

TRAVELWATCH EAST MIDLANDS RESPONSE TO CONSULTATION ON THE TRANSPORT BILL 2007

TravelWatch East Midlands (TW-EM) is an independent regional body which aims both to represent the interests and concerns of public transport passengers across all forms of transport, and to assist local and regional authorities' work towards an integrated and seamless quality public transport network for the East Midlands region. Its mission is to champion public transport so that it becomes:

- Accessible to everyone
- Affordable and socially inclusive
- Available when and where needed
- Acceptable to all
- Attractive to users

Bus and tram patronage over the East Midlands region increased by 5.2% between 2003-04 and 2005-06, in comparison with decline in other English regions and if for this reason alone, we suggest that Government should have regard to this Region when considering best practice.

We welcome the opportunity to comment on the draft and have marshalled our response in the same order as the questions are posed in the consultation document.

Q1 - Chapter 3 - Improving the quality of local bus services

TW-EM welcomes the emphasis of the draft Local Transport Bill upon the intention to empower local authorities to take appropriate steps to meet local transport needs, in the light of local circumstances. We wish to see co-operation between bus operators and local authorities to encourage modal shift from car to bus. What must be avoided are local networks designed by politicians and bureaucrats who never use buses, or operators competing on individual routes for every last passenger, while other routes with more potential are ignored.

In particular:

(a) voluntary partnership agreements:

We welcome the strengthened powers to enter into voluntary agreements and a revised competition test to facilitate multilateral agreements.

(b) quality partnership schemes:

- i. We support a new public interest test replacing the current OFT "block exemption" and allowing LTAs to be involved in determining timetables and fares.
- ii. As the Transport Select Committee (TC) report, para 39 say's "Partnership should mean precisely that. It is not right that one party to an agreement can set bus frequencies, timings or anything else without the consent of the other parties".

(c) quality contracts schemes:

- i. Quality contracts have great potential to improve patronage, a prerequisite of any wider demand management scheme

- ii. We welcome the proposed modification to existing law to enable 'quality contracts' schemes to specify bus networks, timetables and fares in their local areas and to let contracts to bus operators to run those services

(d) bus punctuality:

- i. TW - EM welcomes the introduction of a bus performance regime and the wider powers to reflect a responsibility shared by local authorities and bus operators for delivery of improved performance and reliability. The reference not only to the provision and enforcement of bus priority measures, but also coordination of road works is important - buses are more affected by delays than other vehicles which may use alternative routes. To undertake this task, the Traffic Commissioners' should be granted enforcement powers that are designed to give access to performance data relating to specific operators and routes (Clauses 31-32) and to pin-point under-performance and investigate its causes.
- ii. Furthermore, we were pleased to note the confirmation by the Minister to the Commons on 17th July that Government will implement regulations under parts 3 and 4 of the Traffic Management Act 2004, not only to update the system of managing road works by utilities, but giving local highway authorities powers to implement proactive controls by allowing them to apply to run permit schemes.
- iii. There is however, an asymmetry to the proposals in that the Traffic Commissioners would have the power to take immediate action against an operator while the proposed process for securing local authority compliance is lengthy and possibly uncertain. We are concerned at rumours that requirements for action by local authorities may be watered down in the final version of the Bill. There is a case for streamlining the processes by which the Traffic Commissioners would require remedial action from local authorities.
- iv. There is also a danger of perverse outcomes resulting from the focus on punctuality. By emphasising punctuality in isolation from journey times, local authorities and operators may be inclined to 'pad' schedules. Extended journey times may deter modal shift, absorb more resources and generally make services more expensive to operate.

