

<i>Engagement Title</i>	Meeting with Tim O'Toole
<i>Timing</i>	<b>Normal</b>
<i>Organisation/Venue and full address including postcode</i>	TG.22 Parliament
<i>Date and Time of Engagement</i>	Date(s): 15 December 2016 Time(s): 9:30 - 10:00
<i>Background/Purpose</i>	MCS Diary Request Letter date: 2016/0017573  Introductory meeting.
<i>Relevance to Core Script</i>	
<i>Greeting Party and specific meeting point on arrival (if event is at a non SE Building)</i>	n/a
<i>Specific entrance for Ministerial Car/parking arrangements</i>	None
<i>Venue contact Number</i>	
<i>Special Dress Requirements</i>	n/a
<i>Summary Page (key issues, lines to take if pressed and issues to avoid)</i>	<b>Annex A – Summary Page</b>
<i>Biography</i>	<b>Annex B – Biography and Company info</b>
<i>Background</i>	<b>Annex C – The Bus Sector</b> <b>Annex D – Strathclyde Bus Alliance</b> <b>Annex E – Transport Bill</b> <b>Annex F – Smart Ticketing</b> <b>Annex G – Congestion</b> <b>Annex H – Concessionary Fares</b> <b>Annex I – Low Emission Zones</b> <b>Annex J – Rail</b> <b>Annex K – Living Wage and Scottish Bus Pledge</b> <b>Annex L – Brexit</b>

PRO FORMA – MINISTERIAL ENGAGEMENTS

<i>Official Support</i>	<b>Names: Donald Carmichael Allan Crawford</b>				
<b>Copy List:</b>	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Cabinet Secretary for Rural Economy and Connectivity			X		
Cabinet Secretary for the Economy, Jobs and Fair Work			X		

<p>Roy Brannen          Transport Scotland Directors          PS/Transport Scotland          DG Enterprise, Environment and Innovation          John McFarlane - SpAd          Press Transport Scotland          Gordon Hanning          Tom Davy          Pete Grant          Frazer Henderson          Anne Martin          Danny Chalmers          Allan Crawford</p>
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**Purpose of meeting:**

This introductory meeting was requested some time ago. We have spoken to First's Parliamentary relations rep (Mike Katz). Mr O'Toole can be expected to outline his business interests in Scotland with a current focus on bus. Topical issues are:

- Declining bus patronage, particularly in and around Glasgow.
- Congestion's impacts on bus.
- Any reflections on the UK Bus Services Bill for our Transport Bill?
- Particular focus on franchising following Sunday Post article on that.
- First's East Coast open access rail operation.

**Top Lines:**

- I am concerned about **bus patronage** figures, particularly in and around Glasgow.
- I am committed to promoting positive change and partnership working in bus services via the **Transport Bill**.
- I want to ensure that local authorities have a viable framework of options for bus and that includes franchising or municipal bus operation where appropriate.
- Our vision for **smart ticketing** is "that all journeys on Scotland's bus, rail, ferry, subway and tram networks can be accessed using some form of smart ticketing or payment".
- We have welcomed recent **rail** franchise commitments from First Group, on both the East and West Coast, which will increase services between Scotland and the north of England, bringing economic benefits as well as getting people out of their cars.

**Questions – Bus:**

- First Bus have played a part in some positive partnership models (eg South Yorkshire and Bristol) and it would be useful to hear if/how such models could be applied in Glasgow.

**Questions – Rail:**

- What do you see as the growth opportunities on cross-border rail flows? And how can Transport Scotland/SG help in the realisation of those opportunities?

**Questions – Brexit:**

- I would be interested to hear your views on how Brexit is likely to impact on your business, particularly in Scotland.
- I would be interested in any thoughts you have as to areas where the single market is of particular importance in your area
- Do you agree that it is vital that any outcome from the Brexit negotiations should include retaining membership of the single market in all its aspects?

## Biography

**Tim O'Toole CBE JD**  
Chief Executive, First Group



Mr O'Toole was appointed Chief Executive in November 2010. He joined the Board as a Non-Executive Director in May 2009 and was subsequently appointed Chief Operating Officer and Deputy Chief Executive in June 2010. He was, until the end of April 2009, Managing Director, London Underground. He joined Transport for London in 2003 prior to which he was President and Chief Executive of Consolidated Rail Corporation. He is a Non-Executive Director of CSX Corporation, a rail freight transportation company in North America.

### FirstGroup – Company Overview

FirstGroup is a British transport group, registered and operating in the United Kingdom and headquartered in Scotland. The company also operates transport services in Ireland, Canada and the United States. It is listed on the London Stock Exchange and is a constituent of the FTSE 250 Index.

