantive** responses were received from 101 organisations and 124 individuals.

The 732 **Campaign** responses received during the consultation period were in response to a Campaign orchestrated by Friends of the Earth Scotland. These respondents were provided with suggested text online which was submitted electronically and resulted in nearly all Campaign responses being identical.

Respondents had the opportunity to amend the suggested text provided by Friends of the Earth Scotland prior to submitting, which resulted in 10 respondents answering additional questions. These responses were classified as “**Campaign Plus**” responses. These were analysed with the remainder of the Campaign responses as the additional comments did not differ significantly from the views contained within the overall Campaign text.

- **Local Authorities**

There has been direct engagement with a number of local authorities through a variety of routes including (1) the Building Scotland’s LEZ consultation (as noted above), (2) through the LEZ governance structures that were set up in 2017 into 2018 (focusing primarily on local authorities for Scotland’s four biggest cities e.g. Glasgow, Edinburgh, Aberdeen and Dundee given the PfG 2017 commitment) and (3) periodically through the Scottish Pollution Control Coordinating Committee.

- **Organisations**

The 225 substantive responses to the aforementioned Public Consultation were from both organisations and individuals. The breakdown of responses is shown in the table below.

Respondent Type Type	Total answers (%)
Individual	124 (55.1%)
<b>Organisations:</b>	<b>101 (44.9%)</b>
Academic/research	4 (4%)
Business/industry	26 (25.7%)
Professional or trade body	17 (16.8%)
Public body	31 (30.7%)
Third Sector/NGO	19 (18.8%)
Community Group	4 (4%)
<b>TOTAL</b>	<b>225 (100%)</b>

The largest groups of organisations responding were public bodies including local authorities and Regional Transport Partnerships. Of those organisations that responded to the question “***Do you support the principle of LEZs to help improve Scottish air quality?***” the following table shows the responses:

	Yes	No	Total
Organisations	90	2	92

Whilst the data shown in the table above would indicate that there is support for the introduction of LEZs in Scotland, it must be acknowledged that whilst virtually all businesses (that engaged with either the consultation or with Transport Scotland officials at least) advocate improved air quality, there are aspects around the practical delivery of the goal for cleaner air via LEZs that would be of greater impact or importance to Organisations and Businesses than Individuals. These include financial costs for altering/upgrading their vehicle fleet to meet forthcoming LEZ emission standards within the grace periods adopted by local authorities, the risk of penalties for entering LEZs with non-compliant vehicles and the impact on the attractiveness of their service to customers, as a result of either increased costs to paying customers (to cover the cost of vehicle fleet upgrades) and/or the movement of customers away from a LEZ area.

There has been on-going engagement (between both officials and Ministers) with the **Chambers of Commerce** for Aberdeen, Dundee, Glasgow and Edinburgh in tandem with the Scottish Chamber of Commerce. Similarly themed discussions centred on the impact of LEZs on businesses have also taken place with the **Federation of Small Businesses in Scotland (FSB)**.

Given the early results of air quality modelling undertaken by SEPA via the National Modelling Framework, engagement with the bus sector has been crucial. Officials

and Ministers have maintained positive but frank dialogue with the bus sector primarily through the **Confederation of Passenger Transport (CPT)**, along with period engagement with bus operators through the (Glasgow) Statutory Quality Partnership.

Engagement via the consultation and/or via one-to-one meetings has been undertaken with a number of organisations on the subject of LEZs including:

- Uber
- Strathclyde Partnership for Transport (SPT)
- Society of Motor Manufacturers & Traders (SMMT)
- Road Haulage Association (RHA)
- Freight Transport Association (FTA)
- Chartered Institute of Highways and Transportation (CIHT)
- South East of Scotland Transport Partnership (SESTRANS)
- Royal College of Paediatrics and Child Health (RCPCH)
- Federation of British Historic Vehicle Clubs
- Scottish Taxi Federation
- Sauchiehall Street Business Improvement District

## **Options**

A list and brief description of each of the options which were considered in relation to LEZs is outlined below, including the 'Do Nothing' option which had to be considered in order to comply with guidance around completing BRIA documentation.

### **Option No.1: Do Nothing**

#### **Sectors and groups affected**

If LEZs are not introduced, then LEZ access restrictions would not occur and businesses would adopt a business-as-usual approach. Notwithstanding, the air pollution mitigation actions outlined in existing Air Quality Action Plans for certain cities would still be sought with these actions perhaps having a degree of impact on business and industry (these are out-with the scope of this BRIA on LEZs).

The policy benefits and legislative compliance elements outlined above – in relation to creating LEZs - would not be realised by wider society and the general public (and sub-groups of the public with particular susceptibility to poorer air quality) if a 'Do-Nothing' approach was adopted.

#### **Benefits**

The Do Nothing option would maintain the status quo. Whilst vehicle owners undertaking an economic activity (if State Aid definitions are applied here) would not need to adapt or upgrade fleets – and thus avoid the associated disruption caused by change which could arguably be described as a benefit – the Scottish Government would not be achieving the legal air quality objectives in the quickest possible time. Beyond the strict legislative compliance issue, the Do Nothing option does not help to achieve or delivery wider societal health and environmental benefits.

#### **Costs**

If LEZs are not implemented, then there would be no implementation costs, beyond the transport-related actions already outlined in Air Quality Action Plans.

