



# Draft Local Transport Bill, 2007

## Response to Consultation Invitation

### 1. Introduction

1.1 The Association of Transport Co-ordinating Officers represents local authority officers in county, unitary and metropolitan authorities across the UK. Our members deal with policies for, and the promotion and procurement of, public transport services and the co-ordination of all modes of public passenger travel, including bus and rail services and home-to-school and social services transport, within the context of the wider transport agenda. We are pleased to offer our views on the draft Local Transport Bill.

### 2. General Comments

2.1 We welcome the ethos of putting passengers first and the apparent intention of the draft Bill to give local authorities adequate tools with which to secure or co-ordinate improved bus services that are better for existing passengers and that will attract new passengers. This is essential if we are to achieve patronage growth in line with local accessibility and congestion objectives. We think it is significant that Government uses the word 'harness' in its description of the measures required to ensure that the investment and innovation that the bus industry can deliver is better focused to meet the needs of passengers and local communities.

2.2 We acknowledge that passenger growth is being experienced in some areas with and without partnership schemes, particularly where operators have focused their services on corridors that are already well used. However, we believe that better bus services should be available in all areas and implore that the proposed legislation does not miss any opportunities to provide the best possible arrangements to achieve this.

2.3 It is essential that local authorities should be able to influence the provision of bus services, particularly to achieve better co-ordination between commercially-provided services and local transport plans for general and targeted public transport growth. This was recognised by the Audit Commission, that "*local authorities are accountable for delivering improvements in local transport but bus operators are not accountable to them*"<sup>1</sup> Authorities need to be able to influence the key aspects of services that carry the majority of passengers, and which are operated commercially by private bus companies, in order to have any chance of delivering the Government's PSA target.

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<sup>1</sup> 'Delivery Chain Analysis for Bus Services in England', Audit Commission, December 2005

- 2.4 Any revised or new framework should be workable, from a local authority point of view, in order that buses can be the mode of choice for existing and new passengers. It must support local authorities in tackling congestion in our towns and cities and be able to help improve accessibility in all areas - to work and educational opportunities and to essential facilities, including healthcare and fresh food, for everyone and especially for people with mobility difficulties. We acknowledge that these two objectives are sometimes not compatible which is why it is important that the new powers enable local decisions to be made about what best addresses the needs of each local community, balancing the needs of bus passengers with the transport needs of the wider community. Local flexibility is vital so that maximum use may be made of opportunities to harness commercial enterprise with local accountability in ways that best reflect the needs of individual local communities.
- 2.5 We note that the proposals appear to be almost exclusively focused on metropolitan and large urban areas. Whilst our membership includes officers working in these areas and we acknowledge the importance of bus services in our major cities, it is important that the needs of passengers and local communities in smaller towns and cities and in rural areas are not overlooked. Our aim is to see a range of proposals that put passengers first according to local circumstances and which enable local authorities to influence the provision of local bus services in ways that are appropriate to the needs of different local communities in cities and towns, large and small, and suburban and rural areas.
- 2.6 In this response, not only do we make comments on the content of the draft Bill, but we also make some suggestions for changes or innovations that should be included in the Bill or in associated Regulations.
- 2.7 We broadly support the proposals relating to governance and road pricing as they should lead to better bus services for passengers and local communities. We acknowledge the need to have regard to climate change issues, noting that this should stimulate the provision of bus services that people will choose to use as communities, both urban and rural, seek to move towards more sustainable, less environmentally damaging, transport solutions to local needs.

### Chapter 3: Improving the quality of local bus services

Q1: *What are your views on the proposals relating to:*

- (a) *voluntary partnership agreements;*
- (b) *quality partnership schemes;*
- (c) *quality contracts schemes;*
- (d) *bus punctuality;*
- (e) *community transport; and*
- (f) *other measures?*

(a) Voluntary Partnership Agreements

- 3.1 We are aware of many existing Voluntary Partnership Agreements dealing with a variety of matters. Our experience is that, although some (oft-quoted) successful partnerships do result from a mutual understanding of each parties' objectives, many are based on proposals that match the private bus operator's existing investment decisions, particularly when linked with fleet renewal programmes. Whilst this should not be derided, some existing partnerships do not deliver significant tangible benefits to the local community.

- 3.2 Our experience shows that too much relies on trust which is not easy to foster and can quickly be damaged through management, political or personnel changes. The inability of local authorities to influence key factors, including frequencies, timings, co-ordination of services, fares and ticketing arrangements, has made delivering real passenger benefits through partnership arrangements difficult and unpredictable. Furthermore, since these factors are so essential in the public perception of the quality of local bus services, it is often difficult to persuade councillors to invest capital sums, human resources and political reputations in schemes, the ultimate success of which are outside their influence.
- 3.3 We therefore welcome the proposal to allow the inclusion of minimum frequencies, timings and maximum fares in voluntary partnership agreements. We regret the omission of any reference to the passenger being able to use return tickets on different operators' services along a 'partnership route'. This is an issue that perplexes many passengers and adds to the belief amongst many users and non-users that buses are not operated for their convenience but rather that of the bus companies. We believe that clear Guidance on the desirability of including such ticketing arrangements should be issued as it is hard to see how we can move towards an integrated passenger transport system without this. This would indicate the Government's recognition of this important issue.
- 3.4 We appreciate the Government's intention to indicate that voluntary partnerships may, as appropriate, cover minimum frequencies, timings and maximum fares. However, we are concerned that the commercial imperative to change routes, amend timetables or increase fares as a reaction to increasing external costs and/or new competitive operations, will always make such partnerships extremely fragile.

