



ENVIRONMENT POLICY DEVELOPMENT & SCRUTINY PANEL

SCOTLAND'S LOW EMISSION ZONES – CONSULTATION ON REGULATIONS AND GUIDANCE, WEST LOTHIAN COUNCIL'S RESPONSE

REPORT BY HEAD OF OPERATIONAL SERVICES

A. PURPOSE OF REPORT

The purpose of this report is to advise the Panel of the Scottish Government's Consultation on Regulations and Guidance for Scotland's Low Emission Zones (LEZs) and to recommend a formal response to Council Executive.

B. RECOMMENDATION

It is recommended that the Panel notes the contents of the report and recommends Appendix 1 to Council Executive as the council's response to the Scottish Government's consultation.

C. SUMMARY OF IMPLICATIONS

I	Council Values	Focusing on our customers' needs; Being honest, open and accountable; and Working in partnership.
II	Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Policy: Scottish Government has a vision for Scotland to have the cleanest air in Europe. Low Emission Zones are one initiative which will help address the climate emergency. Legal: The Transport (Scotland) Act 2019 provides the legislative framework for the introduction of Low Emission Zones in Scotland. Integrated impact assessment: Will form part of any future LEZ scheme.
III	Implications for Scheme of Delegations to Officers	None.
IV	Impact on performance and performance Indicators	None.
V	Relevance to Single Outcome Agreement	Linked to the council's own SOA.
VI	Resources - (Financial, Staffing and Property)	Financial: None Staffing: None. Property: None.

VII Consideration at PDSP

None

VIII Other consultations

Internal consultation has taken place with Planning & Regeneration.

D. TERMS OF REPORT**D1 Background**

The Programme for Government (PfG) 2019 committed to consulting on LEZ emission standards, including the extent to which future stricter emissions standards can contribute towards encouraging the transitions towards lower and zero-carbon forms of transport.

The Scottish Government published its Consultation on Regulations and Guidance for Scotland's Low Emission Zones (LEZ) on 13 December 2019. The consultation seeks answers to a set of 19 questions with the closing date of 23 February.

The consultation provides an opportunity to offer views on the key aspects of LEZ Regulations that derive from the Transport (Scotland) Act 2019. The consultation is not about the design or implementation of any individual town or city-specific LEZ.

The purpose of this consultation is to set out the proposed arrangements and options related to the nationally consistent LEZ standards which will be set out in regulations in tandem with guidance. The regulations are aimed at delivering successful, fair and equitable LEZs.

Chapters 8 and 9 of the consultation document set the scene for LEZs and outline the scope of this consultation. Chapters 10 and 11 outline the proposals for LEZ regulations and guidance, seek views on a selection of issues such as the emission standards, penalty charge rate, enforcement and exemptions. Chapter 13 further seeks views on assessing the general impact on areas such as equality, privacy and the environment.

E. CONCLUSION

Scotland's Low Emission Zones Consultation on Regulations and Guidance seeks views on a selection of issues such as the emission standards, penalty charge rate, enforcement and exemptions as well as on assessing the general impact on areas such as equality, privacy and the environment. Appendix 1 provides a suggested response on the consultation.

F. BACKGROUND REFERENCES

<https://www.transport.gov.scot/consultation/scotlands-low-emission-zones-consultation-on-regulations-and-guidance/>

Appendices/Attachments:

APPENDIX 1 Response to Scotland's Low Emission Zones Consultation on Regulations and Guidance

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Date: 11 February 2020

West Lothian Council's Response to Scotland's Low Emission Zones, Consultation on Regulations and Guidance

(The following responses will be inputted into Transport Scotland's on-line consultation form)

Q1a Do you agree with the proposed present-day emission standards for Scottish LEZs? If not, why not?

West Lothian Council agrees with the currently proposed present-day emission standards for Scotland's LEZs. In particular, it welcomes the exclusion of Euro 5/V diesel vehicles, which have been shown to have real world NO₂ emissions considerably in excess of the design intention.

However, it would also note that Euro 6 / VI standard vehicles, whilst a considerable improvement on Euro 5 / V, have been found in real world testing to be prone to certain systemic failures. For ease of regulation, basing entry to LEZ on Euro emissions standard is entirely reasonable. However, an additional mechanism is needed (perhaps mobile or suitable for routine relocation) to identify high emissions Euro 6 / VI standard vehicles. The need for this (and practicality) was demonstrated through the West Lothian real time vehicle emissions pilot project (Spring 2017).