### **Option No.2: Implement LEZs immediately in a prescribed manner for certain vehicle types**

#### **Sectors and groups affected**

Business and Industry groups would be significantly impacted by this option. A very strong theme coming back from the business sector has been the need for preparation, planning, proportionality and pragmatism in relation to LEZs (as noted above, there is a general agreement on the principle of LEZs but delivered in a managed manner). An immediate implementation of LEZs without due consideration of a grace periods or other flexibility would result in significant economic hardship and a seismic shift in the (ability of both businesses and customers to enter a city centre using their existing vehicle fleet composition.

The above is noted with acknowledgment of Mr Justice Garnham's clear steer during 2016 and 2017 (albeit in relation to the UK Governments air quality plan) on the need to address illegal levels of air pollution in the quickest time possible.

#### **Benefits**

Whilst Option No.2 would be a literal interpretation of the aspiration to improve air quality in the quickest possible time (with clear and obvious environmental and health benefits), it would be extremely challenging in terms of the business sector's ability to adapt. Fleet operators have described to Transport Scotland officials the engineering actions required to reduce the exhaust emissions from their fleet as '...offering no tangible benefit to our bottom line, or to service we provide to our customer'.

#### **Costs**

No consideration has been given to the specific implementation costs associated with this option. However, it is assumed to be significantly higher than the costs outlined for Option No.3.

### **Option No.3: Implement LEZs within a grace period framework with flexibility for local authorities to decide on scale and scope.**

#### **Sectors and groups affected**

This option would see the general public (and sub-groups of the public with particular susceptibility to poorer air quality) benefit from associated improvements in air quality. However it would allow implementation in a proportionate manner to enable those affected (such as businesses and individuals) to adapt and alter their practices within the grace periods proposed within the Bill, whilst still working within the test of 'addressing air pollution in the quickest possible time'.

The Bill has been framed in a manner to allow, amongst other things, for a core grace period of up to four years but no less than two years, exemptions for certain vehicles and during certain times and events, local flexibility in terms of geographical

scope and the ability for emission standards and enforcement measures (using approved devices) to be set via secondary legislation after parliamentary and public scrutiny.

### **Benefits**

The benefits of LEZs under Option No.3 are succinct summarised in the Bill Policy Memorandum paragraph 35 and 36, which state that:

- The policy intention is to enable local authorities to introduce (subject to the approval of the Scottish Ministers) low emission zones in Scotland, to help mitigate air pollution that is predominantly caused by road transport in Scotland's towns and cities. Designation of an area as a low emission zone puts in place an access restriction scheme for that area by reference to specified vehicle emission standards. Only vehicles meeting or exceeding those emission standards (which will be set nationally by the Scottish Ministers) will be permitted to drive within low emission zones.
- Low emission zones will help to protect human health; support the achievement of, and progress beyond, compliance with Scottish and European air quality legislative requirements, whilst contributing to improvements in road network operations and helping to tackle congestion (in tandem with other transport policies); encourage modal shift towards active travel and public transport; and support placemaking to improve town and city spaces in order to create attractive places to live, work and visit.

One of the goals of a LEZ will be to help encourage modal shift and accelerate the move to low emission vehicles, thereby improving air quality. The provisions in the Bill are seeking a pragmatic approach that would enable local authorities to adopt a phased and proportionate approach, thus providing businesses and individuals with a period of time to prepare and adapt.

Option No.3 also provides the option for the Scottish Government to provide financial support to business. For example, in terms of wider support for the bus sector in particular, the Bus Emission Abatement Retrofit (BEAR) programme is seeking to help bus operators bring their vehicles in line with future emission standards. BEAR Phase 1 was launched by Transport Scotland in early 2018 with grant award being allocated in March 2018. BEAR Phase 2 is currently under development.

### **Costs**

The costs of implementing an LEZ scheme will vary depending upon its geographical location, area of coverage and vehicles included within the scope. Whilst it is appreciated that there could be significant costs to industry and business which use or rely on vehicles which do not meet future LEZ emissions standards, precise costs and impacts to business, industry and individuals cannot be quantified at this stage. This will be a key facet of the on-going BRIA development, to acknowledge that the BRIA should examine and address the [negative and financial] impacts as well as the opportunities. This point was highlighted by Glasgow Chamber of Commerce members in early 2018.

In terms of the costs associated with the implementation and on-going management of LEZs, there is no fixed or established formula or mechanism to precisely apportion the cost to both National and Local Governments. The Financial Memorandum accompanying the Bill draws on research commissioned by Transport Scotland from Jacobs consultants. The potential cost windows for different sizes of LEZ schemes (per council) over a ten year period are shown below although such costs may need to be refined as further evidence becomes available.

Size	Cost (£m)
Small (0.5km <sup>2</sup> )	4.2 – 5.6
Medium (1.5 km <sup>2</sup> )	9.9 – 14.1
Large (3 km <sup>2</sup> )	17.5 – 26.0

### **Scottish Firms Impact Test**

The implementation of any scheme to restrict certain vehicles from specific locations, such as city centres, has the potential to impact on a very wide variety of those connected with business and industry from micro sized businesses to large multi-national businesses. It is highly likely that there would be impacts on logistics, delivery haulage, infrastructure operations, the service industry and public transport sectors. Likewise, businesses which rely on road based vehicles to support or underpin their income include, but are not limited to, the retail, hospitality and tourist sectors.

Given such a broad range of bodies affected, it is challenging to quantify the detailed impact on specific businesses and their activities. As outlined above, specific implementation and associated impacts will continue to be assessed and consulted on as progress towards roll-out takes place at the local level. However, feedback gleaned from engagement with either trade bodies or individual businesses are outlined below.