(b) Statutory Quality Partnerships

- 3.5 We welcome the general intention to extend the remit of Statutory Quality Partnership (SQP) Schemes to include minimum frequencies, timings and maximum fares. We see SQPs as an important part of the overall 'tool-kit' available to local authorities in their quest to secure the delivery of better bus services. However, we believe that Guidance on reciprocal ticketing arrangements should be issued for the same reasons as expressed in the paragraph 3.3.
- 3.6 We welcome the phasing in of new facilities and standards. This is realistic in terms of local authority investment programmes.
- 3.7 We are extremely concerned about operators that do not join a SQP Scheme, but can still operate along a 'partnership route', especially if their services do not match agreed SQP standards. They have the potential, through 'cherry-picking', to undermine delivery of the agreed benefits to passengers, particularly by abstracting revenue from operators within the SQP. This could have the effect of reducing, or putting at risk, the amount of resources that participating operators can put into the partnership. The current redress is that such operators, not within the SQP, would be denied access to the SQP facilities. This could include bus lanes and other bus priority measures and lead unenforceable situations with some buses allowed to use a bus lane whilst others would have to use general traffic lanes. Such a situation would easily bring the provision of local bus services and the actions of the local authority into disrepute, as well as causing confusion amongst bus users, motorists and the local community.
- 3.8 The Traffic Commissioner should be given powers not to accept registrations for local bus services along a 'partnership route' except with the agreement of the

relevant local authority, as already exists in Scotland. Agreement would be expected to be given if such services would not undermine the SQP or it would not disadvantage existing and potential bus users. Also, opportunity must be given to an adjoining local transport authority to make representations to the Traffic Commissioner about services that might not meet a SQP's standards but which make a valuable contribution to the transport needs of their residents.

- 3.9 In order that the local authority could assess the potential impact of registrations on a partnership scheme, operators would have to be required to send registrations to the relevant local transport authority/ies at least 70 days prior to the proposed implementation date. This also already happens in Scotland. The relevant local authority would then be able to request that the registration not be accepted.
- 3.10 We believe that the provisions for statutory partnerships should be made more onerous, in terms of delivering benefits to passengers and the local community in the context of local transport and other relevant policies, to widen the difference between voluntary and statutory partnerships, thereby implicitly narrowing the difference between statutory partnerships and quality contracts. This would give a better balance to the mechanisms available to local authorities.
- 3.11 We cannot see any benefit in the Traffic Commissioner having an approval role in the case of SQP Schemes that have the support of all relevant operators. His/her role should be limited to considering only those SQP Schemes for which there are unresolved objections.

(c) Quality Contract Schemes

- 3.12 We welcome the 'public interest test' so long as it allows consideration of Quality Contracts against all relevant local authority policies, including non-transport policies the delivery of which require good public transport inputs. Because of the importance of quality bus services to local communities, we believe that the procedure for introducing a Quality Contract must be brief and straight-forward. If local authorities have Quality Contracts as a credible option, more operators might work with local authorities in partnership schemes enabling commercial enterprise and public planning and accountability to work in harmony
- 3.13 We believe that removing the Secretary of State from the approval process would be beneficial. However, Ministers and the Department for Transport should recognise that some authorities may not have adequate resources to prepare a Quality Contract and so would welcome assistance in drawing up potential proposals and testing whether or not these produce the best possible passenger and community benefits.
- 3.14 We are extremely concerned about the length of time that the currently proposed procedures of referral to an Approvals Board, followed by a possible appeal to the Transport Tribunal, might take. The approval process and consequent period of uncertainty needs to be as brief as possible. Our concern is based on the needs of passengers and the opportunities for adverse publicity that could easily undermine the credibility of local bus services in the proposed Quality Contract area during what might be a protracted period. The uncertainty that will arise could very easily damage progress towards growing the bus market in order to tackle congestion and/or improve people's accessibility. In particular, people who need to make lifestyle decisions about whether or not to depend upon local bus services might easily be deterred during any such period of uncertainty.

