



Northern Ireland
Assembly

Committee for the Environment

OFFICIAL REPORT (Hansard)

HGV Road User Levy:
Department of the Environment Officials

11 September 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Anna Lo (Chairperson)
Mrs Pam Cameron (Deputy Chairperson)
Mr Cathal Boylan
Mr Colum Eastwood
Mr Alban Maginness
Mr Ian McCrea
Mr Barry McElduff
Mr Ian Milne
Lord Morrow
Mrs Sandra Overend
Mr Peter Weir

Witnesses:

Mr Iain Greenway	Department of the Environment
Mr James Hutchinson	Department of the Environment

The Chairperson: I welcome both Iain Greenway, who will talk to us as director of the Department's road safety and vehicle regulation division, and James Hutchinson of the Driver and Vehicle Agency (DVA). I remind everyone that the session is being recorded by Hansard. Iain, over to you.

Mr Iain Greenway (Department of the Environment): Thank you very much. I am afraid that we come with fewer props than your last presenters, but thank you for the opportunity to appear before you. I do not want to say much to start with, but, because the Committee last considered this matter before the summer recess, it may be helpful to give a brief recap.

The Westminster HGV Road User Levy Act 2013 provides that all vehicles of 12 tons or more gross weight must pay a charge for using the UK's roads. They can pay daily, weekly, monthly or annually. The fees depend on the time covered and the weight of the vehicle. The maximum charge for the largest vehicles is £10 a day. For smaller vehicles up to 25 tons, it is £1.70 a day. The largest annual charge is £1,000 a year for five-axle vehicles or £640 for six-axle vehicles, and, of course, it is for each operator to determine which is the most cost-effective for them. Those charges are set to give some reflection of road wear created by the numbers of axles, weights and so on.

The levy is a tax, so it is an excepted matter under the Northern Ireland Act 1998. Therefore, it is a matter solely for the Westminster Parliament. The present Minister has, as, indeed, has the Minister before him, Minister Attwood, been concerned that the position of this island was not sufficiently considered when legislating for the levy. Both Ministers have made extensive representations to

Department for Transport (DFT) Ministers, focused on exemptions for particular routes. Members will recall discussions on the A5 in particular.

Those representations, which were made on a number of occasions and, indeed, also supported by Irish Ministers, were not successful. The Minister has, therefore, reluctantly recognised that, given that the decision rests solely with the Secretary of State for Transport and the Westminster Parliament, we could keep asking but would get the same answer. At some point, one needs to recognise that to keep asking will get the same answer.

As I mentioned, the levy is governed by Westminster legislation enacted in 2013, and that, in turn, uses provisions of the Eurovignette directive at European level. Among other things, those directives require that member states take all necessary measures to ensure compliance with any levies introduced. Therefore, that EU law requires enforcement of the HGV road user levy across the UK.

The question then arises about who should enforce the levy in Northern Ireland. As was set out in the letter from the departmental Assembly liaison officer (DALO) that covered the SL1s that came forward for the 3 July meeting, the Minister has concluded that, on balance, it is better that we, the Department, undertake the enforcement rather than DFT putting in place its own arrangements. If we do not do it, DFT would be obliged by law to put in place arrangements to enforce the levy. It is not a question of whether but of who will carry out the enforcement.

As set out in the letter, the benefits of our doing it include having a coordinated approach to hauliers by having one enforcement body looking at all HGV matters — weight, drivers, hours and roadworthiness, as well as the levy. DFT is making funding available for additional enforcement officers for this work. In practice, that will mitigate slightly the loss of staff caused by the centralisation of vehicle licensing in Swansea. DFT is also providing funding for cameras and other equipment to allow enforcement of the levy. The equipment and cameras will also be able to be used for enforcing other road traffic offences.

The Chairperson: What sort of equipment are you talking about?

Mr Greenway: Predominately cameras — number plate recognition cameras.

The Department, therefore, brought forward six SL1s to the Committee, one of which it agreed. Indeed, the Committee noted earlier the SR on vehicle weight spans. Of the other five SL1s that are on the agenda for consideration today, one creates the offence on the Northern Ireland statute book of not paying the levy, two add that to the list of fixed penalty notice offences and set the amount for non-payment, and the other two set it on the list of financial penalty deposit offences and set the amount. So, that is why there is what appears to be quite a large number of pieces of paper for this one change.

To conclude, the levy has been payable, by law, by all HGVs using the UK's roads since 1 April. All UK vehicles are paying it, along with their vehicle excise duty (VED). Given that that was more than five months ago, and given the requirements of the EU directives, the enforcement arrangements in Northern Ireland need to be resolved at an early date, hence the SL1s being on the agenda this morning.