### Bus

FirstGroup is one of Britain's largest bus operators with around a fifth of bus services outside London. A fleet of some 6,400 buses carries approximately 1.6 million passengers a day in a huge number of communities including 40 of the UK's largest towns and cities.

In Scotland, First Bus is split into First Glasgow (~880 buses and coaches), First Aberdeen (~170 buses and coaches) and First Scotland East (FSE: ~420 buses and coaches). FSE operates a network of routes serving the City of Edinburgh, Central Scotland, East and West Lothian and the Borders.

FSE recently consolidated their services, completely pulling out of East Lothian and reducing services in the Borders, Clackmannanshire and Falkirk.

### Government Funding for First Bus in Scotland

First will receive around [REDACTED] Bus Service Operators Grant payments in 2015-16 [REDACTED]

First's reimbursement payments in 2015-16 for concessionary bus travel of older and disabled people were around [REDACTED] (Free Bus Cap for 2015-16 was £202m).

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First were successful in 3 rounds of Scottish Green Bus Fund and have been awarded over £1.7m towards the cost of 142 greener buses.

### Rail

FirstGroup run a number of rail services in Britain, most notably Great Western Railway and Trans Pennine Express, though they have lost a number of routes in recent years. FirstGroup ran the Scotrail franchise from 2004 until March 2015 when Abellio won the franchise.

FirstGroup were awarded the TransPennine Express (TPE) Franchise on 9 Dec 2015 and took operation of the franchise on 1 April 2016. The Franchise will run for 7 years, until at least 31 March 2023, with an extension of 2 years subject to the Secretary of State for Transport's discretion.

On 12 May 2016, the Office of Rail and Road (ORR) announced that it had approved an application from FirstGroup (open access operator) to run new train services travelling on the East Coast Main Line (ECML) between London and Edinburgh from 2021.

## THE BUS SECTOR

### Bus use across Scotland

Bus patronage in Scotland is declining – 409m passenger journeys in 2015-16 is 12% lower than ten years ago and vehicle kilometres in that same period are down 11%. The decline is marked in Strathclyde, whereas other areas are more stable.

The sector is contracting, with the number of buses also down 14% over the past five years; and employee numbers down 8% in 2014-2015.

The picture of bus use in Scotland contrasts with train travel in Scotland, which accounts for only a fifth as many passenger journeys as made by bus, but has seen steady increases in passenger numbers over the past few years.

### Fares and operating costs

According to the latest Scottish Transport Statistics, fares in Scotland have increased by 2% in real terms over the past five years which compares favourably to a 7% increase for the UK.

Over the past five years' operating costs per vehicle km/ passenger journey have increased by 11% in real terms.

### Revenue and funding

Bus operators generated around £654 million in revenue in 2014-15. Roughly 45% (£297 million) of revenue came from Local or Central Government: whether through concessionary travel reimbursement, BSOG or supported services. Passenger revenue (i.e. ticket sales to non-concessionary passengers) accounted for around 55% of operators' revenue (£357m).

The Bus Service Operators Grant provides £50m as a subsidy which is paid directly to operators. Its main aims are to benefit passengers by helping bus operators to keep fares affordable. There is also currently a 100% uplift in BSOG rate for low carbon buses to incentivise their purchase and use. Options are being considered for the Spending Review to make savings on the BSOG green rate.

The National Concessionary Bus Travel Scheme provided £212m in 2016-17 to fund free bus travel for elderly and disabled concession card holders. Reimbursement amounts to operators for the NCT are based on a commercial ticket price which is the adult single fare. Options are also being considered for making savings on the NCT Scheme.

## STRATHCLYDE BUS ALLIANCE

The west of Scotland has seen a decline in bus patronage of 49 million passengers (22%) over the last 10 years (2004/5 – 2014/15). In response to the poor performance of bus in Glasgow and the surrounding areas, SPT have recently proposed a Bus Alliance to bring parties together in partnership to address issues like congestion and work to improve bus services in Strathclyde. On the face of it, the proposal sounds positive and in line with SG policy to facilitate partnership working (including through the Transport Bill), but there is limited detail available.

The SBA will have two clear priorities:

- Arrest decline in bus patronage in the west of Scotland by 2020
- Achieve 3% year on year growth post-2020.

The SBA will have an independent chair and members:

- SPT
- Passengers representatives
- Local authorities
- Major operators
- Smaller operators
- West of Scotland Community Transport Network

This meeting is a good opportunity to get Tim O'Toole's view on the Alliance, especially as we understand that operators are sceptical and buy-in might not be where it needs to be to make such a partnership approach work. Mr O'Toole will have experience of other partnership models throughout England, some of which have been successful in growing bus patronage.