(e) community transport:

- i. We support the proposal to relax the rules relating to community bus services, in particular, to extend s19 permits to vehicles with less than 9 seats, for Section 22 services to allow drivers to be paid and larger buses to be used.
 - ii. However, there is nothing, as presently drafted to safeguard the viability of local bus services from being undermined by the development of Community Transport services. We are concerned that these changes are used to improve services and not as an excuse for cost-cutting, with replacement of experienced bus drivers by lower-paid "Community transport" staff with less training.
 - iii. We also support the change enabling taxi and private hire vehicle licensees to apply to the Traffic Commissioner to register and operate local bus services (Clause 26).
 - iv. We welcome the proposal to empower local authorities to enter in to agreements to secure provision of services "to a particular standard", including the frequency and timing of services (Clause 34).
 - v. Also that all permits would be issued by the Commissioners.
- and

(f) other measures:

- i. We further welcome the confirmation by the new Secretary of State that consideration is being given in the run-up to the Comprehensive Spending Review to the reform of the Bus Service Operators' Grant. As Transport 2000 said in its evidence to the TC: *"The current system is ...cheap to administer and relatively proof against fraud; any replacement should be measured against this. We are concerned that any proposal should not have an adverse impact upon rural services to the benefit of already*

profitable ones. One option might be to extend the rebate but require operators to pursue green vehicles strategies and marketing bus services."

- ii. Regardless of the outcome of any reform, there is a need for better and more consistent funding via Local Authorities. It is unhelpful to give them additional responsibilities without additional funding. The possibility that a service will be withdrawn or altered in the near future is a severe disincentive to reliance on bus services. This compares with the relative security of rail services. Proposals to increase bus contract lengths pre-suppose long-term funding.
- iii. We believe that the Vehicle Operators Services Agency should have the power to impound unsafe buses.
- iv. The Bill includes a change in the law regarding appeals against Traffic Regulation Conditions. As passengers, it seems more important to improve enforcement of these conditions than how to appeal against them.

Q2: Competition legislation (Box 3.4)

- i. Bus users think that OFT and competition law have worked against their interests. Whether that is really the case or whether Local Authorities and operators have used them as convenient bogeyman to hide behind has had little effect on the action taken, or more often, not taken. So, we support a new public interest test replacing the current OFT "block exemption" and allowing LTAs to be involved in determining timetables and fares.
- ii. The changes to the Competition test for bus services in this Bill are a step in the right direction. For too long operators and local authorities have had difficulties operating integrated services within the present regulatory framework. We are aware that Transport 2000 has commissioned a legal opinion on the viability of a public interest test for buses and we await the outcome with interest. If the conclusions are favourable the Government should look seriously at further legislative changes in this area

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?

- i. We agree with the criteria listed. We support TC who say at para 57 "*We believe that the basis for a quality contract scheme to go ahead should be that it will improve significantly the predicted passenger numbers*".
- ii. We question however tendering by route. Most routes outside London require fewer buses than those in London and there needs to be a reasonable network set up in the QC to justify setting one up.

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?

- i. We welcome the Government's stated desire to work with stakeholders in developing a new punctuality performance regime and to hold both local authorities and operators to account for their contribution to the performance of local bus services.
- ii. See also our response to Q1 (D).

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

- i. There is no point in "amending the rules which permit local authorities to subsidise services" without providing funds to do so.
- ii. "Extending the maximum length of bus subsidy contracts from five to eight years" runs the risk of creating massive changes at the end of a longer contract.
- iii. Given that many places exhibiting increased patronage have bus companies that are wholly or partially council-owned, we see no reason to change the requirement for the Secretary of State to give consent in respect of the sale of them.