Motorcycles, mopeds, etc. contribute extremely small amounts to the total emission outputs of transport. They can be a practical mode of transport for city use and commuting in terms of the road space they take up and they do not cause major congestion problems. For these reasons removal from the regulations would not be a major concern to the Council.

Q1b What are your views on Scotland making a transformative shift to zero or ultra-low emission city centre by 2030? Please be as specific as possible in your reasoning?

The principal of 'a transformative shift to zero or ultra-low emission city centres by 2030' is welcomed. The opportunity should be taken to transform the way in which city, town and village centres are used. 'Business as normal' with the exception of non-compliance fossil fuel vehicles will, over time, perpetuates the same congestion problems as currently encountered, but with alternatively powered vehicles. However, in each case, the following factors need to be considered:

- **Local Geography.** Does the town centre include a key through route, for which there is not currently a valid alternative? This may apply to smaller town or village centres where alternatives are limited.
- **Local Demographics.** We need to recognise that some travellers will continue to require access to services only available in a town centre or they may have mobility difficulties. We need to have extended transition periods to ensure these disadvantaged groups are not unintentionally excluded from essential services. Again, this is more likely to apply to smaller or provincial town centres or villages where public transport alternatives are limited.

Q2a Which of the proposed national LEZ exemptions do you agree with? Please be as specific as possible in your reasoning.

All emergency vehicles should be initially exempted. However, with the exception of a very limited number of specialist vehicles, this is unlikely to be necessary for more than 10 years, by which time the oldest Euro 6/VI vehicles will be in the region of 14 years old. Notwithstanding the argument for a blanket exemption national emergency services should be leading the way in terms of LEZ / Climate Change / Climate Emergency. What constitutes an "emergency vehicle" needs to be considered further and clearly defined through the regulations. They should not just be any vehicles used by any of the national agencies for any use.

It is agreed that Vehicles registered with a 'disabled' or 'disabled passenger vehicles' tax class be exempted. The occupants are likely to have mobility or other impairments. It must be recognised that some such vehicles will be privately owned and a significant number of Euro5 / V or earlier diesels may be included. This may increase in rural areas.

It is agreed that vehicles being used for the purposes of the "blue badge scheme" be exempted. However, some means of identifying these vehicles on a 'real time' basis is required. A smartphone app would allow a blue badge to be scanned and 'associated' with a particular registration for up to 48 hours at a time, perhaps with no more than two 'associations' permitted per blue badge at a time. Abuse of "blue badges" for car parking is prevalent and any LEZ enforcement scheme will have to be robust to avoid abuse.

Showman vehicles are often much older vehicles and cover relatively limited mileage. It is agreed that exemption is therefore reasonable. However, consideration should be given to how such vehicles can be prevented from idling unnecessarily within any LEZ. The principle of arrive, park, show, pack, depart should be followed. Where the vehicle engine is required to provide power to a ride and will consequently be running for extended periods, no exemption should be available. It is anticipated that the number of such vehicles will be relatively low.

Q2b Are there any other LEZ exemptions you would propose? If so, what should these exemptions be and why?

Provision should be made for the exemption of the very limited number of specialist emergency services vehicles which would otherwise be non-compliant. These may include command /support units, specialist equipment transport, etc.

There is scope for LEZs to exist where local approved parades, gala days or other cultural events take place. Provision should be made for temporary exemptions for vehicles used for these. These may include e.g. 15-30 year old (or altered) 4x4 pulling floats, 15+ year old tractors pulling floats, decorated vehicles etc.

Funeral vehicles often have an extended working life of 20 years. The specialist conversion work carried out makes new vehicles expensive investments and there are limited current options for suitable base vehicles. Given the low numbers concerned and the limited likely use within a LEZ, consideration should be given to exempting existing vehicles up to, perhaps, 20-25 years. Similar considerations apply to some specialist wedding hire vehicles which have not yet reached 30 years old.

Q3a Do you agree with the proposed base level and subsequent tiers of penalty charges for each vehicle type as outlined in Table 5? Please explain your answer.

The Council agrees in principle to Table 5 and the tiering structure proposed. It would however suggest that the base level charge of £60 for cars, minibus, light commercial vehicles and specialist vehicles is increased to £90. This would align with recent calls from authorities operating DPE schemes to increase Penalty Charge Notices to help cover costs.

Question 3b Which surcharge “curve” in Figure 1 represents the best approach to designing a surcharge?

Graph 2 is considered to be the best approach. It appears to be a good balance and easy to understand.

Question 3c How should the surcharge approach be applied in order to discourage non-compliant vehicles from driving within a LEZ?

The council would support the surcharge approach as outlined in paragraph 63.