**PROPOSALS FOR SCOTTISH TRANSPORT BILL****Lines to take:**

- **SNP manifesto states that we will bring forward a Transport Bill to improve bus services (and enhance and improve the role of the Scottish Road Works Commissioner and wider road works regulation and to enable and enforce responsible parking).**
- **The government has no plans for wholesale re-regulation, however we are committed to promoting positive change and partnership working to improve bus services.**
- **TS will undertake substantial discussion and consultation regarding content of the Bill.**
- **Enhanced partnership schemes offer the ability for local authorities and operators to agree a network plan for their area.**
- **I am committed to ensuring that local authorities have a range of viable options for improving bus services and that includes where appropriate franchising or municipal operation.**

**Background**

The prospect of a Transport Bill provides an important opportunity to consider and review elements of current bus policy. The Bill provides a potential vehicle for improving bus services and tackling the issue of declining patronage.

Improved bus service provision cannot be provided by only one part of the sector but needs passengers, operators, transport authorities and the regulator to work effectively together. Improved partnership working will be a way to address key issues such as congestion's impact on bus services. Legislation will aim to provide a suitable framework for improved partnership working (but it is important to note that legislation is not the only way to tackle congestion).

**Partnerships**

To improve partnership working further we would look to increase the flexibility of the statutory Quality Partnerships included in the Transport (Scotland) Act 2001 so that they take account of the bus service network in the local area and work together to ensure that local needs are effectively met.

Proposals are currently being made in the UK Bus Services Bill around partnerships which could serve as a template on which can be developed a partnership framework for Scotland.

The 'Enhanced Partnerships' proposals in the UK Bill are intended to allow expansion of partnership working to the network level aiding joint planning of the network by LTAs and operators.

**Local Franchising**

The Transport Bill provides an opportunity to address the questions around local franchising to ensure that it is a feasible option for authorities that see the need for it. No local authorities have used the existing legislation to put in place a quality



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contract. However, this may be due to the processes involved. There are growing calls from certain councils to be able to franchise services and, given the changes in the operating environment over the last ten years, franchising may be appropriate in some areas to ensure that local needs are met.

Franchising would require transport authorities to understand the network required and be able to specify the services, vehicles, fares and routes needed. They could then offer exclusive contracts to one company to provide the network or part of the network for a limited time.

Local authorities would need to explain why franchising is being used and to demonstrate the costs and benefits involved and that they are affordable and deliverable. Decisions will be required regarding whether Ministerial approval should be given for each scheme or whether this should be sought from an independent body.

The local and regional governmental framework and the approaches to franchising differ between England and Scotland. However, the principle is one that we could progress here with a process specific to Scotland.

### Open data

The UK Bus Services Bill includes measures to compel bus operators to share information regarding bus services including service routes, fares and punctuality.

We propose that the Transport Bill should also require the release of open data on routes, timetables, punctuality and fares in a specified format and that operators of local services be required to release this information. This is with a view to freeing up information so that passengers find it easier (via app developments for example) to know when their bus will arrive and how much it will cost. The bus industry is broadly supportive of the approach, as long as safeguards are in place to ensure the integrity of the information, something we would of course prioritise for the good of the travelling public. We will need to examine the effects on competition of any proposed provisions with a view to any issue of Parliamentary competence.

### Smart Ticketing

Although it is hoped that the majority of Scotland's transport operators will either voluntarily participate in Transport Scotland's smart ticketing scheme(s) directly or via a local authority, the bill would seek to address those operators who want to avoid any participation.

We have further work to do to scope the exact elements that would require legislation, but the bill would be likely to contain the following:

- A requirement to participate in a (national) smart ticketing scheme. This will, in turn require us to set out in some detail what the scheme is, how it will work, what the infrastructure expectations placed on operators (eg provision of appropriate ticketing equipment) are for the scheme, when it might take force, and what penalties there might be for non-participation. We may also need an appeals process.
- Governance arrangements for that scheme.

## **SMART TICKETING**

### **Lines to take:**

- **The Scottish Government’s long term vision for smart ticketing is “that all journeys on Scotland’s bus, rail, ferry, subway and tram networks can be accessed using some form of smart ticketing or payment”.**
- **I welcome the real progress that is being made through partnership working.**
- **Integration (for example with the ScotRail, Glasgow Subway and Ferries) is essential, so the public sees, and experiences one easy to use system.**

### **Background**

Since 2006, the delivery of the Scottish Government's free bus travel scheme has operated on an ITSO smartcard system using the National Entitlement Card (NEC). There are currently over 1.3 million NECs (commonly called *saltirecard*) used for concessionary travel, generating nearly 150 million smart transactions through Transport Scotland's system every year. This represents over one-third of all bus journeys in Scotland and is a prime example of an interoperable smart ticketing scheme.