The Chairperson: Obviously, there is an urgency to resolve this. I think that we need to look at this and get it done. As you said, it may help to address the loss of staff from the DVA in Coleraine.

There is a letter about the large number of Irish hauliers who have paid the levy. So, only a very small number have not paid the levy. Is that right?

Mr Greenway: DFT is responsible and, indeed, has contracted a private sector organisation to run the payment machine — the engine that allows people to pay. It is able to report with great accuracy and precision the numbers who have paid in different categories, and it can see who is Irish, Portuguese, Romanian and so on. It cannot, however, say with certainty — one never can — how many people have not paid but have entered the UK's roads. That is always more of an unknown.

The figures that DFT passed to us at the Committee's request and that we passed on showed that, in the first three months, just shy of 30,000 levies had been paid and that they had been paid by 6,559 Irish-registered vehicles. Of course, some would have paid a levy for different days in that three-month period. So, there is a level of compliance. I cannot say with certainty what Irish hauliers' level

of compliance is. We know that the level of compliance in Britain is far higher, but it has small numbers of ports of entry, and that allows enforcement to be more straightforward. Having a lack of enforcement ability against those who choose not to comply is illegal in European law and — you are correct — is disadvantageous to those hauliers who have chosen to obey the law.

The Chairperson: Yes, it would be unfair to others who are law abiding.

Mr Boylan: Has the Department carried out any research on the impact on cross-border trade for some of the smaller hauliers or single operators?

Mr Greenway: I know that DETI is doing some work on haulage and so on. This is a Westminster matter, so the impact assessment and the regulatory impact assessments etc were completed in Westminster as part of the passage of the Westminster legislation.

Mr Boylan: That is grand. It is clearly coming from the European directive as well. I am just saying that this raises an equality issue, because it certainly will have an impact. The Chair talked about people paying or not paying. There is an equality issue, because this will have an impact on businesses on the border, especially single operators. I am just wondering why, as part of the directive brought forward through Westminster, nobody ever felt that research had to be done on the impact.

Mr Greenway: The Minister made it clear that DFT Ministers appeared very unlikely to accede to his representations, which have relayed a number of facts and figures. He indicated that he was concerned about the continuing economic recovery in Northern Ireland and that he would keep the matter under review. He also indicated that, if further evidence came forward, he would come back to potential exemptions or other options. Really, we focused on the exemption of certain routes from the levy by looking in particular at the geography and the flows.

The Chairperson: Yes.

Mr Boylan: Chair, that is grand. It is all right talking about the single road and travelling back and forward, but it is about the impact that it has on businesses. Business relationships have been built up for years, and people do not understand or do not see that side of it. That is why I asked the question.

Mr Greenway: I am not here to speak for DFT; I am here to speak for the DOE. However, Minister Goodwill wrote a four-page letter to you, Chair, back in February, that set out a range of information on the levy. That stated that, for the very largest vehicles — often they will not be servicing local businesses and small traders — it is £2.56 a day if you take it across the year, and, for the smaller vehicles, it is £1.70 a day for a vehicle up to 25 tons. So, if you take that annually, it is less than £1 a day. When setting that against the cost of diesel, insurance, vehicle excise duty, the driver's wages, depreciation on the vehicle, which, from the material that DFT sent to you, is estimated at £80,000 to £100,000 a year, we are talking about adding an annual charge of £85 a year for group A vehicles up to 25 tons.

Mr Boylan: Clearly, there has not been any interest on it.

You talked about setting up cameras, so what roads are going to be specifically monitored for the collection of fees? Will it be a series of roads?

Mr Greenway: Like any operation, the enforcement operations on the ground will, of course, take account of, first, information received and, secondly, where the predominance of offences may occur. If we move forward in the way that the Department proposes, the DVA will enforce the levy but it will do it as part of enforcing all road traffic law, including roadworthiness, driver's hours, speed and overloading, etc. So, generally, we will see operations that will focus on all HGV matters, rather than specifically setting up a checkpoint for the levy. That is because, when you have stopped a vehicle, it is more effective for the vehicle and the driver, as well as for the enforcement officer, to run a series of checks. As I said, sometimes, that will be random, such as every third vehicle going up a road, and sometimes it will be intelligence led. We know that 70% of the HGV traffic crossing the border crosses between Dundalk and Newry. I think that it is in single figures, but around 9% enters along the A5 corridor. So, I would not want to give away enforcement colleagues' secrets of how they target their enforcement, but it would be likely that the lay-by at Loughbrickland would be one of the main stopping points, as it already is for HGVs.

