

The Local Transport Bill

Volume 2: Summary of points
raised during the consultation

November 2007

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Chapter 1:

Introduction

1.1 This Volume provides a summary of points raised during the public consultation on the draft Local Transport Bill. It includes:

- a summary of points raised at consultation events, and during a series of regional visits and meetings undertaken by the Minister of State, the Rt Hon. Rosie Winterton MP (Chapter 2);
- a summary of the written responses to the consultation on the draft Bill (Chapter 3);
- a summary of the written responses to the separate consultation on modernising the traffic commissioner system (Chapter 4); and
- a summary of the written responses to those questions in the separate consultation on the future of local transport planning that related to the draft Bill (Chapter 5).

Chapter 2:

Summary of points raised at consultation events and meetings

Introduction

2.1 The draft Local Transport Bill was published on 22 May 2007 for public consultation and Parliamentary pre-legislative scrutiny. As part of the public consultation process, four consultation events were held around the country (in York, Birmingham, Bristol and London), where stakeholders were given the opportunity to discuss and ask questions about the proposals in the draft Bill. The events included formal presentations from the Department for Transport (DfT), a question-and-answer session, a series of break-out groups focusing on specific parts of the Bill, and opportunities to talk informally with DfT staff.

2.2 The Minister of State, the Rt Hon. Rosie Winterton MP, also undertook a series of regional visits and meetings to consult on the Bill and to hear about the local transport challenges and opportunities facing our communities around the country.

2.3 Participants in these consultation events and meetings included local authority representatives, transport operators, business and haulage industry representative bodies, environmental groups, trades unions and other interested parties.

2.4 This chapter provides a summary of the issues raised by participants in these events. Comments are given in no specific order nor with any particular weighting. Some subjects were discussed at length and frequently during the workshop sessions while others briefly and perhaps only once.

2.5 All comments expressed represent the views of a variety of national and local stakeholders and are not meant to reflect the views of the Department for Transport or the Government.

2.6 The summary is organised in three sections, which mirror the three core policy strands of the draft Bill:

- improving local bus services;
- facilitating reform of local transport governance arrangements in our major cities; and
- updating the existing legislative framework for local road pricing schemes.

2.7 For each of the three sections, this paper provides a brief overview of the key recurring themes and issues that arose at the events, along with a more detailed summary of issues raised by attendees. The paper does not attempt to respond to

each individual point raised but the Government is publishing, in parallel, its response to the overall consultation process.

Buses

Summary points

2.8 The proposals on buses were generally well received, with widespread agreement that more needs to be done at a local level to improve the quality of bus services to meet passengers' (and prospective passengers') needs. There was broad agreement that the Bill's "toolkit" approach was the right way forward - providing local authorities with a series of realistic policy options, rather than seeking to impose a single model across the country. The clear consensus was that different approaches are indeed needed in different areas.

2.9 There was also general recognition of the picture of the bus market painted in *Putting Passengers First*. In some local areas, real progress has been made in improving bus services and raising patronage, often through successful 'voluntary' partnership working between local authorities and bus operators; but in many places the reverse was felt to be true. One example given of a successful partnership scheme was that of Brighton. Operators and the local authority felt that it was a real success story, down to the close partnership between them. It was emphasised how it was possible to work together towards mutually beneficial ends, and how important individual relationships were.

2.10 A number of attendees argued that, if some areas can make real progress through partnerships, it ought to be possible to replicate that success elsewhere. On these grounds, bus operators in particular felt that the quality contracts provisions in the draft Bill were superfluous. They also argued strongly for the need to safeguard their legitimate commercial interests in areas considering quality contracts schemes, if such schemes are to become a more realistic option.

2.11 By contrast, the dominant view amongst local authorities and others was that the scope for successful partnership working depends heavily on the willingness and commitment on the part of both authorities and operators to work together. Their general sense was that, although the draft Bill should help to address deficiencies in the current legislation relating to partnerships, quality contracts could still be highly desirable in some circumstances. This did not necessarily mean that a London-style system was always preferable, rather stability was what was often needed.

2.12 In the context of quality contracts schemes, a number of parties questioned whether TUPE¹ regulations would apply to workers who transfer from one bus operator to another as a result of a scheme. It was felt that certainty would be important for the workers themselves, and for helping to ensure stability during the transition to a quality contracts scheme.

¹ Transfer of Undertakings (Protection of Employment) Regulations 2006.

2.13 There was also general agreement that poor punctuality and reliability can be a key barrier to raising bus patronage. Most attendees who expressed a view welcomed the proposal that the traffic commissioners should be able to bring local authorities, as well as bus operators, to the table to identify and address the underlying causes of poor punctuality. Many also argued that the resources available to the traffic commissioners would need to be increased if they are to perform their proposed new functions effectively.

2.14 A number of attendees felt that the proposals on buses were primarily geared towards larger cities. Others noted that measures on partnerships, punctuality and community transport were likely to be very relevant in rural areas, while it was also pointed out that many of those who lived in rural areas relied on public transport to get to their jobs in towns and cities. One representative from a rural local authority indicated that quality contracts could also be a useful option in their area, though, and should not be seen as "just for the big cities". Others however felt that rural bus services were not seen as having the critical mass necessary for either quality partnership or quality contracts schemes.

2.15 There was a strong prevailing view that our legislative proposals are only part of a much broader story. Making a real difference to bus services on the ground would depend also on funding, a strong strategic vision, better co-ordination between the relevant planning authorities, and on local political commitment to delivering improvements (e.g. in relation to bus priority measures). Some local authority representatives felt that the funding arrangements for the concessionary fares scheme could place additional pressure on transport budgets in their areas.

2.16 It was also generally agreed that existing transport governance arrangements are not always conducive to delivering improvements to bus services - particularly in the major conurbations where responsibilities for public transport and highways lie at different levels. Some attendees also felt that the separation of certain responsibilities between county councils (e.g. public transport) and their constituent rural district councils (e.g. parking and planning) could create significant obstacles in some circumstances.

Questions asked and points raised

GENERAL

- A number of local authorities and bus operators emphasised that patronage is not falling everywhere, highlighting significant successes in raising bus usage in their local areas. One attendee pointed out that national policy on concessionary fares is likely to have been an important contributor to rising patronage, and so caution should be exercised in interpolating recent trends forward into the future.
- While most attendees welcomed the devolutionary thrust of the draft Bill, one attendee commented that this could create the risk of a 'postcode lottery' in terms of quality of local bus services. Another suggested that stronger central 'compulsion' might be needed, as the incentives facing local authorities to introduce quality partnership or quality contracts schemes might otherwise be insufficiently strong.

- Attendees highlighted a number of issues of potential concern, which fall outside the scope of the Bill as drafted. These included perceptions that bus companies needed to be more active in marketing their services locally; that too many empty buses can add to road congestion rather than alleviating it; that 'tourist' buses sometimes contribute to local traffic problems but are not subject to the same regulatory treatment as registered local bus services; that entry to the bus market is too easy and that a higher 'entry threshold' might be appropriate; and that the Bill presented an opportunity to legislate for stronger bus safety measures.
- Several individuals noted the important interactions between transport and wider policies, including spatial and land-use planning, regeneration, and provision of essential services such as education and health care.
- Some parties felt that the proposals in the draft Bill could adversely affect smaller bus operators, for example if local authorities developing partnership schemes focused primarily on working with the larger incumbent operator(s) in their areas.
- The importance of effective consultation with local businesses was highlighted, particularly in the context of the introduction of new bus lanes, and the perception expressed that, at least in some areas, such consultation is often limited in scope. Local authority representatives took a different view, arguing that genuine consultation was an important part of the process for them, and that business interests needed to be considered alongside the wider interests of the local community.
- Integration of bus timetables - both with other bus routes and with other modes such as rail - was considered important, with the suggestion made that bus and rail passes could also be integrated.