- 3.15 We note the procedures in the proposed Public Interest Test (about which we make further comments below, in response to question 3) and feel that these are sufficient to ensure that an authority does not seek to introduce a Quality Contract needlessly. So long as it is clear in the decision-making process that the promoting authority has taken into account representations received in response to its consultation document, we believe that there is no need for the proposed Approvals Board and Transport Tribunal appeals procedure. This would significantly reduce the period of uncertainty for bus users and would reduce the costs of introducing a Quality Contract scheme.
- 3.16 We cannot understand why a locally accountable authority, that is able to introduce a road user charging scheme without any further approvals process, is not able itself to approve a Quality Contract scheme. It is illogical that an authority can introduce something as radical as a road user charging scheme that would, almost certainly, be dependent on the provision of improved local bus services and yet have to submit their Quality Contract proposals for 'external' and time-consuming approval. We understand that the introduction of a Quality Contract scheme has the potential to have a profound effect on local bus operation businesses in the area. However, the introduction of a road user charging scheme is also likely to have a profound effect on businesses in the designated area, as well as all other road users.
- 3.17 It is our belief that the local authority promoting a Quality Contract should be able to introduce it so long as it has properly followed the required procedures. The redress against an authority wilfully ignoring properly made representations would be a judicial review of the decision. This process already exists for most other decisions that local authorities make for which there is no approval or appeal process.
- 3.18 We believe that Quality Contracts should not adversely affect any particular size of operator because the authority would be able to arrange contracts such that all affected operators would be able to bid. Guidance should be issued to this effect. However, specific decisions must be left to the discretion of the authority to ensure value-for-money as well as maximum passenger benefits. In this context, we welcome the proposal to increase the timescale from five to ten years. This should give operators more confidence to invest appropriately to meet contract specifications.
- 3.19 We are concerned that Quality Contracts may still not be feasible in rural areas or for smaller authorities. Often services are provided by a number of operators, none of which plan a whole network but instead probably only consider their own services and how other services might impact upon them. There could still be passenger growth and other benefits for passengers and local communities if network planning could be carried out by one body. The local transport authority is best placed to carry out co-ordinated network planning for the benefit of passengers and the local community but this cannot be done effectively or efficiently within the current legislative framework.

Tendered Network Zones - an efficient solution outside the conurbations

- 3.20 The Bill gives an opportunity to introduce an ability for local authorities to plan and co-ordinate their local network in areas where the majority of local bus services are not provided commercially without the need to introduce Quality Contracts. Such an area might involve part of or a whole local authority area or adjoining authorities' areas. The authority/ies would determine the appropriate area in accordance with how well existing local bus services are meeting policy objectives. This area would be a Tendered Network Zone (TNZ).

- 3.21 Designation of a TNZ would involve the development and publication of a preferred network for the designated area. Existing services need not be affected by the designation except that they would only be able to make changes on dates agreed by the local authority and any changes would be subject to the criteria set out in the following paragraph. The preferred network would be developed in consultation with existing local bus service operators. The published preferred network would provide a basis of gradually co-ordinating services over time by the authority having the ability to influence new registrations. Publication would allow any operator to review how their existing or any new service might fit with the preferred network.
- 3.22 As with partnership schemes, designation of a TNZ would place an obligation on operators to notify the relevant local transport authority at least 70 days prior to the intended introduction of a new or amended registration. This would enable the authority to ask the Traffic Commissioner not to accept a registration for a service that would 'cherry-pick' or undermine the overall network within a Tendered Network Zone. The authority should also be able to consider any unreasonable adverse impact on local rail services that are in receipt of public subsidy. Commercial operations that offer a positive contribution to a local network would not be affected. We believe that a properly planned TNZ would make more efficient use of resources and thus could enable services to be improved without the need for significant additional public funds.

(d) Bus Punctuality and Reliability

- 3.23 The actions or otherwise of local highway authorities can have a significant effect on the punctuality and reliability of local bus services and it is only right that they should explain their position with regard to this issue. However, we believe that this needs to be done in the context of the area's local transport plan and other relevant policies. Whilst we believe that punctual and reliable local bus services are important to any community, we recognise the requirement to have regard to the demands of all road users, including pedestrians, as set out in the recent Traffic Management legislation.
- 3.24 We also believe that it is important that consideration is given to local bus service journey times, so that bus operators do not follow the train operating companies' practice of building excess running time in order to avoid punctuality penalties. This practice is not in the interests of rail passengers and would not do much to encourage continued use by existing passengers if bus journey times are purposely made longer. We would not wish to see any system that might encourage bus operators to build in excessive recovery time, either en-route or at termini, to avoid penalties arising from the Traffic Commissioner's interpretation of punctuality.
- 3.25 Bus punctuality, reliability and journey times need to be monitored constantly and considered by a partnership of operators and those responsible for the highway and enforcement matters through a mechanism that routinely provides relevant and up-to-date operational information. The issues should be considered locally as and when they arise rather than waiting for complaints, investigations and a public inquiry before proposed solutions are put forward by the Traffic Commissioner. There have been situations where an inquiry has, effectively, been an investigation into ancient history.<sup>2</sup> Passengers' needs are more imminent.