Lord Morrow: *[Inaudible.]*

Mr Boylan: I want to ask a question —

Mr Greenway: You cannot hide an HGV stopping bay, Lord Morrow. *[Laughter.]*

Mr Boylan: It is a serious question. So, you are saying that you know a certain number of roads that you are already going to target, because clearly you have done the figures. It is the case that some of those road users may — I use the word "may" — use other roads. Are you saying that, as part of your enforcement, you are going to have to do some undercover work to detect that? I am asking where you are going to put the cameras or how you are going to identify it. Is it a case of stopping, or is it a case of cameras and stopping? Surely to run this out, you have a plan to deal with it.

Mr James Hutchinson (Department of the Environment): The initial phase would be to use the mobile resources that we have at the moment to stop the vehicles, because we do not have a camera solution at the moment. DFT will provide some funding for that, and we will then set up a camera resource. Quite simply, a number of cameras will be based on strategic routes to pick up the bulk of the heavy goods vehicles that are transiting into the country. Other options include putting ANPR cameras inside vehicles, which are mobile. With an ANPR resource inside a vehicle, you can then take the vehicle and use the ANPR resource in a more mobile fashion.

Mr Greenway: ANPR is automatic number plate recognition.

The Chairperson: Slow down a little bit; you are going very fast.

Mr Hutchinson: There is another option. We conduct a large number of vehicle checks across a year. One thing that we check in a heavy goods check is whether a valid heavy goods road user levy payment has been made for that vehicle. A range of penalties exist for non-payment. It is a £300 fixed penalty or a £300 court deposit. That is the proposal in the SL1s that Iain described. So, at the moment, there is a combination of mobile enforcement resource using a combination of fixed check sites and other sites, moving towards examination of ANPR resource, which could be a combination of fixed camera sites and/or mobile cameras in vehicles. At this initial point, we will be using the existing DVA staff resource, supplemented by a financial payment by DFT to add three more staff to our complement, and, over time we will develop an ANPR strategy.

Mr Boylan: I have one final question, Chair. If you bring in ANPR, will it be subsidised? Who is going to pay for it?

Mr Hutchinson: At the moment, DFT has agreed to provide £750,000 funding for that.

Mr Greenway: For the record, that is the Department for Transport, not the Department of Finance and Personnel. I clarified that because the acronyms are so similar.

The Chairperson: If people do not have £300 in their pocket for the cash deposit, what will happen?

Mr Hutchinson: In that case, the vehicle will be immobilised at the roadside until the payment is made.

The Chairperson: So, they have to go to an ATM or something.

Lord Morrow: Or ring a friend.

Mr Greenway: That already exists for a range of vehicle offences that the enforcement officers deem to be fixed penalty offences. Of course, there is a judgement to be made about whether the offence is sufficiently serious that prosecution needs to take place for, say, road worthiness, or if a fixed penalty notice is required. If it is a fixed penalty notice, the driver is given the opportunity to access the money if he has not got the wherewithal to have it.

Mr Hutchinson: The plan is that our local roadside staff will be able to take cash, credit or debit card payments. They will also be able to take a telephone payment if the driver does not have the capacity

to pay but the operator does. We will use every means to make sure that the payment can be made and the vehicle released to carry on.

The Chairperson: How do you safeguard accountability when enforcement officers are taking cash at the roadside?

Mr Hutchinson: We have worked very closely with finance colleagues in the Department to make sure that the processes fully comply with the Civil Service requirements for the taking of payments.

Lord Morrow: This is a European directive. To get round it, maybe we should all be voting no in the referendum.

Mr Eastwood: If everyone votes yes next week, there will be a referendum. Apart from that, you have no chance.

Mr Greenway: To be specific, a series of three European Eurovignette directives have been made over time. The general thrust behind those is that the polluter pays. So, when you are putting a big vehicle out on a road, you should be paying something. The Eurovignette directive says that member states do not have to introduce these levies, but, if they do, they must comply with these rules. So, it does not require their introduction. Some countries have introduced them, and others have said, "We have got a range of toll networks and other things; we believe we're recovering money in other ways". If you do them, they must comply with these rules.

The Chairperson: You pay tolls all the time in England. Sometimes, the tolls are £8. In Europe, you pay tolls going over bridges and roads.

Lord Morrow: We thought that paying our insurance and tax went to that, but there you are.

Mr Eastwood: This is just a quick question. You have decided that it is best for the Department here to collect the money and to do all the work around that. I take it that it is going to be cost neutral here. Is DFT going to provide all the funding around that? How is that going to work?

Mr Greenway: For further clarity, payment will be through DFT — the Department for Transport — payment engine. I think that that is run by Northgate Public Services, which is under contract to it. Those operators who comply with the legal requirements will have to pay in advance through the payment engine for certain vehicles, certain days or certain time periods. The information on who has paid and who has not paid is available to enforcement officers at the side of the road. We then come to the payment, which is why we had to go to the Department for Transport for the figures on how many had paid. That is handled entirely by that Department, and the money goes straight to the Exchequer. On the enforcement side, as with other fines for enforcement, any fines that are collected go to the Consolidated Fund and back to the Exchequer, as do all court fines. The additional cost of enforcing the people and the equipment will be paid for by the Department for Transport, so that will be cost-neutral.