Chapter 4 – Improving local transport governance

- i. We welcome the Government's stated desire to work with stakeholders in developing a new punctuality performance regime and to hold both local authorities and operators to account for their contribution to the performance of local bus services. We regret however, that there are still no provisions for the establishment of statutory representative bodies to represent public transport users, either multi modal or buses at national or regional level.
- ii. The Transport Select Committee suggests that a new independent, publicly-funded complaints body should be set up for bus users. We support the principal, but it is however important, to align consumer representation with the level at which decisions are made. We are mindful that the issues which give rise to most legitimate bus passenger concerns emerge at a more local level and it is for this reason that regional TravelWatch organisations now exist in five of the English regions.
- iii. The effectiveness of TW-EM has been achieved through its evidence-based approach to regional strategy development. This has been aided by its membership base of users' groups throughout the region and close working relationship with the organisations of regional government, local authorities and transport providers.
- iv. The TravelWatch organisations where they exist are well placed to meet the need for effective cross-modal passenger representation and that this would be secured by in return for a Departmental contribution to their modest administrative costs. It would provide tangible evidence of the Government's commitment to *Putting Passengers First*.

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

Yes.

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

We agree that given the significant differences between areas, a flexible approach is necessary.

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?

- i. We accept that the S of S should have powers to require a review and issue guidance, but the final decision should be within the regions to reflect the differing needs of the area.
- ii. Given the inter-dependence between many neighbouring authorities in the provision of a public transport network, the review should be conducted at regional or sub-regional level.

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

We agree with the Bill as drafted.

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?

We feel that the power to review and amend governance arrangements should allow development over time.

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

- i. Broadly yes, but, PTAs should have to take account of a full range of national transport policies.

- ii. The East Midlands, unusually, includes Local Transport Plan areas that do not relate to Local Transport Authority boundaries. For example, the Derby Joint LTP area includes Derby UA and parts of several districts within Derbyshire and similarly for the Greater Nottingham and Central Leicestershire LTP areas.
- iii. The draft bill (clause 49) refers to altering the boundaries of PTA areas (e.g. to cover an additional local authority area). TC (para 102) says that *"It is clear that travel to work patterns do not respect administrative boundaries and that there is a solid case for the possibility to create new PTA areas as well as the review of existing ones.... The Committee's evidence provided several examples of areas where it would seem wholly logical for part of a local authority to join a Passenger Transport Authority. The requirement for the whole authority to join will stifle the development of passenger transport areas that truly serve the needs of passengers."* They recommend *"A mechanism to allow part of a local authority area to join a passenger transport area in exceptional circumstances should be developed and included in the Bill proper. It is vital that PTA boundaries can be fixed in ways that reflect local strategic partnerships as well as local travel-to-work-patterns."* We support this recommendation.
- iv. TC para 102 also says *"According to Clause 40(8), one of the criteria for a review to be carried out is that "the effectiveness and efficiency of transport" within an area is likely to be improved. "Effective and efficient" are, however, ambiguous terms,...The criteria of "effective and efficient" must be more clearly explained if there is to be transparency and predictability for authorities seeking to develop new or review existing passenger transport areas."* We regard this as important for both PTA areas and the remainder of the country.

v.

Q12: Do you agree with the proposed changes to Local Transport Plans described in paragraphs 4.43 to 4.45?

- i. We agree with the proposed changes. East Midlands Regional Spatial Strategy policy is for a 'step change' in delivering the use of public transport. This will require the engagement of district as well as county councils and unitary authorities.
- ii. Inter-departmental cooperation on matters relating to the provision of collective transport within local authorities might also be encouraged usefully in order to any synergies available through better integration of activity in related areas, whether tendered bus services, rural transport partnership activity, home to school transport, social services' transport, etc.

Should these changes be applied only to the metropolitan counties, or should they be applied elsewhere, for example to other city regions?

- i. We believe that the options for change should be extended to other areas outside the metropolitan counties.
- ii. The current competences of district councils in Section 106 agreements, in relation to parking matters and to concessionary travel make it essential to ensure that such authorities are engaged with any governance arrangements that might emerge as a consequence of Clause 46 or from other parts of the draft Local Transport Bill. We further suggest that there could be value in extending the concept of a 'statutory duty to cooperate', as outlined in paragraph 5.26 of *Strong and prosperous communities* (The Local Government White Paper of 2006, CM6939-1), to all local transport authorities (and not just, as proposed, to the Metropolitan Passenger Transport Authorities). This is consistent with the principles underlying the governance provisions generally (Clauses 39-55) of the draft Local Transport Bill and the proposals for greater flexibility for different arrangements in different areas. It provides added rationale for the provision that would enable county council and unitary authority areas to carry out their own reviews of governance arrangements.

