The Committee will meet at 2 pm in Committee Room 6.

1. **Items in private:** the Committee will consider whether to take agenda items 7 and 8 in private.

2. **Transport (Scotland) Bill:** the Committee will take evidence from:
   
   Allan Hogarth, Head of Public Affairs, Confederation of British Industry (CBI) Scotland;
   
   Tony Cox, Head of Public Policy, British Telecom;
   
   John Downie, Federation of Small Businesses (FSB) Scotland;
   

3. **Transport (Scotland) Bill:** the Committee will take evidence from:
   
   Harry Pendleton, Chair of the Management Committee, National Joint Utilities Group (NJUG);
   
   Alex Rae, New Roads and Street Works Co-ordinator, Scottish Water;
   
   Domhnall Dods, Director, UK Competitive Telecommunications Association (UKCTA).

4. **Transport (Scotland) Bill:** the Committee will take evidence from:
   
   Mr Alan Watt, Chief Executive, Civil Engineering Contractors Association (CECA) Scotland;
   
   Sir Michael Hirst, Scottish Airports Park and Ride Association (SIAPRA).
   
   David Flint, Partner, MacRoberts Solicitors.

5. **Scottish Executive’s 2005/06 budget proposals:** the Committee will consider a letter from the Deputy Minister for Enterprise and Lifelong Learning in response to its scrutiny of the Scottish Executive’s 2005/06 budget proposals.
6. **Work programme:** the Committee will consider an updated work programme for 2005.

7. **Area Tourist Board Review:** the Committee will review the progress to date in its scrutiny of the Area Tourist Board review.

8. **Further and Higher Education (Scotland) Bill:** the Committee will consider a revised Stage 1 draft report.

Judith Evans  
Acting Clerk to the Committee  
Ext. 0131 348 5214
The following meeting papers are enclosed:

**Agenda Item 2**

Submission from CBI Scotland  
Transport (Scotland) Bill and accompanying documents including:

- Explanatory Notes
- Policy Memorandum
- SPICe Briefing Paper

**Agenda Item 3**

Submission from NJUG  
Submission from UKCTA

**Agenda Item 4**

Submission from CECA  
Submission from SIAPRA

**Agenda Item 5**

Letter from the Deputy Minister for Enterprise and Lifelong Learning

**Agenda Item 6**

Work programme

**Agenda Item 8**

Further and Higher Education (Scotland) Bill revised Stage 1 draft report (private paper)

Submission from the British Medical Association
SCOTTISH PARLIAMENT ENTERPRISE AND CULTURE COMMITTEE
MEETING: TRANSPORT (SCOTLAND) BILL STAGE 1 SCRUTINY

INTRODUCTION

CBI Scotland supports the objectives of the Bill and many of the measures to achieve them. We think congestion is a major threat to our quality of life and competitiveness and the Bill should be effective to some extent in tackling this.

Our support is qualified, however, because we feel that the parts of the bill which deal with regulation of street works are much too heavy handed and insensitive in their impact and will have serious unintended consequences unless we are very careful.

We need to strike the right balance between the critical need to tackle congestion and the equally critical need to preserve and enhance the competitiveness of the customers of Scotland’s utility sectors. Including in the age of broadband, e-business and other telecom services, on which we all agree the future of business in Scotland is vitally dependent. It is not only IT links that are important there are a whole demanding series of targets in water, gas etc, which have to be met, and which are essential for the wider Scottish economy.

We are concerned that the measures in the Bill currently threaten to tip the balance against the utilities for little if any gain in congestion relief and this can not make sense. We are certainly not saying that the utilities are perfect. They and their contractors will need to tighten up their act, and continue to explore innovative ways of working and continue to focus on the promotion of best practice.
The Causes of Congestion

Congestion is caused by a multiplicity of factors including too much traffic, insufficient road capacity, vehicle breakdown, accidents and other incidents, road works, and even bad weather. It is worth noting that in the UK utilities are only responsible for around 5% of congestion on the inter urban network in total. 65% of congestion is due to too much traffic and 25% due to traffic incidents.

It is also important to remember the impact greater use for IT can have on congestion BT have estimated that greater use of broadband could take three years of increased car traffic off the roads. Any changes to the treatment of the utilities should not hinder this activity.

We welcome the creation of Scotland wide Commissioner to co-ordinate road works to ensure consistency of approach, provided that they co-ordinate all works in Scotland in particular local authorities, and that this organisation is independent.

KEY ASPECTS OF THE BILL

Scottish Road Works Register

Is a key-planning tool - we welcome this approach and indeed already comply, having created Suzie phone as an industry initiative - and we would very much welcome its use to cover all works including all local authorities, which is not currently the case.

Reinstatement of Road Works

We have concerns regarding Potential Reinstatement of a whole street following partial workings. Any provisions, which require utilities to resurface a whole street, rather than just reinstate the area where their works have taken place or to contribute to the cost of resurfacing, will increase congestion due to increased duration of works. This will be very complex in terms of identifying who should pay what and give no opportunity for forward financial planning for utilities.
Road Work Offences

We are concerned that the decriminalisation of Road Work Offences could lead to an increase in the number of charges levied on business as this could be seen as a means of raising extra revenue from trivial breaches of legislation. There is currently no detail of how penalties would be handled because of the skeletal nature of the Bill. We do support the full use of the law where severe breeches and negligent work has been carried out.

Timing of Works / Placement of Apparatus

The Bill currently makes provision for local authorities to dictate timing of works and where they might take place. Our concerns are that there is a danger that this could obviously have a negative impact on trying to ensure the installation of customer connections, and also tackling emergencies, and security of supply if severe delays were imposed. If this were allowed to happen this would also run completely against the aspiration of the Scottish Executive to increase the uptake of and usage of broadband technology for example and run contrary to the number one priority of growing the Scottish Economy.

It is of course vital that any legislation should ensure the security of Scotland’s critical national infrastructure including energy, telecommunications and water supplies.

We look forward to giving oral evidence on the afternoon of 14th December and exploring these and other issues with members of the Committee.
TRANSPORT (SCOTLAND) BILL

ALAN REHFISCH & ALASDAIR REID

The Transport (Scotland) Bill was introduced into the Scottish Parliament on 27 October 2004 by the Minister for Transport, Nicol Stephen MSP.

This Briefing describes the provisions outlined in the Bill, examines how these proposals were developed, looks at what these changes will mean in practice and summarises the views of key organisations on the Bill’s provisions.
CONTENTS

Key points .................................................................................................................................................. 3

Introduction ............................................................................................................................................... 4

How is Regional Transport Currently Administered? ........................................................................... 4

Transport (Scotland) Bill Part 1: Regional Transport Partnerships ......................................................... 7

What Will Happen to Strathclyde Passenger Transport? ................................................................. 8

Scottish Executive Consultation on “Proposals for Statutory Regional Transport Partnerships”...... 8

  Boundaries ........................................................................................................................................... 9

  Constitution ...................................................................................................................................... 9

  Functions ......................................................................................................................................... 10

  Funding .......................................................................................................................................... 10

Views of Key Stakeholders on Statutory Regional Transport Partnership Proposals ...................................... 11

Part 2: Road Works ................................................................................................................................ 12

  Introduction ....................................................................................................................................... 12

    The Scottish Road Works Register ................................................................................................. 13

    The Scottish Road Works Commissioner ....................................................................................... 14

    Timing of Works, Reinstatements, Enforcement and Training ..................................................... 15

Part 3: Miscellaneous .............................................................................................................................. 17

  Introduction ....................................................................................................................................... 17

    Concessionary Travel ...................................................................................................................... 17

    Other Amendments in Part 3 .......................................................................................................... 18

SOURCES ............................................................................................................................................... 20
KEY POINTS

PART 1

• the Bill requires Scottish Ministers to establish a network of Regional Transport Partnerships (RTPs) covering the whole of Scotland
• RTPs will be managed by councillors and external members, each local authority within the boundary of a RTP will be represented by one councillor who will have a vote weighted by the population of that authority
• external members will initially be appointed by Scottish Ministers and thereafter by the RTP itself, external members will control no more than 33% of the voting power of a RTP
• the area, constitution and powers of a RTP will be specified in secondary legislation, however each RTP will at least be required to draft a Regional Transport Strategy
• the Scottish Executive is holding a separate consultation on the boundaries, functions and makeup of RTPs

PART 2

• the Bill covers all roads, including trunk roads
• the Bill creates a statutory single national register for planning and coordinating roadworks, called the Scottish Road Works Register
• the Bill creates a Scottish Road Works Commissioner to improve and monitor national performance on roadworks
• the Bill strengthens requirements for directing the timing of works, reinstating (putting back) roads, and create new provisions for resurfacing roads
• the Bill changes the enforcement regime of offences under the New Roads and Street Works Act 1991
• the Bill strengthens requirements, and improves training for persons carrying out, supervising or administering road works

PART 3

• this part of the Bill provides mostly for the introduction of national travel concession schemes
• minor amendments to legislation on pedestrian crossings, Harbour Orders, and the Highlands and Islands Shipping Services Act 1960 are proposed
• part 3 also clarifies provisions on bus quality partnerships, road user charging, and the role of local authorities in the Strathclyde Passenger Transport area in developing an integrated transport scheme
INTRODUCTION

A Partnership for a Better Scotland: Partnership Agreement (Scottish Executive 2003a) contained the following two commitments:

• Extending concessionary fare schemes on public transport, including a national free off-peak bus scheme for older people and people with disabilities
• Bringing forward proposals for a Strategic Transport Authority, as an agency within the Executive directly accountable to Ministers

These proposals were fleshed out by the Scottish Executive (2003b) in Scotland’s Transport – Proposals for a new approach to Transport in Scotland which was published during September 2003. This consultation document proposed the formation of a national transport agency, Transport Scotland, and the creation of a series of regional transport partnerships and posed a series of seven questions on the shape and nature of these proposed institutions. In addition the Scottish Executive (2003c) launched a consultation on The Regulation of Utility of Company Roadworks during October 2003. This set out two scenarios, the first based on informal partnership working to reduce delays caused by road works, the second proposed new road works legislation.

The proposals in these two consultations were refined, based in part on the responses received by the Scottish Executive (2004a), in the transport White Paper Scotland’s Transport Future, which was published during June 2004. The proposals in the White Paper that need new legislation formed the basis of the Transport (Scotland) Bill (Scottish Parliament 2004a), which was introduced in the Parliament on 27 October 2004.

This briefing explains what is in the Bill, examines how these proposals were developed, what these changes will mean on the ground and summarises the view of key organisations on the Bill’s provisions.

HOW IS REGIONAL TRANSPORT CURRENTLY ADMINISTERED?

Since local government reorganisation in 1996 local and regional transport administration has been the responsibility of Scotland’s 32 local authorities and, in the former Strathclyde Region, Strathclyde Passenger Transport Authority and Executive.

Currently there is no statutory requirement for local authorities to draft either local or regional transport plans. However, most local authorities have drafted local transport plans and, in the past few years, have came together to form four voluntary regional transport partnerships with a view to developing coherent regional transport plans. Such plans are not restricted by the boundaries of individual local authorities which often do not reflect the travel patterns of local residents.

The four voluntary transport partnerships are:

HITRANS (Highlands and Islands Strategic Transport Partnership): HITRANS was established as a sub-group of the Highlands and Islands Convention in 1997 as the Highlands and Islands Integrated Transport Forum. HITRANS aims to provide cost effective regional transport services which enhance regional development opportunities, combats social exclusion and which is safe and sustainable. To this end HITRANS published a Regional Transport Strategy for the Highlands and Islands Area during 2003.
HITRANS is a partnership of the following organisations:

- Argyll & Bute Council
- Orkney Islands Council
- Comhairle nan Eilean Siar
- Shetland Islands Council
- The Highland Council
- Highlands and Islands Enterprise
- North Ayrshire Council
- The Highlands and Islands Public Transport Forum
- Moray Council
- Scottish Council Development and Industry

HITRANS is managed by a board which consists of one Councillor and one senior officer from each local authority plus one representative from each of the other partners. In addition the Scottish Executive and Highland Council can each nominate one non-voting representative to serve on the Board.

WESTRANS (West of Scotland Transport Partnership): WESTRANS developed as an informal organisation following a meeting of the 12 former Strathclyde Region local authorities in November 1998. WESTRANS became a formal joint committee during October 2002 with Dumfries and Galloway joining during January 2003.

WESTRANS is a Joint Committee of the following local authorities:

- Argyll and Bute
- East Ayrshire
- East Dunbartonshire
- East Renfrewshire
- Dumfries and Galloway
- Glasgow
- Inverclyde
- North Ayrshire
- North Lanarkshire
- Renfrewshire
- South Ayrshire
- South Lanarkshire
- West Dunbartonshire
Although not formal members, WESTRANS works closely with SPT, Glasgow and Clyde Valley Structure Plan Joint Committee and the Ayrshire Structure Plan Joint Committee. WESTRANS/SPT published a consultation draft of *A Joint Transport Strategy for Western Scotland to 2025* during May 2004. The main aims of the strategy being the further development of a transport network which is sustainable, combats social exclusion, promotes economic development and enhances the environment of the west of Scotland.

