

Government policy is a taxing problem inhibiting switch to multi-modal transport

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‘Joined-up government’ is one of those concepts like ‘an integrated transport system’ for which Yes Minister’s Jim Hacker searched in vain. By Mark Smulian

‘Joined-up government’ is one of those concepts like ‘an integrated transport system’ for which *Yes Minister*’s Jim Hacker searched in vain.

Problem is, so too do his real-life counterparts; mention of HM Treasury is liable to bring a frown to other Whitehall departments and not just because of funding disputes.

Policies can conflict, such as the Government’s desire to promote modal shift in transport and taxation rules originated for other purposes that hamper this. Although senior ministers can in theory bang departmental heads together, they usually prefer to pick their battles with care.

The result is that measures that might use the tax system to promote modal shift are not used as they might be for fear of legal and financial complications.

One such is legislation on employers providing benefits-in-kind, which can affect attempts by employers to provide free or discounted bus travel to staff, or to encourage better use of company cars.

Salary sacrifice schemes can be used by companies, whereby staff trade in a portion of pre-taxed annual salary for goods or a service; this has commonly been used for company cars and may be used for bicycles, but trying to use it for public transport hits complications.

Another tax measure - highly controversial in its first implementation - is Nottingham City Council’s workplace parking levy, which a handful of other local authorities are only now seeking to emulate despite a successful decade of raising some £83m for transport projects in the city.

It might have been expected that anything that raised an extra £83m for local transport would attract a stampede among other local authorities, but Nigel Hallam, Nottingham’s workplace parking levy service manager, says things began only slowly.

Under the levy's regulations, money raised must be used for local transport objectives, in Nottingham's case building its second tram line, revamping the city's main station and supporting its Link bus network, which serves areas not well catered for by commercial routes.

Mr Hallam says: "There's always been a lot of interest, but for the first few years our main deliverable was a tram extension and the construction phase took three years, so people elsewhere were reticent as it had not been evaluated."

An independent study later found the levy "had a constraining effect on congestion growth, which was the council's stated aspiration".

It also found that the originally negative sentiment among the local business community had dissipated.

The levy is charged to all employers who provide 11 or more staff parking spaces. It rises annually with RPI and from 1 April has been £458 per place.

One can see why such a charge might not appeal to employers or their staff and resistance from businesses has been a key factor in slowing adoption of the levy elsewhere.

Mr Hallam says despite initial misgivings, Nottingham employers later welcomed the excellent public transport provided through the levy income.

He explains: "It's a tax, and as individuals none of us like tax, but businesses' top transport aspirations were to extend the tram network and redevelop the station so the situation was 'we want the same things, how does it get paid for'. Employers might not like it but they wanted what it delivered."

Another advantage to this tax has been that it creates a large and reliable revenue stream against which the council can both prudentially borrow or apply for match funding.

Among its virtues are that it is scalable both in cost and coverage. Nottingham's levy covers the whole city but that planned for Oxford takes in only part.

Oxfordshire County Council proposes a levy on business with 11 or more staff parking spaces in an area within the Oxford ring road, with the money raised being used to improve bus services and walking and cycling infrastructure.

A council statement said the levy is part of a package of transport proposals intended to reduce the need to travel by car in and around Oxford, and would "encourage

change in travel behaviour from car to public transport, walking and cycling”. The levy is expected to start in 2024 and raise £40m over 10 years.

Consultant Sue Flack worked on the original Nottingham project and is now advising Leicester City Council on its levy plans.

She says: “These schemes are quite complicated to put together and you need to identify what is and is not a workplace space and work out which are liable.

“The legislation allows local authorities to do different things with the levy, which is good in one way - in that you can adapt to local circumstances - but not in others as it takes a long time to go through all the options.

“I think Nottingham is now generally regarded as a success, but people wanted to see that before considering it elsewhere.”

Leicester has a start date planned of spring 2023, and Ms Flack says reaction there has not been as hostile as it originally was in Nottingham, possibly due to greater awareness now of climate change.

Some schools have though objected as “many large secondary schools have quite a lot of parking space for teachers and its up to employers whether or not they pass on costs to staff”.

Leicester is to set its levy at £550 per space per year and devote the income to climate issues, congestion and tackling poor air quality, its main project being a bus transformation plan with all electric buses, capped daily digital fares and better bus infrastructure.

It expects to raise £9m a year and attract £450m of other funding much of it from government grants that require a local contribution for which Leicester would then have the revenue stream needed.

Scotland has introduced legislation to allow for workplace parking levies, with guidance due this year, but so far there has been a somewhat muted reaction.

There was enthusiasm from transport minister, Graeme Dey, who has said: “Workplace parking licensing has the potential to be a key tool for local authorities to help us reach this ambitious goal [of tackling climate change], by encouraging the use of more sustainable travel modes, reducing congestion and tackling harmful emissions.