### **Glasgow Chamber of Commerce (GCOC)**

GCOC – a business support organisation – is cognisant that the city is breaching air quality standards. GCOC recognises that there is significant work to be done to improve air quality in Glasgow, and to this end, they are engaging with Glasgow City Council on the development of the Glasgow LEZ, which in principle they are in favour of, but believe that careful consideration is required around the Glasgow LEZ design in order to prevent any negative impact on Glasgow's economy, particularly around city centre tourism, retail and leisure sectors. Ultimately, GCOC want to ensure that Glasgow is a great place where people want to live, visit, invest and work.

They remain to be convinced that the air quality challenge in Glasgow is related to city centre-specific congestion as they have yet to see data which confirms this aspect (notwithstanding that congestion can happen on the outer orbital routes into Glasgow) but they acknowledge that there are congestion challenges at the motorway on-off ramps.



They are also keen to understand how LEZs can be part of the larger story to improve the public realm, particularly for pedestrians in the city centre, with natural crossovers to existing schemes such as the Glasgow Avenues Project and the ongoing work of the Glasgow Connectivity Commission. GCOC want to see public transport being cost effective and efficient to allow for modal shift, with both elements being related to LEZ implementation.

Whilst GCOC recognise the evidence that suggests that LEZs improve air quality and encourage modal shift, GCOC considers it vital that we address environmental issues in a manner that does not impact upon sustainable economic growth. GCOC therefore are seeking a pragmatic, staggered approach to the introduction of Glasgow's LEZ (akin to LEZ implementation in Brighton, Norwich and Oxford), and they have welcomed the phased approach proposed by Glasgow City Council in March and June 2018. They want to see an LEZ that includes vehicles based on their contribution towards air pollution. As outlined above, the Bill LEZ elements should help to underpin and support such an approach particularly towards grace periods. GCOC have consistently called for adequate timescales and compensation for businesses to upgrade or alter their fleet.

GCOC are interested in the LEZ hours of operation and whether a blanket 24/7 approach will be adopted by Glasgow (the Bill provides provision for both 24/7 and other hours of operation). The hours of operation relate particularly to the night-time economy, Sunday visitors, or people who work late night shifts where there is no public transport.

GCOC would also encourage consideration of the unintended consequences of policy development and in this particular case the likely impact to discretionary travel on the city centre tourism, retail and leisure sectors.

GCOC believe that the Glasgow LEZ schemes should be considered in the context of its interaction with the city parking strategies, particularly whether some of the larger city centre multi-storey car parks will be allowed to accept cars that are not compliant with the LEZ standards once Phase 2 of the Glasgow LEZ kicks in. This is a key 'red-line' point for GCOC. Whilst GCOC are quite content with the Councils approach to on-street parking, they highlight that differential parking policies between city centres and out of town retail and leisure centres has already displaced business, with private car users perhaps being unduly incentivised to use out-of-town shopping centres (particularly for discretionary travellers).

GCOC would like to see the Bill's extended grace period to encompass businesses that are based in a LEZ (at present, the extended grace period covers only residents albeit there is moderate provision for small businesses who operate from home).

GCOC are also concerned about the treatment of Small and Medium Sized Enterprises, in terms of those businesses who travel in and out of the forthcoming Glasgow LEZ on a regular basis for ad-hoc work (cross reference to the details outlined below by the Federation of Small Businesses Scotland).

GCOC have stressed that strong, consistent and positive communications and marketing are essential to inform all stakeholders of the LEZ requirements, to enable them to prepare and adapt. GCOC believe that they have a role to play in this communications space in tandem (or partnership) with both National and Local Governments. For example, GCOC have noted that communications with the public on the implementation of LEZs could unintentionally come across as being overly negative (given that a LEZ is an access *restriction*). They want to see a positive campaign to highlight alternative modes of travel into the city centre where the LEZ will be located.

### **Edinburgh Chamber of Commerce (ECOC)**

ECOC acknowledge that LEZs are a necessity in Edinburgh to address air pollution, but are clear that the current economic environment for business just now is challenging, so the introduction of an LEZ would require careful consideration of the unintended consequences. As such, ECOC would like to see the City Council undertake a BRIA for the Edinburgh LEZ to develop an evidence base around the cost, impact, risks and opportunities for businesses. ECOC would also like to participate in a role related to the development of the national strategic approach to LEZs.

They believe that LEZs have a role to play in the bigger smart city strategy to redesign Edinburgh (this echo's one of the GCOC views above) over the next 10 to 15 years. This is the message which must be sold to all stakeholders. This approach would only work if organisational silos were broken down across master-planning of various planning/infrastructure schemes including LEZs. The connected transport policies should encompass Mobility as a Service (MaaS). Taking this a step further, ECOC would like businesses to adopt a paradigm shift to focus on productivity and efficiency rather than just productivity, with LEZs perhaps acting as a catalyst for such change. LEZs could also promote small or nudge changes in how businesses operate, with local SMEs located within a LEZs perhaps trialling the use of electric bikes.

Like GCOC and FSB, ECOC want to see National Government support being provided to businesses in relation to financial support to upgrade vehicles and operational decision making such as LEZ operational timings that might aid or support delivery access in the city.

ECOC believe that a 4 year grace period for an LEZ is reasonable.

They emphasise that communications and messaging is critical '...to show businesses the path to take' to get ready for LEZs and how everyone has a role to play, but at the same time trying to avoid being overly instructional. They believe that LEZs could/may create another level of unwanted uncertainty for SMEs and this is not helped by a lack of a national LEZ communications plan (as of July 2018). ECOC have offered to work in partnership with the Scottish Government around LEZ communications and marketing in the lead-up to LEZ implementation. One element that ECOC want to see communicated is the identification of the various alternatives modes to travel into cities with LEZs, particularly for private car users.