**NESTRANS** (North East Scotland Transport Partnership): NESTRANS is the regional transport partnership for north-east Scotland, consisting of representatives from:

- Aberdeen and Grampian Chamber of Commerce
- Aberdeen City Council
- Aberdeenshire Council
- Scottish Enterprise Grampian

NESTRANS is governed by a Board of representatives from each of the four partner organisations. NESTRANS published a regional transport strategy, *Helping Deliver a Modern Transport System*, during 2003 which sets out a series of transport improvements for the north east up to 2011.

**SESTRAN** (South East Scotland Transport Partnership): SESTRAN was set up by seven Central and South East Scotland local authorities in March 1998. The partnership has since grown to include the following organisations:

- City of Edinburgh Council
- Falkirk Council
- Fife Council
- Stirling Council
- Clackmannanshire Council
- East Lothian Council
- Midlothian Council
- Scottish Borders Council
- West Lothian Council
- Forth Estuary Transport Authority (FETA)
- Perth and Kinross Council

SESTRAN is governed by a steering group which consists of two elected members and two officers from each Council plus two representatives from FETA. Day to day management is carried out by a Management Team formed of two Officers from each member council plus two representatives from FETA.

In 2003 SESTRAN produced a *Regional Transport Strategy* setting out the vision, aims and objectives for strategic transport in the region up to 2028, with a special focus on links to and from Edinburgh.

As can be seen from the brief descriptions above, each voluntary transport partnership has developed unique structures and objectives, e.g. NESTRANS and HITRANS involve private sector partners where SESTRAN and WESTRANS do not and consequently each regional transport plan deals with different issues over different time scales. In addition Angus Council and Dundee Council are not currently members of a voluntary transport partnership, although this does not mean that they do not work with other local authorities on an ad hoc basis.

*providing research and information services to the Scottish Parliament*
TRANSPORT (SCOTLAND) BILL PART 1: REGIONAL TRANSPORT PARTNERSHIPS

The main provisions of Part 1 of the Transport (Scotland) Bill can be summarised as follows.

Regional Transport Partnerships: The Bill requires Scottish Ministers to divide Scotland into regions and establish a ‘Regional Transport Partnership’ (RTP) for each of these regions. Ministers must also, by order, set out the constitution of each RTP.

Membership of a Regional Transport Partnership: Each RTP must contain one councillor from each constituent local authority, i.e. an authority which is within or partially within the RTP area. RTPs will also include external non-councillor members, initially appointed by Scottish Ministers and thereafter by the RTP itself, subject to the approval of Scottish Ministers. In addition non-voting observers may be appointed to the RTP by either Scottish Ministers or the RTP itself.

Voting Rights: Where RTPs are required to vote on an issue the weight attached to each councillor members' vote will be weighted to broadly reflect the population of their local authority, with a weight of between 1 and 4. In addition councillors will always command a minimum of two thirds of the votes on a RTP and certain RTP posts, defined in the order establishing the RTPs constitution, may only be open to councillor members.

Dissolution: Scottish Ministers will have the power, by order, to dissolve a Transport Partnership.

Finance: A RTP will be able to receive direct funding from the Scottish Executive and other organisations and will, if suitable powers are devolved by local authorities, be able to operate revenue generating services. The majority of the revenue expenditure incurred by a RTP will be met by each of its constituent local authorities, the contribution to be met by each authority can either be decided by agreement or, where agreement has not proven possible, as decided by Scottish Ministers. A RTP may borrow money for capital investment under the same conditions as a local authority.

Regional Transport Strategies: A major function of each RTP is the requirement to draw up a Regional Transport Strategy (RTS). A RTS will set out a case for investment in transport in the region and will guide the transport activities and investment of the constituent local authorities. A RTP will be required to consult with constituent councils, public bodies and other stakeholders when drafting a RTS. Certain public bodies will be placed under a duty to perform their functions in a manner that is consistent with the RTS, as far as reasonably possible.

Each RTP will be required to keep its RTS under review and can modify the current strategy or issue an entirely new strategy at any time. The Scottish Ministers will have the power to direct RTPs to issue new RTSs.

Scottish Ministers intend to issue guidance on the content and development of RTSs and all RTSs will be subject to Ministerial approval. In addition Scottish Ministers will have the power, by order, to transfer any transport function to a RTP where it is required for the fulfilment of the RTS, if Ministers consider such a transfer to be appropriate.

Scottish Ministers Transport Functions: Scottish Ministers will be able to assume, by order, any of the transport functions carried out by Strathclyde Passenger Transport.
Transfer of Staff, Property and Liabilities: Any staff that transfer employment as a result of the provision of the Bill will do so under TUPE regulations

WHAT WILL HAPPEN TO STRATHCLYDE PASSENGER TRANSPORT?

Strathclyde Passenger Transport (SPT) is made up of two linked bodies:

- Strathclyde Passenger Transport Authority (SPTA)
- Strathclyde Passenger Transport Executive (SPTE)

SPTA is one of seven passenger transport authorities in the UK set up under the provisions of the Transport Act 1968 and is the only passenger transport authority in Scotland. It has 34 members from the 12 local authorities that made up the former Strathclyde Region and is responsible for forming Strathclyde’s public transport policy.

SPTE advises the SPTA and implements its policies. It employs some 686 staff, over half of which work on the Glasgow Subway, the only service actually owned by SPT.

As described above Section 12 of the Bill allows Scottish Ministers to assume, by order, any of the transport functions carried out by SPTA or SPTE. The Executive set out its intentions for SPT in the White Paper (Scottish Executive, 2004a) which stated:

_We are therefore determined to see a strong regional transport partnership in the west of Scotland to which SPT’s powers would transfer, with the exception of relevant rail powers which we have already indicated will transfer to the national agency. These powers could be supplemented by any other local authority powers that the constituent councils chose to transfer._

Rail services in the SPT area are currently specified and paid for by SPT (from Scottish Executive rail grant), which also decides on timetables and fares for journeys that begin and end in its area, and on certain routes extending outwith this area. The services are operated by First ScotRail, the holder of the Scottish passenger rail franchise, to which SPT are a co-signatory. As indicated above, the Scottish Executive intends to assume these powers, with the intention that they will be exercised by Transport Scotland.

SCOTTISH EXECUTIVE CONSULTATION ON “PROPOSALS FOR STATUTORY REGIONAL TRANSPORT PARTNERSHIPS”


The consultation document (Scottish Executive 2004b) sets out the Executive’s thinking on the boundaries, constitution, functions and funding of the proposed statutory Regional Transport Partnerships (RTPs). It also poses a series of 16 questions on these topics.

The Executive’s draft proposals can be summarised as follows:

_providing research and information services to the Scottish Parliament_
BOUNDARIES

The Executive proposes the creation of five statutory RTPs. The following table indicates the broad areas to be covered by the partnerships based on the local authorities to be included in each.

<table>
<thead>
<tr>
<th>Transport Partnership</th>
<th>Constituent Councils</th>
</tr>
</thead>
<tbody>
<tr>
<td>West &amp; South-West</td>
<td>Argyll &amp; Bute (Helensburgh), Dumfries &amp; Galloway, East Ayrshire, East Dunbartonshire, East Renfrewshire, Glasgow City, Inverclyde, North Ayrshire (less Arran &amp; Cumbraes), North Lanarkshire, Renfrewshire, South Ayrshire, South Lanarkshire, West Dunbartonshire</td>
</tr>
<tr>
<td>South-East</td>
<td>City of Edinburgh, Clackmannanshire, East Lothian, Falkirk, Fife, Midlothian, Scottish Borders, West Lothian</td>
</tr>
<tr>
<td>Central &amp; Tay</td>
<td>Angus, Dundee City, Perth &amp; Kinross, Stirling</td>
</tr>
<tr>
<td>North-East</td>
<td>Aberdeen City, Aberdeenshire</td>
</tr>
<tr>
<td>Highlands &amp; Islands</td>
<td>Argyll &amp; Bute (less Helensburgh), Comhairle nan Eilean Siar, Highland, Moray, North Ayrshire (Arran &amp; Cumbraes), Orkney, Shetland</td>
</tr>
</tbody>
</table>

The Executive (2004b) has used the following criteria in deciding where to draw the boundaries of the statutory RTPs:

- Reflecting travel to work patterns and other user needs
- Following the existing boundaries of local authorities and other public bodies
- Avoiding the division of a local authority area between more than one partnership other than where there were compelling transport reasons
- Capturing a regional boundary that would make sense to its inhabitants
- Bringing together local authorities with common interests and issues
- Ensuring partnerships with sufficient critical mass to deliver services effectively but without including so many members so as to become unwieldy

CONSTITUTION

Each statutory RTP will be made up of ‘councillor members’ and ‘external members’ who will account for approximately 30% of the voting membership. In addition non-voting external members may also be appointed to the RTP. The criteria for appointment will be as follows:

- **Councillor member:** Each constituent council of an RTP will be represented by a single serving councillor, who can send a substitute, who must be a serving member of the same council, in case of unavoidable absence from meetings. Local authorities should have the power to terminate, at any time, the tenure of the councillor representing them on an RTP.

- **External member:** External members will be key players in the transport field, from service providers to users, who will initially be appointed by Scottish Ministers. It is the Executive’s intention that once RTPs are fully established that they will appoint their own external members. It is anticipated that external members will be appointed for a period of four years.
• **Non-voting external member:** RTPs will also be able to appoint external members who do not have voting rights.

The Executive considers that most RTP decision will be made by consensus, although where consensus cannot be reached there will be a vote decided by a simple majority. The vote of each councillor member will be weighted, based on the population of the local authority that they represent. In exceptional circumstances, e.g. a vote to change the constitution of the RTP, a vote may need a greater majority, e.g. 2 to 1, to be carried.

**FUNCTIONS**

The functions of a RTP will be set out by ministerial order, the Executive states that the functions to be exercised by each partnership will be based on the wishes of the organisations involved. However, the Executive identifies three distinct types of RTP.

1. **Regional strategy and limited transport powers:** Each RTP must develop and implement a RTS. However, under this scenario all of the powers required to implement the RTS will be retained by individual local authorities.

2. **Regional strategy and some transport powers transferred:** This is effectively a development of the model described above. The RTP would develop its RTS in which it would identify what additional powers it needed to implement the strategy. The Scottish Ministers would then decide, in consultation with the RTP, what powers to devolve to the Partnership which would be done by order.

3. **Regional strategy and significant public transport powers transferred:** Again a development of model 2 which would see further powers devolved from local authorities to the RTP, as is currently the case in the west of Scotland with SPT. This model could go even further than current passenger transport executives by incorporating local authority road functions into the remit of the RTP.

**FUNDING**

**Revenue Funding:** RTPs revenue expenditure will be covered through requisition of funds from the constituent local authorities. This would include funds to cover costs incurred in the delivery of services and functions devolved to the RTP from those local authorities. The proportion of funds to be paid by each individual local authority will normally be agreed by negotiation between local authorities, if no agreement can be reached then the Scottish Ministers will impose a settlement on the relevant local authorities.

**Capital Expenditure:** Investment in infrastructure projects identified in a RTS can be funded in a number of ways:

- the constituent local authorities will be able to put money towards the project, borrowing if required under the prudential borrowing regime (in which case the asset-ownership would rest with the authorities)
- the RTP itself will also be able to borrow money under the prudential regime in the same way. It would have to cover the costs incurred by such borrowing through its budget in future years - this is likely to fall on the constituent authorities to fund
- the Scottish Executive will also be able to contribute to regional projects of strategic significance

*providing research and information services to the Scottish Parliament*
• for individual projects, other partners (both commercial and public sector) may contribute funding

**VIEWS OF KEY STAKEHOLDERS ON STATUTORY REGIONAL TRANSPORT PARTNERSHIP PROPOSALS**

The proposals in the Bill have been broadly welcomed by many involved in the planning and provision of transport in Scotland, e.g. Councillor Alison Magee, COSLA roads and transportation spokesperson, stated (COSLA 2004) that:

“The key role that Local Government has to play in the future planning and delivery of transport services at local and regional level is good news for us and, allied to the national strategy, will for the first time allow integrated planning of agreed transport priorities from top to bottom.”

Councillor Alison McInnes, Vice Chair of NESTRANS and Chair of Aberdeenshire Council’s Infrastructure Services Committee, has also welcomed the proposals in the Bill, stating (NESTRANS 2004):

“The new statutory powers will provide the RTP, working with its constituent Councils with greater opportunities to effectively deliver a Modern Transport System for the north east.”

