

ITEM No ...5.....

REPORT TO: CITY DEVELOPMENT COMMITTEE – 9 MARCH 2020
REPORT ON: TRANSPORT (SCOTLAND) ACT 2019
REPORT BY: EXECUTIVE DIRECTOR OF CITY DEVELOPMENT
REPORT NO: 72-2020

1 PURPOSE OF REPORT

1.1 This report seeks to advise Committee on the new powers and responsibilities that have been placed on Dundee City Council by the Transport (Scotland) Act 2019 and provides early thoughts on how these powers, duties and responsibilities might be discharged at a local level. It also seeks delegated authority to commence the creation of a Bus Service Improvement Partnership for Dundee.

2 RECOMMENDATION

2.1 It is recommended that the Committee notes the content of this report and delegates the Executive Director of City Development to:

- a monitor the development of the secondary legislation required to support this act;
- b prepare appropriate policies and protocols that will enable the delivery of any new legislative requirements and the effective use of new powers, and
- c commence the process for establishing of a Dundee Bus Service Improvement Partnership.

3 FINANCIAL IMPLICATIONS

3.1 There are no financial implications arising from the report at this stage but implementation of new duties arising from this legislation is expected to incur additional costs. Feasibility and preparatory work for some of the new powers identified in the Act is also likely to incur costs and an appropriate level of staffing resource will require to be identified to ensure effective preparation. It is difficult at this stage to robustly quantify the impact that this work would have on the Council's resources.

4 BACKGROUND

4.1 The Transport (Scotland) Act 2019 is the first major piece of legislation covering transport matters since the Scottish Parliament legislated for the creation of Regional Transport Partnerships (eg TACTRAN) and the post of Scottish Road Works Commissioner in 2005. Given the length of time since the previous legislation the new Bill as introduced by the Scottish Government sought to address a range of transport issues including operation of bus services, the introduction of low emission zones and management of pavement parking.

4.2 The passage of the Transport Bill through the Scottish Parliament between June 2018 and October 2019 saw the proposed legislation receive scrutiny from members of the Rural Economy and Connectivity (REC) Committee. The Bill was passed by the Scottish Parliament on 10 October 2019 and received Royal Assent on 15 November 2019. Nearly all elements of the Act will require secondary legislation to be written. This secondary legislation which is now being prepared by Scottish Government officials will set out the more detailed regulations and guidance required to support implementation of the Act. Appendix 1 sets out the next steps for implementing this legislation and highlights issues to consider.

5 CONTENT OF THE TRANSPORT (SCOTLAND) ACT 2019

National Transport Strategy

- 5.1 Part 1 of the Act addresses the need to prepare, consult, publish and then review a new National Transport Strategy (NTS) for Scotland. Dundee City Council submitted its formal response to the NTS consultation in October 2019 following Committee approval (Article V of the minute of meeting of this Committee of 28 October 2019, Report 353-2019 refers). The National Transport Strategy was launched on 5 February 2020 by the Cabinet Secretary for Transport, Infrastructure and Connectivity and describes the Scottish Government's vision for travel and transport to, from and within Scotland. It also sets out the policies which the Government intends to pursue to deliver the strategy. The National Transport Strategy becomes a statutory document.

Low Emission Zones

- 5.2 Part 2 of the Act addresses Low Emission Zones (LEZs). The Scottish Government has committed to introducing Low Emission Zones across the cities of Scotland by the end of 2020 and the legislation enables local authorities to create and operate Low Emission Zones using new powers. Dundee's Low Emission Zone is subject to on-going public and stakeholder consultation and report 63-2020 to the Community Safety and Public Protection Committee provided elected members with further detail. Secondary legislation is required before these powers can be used.
- 5.3 Part 2 of the Transport Act creates the legal framework that will allow local authorities to set up Low Emission Zones. Low Emission Zones will place restrictions on driving within a zone where a vehicle does not meet a specific emission standard. Low Emission Zones are to be enforced through approved devices - likely to be Automatic Number Plate Recognition (ANPR) cameras. Dundee City Council will be required to specify the area covered by the zone on a map and identify all the roads which form part of the zone.
- 5.4 Where a vehicle contravenes the Low Emission Zones the registered keeper of the vehicle will receive a Penalty Charge Notice. The level of the penalty charge will be set nationally and will be detailed in the secondary regulations which are currently being developed by Transport Scotland officials. Any new Low Emission Zone will require approval from Scottish Ministers and there must be consultation with several organisations including Scottish Environmental Protection Agency (SEPA), Scottish Natural Heritage (SNH), bus operators, road haulage industry, taxi operators and local business organisations.
- 5.5 Local authorities will be required to set grace periods that give vehicle owners the time to adjust to the Low Emission Zone. The length of the grace period will be set by Dundee City Council but within the constraints set out by the Act. Non-residents (vehicle owners living outwith the Low Emission Zones) must be given at least one year but no more than four years to change their vehicles if they wish to enter the Low Emission Zone. Residents living within the area of a Low Emission Zones can be given up to an additional two years beyond the grace periods given to non-residents. There will be exemptions for certain vehicle types – eg emergency vehicles and these will be specified in the regulations. Any Low Emission Zones proposals may be examined by an inquiry.