“As the net revenue generated must be committed to support policies in local transport strategies, this policy is also intended to finance improvements in public or

active transport, making it more attractive and thus encouraging individuals to leave their cars at home.”

Despite this, a spokesperson for Glasgow City Council - one of few authorities actively examining the idea - says “We were, as I think all Scotland’s councils were, supportive of local government having the legal power to implement a levy.

“Our transport strategy acknowledges that it is something we will explore in the interests of cutting car journeys.

“However, we are clear that it would take, realistically, at least three years to implement a scheme – and that would obviously require its own committee decision and a whole lot on consultation.”

A decade ago when Boris Johnson was mayor of London, he was reported as favouring tax breaks on commuter season tickets.

At the time he lacked the power to do this, and now he has the power as prime minister appears to have forgotten the idea. He said at the time there was a 'compelling case' for such tax breaks across the country.

This has left rather a grey area as to how measures intended to encourage modal shift interact with there tax system, and to complaints that the Government has failed to update the benefit-in-kind taxation model to accelerate the uptake of forms of mobility that encourage a move away from car commuting.

A company that, for example, puts on free buses for staff – even those who have no viable public transport alternative - faces this being treated as a taxable ‘benefit-in-kind’.

While salary sacrifice schemes are available for cars and bikes - and so can be used to promote modal shift or a switch from petrol and diesel cars to hybrids and electric vehicles - other uses may be problematic.

Andy Eastlake, chef executive of consultancy the Zemo Partnership, says: "Our work is focused on zero carbon and using taxes to promote the change to electric vehicles from those run on fossil fuels has been very successful.

“The trick is to think both about how an incentive works and how you will exit from it when it has done its job.”

Mr Eastham says a problem has come in particular with trying to use salary sacrifice schemes for vehicles classed as 'L', which “may be vans which may do the same thing but are not classed as cars.

“L vehicles include quadricycles, scooters or mopeds and there is a problem with this sector of low carbon vehicles not counting for salary sacrifice, while with scooters there are additional issues about whether they vehicles or toys, and if they are vehicles are they licensed and insured?”

Zemo is working with the Motor Cycle Industries Association on whether these regulations are right.

Mr Eastham says he supports scrappage schemes like that promoted by London mayor Sadiq Khan, where a motorist might scrap an older polluting car but get a voucher for public transport instead of another car.

“The problem is you can’t use a salary sacrifice scheme for public transport and it can be cheaper then to run a car,” he says.

“It would cost me £7,000 a year to commute to London from Milton Keynes and for that I could buy quite a good car and get the salary sacrifice on it.

“I think there is a combination of Treasury inertia and it not knowing how different policies fit together on raising tax but encouraging low carbon vehicles.

“There is no coherent plan for moving to new modes on transport we need to encourage active travel and public transport but there are gaps in policy.”

One person with experience of the unpredictable interface between taxation and subsidised transport is Liz Davidson, chief marketing officer Bristol-based data technology firm Esoterix, which specialises in public transport.

Esoterix helped when logistics firms in the Avonmouth, Portbury and Severnside area near Bristol wanted a bus route that would link their premises with nearby residential areas.

With no bus service, roads that were dangerous to cyclists because of numerous HGVs and many of which were unsafe for walking, Ms Davidson said an informal policy had emerged among employers there to engage only car drivers at these sites, such was the difficulty of accessing them.

That policy though was proving troublesome since fewer people are learning to drive, the number of driving tests being taken having fallen by 20% since 2007, she says.

Many firms complained of high staff turnover and retention problems and one admitted to a staff turnover rate of 40%, equivalent to 180 people per year at an average cost of £5,000 per recruit.

Although a large number of people needed to make this journey for work, the nature of the logistics industry's 'just in time' approach meant staff began and ended their shifts at different times around the clock, meaning there was no commercially viable density of demand for a bus service such as would be given by a conventional rush hour.

Employers looked therefore to a bus service open only to their employees - not the general public and so avoiding being classed as 'public transport' - and which would be paid for by salary sacrifice.

This quickly hit difficulties. As Ms Davidson explains: "While some employers were happy with salary sacrifice, others were reluctant because they had sites all over the country - and may have no need to offer this at other sites - so did not want to offer a benefit only to staff in one place."

Fears that doing this might lead to ill-feeling among the workforce meant some employers preferred to simply make up their share of the difference between bus revenue and operating cost.

"One firm said its recruitment and retention problems at its site meant it had a £180,000 a year recruitment cost, and so compared with that the cost of contributing to the bus was very little," Ms Davidson says.

She says there are two key points for policymakers to consider from Esoterix's experience of backing the service, which was operated by Stagecoach.