However, although the general thrust of the proposals have been greeted in a mainly positive manner some particular concerns have been raised regarding specific details of the Bill, e.g. although Councillor Alistair Watson, Chair of SPTA (SPT 2004a):

“...cautiously welcomed Transport Minister Nicol Stephen’s commitment to SPT’s core role in the regional transport body proposed for the west of Scotland.”

He has gone on, in recent statements, to highlight concerns about the proposed structure and organisation of the statutory RTPs, stating (SPT, 2004b):

“If we follow the white paper’s proposal for one member per council, there will be political parties left standing on the sidelines with nothing to do but criticise what might be seen as another quango. The RTP must have a politically inclusive, cross-party membership with no block voting.”

In addition he has also raised concerns about the impact of removing SPTs rail franchise powers (SPT 2004c), claiming that:

“Without SPT actively managing and promoting the rail network in the west of Scotland, the growth in passenger numbers and income would both have been about half their current figure. Without SPT the taxpayer would have had to foot a far bigger bill for the rail franchise.”

Highlighting another potential area of concern regarding community involvement in RTP decision making, Dr Dan Barlow, Head of Research at Friends of the Earth Scotland, has stated (FoE 2004)

“Despite the Executive’s stated intention to ensure the public get involved there is a real danger the new regional transport partnerships will become dominated by business groups and others who simply want more environmentally-destructive mega projects such as motorways.”

providing research and information services to the Scottish Parliament
PART 2: ROAD WORKS

INTRODUCTION

This part of the Bill aims to improve the quality and co-ordination of road works across Scotland. In recent years, problems have been exacerbated, partly because of the emergence of utilities companies who dig up the road to install new services such as broadband or cable TV.

In particular, the Bill proposes to create a new single national register for planning and coordinating roadworks, called the Scottish Road Works Register (SRWR). The Bill creates a Scottish Road Works Commissioner (SRWC) to oversee and regulate the new register. It also strengthens the regulations pertaining to the timing of works, reinstating (putting back) the road, and changes the enforcement regime of offences under the **New Roads and Street Works Act 1991** (the 1991 Act) to include fixed penalty notices. Additionally, this part of the Bill strengthens requirements, and improves training for those carrying out, supervising or administering road works.

COSLA (2004) welcomed the Bill, and stated:

"We see this as a real step forward in allowing better coordination of roadworks and ensuring that the problems we have all experienced are resolved quickly and effectively."

A consultation on **The Regulation of Utility Company Roadworks** (Scottish Executive 2003c) focused on the way in which they are currently carried out, and how they could be improved. As previously noted, two proposals for change were mooted; the first option strengthened and provided further guidance on existing legislation, and the second proposed new legislation. **Consultation responses** (Scottish Executive 2004c) were predominantly in favour of new primary legislation, however in spite of the emergence of common themes, there was no majority view for many of the issues raised.

The Community Planning Implementation Group at COSLA (CPIG 2004) was in favour of the first approach, and stated that:

“...the approach that has been taken, utilising where possible, existing legislation (Community Planning and the Power to Advance Well-being) is sensible and gives Local Authorities the ability to use their existing powers to ensure better forward planning of utility company roadworks, as well as better co-ordination between utility companies and councils.”

Similarly, BT Scotland (2004) stated:

“...we are not convinced that the problems relating to utilities’ roadworks is such that primary legislation is required, and would suggest that more detailed and complete information is required in order to demonstrate that primary legislation would be necessary to effectively deal with the issue of congestion caused by utility companies.”

Conversely, Highland Council (2004) would:

“...welcome new primary legislation, which gives the roads authority greater control over its own roads. However such powers would need to generate sufficient revenue in order to operate them effectively. The Council has difficulty in identifying adequate resources to properly implement its current powers.”
Strathclyde Police (2004) state:

“New concise legislation which clearly and simply defines both the role of the Local Authority and duties of the undertaker, combines with the relevant statutory penalties would hopefully ensure a higher degree of compliance by the utility companies.”

A broad analysis (Scottish Executive 2004c) of the responses has shown that the issues mostly affecting the public are:

- inconvenience caused by congestion and delays
- environmental issues
- the cost of congestion to business
- safety of the general public
- poor quality reinstatement (putting back) of the road
- overstay of roadworks
- roads being excavated more than once
- unplanned emergency works

**The Scottish Road Works Register**

Moleseye¹, the current Scottish Road Works Register, is an electronic notification system that monitors and coordinates roadworking activity throughout the country. Under the 1991 Act, individual roads authorities are obliged to maintain one or more single registers at a regional level; however they have, by administrative arrangement, agreed to pool their resources and operate a national system. A number of problems have been highlighted with the current system. These include (Scottish Executive 2004c):

- inaccurate, incomplete or out of date records
- lack of notification/use of the register
- lack of compatibility with utility company systems

The Scottish Executive (Policy Memorandum 2004) recognises this when it states:

“There are two principal problems with the current regime which the Bill addresses. Firstly, not all undertakers participate in maintaining the [current] SRWR, and of those which do, not all comply with their obligation to regularly provide information to it. This makes it difficult for road works authorities to fulfil their coordination role, because the information held on SRWR can be incomplete or inaccurate. Secondly, it is clear that the quality and level of information held on SRWR could be enhanced to make it a much more useful planning tool.”

Part 2 of the Bill therefore proposes the creation of a new unitary Scottish Road Works Register (SRWR). This single national register is created by Section 17 of the Bill. Section 16 places a statutory requirement on road works authorities, and those undertaking work to provide the Commissioner with information. In Section 17, amendments are proposed to the 1991 Act which tighten and modify current requirements to inform the register of relevant proposals. These will establish the SRWR as a statutory register and place new duties on undertakers and road works authorities to maintain and use the SRWR as the central tool for daily and longer term planning (Policy Memorandum 2004).

---

¹ Both the current and proposed systems are called the Scottish Road Works Register.
Glasgow City Council (2004) support changes to the SRWR, and note that the biggest single problem with the system is the quality of the information inputted by utilities. Until this is addressed the full potential of the system will not be realised. Furthermore, National Grid Transco (2004) state:

“To be effective, all works, including road authority works, must be recorded and efficiently coordinated by the road authority with emphasis put on works causing potential conflict and disruption.”

If undertakers do not provide adequate information to the register, then penalties for failure to comply can be imposed under section 119 (General duty of undertakers to cooperate) of the 1991 Act. Failure to comply with published codes of practice under this section may engender a fine of up to £1000 (level 3).

The Scottish Road Works Commissioner

Section 14 of the Bill creates a new public position entitled The Scottish Roadworks Commissioner and Section 15 sets out the functions of the Commissioner, with the overall aim to improve and monitor national performance on roadworks by promoting good practice, and ensuring that all parties comply with relevant legislation. More specifically, the incumbent will be able to implement ad hoc inspections of the above Scottish Road Works Register, and will carry out and publish an annual national level audit of the Register.

The Society of Chief Officers of Transportation in Scotland (SCOTS) stated (Scottish Parliament Local Government and Transport Committee 2004a):

“The Commissioner does not appear to have significantly different powers than Roads Authorities currently have and would thus appear have the same difficulties in getting New Roads and Street Works Act 1999 offences prosecuted.”

East Renfrewshire Council (2004) however think that:

“An arbitrator would be very useful as someone who could draw to a conclusion disputes over matters of disagreement/conflict without reverting to the courts.”

Similarly, National Grid Transco (2004):

“…welcomes the provision of an independent arbitrator role, but to be effective, they must apply the same criteria to both utility and road authority works. The arbitrator must be fair and knowledgeable and understand the balance between the provision of essential services and disruption to traffic.”

With reference to the previous statement by National Grid Transco, a key role of the Commissioner will be direction-making power under sections 118 (General duty of road works authority to co-ordinate works) and 119 (General duty of undertakers to cooperate) of the 1991 Act. This means that utility companies can be fined for flouting the legislation, and roads authorities can be directed to carry out improvements to their practices e.g. the Commissioner can require an authority to carry out a more rigorous audit of their actions, or specify certain training schemes for staff.

It should be noted that this Commissioner differs from the Traffic Commissioners who work with the UK Vehicle and Operator Services Agency.
Timing of Works, Reinstatements, Enforcement and Training

In addition to the above, the Bill also makes provision to improve the timing of works, reinstatements, improved enforcement of road works offences, and training of those involved in road working.

Sections 18, 19 and 20 amend, clarify and strengthen the power of road works authorities to specify on what days, and at what time works may be carried out. Also, to minimise disruption, authorities may designate where apparatus in a road should be placed, and may also restrict further substantial works at that site within 3 years.

Similarly, to ensure a high quality of reinstatement and resurfacing, sections 27 - 30 amend the 1991 Act to strengthen the obligation on undertakers to satisfactorily finish the job, and provide new powers for road works authorities to require full or half-width resurfacing of the road when this is necessary to protect the road surface quality (Policy Memorandum 2004).

Sections 19, 23, 29, and 31 to 33 contain subsections pertaining to enforcement and increasing penalties for road works offences. Works in contravention of section 19 (Directions as to placing of apparatus in roads) are liable on summary conviction to a maximum fine on level 5 (£5k) of the standard scale. Section 23 allows Ministers to create regulations whereby the Commissioner can impose penalties on undertakers who fail to comply with section 119 of the 1991 Act. Section 29 allows Scottish Ministers to make regulations in respect of a breach of requirements imposed by a resurfacing notice (which specifies timing, materials, workmanship and standard of resurfacing). These offences are liable to a fine not exceeding level 4 (£2.5k) on the standard scale, or in more serious cases, level 5 (£5k).

On the subject of financial penalties, Aberdeen City Council (2004) notes that:

“The utility companies must be encouraged to plan and finish their works in the shortest possible timeframe, and the only way to make this work is by a financial penalty for excess time spent working on the road. This action alone would reduce disruption considerably. However, it is essential that these costs are not passed on to the consumer by way of increased charges from utility operators.”

Section 31 introduces an increase in penalties (up to levels 4 and 5) for offences listed in Schedule 3 of the Bill, for example, these include failure to comply with notification duties, carrying out works in contravention of a restriction, and interference with safety measures. Section 32 introduces a new section to the 1991 Act which makes provision for the introduction of fixed penalties for offences such as failure to give notice of emergency works, and failure to give notice of completion of reinstatement. Section 33 also introduces a new section to the 1991 Act that allows road works authorities (via the Scottish Ministers) to impose penalty charges for breaching the 1991 Act under civil law.

“The Bill requires people involved in carrying out road works (both supervisors and operatives) to have the right qualifications to do the job safely and to the required quality standards.” (Policy Memorandum 2004)

Therefore, sections 24 and 25 require those undertaking road works to supply the names, and evidence of the qualifications of supervisors and workers to the roads authority. This information can be requested whilst the works are being carried out, or within a prescribed period following completion. This period is to be detailed in secondary legislation, as is a requirement that documentary evidence of qualifications must be accredited by an approved
Similarly, the Bill requires that roadworks authorities and undertakers ensure the competence of employees involved in the administration of the SRWR.
PART 3: MISCELLANEOUS

INTRODUCTION

Part 3 of the Transport (Scotland) Bill 2004 provides mostly for the introduction of national travel concession schemes. It also makes minor amendments to legislation on pedestrian crossings, Harbour Orders, and the Highlands and Islands Shipping Services Act 1960. The clarification of provisions on bus quality partnerships, and road user charging also feature in the Bill.

Concessionary Travel

As previously noted, the Partnership Agreement (Scottish Executive 2003a) undertakes to:

“Extending concessionary fare schemes on public transport, including a national free off-peak bus scheme for older people and people with disabilities”

And:

“Progressively introducing a scheme of national bus, rail and ferry concessionary travel for young people, initially for all in full time education or training”

Section 37 of the Bill allows Scottish Ministers discretionary power to create national concessionary travel schemes. These powers are additional to local authorities’ current powers to run schemes in their area under the Transport Act 1985 and compliment the, as yet unused, powers allowing Scottish Ministers to direct local authorities to operate a concessionary fares scheme which were introduced under the Transport (Scotland) Act 2001.

The Executive (Policy Memorandum 2004) state:

“In Scotland there are 16 local concessionary travel schemes run by individual local authorities. These schemes have been developed locally over the years to meet the needs of people in the area served by the particular scheme. As a result, each scheme is different – in terms of the categories of people who qualify for concessionary travel; the transport modes on which travel is available; and the nature of the concession on offer.”

This national mandate for development of local travel schemes means that it might no longer be appropriate for concessionary travel to be exclusively the responsibility of local transport authorities. The Policy Memorandum (2004) therefore outlines three options for future management of concessionary travel:

- Local authorities could continue to operate schemes, including nationally directed improvements
- Scottish Ministers could exercise the proposed powers of this Bill, and manage concessionary travel via the new transport agency (Transport Scotland)
- The new Transport Partnerships (proposed in Part 1 of the Bill) could take responsibility

If Ministers chose to establish a scheme, an order will be made to include provision for administration, reimbursement of operators, the right of operators to participate, the right of Ministers to require participation, and appeals about compulsory participation.

