Local Government and Transport Committee

13th Meeting, 2006

Tuesday 9 May 2006

The Committee will meet at 2 pm in Committee Room 5.

1. **Items in private:** The Committee will consider whether to take item 5 in private.

2. **Choice of Deputy Convener:** The Committee will choose its Deputy Convener.

3. **Freight transport inquiry:** The Committee will take evidence from—

   **Panel 1**
   Mary McLaughlin, Director of Transport, Scottish Enterprise
   Maya Rousen, Senior Executive, Competitive Place Directorate, Scottish Enterprise

   **Panel 2**
   Gordon Fleming, Integrated Transport Forum, Society of Chief Officers of Transportation in Scotland

   **Panel 3**
   Tavish Scott MSP, Minister for Transport and Telecommunications
   Malcolm Reed, Chief Executive, Transport Scotland
   David Patel, Head of Bus, Freight and Roads, Transport Department, Scottish Executive
   David Eaglesham, Freight Policy and Inland Waterways, Transport Department, Scottish Executive

4. **European document:** The Committee will consider a European Commission consultation document on strengthening the protection of the rights of passengers travelling by sea or inland waterway in the European Union.

5. **Annual Report:** The Committee will consider its annual report for 2005-06.

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Agenda item 4

Paper from the Convener, plus accompanying information

Disability Rights Commission

Inverclyde Council
LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

EUROPEAN DOCUMENT – RIGHTS OF PASSENGERS TRAVELLING BY SEA OR INLAND WATERWAY

Introduction

1. This paper relates to a public consultation document issued by the European Commission on strengthening the protection of the rights of passengers travelling by sea or inland waterway in the European Union. The document is circulated with this paper.

2. The paper invites members to consider what further action they might wish to take in relation to this consultation.

Background


4. The consultation document states that the Commission intends to “examine the current situation as regards the protection of passenger rights in the maritime transport sector for all types of maritime traffic (domestic traffic, including inland waterways, shipping inside and outside the Community, and tourist voyages/cruises) and the needs which are identified as a result, with particular emphasis on the rights of persons with reduced mobility (PRM)”.

5. The Commission states that responses to the consultation will provide it with information about whether new legislative proposals in this area should be put forward. The deadline for responses to the consultation has been extended to 30 May 2006.

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6. The Committee previously agreed to take some evidence on the issues raised by the Commission consultation in order both to scrutinise the Executive’s position in relation to the consultation and, potentially, provide a response on behalf of the Committee to the consultation.
7. The Committee sought written views on the Commission consultation from all ferry companies operating Scottish services, as well as groups representing ferry passengers. The following responses were received and are circulated with this paper:

- Councillor David Roach, Chair, Clyde Shipping Services Advisory Committee;
- Disability Rights Commission; and
- Mobility and Access Committee for Scotland.

8. Following discussions with Executive officials about obtaining oral evidence from the Minister on the Executive’s position on the consultation, the Executive officials indicated that the Executive was not planning to respond to this consultation, that the Department for Transport was co-ordinating a UK response, and the Executive would work with them in formulating a UK position.

9. In my capacity as Convener, I therefore wrote to the Minister for Transport seeking details of (a) any general views the Executive has on the issue of the rights of maritime passengers in Scotland, and (b) further information on how the Executive’s views are fed into the UK position and the likely next steps in relation to this consultation, with particularly reference to the role of the Scottish Executive. A response has been received from the Minister and this is circulated with this paper, along with my original letter.

Next step

10. The European Commission consultation on strengthening the protection of the rights of passengers travelling by sea or inland waterway ends on 30 May 2006, and so any response made by the Committee would have to be agreed before that date.

11. The Committee is invited to consider whether it wishes to respond to the Commission consultation, and, if so, what its response should be. One option is that I could write to the Commission enclosing the submissions received by the Committee and drawing its attention to them. The Committee could also, if it wished, make any other comments in response to the consultation and the Executive’s position, or take any other action it considers appropriate.

Bristow Muldoon MSP
Convener
Dear Tavish

EUROPEAN COMMISSION CONSULTATION – RIGHTS OF PASSENGERS TRAVELLING BY SEA

I am writing in connection with a European Commission consultation document entitled ‘Strengthening the Protection of the Rights of Passengers Travelling by Sea or Inland Waterway in the European Union’.

The document states that the Commission intends to “examine the current situation as regards the protection of passenger rights in the maritime transport sector for all types of maritime traffic (domestic traffic, including inland waterways, shipping inside and outside the Community, and tourist voyages/cruises) and the needs which are identified as a result, with particular emphasis on the rights of persons with reduced mobility (PRM)”.