Buses

- 5.6 Part 3 of the Act address Bus Services and focuses on four main areas – provision of services by local transport authorities, bus service improvement partnerships (BSIPs), local service franchises and information relating to services.
- 5.7 The section relating to the provision of bus services by local transport authorities removes some of the restrictions that were placed on Councils at the time of the 1985 Transport Act. The new

legislation allows local authorities to operate bus services directly to the public with its own fleet, or indirectly via an arm's length organisation (ALEO) owned by the Council or Councils. During the passage of the Bill through the Scottish Parliament the legislation was changed to give more flexibility to local authorities – including the option to run services where there are commercial services in operation. This additional flexibility presents more options to Councils should they wish to establish their own operation or should a bus operator in their area be put up for sale. The new legislation also presents opportunities for small scale interventions using passenger vehicles such as a Council minibus fleet.

- 5.8 At the City Development Committee on 28 October 2019, the Executive Director was remitted to prepare a report on the options for setting up a municipal bus company. (Article V of the minute of meeting of this Committee of 28 October 2019, Report 353-2019 refers). Formal guidance for local transport authorities on the provision of bus services will be prepared by Transport Scotland officials during 2020. A more detailed committee report will be prepared once this guidance has been published.
- 5.9 The introduction of Council run bus services will have significant resource implications. The Council is not currently resourced to set up a municipal bus operation capable of operating registered local bus services. Key considerations would be the requirement to identify an experienced operational transport manager to lead any new team, recruit the required number of PSV (Public Service Vehicle) drivers, establish or expand a depot facility/operating centre capable of servicing and accommodating a new bus fleet and acquire the appropriate number of Public Service Vehicles (buses) required for operating all registered bus services.
- 5.10 The one-off cost of establishing a municipal bus operation is likely to be significant and will require capital to be identified. There are risks, not least the response from a competitive market that is already well established in Dundee. The creation of a municipal operation may lead to an expectation that the Council will fill gaps in the commercial bus network by operating services that established commercial bus operators have concluded are not financially viable. This may create new revenue cost pressures. It is noted that in the recently published Citizens' Survey results, public transport scored a satisfaction level of 98% among Dundee residents.
- 5.11 Bus Service Improvement Partnerships (BSIPs) are a successor to the Statutory Quality Partnership (SQP) model that was established under the 2001 Transport Act. The SQP model was seen as overly prescriptive and dependant on specific infrastructure investment by the local authority. Very few SQPs were enacted across Scotland and none in Dundee (or Tactran area). The new model for BSIPs gives greater flexibility on what can and cannot be included in a partnership that will support bus growth. Dundee's BSIP will have representation from the Council and all the bus operators. All partners will be required to agree an approach that will, with support and investment from all parties, achieve the stated aims and objectives of the partnership. The Programme for Government announced in 2019 indicated that there would be significant funding to support the bus industry and it is expected that to access these funds, BSIPs will need to be established.
- 5.12 The new Act offers local authorities the option of franchising the provision of bus services in a specified area (eg Dundee). This would give much greater control to the level of service being provided. Frequency, routes, vehicle quality and fares would all be specified by the Council and operators would bid to secure the exclusive rights to operate that franchise for a set number of years. Such an approach will require significant financial investment by the Council in the franchise and may present longer term competition issues by reducing future competition in the local bus market.
- 5.13 The sections of the Act relating to the provision of service information formalises in legislation rules that are currently covered by guidance. Specifically the Act will require bus operators to share passenger data when they take a decision to cancel a bus service or remove journeys from a bus service – eg cancellation of evening journeys or withdrawal of a service from a section of the established route (ie pulling a bus service out of a community).

- 5.14 Part 4 of the Act covers Ticketing arrangements and seeks to support the introduction of multi-operator ticketing and provides instruction on how these might be administered. It is noted that Dundee City Council already manages the ABC (All Bus Company) bus ticket on behalf of local bus operators and neighbouring Councils. This part of the Act formalises some of the existing conventions for managing joint ticketing schemes.
- 5.15 Part 5 of the Act covers Travel Concession Schemes and how they are applied to Community Transport. The Scottish Government will publish a report by the end of 2020 setting out their assessment of the costs and benefits of extending the travel concession scheme to community bus services and other transport services that are not currently covered by the scheme.