The Chairperson: And we get additional staff to look at other issues.

Mr Hutchinson: There will be an additional benefit of having further staff available for the duties.

The Chairperson: There has been ongoing criticism of the lack of enforcement in Northern Ireland. I think that it is a good thing to enable us to recruit more staff.

Mr McElduff: From our point of view, as a party, we do not see any positive aspects to this at all. What power does the Committee have? If we decided to vote against adoption of the SL1, would it proceed?

The Chairperson: I think that we would take a vote. Is that right?

Mr McElduff: Yes, but would it proceed thereafter?

Mr Weir: If it was a no, what would the impact be?

Mr Eastwood: It is worth looking at that. We need to hear that, because I think that this is a battle that the Minister has fought, and it is clear that there is only so much that we can do. This is a Westminster issue. It is not one that we would have introduced if it had been up to us, but it is not. So, maybe it is worth outlining what would happen if we did not get a positive today.

Mr Greenway: I do not want to step into certain niceties, but in answer to your question, Barry, if the regulations were not made, under the procedural points, as I understand them — I look to the Committee Clerk to keep me right — it is ultimately for the Assembly to determine whether any regulation made by negative or affirmative resolution stands and exactly how the Committee fits in that process. However, any Member can move a prayer of annulment, and if there is a vote against the regulation on the Floor, it does not stand. So, I cannot answer the specific details of what would happen next if the Committee voted against it, but that is the constitutional position.

That means that if DFT is legally obliged to enforce the levy, it will enforce the levy. We will not get three jobs, and we will not get three quarters of a million pounds for enforcement equipment that will be useful for a variety of other things. Hauliers will be stopped by two different enforcement forces. How would DFT do it? If I were sitting in its shoes, I would say, "Could HMRC do it? Could the Border Agency do it? Could I employ contractors to do it?" It would have to find a way to do it. It would be more disruptive to the freight industry here, because two forces would be stopping it, and we would lose out on some mitigation of staffing against the losses to Swansea, as well as money that would be extremely useful in ensuring compliance with a range of other road traffic law.

Mr Eastwood: So, the bottom line is that this will happen anyway, and the realpolitik of it is that it is going to do it whether we say no or not. There is a positive in some of the enforcement issues that we all talk about in here. So, I think that it is a battle fought.

Mr McElduff: Chair, I just want to say again that there are no positive aspects in this whatsoever. Minister Goodwill — that is a misnomer if ever there was one — could not even offer an exemption to the A5. Minister Goodwill certainly showed no goodwill. Cathal Boylan mentioned the impact on cross-border trade. I have met a lot of hauliers about the issue, and I have to say that it is as though people inhabit two different planets. There are no positive aspects to this. So, I want to formally propose in this meeting today that we do not adopt this SL1.

The Chairperson: Barry, nobody likes extra charges, whether they are farmers or taxi drivers. Nobody likes to have to pay more, but, as Iain said, compared with the percentage of the increase of freight of vehicles, it is not really that big. We have to strike a balance.

Mr Eastwood: Chair, can I just say for the record that I am not trumpeting this idea. The bottom line is that we have no choice. If it was up to us, we would not be bringing it in. There are a lot of things that we do not want to do, but this is something that we have to do. I think that the Minister was put in an impossible position and tried his best.

The Chairperson: I know that the Minister tried, and he has told us about that and about going to Westminster to meet the Minister in DFT, and I appreciate that. I think that we have no choice. Colum is right. If we do not do it, DFT would send someone here or would establish something to do it for us. We would then lose out on the chance of getting more staff, and the hauliers would still have to pay.

Mr Boylan: Chair, just before you go on, let me say that we do have a choice, because, ultimately, you have to put it to the Committee whether we accept it. I do not agree; we have a choice, and, ultimately, you will be putting these SL1s to the Committee. My party will certainly oppose them.

Mr Eastwood: There is then a choice of bringing them to the Assembly to see what happens.

The Chairperson: I will put the Question on the SL1s on the HGV road user levy legislation to the Committee en bloc. Are members content to agree these SL1s?

Question put.

The Committee divided: Ayes 8; Noes 3.

AYES

Mrs Cameron, Mr Eastwood, Ms Lo, Mr I McCrea, Mr A Maginness, Lord Morrow, Mrs Overend, Mr Weir.

NOES

Mr Boylan, Mr McElduff, Mr Milne.

Question accordingly agreed to.