Question 3d How many days should lapse before a registered keeper of a vehicle returns to the base tier of the penalty charge?

The Council suggests increasing the lapse period from 28 days to 56 days.

Q4 Do you agree with the general principles of the LEZ enforcement regime? If not, why not

The Council agrees with the general principle of the enforcement regime. However, the enforcement regime assumes that all local authority will have procedures in place similar to those associated with decriminalised parking. However, the business case for decriminalised parking is not sufficient for some local authorities to adopt it. Therefore new, and disproportionately expensive, hard and soft infrastructure will be required to implement LEZ enforcement. In areas where decriminalised parking enforcement does not already exist, the proposed model may be financially unviable and therefore undeliverable. It is understood that all the cities introducing LEZs already have well established DPE schemes but thinking to the expansion of LEZs this may not be the case for some authorities.

Q5 What are your views on the proposed list of “other persons” that local authorities must consult with on their LEZ plans?

Views on the proposed list of ‘other persons’ that local authorities must consult with on their LEZ plans are:

- Emergency services. Agreed, although it is not clear to what degree emergency services will have capacity to respond to proposals at the development stage. Particular sensitivities will be at and around emergency services bases and service locations such as hospitals. The effect of potential traffic management and physical infrastructure changes associated with LEZ implementation on travel / response times will be crucial. There will certainly be a need for ongoing dialogue, in the light of experience once implemented.

- Residents within a zone. Agreed, although clarity will be required to the degree to which each individual address should be contacted. In some areas, it needs to be recognised that owner occupation rates are low and therefore other owners of residential property need to be considered. This would be challenging with small landlords and may not be practicable. However, Registered Social Landlords (RSLs) should be included, given the potential impact on their tenants and the need to consider installation of, for example, EV charging infrastructure.
- Local authorities (neighbours to the local authority delivering the scheme). Agreed, to allow the potential impacts on neighbouring authorities to be considered.
- Regional Transport Partnerships. Agreed.
- NHS (including Health Boards). Agreed. This allows the accessibility of health facilities to be considered, along with ensuring continuity of service is not adversely affected.
- Residents living within a LEZ. This appears to duplicate 'Residents within a zone'
- Community Councils. Agreed, where all or part of those are within the LEZ scheme area.
- Active travel groups (covering cyclist and pedestrians, such as Sustrans). Agreed
- Commissioner for Children and Young People in Scotland. Agreed
- Active Nation Commissioner for Scotland. Agreed
- Disabled groups (such as Mobility and Access Commission for Scotland). Agreed
- Motorcycle groups. Agreed.

Community Planning Partnerships should be included. This will ensure that a broad range of service delivery organisations are aware of any specific LEZ proposals. Educational institutions (Universities, Colleges etc.) within any proposed LEZ should be consulted, given their potential scale and impact on local traffic.

Q6 If a LEZ scheme review was undertaken, what elements would you expect the review to investigate and how would the review ensure transparency and accountability?

There are three distinct elements 'to the review of the operation and effectiveness' of an LEZ:

- Air quality improvements. There will be an ongoing need to assess air quality within the LEZ, even when pollutant levels are within the zone are within statutory limits. There are financial implications associated with this long term measurement. However, in its absence, the case for an LEZ cannot be proven or rejected.
- Financial performance. It is entirely possible that LEZ performance will not show any direct relationship with expenditure or ongoing financial viability, depending on the cost of infrastructure, administration and enforcement relative to penalty income. For example, a highly effective LEZ may require considerable finances to implement and maintain, but bring in little penalty income.

- Effect on business and community. The effects on business and community need to be considered. This is particularly the case should the impacts be significant, or may become significant due to additional proposals, but air quality improvements have proven limited.

Q7 What secondary objectives should be created for LEZ schemes? Please be as specific as possible in your reasoning?

With regard to contributing to carbon reduction targets, none of the proposed measures enables this to be measured. Consideration should be given to commissioning 'carbon budgets' for the LEZs and periodically assessing progress against this baseline.

To have measurable secondary objectives, baseline data needs to be available. Funding will be required to gather baseline data if progress against suggested secondary objectives is to be measurable. There does not appear to be funding available to allow this information to be gathered in advance of a LEZ being proposed.

Q8 Do you agree with the steps outlined in Figure 2 for enabling a LEZ scheme to come into effect? If not, why not?

Prior to any public consultation (step 2), it would be normal to have the public consultation approved through a local authority committee process.

Step 6 should perhaps read "Scheme implementation date set by local authority committee" as the local authority will have already approved the final design before it goes to Scottish Ministers.

The link back from Step 6 to Step3 is not required.