<sup>2</sup> Statement derived from one of the CPT witnesses answering question 124 of the Parliamentary Transport Select Committee's Pre-Legislative Scrutiny of the Draft Local Transport Bill, 21<sup>st</sup> June 2007

- 3.26 The following model has been the subject of discussion by the Bus Partnership Forum's Punctuality Task & Finish Group, involving representatives of the Confederation of Passenger Transport, the Passenger Transport Executive Group, CSS (representing Traffic Managers' interests) and ATCO. It is based on the local authority working in partnership with all operators in their area for the purpose of identifying matters that affect the punctuality, reliability and speed of local bus services. Such a partnership would involve the area's Traffic Manager and representatives of other bodies that have an effect on bus operations in that area, including the Police, the Highways Agency in circumstances where buses operate along their roads, Network Rail where level crossings are a relevant factor and, in two-tier authority areas, the authority responsible for on-street parking enforcement.
- 3.27 In some circumstances, a local partnership might involve the officers of more than one local highway authority so that punctuality, reliability and journey time issues can be addressed route by route which is, of course, how passengers experience services rather than being confined by administrative boundaries.
- 3.28 This proactive approach would focus on matters relating to permanent traffic management opportunities to assist bus operations and consider the management of road-works and other temporary matters that might cause difficulties for bus operations. The partnership would provide the appropriate forum for balancing the needs of the utilities to carry out major work that might normally require whole road closures with the needs of local bus service operators to maintain routes as close as possible to people's origins and destinations, particularly where proposed diversionary routes for ordinary traffic would impose significant additional walking distances for people with mobility difficulties. The availability, to local partnerships, of actual operational information would aid this process.
- 3.29 The local authority, on behalf of this partnership, would prepare a report at appropriate times, not less than annually, on punctuality and reliability of all local bus services in the partnership area, identifying problem areas, proposed actions or reasons justifying no action and an implementation plan, timetable and funding. This report would have regard to the local transport plan and other relevant policies setting the context for proposals and the local highway authority's Traffic Management Act responsibilities.
- 3.30 Such reports and the partnership arrangements to review the problems and determine possible and affordable solutions would better fit with the general philosophy in the draft Bill concerning having solutions that match local circumstances. A local authority is in a much better position to tailor the need for reporting by different operators to match the scale of operations and magnitude of problems affecting the punctuality, reliability and speed of each operator's services.
- 3.31 This model is based on jointly finding solutions to situations as they arise rather than relying on the Traffic Commissioners to apportion 'blame' some time after problems have arisen. The frequency of meetings and reports can be set by the local partnership in relation to the scale and urgency of the problems, matching the Government's apparent intention to encourage local determination, rather than impose 'one size fits all' solutions.
- 3.32 The powers of Traffic Commissioners should be extended to be able to require the operator of any registered service to co-operate with the relevant local authority for this purpose. Such co-operation would include the provision of punctuality and reliability data for their local bus services to an extent necessary for the proper

consideration of the issues. Failure to do so would be a matter about which the Traffic Commissioner could take action against the operator, as appropriate.

- 3.33 The local authority acting on behalf of such partnerships would be required to allow any operator to add comments to reports to the Traffic Commissioner if the operator cannot agree with the content of the report. This would avoid the situation of a local authority/ies not facing up, or not properly justifying their response, to problems within their control.
- 3.34 We are concerned about the total inadequacy of VOSA's current resources available for bus service monitoring duties. A centralised system would require significantly increased resources, both to handle and analyse data routinely provided by the bus operators and for checking, on the ground, that submitted data accurately reflect everyday punctuality. Meanwhile local highway authorities will still be collecting data on traffic, including buses, for LTP purposes and many local transport authorities will still be monitoring bus contract compliance, including punctuality. Thus there is the potential to have a central bureaucracy working in parallel to local systems that is unlikely to achieve overall value-for-money. The suggested alternative 'local partnerships' model, building on existing practices, is likely to be more effective (as demonstrated in the above paragraphs) and ultimately offer better overall value-for-money in focussing on the delivery of better local bus services.
- 3.35 There would be resource implications for local authorities, but we suggest this alternative model because we feel that the local authority is more likely than the Traffic Commissioner to have an understanding of operating conditions in their area and their relevant policy context. This arrangement would also benefit from having designated Traffic Managers working towards solutions as they arise rather than waiting to be summoned by the Traffic Commissioner after an operator's failings become so bad that the Commissioner decides to hold a public inquiry.

(e) Community Transport

- 3.36 We welcome the proposals regarding the role of Community Transport services. This will certainly help in some areas but it should not be seen as a panacea for all rural areas. Buses will always be an essential part of the mix, even in rural areas, particularly as an efficient way to convey school pupils.
- 3.37 We note that a possible effect arising from the proposed changes is that services currently operated under section 19 permits may become registered under section 22 and thus their elderly passengers and those with specific disabilities would become eligible for concessionary fares. This, in itself, is to be welcomed. However, we are concerned that, in England, this could have an unfortunate and unplanned impact on local authority budgets for which Government would need to allocate adequate revenue resources. Furthermore, this might result in capacity problems creating a need for additional vehicles that could not easily be resolved by the standard reimbursement method in England.
- 3.38 We believe that it would be beneficial to require all existing operators to renew their section 19 permits, over a period of time, under the new Traffic Commissioner arrangements in order ultimately to have a clearer understanding of section 19 operations in every area. This might also raise quality standards in what is becoming a more important part of the public transport offer in some areas. Clear guidance must be given, when Section 19 / 22 permits are issued, in respect of for example (a) minimum vehicle servicing intervals required to be in line with PSV



standards and (b) driver competence and suitability in addition to holding the correct driving licence.