The Bill’s Policy Memorandum notes that the Executive wants the administration of national concessionary travel schemes to be as flexible as possible so that they can be run by Scottish
Ministers (via Transport Scotland), local transport authorities, or Transport Partnerships. It further notes that if a national scheme was managed by Transport Partnerships:

“This would enable schemes to continue to include local elements and nationally mandated enhancements thereby significantly reducing the current duplication of effort… However, with the focus now on national entitlements the Scottish Ministers wish to consider whether a national approach to delivery of travel schemes might now be appropriate.”

In evidence to the Local Government and Transport Committee’s inquiry into the implementation of the Transport (Scotland) Act 2001, there was broad support for implementing a national concessionary travel scheme. Strathtay Buses (Scottish Parliament Local Government and Transport Committee 2004b) stated that they would support:

“One national scheme nationally administered eliminating wasteful administration cost.”

Similarly, Brian Souter of Stagecoach Group has noted (Scottish Parliament Local Government and Transport Committee 2004c) that current concession schemes had stimulated business growth particularly in rural areas, and that there had been a modal shift from private cars, engendering positive environmental and social impacts. In written evidence to the committee, he further stated that he “fully supports the provision of concessionary travel”.

**Other Amendments in Part 3**

Section 38 of the Bill proposes to amend section 23 of the Road Traffic Regulation Act 1984, and simplify the procedures for a local traffic authority wanting to alter a pedestrian crossing. Put simply, it would allow local traffic authorities to establish, alter or remove pedestrian crossings (Policy Memorandum 2004) without (as is currently required) having to inform Ministers.

Section 39 of the Bill proposes to modify the Highlands and Islands Shipping Services Act 1960. This amendment would (Policy Memorandum 2004):

“…terminate the requirement for advance Parliamentary approval before financial assistance can be given to shipping services in the Highlands & Islands.”

If passed, Scottish Ministers will have the power to make loans as well as grants to support and invest in lifeline ferry links such as the CalMac and NorthLink services.

Sections 40 to 42 pertain to a simplification of the Harbour Orders Act 1964. Harbour Orders may be used to make a new harbour authority, or to revise its powers. Currently, even if there is only one objection to a harbour order, a public inquiry must be held. The proposed amendment does not mean that the right to make a representation or to raise an objection is to be removed; rather, the choice of procedure is to be decided by Scottish Ministers on a case by case basis. There was unanimous support for this amendment following a consultation entitled Amendments to Harbours Act 1964 (2004) (Policy Memorandum 2004).

Section 43 of the Bill allows local authorities in the Strathclyde Passenger Transport (SPT) area to create partnerships, joint contracts and ticketing schemes. This aims to encourage the development of an integrated transport system. SPT already has these powers; this section clarifies the 2001 Act. This section also clarifies the 2001 Act by ensuring that the same physical stretch of road should not be subject to charges imposed by more than one road user charging (RUC) scheme at one time (Policy Memorandum 2004). Similarly, the Bill amends the providing research and information services to the Scottish Parliament
2001 Act to enable Scottish Ministers to appoint independent adjudicators to determine disputes relating to RUC schemes. It also enables charging authorities to distribute the net proceeds from an RUC scheme to local authorities across Scotland, for example to aid the facilitation of a ferry service connecting both authorities.
SOURCES


SUBMISSION TO THE ENTERPRISE AND CULTURE COMMITTEE OF THE SCOTTISH PARLIAMENT ON THE TRANSPORT (SCOTLAND) BILL

Introduction

The National Joint Utilities Group (NJUG) represents utilities from the gas, electricity, water and telecommunications sectors. The National Joint Utilities Group (NJUG) and its member organisations' support measures that improve traffic flow and assist us in efficiently co-ordinating our essential works.

There are numerous aspects of the Bill that we welcome, such as the new Road Works Commissioner and the enhanced use of the Scottish Road Works Register (SRWR), which we agree, that if implemented properly, will further assist in improving coordination of road works. However, we have a number of serious reservations with other aspects of this new legislation and its implications for our industries and customers.

Scotland’s roads provide a thoroughfare for vehicles and pedestrians but they also act as conduits for many essential services that are often taken for granted – electricity, gas, water, sewers and telecommunications. We believe the importance of these services is not adequately recognised in the Bill, and are concerned that if this is not addressed, costs for undertaking our essential works will rise, and have to be passed onto the consumer.

We are deeply concerned to learn from a recent parliamentary answer that the Executive has no plans to apply the new rules to local authority road works. It is NJUG’s view that the only way to achieve the benefits from this new legislation that the Executive is seeking, is to apply the rules to all those who carry out road works. To treat them differently, will disrupt the good relationships that have built up between local authorities and utilities over a number of years.

We are very disappointed with the skeletal nature of the Bill. It proposes some significant changes to the way our industries will operate—but lacks detailed explanation as to how the legislation will work in practice. This prevents us from accurately assessing the true implications and costs of the Executive’s proposals.

1 National Grid Transco, THUS plc, BT, Water UK, Telewest Broadband, Energy Networks Association, NTL, Cable and Wireless
2 Written Answer Number S2W-12212 to Bruce Crawford MSP from Nicol Stephen, 26 November 2004.
Our Key Issues

• Inclusion of local authority works

Given that utilities and local authorities are equally responsible for unavoidable road works, NJUG has always argued that they should both be subject to the same rules. For Scotland to fully benefit from the enhanced co-ordination that these proposals aim to deliver, works must be treated in an equitable fashion.

NJUG has always sought to work, where possible, in partnership with other undertakers and has already invested significant resources in the industry initiative - Susiephone, a system that registers utility road works. NJUG therefore supports the obligatory use of the SRWR by all those who undertake road works. In addition to improving coordination, this will bring about the additional benefit of providing a true picture of what percentage of road works are caused by utilities and what percentage are caused by local authorities or others.

NJUG also look forward to working with the new Road Works Commissioner on the basis that he is independent, has sufficient resources to perform his duties effectively, does not duplicate the existing duties of local authorities, and applies the new rules equitably to all those who dig up the roads.

*Given, that utilities and local authorities are equally responsible for causing 10% of congestion*, NJUG believes it is vital for all works to be subject to the same rules for this legislation to have any impact on congestion. We would also strongly encourage the Executive to carry out detailed research into the causes of congestion before bringing forward further legislation based on anecdotal evidence.

• Directions as to timings of works and placement of apparatus in road

Much of NJUG members work is concerned with replacing, maintaining or connecting to existing networks already in the ground. Allowing local authorities to dictate where apparatus may be placed in the road will, in all likelihood increase costs and duration of works, by potentially increasing the distance required between new apparatus and utilities’ existing networks, or the distance to connect new customers. Utilities plan their networks in the most efficient manner possible to minimise their own costs / the price the customer has to pay. They already work closely with local authorities in the planning of major works, and accommodate requests to flex timings etc. wherever possible. This proposal will do little to reduce congestion, whilst increasing the cost to customers / consumers.

---

4 Ibid, (Column Numbers 1414)
Additionally, NJUG is concerned that the use of this section by two adjacent road works authorities (e.g. Scottish Executive and Council) could prevent apparatus being laid at all by prohibiting its placement in adjacent roads.

NJUG is also concerned that granting local authorities the power to change the timing of work, and direct the placement of apparatus in the road, could have serious implications for the cost of services, the timely delivery of services, and the quality of the local environment. For example, forcing utilities to undertake road works at night would increase the cost of the work by an average of 37-42%, ultimately to the detriment of the customer, and have serious safety implications for the operatives and equally serious environmental noise implications for local residents.

It is vital that reasonable exemptions are written into the legislation allowing utilities to undertake unforeseen emergency works, works to restore severed services and to provide new customer connections. Gas and water escapes, and electricity faults are dangerous and therefore need to be addressed as quickly as possible. Loss of gas, water, electricity supplies, or telecommunications services can be devastating to the community. Equally, computer systems not working can be commercially catastrophic.

*Not only can delaying emergency and restoration works threaten national safety, delays can also harm the economy, businesses and communities that all rely on utility services.*

- **Powers to restrict works**

NJUG has serious concerns regarding a power in the Bill that would enable local authorities to restrict all digging in a street for up to three years following substantial road works. There appears to be no accompanying explanation as to why the duration has increased by 300%. Utilities must be allowed to undertake unforeseen emergency works, works to restore severed services and to provide new customer connections. Works to rectify, for example gas and water escapes, will have to be carried out for safety reasons, and the need to provide new customer connections will continue to have to be met. In addition to this, gas and water mains replacement programme agreed by industry regulators is already underway and the electricity networks are also at the beginning of a major asset replacement programme as much of it was built in the 50s and 60s.

Additionally, rather than extending the time when utilities cannot dig up the road, we would like to see greater notice given by local authorities when they are planning to resurface the road and following which the moratorium is to be implemented, in order to allow utilities to bring forward works and thereby necessitate the road not being dug up for some time afterwards.
Furthermore, restricting works for a long period can result in a relatively minor job escalating to cause larger scale problems requiring lengthier occupation of the road.

*It is imperative that exemptions are written into the text of the legislation for emergency, urgent and customer connections. It is simply not commonsense to expect utilities companies and their customers to predict their repairs and required services up to three years in advance.*

- **Road Work Offences**

NJUG works towards ensuring all member companies carry out works to a high standard and accepts that punitive action should be taken when companies fail to perform to an acceptable standard. However, we ask that the Scottish Executive give serious consideration to measures that encourage good performance, rather than simply punishing poor performance.

NJUG is also concerned that the fixed penalty notice system will be used by authorities to generate revenue rather than to reduce congestion.

NJUG therefore suggests that the power to issue fixed penalty notices should be vested in an independent authority (possibly the Road Works Commissioner) and the rules applied to all those who undertake road works (utilities and local authorities).

NJUG recommends a sliding scale of penalties be introduced based on the disruption or inconvenience caused by certain offences. NJUG would encourage the Executive to provide guidance for both local authorities and utilities indicating the type of offences likely to incur the highest level of fixed penalty notice and would urge that the fixed penalty only cover the administrative costs of issuing the notice to ensure that it is not used by authorities as a means of raising revenue.

*To avoid misuse of the system and ensure that bureaucracy is kept under control, NJUG recommends that fixed penalties must be proportionate to the offence committed, and take into account the level of congestion caused, and thereby the seriousness of the offence.*

- **Resurfacing**

Whilst NJUG agrees that utilities should be required to reinstate roads to an acceptable standard following works, full resurfacing of roads, over and above the area where works have taken place, will, in all likelihood, increase congestion and disruption with the duration of the works lengthening. Ongoing investigations in England have failed to prove that utility works damage roads, provided that they are carried out to the correct standard.
The quality of the road surface is dependent on the volume and type of vehicle movements, the original structure of both the road surface and sub-structure, the level and quality of maintenance undertaken by the local authority over the years, as well as the local authority’s own road works. Additionally utility works will vary in size and depth, and so any formula seeking to identify the contribution towards the costs of resurfacing from all parties, will be extremely complex.

There is also a potentially negative impact upon the reputation of companies who may be required to resurface roads on behalf of the local authority but still appear to the public to be responsible for the disruption of traffic flow for an extended period. NJUG is concerned that those road authorities that have failed to budget for their own necessary road resurfacing schemes could misuse this power. There is also concern over the legal ownership of the reinstatement and resurfacing works before and after the use of the new powers.

The proposals in this Bill are more extensive than those in the Traffic Management Act since they would lead to a perpetual contingent liability on utilities when they dig anywhere in a street, thus increasing regulatory and balance sheet uncertainty. This would force all utility companies to make financial provision for the possibility of being required to resurface any part of a street (not even necessarily the part where they had dug) for all time. Even assuming the difficulty of calculating what provision would be prudent (which as is now being discovered in England, is fraught with difficulty) this provision has the potential to severely restrict the degree of investment which can be made in Scotland’s national infrastructure in the future.

Indeed, the proposals in this area are vague; and we are concerned that it will be difficult for Parliament to accurately assess their likely impact on length of disruption and impact on road users.

The requirements as they stand will increases costs enormously for all utilities that may well have to be passed onto the consumer. It is therefore essential to fully consider the implications and costs of any new measures that may be proposed and take them into account when considering the possible benefits of the Bill.