ECOC would not want to see bus displacement of poorer emission vehicles to the outskirts of cities but were unsure whether this would become an inevitable reality or whether it would be easily avoided.

### **Federation of Small Businesses Scotland (FSB)**

The FSB welcomed the Scottish Government's commitment to improve air quality, stating that SMEs are ready and willing to play their part in tackling air pollution. FSB have also expressed a generally positive early assessment of the proposed Bill LEZ commitments. FSB point out that it is rare for a legislative regime (such as LEZs) to have the potential to impact on a high number of different types of businesses across Scotland.

FSB have drawn attention to the fact that SMEs provide a plethora of goods and service to homes, businesses and workplaces in potential LEZ locations. It is vital that SME's are still able to access city centres (which have LEZs) whilst transitioning their fleet to low emission vehicles. In order to do this, the FSB felt that smaller businesses will require support from both the Scottish Government and local authorities to adapt to new emission standards, including:

1. Ensuring that a national consistent approach to LEZs is guaranteed through legislation, with a focus on emission standards and long lead-in times ideally of 4 years. Small businesses have indicated they do not want to see the four proposed LEZs for Scottish cities (as noted in the Programme for Government) operating in four different ways to different standards. It is worth noting that the Bill does give Scottish Ministers delegated powers to set national standards on a number of matters concerning LEZ implementation.
2. Setting a nationally consistent standard rate for penalties across all non-compliant vehicles
3. Providing reasonable lead-in times to allow businesses to prepare, plan, adapt, change fleets and alter investment decisions prior to LEZ enforcement starting. A sunset period of 2 years was also suggested for residents living within the LEZ, particularly for those who run businesses from home. (Note: both of these issues are now covered by the grace periods as noted in the Bill).
4. Introducing business-friendly funding support in relation to mitigation measures such as LEZs. With many businesses having invested in diesel vehicles over the past decade, FSB felt that their members could not reasonably be expected to cover the costs of renewing their vehicles prior to the end of 2018; noting now that the timescales have been clarified for the Glasgow LEZ. Regardless, the FSB is urging the Scottish Government to introduce a 'diesel scrappage scheme' to cover all small businesses based in, or frequently operating within, forthcoming LEZs with this going beyond the existing commitment around bus retrofitting via the Bus Emission Abatement Retrofit Programme (again, noting that CAFS commits to exploring this topic of 'scrappage' as an area of research).

5. FSB would like to see a 'hardship' exemption introduced for small businesses that would be severely financially affected by replacing vehicles to meet LEZ emission standards.

6. Delivering robust communications around the introduction of LEZs, with messaging specifically targeted at SME's, who both are based within the Council area and beyond given the relatively small size of Scotland and the ability of SME's to travel across Scotland on a daily basis. There is a belief that there is a lack of awareness in the wider business community of the potential implications of LEZs, and also a lack of 'go to' resource for businesses to understand the implications of LEZ (and thus relying on press coverage to glean ideas about LEZs). Whilst FSB acknowledge that the business community can, in parts, be difficult to reach, it is crucial that attempts are made to engage as widely as possible, particularly given the point noted above about LEZ legislation having a potential impact across a high number of different types of businesses in Scotland and beyond. FSB make reference to the implementation of the Non-Domestic Waste Regulations 2014 by SEPA as a good practice example on how to progressively but pragmatically communicate with businesses on a legislative issue with national coverage.

7. That local authorities should be transparent in the preparation of their LEZ designs. This includes local authorities considering business impact as part of the design and implementation of LEZs perhaps through city-specific LEZ BRIAs (and build upon the national Final LEZ BRIA that should also be published), so as to ensure that Councils considered such aspects in their planning of LEZs.

8. That the forthcoming National Low Emission Framework should also be underpinned by legislation.

### **The Society of Motor Manufacturers & Traders (SMMT)**

In summary, the SMMT have stated the following:

- Welcomes the provision of a national framework for LEZs that will provide consistency across Scottish cities
- Does not support a road access restriction approach for LEZs (which is being proposed for Scotland rather than road-pricing based charging scheme being proposed for Clean Air Zones in England)
- Urge Scottish government to replicate emissions standards that have been applied elsewhere in the UK to ensure consistency for consumers (this was the proposal in the Building Scotland's LEZ consultation)
- Requests that emission from non-road mobile machinery (NRMM) be modelled to quantify the contribution this makes in each city
- Supports the use of retro-fitting technology to reduce emissions from heavy vehicles only

### **Road Haulage Association (RHA)**

Although the national vehicle emission standard is not mandated in the Bill and will be set in future via subordinate legislation, the RHA does not agree with using Euro emission criteria for Scottish LEZs. The association states that, by early 2019 it is expected that 52% of Great Britain's HGV fleet will meet Euro VI emission standards.

The RHA feels that to set Euro VI emission standard from the outset would be unrealistic for many haulage operators in the UK. The RHA would far rather see a phased, more considered approach to allow time for companies to upgrade their fleets and reach Euro VI standard after a period of time. The RHA feels that a suggested starting point for any phasing could be to start with the minimum standard of Euro IV, then have Euro V as the minimum standard from 2021 & then have Euro VI as the minimum standard from 2024.

### **Freight Transport Association (FTA)**

FTA points out that, in principle, it believes there is too much focus on LEZs (in comparison to other road based air pollution mitigation) and any policy that pre-selects or prioritises one method for achieving change, risks a situation being created where a local authority selects a less-than-best approach.

