

LEZ Leadership Group Meeting 11
3 February 2021
Via MS TEAMS

Attendees:

Michael Matheson, Cabinet Secretary for Transport, Infrastructure and Connectivity (Chair)
Roseanna Cunningham, Cabinet Secretary for Environment, Climate Change and Land Reform

Cllr Anna Richardson (Glasgow City Council)
George Gillespie (Glasgow City Council)
Cllr Lynne Short (Dundee City Council)
Tom Stirling (Dundee City Council)
Cllr Sandra Macdonald, (Aberdeen City Council)
Will Hekelaar (Aberdeen City Council)
Cllr Lesley Macinnes (City of Edinburgh Council)
Michael Thain (City of Edinburgh Council)
Shauna Clarke (City of Edinburgh Council)
Janice Milne (SEPA)
Hugh Gillies (Transport Scotland)
Stephen Thomson (Transport Scotland)
Vincent McNally (Transport Scotland)
Sara Grainger (Transport Scotland)
Eleanor Munro (Scottish Government)
Anisah Ijaz (Scottish Government)

Apologies:

Dr Colin Ramsay (Health Protection Scotland)
David Pirie (SEPA)
Cllr Mark Flynn (Dundee City Council)
Gale Beattie (Aberdeen City Council)

Subject	Discussion and actions
<p>Welcome and review of previous actions</p>	<ul style="list-style-type: none"> • HG welcomed everyone to the meeting and agreed with the CabSecs to coordinate the Teams meeting. • Due to time pressures, previous minute was not reviewed. <p>Actions from November 2020 meeting</p> <ul style="list-style-type: none"> • Action: COVID uncertainty work to be shared with the Leadership Group by end of 2020 e.g. prior to the next Leadership Group meeting.

	<p>Outcome: Initial draft circulated to 4 LEZ cities for technical comment on 23 December 2020. The final version of the Report has been issued to the 4 cities lead officers and is available upon request.</p>
<p>Covid-19 uncertainty modelling</p>	<ul style="list-style-type: none"> • VM – The LEZ uncertainty modelling report arose from discussions within the LEZ modelling group that consists of Transport Scotland and the 4 cities. The report sought to examine uncertainties caused by COVID in relation to LEZ planning (e.g. would COVID trigger reduced traffic levels). • Work was commissioned and led by System and Jacobs with workshops attended by officials across various professions (including staff from the 4 local authorities, SEPA and TS). • The report concluded that we should continue with LEZs work, whilst results from the various city-specific LEZs will vary. However, LEZs will still protect cities from air pollution across all tested scenarios. • Sensitivity scenarios need to be undertaken, to see how much air quality improvement would be achieved (more or less) but in all situations/scenarios, emissions are still reduced. • If COVID results in a slow down of fleet renewals, or where traffic levels return to pre-COVID levels LEZs will remain a significant measure to protect cities from air pollution. • The report has been circulated to the 4 cities with findings to be relayed to modellers in each of the cities in order that sensitivity analysis can be undertaken. • MM – was there a scale of the impact of COVID on implementing each LEZ, or was the work offering more of a general sense overall ? • VM – The LEZ uncertainty modelling report offered a general sense only. Determining impact on a specific city would require a sensitivity analysis. This can now be undertaken by the modellers to refine the level of impact for the scenarios. • SM – Was there differences between the cities ? Also, will there be an impact in terms of timing around undertaking sensitivity scenario modelling ? • VM – It is likely that there will be variations in COVID impact on LEZ outcomes between cities. The timing to undertake the additional work is not likely to be significant (and can be built into existing work already underway).
<p>LEZ Risk register & the SEPA cyber-attack</p>	<p>HG – There are 3 risks worth focusing on today:</p> <p><u>SEPA cyber-attack and risk to air quality modelling for local authorities</u></p> <ul style="list-style-type: none"> • VM – The major risk to the LEZ programme is around the SEPA cyber attack. • VM – The National Low Emission Framework (NLEF) is used to develop LEZs, requiring LAs to use SEPA’s National Modelling Framework (NMF) as the evidence base for LEZs. All 4 LAs are using transport modelling to identify a preferred design option for the LEZ. The preferred option is then modelled for air quality performance by SEPA. The SEPA modelling results would then be included within LEZ scheme submitted for approval by Ministers. Due to the SEPA cyber attack issues there is now a real risk around the ability to present such NMF work to Council committees this summer (in order to get the schemes out for consultation) – and for further review by Ministers later in the year.