QUALITY CONTRACTS SCHEMES

- In general, it was agreed that the draft Bill would make quality contracts schemes a realistic option for local authorities. This flexibility was welcomed by local authorities, though the general sense was that such schemes were likely to be appropriate in a relatively small number of places.
- Bus operators sought reassurances as to how their legitimate commercial interests would be safeguarded in the context of a quality contracts scheme, and whether the Government intended that incumbent bus operators should be compensated where they were unsuccessful in securing contracts.
- Views differed as to how quickly a quality contracts scheme might be implemented under the proposed new legislation, with some attendees believing that introducing such a scheme would take at least four years from now.
- Some expressed concern that the approvals process meant that there was a possibility of challenge at each stage which risked additional delay. Some pointed out that councils already make their own decisions, without an approvals process, on very large contracts (for example waste management).
- Some specific questions were raised about the practical effects of quality contracts schemes: for example how to ensure that local authorities choose the bidder that offers best value for money, rather than merely the cheapest option; whether there is a risk that commercial operators would cherry-pick the most

attractive routes but not the remainder; and whether schemes would help to tackle the perceived problems of 'over-busing' in some areas. There was discussion as to how specific decisions about scheme design - such as the number of contracts tendered in a given area - might impact on these issues.

- Some more detailed issues were raised, such as whether a multi-contract quality contracts scheme could actually lead to a more fragmented bus network than a scenario with all services run by a single operator, whether a scheme could adversely affect any existing quality partnership scheme, and whether a quality contracts scheme operating on an urban corridor would preclude a radial service from traversing that corridor. Again, these were matters that would need to be addressed through the design of specific schemes.
- A number of points were raised about the *transition* to a quality contracts scheme, including the risk that an incumbent operator might withdraw from the local market (or reduce the quality of its services) in the period before contracts came into effect. It was noted that a similar issue could arise towards the end of the term of an existing quality contract, if the operator suspected they might lose the contract when it is re-let.
- Some pointed out that guidance would be especially important in ensuring that the new "public interest test" would not suffer from the same problems as the "only practicable way" test.

PARTNERSHIP AGREEMENTS AND SCHEMES

- In relation to 'voluntary' partnerships, the main issue of interest here was the extent to which the draft Bill would resolve the concerns of local authorities and operators about the effects of current competition legislation on the bus market. It was felt that clear guidance on the application of existing competition law, and of the changes proposed in the draft Bill, would be necessary to increase the scope for 'voluntary' partnership arrangements.
- In relation to quality partnership schemes, some attendees felt that there needed to be scope for stronger enforcement of the provisions of a scheme. It was also proposed that the traffic commissioners might be granted powers to prevent an operator from registering services in the area covered by a quality partnership scheme, if that operator were not prepared to provide the standards of service laid down by the scheme. Those putting forward this view felt that this would help to prevent a quality partnership scheme from being undermined by predatory behaviour by a lower-quality operator.
- There was also a related suggestion that bus operators should be required to give an extra two weeks' notice before commencing a service in an area covered by a quality partnership scheme, to enable the traffic commissioner to consider the local authority's view of whether the operation of that service would risk undermining the quality partnership scheme.
- One attendee felt there would be practical difficulties in establishing a quality partnership scheme that covered timings or frequency of services in an area where more than one operator competes on a particular route.
- Some bus operators took the view that the inclusion of provisions about timing and frequency of services in a quality partnership scheme should be possible

only with the agreement of the bus operators - consistent with the approach being proposed on maximum fares.

- It was pointed out that partnerships work best when the parties have shared objectives. However, there was sometimes a feeling that bus operators and local authorities did not have enough shared objectives on which to develop good partnerships. Also, there should be pressure on both operators and local authorities to live up to their commitments in the partnership.

PUNCTUALITY

- There was widespread agreement that poor punctuality can be a key barrier to increasing bus patronage. There was also general acknowledgement that poor performance often reflects a wide variety of factors, some of which are within the influence of local authorities rather than bus operators.
- Attendees identified a number of factors that can contribute to poor punctuality, including:
 - the political sensitivity associated with bringing forward bus priority measures and accompanying parking restrictions, especially where such measures attract strong local media opposition;
 - limited effectiveness of bus lane enforcement in some areas, vehicles parking in bus stops, and, for smaller places, the high fixed costs involved in installing bus lane enforcement technologies;
 - roadworks or closures on local authority or Highways Agency roads, which can also affect local bus services.
- There were a range of views on the effectiveness of different sanctions that could potentially be imposed on bus operators and/or local authorities where punctuality performance was poor. Attendees highlighted that financial sanctions can be counter-productive if they lead bus operators to increase fares or reduce services. It was also noted that imposing financial penalties on local authorities would simply reduce the funds available for local transport improvements, though it was recognised that this option was not proposed in the draft Bill.
- It was argued by some attendees that, in relation to local authorities found to be under-performing in terms of their contribution to bus punctuality, sanctions that imposed a financial cost were likely to be counter-productive. Some attendees felt that measures that applied pressure on local politicians were more likely to be effective. It was noted that the Secretary of State's intervention powers under the Traffic Management Act 2004 were consistent with such an approach, though some attendees felt that more rapid progress could have been made with the implementation of this Act. One attendee noted the "special measures" approach adopted in the education system, and wondered whether a similar model could be applied in relation to local transport authorities.
- The view was expressed that performance data collected under the proposed new punctuality regime should be made available to local authorities and to the general public.

- Bus operators felt that it would be important to ensure that traffic commissioners assessed punctuality performance against a sensible view of what level of performance is practicably achievable, taking into account factors such as the extent of local bus priority measures and the local authority's management of road works.
- It was also noted that a stronger punctuality regime could encourage bus operators to increase timetabled journey times, to increase the prospects of delivering a better performance against timetable. Attendees also commented that, while bus *speeds* are important, they are not the sole consideration - waiting times at bus stops matter to passengers as well.
- One attendee suggested that the local authority Network Managers should have to take account of any report on bus punctuality prepared by a traffic commissioner under the proposed new system.

BUS SUBSIDY

- Although not within the scope of the draft Bill, a number of attendees highlighted the importance of bus subsidies in securing more, and better, services. It was argued that increased funding could play an important role in improving bus services, and some attendees perceived a risk that future subsidies might be directed more towards larger urban areas at the expense of smaller towns and rural areas. The availability of revenue (as opposed to capital) funding was cited as a particular constraint.
- A number of attendees commented on the value of schemes such as Kickstart, which were perceived to have provided an important boost to services in some areas.
- In the context of the ongoing bus subsidy review, a number of attendees emphasised the potential for changes to have an adverse effect on the provision of services in particular areas. Many attendees agreed that it would be important to understand fully the potential impacts of any changes to the current Bus Service Operators' Grant, and felt that the scope for adverse consequences (for example in rural areas) should not be under-estimated.

OTHER ISSUES

- Many attendees who commented on the community transport proposals welcomed the intention to provide increased flexibility for the sector, though some drew attention to the potential for community transport to compete with commercial bus operators. There was a perception amongst some attendees that different regulatory requirements in the community transport and commercial bus sectors could present a competitive advantage to the former. Some attendees were unconvinced by the case for centralising the system of issuing "section 19" permits to community transport operators.
- A number of comments were made about how the Government's proposals for funding the national concessionary fares scheme could affect individual local authorities. A separate series of consultation events had been held earlier in the year in relation to the concessionary fares scheme.