**Conclusion**

NJUG is extremely concerned that if the Transport (Scotland) Bill fails to recognise that roads act as essential conduits for many services that are often taken for granted – electricity, gas, water, sewers and telecommunications. It might also have a negative impact on a number of key Executive policy priorities:

- Ensuring the security of the Scotland’s Critical National Infrastructure (energy, telecommunications and water supplies);
- Protecting the environment (e.g. conserving water supplies by reducing leakage from water networks, minimising flooding from sewers, reducing the number of
vehicle movements (likely to increase for spoil removal in respect of full street resurfacing);

- Encouraging urban regeneration programmes through the provision of new or enhanced energy, water and communication services; and the

- Promotion of network rollout to deliver broadband across Scotland and combat social exclusion (both urban and rural).

NJUG encourages the Scottish Executive to review the Bill to ensure that it balances the needs of consumers, residents, utility providers and transport authorities. At present, NJUG believes the importance of our essential services is not adequately recognised in the Bill, and are concerned that if this is not addressed, costs for undertaking our essential works will rise, and have to be passed onto the consumer. For the Bill to be comprehensively effective all works carried out in the road must be equally accountable.

NJUG WOULD LIKE TO THANK THE COMMITTEE FOR THE OPPORTUNITY TO SUMMIT THIS WRITTEN EVIDENCE AND LOOK FORWARD TO GIVING ORAL EVIDENCE ON DECEMBER 14TH

National Joint Utilities Group
59/60 Russell Square
London
Tel: 0870 801 8007
Fax: 0870 801 8008
Email: info@njug.demon.co.uk
Website: www.njug.demon.co.uk
SUBMISSION TO THE ENTERPRISE AND CULTURE COMMITTEE OF THE SCOTTISH PARLIAMENT ON THE TRANSPORT (SCOTLAND) BILL

UKCTA

UKCTA is the trade association representing fixed-line telecommunications companies competing against BT, as well as each other, in the residential and business markets. Its role is to develop and promote the views of its members to Ofcom, the communications regulator, the Government and the Scottish Executive.

UKCTA’s primary objective is to ensure the UK communications market becomes genuinely competitive, an environment that maximises investment and innovation by all competitors and one that is free from discrimination in favour of monopoly incumbents. Through effective representation on issues that promote competition, UKCTA aims to ensure that consumers will continue to enjoy the full benefits of competition in voice and data services.

OVERALL VIEW

UKCTA members recognise that traffic congestion is a key issue for the Executive, the public and Scottish industry but is concerned that the Executive in seeking to tackle congestion, may:

1. Unduly penalise Scotland’s utility companies
2. Increase utility bills
3. Inhibit the roll out of next generation broadband networks.

UKCTA has campaigned against proposals that were ultimately enacted in the Traffic Management Act in England and Wales, measures that will do little to solve the problem of congestion and instead increase the cost of providing consumers with access to modern utility services. It is therefore disappointing to see that some, though not all, of the most damaging measures from the Act in England and Wales, have appeared in the Transport (Scotland) Bill.

We are concerned that the Executive has failed to take account of the essential nature of modern utility services and, in particular, the benefits which competition has delivered in the communications market.

This paper attempts to broadly outline the concerns of UKCTA arising from the Bill introduced at Stage 1 on 26th October 2004. These concerns are necessarily high level since the Bill itself is skeletal in nature, setting out in broad terms, some wide ranging powers for local authorities. Until detailed regulation or regulatory impact assessments are available, it is difficult to provide in depth analysis of the impact on industry of the legislation.

DETAILED CONCERNS

Co-Ordination of Works

While proposals to require greater degrees of co-operation are initially attractive and appear to be plain common sense, in practice there are limits on what can be achieved, particularly in
the telecoms sector. UKCTA members often share and co-ordinate network construction, co-Operation driven not by regulation but by sound economic sense and market forces. Where possible, it is in the commercial best interests of companies to share trenches, since this allows costs to be shared. Indeed, a number of UKCTA member companies have won awards from local authorities across the UK for coordinating works, including trench sharing.

Under current market conditions, there is limited investment in backhaul networks; indeed, arguably there exists over capacity in the backhaul market. Most telecommunication companies generally have a national network in place and therefore now conduct street work activities for only two reasons

1) To connect customers in response to their demand for advanced services, or
2) to repair equipment already delivering service to customers.

Network is not installed on a speculative basis so the opportunities to schedule work at times to coincide with other utilities or local authorities are inevitably limited. Coordination is, of course possible in some cases, however it must be recognised that there are limits on what can be achieved that are not always immediately apparent to the layman.

It is often impractical for a telecommunications operator to share ducts and trenches with water or gas companies. This is due to the differences in infrastructure to be installed: a telecoms fibre occupies a very narrow trench, typically dug and filled in within a day. Were a telecoms company required to share with another utility providing natural resources, which typically requires a larger and deeper trench, then there exists potential to cause severe delays and additional cost in providing a customer with a broadband service. Moreover, such trench sharing is likely to make congestion worse as street work activities would take longer to complete.

For communications providers, the sharing of ducts raises further issues of network security, integrity and quality of service, factors that potentially compromise levels of service increasingly being demanded by customers such as banks and government departments.

UKCTA does not maintain that co-ordination is impossible, quite the contrary, as demonstrated by the number of co-operative projects that took place when the UK’s backbone networks were being rolled out. Rather we caution against many of the naïve assumptions about what can be achieved.

Finally, it should be pointed out that in the current uncertain economic climate, telecoms companies are already under huge commercial pressure to complete works as quickly as possible. This is a far greater driver to reduce the size and duration of works than any amount of red tape and legislation. We therefore question whether there is in fact a need for additional regulation in the telecoms industry.

Level Playing Field between Public and Private Sectors
Scotland has a head start over England & Wales, due to the existence of a national system (www.susiephone.co.uk) to record utility works. We welcome the Executive’s decision to extend this to include all public sector works thereby allowing more effective co-ordination of
public as well as private sector works. Requiring all public sector works to be recorded will not only aid the public and private sectors when co-ordinating works but will provide a complete picture of road works across Scotland. **UKCTA suggests that the Executive in fact go further in levelling the playing field by extending the various provisions that penalise private sector companies that infringe the Act to those in the public sector.** Only by imposing the same penalties to both the private and public sectors when the Act is breached, can any degree of accountability be delivered.

**Powers to Direct timing and Location of Works**

UKCTA is concerned that proposals to give local authorities power to direct utilities as to where and when they may install their infrastructure may have the effect of distorting competition in the telecoms market. The Executive has in the past complained about the comparative lack of competition in Scotland when compared with England, but these powers have the potential to damage what competition has taken hold in Scotland. Telecoms companies need to dig to their customers’ premises in order to connect them to the network. If companies are barred from digging in a particular street outright or are delayed in so doing, customers are likely to cancel their orders and move to the company with ubiquitous network coverage, BT, thereby undermining the effectiveness of the market and reinforcing the market dominance of the former monopoly provider.

**Powers to ban works**

The Bill contains a measure enabling local authorities to ban all digging in a street for up to three years following major resurfacing. While there are exemptions that would allow emergencies to be dealt with, the Bill ignores the need to meet customers’ demands for service. The reality is that Scottish business customers do not forecast their orders three years in advance. **UKCTA suggests therefore that there be an additional exemption in cases where digging is required to meet customer orders or where works are minor and have little impact on traffic.** An amendment suggesting exemptions where work lasted one day or less and did not involve temporary traffic lights and did not obstruct the flow of traffic was advanced at Westminster in the face of a similar proposal and a similar amendment could be used in Scotland.

**Power to require resurfacing of entire streets**

The Bill also introduces outline provisions which would allow councils to require utilities to completely resurface a road in which they have installed infrastructure. Similar provisions were introduced in England and Wales and are causing widespread concern. *It is difficult to calculate the impact of such a move but best estimates have suggested that a full width reinstatement of a road would increase the cost of a telecoms installation by some 385% - costs which would be passed on to the customer. Given that the order to reinstatement would only be made after the service had been sold and installed, telecoms companies will be unable to provide customers with certainty in advance as to what services will cost. This is highly undesirable for supplier and for customer alike.*

The proposals in this Bill are more extensive than those in the Traffic Management Act since they would lead to a perpetual contingent liability on utilities when they dig anywhere in a street. This would force all utility companies to make financial provision for the possibility of
being required to resurface any part of a street (not even necessarily the part where they had
dug) for all time. Even assuming the difficulty of calculating what provision would be prudent
(which as is now being discovered in England, is fraught with difficulty) this provision has the
potential to severely restrict the degree of investment which can be made in Scotland’s
national infrastructure in the future.

**Telecoms as part of the solution**

It is widely recognised that communication services play a vital role as part of the solution to
our congestion problems. These services make it possible for increasing numbers of people
to work remotely and to make informed choices about when to travel. This contributes to
more flexible traffic patterns that make better use of the road network. A recent report by BT
plc concluded that more widespread use of broadband to enable flexible working could
eliminate 14.5 billion miles of journeys per year throughout the UK – equal to some three
years’ of growth in car usage. UKCTA believes that the Executive has failed to take account
of the role that communications companies have as part of the solution, and the relatively
minimal impact their works have on congestion.

UKCTA believes the Executive should provide evidence of the extent to which
telecommunications companies impact on congestion, and how they intend to measure any
decrease as a result of new regulations which may be introduced under the Bill. The
Executive should also explain to what extent they have taken account of the potential for the
Bill to produce anti-competitive effects in the market.

It is essential that the Executive produce Regulatory Impact Assessments, which consider the
contribution of telecommunication companies to reducing congestion and explain in detail
how the impact of these changes will be measured.

**CONCLUDING COMMENTS**

It is widely recognised that communication services are a vital a part of the solution to our
congestion problems. **Telecoms services make it possible for increasing numbers of people to work remotely and to make informed choices about when to travel, contributing to more flexible traffic patterns that make better use of the road network.**

A recent report by BT plc concluded that more widespread use of broadband to enable flexible working could eliminate 14.5 billion miles of journeys per year throughout the UK – equal to some three years’ of growth in car usage. UKCTA believes that the Executive has failed to take account of the role that communications companies play in the solution to congestion, as well as the relatively minimal impact their works have on congestion.

In accordance with good government and law making, UKCTA suggests that the precise
impact telecommunications street work activities have on congestion ought to be measured
and demonstrated. In addition, the Executive needs to demonstrate
how it intends to measure any decrease in congestion as a result of new regulations which
may be introduced under the Bill. The Executive should also explain to what extent they have
taken account of the potential for the Bill to produce anti-competitive effects in the market.
This evidence needs to be brought forward in a Regulatory Impact Assessment.
Road works, whether carried out by utilities or road authorities, are only ever carried out when unavoidable, to deliver essential services. They are both expensive to the companies that undertake them and contribute to problems for other road users. In order to resolve these conflicts, a balanced approach is needed.

UKCTA members are encouraged by some of the proposals in the Bill. It appears that the Executive has taken on board the need to adopt a holistic approach, however, there are some measures in the Bill which are potentially very damaging to the telecoms industry and therefore for the long term competitive position of Scotland.

**UKCTA WOULD LIKE TO THANK THE COMMITTEE FOR THE OPPORTUNITY TO SUBMIT THIS WRITTEN EVIDENCE AND LOOK FORWARD TO GIVING ORAL EVIDENCE ON DECEMBER 14TH**
CECA (SCOTLAND)’S EVIDENCE TO THE ENTERPRISE AND CULTURE COMMITTEE ON 14TH DECEMBER 2004.

CIVIL ENGINEERING IN SCOTLAND

CECA (Scotland) represents over 80% of Scotland’s civil engineering contractors in an industry that sustains an annual outturn of £1.4bn and a permanent workforce of over 20,000 with many more in its supply chain. Our membership includes the majority of the contractors carrying out infrastructure work on behalf of the utility companies. CECA therefore feels qualified to comment on behalf of the industry. A membership list is below.

The Committee should note that utilities provision and maintenance is a highly competitive market with profit margins normally ranging between 2 – 4%.

ARE UTILITY ROADWORKS A MAJOR CAUSE OF CONGESTION?

In principle, CECA supports the aims of reducing congestion and increasing the quality of reinstatement on Scotland’s roads.

However, we have genuine concerns that these problems cannot be solved until there is a broader focus on where the real issues lie. In CECA’s view the title of the consultation document, The Regulation of Utility Company Roadworks - A Consultation, illustrated the limited scope of the consultation process. If the Bill is trying to address the problem of congestion caused by road works then all sources of congestion should be considered, including work carried out by Local Authorities and the Scottish Executive. The view that the proposed legislation should be applied to both Local Authorities and utility works is supported by data from a report in 1999 by the Transport Research Laboratory which was used in the Highways Agency Business Plan 2002 – 2003, and advised that congestion is caused by 65% traffic volume, 25% incidents/accidents and 10% road works, of which 5% relates to utility works and 5% from Local Authority works. Therefore, it is of note that legislation aimed solely at utility works is in essence only addressing 5% of the congestion problem.

WHY ARE THERE UTILITY ROADWORKS?