- 3.39 We believe that, because of the complexities of the regulations governing minibuses, a DfT review needs to be undertaken in regard to the operation and driver and vehicle licensing in respect to minibuses, to ensure (a) clarity to those operating and driving minibuses in respect of legal compliance and (b) that clear standards of safety and risk management are in place for passengers regardless of type of minibus operation.

(f) Other Measures: Taxi-Bus Services

- 3.40 We welcome the proposal to allow PHV operators to have the same ability as hackney carriage operators to operate taxi-bus services. However, we are doubtful as to its take-up.

*Q2: What are your views on the specific questions relating to competition legislation (Box 3.4)?*

- 3.41 In our experience, the actual or perceived fear of competition legislation is a barrier to the establishment of meaningful partnerships that can deliver benefits to the travelling public. We remain concerned about competition issues and would welcome greater clarity about this and the role of the Office of Fair Trading (OFT).

- 3.42 We are concerned that competition between operators in ways that appear to be acceptable to the OFT does not equate with the best interests of passengers and local communities. For example, two operators may compete 'head-on' for passengers along routes with infrequent services. This is well illustrated by one operator having its hourly Slough - High Wycombe service scheduled just a few minutes ahead of another operator's bus on the same route. The OFT may see this as a prime example of businesses competing with each, but it does very little for existing or potential passengers and reinforces the view that buses are operated for profit rather than for passengers' benefit. Passengers' best interests would be better served by co-ordination. Similarly, the way that competition leads to reactive changes and consequent service instability, or perceived instability, means that people will not choose to make 'lifestyle decisions' that involve relying on bus services for essential travel, such as to and from work. This was recognised, by the Audit Commission, as an issue that makes delivering patronage growth difficult.<sup>3</sup>

- 3.43 We find it difficult to understand why it cannot be accepted that the private car is the principal competition in the wider travel market in which local bus services operate. We believe that the legislation should be clarified such that, in partnership schemes, any bus operator actions designed to co-ordinate services with the agreement of the relevant authority and in line with their policies aimed at improving services for existing and new passengers would not be deemed to be anti-competitive.

*Q3: Do the proposed "public interest" criteria for quality contracts schemes cover the right issues (Box 3.5)? Do they strike the right balance between making schemes a realistic option and protecting the legitimate interests of bus operators?*

- 3.44 We welcome the public interest criteria as they represent what a local authority ought to be doing in order to satisfy itself and the local electorate that a Quality Contract scheme is in the best interests of the local community.

<sup>3</sup> 'Delivery Chain Analysis for Bus Services in England', Audit Commission, December 2005

- 3.45 Demonstrating how proposals satisfy the public interest criteria and how consultation responses have been considered in making the final decision about a Quality Contract scheme is vital. It would give transparency in the decision-making process and pave the way for not needing the time-consuming proposed Approval Board and Transport Tribunal process. Any aggrieved party would instead be able to seek a judicial review of the decision on the basis that either the proper procedures had not been followed, including showing that consultation responses were not properly considered, or the decision was unreasonable in terms of the public interest criteria.

*Q4: How can the proposed new bus punctuality regime (paragraphs 3.32 to 3.39) best be designed to achieve the desired benefits at minimum cost, particularly for smaller operators?*

- 3.46 The need for punctuality, reliability and journey time information should be tailored to the actual services being monitored irrespective of the size of the operator. We cannot see any logic in having a nationally imposed regime on all services as this will not relate to the actual local situation, the need for information and the relevance of requiring GPS data. The methodology is best agreed locally, by the local authority and operators, particularly given the wide spectrum of bus services across the country ranging from 'frequent' services to once-a-week (market day) services. The operators and authority within a local partnership are best placed to understand the issues involved in delivering bus services that local people want to use in the context of local transport and other relevant policies. This leads logically to the requirement for local authority-led partnerships, as described in paragraphs 3.23 - 3.35 above.

*Q5: Do the proposals to amend the existing powers relating to subsidy contracts provide sufficient flexibility to meet local authorities' needs (paragraph 3.47)?*

- 3.47 We welcome the proposal to allow local authorities to use their budgets to secure improvements to existing services, in terms of frequency or types of vehicle. However, this needs to be accompanied by a review of existing De-Minimis limits to facilitate procurement of local bus services that might be needed alongside existing commercially-provided services.
- 3.48 We welcome the proposal to enable local authorities to extend the maximum length of tendered local bus service contracts from five to eight years. This should have two beneficial effects:- Passengers might experience greater service stability and smaller operators may have greater confidence to invest and bid for contracts.