Chapter 5 – Taking forward local road pricing schemes

Q13: What are your views on the proposals relating to:

(a) Local freedom, flexibility and accountability (paragraph 5.18), including the proposals in Box 5.1:

- i. There should be a clear, binding commitment to give local people a chance to air their views on local road pricing schemes before they are introduced.
- ii. As the TC in para 132 says: *"Proper consultation should not be seen as an obstacle to introducing local charging schemes; it is an essential part of their proper introduction and a means of ensuring that they are well designed, that they meet local needs and that road users understand why they are being introduced and what the expected benefits are. We recommend that Clause 73 be omitted from the Bill."*

(b) Consistency and interoperability (paragraph 5.22):

- i. This section illustrates the problems caused by govt failing to take a clear lead over Road Pricing. Inter-Operability is obviously necessary, but the position currently with transport smartcards, where a major scheme (Oyster) was in use before the standard was produced, needs to be avoided. We consider that broad parameters should be set centrally. For example, as the Select Committee propose: *"Whilst local authorities will be able to vary the charges they impose on drivers according to the means of payment, we feel there should be standardisation of systems so that vehicles can be driven from one charging zone to another without having to register for each scheme. There must be at least one universal method of collecting/paying charges, transferable between all schemes. A national road-pricing scheme would be a major departure from the local schemes envisaged in this Bill and if the Government were to introduce a separate Bill to enable this, it should only be after pilot studies into the effects of pricing on the national road network."*
- ii. It is critical that local authorities must make sufficient improvements in local transport to provide choice - real alternatives to car use, well in advance of any road pricing coming into force.
- iii. The Transport Innovation Fund (TIF) can only be seen as one part of a much wider approach to tackling congestion. In particular it must be tied to improved local public transport, better coordination with neighbouring authorities and increased strategic control over transport services.
- iv. If the Congestion TIF is to encourage genuine innovation it should be open to all authorities, including those for whom road pricing does not represent the best solution to their congestion problems.
- v. Large scale road building has the potential to run entirely counter to the objectives of the fund. The Government must clarify the extent (if any) to which road building can for part of a TIF bid and the way in which it will be assessed.

(c) Information (paragraphs 5.26 and 5.29):

We are concerned that the current statutory framework is insufficiently robust to address concerns about the protection of drivers' privacy. The legal framework should ensure that potential schemes do not intrude into personal privacy and that the public know what information may be acquired.

Chapter 6 – Traffic Commissioners

- i. Like the TC para 18, we welcome these provisions of the draft Bill. We do not, however, see how the commissioners will be able to perform these new duties properly without more staff and increased resources. We recommend that the Government increase the resources available to the traffic commissioners in line with their new duties for example, if the Traffic Commissioners are to hold operators and LTAs to account for performance they should be much better resourced to enable a proactive regime, rather than as now, only reacting to complaints. There must be a commensurate increase in the number of Bus Monitoring and Compliance Officers.

- ii. The Commissioners need to be considerably more approachable, the DfT website currently includes no reference to which Commissioner covers which area, and no contact details.

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?

We cannot directly answer this question, as we are users not operators. However, we do suffer from inconsistency and remoteness, as the East Midlands are not a Traffic Area. Derbyshire is included in the North-West, Nottinghamshire in the North-East and the remainder of the region in Eastern.

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

We cannot answer this question precisely, other than to suggest that the additional responsibilities, if undertaken properly, could require additional resources. However, this cost should be far outweighed by the social, environmental and economic benefits resultant from the resultant improvement in public transport services provision.

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