"First is the issue about employers not wanting to offer different benefits at different sites.

"The other is that you can't use salary sacrifice for a bus or train season ticket because you could use that to make personal journeys too, so people have to keep buying separate tickets and prove they are for work."

Esoterix had two experimental services, both solely for staff of participating firms. In the first a timetabled service dynamically adjusted to incoming train services by waiting for those that were slightly late.

Passengers paid a monthly subscription via their employer, who could opt to process subscriptions via salary sacrifice.

An assessment of this first experiment found one large employer was an enthusiastic supporter, but smaller businesses were put off by what they saw as an administrative burden and some larger ones by the issue of providing a benefit to only part of their workforce.

After 11 months the service lacked the revenue to continue operation when council contributions ran out.

The second experiment used a timetabled route that could adjust over time according to passenger usage.

Passengers paid an affordable per journey price and businesses topped-up the difference between fares and operating costs. There was also a small contribution from South Gloucestershire Council. This service ran until the pandemic affected ridership.

Both experiments explored developing the financial viability of services for which there is a demonstrable need but insufficient passenger revenue to cover operating costs in the short term, since the demand is latent because almost all existing employees must use a car.

An assessment for Esterix said for passengers, price and predictability were the key features, with charging per journey more popular the monthly subscription option.

One unexpected outcome was that the local train operator was happy to adjust its timetable to better fit those of the service.

The issue about alienating workers with differential benefits leads into a wider one of how employer-supported transport can become entangled with equalities questions.

Karla Jakeman, connected transport innovation lead at Innovate UK, says: “Benefits-in-kind can be an issue and one should also bear in mind equalities.

“For example, if an employer offers a benefit like money off in the canteen to those who give up their car for a bike a disabled person may be unable to do that and so would be excluded. You have to be very clear about how schemes like that will work, or you will upset somebody.”

Car rental firm Enterprise has a number of initiatives to make more sustainable use of vehicles but has found this hampered in the UK by long-standing tax legislation that was never intended to deal with promoting modal shift.

Oz Choudhri, Enterprise Holdings’ head of mobility solutions, UK & Ireland, says: “We’re at the start of a journey of exploring how shared mobility solutions can help to reduce travel carbon emissions and our solution for shared commuting is a good example of that.

“We’re continuing to explore with governments in the UK and in other countries how we can reduce the emissions involved in employees who must travel to work by car.

“In many regions, for example in the US, businesses are incentivised if they provide shared transport that reduces congestion and emissions. Employees living close to each other can rideshare to and from work using a self-drive minibus that is partly sponsored by the employer.

“In other countries this is treated as a benefit-in-kind under current employee travel taxation rules. It’s an unintended consequence of legislation that was not originally designed to promote decarbonisation.

“We’ve used our global experiences to learn and share experiences and we’re currently discussing the potential of running a UK trial, possibly under a tax exemption, to understand how current taxation affects this type of service.”

Mr Choudhri says the main area where benefit-in-kind taxation affects the progress of modal shift services is that of personal use of vehicles funded by the employer primarily for business use.

This applies even when the employee pays to use the vehicle outside of office hours and is “an unintended consequence of company car taxation”.

He adds: “This is where updating company car taxation would permit new services which enables businesses to support policy objectives on reducing transport emissions and congestion.

“There’s still potential in other areas for vehicle rental to deliver modal shift services, especially in terms of business travel. This is as much driven by the technologies used when customers book vehicles and move between personal and professional use as it is by benefit-in-kind.”

Employees who know they can use a car club vehicle permanently located at their office are more likely to leave their car at home, he notes.

Mr Choudhri explains: “Car clubs and rental offered in the workplace can also encourage a modal shift in leisure and private motoring. Businesses can allow employees to rent dedicated car club vehicles outside of office hours for personal use.”

An Enterprise app allows employees to toggle between their business account and their personal one to avoid any tax issues arising from confusion over how the vehicle is being used.

Enterprise has an “open conversation” with HMRC on how benefit-in-kind rules could evolved to deal with changing employee expectations, travel patterns and decarbonisation goals.

Mr Choudhri says: “There is now recognition that shared rental options can effectively achieve a desirable outcome of reducing the use of older, more polluting private vehicles and maximising the use of individual vehicles, to reduce the number of cars on the road. The focus is now on how to modify existing tax structures to help rental achieve these shared goals.

“There’s scope to ensure tax policy can be flexible to achieve wider mobility policy objectives. The Government should state a general principle that tax should not act as a barrier to innovation that contributes to decarbonisation, and develop ways to rapidly amend or remove any issues identified.”

Among possibilities would be offering a waiver or temporary exemption that would encourage new mobility trials around shared vehicles in the workplace as the emergence of hybrid and home-working - originally due to pandemic restrictions but now to a large extent continuing - means employees now require mobility at different times and places.