Commercial smart tickets are more secure and reduce fraud. For the customer, they open up the opportunity to purchase tickets or credit before travelling which results in faster boarding times, reduced queues and the need to carry exact amounts of cash to pay for travel.

With the system being implemented in Scotland, the Scottish Government will have the potential, in the future, to consider the use of contactless bank cards and mobile phone technology.

There are many new smart ticketing initiatives and new technologies being developed that will help operators work with the Scottish Government to deliver smart and integrated ticketing for Scotland, which ultimately aims to enhance the quality of service being delivered to passengers throughout Scotland.

As part of the agreement reached by then Transport Minister Derek Mackay with the CPT and operators in March 2016, the industry undertook to deliver 4 smart cities in Scotland. Delivery thus far from the major bus operators has been good, both with investment in upgraded ticket machines and significant expert resource committed in partnership with Transport Scotland.

Aberdeen went live with the GrassHOPPER smart multi-operator ticket on 16 August 2016 followed by Dundee on 15 September 2016, Edinburgh and Glasgow will follow early in this year with smart multi-operator tickets. These schemes use the interoperable functionality of the latest ITSO specification to allow any compatible card to be used on any operator within the area. In both Edinburgh and Glasgow the bus ticketing equipment is in the process of being upgraded to the latest ITSO specification in preparation.

## **CONGESTION**

### **Lines to take:**

- **Through the refresh of the National Transport Strategy (NTS), Ministers encouraged local authorities to bring forward bus priority measures to improve bus journey times, working within the current regulatory framework. The upcoming review of the NTS provides another opportunity to take a strategic view of congestion.**
- **Transport Scotland is developing a feasibility study to explore what opportunities there are to enable hard shoulder running to take place for bus services. The work will be developed in consultation with the bus industry and will form part of our wider Managed Motorways Programme.**
- **The Scottish Government supports the development of partnership working to tackle issues like congestion and ensure that bus passengers get the best possible service.**

### **Background**

Congestion is an issue which impacts on the ability to transport people and goods around the country, particularly in and around cities. That is reflected in the fact that perceived congestion is one of the three transport-specific National Performance Framework Indicators. The issue of congestion has arisen in a number of ways recently via its impact on bus and more widely. The Transport Minister has said publicly that he is concerned about congestion and wants it to be addressed.

The issue as it relates to bus came to the fore in 2016, particularly via David Begg's report: 'The Impact of Congestion on Bus Passengers'. The report painted a concerning picture of congestion across British cities, with Glasgow and Edinburgh as case studies showing that congestion is leading to slower and less reliable bus journeys, therefore contributing to declining patronage.

The Scottish Government is already taking action in a number of areas – see below.

### **Local authority roads**

Through the refresh of the National Transport Strategy (NTS), Ministers encouraged local authorities to bring forward bus priority measures to improve bus journey times, making bus more attractive to the travelling public. The upcoming review of the NTS provides another opportunity to take a strategic view of congestion.

The Scottish Government recognises the importance of bus priority in relation to improving bus punctuality and travel time, making bus a more attractive mode of transport and is committed to improving bus services and the workings of the current regulatory framework. Transport Scotland is also, in conjunction with operators and local authorities, looking at ways of encouraging the rollout of bus priority measures to grow patronage levels.

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**Investment in the strategic road network**

Since 2007, over £6.5 billion has been invested by Scottish Ministers in our Motorways and Trunk Road Network and we are currently committed to the largest road investment programme that Scotland has ever seen. Many of these investments will provide congestion relief, not only on the trunk road network but to local roads, bringing benefits to both car and bus users.

Transport Scotland is developing a feasibility study to explore what opportunities there are to enable hard shoulder running for bus services, what the journey time and emissions benefits are, safety standards for providing shorter hard shoulder running opportunities and value for money in achieving journey time reliability. The work will be developed in consultation with the bus industry and will form part of our wider Managed Motorways Programme, which offers relatively low cost, but high impact solutions to increase the operational efficiency of Scotland's trunk road network. The study will explore the opportunities, impacts and benefits of rolling this out to the wider trunk road network.

**Improving how we deal with roadworks**

One of the perceived causes of congestion is road works, especially unexpected road works. Some of the outputs from the recommendations of the recent report on the independent review of the Office and functions of the Scottish Road Works Commissioner which are being taken forward may help with this.

We still need our utilities to keep our services connected to homes and business, and deal quickly with the unexpected, but we perhaps need to do more to ensure road users and the public are better informed. We are therefore looking at options to provide greater certainty around when road works are taking place and inform people about the work being undertaken.

