

TAYSIDE AND CENTRAL SCOTLAND TRANSPORT PARTNERSHIP

18 DECEMBER 2018

GENERAL CONSULTATIONS

REPORT BY SENIOR PARTNERSHIP MANAGER

This report asks the Partnership to endorse a response to the Scottish Government's consultation on a draft Noise Action Plan for Dundee; note the response to the Department for Transport's consultation on 'Proposals for new cycling offences'; and delegate authority to the Executive Committee to consider and approve a response to an Office of Road and Rail's 'Improving Assisted Travel – A consultation on changes to guidance for train and station operators on Disabled People's Protection Policy'.

1 RECOMMENDATIONS

1.1 That the Partnership:

- (i) endorses the response to Transport Scotland's Draft Noise Action Plan for Dundee as shown in Appendix A;
- (ii) delegates authority to the Executive Committee to consider and approve a response to Transport Scotland's Transportation Noise Action Plan;
- (iii) notes the response to the Department for Transport's consultation on 'Cycling and Walking Investment Strategy safety review: proposals for new cycling offences' as shown in Appendix B; and
- (iv) delegates authority to the Executive Committee to consider and approve a response to the Office of Road and Rail's 'Improving Assisted Travel – A consultation on changes to guidance for train and station operators on Disabled People's Protection Policy'.

2 BACKGROUND

- 2.1 Scottish Government issued a consultation on 15 October, 2018 on a [Draft Noise Action Plans](#) for the four largest agglomerations including Dundee, with responses to be submitted by 23 November 2018. On the 5 December 2018, the Scottish Government then issued for consultation a [Transportation Noise Action Plan](#), with responses requested by 16 January, 2019. The Transportation Noise Action Plan covers those areas not covered by the Draft Noise Action Plans for the four largest agglomerations.

- 2.2 The Department for Transport published consultation on [‘Cycling and Walking Investment Strategy safety review: proposals for new cycling offences’](#) on 12 August 2018, with responses to be submitted by 5 November 2018. At its meeting on 25 September 2018 the Partnership agreed to delegate authority to the Executive Committee to consider and approve responses to the consultation (Report RTP/18/37 refers).
- 2.4 The Office of Road and Rail (ORR) issued a consultation on [‘Improving Assisted Travel – A consultation on changes to guidance for train and station operators on Disabled People’s Protection Policy’](#) on 14 November 2018, and have requested responses to be submitted by 18 January 2019.

3 DISCUSSION

Transportation Noise Action Plans

- 3.1 The Environmental Noise (Scotland) Regulations 2006 places responsibility on the Scottish Ministers to prepare and approve Transportation Noise Action Plans. Accordingly the Scottish Government issued consultation on:
- Draft Noise Action Plans for the four agglomeration areas of Aberdeen, Dundee, Edinburgh and Glasgow
 - Transportation Noise Action Plan, which covers the rest of Scotland
- 3.2 The Scottish Government issued on 15 October draft Action Plans for the four agglomerations, requesting responses by 23 November, 2018. As the consultation period did not allow responses to be considered by the Partnership Board, or delegated to and considered by the Executive Committee, an officer response has been submitted, noting to the Scottish Government that the response will be subject to endorsement by this Partnership Meeting of 18 December 2018.
- 3.3 The draft noise action plan for Dundee identifies:
- Twelve candidate noise management areas
 - Five candidate quiet areas
 - A commitment to assess the candidate noise management and quiet areas by, respectively, 30 April 2019 and 31 May 2019
 - An action plan (2018-2023), identifying proposed actions to support confirmed noise management or quiet areas
- 3.4 The key points of the Tactran officers’ response are:
- The action plan does not consider other, ongoing, initiatives such as reducing traffic volume and electric vehicle adoption which can help reduce noise
 - The lack of clarity over who will be responsible for specific actions identified in the action plan

- 3.5 The response is included as Appendix A, which the Partnership is asked to endorse.
- 3.6 On the 5 December, the Scottish Government issued for consultation a Transportation Noise Action Plan, requesting responses by 16th January, 2019. The Plan includes:
- 19 candidate road traffic noise management areas in the Tactran region (in; Bridge of Allan, Dunblane, Glenfarg, Perth and Stirling; and along the A9 through Stirling) and 1 rail candidate noise management area (in Stirling)
 - A proposed prioritisation process for identifying whether candidate noise management areas should be declared noise management areas
 - An action plan (2018-2023), identifying proposed actions to support noise management areas
- 3.7 The Partnership is asked to delegate authority to the Executive Committee to consider and approve a response, to allow submission to the Scottish Government by 16 January 2019 deadline.