- One attendee noted that, under current legislation, it is possible to make a Traffic Regulation Condition only in response to an *existing* need. It was proposed that this might be extended to enable a Condition to be made also in response to an *anticipated* need.
- Some felt that traffic commissioners, as they are unelected, should not decide whether or not a quality contracts scheme should be introduced.
- Another comment was that bus operators sometimes removed services saying that they were non-commercial, then asked for the local authority to subsidise it. Once it was, they would then bid for and run the same service again under subsidy.
- It was noted that bus fares in some parts of the country are rising faster than the cost of running a car, which makes it difficult to encourage people out of their cars and on to public transport.
- There was some debate over whether bus operators see each other as competition, or the real competition as being the private car.

Governance

Summary points

2.17 There was near-unanimous agreement that there was scope to improve the governance arrangements supporting local transport provision in our larger urban areas, and attendees generally welcomed the draft Bill's approach which offered the possibility of different solutions being developed in different areas. There was useful discussion on the respective roles of the PTAs, PTEs, metropolitan district councils and other stakeholders in developing proposals for reform.

2.18 Alongside the provisions for reform within existing PTA areas, the proposals to allow for boundary changes and for the establishment of new PTAs were also broadly welcomed. Many attendees, however, felt there should be greater flexibility in the draft Bill, to allow for new or expanded PTAs to cover only *parts* of existing council areas.

2.19 In relation to the proposed Integrated Transport Strategies and Implementation Plans, a number of attendees felt that the Local Transport Plan framework had delivered real benefits as it gives five-year stability and a timeline for investment, and that it would be important to ensure proposals for reform delivered real additional benefits.

2.20 A number of participants highlighted the importance of ensuring that transport and planning policies were suitably integrated at a local level. Attendees also raised a variety of questions about how the legislation was likely to be implemented, and commented with useful points of detail on the draft provisions.

Questions asked and points raised

PROPOSALS FOR NEW PTAs AND REVIEWS OF GOVERNANCE IN THE METROPOLITAN AREAS

- Attendees generally believed that the proposals to allow the boundaries of possible *new PTAs* to be formed only from the whole areas of existing local transport authorities were not sufficiently flexible. People generally thought that PTAs should be able to cover only parts of council areas, for example to cover the commuter catchments of urban areas. It would be necessary however in such cases to consider the funding arrangements for split authorities.
- It was similarly suggested that any change in *existing PTA* boundaries should not necessarily have to be by a whole local transport authority area. There was comment about the need in some areas to consider that residents of the same local authority might commute to two different conurbations. In some regions it might be worth considering a large PTA covering the whole region.
- Some attendees questioned whether the Secretary of State should be able to direct reviews of governance in areas without existing PTAs, as is provided for metropolitan areas. Some also suggested that governance problems in some areas without PTAs were sufficiently serious that the Secretary of State should be able to establish new PTAs without the consent of authorities covered.
- On the power for a PTA to change its name, some offered suggestions such as an Integrated or Regional Transport Authority.
- There was discussion and a range of views about how a review should take place, such as who should be responsible and what the process should be. Similarly, there was discussion of what would happen if the conclusion was to change nothing, or the Secretary of State disagreed with a recommendation.
- There was discussion of the consultation requirements for governance reviews, for example the need to consult groups such as community and residents groups. The Government also needs to take into account any broader local government reorganisation going on at the same time as this Bill.
- There was comment that different stakeholders in an area may have different views on governance, and that alternative proposals could emerge. There would be a need to limit so far as possible any damage to relationships or prolonged uncertainty. It was suggested that this could make it challenging in practice both for city regions to achieve consensus on proposals and for the Secretary of State to make decisions which would prove acceptable. On the other hand the limitations of voluntary agreements and their vulnerability to political change were recognised.
- A range of views were expressed on whether the Bill should allow for a directly elected PTA, or for a directly elected executive. There was some comment that the lack of direct elections might result in a loss of strategic view, or a disconnect between residents and PTA members. On the other hand it was accepted that the PTA needed to be close to districts, and there were risks in the two bodies having separate mandates.

- Views were also expressed on the potential merits of PTA membership being extended to include representatives other than councillors from the constituent district councils. Some participants felt this could weaken democratic accountability, while others saw real merit in including external representation - for example from the local business community, or to represent the interests of local transport users.
- One consideration that it was thought would be necessary to keep in mind was the role of freight, and to ensure that the proposed governance reforms were not overly concentrated on passenger transport.
- A range of views were expressed on the funding of PTAs, including the possibility of reintroducing their powers to precept.
- There was some discussion of the need to provide support and guidance to avoid duplication of work on reviews.
- It was pointed out that some areas need to work with Scotland and Wales, which are not covered by the governance part of the Bill.
- There was one suggestion that the Bill should give the Secretary of State powers to encourage joint working across local authority boundaries. The issue of a duty to co-operate was seen by some as key to integrated transport.

INTEGRATED TRANSPORT STRATEGY AND IMPLEMENTATION PLAN

- Many commented that LTPs had produced real benefits and that it might be too early to change the system.
- There was discussion of the differences between a proposed ITS and the current LTP, including implications for funding.
- On the question of who would be responsible for an ITS, it was thought by some that although this being solely down to the PTA might result in greater leadership, it could also cause problems. Local authorities might not be happy with this. Particular concerns on the proposed PTA lead were also raised by representatives of the freight industry.

Local road pricing schemes

Summary points

2.21 There was much debate on the road pricing provisions. However, there was a general consensus that interoperability between schemes and a degree of consistency was important for the road user. It was recognised that a balance needs to be struck between local flexibility and Government control to ensure that schemes reflect local needs but at the same time are not unnecessarily complicated for the road user.

2.22 Many welcomed the proposal for local authorities to take the final decision to implement a road pricing scheme rather than the Secretary of State. They felt that local authorities were best placed to develop and decide on local schemes. At the

same time though, some people were concerned about the removal of the approval role, as it was felt that the DfT should not put itself at a distance from local road pricing schemes. It was also felt that the Secretary of State provided a useful external validation and arbitration role which would be lost. However, some people did modify their views when they understood that removing the approval role allowed for Government to support local authorities in a way which would be difficult under the current arrangements, where the Secretary of State has a quasi-judicial approval role.

2.23 Many people were concerned that removing the Secretary of State's approval role also meant that there would not be the scope for sufficient consultation and inquiry regarding a scheme. People felt that there should be guidance on the minimum consultation requirements or that there should be a duty on local authorities to consult. Others thought that it was inconceivable that an authority would not consult on their road pricing proposals and a specific duty relating to road pricing would not be necessary - particularly in view of more general provisions relating to consultation in what is now the Local Government and Public Involvement in Health Act 2007.

2.24 There was mixed response to the proposed duty on local authorities to consider the impact of a scheme on climate change, with some believing that the duty was superfluous as local authorities would consider the environment anyway while others welcomed it. Some felt that the duty was set at the correct level, while others believed that it should be more specific and set out fuller criteria. In connection with this, there were other groups who felt that if there were an environmental duty, there should also be duties to take economic and social factors into account, including business, freight and social inclusion.

2.25 All involved agreed about the need for interoperability between schemes, although there was disparity as to how this was to be achieved, with some feeling that schemes should use the same technology, while others advocated flexibility. There was also a feeling in relation to charges, discounts and exemptions that it must be seen by the public to be fair, but again opinions varied as to whether local authorities should be given the autonomy to make these decisions or whether DfT should be able to set common standards. Different groups had different ideas on exemptions and who should qualify.