Parking

- 5.16 Part 6 of the Act introduces a number of new Parking Prohibitions that seek to give greater protection to pedestrians and ensure that parked motor vehicles do not inhibit the free movement of pedestrians. This part of the Act will prohibit pavement parking unless an exemption order is in place. The Council may seek an exemption order for pavements where it considers there are reasons to permit pavement parking. The regulations that support this part of the Act will determine minimum footway widths, level of penalty charges and a national implementation date. It is anticipated that exemptions orders will only be permitted where a minimum footway width of 1.5m is retained.
- 5.17 Given the mix of housing in the city, with a significant proportion of tenements, the demand for on-street parking is high. There has been an historic acceptance of pavement parking in some parts of the city, and Dundee City Council will need to work with local communities to determine where exemption orders may be appropriate. All footways with exemptions will require to be formally identified with signs and markings in accordance with the new regulations.
- 5.18 The Act sets out a number of practical exceptions where pavement parking may be permitted such as policing requirements, road works, waste removal and goods deliveries where there is no reasonable alternative available to load. Most of these exceptions still require a minimum width of 1.5m to be available for pedestrian movement. Exceptions differ from exemptions in that they will not require signs and lines.
- 5.19 The Act will also prohibit double parking by making it illegal to park more than 0.5m from the edge of the carriageway. This will also help address a growing issue of cars that are parked alongside Eurobins. Parking over footways that have been dropped to assist pedestrians and cyclists will also be prohibited.
- 5.20 Part 7 of the Act covers Workplace Parking and provides local authorities with the opportunity to introduce a workplace parking licensing scheme that requires the owners of premises with parking areas to pay a charge to the local authority. The charge for car parking spaces within a specific area will be payable by the business or provider of the parking spaces and not the individual driver.
- 5.21 The legislation also states that a local authority needs to undertake prior consultation and undertake impact assessments before implementation of any Workplace Parking Scheme. Any proposed scheme can be examined by Scottish Ministers.
- 5.22 Part 8 of the Act covers the Recovery of Unpaid Parking Charges and changes the law to make it possible to recover charges from the registered keeper of the vehicle. The Council already has these powers and these changes largely apply to private car park operators.

Road Works

- 5.23 Part 9 of the Act covers Road Works and the Scottish Road Works Commissioner's status and functions. The Act seeks to improve the co-ordination and management of road works through

the creation of an inspectorate operated by the Road Works Commissioner. There will be changes to the levels of penalties and fines given out by the Road Works Commissioner to those roads authorities and statutory undertakers that are not performing to the required standard. The Act also makes changes to the notice periods required for road works.

- 5.24 Future guidance will provide an overview of what is expected of all Scottish Road Authorities in terms of compliance with the New Roads and Street Works Act 1991 as amended by the Transport (Scotland) Act 2005 and the Transport (Scotland) Act 2019. Implementation of the Act is likely to require a substantial change to some processes that Scottish Road Authorities currently undertake and manage.

Timeframe for Implementation

- 5.25 The regulations that will support the new Transport Act will be written during 2020 and 2021. It is anticipated that commencement orders giving effect to different parts of the Act will be introduced sequentially. No formal timetable has been agreed but the parts relating to Low Emission Zones, Bus Partnerships and pavement parking are likely to be prioritised. Transport Scotland has established a number of working groups to help support the development of the regulations and supporting guidance. Dundee City Council officers are involved in some of these working groups.

6 POLICY IMPLICATIONS

- 6.1 This report has been subject to an assessment of any impacts on Equality and Diversity, Fairness and Poverty, Environment and Corporate Risk. There are no major issues.

7 CONSULTATIONS

- 7.1 The Council Management Team were consulted in the preparation of this report.

8 BACKGROUND PAPERS

- 8.1 None.

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27 February 2020

APPENDIX 1

	Overview of Part	DCC Issues to Consider	Next Step
1	National Transport Strategy	Aligning current and future policies with NTS.	Internal review to ensure alignment.
2	Low Emission Zones	Extent and Scope of Dundee's Low Emission Zone.	Continue stakeholder and community engagement around future LEZ while awaiting secondary legislation to be agreed.
3	Low Emission Zones	Infrastructure and supporting measures for future LEZ enforcement.	Use Scottish Government funding to introduce ANPR cameras at key locations across the city.
4	Buses	Municipal Operation.	Await guidance and prepare further committee report.
5	Buses	Bus Service Improvement Partnerships.	Extend invitation to bus operators to consider contents of any future BSIP and continue informal partnership working.
6	Pavement Parking	Community pressure to create exemption orders.	Support development of guidance and regulations and prepare once secondary legislation published.
7	Pavement Parking	Enforcement requirements and requests for action.	Review Parking Attendant capacity.
8	Workplace Parking	Desirability of workplace parking levy.	Await guidance and regulations.
9	Road Works	Additional enforcement of Utilities and Road Maintenance Partnership.	Support development of guidance and regulations and prepare.