The Commission states that consultation responses will provide it with information about whether new legislative proposals in this area should be put forward.

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The Local Government and Transport Committee has agreed to carry out a short examination of the issues raised by the Commission consultation, with a view to providing a response to the consultation.

As part of this work, the Committee has decided to seek written evidence from ferry companies operating Scottish services, as well as groups representing ferry passengers.

I understand that the Executive is not planning to respond to this consultation. Instead, the Department for Transport is co-ordinating a UK response, and the Executive will work with them in formulating a UK position. I understand that, in these
circumstances, you are not in a position to provide details of the Executive’s position in relation to the consultation.

It would, however, be useful if you could provide further information on a couple of points, in order to inform the Local Government and Transport Committee’s response to the Commission.

Firstly, whilst respecting the confidentiality of your discussions with the UK Government, I would be grateful if you could provide the Committee with details of any general views the Executive has on the issue of the rights of maritime passengers in Scotland.

Secondly, I would be grateful if you could provide further information on how the Executive’s views are fed into the UK position and the likely next steps in relation to this consultation, with particularly reference to the role of the Scottish Executive.

I would be grateful if a response could be received by Friday 28 April 2006, to allow the Committee to work within the timescale set by the European Commission.

If your officials would like any further information about the Committee’s work, the Clerk to the Committee would be happy to answer any queries.

Yours sincerely

[Signature]

Bristow Muldoon MSP
Convener
Local Government and Transport Committee
EUROPEAN COMMISSION CONSULTATION – RIGHTS OF PASSENGERS TRAVELLING BY SEA

Thank you for your letter of 10 April about the European Commission’s consultation document “Strengthening the protection of the rights of passengers travelling by sea or inland waterway in the European Union”.

As you acknowledge, I am not at this stage in a position to provide details of the Executive’s position regarding the Commission’s consultation. We do not wish to prejudge any national position in advance of any future actions and positions taken by the Commission, and so any UK comments at this stage are likely to remain confidential. This is very much in the spirit of the Commission’s own caveat to its consultation which states that the document prepared by the Commission for consultation purposes does not in any way prejudge, or constitute the announcement of, any position on the part of the Commission on the issues covered.

You may be interested to know about what is already being done to support and improve access at ferry terminals across Scotland. The Executive has invested almost £25m in piers and harbours since 2000 involving improvements to passenger access. In Orkney a major pier development of £18.5m included £2.5m specifically towards improvements to boarding facilities for disabled passengers. Another grant of £1.4m provided improvements to passengers embarking at Lerwick Harbour, and on the west coast a grant of £0.4m enabled the provision of shore ramps and access lifts. A new terminal in Oban was funded with £2.2m from the Executive. All applications for funding must comply with the Disabled Persons Transport Advisory Committee guidance. In addition, the access and assistance provided by CalMac and Northlink involves discussions with disability action groups on how to improve services.
It is important to bear in mind that this consultation is very much an information gathering exercise. The Commission has made clear that at the end of the consultation period, after reading and analysing all the replies received, a report will be prepared summarising how the consultation was carried out and the main points emerging. Contributions received in reply to this consultation will provide the Commission with valuable information about whether new legislative proposals in this area should be put forward.

We are in close touch with the Department for Transport about any proposals that may emerge from Brussels. There would of course be detailed discussion with UK stakeholders before any coordinated UK position could be established based on any formal proposals in this field. At this stage individual and groups of stakeholders are free to respond to the consultation. While this is entirely a matter for the Committee, it may wish to consider consulting beyond the ferries sector, for example taking in ports interests.

TAVISH SCOTT
Introduction
1. The Mobility and Access Committee for Scotland (MACS) was set up in 2002 as the Scottish Ministers’ statutory advisor on disability issues in relation to transport and transport policy in Scotland. Our vision is of a Scotland where anyone with a mobility problem due to some physical, mental or sensory impairment can go when and where everyone else can and have the information and opportunities to do so. All of MACS work is designed towards achieving this long-term vision and our key tasks are concentrated on five specific themes. These are:

i. Ensuring that all travel information is accurate and accessible.

ii. Removing barriers to the accessibility of public transport services and infrastructure.

iii. The identification and promotion of best practice in all areas of public transport provision.

iv. Ensuring that all public transport staff undergo appropriate disability equality and awareness training.

v. Ensuring that public transport networks make full use of all potential service providers and that transport options are in place for people who cannot get to or use conventional public transport services.