2.26 The ring fencing of revenue from road pricing schemes for spending on local transport policies was welcomed.

2.27 The possibility of PTA involvement was welcomed, although some had concerns as to their partnership status, while other interested groups could not be joint scheme operators. There was also concern about the division between PTAs and local authorities of the revenue from a scheme.

2.28 The requirement to provide information was thought to be too vague and had the potential to subject local authorities to great expense unless there was further clarification about the power.

2.29 Issues were raised around the manner in which enforcement would take place and whether this would be similar to the system in place for parking. There was also concern over foreign vehicles and how these would be targeted.

2.30 Some wondered why the Bill did not propose changes to the Workplace Parking Levy and some thought that an extension to all non-residential parking places would be advantageous.

Questions asked and points raised

SECRETARY OF STATE'S APPROVAL ROLE

- Views differed about the Secretary of State's approval role. Many supported the move to allow local authorities to be the final decision makers whilst others felt that the role of central government was important in the development of local road pricing schemes.
- A number of people expressed concern that removing the Secretary of State's role could put distance between the Government and local road pricing schemes. However, people acknowledged that Transport Innovation Fund (TIF) funding meant that Secretary of State is still linked to the process.
- A few were of the view that it may be hard to progress a scheme without the possibility of a reference to a third party who could arbitrate in the event of a stalemate between authorities.
- It was mentioned that Durham had enjoyed the benefits of having the Secretary of State as an independent arbiter of their scheme. It was thought therefore that there could be a system that set out the 'primary consultees' of a scheme and the Secretary of State would be one of them. This would mean that he did not have a veto but it would give him the opportunity to show support.
- It was questioned whether, in the absence of Secretary of State approval, there might be a need for greater clarity as to the purposes for which a local road pricing scheme might be implemented. For example, should schemes be designed primarily to tackle congestion, or would a scheme with purely environmental purposes be acceptable?
- A few felt that there should be a test to ensure that local authorities had exhausted existing measures to cut congestion before embarking upon road pricing.
- Some did not see that removing the requirement for the Secretary of State's approval would make much difference - they thought it was unlikely that the Secretary of State would turn down a scheme that had been consulted on locally.
- It was raised by local authorities that removing the Secretary of State from the decision making process is a help because it would speed up the process of introducing a scheme.
- It was pointed out that the London boroughs could not take their own decisions about charging locally because this was the prerogative of TfL. Boroughs were unable to prevent the Mayor from overriding local opinion.

- There was some feeling that there should be an independent way of approving a scheme.
- Some thought that government should set out what the process should be if the local authority were to take the final decision.

ROLE OF CONSULTATION

- A large number, especially environmental and freight groups, thought that there should be thorough local consultation. A similar point was made by business representative groups, who noted that pricing schemes could have a significant effect on local businesses. Some thought the approach to consultation should be decided locally while others thought that there should be a framework with minimum standards of consultation that are required, but which could also list optional extras. Some, specifically road user groups, felt that there should be a statutory requirement to have a consultation. Others doubted whether this was needed in the Bill and suggested instead that it should be included in guidance.
- Again there were differing views as to the form that any guidance from Government should take. A few local authorities felt that it should be specified that neighbouring local authorities should be consulted, who may be indirectly affected or who may suffer unintended consequences. Others felt that government should prescribe the breadth of the consultation, including the places of origin of commuters' journeys. One suggestion was that any consultation guidance could specify outputs rather than processes and another person stated the need for consultations to be clear about impacts e.g. on local centres.
- Others, mainly local authorities, noted excessive requirements for consultation and public inquiry could present undue delays to the implementation of any proposed scheme.
- On public inquiries one view was that they should be kept as a *voluntary* option. Some felt that removing the Secretary of State's power to order an inquiry would speed up the process, but were unsure whether it was right to be able to bring a scheme in without such an inquiry.
- There was discussion about the need to have local referenda in order to gauge whether or not people supported road pricing. However, there was no clear conclusion as to the benefits.

CLIMATE CHANGE DUTY

- A number of local authorities felt that they would already consider the impact of a scheme on the environment and so this duty was not required. Other people thought that local authorities would only normally look at air quality and not the effect of carbon emissions so there was a need for the environmental duty. Similarly some acknowledged that local authorities would tend to look at local environmental impacts in any case, but thought that they may need to be told to consider environmental impacts on a wider level.
- A number, including environmental groups, felt that there was a real need for guidance from Government relating to the duty to consider environmental impacts. Some local authorities also said that they would welcome guidance to

know what they had to measure. However, others thought that the environmental duty should not be too strictly defined or too specific.

- Some thought that to give further clarity the Strategic Environmental Assessment should be a requirement of scheme development. However, others thought this would be too burdensome as not even new developments are asked to complete such an assessment.
- A few felt that the focus of the Bill was on passengers and were concerned that it did not take other interests into account, such as freight. It was suggested that if there was a duty in the Bill to take environmental issues into account, why not also other interests, such as social and economic impact, and freight. It was also suggested there should be a similar provision to the Traffic Management Act network management duty that ensures that a local authority not only 'secures the expeditious movement of traffic' on its own roads but also facilitates it on the roads of others.

INTEROPERABILITY AND CONSISTENCY

- There was a general consensus that a level of consistency was beneficial to the road user. However, there were differing views as to what should be set centrally and therefore what should be consistent across schemes - the list included:
 - a hierarchy of roads to which different charges could be set.
 - enforcement and compliance.
 - charging rules to ensure that it was clear to all road users when and how they would have to pay a price for using the roads.
 - others were of the opinion that trials of different technology suitable for different areas should be allowed. But the need to ensure interoperability between different technologies was noted.
 - a harmonised approach to discounts and exemptions for schemes across the country. e.g. for non-congestion causing traffic like buses, taxis, motorcycles. It was felt that if exemptions were in the Bill people could see them in advance and thus would accept the situation more as they have a better picture of how they would be affected.
 - hours of charging. A few felt that schemes involving different charges at different times of day were too complex and Government should specify how schemes would operate e.g. how charges would be collected, what the manual alternative should be, where people would be able to obtain a tag, who chases for late payment if it is a manual system
 - mechanism of payment should be the same across schemes so as to make it easier for the public to understand and interact with.
 - the charging level. Some, generally local authorities, thought it was for local discretion whereas others, including national road user groups, thought that we should issue guidelines. Most agreed that there should be different prices to reflect differing local circumstances and different objectives but some felt that we should set a cap. All prices would have to cover operating costs.
 - what should be in a scheme order.

- Some suggested that local schemes should pass a set of criteria before they could proceed to development, although this was considered to be less of an issue for the draft Local Transport Bill.
- An issue arose about the need to link back-office functions together so that data could be shared for enforcement purposes. Some felt it important to ensure data could be retrieved easily for national security purposes but others recognised the need to safeguard privacy.
- Some road user groups felt that exemptions should be specified in the Bill – there should be blanket and consistent exemptions for all local authority schemes and Government should prescribe this from the start. This is because otherwise local authority TIF bids or business cases might be based on one set of exemptions, but Government might subsequently set others.
- The point that lorries should be exempt from schemes was raised, that applying charges to lorries was just a means of revenue-raising because lorries could not necessarily switch deliveries to off-peak times. They also said that lorries should be exempt from charges on trunk roads.
- A few raised the need to ensure that the regulations are not left open to interpretation and are drafted clearly.
- Some business groups felt that there should be a single account for businesses.
- Some local authorities were concerned that the cost of technology for road pricing schemes would inevitably fall on the user, which would make schemes unpopular.