**The National Low Emission Framework**

The National Low Emission Framework (NLEF) is designed to enable local authorities and their partners to appraise, justify the business case for, and implement a range of, air quality improvement options related to transport (and associated land use). These options include Vehicle Access Regulation Schemes, such as Low Emission Zones and Clean Air Zones. These options are likely to include measures to optimise the delivery of sustainable bus services in areas where air quality is an issue. This may include bus prioritisation measures and congestion management to improve the delivery of bus services.

**Transport Bill**

As announced in the Programme for Government and as part of our preparation for a Transport Bill later in the Parliament, during 2016-17 we will work with roads authorities, utilities, road users and others to develop legislative and other options for enhancing and improving the role of the Scottish Road Works Commissioner and the wider regulation of road works. Another key element of the Transport Bill will be provisions for bus services, ensuring that local authorities have the right tools at their disposal to improve bus services.

## **CONCESSIONARY TRAVEL**

### **Lines to take:**

- **This Government remains committed to supporting bus services and concessionary travel nationally.**
- **People are living longer, staying healthy longer, and staying in work later in life. We want to ensure that our successful concessionary bus travel scheme continues to benefit those who have the greatest reliance on free bus travel.**
- **There are a number of reasons why the concessionary travel budget is lower than last year. Fares and journey numbers by older and disabled people have risen less than expected in the last two years.**

We have reached agreement with the Confederation of Passenger Transport, representing the bus industry, to secure the continuation of concessionary bus travel from 1 April 2017. Under the agreement, bus operators will be reimbursed at a rate of 56.9% for journeys undertaken. We are setting the budget cap for 2017-18 at £196.16 million, reflecting expected claims.

The cost of the scheme has been restrained over the past two years as a result of lower than expected increases in fares and journeys, resulting in budgets outstripping claims.

But costs in the longer term are expected to continue to rise as about 70,000 new people become eligible each year.

Over the course of the next year, the Scottish Government will work with Skills Development Scotland, bus operators and local authorities to put in place the legislation and systems needed to provide modern apprentices under the age of twenty-one with free bus travel.

Work will also continue to prepare for the introduction of the new Job Grant for people aged between 16 and 24, which will include three months' free bus travel for young people who start work after six months' unemployment.

We will undertake a consultation with key stakeholders about ways to ensure the sustainability of the concessionary travel scheme is secured for our older and disabled people. Should a decision be taken to make any changes, we will safeguard the position of existing card holders, including people with disabilities. Those people who have a bus pass will not have to worry about changes to their entitlement to free bus travel.

**LOW EMISSION ZONES****Lines To Take:**

- ***[If pressed on Low Emission Zone costs:]* The implementation of Low Emission Zones in cities around the world has clearly demonstrated that major reductions in harmful air pollution levels can be achieved without necessarily charging motorists. Restricting access to certain areas for the most polluting vehicles could provide a credible alternative.**
- **The timescales for putting in place the first LEZ by 2018 will be:**
  - Mid 2017: Preparation for the National Modelling Framework (NMF) and the National Low Emissions Framework (NLEF) will be complete.
  - Mid/Late 2017: Appraisal of air pollution sites across Scotland.
  - Late 2017: Decisions on LEZs and other related transport interventions across Scotland.
  - Late 2018: Delivery of Scotland's first fully operational LEZ.
  - By 2020: Evolution of subsequent NLEF schemes across Scotland based on learning from the first LEZ

**Background**

Programme for Government states that "We will take forward the actions set out in the Cleaner Air for Scotland (CAFS) – Scotland's first distinct air quality strategy – to reduce air pollution further. With the help of local authorities, we will identify and put in place the first LEZ by 2018, creating a legacy on which other areas can build". As shown in the lines to take, the timeline for delivering the first LEZ by 2018 is very ambitious.

The National Low Emission Framework (NLEF) is a transport focused, evidence based appraisal process; it is a key component of CAFS. It will be developed in draft by February 2017 and once published following consultation, will enable local authorities to justify the business case for, and implement, a range of air quality improvement options related to transport and accessible land use, including options such as LEZs or Clean Air zones. NLEF will dovetail with the Local Air Quality Management system. At present, we are funding an extensive traffic data collection exercise across Aberdeen, Glasgow, Edinburgh and Dundee to support development of local and regional air quality models under the CAFS National Modelling Framework.

LEZs set minimum emission standards for access to a defined area; either charging vehicles to enter the area or excluding vehicles that do not meet the standards. It is likely that NLEF will follow the latter option. LEZs are widely adopted in Europe but only a handful exist in England (notably London). No Scottish local authority has yet introduced a permanent LEZ. Reasons for this include cost, perceived economic impact and public acceptability. Clean Air Zones are defined as a mechanism to assess vehicles operating in a defined area, where the goal is to target measures, other than exclusion, at the most polluting vehicles that enter a space on a regular basis.