Background
2. MACS has been asked by the Local Government and Transport Committee to comment on the issues raised by the European Commission consultation on strengthening the protection of passengers travelling by sea or inland waterway in the European Union. Whilst we are aware that maritime policy is a reserved matter we feel that there are issues that are specific to Scotland in relation to the provision of necessary small lifeline
ferry services to the islands that should be brought to the Local Government and Transport Committee’s attention. These issues are discussed in detail below.

Accessibility of Maritime Services within the UK - Background to Existing Good Practice Guidance

3. Currently the shipping industry in the UK complies with voluntary guidance that has been prepared by the International Maritime Organisation (IMO) entitled ‘Recommendation on the Design and Operation of Passenger Ships to Respond to Elderly and Disabled Persons’ Needs’ supported by Marine Guidance Notes prepared by the Maritime and Coastguard Agency and guidance notes prepared by the Disabled Persons Transport Advisory Committee (DPTAC) guidance entitled “The design of large passenger ships and passenger infrastructure; Guidance on meeting the needs of disabled people”.

4. DPTAC, is the sister body of MACS in the UK and as such remains the representative body for the transport needs of disabled people in respect of matters that are reserved to the UK Government such as maritime policy.

5. DPTAC prepared its guidance to support and assist all concerned in the interpretation and implementation of the IMO guidelines to address the needs of the wide range of disabled people using large passenger vessels. Whilst the guidance relates in particular to large passenger vessels the same inclusive design and accessibility principles in meeting the needs of disabled people would apply to smaller vessels.

6. Part 3 of the Disability Discrimination Act (DDA) 1995 prohibits discrimination against people with disabilities in the provision of goods, facilities and services which, for shipping, includes the infrastructure, facilities and services provided at ports. There is currently a new provision in the Disability Discrimination Act 2005, which empowers the Government to lift the transport exemption in respect of any form of transport service. Regulations will be brought into force on 4 December 2006 that lift the exemption in respect of certain types of transport vehicle however, at present aircraft and shipping services have not been brought within the scope of these regulations. This means that at present shipping services only require to adhere to the voluntary guidance mentioned in paragraph 3 above.
7. DPTAC has commissioned research to establish whether the shipping industry is complying with the voluntary guidance produced by the IMO and DPTAC as detailed in paragraph 3 above. It also looked at what affect the guidance had on the accessibility and usability of large passenger ships by disabled people. This included accessibility assessments of ships and ports; assessment of ferry operator brochures and websites; interviews with port and ferry operators; interviews with naval architects; and interviews and observations with disabled passengers. The findings of this research will be published shortly and may prove useful in determining the effectiveness of voluntary guidance and inform any future decisions on the protection of passengers rights in the maritime transport sector, especially the rights for persons with reduced mobility.

8. MACS has been represented on the advisory steering group that has looked into the research and will ensure that the Local Government and Transport Committee receive a copy of the report in due course. We will work with DPTAC to ensure that the recommendations from the research report are disseminated and taken forward in Scotland.

9. However, on the domestic front MACS is more concerned about how the necessary small lifeline ferry services to the Scottish Islands meet the needs of disabled and elderly people and as such 4 members, including a member who is a wheelchair user, undertook a fact finding trip in June 2004 round the Western Isles. The purpose of the trip was to gain a shared understanding of the operation of a small selection of CalMac ferries. In addition the members met with a small local group of people in Benbecula. The issues that this trip highlighted as being necessary to ensure that disabled passengers needs are being met are

- the need for accessible information about the services offered
- the need for information about features provided to assist disabled passengers
- the need for appropriate disability awareness training for staff
- continuing audit of access to and from ferries

10. The trip also highlighted the need for an access consultant to be employed at the design stage of any new project and for
there to be integration between the port side and the vessel to enable access for disabled passengers.

11. As previously stated MACS vision means that a disabled person should have the information and opportunity travel by sea in the same way as an able bodied person can. For many disabled people two of the main barriers to travel are the lack of information in an accessible format and lack of confidence in using the service.

12. Appropriately trained staff makes a very positive contribution to the confidence of disabled people and their ability to travel. In recognition of the importance of travel information and staff training MACS has published the following two documents

   “Valuable for anyone, valuable for everyone – providing accessible transport information”
   “Recommended training standard for staff assisting disabled people”.

13. Both Scottish Executive officials and CalMac have been appraised of the findings from the trip in 2004.

14. MACS recognises that the ferry services in Scotland are often the only mode of transport between the islands and the mainland and as such are quite distinct in nature and different to large passenger ferry services. This has been taken into account in considering our response, detailed below, to the issues raised by the EU Consultation.