REVENUES

- Generally, ring fencing of potential revenue from road pricing schemes for local transport was welcomed, especially by local authorities and passenger groups. Some said that there should be more of a move in Government to ring fence transport revenue for environmental spending.
- A few proposed that local authorities should be able to spend their revenues outside their boundaries on complementary measures.
- A number of local authorities felt that Government money for local transport is currently not increasing and is even decreasing. They asked about the future balance of funding and whether there is a funding assumption that future money for accessibility will come through road pricing schemes.
- Money raised from road pricing going into road improvements was a concern to a number of people, including passenger groups, as they felt that there is a need to improve public transport in road pricing areas. Some said that road improvements should be a separate process from this (e.g. via the productivity TIF).
- A few raised the problem that the local authority might not have the power to spend the revenue on the mode of transport needed, for example new or improved railway services.
- Some road user groups felt that the Secretary of State should possibly have a role in saying where the money is spent.

- A number were of the view that currently we need money to go into public transport, but in the long term this will need to be balanced with the need for road maintenance and improvement. This division relates to the balance between the PTA and the local authority.
- A few asked who is involved in the decision making of how the money is spent. They felt it should include national authorities like Network Rail and Highways Agency.
- Some people were in favour of road pricing because it could unlock revenue which can be used for public transport. Some were broadly in favour of supplementary business rates to pay for transport improvements as it would be beneficial to see the link between taxing and spending. However, there was a worry about airports and other large developments because a local authority could introduce road pricing around a development and so extract revenue from vehicles accessing it. The development operator would have no say in how the revenue was spent, and in fact it could be spent on transport anywhere across the local authority's area, not just in the road pricing area.

THE ROLE OF PTAs

- Some road user groups were concerned that PTAs were to be given partnership status in the Bill as drafted.
- Some felt that there were two options: either (i) put PTAs on an equal footing with everyone else by giving them the status of 'interested stakeholder' and not as a 'partner'; (ii) retain the PTA role as partner but ensure that the draft Bill includes a statutory requirement on local authorities to consult a wide range of other stakeholders such as those representing the interests of businesses, the freight industry, social inclusion and environmental groups.
- A number thought that involvement of PTAs was good in principle but had concerns that all funding would go into public transport (as has happened in London) and not into road repair etc.
- There was some support for the view that constituents of PTAs should be changed to include business and environment interests, not just a local authority.

INFORMATION

- A number of local authorities thought that we should be clear what information we would ask them to provide and keep in mind the potential costs that this could produce.
- A few raised the fact that TIF authorities will be carrying out evaluation anyway of schemes as should any other local authorities making a congestion charging scheme. Some places in England have specific urban congestion targets and these should also be given to those authorities that are developing road pricing solutions.

ENFORCEMENT

- The DVLA's capability to provide information about registered keepers was raised as an issue by many.
- Some local authorities thought that they should be given further enforcement powers over tag tampering, number plate forging and foreign vehicles. On foreign vehicles in particular it was suggested that the DVLA should be given powers to enable them to share data on vehicles wanted for civil enforcement - something they currently are unable to do.
- Many road user groups and local authorities asked whether there would be a national adjudication system like there is for parking, and if so, whether more Regulations would be required for that.
- A number asked how enforcement would actually take place. It was widely felt that from a regulation point of view, in order to ensure the efficiency of schemes, there should not be differences in enforcement.
- It was a widely held view that liability to pay should go with the registered keeper, not the driver, as this would be easier to track.

THE WIDER CONTEXT

- Some thought that road pricing proposals should be considered through regional transport policies.
- A few believed that the current Bill creates a power that would not be used because its voluntary nature means that it will be easy to do nothing and in fact if there is deadlock on a PTA this will mean that the default is to do nothing. Locally economic development and competition with other local / regional towns will prevent an individual town introducing a road pricing scheme.
- One person thought that national parks should be involved although was unsure how they could fit into the statutory framework.

WORKPLACE PARKING LEVY (WPL) AND OTHER ISSUES

- One view was that we should be looking to reduce parking in town centres, as is happening in Europe, and not be looking to increase town centre parking provision as is still happening in the UK.
- Another view was that it was a shame that there was nothing about walking or cycling in the Bill, or how they might complement some of the other strategies, for example road pricing.
- Several people raised the view that the problem with WPL is that it only targets workplaces, so is only concentrating effect on peak commuter times. They felt that it should look at all users of parking, not just workers.
- A concern was raised that local authorities use maintaining and increasing parking as a revenue stream.
- Some thought that road pricing should be factored into the price of freight delivery etc. so as to encourage local depot and delivery solutions, as opposed to a

nationwide, single distribution centre which means that far longer distances have to be travelled.

- Some thought that there should be a fixed date for the introduction of national road pricing. It was also raised by one that such a date could mean that the charging scenario should be factored in to future road building capacity and forecasts. The DfT should provide assumptions for planners to use for such a NRP scenario - planners do not do this because DfT has not asked them to and has not provided those assumptions. The uncertainty surrounding the issue does not help planners in their future land use plans.
- A point was made that road pricing encourages people not only in their car use habits, but also in respect of their location / distance from facilities, bus stops and use of car share.
- Some noted that the start-up grant that London received for its congestion charging scheme had helped to make the scheme successful.

Chapter 3:

Summary of responses to the main consultation

Introduction

3.1 This chapter provides a summary of responses received as part of the consultation on *Strengthening Local Delivery – The Draft Local Transport Bill*. The consultation began on 22 May 2007 and closed on 7 September 2007.

3.2 This chapter provides a general summary of the responses received. It does not aim to cover every individual point raised by respondents. All responses have been considered and the results of this consultation helped to inform the Government's thinking as it finalised the contents of the Bill.

3.3 Responses will be made available on the web at www.dft.gov.uk/localtransportbill. If you wish to view individual responses, these will be available for public viewing for a period of six months at the DfT Library and Information Centre, Ashdown House, 123 Victoria Street, London SW1E 6DE. The Library is open Monday to Friday during office hours. Anyone wishing to inspect the responses is requested to telephone the Librarian on 020 7944 3039 to make an appointment (without which it will not be possible to gain admittance).

Analysis of respondents

3.4 A total of 216 respondents submitted comments on the draft proposals. A full list of respondents is available on the DfT website.

Category of respondent	Percentage of respondents
Bus operators (and their representative bodies)	5
Community transport operators (and their representative bodies)	1
Freight operators	1
Other transport operators	5
Non-transport businesses	5
Local authorities	27
Regional bodies (RDAs, regional assemblies, etc)	11
Other public bodies	5
Public transport user groups	5
Motorist representative bodies	4
Transport / environment interest groups	10
Groups representing particular social groups (e.g. ethnic minorities, disabled people, older people, etc)	4
Individuals & others	17

Responses to Chapter 3: Improving the quality of local bus services

Q1(a): What are your views on the proposals relating to voluntary partnership agreements?

3.5 The draft Bill included provisions designed to facilitate voluntary partnership agreements (“VPAs”) between local authorities and multiple bus operators, which may cover minimum frequencies, timings and maximum fares, as appropriate. The draft Bill included proposals for a new competition test, designed to apply to certain voluntary partnership agreements.

PROVISIONS TO FACILITATE VOLUNTARY PARTNERSHIP AGREEMENTS

3.6 Clear guidance on the application of changes to competition laws was considered necessary by many respondents to increase the scope of VPAs.