## **LEZ funding**

No new funding has been allocated to NLEF scheme design, construction and operation. Estimated value of NLEF funding in 2017/18 would need to be at least £500,000 to cover the design and implementation phase of LEZs. Funding level required to support all NLEF options across Scotland is unknown because scheme numbers and scheme design criteria have not yet been confirmed. An estimate of £5 – 15 million should offer a guide to the level of funding that may be required across 2018/19 and 2019/20, combined to deliver a mix of design, hard infrastructure, resource, system maintenance and enforcement.

Recent PQs have focused on LEZ funding. Whilst we have not made any definitive statement about additional funding, the general thread of ministerial responses has been as follows:

- We support policy and interventions via existing funding packages. SG already provide local authorities with grant funding up to £3 million per year to cover air quality monitoring, management, annual reporting and small scale mitigation.
- Necessary arrangements will be required based on NLEF guidance and outputs as we go through the CAFS programme.
- The current CAFS programme is described as ambitious, but we will be as supportive as we can of local authorities as we tackle air quality in partnership.

## **LEZ enforcement**

In terms of LEZ enforcement, experience from London and elsewhere in Europe has shown that a fixed ANPR camera network is the most effective means of enforcement, but can cost millions of pounds per city to construct and operate. As part of the NLEF guidance development, we will seek to test and cost enforcement options, and these will be confirmed once NLEF guidance has been published.

## **Role of Traffic Commissioner in LEZs**

Putting in place the first LEZ by 2018 will require crucial support from the Traffic Commissioner. Specifically, the Traffic Commissioner has powers to alter the licencing conditions for Public Service Vehicles (PSVs) with respect to operators of Heavy Goods Vehicles (HGVs) and of buses and coaches. A number of these PSVs will operate within the boundaries of future Scottish LEZs. This would mean that licencing conditions could state the Euro-class of engine that the PSV must comply to in order to enter an LEZ without facing a penalty. The specific Euro-class for PSVs will be confirmed once NLEF is published. This approach would be a first step – and crucial step - in underpinning the enforcement regime for the first LEZ to be put in place by 2018.

## RAIL

### Open Access Award:

On 12 May 2016, the Office of Rail and Road (ORR) announced that it had approved applications from Virgin Trains East Coast (the current franchise holder) and FirstGroup (open access operator) to run new train services travelling on the East Coast Main Line (ECML) between London and Edinburgh. In both cases the track access rights have been awarded from 2021, with the VTEC rights for 5 years and the FirstGroup rights to 10 years. The decision to award FirstGroup open access rights, which compete with the current franchised services provided by VTEC, could have an impact on DfT revenue yields over the life of the franchise (currently estimated to be £3.3bn).

**Sensitivity:** DfT have made strong representations against the open access bids on the basis that they undermine the return on any public investment in capacity; to mitigate this, we understand DfT are considering driving through changes to the current track access charge regime, including a levy for open access operators to pay, which would facilitate a 'level playing field' between the franchise holder (who are contracted to operate loss making services as well as profitable services) and open access operators (who provide commercial services only).

Earlier this year the **Competition & Markets Authority** recommended that further open access competition could bring benefits for passengers, provided important reforms were introduced.

These reforms are:

- reform of the **track access charging regime** to make it fairer between franchises and non-franchised operators
- the introduction of a **public service obligation (PSO) levy** so that open access operators make a contribution to the costs of running franchises

The Secretary of State responded shortly after that he would "explore options for potentially implementing the CMA's recommendations, including legislation if required."

Reform of track access charging is a matter for ORR and the regulator has advised that it intends to consult, as part of its consultation for PR18 (i.e. what should happen for CP6), on track access charges so that there is a more cost reflective charging regime (i.e. that Open Access Operators pay a cost closer to their impact on the network's assets).

In respect of the PSO levy, the formal consultation was launched on 21 February 2017, with an expectation that matters are in place for CP6 and certainly before the FirstGroup initiates its service in 2021. The expectation is that the PSO will in effect be a levy on excessive profits with the levy being used to support unprofitable, but socially and economically important services. Accordingly, the intention is to facilitate a 'level playing field' between the franchise holder (who are contracted to operate loss making services as well as profitable services) and open access operators (who provide commercial services only). It is likely that the implementation of a PSO levy for rail services will require UK legislation.



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Transport Scotland is fully engaged with the ORR in respect of its review of track access charging regime and with DfT on the PSO levy issue and will respond to both consultations (with our responses, of course, being agreed and cleared by ministers).