Additional Issue: Advance Notice of Registrations to Local Transport Authorities

- 3.49 The most important issue that is not included in the draft Bill is a provision that would require operators to submit registrations to the local transport authority or authorities responsible for the area or areas in or through which the local bus services operate in advance of its formal receipt by the Area Traffic Office.
- 3.50 We have demonstrated the need for the introduction of a 70 day notification period in Partnership areas. However, its introduction for all registrations everywhere would give local authority public transport officers the opportunity to assess the co-ordination of services, both in terms of headways between services and for connections with other buses, trams, trains, ferries, etc., for the benefit of

passengers. The aim would be to prevent situations such as that described in paragraph 3.42 above.

- 3.51 Authorities should be able to ask the Traffic Commissioner not to accept a registration if it does not provide as reasonably co-ordinated a service as practically possible. We are aware of the constraints that exist in scheduling that can sometimes limit the scope for co-ordination and this would be taken into account both by the local authority in deciding on its representation and by the Traffic Commissioner in determining his/her course of action. In practice it is unlikely that any of the above would involve the local authorities or the Traffic Commissioner in significantly more work because, once aware of the new powers, most bus operators would ensure that their registrations were as well co-ordinated as possible in the first place, knowing that if they were not they might not be accepted. Operators would, as today, be free to speak with local authority officers on a confidential basis prior to submitting registrations.
- 3.52 The 70 day notice period would also allow local authority public transport officers to check the accuracy of details in registrations which are not only important for the on-road operation of services but also, and more importantly, for the provision of adequate and accurate information to existing and potential passengers.
- 3.53 The extra time to consider how to react to significant de-registrations that leave people without an adequate local bus service would enable authorities needing to procure a tendered local bus service replacement to have more chance of obtaining a value-for-money solution by having more time to seek competitive tenders.
- 3.54 The 70 day notice period would fit with the proposal that the Traffic Commissioners be given powers to prevent aggressive and excessive on-road competition.<sup>4</sup>
- 3.55 Altogether this '70 day' rule would allow public transport co-ordinators actually to fulfil this important co-ordination function to help deliver better bus services for passengers.

Additional Issue: Bank Holiday Registrations

- 3.56 We are concerned that the 21-day notice period for Bank Holiday registrations, particularly with respect to the Christmas period, is insufficient. This shortened period makes it difficult for authorities to provide adequate and timely publicity for Bank Holiday arrangements and to check and forward timetable information for Traveline and associated purposes. People often make their holiday plans or need to know if they are able to get to and from their place of employment well in advance. Bank Holidays are hardly unforeseen events and we find it difficult to accept that operators cannot plan for Bank Holiday periods sufficiently to be able to give notice as with any other service changes. We would not expect any change to affect the discretion Traffic Commissioners have to vary this notice requirement in appropriate circumstances.
- 3.57 This 21-day situation also makes it difficult for authorities to secure alternative provision when commercial services are changed in circumstances where there is still a need to provide some form of public transport service.

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<sup>4</sup> 'Strengthening Local Delivery - Modernising the traffic commissioner system', DfT consultation paper, July 2007, paragraph 48.

- 3.58 We wrote to the Department for Transport in January 2007 about this matter. We hope that it can be included in changes to Regulations.

Additional Issue: Bus Service Operators Grant

- 3.59 Despite it being raised in '*Putting Passengers First*', we regret that the future of Bus Service Operators Grant (BSOG) remains unresolved. This support for bus services is vital in helping redress the current imbalance of public funding that favours rail passengers rather than bus passengers despite the fact that, statistically, bus users tend to be the poorer sectors of society. In those terms, there is a strong case for increasing the amount of Government support for bus operations.
- 3.60 BSOG is not well focused on the achievement of public policy objectives, being a subsidy for fuel used. Thus, it does not encourage fuel economy, nor is it related to patronage or any other specific public policy objective. Additionally, being given to every registered local bus service, it provides public subsidy to certain services that, through their competitive nature (for example, operating a few minutes in front of another infrequent service), do not offer passenger benefits or which add to on-street congestion in busy locations, thereby exacerbating local air quality problems.
- 3.61 We believe that it would be better for passengers and local accountability if BSOG were channelled into bus operations through the relevant local transport authority in accordance with local policy objectives. This is likely to affect marginal commercial services and some might be de-registered, but this would enable the authority to target the re-channelled funding in such a way as best meets passengers' and the local community's needs. This might be to achieve patronage growth to reduce congestion in urban areas. It might be to support appropriate services tailored to local needs and objectives of improving accessibility in other areas. Essentially, the key factor is that locally accountable authorities are best placed to use such revenue funding, especially if it is ring-fenced, to ensure that it is spent on bus services that meet the needs of passengers and local communities.
- 3.62 One use for a proportion of the BSOG funding channelled through the local authorities should be to support the regional Traveline facilities. This would overcome the current difficulties of some operators refusing to pay Traveline bills and would, thus, 'level the playing field' in terms of providing the Traveline service for the benefit of all operators.
- 3.63 We believe that the future of Bus Service Operators Grant (BSOG) must be resolved and brought in line with public policy objectives and that this should be dealt with in the forthcoming Bill, an opinion shared by the House of Commons Transport Committee.<sup>5</sup>

Additional Issue: Operator of Last Resort

- 3.64 We were asked, when appearing at the House of Commons Transport Committee, about the role of local authorities as the "operator of last resort" if a monopoly operator is penalised by the Traffic Commissioner and no reasonable alternative service provider could be found.<sup>6</sup> We see benefits in explicitly allowing authorities to operate buses in such circumstances. It would also be useful if all local transport

<sup>5</sup> '*The draft Local Transport Bill and the Transport Innovation Fund*', House of Commons Transport Committee Ninth Report of Session 2006-07, Volume 1, paragraph 34, recommendation 11.