The Committee will recognise that the principal cause of increased roadworks in Scotland is the huge increase in investment in Scotland’s infrastructure by the Scottish Executive, its agencies, its utilities and Scotland’s Local Authorities. Basically, there have to be roadworks in order to carry out long overdue investment in Scotland’s transport, water, sewerage, gas, electricity and telecommunications infrastructure. Roadworks are not an inconvenience per se, they are a means of improving our infrastructure and thereby our quality of life.

THE ROLE OF THE LOCAL AUTHORITY

In the consultation document, The Scottish Roadworks Register was used to produce statistics relating to the number of road works carried out in certain periods. CECA
would suggest that this data only provides part of the story because the Scottish Roadworks Register does not record Local Authority works and therefore any comparisons between utility and Local Authority works are not possible. In the proposed legislation, the Local Authorities do not seem to be obliged to use the Scottish Roadworks Register to record their own works. However, the Local Authorities will be responsible for maintaining the accuracy of the records. CECA believes that consideration should be given to the balance that may or may not prevail given the role of Local Authority officers within the legislation and any potential for a conflict of interest. CECA believes that in order to achieve an “accessible Scotland…” the Bill should be applicable to all organisations that are engaged in road works but we are concerned that where Local Authorities enforce the various aspects of this Bill, there is the potential for the Local Authority officers to interpret the Bill differently for works carried out by utility contractors when compared to their own appointed contractors and their own Direct Labour Organisation.

On page 5 of consultation document reference was made to statistics from the 3rd national coring exercise. This involved a random sample of utilities road works reinstatements, completed between September 2001 and March 2002, and with reinstatement defects resulting in inspection fees being levied by the Local Authorities. No reference was made in the consultation document or in the Bill to Local Authority works being subject to similar quality standards. It is CECA’s understanding that Local Authority works are not cored and it is therefore unclear what quality checks are carried out. We can understand that through the use of fixed penalties, as stated in Schedules 3, 4, 5, 6 & 7 of the proposed legislation, there is a mechanism for the Local Authorities to penalise roadworks that do not comply with the process but we would question what incentive shall exist for the Local Authorities to comply with the process themselves?

CECA welcomed the Local Government & Transport Committee’s deliberations on this key issue on 16th November 2004 when it focused on whether Local Authorities road works and reinstatements would be subject to the same level of independent scrutiny and enforcement measures as other roadworks. If so, it follows that clear guidelines would be required.

The Bill proposes to introduce, through sections 27 to 30, the facility to for a Local Authority to instruct an undertaker to reinstate an area to either half or the full width of the carriageway, if the road has deteriorated as a result of utility works and reinstatements. CECA has serious concerns about the potential for wide ranging interpretation of this type of facility unless, again, clear guidelines and very prescriptive instructions are introduced to ensure consistency.

QUALITY ASSURANCE AND SKILLS QUALIFICATIONS

All reputable utility contractors have their own externally audited Quality Assurance systems, which include rigorous drivers for client satisfaction and delivery improvement. The Committee will appreciate that there is absolutely no benefit to contractors in being forced into over-runs or additional remedial works. Quite the reverse, remedial works cost contractors money, jeopardise their prospects of further work from the client and make no commercial sense.
As part of their quality assurance contractors engaged in utility works train and certify their supervisory and operational personnel to a level that affords recognition with the Street Works Qualification Register. This training and the renewal of registration are carried out at a cost to the contractor. CECA therefore welcomes the proposed legislation whereby the Local Authority can issue a notice requiring evidence of such qualifications which will help to ensure that only qualified personnel will work on Scotland’s roads, provided this is applied in a uniform fashion across all personnel engaged in road works.

CECA AS A STAKEHOLDER

Finally, CECA Members feel that they are major stakeholders in this subject and would welcome the opportunity to discuss it further with other stakeholders. The proposals in the Bill could have a dramatic effect on contractors’ businesses and we hope that the industry will be given the opportunity to engage at the highest level to ensure a balanced, workable outcome.

CECA (SCOTLAND) - MEMBERSHIP 2004

Aggregate Industries Ltd.
Amalgamated Construction Ltd.
AMEC Group
Balfour Beatty Civil Engineering Limited
Balfour Beatty Utilities Ltd.
Biwater Treatment Limited
Black Isle Civil Engineering
Henry Boot Scotland Ltd.
Charles Brand Limited
I.& H. Brown Limited
Byzak Ltd.
Carillion Rail
Chap Construction (Aberdeen) Ltd.
Cheetham Hill Construction Ltd.
Clachan Construction Ltd.
Clancy Docwra Ltd.
A.J. Clark Construction Ltd.
CPS Ltd. (through CECA N East)
Crummock (Scotland) Ltd.
Donarm (Construction) Limited
Ennstone Thistle Ltd.
The ERDC Group Ltd.
Farrans (Construction) Limited
Galliford Scotland Ltd.
M.J. Gleeson Group PLC
Glendinning Groundworks Ltd.
John Gunn & Sons Ltd.
Hanson Construction Projects
W.J. Harte Construction
Hunter Construction (Aberdeen) Ltd.
Interserve Project Services Ltd.
J. & J.E. (Contractors) Limited
Kamscot Construction Ltd.
Kelburne Construction Ltd.
D.A. Kennedy (Construction) Ltd.
King Contractors (Perth) Ltd.
Land Engineering Ltd.
Leiths (Scotland) Ltd.
George Leslie Ltd.
Luddon Construction Ltd.
Harry Lynch & Co. Ltd.
D. & E. MacKay (Contractors) Ltd.
Mackenzie Construction Limited
Maclean-Ardgay Ltd.
Alfred McAlpine Infrastructure Services Ltd.
Alfred McAlpine Capital Projects
Sir Robert McAlpine Ltd.
McGarvey Construction Ltd.
McKean & Company (Glasgow) Ltd.
R.J. McLeod (Contractors) Ltd.
The Malcolm Group – Construction Services
Markon Limited
Marshall Construction Ltd.
May Gurney Ltd. (through CECA Southern)
Meiklem Drainage Contractors Ltd.
Morgan Est
Morrison Construction Services Ltd.
Mowlem PLC
Mowlem Energy Ltd.
Mowlem Johnston Ltd.
MTM Construction Limited
Pat Munro (Alness) Ltd.
J. Murphy & Sons Ltd.
New Country Road Surf. Ltd. (through CECA N East)
NorPower & Telecoms Ltd.
Northern Construction Services Ltd.
Norwest Holst
Edmund Nuttall Ltd.
Pirie Contracts
PLPC Ltd.
Raynesway Construction Services Ltd.
Ritchie Brothers (Scotland) Limited
Ritchies
RMC Surfacing Limited
Rocklift Limited
Rodger (Builders) Limited
C Spencer Ltd.
Storie (Argyll) Limited
James Strang Ltd.
Tarmac Ltd.
Les Taylor Contractors
Torith Ltd.
Tulloch Civil Engineering Ltd.
Scottish Parliament  
Enterprise and Culture Committee  

Transport (Scotland) Bill 2004  

Comments on behalf of SIAPRA, IAPRA, GAPA  
and the members thereof – December 2004  

These comments on the Transport (Scotland) Bill are made on behalf of SIAPRA, a trade organisation representing Park and Ride Operators throughout Scotland. The comments are also made on behalf of IAPRA (the UK organisation), by GAPA (Glasgow Airport Parking Association) and by the members thereof, which include Airlink Group (together in this submission referred to as "SIAPRA").

SIAPRA note the statements made by the Executive to promote greater use of public transport, lessen road congestion and improve the environment for commuters and travellers in Scotland and welcomes these initiatives.

SIAPRA members operate facilities offering tens of thousands of parking spaces, primarily outwith congested areas of Scottish towns and cities. Usually these facilities are located close to public transport hubs such as railway stations, airports and harbours. Passengers are then conveyed on public transport either by direct transfer or by bus transfer to the transport hub.

Over the last 25 years the development of the transport sector in Scotland has been characterised by the privatisation of once public transport facilities and the placing of these in private or quasi private hands (e.g. Network Rail for railway stations; BAA plc for Airports and Caledonian Macbrayne for many harbours). A perhaps overlooked consequence of this privatisation has been to place in private hands the control of these essential facilities but with the hitherto powers of a quasi public nature remaining extant and being exercised, actually or potentially, by organisations whose interests are less concerned with the public good as with the maximisation of profit for shareholders. The Scottish Executive has recently recognised the essential role of democratic public control in its recently announced plans to take more direct control of the railway network in Scotland.

SIAPRA notes that the effect of their operations is to reduce vehicular transport on roads, particularly to and from essential transport facilities by replacing a myriad of private cars with a small number of buses, so lessening congestion. Additionally a substantial number of leisure travellers drive some distance from across Scotland to fly out of the major Scottish hub airports. SIAPRA, and its members, are concerned that there should therefore be consumer choice/price competition and no restrictions on access for park & ride operators as that would restrict the rights/freedom of movement of millions of Scots who have no other way of getting to an airport other than by car, given their home location and hours of travel.
In its submission to the Executive\(^1\), TRANSform Scotland emphasised the need to expand park and ride facilities for rail, bus and air travel.

Recent transport studies indicate that a significant proportion of private cars are occupied by a single person; the services of SIAPRA members minimise this situation. According to a Scottish Executive 2004 study reported on [http://www.chooseanotherway.com](http://www.chooseanotherway.com), "86% of all journeys by car to work have just the driver in the car."

SIAPRA and its members are concerned that the actions, and threatened actions, of the private owners of airports, railway stations and harbours could frustrate the acknowledged benefits of vehicle sharing. This matter is, SIAPRA is aware, the subject of a Petition presently being considered by the Petitions Committee of the Parliament. Separately, a number of West of Scotland SIAPRA members have approached SPTE with a view to their making their Park and Ride sites available to SPTE for use in encouraging rail transport in the west of Scotland. Earlier this year, Transport Minister Nicol Stephen stated, "We have already made significant investment in park and ride schemes", so demonstrating the continued commitment of the Executive to this important alternative to private car travel.

Park and Ride initiatives have been created and supported by the Executive throughout Scotland as is shown on the chooseanotherway.com website. A search on the Scottish Executive website discloses over 450 documents relating to park and ride facilities, demonstrating the important role played in an integrated transport policy by this option.

The Scottish Executive's Proposals for the Integrated Transport Bill (February 2000)\(^2\) recognised (on pages 7 and 17) the importance of park and ride facilities. A 2002 Report from the UK Commission for Integrated Transport\(^3\) recommended the roll out of more park and ride schemes. According to the statistics given, "Based on this analysis to size the potential prize, full roll-out in all towns in England could generate around 1.6% extra bus passengers from modal shift and 2.8% extra bus passengers in total.

As MSPs may be aware, regulation within Scotland's main airports by means of bye-laws, is a delegated matter in terms of the Scotland Act. However, the enabling powers in the Airports Act 1986 are a carry forward from earlier legislation at a time at which all airports were owned by the state. This is particularly the case in relation to Edinburgh, Aberdeen, Glasgow and Prestwick airports, all of which are now in private hands.

MSPs will know that all transport hubs, be they stations, airports or harbours have both a public side – across which the public routinely pass for access and egress – and a private side, access to which is restricted for reasons of security or safety. SIAPRA does not wish to see any change made in relation to the access to this private side.

However, SIAPRA has become aware through the comments of its members and also of members of the public, of attempts by the operators of

\(^1\) [http://www.transformscotland.org.uk/info/docs/info001.html](http://www.transformscotland.org.uk/info/docs/info001.html)
\(^3\) [http://www.cfit.gov.uk/research/psbi/lek/conclusions/08.htm](http://www.cfit.gov.uk/research/psbi/lek/conclusions/08.htm)
these essential facilities to prevent access on the public side of many essential transport facilities, other than on payment of an amount to the facility operator by way of tithe. As far as SIAPRA has been able to ascertain, the justification for these payments has not been that some service or facility is being afforded to those who pay the charge over and above other users who do not. Hence a man driving his spouse to / from an airport by car would be able to do so freely (and free of charge) whereas a shuttle bus carrying 20 passengers would require permission (and likely pay a charge) to do exactly the same.

In many cases the operator will operate parking (within the environs of its essential transport facility) and may have an incentive to prevent third party members of the public operating competing facilities. A recent study by SIAPRA has indicated that similar facilities operated by or under concession from the essential transport facility are significantly more expensive than those operated by others.

In recent years, there have been attempts to introduce new bye-laws at at least one Scottish airport to facilitate access charging for competing operators, none of whom carry on business within the facility, confining their activities to the dropping and uplift of passengers (often in relation to families heading off on holiday), all of whom have pre-booked their transport to / from the airport.