### Lines to take:

- The Scottish Government welcomes an increase in services, and improvements in journey times between Scotland and England which will bring economic benefits as well as get people out of their cars.
- Cross border rail services are an undoubted success. Demand and provision for services continues to grow; they provide a sustainable alternative to domestic aviation. Further improvements in quality and journey times will improve rail's attractiveness in this market.

## **FirstGroup**

### **TransPennine Express:**

FirstGroup were awarded the TransPennine Express (TPE) Franchise on 9 Dec 2015 and took operation of the franchise on 1 April 2016. The Franchise will run for 7 years, until at least 31 March 2023, with an extension of 2 years subject to the Secretary of State for Transport's discretion.

Under the contract, FirstGroup will deliver £303m real NPV (net present value) in premium payments to the UK Government over the core period, with 2017-8 marking the transition of this franchise from being a subsidised railway to one which delivers a premium to the taxpayer.

Analysis done by TPE shows that they capture 60% of the Glasgow-Manchester travel market (across all modes) and 30% of the Glasgow-Liverpool market.

There are a number of positive improvements planned for Scotland under the new franchise, including:

- Additional early morning/late evening services between Lockerbie and Edinburgh/Glasgow will shortly be added to the 2017 timetable.
- Direct services between Glasgow and Liverpool from 2018 (track access rights are in).
- A doubling of the current timetable with 34 direct services between Scotland (Edin/Glw) and Manchester from 2019 with brand new, longer trains to Manchester Airport from 2018.
- These trains will be similar to the rolling stock used by Virgin, but will have modified engines to tackle the higher inclines across the Pennines. They are being built by Hitachi at Newton Aycliffe (where the new EGIP rolling stock is being built).
- There will be an improvement to journey times on the Scotland (Edin/Glw) – Manchester services, which will reroute via Bolton to deliver a 12 minute journey time saving over and above today's journey time (with the potential for additional journey time saving from new higher powered rolling stock).
- An extension of Newcastle services to Edinburgh to provide enhanced east coast connectivity from 2019.

## PRO FORMA – MINISTERIAL ENGAGEMENTS

- More calls at Motherwell to meet existing demand and address potential patronage growth of the catchment area.

### **Rolling stock**

TPE announced in May that it had ordered 25 five-carriage trains from CAF to be used on flows between Glasgow/Edinburgh - Newcastle, and on Liverpool – Glasgow services, when introduced. [CAF are also constructing the new Caledonian Sleeper carriages].

These new trains will have good passenger facilities, including: hot food/meals, more luggage space at the end of carriages and between seat backs, and improved seating, which will be better aligned with carriage windows.

In terms of on-board staffing, there will be a First Class host, a catering host, and a conductor (driver opening/conductor closing doors).

### **Working relationship**

TS and TPE have established an excellent working relationship of past years. For example, TPE responded to our concerns by calling at Carstairs so as to allow Lockerbie commuters to connect with ScotRail's Edinburgh-bound services.

TPE Managing Director Leo Goodwin met with TS Chief Executive in February, and again on 8 November.

TS have confirmed that they are willing and happy to help TPE with promotion of the new direct Glasgow-Liverpool service planned for 2018.

### **Lines to take:**

- We have continued our good working relationship with FirstGroup, following its success in securing the TransPennine Express franchise. We look forward to FirstGroup delivering improved rail connectivity which will strengthen communities and support economic growth between Scotland and the north of England.
- We are especially pleased that our proposals for greater connectivity for Lockerbie and Motherwell have been addressed, that the great cities of Liverpool and Glasgow will once again have direct rail links and that more seats, more comfort and more services will be delivered between Scotland and the north of England.

### **West Coast Main Line franchise**

Services on the West Coast Main Line route connect Edinburgh, Motherwell, Lockerbie and Glasgow to London and are currently operated under the Inter City West Coast (ICWC) franchise, which has been run by Virgin Trains (legal name West Coast Trains Limited, 51% Virgin Rail Group, 49% Stagecoach) since privatisation on 9 March 1997.

With the introduction of HS2 services between London and Birmingham expected in 2026, the UK Government has taken the decision to incorporate the operation of

HS2 and Inter City West Coast services under one franchise: the West Coast Partnership (WCP).

Key issues:

**Refranchising** - Prior to the announcement on 4 Nov, the ICWC franchise was due to expire on 31 March 2017. Instead the Department for Transport (DfT) have stated that they will award a short-term contract extension to Virgin Trains until April 2019, when the new West Coast Partnership franchise will commence.

The ICWC franchise was originally due to expire in March 2012, and the DfT had announced its intention to let the new franchise to FirstGroup.

That decision was subject to legal challenge from Virgin Trains, the current operator, which alleged that there were inconsistencies in the evaluation of financial risk associated with the franchise on the part of the DfT.