“Businesses are working through how to deliver their net zero commitments and by 2030 in the case of electric vehicles,” Mr Choudhri says.

“There is now a degree of urgency, so any measures that allows us to pilot new approaches in a real-world scenario will help to deliver more effective solutions more quickly.”

There is some debate about to what extent tax rules really stifle modal shift or whether they do not but legal and tax advisers - picking their way cautiously through thickets of regulations - assume the worst and say they do for fear of exposing clients to some unexpected tax demand.

Also questionable is the extent to which the Treasury has thought about workplace travel tax issues in terms of their relationship to modal shift - since many rules pre-date this being a major policy concern.

With the world of the staff loan for the annual five-days-a-week season ticket rapidly reducing with flexible working, policies on how travel is taxed will have to try to keep up.

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Examples from abroad

The fame of Nottingham’s workplace parking levy scheme has seen Mr Hallam contacted by authorities in Lahore, Mexico City, parts of Sweden and by New Zealand’s Get Wellington Moving project.

A report to Wellington City Council proposed a commuter parking levy to reduce the number commuters driving and parking in the central business district and provide the city with a ring-fenced source of revenue to fund walking, cycling and public transport measures. Wellington's levy would apply to off-street parking for commuters.

The report noted: "No growing city, with or without a parking levy, has managed to eliminate congestion. However, the levies have played a role in mitigating congestion and curtailing the number of people who drive, even as total employment has grown."

Closer to home, Ireland has a Tax saver Commuter Ticket Scheme. This is designed to cut the cost for workers using public transport. It covers bus, rail and Dublin's Luas tram system and provides integrated ticket covering one or more of these and approved private operators.

Employers provide employees with Tax saver commuter tickets, while saving on employers' pay-related social insurance (PRSI) payments. Employees benefit from reduced income tax, and social insurance and universal social charge (USC) payments. Tickets are provided either as salary sacrifice - or as a benefit-in-kind.

An Irish Government explanation of this says: "Tax saver tickets are not subject to tax, PRSI or USC.

"Employees only have to pay tax, PRSI and USC on the 'money' portion of their salary. Employer PRSI is also calculated on the 'money' portion of the employee's salary."

It says employers can make PRSI savings of up to 10.75% and employees between 31% and 52% of travel costs as a result of these concessions.

In a useful worked example, the Irish authorities say if the annual cost of a bus/rail ticket is €1,040 and an employee is earning €20,000 a year then instead of the employee buying the ticket for €1,040, they agree a salary sacrifice of €20 per week, which equates to €1,040 for the year.

The employee will not be charged tax, PRSI, or USC on the portion of salary sacrificed and these would therefore be based on a salary of €18,860.

Employers may also offer TaxSaver tickets instead of a cash bonus and as the latter are taxed and the former are not "tickets provide better value to employees than a cash bonus".

An employer in the United States may provide transportation benefits to their employees that are tax free up to certain limits. The qualifying benefits are transit passes, vanpooling, bicycling, and parking associated with these.

This is to “encourage forms of commuting that reduce road congestion and pollution”.

Also allowed is providing employees with transit passes of various kinds. Vanpooling is an eligible benefit but 80% of the mileage must be for transporting employees to and from the place of work. These various benefits are tax-free to employees only through an employer.

One option in the US is the TransitChek system under which commuters use pre-tax earnings to pay for subway, bus, train, ferry, car or vanpool travel.

TransitChek explains: “Employers also save money by driving down payroll taxes with every dollar an employee deducts.

“And offering commuter benefits helps companies attract, retain and reward employees. It's the benefit that can more than pay for itself; it can help offset the rising cost of other benefits, too.”

In Sweden, the government plans a new and simplified travel deduction, which will be distance-based and vehicle-neutral.

A Government guide says the tax reduction will be calculated on the distance between home and workplace and be regionally differentiated.

The proposed tax relief is intended to also benefit those who can make cheap journeys, for example by public transport, vehicle sharing or taking a car a short distance.

A Swedish Krona (SEK) 6 per kilometre tax reduction would, it says, roughly correspond to the tax relief that the standard amount for car travel provided in the present travel deduction at a marginal tax of 32%.

Legal advisors suggested setting the tax reduction of at SEK5 per kilometre but the government intends to go for a more generous SEK8.

The guide says more people are expected to be covered by the proposed SEK8 tax reduction - giving the example of a nurse who travels by train to Stockholm's major hospital from nearby Nynäshamn “and has no travel deduction at all today” but would benefit in future under the proposed system.

Sweden's current system "is questionable from a climate and environmental point of view as it benefits lone car drivers and not those who, for example, travel together or travel by public transport", the guide states.