3.7 The majority of respondents welcomed the proposals to facilitate the inclusion of minimum frequencies, timings and maximum fares as appropriate and to help improve local bus services by providing greater flexibility for local authorities to work with bus operators.

3.8 Some respondents, including local authorities and regional bodies, identified potential barriers to using VPAs which were not addressed in the draft Bill such as how to stop an operator taking advantage of an improvement without contributing to the partnership. Other concerns raised were that VPAs would stifle the opportunities for commercial operators to demonstrate innovative ways of improving services and increase patronage. It was suggested that the Bill should ensure flexibility in public transport provisions and allow local authorities to provide services through a variety of mechanisms.

3.9 In relation to maximum fares, competition concerns were raised by a public body who highlighted the risk of a maximum fare becoming a *de facto* fare and setting minimum frequencies could exclude small operators if it resulted in a lack of entry opportunities. A bus operator also suggested that there should be a *de minimis* threshold, perhaps expressed in terms of annual turnover of the services covered by the agreement, below which it can be safely assumed that the competition test would be passed. This would be of particular value in market towns and rural areas, where service frequencies tend to be lower and co-ordination of frequencies and timings bring more benefits to passengers.

OTHER ISSUES

3.10 A number of respondents including local authorities, regional bodies and transport user groups suggested including ticketing arrangements and fares structures (e.g. acceptance of return tickets) in the criteria. Other suggestions included use of a stored-value ticketing system (cf Oyster cards in London) between operators covered by the scheme and combined timetables. There were also calls to use voluntary partnership agreements to speed up the roll out of vehicles that meet the Public Service Vehicles Accessibility Regulations 2000.

3.11 Some local authorities were concerned that as the performance of voluntary agreements is reliant on local authority spending and since the draft Bill does not offer statutory enforcement of service provisions, it is likely that local authorities will have to fund monitoring and enforcement action.

Q1(b): What are your views on the proposals relating to quality partnership schemes?

3.12 The draft Bill outlined proposals to amend the Transport Act 2000 to allow quality partnership schemes (QPS) to cover minimum frequencies, timings and maximum fares, as appropriate. It would also allow new facilities and standards in a quality partnership scheme to be phased in at pre-arranged intervals.

3.13 The majority of respondents welcomed the proposals which make it easier for authorities to take advantage of these schemes. A general view was that a successful partnership depends upon the willingness and commitment of both parties to work together. There needed to be a strong commitment between the operators and all of the agencies concerned to deliver improved bus services and provide the infrastructure necessary.

PROPOSALS TO ALLOW QUALITY PARTNERSHIP SCHEMES TO COVER MINIMUM FREQUENCIES, TIMINGS AND MAXIMUM FARES

3.14 While the majority of local authorities welcomed the proposals to include frequency and timing in such schemes, bus operators expressed concern that such conditions could be imposed without the agreement of the bus company. To protect the legitimate interests of bus operators they proposed that the provisions for determining frequencies and timings are amended to include the words “by agreement”, or an appeal provision enabling an independent third party to determine whether or not the legitimate interests of bus operators had been protected, and if not, to require that appropriate redress is provided.

3.15 Bus operators were also concerned that it could be possible for authorities to insist on improvements from operators at the beginning of a scheme against a promise of facilities provided by the public sector at an unspecified date in the future. If the authority failed to meet its obligations, such as a commitment to provide a bus lane, it was suggested it should compensate the partner that had already delivered its investment. The facilities provided by the local authority and the investment by the bus operator should be proportionate to each other.

3.16 There was some uncertainty over how partnerships would work in a multi-operator environment, particularly where they specified minimum frequencies or timings. It was proposed that the Bill should include powers for quality partnerships that are multi-operator, area wide rather than route specific, and long term.

ENFORCEMENT ISSUES

3.17 A number of respondents including local authorities, transport groups and bus operators felt there needed to be stronger enforcement of the provisions of a scheme. Where a partnership exists, it was recommended by some local authorities that bus operators should only be allowed to run services in competition, where they comply with the standards in the partnership agreement. It was proposed by local authorities that the traffic commissioners might be granted powers to enforce this by refusing registrations that might undermine a scheme.

3.18 It was also suggested by local authorities that, in areas with a QPS in place, operators might be required to submit registrations to the local transport authority before submission to the traffic commissioner, so that the local authority could consider any adverse effects within the partnership and inform the traffic commissioner accordingly. A transport interest group suggested that the Bill should ensure that where a partnership agreement has been reached, the operator does not have the right to withdraw or alter services unilaterally. It was suggested that local authorities should be given powers to fine bus companies for breaching partnership agreements.

3.19 Some bus operators suggested that traffic commissioners could also be enabled to fine authorities where it is demonstrated that they are requiring operators to run services to unrealistic timetables.

OTHER ISSUES

3.20 Some respondents, including those representing particular social groups and rural communities, expressed concern about services in rural areas. They thought quality partnership schemes should be used to raise the level of frequency of bus services in more isolated and sparsely populated areas of the country. Proposals included carrying out local need surveys to determine where there is a need for increased bus frequency and a reappraisal of need in areas where there are currently no bus services, to identify areas where such services should be introduced. Measures should also be put in place to ensure the needs of particular groups, such as children and young people, the elderly and disabled are considered.

Q1(c): What are your views on the proposals relating to quality contracts schemes?

3.21 The draft Bill included provisions which would replace the “only practicable way” test with a new set of “public interest” criteria and require the local authority to publish a consultation document setting out various details of the proposed scheme. It also proposes to reform the current arrangements for approval of quality contracts schemes in England (outside London) by creating a new Approvals Board for quality contracts schemes, chaired by a traffic commissioner. The draft Bill would also allow individual contracts within a quality contracts scheme to run for up to ten years, in place of the current five-year limit, with a further extension subject to certain requirements.

3.22 There was a range of views on the proposals relating to quality contracts schemes. The majority of respondents, including most local authorities, regional bodies and public transport groups, welcomed the provisions in the draft Bill, particularly replacing the “only practicable way” test with a “public interest” test for considering the implementation of quality contracts schemes. The general feeling amongst these stakeholder groups was that quality contracts schemes needed to be made a realistic option (as proposed in the draft Bill), as it is often not possible to achieve sufficient improvements in bus services through partnership working alone.

3.23 Bus operators however, were opposed to the implementation of quality contracts schemes and believed that the same or better results can be achieved through working in partnership.

3.24 While some local authorities welcomed the relaxation of the criteria as a step forward to making quality contracts a realistic option, some local authorities felt that the time taken to go through the procedure to set up a quality contract scheme remains too long and resource intensive.

3.25 There was also the suggestion by a few respondents including individuals and those representing certain social groups that the move towards quality contracts needs to be subject to public consultation and authorities must demonstrate that they have taken account of views expressed and evidence submitted.

CREATING A NEW APPROVALS BOARD FOR QUALITY CONTRACTS SCHEMES IN ENGLAND

3.26 Local authorities, regional bodies and transport user and interest groups were opposed to the use of an unelected approvals board as it was against the spirit of allowing local determination and accountability. Local authorities were thought to be best placed to determine whether introducing quality contracts schemes would be in the public interest.

3.27 Concern was also expressed by local authorities at the amount of preparatory work involved and the risks that this will be abortive work because the final decision is not made by the local authority in discussion with appropriate partners, but by the proposed Approvals Board. There were suggestions that the Bill should specify a time limit for each stage of the approval process, including appeals.