Due to technical flaws (which subsequently came to light) in the way the re-franchising process was conducted by DfT, the award was withdrawn and Virgin were awarded an extension to continue operation of the franchise until 2018. This further extension, to continue operating west coast services until April 2019, is the second franchise extension that has been handed to Virgin Trains by DfT.

**Franchising Pre-Qualification Passport** - In September 2015, DfT introduced the requirement that bidders must hold a pre-qualification passport to be eligible to participate in all future rail franchising competitions. This was designed to remove the need for potential bidders to complete resource-intensive stages each time they wished to express interest in a franchise competition.

By December 2015, 11 companies had been awarded Pre-Qualification Questionnaire Passports: Abellio Transport Group; Arriva UK Trains; **First Rail Holdings**; Go-Ahead Holding; Govia; Keolis (UK); MTR Corp (UK); National Express Trains; Stagecoach Group; Trenitalia; Virgin Holdings.

The West Coast Partnership Franchise announcement specifies that the bidder (or bidding group) must have High Speed Rail operational experience. This will mean that various consortia are likely to be created with parties that sit outside the current passporting system. It is also unlikely that there will be British-only bidding groups.

Transport Scotland is engaged with the DfT in the refranchising process, and will input into the Invitation to Tender (ITT) document.

Lines to take:

- The intention in establishing this new franchise is to facilitate the smooth transition of passenger services following HS2's introduction, and ensure that incentives are in place for HS2 to succeed alongside ICWC.
- Scotland is a key growth market for any WCML operator, so there should be an incentive to make the most of HS2 for Scotland, and we will be seeking assurances from bidders on their plans to grow and develop the Scottish long-distance rail market ahead of the introduction of HS2.
- We are keen to ensure that Scotland's requirements, indeed the needs of all on the classic route north of Birmingham, are appropriately communicated so that the continuing needs of ICWC are not secondary to HSR.

## **LIVING WAGE AND SCOTTISH BUSINESS PLEDGE**

### Living wage

- The Scottish Government has long championed payment of the Living Wage as set by the Living Wage Foundation. We believe it can make a real difference to the lives of people working in Scotland.
- In line with this we have already taken a number of distinct steps to promote the Living Wage and increase the number of employers from all sectors across Scotland paying it.
- While the Scottish Government is not able to set pay levels where employees are not covered by our pay policy, we strongly believe that employers should ensure all of their staff receives a fair level.

### Scottish Business Pledge

There have been no discussions with representatives of First about the Pledge.

- The Business Pledge is a shared mission between Government and business, with the goal of boosting productivity, competitiveness, employment, fair work and workforce engagement and development.
- By making their Pledge companies demonstrate their commitment to these values

## **BREXIT**

### **Lines**

- Scotland voted overwhelmingly in favour of remaining in the EU.
- The Scottish Government is exploring all options to protect Scotland from a hard Brexit that economists say will cost 80,000 Scottish jobs. Our five key interests are democracy, economic prosperity, social protection, solidarity, and influence.
- A proposition to protect Scotland's place in Europe will be presented in the coming weeks, focused on keeping us in the single market, even if the rest of the UK decides to leave
- We will continue to provide as much reassurance and certainty as possible to businesses and fellow EU nationals, who continue to be welcome here.

### **Background – Transport**

TS engages with all of the transport sectors and main players and is building up a picture of the issues to be addressed in relation to Brexit, many of which will be cross-cutting such as access to skilled labour and public procurement regulations. This will inform developments going forward including the review of the National Transport Strategy (NTS2) and the Strategic Transport Projects Review (STPR).

Transport is one of the EU's most strategic common policies with EU and national regulators having created a complex regulatory environment. EU standards and regulations are aimed at managing the impact of transport on the environment, and reducing emissions from transport is an over-arching goal and one of the main ways that Scotland will meet its climate change targets.

Brexit would mean that UK domiciled transport operators would no longer be required to conform with future EU regulation. However, the UK has on many occasions been a driver for change within the area of European transport regulation, and therefore there may not be any significant impact on the underlying legislation and approach, at least until the industry demanded change.

Scottish Ministers have similar interests to the UKG in being able to regulate services on our own roads and in our operators being able to run overseas without excessive regulatory burdens. We would want to maintain effective regulation of drivers' hours in the interest of safety and employee health and safety, and to be able to enforce them on foreign operators.

### **First Group – notes**

In July 2016 First Group warned that the Brexit vote could knock the UK economy and affect its business.

First Group is chaired by Mr Wolfhart Hauser, a German corporate growth specialist. In July 2016 he noted that FirstGroup was the "only FTSE company with an employee director on the board".