Q9 How can local authorities maximise the technological opportunities available from the deployment of approved devices?

The deployment of approved devices and co-ordination and collaboration with other services to maximise technological potential is likely to be more practical in larger urban areas. The ability to partner, share costs and extract additional benefits is likely to be more limited in small traditional town centres outwith larger conurbations. This in turn makes it proportionately more expensive to deploy.

Q10 What positive or negative impacts do you think the LEZ proposals outlined within this consultation may have on:

- (a) Particular groups of people, with reference to "protected characteristic" listed above**
- (b) The very young and old**
- (c) People facing socio-economic disadvantages**

(a) Particular groups of people, with reference to "protected characteristic". The impacts on protected characteristic groups of people will need to be considered carefully through the development of schemes but for many of these groups they are likely to be unaffected.

(b) The very young and old. The improvement in air quality associated with the reduction in vehicle emissions will be a significant benefit to these age groups.

(c) People facing socio-economic disadvantages. It is clear that the lowest emitting vehicles are, in general, the newest and therefore the most expensive. Whilst older petrol vehicles back to 2005 are permitted, those who are socially disadvantaged also have less choice in the types of vehicle available, their age, price and condition. It is inevitable that those private motorists on lower incomes are likely to be most affected. Only reducing overall vehicle use (and parking within a LEZ) will help to address this imbalance.

Those living in rented homes have less ability to install suitable EV charging infrastructure, making the move to EVs more difficult.

Those living in flats or with only on-street parking have less ability to access suitable EV charging infrastructure, making the move to EVs more difficult.

Q11 Do you think the LEZ proposals outlined within this consultation are likely to increase, reduce or maintain the costs and burdens placed on business sectors? Please be as specific as possible in your reasoning.

There is likely to be an initial effect on those businesses operating or reliant upon others who currently operate Euro 5/V or older vehicles. Use will need to stop or they will need replaced. Most likely to be effected are small traders / tradesmen. Larger fleets are likely to have younger fleets. However, with increased reliability of modern vehicles, many commercial fleets operate vehicles until 5, 6 or 7 years old. Many will be non-compliant.

Q12 What impacts do you think the LEZ proposals outlined in this consultation may have on the personal data and privacy of individuals?

The principal issue with use of ANPR data is the ability to locate a particular vehicle at a particular point travelling in a particular direction at a particular time. Whilst this does not explicitly identify the driver, the keeper of the vehicle will most likely be able to identify the driver. This is mostly an issue with vehicles shared between drivers.

Data gathered relating to exempt vehicles should be anonymised at a very early stage as there is no basis for its retention. If retained, it should be in an anonymised manner only, purely for statistical purposes

Arrangements for the handling, storage, use and disposal of ANPR data will have to be tight. Without this the impacts on personal privacy could be considerable.

Q13 Do you think the LEZ proposals outlined in this consultation are like to have an impact on the environment? If so, which ones and how? Please be as specific as possible in your reasoning.

The adoption of LEZ's will drive an increase in electric and other alternative fuelled vehicles. It needs to be recognised that:

- This creates a demand for the metals used in batteries;
- This creates a need to generate additional power. This may result in additional need for wind, solar, wave and hydroelectric power generation in Scotland, with commensurate environmental benefits and adverse effects;

- Additional power must be distributed. There is an environmental impact of providing additional distribution capacity both at national and local level; and
- Additional demand for EV charging facilities within LEZs should be anticipated.

If successful, use of bus and train services is likely to rise. This may, over time, increase traffic flows from heavy vehicles in limited numbers of town / city centre streets. This can be partially mitigated by effective, efficient management and co-ordination, which should be easier with a reduction in general road traffic within LEZs.

Q14 - Do you have any other comments that you would like to add on the Scottish Government's LEZ proposals outlined within this consultation?

General Observations:

- All of this needs to be kept in perspective. The Scottish Government's 'vision is for Scotland to have the cleanest air in Europe'. This is reflected in tighter standards for particulate matter than elsewhere in the UK. Unacceptable levels of airborne pollutants are associated with geographically distinct areas, most often transport of heavy industry related. In spite of the tighter standards applied in Scotland, these geographical areas are very small, although they also often have higher than average population densities.
- We need to be sure that in making change away from the heavier polluting fossil fuelled vehicles, we do not simply discriminate against those on lower incomes by limiting those who can use the roads to those who can afford new vehicles or alternative fuelled vehicles. We also need to ensure that the changes made encourage modal shift in transport to secure the carbon reduction also required. Failing to do so will result in continuing road congestion, albeit in future with electric or alternative fuel vehicles.

END