- JM – Most people will be aware on SEPA significant cyber attack with an ongoing police investigation now underway. The SEPA website contains further detail on this topic.
- JM – Work is ongoing to recover and access the SEPA systems that were affected by the cyber attack. Services might be affected for some time. As such, SEPA is not in a position to do any modelling (for LEZs) and timing around this issue is uncertain.
- JM – We are conscious of the impact on LEZ modelling, so different alternative approaches have been recently identified between SEPA and TS. It is evident that close working between TS and SEPA will be critical.
- RC – The issue of the SEPA cyber attack on SEPA NMF modelling for LEZs is a pretty significant situation.
- RC - There is a conversation needed around when and how this issue is discussed beyond the Leadership Group, in terms of the potentially significant impact on LEZ rollout timescales.
- RC – SEPA cyber-attack is already well known but perhaps commentators are not yet thinking about impacts on wider policy.
- HG – TS and SEPA are thinking about smart ways to progress (analytical and comms).
- VM – Analytical solutions as a way forward will cover the following: Alternative ways to progress via an emission reduction calculation based on modelling already undertaken. This would offer a scientifically valid approach (to show that LEZ schemes would reduce pollution) and allow council committees to get schemes approved and consulted on over the summer. The SEPA modelling should be able to be completed over the summer. The LEZ scheme, post consultation, can then be informed by the completed SEPA model before final council approval – This approach would allow for LEZ timeline to be met – but it does risk the challenge that the LEZ consultation would have been undertaken without the detailed SEPA modelling having been completed. MM – We should check all of the workaround’s proposed today e.g. scientific acceptable/valid. **ACTION:** The question is whether the LAs would be satisfied with the modelling provided via this workaround (this is a question for the councils to answer following today’s meeting).
- RC – We must be in control of the communications around this issue. Would have been helpful to have advance notice on the workaround, but need to see if the workaround is acceptable/offers confidence – needs all 4 cities to be confident with the workaround.
- RC – No external stakeholders have spotted the LEZ modelling impact but sooner or later, this will happen so we need to be in front of this.
- LM – Would the proposed workarounds leave the local authorities open to a legal challenge, as we have changed our methods (around modelling from using the NMF as directed by the NLEF – has legal advice been sought ?).
- HG – **ACTION:** Worth noting that the workaround development only started this week, and legal advice will need to be sought.
- HG – There is a statutory point around a public examination of LEZs – we need evidence from modelling to follow the national guidance on progressing LEZs.

	<ul style="list-style-type: none"> • VM - We need more discussion with the LAs on this point around the modelling workaround, to seek consistency across all 4 cities. • SM – Concern around the transfer or sharing of risk. Undoubtedly questions will arise about SEPA business continuity plans and the ripple effect of the cyber attack. There is concern about deviation from agreed processes such as the NLEF so this workaround approach comes with risk. We could probably go to committee with caveats about interim modelling, with some sort of assurance from SEPA. ACTION: Helpful to have 121 between LA and TS officials on this point of modelling workarounds, to help Councillors sell the messaging to other elected members. • AR – Good if we work on a united front across LAs (to be legally robust) – There is a risk of slowing this down, but no real argument about improvements to air quality, so the question is around how much time could be lost. Committees reports should have real clarity around what the alternative workaround approach is showing, or telling people, if we have to return to an alternative measurement later down the line (when seeking Ministerial approval for example). • HG – SEPA and TS will reflect on comments heard today, and what is the art of the possible. ACTION: TS to prepare advice to Ministers on the SEPA cyber attack impact on LEZ modelling, the potential workarounds, impacts on introduction timelines plus advice on a communication plan related to such issues. • ST – ACTION: A monthly note to LEZ Leadership Group on the above issue is proposed as an interim approach (not leaving the advice to May). • RC – Speak to SGLD about how advice to Ministers would or should be treated, to offer the best available advice. • MM – This issue will impact on our communication plan – so legal advice on alternative modelling approaches being robust is important. It is also important for legal advice to be sought by cities so that the approach is robust enough to take to committee for scrutiny – this will help to explain the communications around time lining. <p><u>Other risks</u></p> <ul style="list-style-type: none"> • VM – 2nd key risk relates to time required for covid uncertainty work (covered already today) with timing around sensitivity analysis. • VM – 3rd key risk is around the timetable for LA committees, if they change from May to June before consultation (or final scheme to committee by the end of the year) – to make sure that LA committee availability is considered by elected members. • VM – Also worth noting the risk for the potential need for an examination (this is a known risk).
<p>2021 year ahead forward look</p>	<ul style="list-style-type: none"> • ST - 2021 is a pivotal year to get LEZ design work finalised to enable them to be introduced from February onwards. • A few milestones during 2021 include: <ul style="list-style-type: none"> ○ LEZ Regulations come into force in Spring 2021 (currently laid and to be scrutinised on the 17 February). ○ LEZ designs scrutinised by Local Authority committees in the lead up to Summer 2021. ○ LEZ final plans for public consultation in Summer 2021.