<sup>6</sup> '*The draft Local Transport Bill and the Transport Innovation Fund*', House of Commons Transport Committee Ninth Report of Session 2006-07, Volume 2, question 520.

authorities were allowed to operate local bus services in a limited way in order to judge the value-for-money aspect of tenders especially where competition for tenders is weak. It is a matter that should be considered for inclusion in the Bill in the context of 'putting passengers first', albeit as a reserve power.

Additional Issues: Bus Passenger Complaints

- 3.65 Bus passengers have no easily identifiable body to which to make complaints. We share the opinion, expressed by the Transport Committee<sup>7</sup>, that there should be an independent, publicly-funded body to receive and deal with complaints from bus users, so long as it has the resources to deal with complaints in a manner that gives confidence to bus users that their views matter. The establishment of such a body would help demonstrate the Government's commitment to bus passengers and the need to work towards improved standards.
- 3.66 Few people see the Traffic Commissioner as the appropriate person, often being seen as remote and without the ability to act unless a situation becomes so bad that it warrants a public inquiry. We recognise the good work done by Bus Users UK but do not believe that they are adequately resourced for the task and their coverage and 'visibility' across the country is variable.
- 3.67 We would welcome discussing this matter further to clarify the role of local transport authorities in the working arrangements for a national bus complaints body both as a channel through which complaints might be made and to ensure that complaints about local bus services in their area are immediately available to the relevant authority to inform their work on improving the delivery of better bus services

Additional Issues: Local Bus Services over fifty kilometres

- 3.68 We are concerned about the effect of EU regulations on the provision of 'long bus routes', defined as those over fifty kilometres. This affects many services in rural areas, exacerbated by the centralisation trends of hospitals and other providers of essential services accompanied by closures or down-grading of local facilities. We are aware of many former 'long bus routes' having been split into sections of less than fifty kilometres. This has two effects;- passengers have to change buses or even alight and re-board the same bus so that the operator can demonstrate that each section is a separate local bus service; and passengers often have to pay two fares in absence of through-ticketing arrangements. The former issue is at best inconvenient but, more importantly, damages the image of such local bus services particularly as an alternative to travel by car. The latter issue can make bus travel needlessly more expensive and impact on the concessionary fares scheme budgets of 'rural' local authorities through increased reimbursement demands.
- 3.69 Inter-urban local bus services with routes over fifty kilometres have been developed in several parts of the country and some are encouraging passenger journeys that would not otherwise be made by bus. In some instances, routes have been amended to be below fifty kilometres, one example involving loss of the service into a village because that diversion made the route over fifty kilometres. Another former 'long' bus service has been truncated at a market town, six miles short of the city centre that was its previous terminus and patronage has declined. We are also aware of authorities that are having to take action to sever longer tendered local bus

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<sup>7</sup> 'The draft Local Transport Bill and the Transport Innovation Fund', House of Commons Transport Committee Ninth Report of Session 2006-07, Volume 1, paragraphs 30 and 31 and recommendation 11.

services in order to avoid excessive cost increases and/or to maintain interest in the tenders. None of this helps put passengers first.

- 3.70 Also, splitting 'long' local bus services with virtually the same arrival and departure times at the split point cause difficulties for Traveline and other journey planning facilities that require a clear time between arrival and departure for changing buses.
- 3.71 There is no apparent reason to believe that a driver or vehicle operation is any less safe if operated over fifty kilometres than shorter services so long as the provisions relating to driver hours are respected. Indeed, we understand that the original European Drivers Hours legislation was processed through the 'Social Affairs' Directorate and not through the 'Road Safety' Directorate, being designed to harmonise certain aspects of social legislation.
- 3.72 We are aware of the technical and cost implications of making buses compliant with EU requirements and believe that this is an unfair burden on authorities procuring 'long bus routes'. We are also aware of the scheduling arrangements that can arise with smaller operators, such as are often found in rural areas, seeking to roster drivers to comply with the regulations which, in some circumstances, make procurement of weekend services more difficult and/or costly - due to actual costs or lack of competition. Each of these matters put rural residents at a greater disadvantage compared to urban residents.
- 3.73 We believe that Government should seek a derogation from the EU regulations for registered local bus services, irrespective of their route length, so that all local bus services, rural and urban, are subject to the same safety and driver requirements. We are aware of a suggestion that the local transport authority should verify that 'long bus routes' are genuinely needed to meet the needs of local communities and see no problem in this if it helps to overcome the problems caused.