Cycling and Walking Investment Strategy Safety Review: Proposals for New Cycling Offences

- 3.8 The Department for Transport published consultation on '[Cycling and Walking Investment Strategy safety review: proposals for new cycling offences](#)' on 12 August 2018, with responses to be submitted by 5 November 2018.
- 3.9 The consultation sought views on whether there should be new offences for cyclists of causing death or serious injury when cycling, and what the associated penalties might be. The consultation also sought views on the scope and penalties of existing offences, which for cycling currently apply only to the road (which includes the pavement) but not in other public places.
- 3.10 A supplementary report on the [current law in relation to Scotland](#) was published by the Department of Transport on 23 September 2018.
- 3.11 At its meeting on 25 September 2018, the Partnership agreed to delegate authority to the Executive Committee to consider and approve the Tactran response to Department for Transport consultation on 'Cycling and Walking Investment Strategy safety review: proposals for new cycling offences' (Report RTP/18/37 refers).
- 3.12 Independent advice and supplementary information provided with the consultation concluded that there is a persuasive case for legislative change in England and Wales, however there is not the same immediate need in Scotland.

- 3.13 While the primary purpose of the proposed changes may be to fill the identified 'gap' in the law in England and Wales, any changes to road safety legislation will apply in Scotland as matters relating to road traffic offences and penalties are generally reserved.
- 3.14 The Executive Committee approved the proposed response to the consultation (Report RTP/18/39 refers), is included as Appendix B to this report for noting.

Improving Assisted Travel – A consultation on changes to guidance for train and station operators on Disabled People's Protection Policy

- 3.15 This consultation sets out proposals to change the Disabled People's Protection Policy Guidance for train and station operators on how to write their policies for helping disabled people to travel by rail.
- 3.16 It is the culmination of the work the Office of Road and Rail (ORR) have undertaken so far to understand passengers' experience of this service and to develop proposals that are designed to bring greater quality, consistency and reliability to the assistance available for disabled passengers.
- 3.17 The ORR is consulting on proposals to:

- Increase the reliability of assistance for disabled passengers by introducing a new standardised handover process for all Great Britain mainline stations. This will work in tandem with new arrangements to strengthen communication between stations and measures to introduce greater accountability for assistance provision.
- Improve accessible journey planning by standardising key station accessibility information on facilities, step-free access and staffing to provide a better and more accurate picture of what disabled passengers can expect at each station.
- Reduce the notice period for booking assistance, currently up to 24 hours before travel, we are consulting on three options for passengers; booking by 10pm the night before travel, booking a minimum of 6 hours before travel and booking a minimum of 2 hours before travel.
- Ensure all train companies provide compensation to passengers if they do not receive the assistance they have booked.
- Standardise and improve information for passengers including a more concise passenger leaflet focused on what to expect before travelling, at the station, on the train and if things go wrong. ORR is also recommending the Rail Delivery Group promote Assisted Travel to the people who would benefit from this service but do not currently travel by rail.
- Strengthen train and station operators' staff training including involving disabled people in its delivery and requiring staff to have refresher training at least every two years. This would ensure disabled passengers, including those with hidden disabilities, receive a better, more consistent service from all staff whether they book assistance in advance or travel spontaneously.

3.18 The Partnership is asked to delegate authority to the Executive Committee to consider and approve a response, to allow submission to the ORR by the 18 January 2019 deadline.

4 CONSULTATIONS

4.1 The submitted responses detailed in appendices to this report have been prepared in consultation with relevant officers from constituent Councils and with other RTPs.

5 RESOURCE IMPLICATIONS

5.1 This report has no direct resource implications.

6 EQUALITIES IMPLICATIONS

6.1 This report has been screened for any policy implications in respect of Equality Impact Assessment and no material issues have been identified.

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NOTE

The following background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (and not containing confidential or exempt information) were relied on to a material extent in preparing the above Report:

Scottish Government 'Draft Noise Action Plan for Dundee' October 2018

Transport Scotland 'Transportation Noise Action Plan 2019-203: Consultation Document' December 2018

Department for Transport 'Cycling and Walking Investment Strategy Safety Review: Proposals for New Cycling Offences' August 2018

Office of Road and Rail 'Improving Assisted Travel – A consultation on changes to guidance for train and station operators on Disabled People's Protection Policy' November 2018

Report to Partnership RTP/18/37, General Consultations, 25 September 2018

Report to Executive Committee RTP/18/39, Cycling and Walking Investment Strategy: Proposals for New Cycling Offences: Consultation Response

Draft Noise Action Plan for Dundee

Questions for consultation

Question 1 Do you consider there has been anything left out of the action plans? If so, what do you consider has been omitted

Please note that this consultation response should be viewed as an Officer Response and is subject to endorsement by the Tactran board on 18 December 2018.