In the case of Prestwick airport, the operator has been engaged in litigation against a SIAPRA member who has been endeavouring to provide families with such services by depositing them at the terminal building and collecting them again on their return. The operator has suggested that only its shuttle buses can do this and that third parties should deposit and collect passengers on the busy A77 road outside the airport. The operator has argued that as it owns the airport forecourt, it is able to prevent anyone it wishes from using the road; to date this power only appears to be directed against operators of competing facilities and, indeed, private cars wishing to access the airport car park have to travel across the very roads, access to which is to be denied to SIAPRA members.

SIAPRA and its members consider that roads access in relation to essential transport facilities should be a matter solely within the purview of democratically accountable authorities and not for private organisations whose interests may be very different.

SIAPRA have been advised by a passenger returning recently from Heathrow that he had noticed a "BAA box " on the taxi window; when he asked the driver about this he was advised that it was a little transponder that is triggered every time he passed a point at Heathrow and he was billed by BAA £3.16 per trip. SIAPRA are concerned that it is BAA's intention to impose a similar "stealth tax" on Scottish consumers and considers that this is something which the Scottish Parliament should seek to prevent.

SIAPRA considers that it is important that members of the public do not suffer any discrimination because they choose, collectively, to use an environmentally more friendly method of reaching an essential transport facility rather than continue and exacerbate the proliferation of single
occupancy vehicles on our roads. A 1999 report by the Planning, Transportation and Environmental Committee of Bath & North East Somerset Council\(^4\) stated, "Park and ride allows people to switch from car to bus at the edge of the city and thereby reducing the environmental impact of traffic within the built up area." A 2000 Oxford transport study\(^5\) has shown a significant increase in numbers of people going into the city centre but a decrease in car park usage attributable to out of town park and ride.

Finally, a study by WS Atkins\(^6\) noted that the sampled users of park and ride sites drove 4.2 km less than if they had driven to the respective town or city centres.

For these reasons, SIAPRA would urge the members of the Transport Committee to take this opportunity, as part of their scrutiny and approval of the Transport (Scotland) Bill to re-emphasise their support for an integrated publicly accountable transport infrastructure in Scotland; to make it clear that road charging, by whatever means, is a matter which should properly only be imposed by democratically accountable public authorities as part of an integrated transport plan; and that public access to essential transport facilities in Scotland should be and remain public.

For these reasons, SIAPRA would urge MSPs to make the appropriate amendments to the Transport (Scotland) Bill – possibly in a new subsection to clause 43 – to achieve the following:

a) To provide that any byelaws made under section 63 of the Airports Act 1986 may not allow directly or indirectly for the imposition of any fee or charge on any person or vehicle in respect of their access to or from an airport, without prejudice to the right to impose a charge in respect of anyone touting for business or plying for hire at an airport;

b) To provide that all carriageways within the environs of a railway station, airport or port to which the public are granted or afforded or permitted access shall, for the purposes of the roads legislation, be deemed to be public rights of way.

c) To provide that no road user charging scheme may be imposed in relation to any transport facility other by reason of the fact that that facility is located within a larger area which is itself subject to a road user charging scheme.

d) To take further steps to encourage Park and Ride and out of town parking facilities as part of an integrated transport strategy.

07 December 2004

\(^4\) (http://www.bathnes.gov.uk/committee_papers/PTandE/pt990715/15parkan.htm)
\(^5\) (www.oxfordshire.gov.uk/ots_assessment-7.pdf)
\(^6\) (WSAtkins (1998) *The Travel Effects of Park and Ride*. WSAtkins Planning Consultants, Epsom for Department of Environment Transport and the Regions (Authors: C Harris, B Cooper & S Whitfield)
ENTERPRISE AND CULTURE COMMITTEE’S REQUEST FOR ADDITIONAL INFORMATION FOLLOWING DISCUSSION AT STAGE 2 OF THE 2005-06 BUDGET PROCESS

I am writing in response to your request for additional information following my appearance before the committee on the 26 October 2004.

I first want to make some general comments about information on past and proposed spend by the Enterprise Networks as this is relevant to a number of the Committee’s requests. The Executive allocates budgets to the Networks in order that they can take forward priorities set out in “A Smart, Successful, Scotland” (SSS). Indicative figures are set for the three main themes of SSS and also for management and administration. It is then for the Networks to determine how to address these priorities. My Department has a dialogue with the Networks on their Corporate Plans but Ministers do not set or approve budgets below level 3. Our concern is with outputs and impact.

As I understand it, the format of the Draft Budget document is recommended by the Finance Committee prior to its production, including that information is given to level 3. This certainly seems to make sense in this instance given that, as I have noted, the Executive does not set budgets below this level. However, I quite understand the wish of the Committee for more detailed financial information and wish to help you have that. I believe you should look first at Corporate Plans. You will want to note that the Networks have moved to three year plans, although given the nature of their business only guideline figures are possible for the second and third years of the Plans. My officials will, however, be discussing the next Plans with the Networks to ensure that they provide sufficient financial information. You should note that in accounting for resources in their Plans the Networks are allocating a total budget which includes not just grant-in-aid from the Executive but other income such as receipts and European funding.
Against this background, I am responding to your requests, as summarised below:

1. information on the use to which funds budgeted for the Individual Learning Account scheme and not spent owing to delayed introduction have been put (Appendix 1);
2. further information on the provision of funding for the Business Learning Accounts scheme and proposals for its inclusion in annual budget proposals as a separately identifiable revenue stream (Appendix 2);
3. information on funding for Careers Scotland and All Age Guidance, and my agreement that these funding streams will be identified separately in future budget documents (Appendix 3);
4. statistical information on the management and administration costs of Scottish Enterprise, including percentage comparisons for other Scottish NDPBs (Appendix 4);
5. provision of level 4 figures for Scottish Enterprise and Highlands and Islands Enterprise in annual budget proposals (Appendix 5);
6. a breakdown between capital and revenue expenditure for Enterprise and Lifelong Learning for the draft budget 2005-06 (Appendix 6);
7. information on the evaluation and outcome of the Scottish Enterprise Business Transformation Scheme, including information on total savings to date and the redeployment of any such savings (Appendix 7).

I hope this reply is helpful and meets your needs.

Yours sincerely,

ALLAN WILSON
Appendix 1

Information on the use to which funds budgeted for the Individual Learning Account scheme, and not spent owing to delayed introduction, have been put

It has been estimated that, with the ILA Scotland scheme starting later in 2004-05, £10m of the ILA budget can be included with other 2004-05 savings in order to meet pressures, which require a budget but are not within the budget baseline. The remaining budget of £8.8m will be expended in 2004-05 on Learning Providers for Learning, Development and Administration costs. The re-distribution of the forecast savings is agreed with the Deputy First Minister and Minister for Enterprise and Lifelong Learning. This re-distribution is fully documented as part of the background documents prepared for the Autumn Budget Revisions 2004.

For the committee’s information, the budget pressures include Partnership Agreement commitments such as the Business Learning Accounts scheme for which there is no baseline budget in 2004-05 (see Appendix 2).
Further information on the provision of funding for the Business Learning Accounts scheme and proposals for its inclusion in annual budget proposals as a separately identifiable revenue stream

Within the current budget, no baseline budget exists for the Business Learning account Scheme. In-year Savings within the ELL portfolio such as those from the ILA Scotland scheme in 2004-05 are being utilised to make a budget provision to fund pilots of this scheme. The required funding for 2005-06 has already been recorded as a pressure on the budget for 2005-06 and will require to be met from savings and EYF occurring in that year.

We will be monitoring the effectiveness of BLAs over the life of the pilots, through an independent evaluation exercise. The final evaluation report will be published in September 2005 and this will inform any decisions about future rollout.
Information on funding for Careers Scotland and All Age Guidance, and a commitment that these funding streams continue to be identified separately in future budget documents.

The Scottish Executive does not set a budget for Careers Scotland but Scottish Enterprise and Highlands and Islands Enterprise are required to meet the objectives set for Careers Scotland. These bodies allocate funding so as to meet these objectives. The more appropriate place for detail on Careers Scotland funding is therefore in the Networks’ Corporate Plans. However, the Committee is correct in stating that an agreement was previously made that the Executive would include information in Budget documents. We will do so in future.

Spend last year on Careers Scotland in Scottish Enterprise was £55.5m (£3.5m in respect of pension fund payments). The table below sets out the forecast outturn for the current financial year and the cost estimates for the following three years.

<table>
<thead>
<tr>
<th>Scottish Enterprise</th>
<th>2004/05</th>
<th>2005/06</th>
<th>2006/07</th>
<th>2007/08</th>
</tr>
</thead>
<tbody>
<tr>
<td>Costs</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Staff Salaries</td>
<td>28.6</td>
<td>31.1</td>
<td>32.2</td>
<td>33.3</td>
</tr>
<tr>
<td>Mgt. &amp; Admin.</td>
<td>12.7</td>
<td>19.2</td>
<td>17.7</td>
<td>14.7</td>
</tr>
<tr>
<td>Projects</td>
<td>10.0</td>
<td>6.1</td>
<td>6.0</td>
<td>6.0</td>
</tr>
<tr>
<td>Total Costs</td>
<td>51.3</td>
<td>56.4</td>
<td>55.9</td>
<td>54.0</td>
</tr>
<tr>
<td>Income</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>GIA Provision</td>
<td>43.2</td>
<td>48.6</td>
<td>47.7</td>
<td>46.2</td>
</tr>
<tr>
<td>Other Income</td>
<td>8.1</td>
<td>7.8</td>
<td>8.2</td>
<td>7.8</td>
</tr>
<tr>
<td>Total Income</td>
<td>51.3</td>
<td>56.4</td>
<td>55.9</td>
<td>54.0</td>
</tr>
</tbody>
</table>

Spend on Careers Scotland within Highlands & Islands Enterprise in 2003/04 was £6.048m. The table below provides the forecast spending for the three years to 2006/07.

<table>
<thead>
<tr>
<th>Highlands &amp; Islands Enterprise</th>
<th>Actual</th>
<th>Forecast</th>
</tr>
</thead>
<tbody>
<tr>
<td>Block</td>
<td>2003/04 000's</td>
<td>2004/05 000's</td>
</tr>
<tr>
<td>Operational</td>
<td>1,257</td>
<td>810</td>
</tr>
<tr>
<td>Staff &amp; Admin Costs</td>
<td>4,791</td>
<td>4,916</td>
</tr>
<tr>
<td>Total</td>
<td>6,048</td>
<td>5,726</td>
</tr>
</tbody>
</table>
Statistical information on the management and administration costs of Scottish Enterprise, including percentage comparisons for other Scottish NDPBs

As indicated to the Committee, Management and Administration includes all staff, whether involved in front line delivery with business and individuals or with support services for the organisations such as finance and human resources. My Department have agreed with Scottish Enterprise that it is helpful to separate out these two groups of staff and this has been done for 2004-05 in their current Corporate Plan. The table below sets out the forecast outturn for the current financial year and cost estimates for the following three years.

<table>
<thead>
<tr>
<th>Cost Analysis</th>
<th>2004/05 Op Plan Budget £m</th>
<th>2005/06 Estimated Costs £m</th>
<th>2006/07 Estimated Costs £m</th>
<th>2007/08 Estimated Costs £m</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Staff Costs</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Growing Business</td>
<td>21.0</td>
<td>21.9</td>
<td>23.0</td>
<td>23.8</td>
</tr>
<tr>
<td>Global Connections</td>
<td>13.1</td>
<td>13.6</td>
<td>14.3</td>
<td>14.8</td>
</tr>
<tr>
<td>Skills &amp; Learning</td>
<td>39.3</td>
<td>38.6</td>
<td>40.2</td>
<td>41.6</td>
</tr>
<tr>
<td>Network Development</td>
<td>5.2</td>
<td>5.8</td>
<td>6.1</td>
<td>6.3</td>
</tr>
<tr>
<td><strong>Operational Staff Costs sub-total</strong></td>
<td><strong>78.6</strong></td>
<td><strong>79.9</strong></td>
<td><strong>83.6</strong></td>
<td><strong>86.5</strong></td>
</tr>
<tr>
<td>Network Support</td>
<td>15.1</td>
<td>15.7</td>
<td>16.5</td>
<td>17.1</td>
</tr>
<tr>
<td><strong>Total Staff Costs</strong></td>
<td>93.7</td>
<td>95.6</td>
<td>100.1</td>
<td>103.6</td>
</tr>
</tbody>
</table>

| Other Costs            |                           |                           |                           |                           |
| ICT                    | 13.1                      | 12.4                      | 14.6                      | 16.1                      |
| Premises (rent & rates)| 11.5                      | 11.1                      | 11.0                      | 10.8                      |
| Utilities, Travel & Consumables | 16.8    | 24.9                      | 22.1                      | 21.3                      |
| Corporation Tax        | 1.0                       | 1.0                       | 1.0                       | 1.0                       |
| **Total Other Costs**  | 42.4                      | 49.4                      | 48.7                      | 49.2                      |

| Total Mgt. & Administration | 136.1 | 145.0 | 148.8 | 152.8 |

| Operational vs Running Costs |                           |                           |                           |                           |
| Operational Costs           | 91.7                      | 92.3                      | 98.2                      | 102.6                     |
| Running Costs               | 44.4                      | 52.7                      | 50.6                      | 50.2                      |
| **Total Mgt. & Administration** | **136.1** | **145.0** | **148.8** | **152.8** |

You will appreciate that making comparisons with other NDPBs is a complex matter. It is important to identify alongside any comparison the different nature of business being undertaken. I have asked my officials to look at this and I will write to you again once more work has been done.
Provision of level 4 figures for Scottish Enterprise and Highlands and Islands Enterprise in annual budget proposals

This request is dealt with in the covering letter.
A breakdown between capital and revenue expenditure for Enterprise and Lifelong Learning for the draft budget 2005-06

A breakdown of the Enterprise Lifelong Learning’s DEL Operating budget, DEL Capital budget and AME (Annual Managed Expenditure) budget for the period 2002-03 to 2007-08 can be found at the front of the 2005-06 Draft Budget document in tables 0.04, 0.05 (page 5) and 0.08 (page 7) respectively.