**European Consultation - Rights of Persons Travelling by Sea - issues raised in questionnaire**

**I. Need for Regulation**

15. Last year MACS supported the proposal for parallel European regulation in respect of passengers’ rights when travelling by air. Therefore MACS agrees that the protection of the rights of passengers in the EU should be governed by the same principles whatever the mode of transport used, subject to the requirements of each mode of transport. (Question 1). Regarding the common level of protection (Question 2) we do not believe that a standard level of protection can apply in relation to short travel e.g. island lifeline ferry services in
Scotland and perhaps elsewhere in the EU because of their distinct nature.

16. Our experience shows that the voluntary guidance is not being fully adhered to and therefore we would support regulations both at a national and a EU level. This would also be in line with the provisions that are being considered for other modes of transport.

II. What rights should be protected if journey is interrupted
17. MACS does not feel that it has the expertise to respond to the questions posed other than to note that disabled passengers should be afforded the same rights and compensation as those afforded to other passengers.

III. Passengers with Reduced Mobility
18. We fully support the opening statement in this section and fully agree that the application of the four principles of non-discrimination, access, assistance and proper information should not entail any additional costs for passengers with reduced mobility.

19. In relation to questions 5.4 and 5.5 we would draw your attention to our publications mentioned in paragraph 12. In relation to question 5.6 we do not believe that the shipping industry should introduce any specific charges to promote its service to disabled people. It should be noted that changes that are made to take account of the needs of disabled passengers often make transport more user friendly for others too.

IV Dealing with Complaints and Means of Redress
20. MACS does not feel that it has the expertise to respond to the questions posed other than to note that it is important that passengers know who they should contact in the event of their travel arrangements going wrong or services not being provided as described by the operating company. The Committee should note that within Scotland there are currently Shipping Services Advisory Committees, which consider local customer complaints.
V. Other Issues

Integrated Ticketing Issues
21. Disabled people would benefit from including scheduled shipping routes in integrated ticketing systems. Also staff manning ticket offices should be suitably trained to deal with disabled people – see paragraph 12 above for details of MACS publication.

Information
22. Persons with reduced mobility requesting assistance from many ferry companies cannot do this on-line. Discounts available only to on-line booking might therefore not be available to those needing to book assistance.

23. Disabled people would benefit from better provision and publication of travel information and for that information to be provided in accessible formats. – see paragraph 12 above for details of MACS publication.

24. We agree that a charter summarising passenger’s rights should be made available and that it should also be made available in accessible formats.

Quality of Services
25. We agree that there should be quality standards drawn up for journeys by sea and that to ensure the uniformity of provision across the European Union and to strengthen the protection of the rights of all passengers travelling by sea, standards should be set in regulation. Any standard should include assistance for people with reduced mobility and the provision of staff training in disability issues. Providing information in a report about the quality of service to their potential clients could be useful in encouraging people to use their services. Any reports should be made available in an accessible format.

The Role of Ports
26. Ports in the UK are already covered by Part 3 of the Disability Discrimination Act 1995 which gives disabled people a right of access to goods, facilities and services.
Package Holidays
27. We agree that the same principles, measures and compensation should apply to tourist voyages (cruises).

Discussion Forum
28. In the UK the Chamber of Shipping currently has a passenger issues committee whose membership represents a wide range of shipping companies (including CalMac) and services provided by the industry. The need for a discussion forum to define more clearly the problems of passengers travelling by sea would not be necessary if guidelines/regulations were adhered to.
Dear Alistair

European Commission Working Paper – Rights of Passengers Travelling by Sea

Many thanks for your letter of 10 March. The DRC welcomes the opportunity to provide the committee with our comments on the issues raised in the working paper.

Background
Making successful door to door journeys, by whatever combination of transport modes, is critical to the social inclusion of disabled people. Without the ability to travel, disabled people are denied access to life opportunities: access to education, employment, healthcare, shopping and social and family life is significantly improved when journeys become accessible.

Moreover, an accessible transport system is easier for everyone to use. The system is more sustainable because vehicles and the transport infrastructure do not have to be altered if they are designed inclusively from the start. Economies of scale will reduce costs once inclusive features become the norm. Additionally an accessible transport system will increase social inclusion which has longer term social and economic benefits.