The FTA feels that LEZ objectives should be outcome oriented and schemes should identify realistic targets for accelerated air quality improvements and then allow local authorities the freedom to determine, on an open and even basis, what actions might best deliver those. Again, the Bill allows for local authority decision making on a range of matters, based on the consistent national framework around elements such as emission standards, penalties and enforcement equipment.

The FTA feels that there is a lack of support for the logistics industry to upgrade vehicles quickly. Although the national emissions standard is not mandated in the Bill, the FTA feels that if this was to be the Euro VI standard (for heavy duty diesel vehicles) then there would be a significant step change required to get all lorries and vans to that standard as quickly as possible. The organisation feels that, if Scotland wants air quality to improve faster, the Scottish Government needs to offer support or encouragement to operators, especially small and medium sized enterprises (SMEs).

The FTA states that it is important that – from a transport emissions perspective – LEZs schemes in specific locations should focus upon what will deliver the best air quality outcome. This means prioritising improvements in vehicles where the best results will be achieved. Therefore buses, coaches, taxis and private hire vehicles, and private cars must be considered also for inclusion within an LEZ, in addition to freight vehicles. The FTA state that a key element on LEZ design will be around focusing the LEZ scope on different categories of vehicles that will deliver the best outputs in terms of air quality whilst minimising the costs to society. FTA feel that it will be key to not incorporate commercial vehicles in the first phase of any LEZ roll-out, pointing out that 2018 – the current timescale for Glasgow's LEZ Phase 1 implementation for buses at least – will be only four years after Euro VI became

compulsory for HGVs which means there will be a limited second market in compliant vehicles.

The FTA states that operators whose business model is based on using second hand vehicles are predominantly SMEs. Incorporating lorries at this time could therefore exclude large numbers of small Scottish businesses from their local markets. The FTA feels the situation is even worse for vans, pointing out that, depending on the future national emissions standard, there could be only two years' worth of compliant vehicles in the fleet and therefore no notable second hand market at all.

The FTA recognises that Transport Scotland is engaging with the body and its members in workshops and via the Scottish Freight Council around awareness of the impact on the freight and logistics sector of the implementation of these proposals.

### **Confederation of Passenger Transport (CPT)**

CPT believe that increasing bus and coach use (and thus increasing patronage and generally encouraging the movement of people from cars into public transport) can improve air quality but the introduction of LEZ which restricts buses and coaches is counter-intuitive to this approach. Therefore there is a risk if such vehicles are subject to disproportionate controls from LEZ schemes, then this core objectives of modal shift will not be realised. CPT feels that the precise boundaries of LEZ schemes will be critical and financial arrangements must support the need to act quickly.

CPT has regularly engaged with Transport Scotland (and Glasgow city Council in particular) since the publication of the Bill, particularly on the topic of funding for the bus sector to 'retrofit' bus exhaust systems to a compliant Euro VI standard. Such engagement has been driven primarily by the preparation for the delivery of a Traffic Regulation Condition in Glasgow in support of the Glasgow LEZ introduction by the end of 2018. CPT have called for the funding provision from the Scottish Government to bus operators to be clarified as a matter of urgency (whether through the BEAR Programme or via an alternative route) and note that delays in confirming the funding process will have direct impacts on the ability of the bus operators to engage with retrofit suppliers (when these suppliers services are also in demand across Europe as more retrofitting is being commissioned). In relation to funding, CPT are strongly of the opinion that such funding does not constitute State aid, where the issue of State aid will have a significant impact on the level of funding that could be provided to bus operators to prepare for LEZs. CPT have clearly articulated that any costs incurred by bus operators to upgrade existing fleet to new emission standards could, in all likelihood, lead to a raising of fares or cutting of services, which they regard as being counter-productive to the aim of reducing emissions.

CPT are of the view that:

- They do not see the action of retrofitting of exhausts as providing a selective advantage to a bus operators (in line with State aid requirements) Rather, they believe that any funding from the Scottish Government would be available to all operators in the market (private, public, local authority tendered or operated etc.) on a non-discriminatory basis to the benefit of improving air quality rather than benefiting any specific operator.
- Funding provision from the Scottish Government for bus retrofitting does not distort or potentially distort competition, as all operators will be able to apply for funding through a competitive process.

CPT are aware that bus operators in Scotland are exploring investment opportunities in their fleet, to introduce new, cleaner, greener buses into their fleet at significant cost.

### **Stagecoach (Bus Operator)**

Stagecoach and Scottish Citylink (referred to as 'Stagecoach' below) feels that the principles of LEZs, as set out in the Building Scotland's LEZ consultation document, appear reasonable and should help to improve air quality. It supports any plans to give local authorities the prime responsibility for tackling poor air quality, provided that government sets out a standard framework which ensures consistency of application across Scotland.

Stagecoach is concerned that buses and coaches will be seen as an easy option and therefore may be subject to what it feels are disproportionate controls. This is – the organisation says – because buses and coaches are large, visible, and not directly controlled by local voters, despite their ability to move large numbers of people with only modest emissions of NOx per passenger.

Stagecoach points out that attaining compliance from the bus and coach industries is best achieved through close partnership working. Ensuring the effectiveness of an LEZ will also rely upon it being part of a wider package of measures that tackle car use and facilitate sustainable and active transport, particularly allowing the smooth flow of buses and coaches through City Centres. It points out that enforcement will be key and, for bus operators, this is best achieved through a partnership.

Stagecoach state that local authorities should ensure they are data-led in quantifying problems and implementing measures to tackle them, avoiding 'simplistic' solutions that aim to reduce emissions from each vehicle in isolation.