#### Bus Issues: Conclusion

- 3.74 In carrying out many of the proposals implicit in the draft Bill and to improve the travelling experience for bus passengers generally, it is important that Government recognises the need for an increase in revenue funding especially for subsidising services to increase the standard of service on particular routes, in terms of frequency, hours of operation or quality of vehicles. This could be done by increasing the total amount of BSOG funding, channelled through local authorities, to match public funding of rail passengers in terms of support per passenger journey. The need for revenue funding to be attached to capital schemes, for example - Real Time Information provision and Park & Ride services, must also be recognised.
- 3.75 We believe that the intended new legislation should follow, as closely as possible, the aim of putting passengers first. Nothing that would help passengers, both existing and new ones, should be set aside as too difficult or unpopular with operators or local authorities. Local authorities must be able to harness bus operators' commercial expertise to secure the best possible provision to meet local community and passenger needs. The Bill must also enable local authorities to guide free-market provision and/or to work in meaningful partnerships with operators. Operators must be able to maximise passenger benefits without fear of competition legislation. Where appropriate, The Bill should allow authorities to secure control over bus service provision, without undue hindrance, if the best way of delivering better bus services.

#### Chapter 4: Reforming local transport governance

*Q6 Do you agree that governance arrangements in the metropolitan areas outside London require reform?*

4.1 We recognise advantages.

*Q7: Do you agree that there is a need for flexible arrangements which allow for variation in the governance developed for different areas?*

4.2 We believe, as a matter of principle, that local determination is best.

*Q8: Do you agree that the cities themselves should be asked to publish proposals on revised governance? Do you have views on which body or bodies should be asked to prepare those proposals?*

4.3 We have no comment on this matter.

*Q9: Do you agree that the Bill should enable broad changes, or should there be limitations on what change might be allowed?*

4.4 It is difficult to envisage why the proposed legislation should limit the scope of any such review. It should be left to the local authorities concerned to determine what should or should not be considered for change.

*Q10: Do you think that the power to review and amend governance arrangements should allow development over time, or should the powers lapse after an initial review?*

4.5 We have no comment on this matter.

*Q11: Do you agree with the changes we are proposing to the powers and duties of PTAs in all the metropolitan counties?*

4.6 We are concerned about Passenger Transport Authority (PTA) boundaries. We recognise potential advantages of having a PTA for contiguous or adjacent urban areas, where they face similar transport challenges. The co-ordination of public transport services is logically best done across areas that reflect people's travel patterns, for example mirroring travel-to-work areas that rarely respect local authority boundaries. Also, we cannot see any logic in including a whole local authority area if significant parts of it are wholly rural and have transport issues that are better addressed through joint working with adjacent 'rural' local authorities.

*Q12: Do you agree with the proposed changes to Local Transport Plans described in paragraphs 4.43 to 4.45? Should these changes be applied only to the metropolitan counties, or should they be applied elsewhere, for example to other city regions?*

4.7 We understand and accept the proposed abandonment of Bus Strategies so long as the Guidance for the third round of Local Transport Plans reinforces the need to continue to recognise the importance of local bus services.

4.8 We have no comment on the principle of introducing Integrated Transport Strategies and Implementation Plans. However, despite the importance of public transport, we have concerns about the acceptability of bodies recognised as exclusively

interested in public transport being responsible for the production of Integrated Transport Strategies. It is important that policies for the co-ordination and promotion of and investment in public transport, including buses, need to be clearly related to all other policies and that this is best carried out by an authority that can secure acceptance of the wider community, including local businesses.

## Chapter 5: Taking forward local road pricing schemes

5.1 We have no comments to make on this section of the proposed legislation.

## Chapter 6. Traffic Commissioners

*Q14: To what extent is there a problem of 'inconsistency' between the approaches of the different traffic commissioners, and what costs does this impose on PSV and goods vehicle operators?*

*Q15: Do you agree that the proposals outlined here would help to reduce those costs?*

6.1 We do not wish to comment on these specific questions.

### Ancillary Matters

6.2 We welcome the proposal to make the position of Senior Traffic Commissioner a statutory one with the ability to ensure consistency across the individual Traffic Areas. We also welcome the provisions that will allow Traffic Commissioners to discharge their functions across territorial boundaries when necessary.

6.3 Whilst we have established a good working relationship with the Senior Traffic Commissioner and many of the regional Traffic Commissioners, we are concerned about the degree of authority proposed for the Commissioners over proposals that have been developed by elected local authorities and PTAs. It must be better for passengers if as much co-ordination of, and responsibility for, local bus services is left with locally accountable authorities alongside their responsibilities for other aspects of public transport co-ordination, and for policies for other road users and the well-being of their local community generally.

6.4 Any move to increase the powers of the Traffic Commissioners rather than reinforce the duties of local authorities will further fragment the responsibility for securing the best possible local bus services for local people. The Bill should seek to give local councillors as much responsibility as possible, together with the ability to harness the expertise of commercial operators, because it is local councillors who live or work in the local area and are, thus, best placed to respond to bus passengers' (electors') needs.