Transport infrastructure, such as train stations and ferry terminals, is already covered by the Disability Discrimination Act 1995 (DDA). From December of this year, the DDA will also apply to most land-based modes
of transport – trains, buses, taxis and so forth. However, aviation and shipping will remain subject to voluntary codes\(^1\). This means that, although disabled people have some legal protection from discrimination when for example moving around a ferry terminal or buying tickets, they will continue to have no legal redress if they face discrimination boarding, travelling on or disembarking a ferry. The DRC has in fact supported a successful case against Caledonian MacBrayne in 2003 concerning ticketing policy and accessibility. The case was settled before it reached court.

Compared with any other part of the UK, ferries have a unique significance for Scotland, with remote and island communities, many dependent on lifeline ferry services, spread across hundreds of miles from Kintyre to the Northern Isles. Disabled people living in these communities face significant barriers to employment, education and social opportunities if the policies of ferry operators and the design of ferry infrastructure and the ferries themselves do not take their needs into account.

**Disability Equality Duty**
The Committee should also consider the working paper in light of the Disability Equality Duty (DED) of the Disability Discrimination Act 2005. The DED will come into effect in December 2006 and cover all public bodies in Scotland, including Caledonian MacBrayne, Regional Transport Partnerships and Scottish Ministers. The Duty is divided into six parts:

- the need to eliminate discrimination
- the need to eliminate harassment of disabled people
- the need to promote equality of opportunity between disabled and non-disabled people

\(^1\) The shipping code can be downloaded at [www.dptac.gov.uk/pubs/guideship/index.htm](http://www.dptac.gov.uk/pubs/guideship/index.htm).

Forthcoming DfT research on the DPTAC Codes suggests:

- Ferries meet 57% - 77% of the DPTAC recommendations
- Ports meet 51 - 80% of the recommendations
- The biggest barrier for disabled people is boarding
- Good customer care overcomes most barriers - and the lack of it creates barriers
- Measures to improve accessibility focus on the needs of wheelchair users and too little thought is given to other accessibility issues
- Lack of access to information about accessibility discourages some people who could use ferry services from attempting to do so
the need to take steps to take account of disabled people's disabilities, even where that involves treating disabled people more favourably than other people
the need to promote positive attitudes towards disabled people
the need to encourage participation by disabled persons in public life.

Public Authorities, including Scottish Ministers will have a specific duty to prepare and publish a Disability Equality Scheme setting out how they will meet these duties under the Disability Discrimination Act 2005. This includes setting out how they will monitor and assess the impact their policies and procedures will have on eliminating disability discrimination and promoting disability equality. In essence, the duty requires public authorities to design out discriminatory practices at the start of any policy planning process.

Working Paper Proposals
The DRC does not propose to comment on each question in the paper. Our comments are limited to some of the issues raised in sections III and IV.

Section III - Passengers with Reduced Mobility: the DRC fully agrees with the statement heading this section, and would point out that the principles it contains are in line with those that underpin the DDA. The DDA does not of course only cover people with mobility impairments and also covers a wide range of sensory impairments, learning disabilities, mental health conditions and long-term health conditions. The DRC believes all these groups should have equal protection from discrimination.

There is evidence of moves to improve consultation and dialogue with disabled people on some Scottish ferry routes, but more needs to be done. Evidence also suggests that a rolling programme of upgrades to ferry fleets are improving access, but that this is happening in a piecemeal fashion².

In line with the DDA, any additional costs associated with improving accessibility should of course be borne by the operators themselves and not passed to individuals wishing to use ferry services.

² www.scottish.parliament.uk/business/committees/equal/papers-05/eop05-02.pdf
Section IV – Dealing with Complaints and Means of Redress: The DRC would again agree with the statement at the beginning of section IV. Disabled passengers who have experienced discrimination while attempting to use a ferry service should have fast, efficient, transparent and affordable means of redress at their disposal. As far as possible, these should avoid recourse to the courts, which can mean daunting, expensive and protracted proceedings. The DRC itself offers a range of means to settle disputes, including a Scottish casework service and conciliation. The DRC will also in limited circumstances support a case, where it is deemed to be of strategic importance in clarifying or establishing a point of law.

Operators should be as open and transparent as possible in publicising complaints and, just as importantly, in detailing the steps taken to rectify the original problem and the resulting changes to policies and practice. Public sector operators should in any case be regularly reviewing policy and practice so as to meet the requirements of the Disability Equality Duty.

I hope this information is of use to the Committee. Please do not hesitate to get in touch if you would like to discuss at greater length any of the points raised in this letter.

Yours sincerely

Adam Gaines
Director, Scotland