Tactran has reviewed the action plan for the Dundee Agglomeration and would note the following points.

The majority of the CNMA areas are those areas within Dundee that also experience air quality issues, as identified within the Dundee AQMA. Both issues are significantly impacted by road traffic. Tactran would therefore highlight that greater emphasis should be placed on existing strategies and action plans that aim to reduce traffic within the Dundee Agglomeration.

Dundee City Council has also been particularly proactive in the promotion of LEV/ULEVs with significant investment in infrastructure to support the uptake of electric vehicles. This has resulted in a significant proportion of Council fleet vehicles being electric and a significant proportion of the Dundee Taxi/PHC fleet also being electric. This area of work should be reflected and supported in the Noise Action Plan as EV's have significantly lower noise output than that developed by ICE vehicles.

The action plan should therefore also reflect the ongoing work associated with the implementation of a LEZ in Dundee by 2020.

The action plan does not identify who it is intended will lead on the various actions. Based on the numbering of Actions within Table 6, it would also appear that a 5th category is missing from Table 5.

Question 2 Is there anything you consider should be discussed at the Scottish Government Noise Steering Group during the next 5 year cycle for Round 4?

Please note that this consultation response should be viewed as an Officer Response and is subject to endorsement by the Tactran board on 18 December 2018.

The steering group should consider better linkages between any noise action plans and other transport strategies/action plans that aim to reduce car usage. Similarly, cognisance of AQMA Action Plans and the impact that the introduction of LEZs should be considered.

Question 3 Do you consider enough is being done to protect quiet areas?

Please note that this consultation response should be viewed as an Officer Response and is subject to endorsement by the Tactran board on 18 December 2018.

No specific actions are proposed to protect quiet areas within the Dundee Agglomeration, however if the CQA's that have been identified progress to Quiet Area status there would be an expectation that this status would be reflected within any future development's noise assessment, which would include any transport scheme/intervention.

Question 4 Do you have any views on the overall proposals in the draft Action Plans?

No additional comments.

Department for Transport: Cycling and Walking Investment Strategy safety review: proposals for new cycling offences

Response on behalf of: Tayside and Central Scotland Transport Partnership (Tactran)

Tactran is one of seven statutory Regional Transport Partnerships covering the whole of Scotland, which were created under the Transport (Scotland) Act 2005. The Tactran region lies at the heart of Scotland's transport network and includes the local authority areas of Angus, Dundee City, Perth & Kinross and Stirling.

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Question 1: Our consultation proposes that there should be an offence of causing death by dangerous cycling. Do you agree with this proposal?

The independent legal and supplementary advice highlight that there is a legal gap in England & Wales; however the analysis undertaken on Scots law indicates that the gap is significantly less in Scotland.

It is our understanding that any proposed change to the Road Traffic Act 1988 would apply in Scotland and therefore maintain parity across England, Wales and Scotland on currently reserved road safety matters.

Therefore, Tactran agrees in principle with the proposed offence of causing death by dangerous cycling. However, a clearer definition of what constitutes 'dangerous cycling' must be considered (bearing in mind the subjective nature of people's perception of danger) along with consideration of the expected competency levels of cyclists. This should also consider the rarity of these events.

Question 2: Do you think that there should be an offence of causing death by careless or inconsiderate cycling?

Tactran agrees in principle with the proposed offence of causing death by careless or inconsiderate cycling. However, a clearer definition of what constitutes 'careless or inconsiderate' must be considered (bearing in mind the subjective nature of people's perception of danger) along with consideration of the expected competency levels of cyclists. This should also consider the rarity of these events.

Question 3: The consultation also proposes that there should be an offence of causing serious injury by dangerous cycling. Do you agree with this proposal?

Tactran agrees in principle with the proposed offence of causing serious injury by dangerous cycling. However, a clearer definition of what constitutes 'dangerous cycling' must be considered (bearing in mind the subjective nature of people's perception of danger) along with consideration of the expected competency levels of cyclists. This should also consider the rarity of these events.

Question 4: The Ministry of Justice consulted on bringing forward a new offence of causing serious injury by careless driving. This consultation proposes that there should be an offence of causing serious injury by careless or inconsiderate cycling. Do you agree with this proposal?

Agree – this would provide parity and consistency with other proposed changes, however similar caveats should apply to this offence as previously noted with clearly defined 'careless and inconsiderate cycling'.