## **First (Bus Operator)**

First supports the principle of low emission zones in a qualified manner. First is supportive of the objectives to improve public health. Given that the problems are generally local in nature, a programme of improvements that focusses on local solutions for local problems is a sensible one. However, First states the design of such zones must seek to avoid unintended adverse consequences which might exacerbate rather than alleviate the problem.

For example, First states a low emissions zone that seeks to control the emissions from buses yet not from other vehicle types, or which seeks to impose too strict a limit too early, could remove the commercial advantage for the bus compared with other modes and may inflict such pressure on bus operator costs that services have to be reduced or fares increased worsening the overall public transport offer to passengers and making it less attractive to non-users (as noted also by CPT). They feel the net effect of any of the above will be a limitation on modal shift from bus to car, thus exacerbating congestion and air quality problems.

On a future national emissions standard, First points out the distinct differences between the heavy vehicle Euro VI standards and the light vehicle Euro 6 standards. They state the latest diesel bus designs offer excellent air quality performance and, when looking at the number of passengers carried compared to light vehicles, this should be taken into account.

First also feels that partnership working between local authorities and bus operators is key to finding workable and pragmatic schemes. It points out the importance of lead-in times (now called grace periods in the Bill) and investment in replacement vehicles and abatement technology should be made in a manner which does not threaten the viability of local bus services (again, as noted by CPT above).

First points out that the vehicle retrofitting industry is burgeoning at present and there are some effective solutions on the market, yet there are cost implications. It feels this is a manner in which a far greater proportion of the fleet can be tacked more quickly than replacement but it is not without its costs – both capital and operating – and welcomes ongoing dialogue with Transport Scotland about funding local bus retrofit equipment. First have been clear that up to 100% funding from the Scottish Government through the BEAR Programme is critical to the delivery of bus retrofitting (a point echoed by other bus operators too).

First feel that, besides retrofitting, other options should be considered including accelerated scrappage funding and/or engine conversion to higher emissions standards, yet it points out that lead-in times and any exemptions may also help with such matters.

## **Scottish Taxi Federation**

The Scottish Taxi Federation (STF) supports road access restrictions, yet feels it is essential that the taxi industry is exempt in the first instance (as LEZs are rolled out) to allow a reasonable period of time for operators to depreciate their existing vehicle and source a suitable/affordable replacement.



STF feels it is important for councils to be consulted, as a Council's licence agreement on the age of vehicles can vary widely across the 32 local authorities. SFT feels that LEZ lead-in times need to be reasonable to enable the taxi industry to adapt, pointing out the trade is predominately self-employed operators upon which the costs of any necessary vehicle replacement will fall. It states that, at present, there is a limited choice of suitable purpose built vehicles (wheelchair accessible) and most are seen as cost prohibitive.

The SFT points to existing support such as interest-free loans from the Energy Savings Trust, if a taxi owner's existing vehicle is over a certain age. The body feels schemes such as this, or other support, could look at a reduced age threshold.

## **Uber**

Uber has highlighted its ambition to support its partner-drivers in the uptake of lower emission vehicles and its long-term plan to promote cleaner vehicles and greener mobility options. This is a component part of its recently published Clean Air Plan, which states the following:

- It aims for vehicles using Uber on uberX (4 seat vehicles) in Scotland to be 100% hybrid or fully electric in 2022.
- Diesel vehicles will no longer be available through its app within the same time frame.
- Uber's goal is for every vehicle using their app in Scotland to be fully electric and zero-emission in 2028.

To achieve these goals:

- Uber will create a dedicated Clean Air Fund to allow licensed drivers who use their app to access up to £5,000 towards the cost of upgrading their car to a hybrid or fully electric vehicle (thus enabling compliance with proposed LEZ standards as noted in the consultation).
- Uber is kick-starting their fund with a £2m investment and up to 35p will be added to each UK journey so that this money is recirculated into the Clean Air Fund.
- A network of Uber-branded rapid chargers are being trialled in Central London which will support Uber partner-drivers who use electric vehicles. This trial has potential for expansion to Scottish cities if successful.

## **Glasgow City Council (GCC)**

Glasgow City Council (GCC) points out its major commitment in relation to transport, air quality and sustainability and how LEZ introduction is a key element, yet feels that retrofit technology offers a cost effective way of upgrading the bus fleet at least and that it's essential measures on technology are certified at a recognised national level to perform effectively in real world operating conditions.

GCC feels that the Scottish Government will need to rapidly put in place an exhaust retrofit programme to allow for sufficient works to take place (particularly by the bus sector) in a defined period of time in order that LEZ standards can be met. This is also true with respect to Glasgow's own LEZ ambitions and their associated timelines for rollout and enforcement. This was a critical issue based on the detail outlined in their recent Traffic Regulation Condition submission to the Traffic Commissioner for Scotland for their proposed Glasgow LEZ Phase 1. GCC has also note that their own fleet will need to become compliant prior to their LEZ enforcement regime starting at the end of 2022 (which they believe is achievable following discussions with the recent Glasgow LEZ Delivery Group).

GCC feels that a national communications package needs to be put in place in 2018 (as quickly as possible) to raise awareness and allow for businesses and the public to make adequate preparations (prior to the Glasgow 2018 LEZ being put in place). It is worth noting that a communications plan is being developed by Transport Scotland during summer 2018 (which will require local authority engagement) with the intention of launching a dedicated LEZ Scotland website in Autumn.