3.28 By contrast, the majority of bus operators supported the proposals to have an Approvals Board. The requirement for authorities to both justify and quantify their quality contract proposals and to submit them to independent review was viewed as the minimum they should be required to do if the legitimate interests of bus operators and the public purse are to be protected.

EXTENDING THE MAXIMUM LENGTH OF QUALITY CONTRACTS

3.29 The proposals to extend the maximum length of quality contracts from five to ten years was generally welcomed by local authorities as providing further stability, guaranteeing investment and allowing for growth. Some thought that longer periods would provide a greater incentive to securing contracts. A public body commented that the risk of foreclosure of the market would be higher for longer contract periods.

3.30 Some bus operators commented that the longer a contract period extends, the more difficult it will be for either party at the outset to predict with certainty the risks they will be assuming in the latter part of the contract. Further, the longer a contract is in place, the longer the market remains closed to any form of competition, and the less likelihood there is that there will be other local operators to compete for a contract renewal. A regional transport forum expressed concerns that engaging in longer contracts could result in significant leaps in price when contracts are renewed.

OTHER ISSUES

3.31 Some respondents including bus operators and union representatives pressed for transitional protection in the Bill for both people and assets. They suggested that the Bill should offer protection not only for staff that transfer to a new operator, but also for future staff.

3.32 Some bus operators suggested that proposals for quality contracts schemes should include compensation for an incumbent bus operator who has lost the right to continue to trade. They suggested that the requirement to compensate incumbent operators for their restructuring costs, loss of asset value, and loss of future trading rights, should be placed on authorities who proceed with quality contracts schemes. They suggest clauses to this effect should be written into the Bill.

3.33 Other respondents including transport user and interest groups suggested the Government should indemnify local authorities against the possibility of legal challenges from bus operators and that the Government should compensate bus operators.

3.34 Many local authorities commented on the need for consistent and adequate funding streams, expressing the view that they are often not able to commit to statutory schemes because they are not in a position to commit revenue funding over the lifetime of a scheme.

3.35 There were also concerns from some respondents about the traffic commissioners' expertise in the wider aspects of transport planning. It was suggested by local authorities and regional bodies that traffic commissioners should be required to take into account statutory Development Plans and Local Transport Plans when conducting their duties. Concerns were also raised on the lack of correlation between the commissioners' appointed boundaries and local planning and transport authority boundaries.

Q1(d): What are your views on the proposals relating to bus punctuality?

3.36 The draft Bill put forward proposals to develop a new performance regime where the local traffic commissioner receives better quality data and local authorities as well as operators can be held accountable for their contribution to the performance of local bus services (e.g. the provision and enforcement of bus priority measures).

3.37 There was a widespread welcome for the objective of strengthening punctuality performance, with respondents agreeing that poor punctuality performance can be a significant deterrent to potential bus users. It was also generally acknowledged that bus operators' and local authorities' actions can each contribute to poor punctuality.

3.38 Most respondents, including many local authorities, welcomed the principle of holding local transport authorities as well as bus operators to account - though there was a range of views about the balance of responsibility between those two parties. A few concerns were raised about placing additional responsibilities for bus punctuality on local authorities and the additional resources required for monitoring.

3.39 Local authorities favoured annual reporting to the traffic commissioner on the performance of bus services, using data supplied by the bus operators, with an accompanying Improvement Plan which would set out the future performance levels they jointly intend to achieve. The traffic commissioner should be enabled to review these proposals and require one or both parties to justify their performance and intentions.

DATA COLLECTION

3.40 Concerns were expressed by bus operators about the cost of collecting data, standardisation and data quality. It was suggested that the Bill include a clause requiring the local authorities to maintain the data sets necessary to keep the national bus stop database up to date. They also suggested the punctuality monitoring regime consider what level of punctuality is realistically and economically achievable in any given location, against which actual performance can be measured.

3.41 Many respondents thought that data from GPS technology should be harnessed, but expressed concern about the potential cost to small bus operators. Many respondents thought the universal adoption of such technologies should be encouraged, rather than setting different requirements for smaller operators. However some transport user groups suggested that GPS should be rolled out across the country to make this process easier and more efficient. Respondents representing particular social groups suggested that the introduction of GPS technology would also ease the way to the introduction of audio-visual announcement systems on buses and at bus stops improving accessibility for people with visual and hearing difficulties.

3.42 Many respondents including local authorities and transport user groups called for the data collected by traffic commissioners to be made publicly available and for customers to be given opportunity to input. Some local authorities thought it would be useful to have this available to them to enable them to be proactive in developing solutions.

ENFORCEMENT

3.43 Concern was expressed that the legislation places too much emphasis on data gathering and transmission and too little on corrective action to tackle problems. Bus operators suggested that traffic commissioners should be able to call local transport authorities to account in circumstances where such authorities are demonstrably failing to manage the highway effectively.

3.44 Enforcement issues were also raised by transport user groups who expressed concerns that the traffic commissioners would have powers to take immediate action against operators while the process proposed for securing local authority compliance is protracted and could result in little action. They also felt that traffic commissioners should be much better resourced to enable them to be proactive rather than, as now, only reactive to complaints.

3.45 There were suggestions for expanding the remit of the traffic commissioners. These included a duty to collect information on the withdrawal of bus services and registration of new ones and ensuring that buses are able to move through the streets expeditiously. There was recognition of the difficulties faced by operators when local traffic management fails or is inadequate.

3.46 It was suggested by a public body that they be empowered to make a traffic regulation condition on their own initiative rather than wait for a local authority request.

Q1(e): What are your views on the proposals relating to community transport?

3.47 The draft Bill aimed to remove some of the restrictions in the community transport regulatory regime that may unduly constrain the sector's development. These included relaxing certain limitations on the size of vehicles that can be run by community transport operators, and restrictions on payment for drivers on certain services. The draft Bill also proposed to simplify the system under which "section 19" permits are issued, by centralising the issuing function with the traffic commissioners.

3.48 In general the intentions behind the provisions to increase flexibility for community based transport were welcomed.

CENTRALISING ISSUING OF "SECTION 19" PERMITS

3.49 Some respondents, including some local authorities and those representing community transport operators, did not agree to the traffic commissioners taking on the exclusive issuing of section 19 permits. They were concerned that it would result in additional delays or in demands for additional resources and, therefore, increased costs for licence and permit applications. They believed that the designated body network currently in place is more responsive to the needs of applicants in processing such requests. However, there was acknowledgement from other stakeholders that centralising permit issuing could increase the robustness of the permit system.

RELAXING THE SIZE LIMITATIONS ON COMMUNITY TRANSPORT VEHICLES

3.50 The proposal to enable vehicles with fewer than 9 passenger seats to be run by community transport operators under a section 19 permit was welcomed in a number of responses. However Community Transport Association felt that the proposal to require such vehicles to operate on the basis of "separate fares" (rather than the vehicle being hired as a whole) could prove burdensome, leading to uncertainty as to whether any given service could be covered by the permit, and should therefore be dropped.

3.51 Representatives of the private hire vehicle trade were concerned that any extension of the permit system to small vehicles represented unfair competition with commercial operators. They argued that the safeguards against community transport providers charging rates which involved a profit were insufficient.

OTHER ISSUES

3.52 A number of respondents including local authorities, transport user groups, union representatives and transport operators raised the issue of safety standards and suggested that providers of community transport services should meet the same

safety standards as commercial operators and that community drivers should observe the same rules on driving time.

3.53 Some respondents were concerned that community transport was sometimes seen as an alternative to good bus policies. They welcomed a wider role for community transport solutions provided it is part of a coherent and integrated public transport network.