Question 5: If there were a new offence of dangerous or careless cycling, do you think the sentences should match the sentences for dangerous or careless driving (current driving sentences shown in brackets)?

a. causing death by dangerous cycling (currently 14 years for driving)

b. causing death by careless cycling (currently 5 years for driving)

c. causing serious injury by dangerous cycling (currently 5 years for driving)

No comment.

Question 6: The report from the independent expert concluded that there is a gap in the law regarding dangerous or careless cycling. Do you feel that existing laws adequately cover circumstances where a person's cycling causes harm or injury others?

The review does indicate a gap in current laws in England and Wales with a reliance on outdated legislation in some cases. However, the separately undertaken review of Scots Law indicates that there is less of a gap in Scotland. See Question 8 for further comments.

Question 7: Do you have any comments on any laws not covered in this consultation which could apply when trying to prosecute for this cycling behaviour?

No

Question 8: Do you have any other comments that you wish to make in relation to how existing laws apply in Scotland?

Supplementary information relating to the law in Scotland was published on 23 September 2018. This report indicates that the gap identified in England and Wales is much less apparent in Scotland with offences able to be prosecuted using existing laws.

The only identified gap is in the case of prosecuting death or serious injury by careless driving. It is noted that the law could be modernised in Scotland through new offences being introduced and the existing offences of 'culpable homicide' and 'culpable and reckless conduct' reserved for use in the most serious cases. Tactran agrees with the conclusions presented in this analysis.

It is our understanding that any proposed change to the Road Traffic Act 1988 would apply in Scotland and therefore maintain parity across England, Wales and Scotland on currently reserved road safety matters.

Question 9: This consultation proposes that new offences should apply to public places as well as roads. Do you agree with this proposal?

There should be a differentiation between places that cycling is permitted and places that cycling is prohibited. New offences should take into account what would be considered reasonable behaviour in different cycling environments.

Question 10: The current offences of dangerous or careless cycling apply to a road. This consultation proposes that it should also extend to a public place. Do you agree with this proposal?

There should be a differentiation between places that cycling is permitted and places that cycling is prohibited. New offences should take into account what would be considered reasonable behaviour in different cycling environments.

Question 11: Are there any other comments that you wish to make about where the laws should apply?

Cognisance should be taken with regard to the different standards of cycling infrastructure in the UK. Dangerous or careless cycling within a shared use area (or pedestrian only area) would be different to what would constitute dangerous (or careless) cycling within a segregated cycling facility.

A clearer definition of what constitutes 'dangerous cycling' must also be considered (bearing in mind the subjective nature of people's perception of danger) along with consideration of the expected competency levels of cyclists. This should also consider the rarity of these events.

Question 12: Drivers may be banned from driving for committing a current cycling offence. Minimum driving disqualification periods currently apply under the Road Traffic Offenders Act 1988. For drivers this is currently 2 years for causing death or serious injury, 1 year for causing death by careless driving. Do you think this should also apply to any of the new offences proposed in this consultation?

No comment

Question 13: If not please explain why? If so, do you have any views on how long the minimum disqualification period should be?

N/A

Question 14: There is currently an offence of dangerous cycling (with a fine of up to £2,500) and for careless cycling (with a fine of up to £1,000). This consultation proposes that the penalties for these offences should remain unchanged. Do you agree with the proposal?

No comment

Question 15: If not, please explain why. Are there any other comments you wish to make on the level of penalty?

N/A

Question 16: This consultation proposes that there should not be a new offence of causing death by careless cycling when under the influence of drink or drugs. Do you agree with the proposal?

Tactran agrees with this proposal as there is no evidence provided to support creating a new offence. Any situation where alcohol or drugs was an aggravating factor should be considered on a case by case basis, as outlined in section 3.7 of the consultation document.

Question 17: The current fine for riding a cycle when unfit to ride through drink or drugs is £1,000. Do you think we should consider increasing the fine?

No comment

Question 18: Do you think we should consider making it an offence to attempt to cycle (as well as actually cycling) when unfit to do so through drink or drugs?

There is no evidence presented to support this approach. The practicalities of enforcement would likely be problematic. Tactran considers that the existing offence is adequate.

Question 19: Are there any further comments you wish to make?

Cycling should be encouraged as a positive mode choice and any changes to legislation must not discourage people from cycling. There are significant mental and physical health benefits associated with regular cycling which should be taken into consideration, particularly given the rarity of pedestrian fatalities caused by collisions involving pedestrian and cyclists in Scotland.

Cycling safety is a much wider issue and there should be particular focus on cycle training and providing better infrastructure where conflicts between road and public space users is minimised and risks mitigated appropriately. People who choose to ride a bicycle are often the most vulnerable road users particularly as there is often a lack of dedicated provision; with this in mind a wider review of road safety for all vulnerable users is required.