On commercial public transport operators, GCC points out that other transport and planning interventions - in tandem with LEZs - can further address air pollution, such as bus prioritisation or other urban planning schemes such as their Avenues Project. However, such actions could have a knock-on effect on the business interests of such operators. GCC states that care needs to be taken with regard to potential adverse impacts on the city centre economy (from LEZ mitigation) or the potential for air pollution problems to occur elsewhere through the displacement of pollution sources (and perhaps also lead to businesses deciding to relocate outwith a LEZ boundary)..

### **City of Edinburgh Council (CEC)**

City of Edinburgh Council (CEC) is strongly in favour of LEZs and other interventions to tackle poor air quality. In relation to the impact on those affected – such as business and industry bodies – CEC emphasises that the development and application of LEZs needs to be informed by strong evidence and account for broader transport implications (such as displacement, and any unintended consequences from suppressed demand).

It feels that nationally consistent standards (and standards that align across the UK and Europe) is important to avoid confusion, limit the risk of displacement of non-compliant vehicles, and ensure that businesses are able to operate effectively across Scotland and more widely. It also states there is a need for financial support from the Scottish Government in light of local authorities lacking the budget to implement LEZs.

CEC states that businesses that are transport-based or transport-reliant are likely to experience a cost increase as a result of trying to comply with the proposed LEZ requirements. Additionally, small businesses that operate with a low profit margin may struggle to comply with the LEZs standards and still remain financially viable.

As such, CEC feels that costs imposed on individuals and businesses should be a consideration in the design and setup of LEZs, with tools being provided by the Scottish Government to aid such actions e.g. reasonable sunset and lead-in periods, the availability of grant or borrowing facilities to assist with upgrades and the availability of retro-fitting services.

### **Strathclyde Partnership for Transport (SPT)**

Strathclyde Partnership for Transport (SPT) feels that, in principle LEZs are a welcome policy tool and fit well with the Regional Transport Strategy. If LEZs are intended to accelerate fleet replacement (to lower emission standards particularly buses given SPT's scope), SPT believe that they should not be delivered in isolation with other key transport or placemaking policies.

SPT feel that measures are needed to address a range of issues such as growth in private car usage, parking capacity, increasing congestion, lack of priority for buses, public transport infrastructure provision, growing carbon emissions from transport and noise pollution. SPT state these all hamper development, fly in the face of the placemaking principle, and ultimately impact negatively on efforts to promote sustainable and inclusive economic growth.

Therefore any proposals for LEZs should be included in a robust Scottish Transport Appraisal Guidance assessment incorporating these wider issues in order to develop a co-ordinated and comprehensive package of measures, inclusive of vehicle emissions restrictions, which seek to address the relative health, environment and economic objectives, in addition to air quality. SPT also states that the Scottish Government needs to look closely at funding support for LEZ delivery.

SPT are of the view that, given the wider societal benefits likely to be delivered from such initiatives like LEZs, consideration should be given to how LEZs are funded from the respective Scottish Government Health and Economic Development budgets, not simply Transport alone.

### **South East of Scotland Transport Partnership (SESTRANS)**

SESTRANS points out that it is important that due consideration is given to a realistic timescale for effective implementation, including in particular consideration of the costs and impacts upon the bus industry and other providers of more sustainable transport options. It states that potential negative consequences for the bus industry are a particular concern given patronage loss.

SESTRANS states that socio-economic duties ask particular public authorities to do more to tackle the inequalities of outcome caused by socio-economic disadvantage. It recognises that the main outcome that the Scottish Government is looking for from the introduction of the duty is improved decision-making that genuinely leads to better outcomes for those experiencing disadvantage, and that this ethos should be incorporated into the delivery of LEZs across Scotland.

## **Sauchiehall Street Business Improvement District**

The Sauchiehall Street Business Improvement District states that evidence suggests that LEZs improve air quality and encourage modal shift, however it considers it vital that addressing environmental issues should be undertaken in a manner that does not impact sustainable economic growth. The organisation feels a pragmatic approach should be taken to LEZ introduction and looks to other UK cities such as Brighton, Norwich and Oxford where the introduction of LEZs was staggered. It also states that consideration should be taken of any unintended consequences – such as impacts on discretionary travel (where an individual makes an ad-hoc decision to travel perhaps to undertake an economic activity such as shopping or leisure) on the city centre tourism, retail and leisure sectors – as differential parking policies between city centres and out of town retail and leisure centres has already displaced business.

## **Glasgow Connectivity Commission**

The Glasgow Connectivity Commission will publish its findings in late 2018. Early emerging themes derived largely from conference proceedings during early 2018 are noted below (with some cross over to Glasgow's LEZ development):

- The City must re-emphasise the hierarchy of pedestrian, cycle, bus then car in road space allocation in the city centre.
- Reimagining the City transport network must take consideration of health, active transport and accessibility issues.
- The City must build on the success of the current Glasgow Avenues investment with a focus on extensive pedestrianisation of city centre. This should entail:
  - Removal of on-street parking (adequate off-street parking exists).
  - Separation and completion of cycle and pedestrian routes - priorities adjusted for pedestrian/cycle/bus at traffic signals.
  - Consolidated bus lanes around the core of the city centre
  - Seeking a 20% improvement in bus speeds in the city centre.
- Recognise legitimate role and benefit of the car in the city centre in relation to evenings, in order to support the night time economy and accessibility.
- The Bill should seek to add powers for work place car park levy
- Bus patronage decline is a Glasgow problem, not a Scotland-wide problem, so there is a challenge to SPT/GCC/bus industry to make existing governance work better.
- Glasgow transport challenges must be seen as a national strategic issue in treatment in National Transport Strategy and Strategic Transport Projects Review: i.e. strategic, not just regional issue.
- There is a need for an equal approach between out of town and central transport issues (other than the absence of rates for out of town shopping car parks).