	<ul style="list-style-type: none"> ○ LEZ plans updated based on public consultation in Autumn 2021. ○ LEZ plans approved by Councillors and Scottish Ministers in Winter 2021. • The timeline was always tight, and the discussion today around the SEPA modelling task puts further pressure on that timeline, but all concerned are applying best endeavours to work towards the timelines stated above. • Another critical path element is the provision of LEZ enforcement equipment (ANPR cameras) and back-office systems to be designed, procured and built during 2021/22. Signage will be considered in the 2022/23 financial year. • SM – Would the equipment have to be procured and installed prior to the LEZ scheme being approved by LA Committees and Ministers? ST responded to state ‘yes...on the provision that the schemes get approved by Councillors and Ministers.’
<p>Glasgow LEZ enforcement timeline into 2023</p>	<ul style="list-style-type: none"> • ST – Focus is on Glasgow’s LEZ enforcement timeline, with the stated position being bus-only LEZ compliance by end of 2022. • Question was around how this stated timeline could be adjusted to take account of the work being undertaken now for SULEB’s. • SG – There is potential within Glasgow for a reduction in greenhouse gas emissions, as well as improvements in air quality, to be achieved in the coming years through bus fleet replacement. The Leadership group are asked to consider scope for a small amount of flexibility in LEZ enforcement timescales if there are instances where doing so could result in more outcomes being achieved • MM – Can we be confident that it is absolutely necessary to be flexible in terms of LEZ enforcement dates to achieve decarbonisation as well as air quality? It is important to have very clear and firm commitments from those involved if LEZ enforcement dates are going to be flexed at all. • MM – In the event of LEZ enforcement dates being delayed, to allow for decarbonising their end of life fleet with new electric buses, we should obtain written confirmation from the relevant party both on the outcomes that will be met and the timescale for doing so. • SG – Agreed. This will be something to return to following the current round of the Scottish Ultra Low Emission Bus Scheme. • AR – The detail is not known at this point, so cannot take a position today, but GCC will take this forward. GCC was very clear about a 20% per year uptake of compliance (to at least Euro VI), and this year we had a delay of reaching the 2020 deadline but we are comfortable with that approach. GCC are comfortable with targets to move slightly for the greater good if there is a real reason for doing so, if there is a clear path to meet and exceed targets. However, GCC would want significant comfort if a change to the stated ‘end of 2022’ date was to be negotiated. It is also worth noting that the 2022 deadline has now been overtaken by the LEZ commitments for all other vehicles.
<p>Funding into 2021/22</p>	<ul style="list-style-type: none"> • ST – The November 2020 Leadership Group meeting called for indicative figures to be presented at today’s meeting. • ST - The Scottish budget was recently discussed, which enables indicative capital and resource figures to be discussed today.

	<ul style="list-style-type: none"> • ST – In summary, the 2021/22 LEZ budget looks similar to the 2020/21 budget. • ST – Over £3M has been set for ANPR and enforcement provision, which is a new funding line for 2021/22. • ST – Capital and resource funding will continue for LA ancillary (design and communications) work. • ST – Funding provision is available to continue with the LEZ Support Fund (for those facing most difficulty to prepare for LEZs) if Cabinet Secretaries are content with continuing such funding. • ST – In terms of resource funding, there is funding available for the resourcing of the testing of a back-office alpha and beta enforcement systems. • ST – There is funding for a digital blue badge app related to the proposed LEZ Regulation exemption for disabled drivers. • ST – There is funding provision for continuation of the BEAR scheme in 2022/23 should the Cabinet Secretary wish to continue such funding (for debate following today's Leadership group meeting). • MM – Open to the idea of continuing with BEAR funding, but there is a trade-off between trying to get buses to zero emission versus upgrading existing buses – we need to think this through e.g. think about the position faced by the likes of Lothian bus. • LS – Note the change in bus ownership in Dundee – changed to McGills – which is quite a change with a different player. Investment by Explore seemed to be quite beyond the payback on the investment, so DCC are looking at the direction that will be taken by McGills.
LEZ Regulation proposals	<ul style="list-style-type: none"> • Regulations were laid in Parliament on the 20 January. • 2 sets of regulations, which focus on enforcement, penalty rates and exemptions under the affirmative procedure to be scrutinised by the RECC (on 17 February) with negative regulations focusing on technical issues such as examinations and approved devices. • Regulations are available on the UK Government legislation website with ST available to offer further advice on the regulations as required. • Transport Scotland has contacted stakeholders including local authorities to seek input and comments on the regulations.
LEZ Communications	<ul style="list-style-type: none"> • Given the time pressure today, the communications agenda item was not covered. • However, an existing action from today's meeting was to provide Cabinet Secretaries with an update on the SEPA cyber attack modelling issue and communications around this topic by Friday this week, so this briefing should include lines (on the LEZ Support Fund communications) that would otherwise have been discussed today.
City-specific LEZ progress	<ul style="list-style-type: none"> • Aberdeen LEZ consultations has been analysed but no single preferred option identified. Options to go to committee in June.
Summary and Way Forward	<ul style="list-style-type: none"> • No comments.
AOB	<ul style="list-style-type: none"> • No comments from LAs.
Date and time of next meeting	<ul style="list-style-type: none"> • Meetings are due to happen every 3 months, so a meeting in early May will be sought.