I have reproduced the figures in these tables for the Enterprise and Lifelong Learning portfolio below.

**Table 0.04 DEL operating budget**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Plans</td>
<td>£000’s</td>
<td>£000’s</td>
<td>£000’s</td>
<td>£000’s</td>
<td>£000’s</td>
<td>£000’s</td>
</tr>
<tr>
<td></td>
<td>2,281,695</td>
<td>2,321,736</td>
<td>2,353,517</td>
<td>2,550,244</td>
<td>2,711,244</td>
<td>2,812,244</td>
</tr>
</tbody>
</table>

**Table 0.05 DEL capital budget**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Plans</td>
<td>£000’s</td>
<td>£000’s</td>
<td>£000’s</td>
<td>£000’s</td>
<td>£000’s</td>
<td>£000’s</td>
</tr>
<tr>
<td></td>
<td>33,657</td>
<td>41,514</td>
<td>109,534*</td>
<td>80,834</td>
<td>80,834</td>
<td>80,834</td>
</tr>
</tbody>
</table>

**Table 0.08 Annual managed expenditure**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Plans</td>
<td>£000’s</td>
<td>£000’s</td>
<td>£000’s</td>
<td>£000’s</td>
<td>£000’s</td>
<td>£000’s</td>
</tr>
<tr>
<td></td>
<td>-</td>
<td>5,000</td>
<td>16,600</td>
<td>28,400</td>
<td>37,100</td>
<td>42,800</td>
</tr>
</tbody>
</table>

* Please note that since publication of the Draft Budget for 2005-06, it has been discovered that the figure of £109,534 shown in Table 0.05 is incorrect. The correct figure should in fact be £86,834.
Information on the evaluation and outcome of the Scottish Enterprise Business Transformation Scheme, including information on total savings to date and the redeployment of any such savings

Scottish Enterprise has provided the following in relation to their Business Transformation Programme:

Costs
The costs of the BT project total £69m and are made up of:
- Direct costs £42m
- Severances £27m

Benefits
BT benefits are classified as follows:

Headcount
The net saving in staff and running costs arising from the implementation of BT
reduction (BT) solutions through reducing the number of staff requiring to be employed in
these respective areas. For example, by the creation of 7 new shared services.

Cost savings
The net savings in costs (other than those associated with staffing) arising from
the implementation of BT solutions. For example, with the Network’s new
approach to procurement significant economies of scale were anticipated.

Productivity gains
Staff time saved, due to either delivering jobs more efficiently or not at all,
following the implementation of BT solutions. This has been quantified in
monetary terms; however, benefits are realised through higher levels of
productivity and increased outputs.

Higher Impact
Benefits arising as a consequence of the Network reprioritising its operational
benefits activities by implementing a new strategy, for example, Competitive Place’s
Strategic Prioritisation project. This does not represent a cost saving but
moreover an opportunity gain based on an estimation of expenditure, which, in
the absence of strategic prioritisation, would have been incurred by the
Network.
An exercise has recently been conducted by internal audit to verify the forecasted benefits and these are shown below:

<table>
<thead>
<tr>
<th>Benefits</th>
<th>Current Forecast £m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manpower Benefits</td>
<td>78.2</td>
</tr>
<tr>
<td>Cost Savings</td>
<td></td>
</tr>
<tr>
<td>Supply Chain</td>
<td>22.00</td>
</tr>
<tr>
<td>Network Customer Relations</td>
<td>20.61</td>
</tr>
<tr>
<td>Web Platform and Content</td>
<td>5.70</td>
</tr>
<tr>
<td>Customer Relations Management</td>
<td>0.54</td>
</tr>
<tr>
<td>Other</td>
<td>-</td>
</tr>
<tr>
<td><strong>Tangible Benefits</strong></td>
<td><strong>127.05</strong></td>
</tr>
<tr>
<td>Productivity Gains</td>
<td>31.60</td>
</tr>
<tr>
<td>Higher Impact Benefits</td>
<td>14.80</td>
</tr>
<tr>
<td><strong>Total Benefits</strong></td>
<td><strong>173.45</strong></td>
</tr>
</tbody>
</table>

It should be noted that these figures show the estimated benefits up to 2006. Some benefits are recurring e.g. 25% headcount reductions, and will accumulate further over time.

**Deployment**

Over the last 3 years, and when adjusted for inflation, the Network expenditure has remain relatively steady, this has included absorbing the cost of Careers Scotland in 02/03 onwards as shown in the table below:

<table>
<thead>
<tr>
<th></th>
<th>01/02</th>
<th>02/03</th>
<th>03/04</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
<td>516</td>
<td>511</td>
<td>521</td>
</tr>
<tr>
<td><strong>Careers</strong></td>
<td>-</td>
<td>47</td>
<td>55</td>
</tr>
<tr>
<td>total (excluding Careers)</td>
<td>516</td>
<td>464</td>
<td>483</td>
</tr>
<tr>
<td><strong>Total (excluding Careers and adjusted for inflation @ 2.5%)</strong></td>
<td>542</td>
<td>476</td>
<td>466</td>
</tr>
</tbody>
</table>

In terms of performance if the priority measures of progress are taken as a proxy for overall performance then, on balance, the network seems to be delivering more ‘outputs’ as shown in the table below:
<table>
<thead>
<tr>
<th>No. of measures</th>
<th>significantly less &lt;-30%</th>
<th>less -5% to -30%</th>
<th>the same -5% to +5%</th>
<th>more +5% to +30%</th>
<th>significantly more &gt; 30%</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0</td>
<td>2</td>
<td>5</td>
<td>3</td>
<td>5</td>
</tr>
</tbody>
</table>

Of the 15 comparable measures 8 achieved more in 2003/04, 5 are showing similar achievement, only 2 are showing less achievement. The mean annual change in priority measure performance is 13% and a median change of 13%.

In summary, the BT benefits have enabled the Network to continue to maintain delivery of volume activity while enabling new ambitious projects to be undertaken e.g. Intermediary Technology Institutes, Co-investment Fund, River Clyde, Atlas.
Enterprise and Culture Committee
Meeting 7 December 2004
Committee Work Programme (2005)

Introduction

At its meeting on 23 November the Committee considered and agreed a forward work programme paper for 2005. Subsequently, the Committee has considered other items of business which will have an impact on the scheduling of work for 2005. A modified work programme is attached for consideration.

Revised phased approach

The Committee has already agreed a three phases for the 2005 work programme, namely:

- January 2005 until the February 2005 recess (12-20 February)
- Post-February recess until June 2005
- September 2005 until December 2005

The Committee has already agreed the main items for each of the three phases the 2005 work programme (bullet pointed below). In order to schedule additional work, proposed revisions are shown below (track changed)

Phase 1 - January 2005 until the February 2005 recess

- Aim to complete the work on the Area Tourist Board Review
- Aim to complete the reporter’s Football Inquiry
- Take final evidence from Scottish Ministers to follow-up the Renewable Energy Inquiry, including
- briefing on the state-of-play with regards to their ‘Green Jobs’ strategy
- Complete Stage 1 and 2 of the Further and Higher Education (Scotland) Bill
- Complete Stage 1 of the Further and Higher Education (Scotland) Bill and commence Stage 2 (proposed amendments to Standing Orders increase the time limit between Stages 1 and 2 of Bills which would mean the Committee will probably not be able to complete Stage 2 in this phase owing to a later than expected starting date for consideration)
- Complete stage 1 of the Transport Bill as a secondary committee
- Discuss the review of Smart Successful Scotland with Scottish Ministers

Phase 2 - Post-February recess until June 2005

- Complete Stage 2 of the Further and Higher Education (Scotland) Bill
- Commence oral evidence-taking for the Business Growth Inquiry, conduct any case-study visits etc. It is expected to complete the oral
evidence sessions by about the Easter recess, with a view to finalising a draft report before the summer 2005 recess. This will be followed by the Business in the Parliament Conference (September 2005, tbc)

- Schedule work in order to hold fortnightly formal Committee meetings instead of weekly. Informal meetings to be held in alternating weeks to facilitate a more innovative approach to gathering evidence for the Business Growth inquiry (e.g. informal round table sessions, fact finding visits etc)
- Budget scrutiny, likely to be in April 2005
- (subject to completion of the Business Growth Inquiry as above), agree remit and launch new, short and focused inquiry (likely to run from May through June)
- Employability inquiry. Agree a remit and inquiry in early May (likely to run through May/June. Draft report may be considered after the summer recess)
- Potential Stage 1 consideration of the St Andrew’s Day Bank Holiday Bill (May/June)

Phase 3 - September 2005 until December 2005

- Likely to have to consider approaches to the Bankruptcy Bill during this period
- Consideration of how to approach the work of the Culture Commission
- Potentially a new inquiry
- Potential Stage 2 consideration of the St Andrew’s Day Bank Holiday Bill

Recommendation

The Committee is invited to consider and agree the proposed changes to the 2005 work programme.

Alex Neil
Convener
9 December 2005
Dear Convenor,

**Further and Higher Education (Scotland) Bill**

Thank you for giving BMA Scotland the opportunity to provide comments on the Further and Higher Education (Scotland) Bill. We support the general principles of the Bill but have some concerns with Section 8 which includes provision for the introduction of higher tuition fees for some courses, and which we understand to be particularly aimed at medicine. Our submission will concentrate on this section of the Bill only.

The BMA is very uncomfortable with any plans to increase tuition fees in Scotland, particularly the prospect of a separate higher fee for medicine as it shifts the burden of educational costs further onto students. Given that students from lower socioeconomic backgrounds are generally more debt-averse than those from professional or managerial backgrounds, such proposals would seem to run counter to moves to widen participation in medicine.

A recent BMA report highlighted that 59% of applicants to medicine in 2003 came from managerial and professional backgrounds.¹ The BMA firmly believes that entry to university must be based on academic ability, not ability to pay and it is essential to ensure equity of access for all young people to medical schools.

Our specific concerns with Section 8 are:

1. **Who will the higher fees apply to?** The rationale given by the Deputy First Minister in June this year for increasing fee levels for non-Scottish domiciled UK students from 2006, was to control demand for places in the Scottish higher education system from this group once variable fees are introduced in England and Wales.² We understood that this would not in any way affect Scottish domiciled students studying in Scotland.

Section 8 of the Bill refers to “a class of person” who might be required to pay these fees, but gives no detail on who this might refer to. We presume it is the intention to apply higher fees only to non-Scottish domiciled UK students and that there will be no prospect of a higher graduate endowment for Scottish domiciled students studying medicine. We are seeking confirmation from the Scottish
Executive on its intentions in this respect, however it might also be useful for the Committee to request an answer to this question as part of its inquiry.

Currently, Scottish domiciled students studying medicine in Scotland as a second degree are not entitled for the graduate endowment scheme, but instead are required to pay fees at a comparable rate to those from England studying in Scotland. We would seek reassurance that this group will not be affected by measures aimed at controlling demand from students elsewhere in the UK.

2. **At what level will the fees be set?** No information is provided in the Bill on the level at which the fee for medicine might be set. We would not expect legislation to prescribe the exact fee levels for particular courses, however, if variable fees are to be introduced, it would be important to specify a maximum percentage increase over standard fees (although this may be better placed within regulations). We would like to see further details on levels of fees and we would expect it to be at the minimum level required to achieve its purpose of influencing demand and not to be used as a means of providing additional revenue.

In conclusion, we would urge the committee to consider the consequences of higher fee levels for medical courses and recommend that more detail be provided on this aspect of the Bill should it progress to Stage 2.

Yours sincerely,

Zubir Ahmed
Chairman of the BMA Scottish Medical Students Committee
BMA Scotland

---