## **Competition Assessment**

Spending Review planning is on-going annually with respect to the calculation of budget provision to support organisations in their preparation for LEZs being put in place. Where budget provision is available (with SG confirming budget provision for bus retrofitting in 2018), careful consideration will need to be given to conditions attached to any funding for applicant organisations. What is clear is that all service operators within an LEZ will be affected to a degree by its introduction, so the LEZ measure could directly limit (or reduce) the number or range of suppliers in a LEZ area as a result of some suppliers not being able to, or being unwilling to, operate fleet which complies with the new LEZ emission standards.

The cost of upgrading or altering vehicles to comply with LEZ standards may limit the ability of some businesses in relation to competition, if their individual financial management is such that their budget does not allow (or account for) a swift upgrade of their fleet in the timescales available prior to LEZ enforcement starting.

It should be noted that the Glasgow Chamber of Commerce, in particular, has concerns around out-of-town retail opportunities benefitting unduly when compared with city-centre equivalents (albeit that businesses located in both city centre and out of town locations are members of the Chamber). Rather than the measure limiting choice, it may be a factor in potential visitors to a city centre with a LEZ choosing to shop at an alternative location out-with the LEZ. Primarily if their vehicle is not compliant with the emissions standard (and they choose not to use a mode of travel that is compliant such as public transport).

### **Test run of business forms**

Further research and assessment will be required on this topic – as regulations are brought forward and particular LEZ schemes are implemented – but it is not envisaged that there will be a substantial amount of new forms created which businesses are required to complete.

## **Legal Aid Impact Test**

The Bill provides for a civil penalty regime, under which a penalty charge notice is issued, rather than criminal enforcement. Therefore it is not currently expected that the proposals will have any impact on the level of use that an individual makes to access justice through legal aid or on the possible expenditure from the legal aid fund. This will be further explored and updated as necessary as the legislation progresses.

## **Enforcement, sanctions and monitoring**

Whilst the development and implementation of a LEZ will be the responsibility of the local authority in whose jurisdiction the scheme operates, each LEZ will require to be operated in line with national consistent standards. These will be proposed in secondary legislation as a result of the Bill, with the intention being to ensure that no city receives a greater advantage from an LEZ than its neighbours (i.e. cities will require to operate to the same emission standards so that vehicles in one LEZ are not monitored against different standards elsewhere in Scotland).

Enforcement will be delivered via 'approved devices' which are likely to be based around the application of an ANPR camera network that is linked to the DVLA database. This approach will be set out in secondary regulations. The DVLA database is currently being upgraded to incorporate Euro emission standards using machine learning to create such results. Using ANPR with the DVLA database will allow those vehicles entering an LEZ to be identified and their emissions to be assessed in comparison to the proposed LEZ emission standards.

Non-compliance with an LEZ with respect to vehicle emission standards would result in the registered keeper being issued with a penalty via the aforementioned vehicle assessment process. The penalty level will be set out in secondary legislation. The penalty would, in all likelihood, be issued by a local authority for their own LEZ although the governance arrangements for LEZ enforcement is currently being designed between the Scottish Government and local authorities.

### **Implementation and delivery plan**

Implementation of an LEZ will be the responsibility of the local authority in whose jurisdiction the LEZ will operate. Timescales for such implementation will be developed by the local authority with the Bill proposing clear grace periods on this issue. It is also worth noting that the Scottish Government's Programme for Government has already stated ambitions to put in place four low emission zones in Scotland's four biggest cities between 2018 and 2020 and in all other Air Quality Management Areas by 2023 were the National Low Emission Framework advocates such mitigation.

### **Post-implementation review**

The Bill outlines the requirements for on-going (annual) monitoring of the LEZ performance in relation to the LEZ primary objectives.

No proposals have been developed yet around the review of the legislation itself, but this aspect will be influenced by the Parliamentary process in shaping the LEZ element of the Bill.

### **Summary and recommendation**

The most viable option with regard to achieving the policy air quality improvements with a pragmatic approach to implementation taking into account the needs of the business and commercial sector is Option No.3.

The comparison of benefits across the options is not included here, as the alternative (non-preferred) options offer no benefit against the preferred option. The cost assessment of the options cannot be completed as the cost will vary for each individual LEZ given its geographical (and operational) area. The Bill Financial Memorandum provides direction on the topic of costs around Option No.3, as found at:

[http://www.parliament.scot/Transport%20\(Scotland\)%20Bill/SPBill33FMS052018.pdf](http://www.parliament.scot/Transport%20(Scotland)%20Bill/SPBill33FMS052018.pdf)

**Declaration and publication**

The Cabinet Secretary or Minister responsible for the policy (or the Chief Executive of non departmental public bodies and other agencies if appropriate) is required to sign off all BRIAs prior to publication. Use appropriate text from choices below:

- Sign-off for Partial BRIAs:

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence at present, it represents a reasonable view of the likely costs, benefits and impact of the leading options at this point in time. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed:**

A handwritten signature in blue ink, appearing to read 'Michael Matheson', written in a cursive style.

**Date: 27<sup>th</sup> August 2018**

**Minister's name - Michael Matheson**

**Minister's title - Cabinet Secretary for Transport, Infrastructure and Connectivity**

**Scottish Government Contact point:**

**Stephen Thomson (Transport Scotland)**