3.54 There was also a recommendation by a public body for all section 19 permits to have time limits. This would enable an up to date list of licence holders to be maintained.

Q1(f): What are your views on the proposals relating to other measures?

EXTENDING THE MAXIMUM LENGTH OF BUS SUBSIDY CONTRACTS

3.55 The majority of respondents, including local authorities, welcomed extending the maximum length of bus subsidy contracts. A minority were concerned about extending beyond five years. A public body suggested any extension should be justified by demonstrating that the restriction in terms of foreclosing the market for longer than five years is outweighed by the benefits. Other respondents expressed concerns that this may encourage operators to quote higher prices at the start of a contract to compensate for below inflation price increases in later years. There were also concerns that longer contracts could cause a bigger, more disruptive change at the end of the period.

TAXI-BUSES

3.56 At present, taxi owners are eligible to apply for a “special restricted” Public Service Vehicle (PSV) operator’s licence, specifically to enable them to register and operate local bus services. The draft Bill includes a provision to extend similar eligibility to holders of a private hire vehicle (PHV) licence. The amendments would allow PHVs operating in this way to pick up passengers in conformity with the terms of a local bus route registration.

3.57 There was a welcome for this proposal particularly on the grounds that it would give new flexibility in meeting local transport needs particularly in rural areas.

3.58 Some respondents, including bus operators, unions and representatives of other transport operators, opposed the extension of the right to operate taxi buses on the grounds that it might undermine current services and create confusion. They thought that while the intention of supporting community-based solutions is a fair one, they thought a more thorough review of taxi and private hire legislation needed to be undertaken with consideration of health, safety and operating rules.

3.59 There were also concerns from the PHV trade that the ‘Taxi Bus’ proposals, if given over to individual private hire drivers would destroy the principle of private hire being a ‘pre-bookable’ service managed by licensed PHV operators. The ability to ‘ply for hire’ outside the control of their licensed operator could encourage touts to

exploit and confuse the public as it would remove the control and management of licensed private hire operators.

3.60 In London, where illegal touting is perceived by some respondents to be a particular problem, there were concerns that the proposal would undermine efforts to counter touting by allowing PHVs, for instance, to pick-up passengers at bus stops without pre-booking. It was argued that given existing bus service provision in London there was no need for PHV-taxibuses in London.

3.61 A respondent commented that if an operator failed to provide a taxi-bus service to the required standard, the traffic commissioner could revoke their special restricted public service vehicle operator's licence. But there was a concern that there was nothing to prevent them reverting to using the same vehicle as a taxi or, if the Bill is passed, a private hire vehicle (i.e. they are not necessarily penalised to the same extent as an errant bus operator). It was suggested that the traffic commissioner should be able to direct local authorities to take action against specific hackney or private hire operator and vehicle licences as a penalty in respect of poorly operated taxi-buses.

3.62 There were also suggestions that the Bill should allow vehicles licensed by one borough to operate in any other borough; this would, for example, facilitate fare-paying return journeys from major regional centres such as hospitals and inter-city railway stations in boroughs other than that in which the vehicle is registered.

SALE OF COUNCIL-OWNED BUS COMPANIES

3.63 The proposal to remove the requirement for the Secretary of State to give consent in respect of the sale of council-owned bus companies was welcomed. The measure would devolve an important responsibility to the remaining local authorities that own bus companies.

OTHER ISSUES

3.64 Although not part of the consultation, some local authorities, transport user groups and bus companies expressed concerns about any change to Bus Service Operators Grant (BSOG) which involved rewarding operators for carrying more passengers as this would jeopardize the viability of less well used services, which are usually longer distance 'inter-urban' services and those in rural areas. There were also proposals for the 'Traveline' public transport information system to be funded by 'top slicing' BSOG rather than through the current very complex arrangements.

3.65 Others commented that the concessionary fares reimbursement is a very substantial funding stream to bus operators and the implications of this should be considered within the framework of the draft Local Transport Bill.

3.66 Some respondents, including those representing rural communities, were concerned about access in rural areas and suggested the Government make greater provision within the Local Transport Bill to address this. They suggested consideration should be given to examining options for integrating taxi-buses,

commercial dial-a-ride services and other demand responsive services into rural transport networks with adequate funding provided.

3.67 Some respondents including local authorities and transport groups suggested traffic commissioners should be given the power to impound illegal or unlicensed passenger carrying PSVs.

3.68 There were a number of respondents including local authorities, regional groups and transport groups recommending an independently publicly funded body to deal with complaints from bus passengers. There is currently no statutory body that looks at consumer issues within the bus industry. They thought the Bill should address this.

3.69 A few respondents suggested the Government should use this opportunity to regulate pedicabs to complement the public transport services in towns and cities.

3.70 A regional body and transport interest group suggested consideration should be given to the inclusion of measures to encourage alternative/cleaner fuel strategies for public transport vehicles.

Q2: What are your views on the specific questions relating to competition legislation

3.71 Included within the draft Bill is a proposal for a new competition test, designed specifically to apply to certain voluntary partnership agreements. The new test was broadly welcomed as giving operators and local authorities more certainty. Bus operators welcomed the competition test regime and felt that an authority should be required to satisfy itself, and if necessary, the competition authorities, that it is acting within the legislation.

3.72 Bus operators considered the enforcement regime under the Competition Act 1998 potentially punitive and suggested that local authorities should be subject to the same severity of enforcement penalties as the operators themselves. The current facility to seek an opinion from OFT before implementing an agreement provided a safeguard which they thought should be maintained. Bus operators also recommended that in considering applications for quality contracts schemes, the approvals board should additionally be required to apply the competition test to the proposals.

3.73 It was suggested by a public body that for consistency, economy and ease of understanding one test (i.e. the revised Schedule 10 test) should be applied to both VPAs and QPSs. It was also suggested that a competition regime, if it is to be effective, must have appropriate means of enforcing decisions. As currently drafted the Bill could provide a safe harbour that could shelter bus operators from enforcement action. The enforcement provisions should be based on those provided in Chapters 3 and 4 of the Competition Act 1998. Such provisions could be imported into the Transport Act 2000.

3.74 Further suggestions for amendments to the test were:

- including a clear method for comparing risks to competition with benefits for the public.
- including a clear statement that the test applies to the actions of authorities that are also undertakings - such as in the supply and pricing of car parks.
- including agreements between operators for example - to clarify that an agreement between two operators who wish to co-ordinate their timetable down a particular stretch of road would be legal provided it did not eliminate the entry of a new competitor on the route concerned.
- giving consideration to whether there is there sufficient unsatisfied demand for additional services and is there highway capacity to allow this service to operate.

3.75 Some local authorities supported the introduction of the proposed arrangements for the OFT to monitor and enforce agreements under the revised Schedule 10 test. However any assessment would need to take place early on in the process to provide certainty for local authorities and operators once a scheme is in place.

3.76 Bus operators suggested that OFT should have a role in assessing whether the competition test is met. They were concerned that there would not be a body to which the concerns of operators could be addressed. The only option open to operators would then be judicial review. They suggested reviewing how to provide operators with an appropriate appeal mechanism by which they can raise concerns about the decisions of local authorities (to include the full range of actions currently covered by the competition test).

3.77 A transport interest group suggested the Bill could be amended to require the OFT to assess agreements between bus operators by reference to likely economic effect and questions of passenger benefit. The Bill could for example require the OFT to have regard to certain considerations, such as the need to encourage greater use of buses and/or competition between buses and other modes of transport, in assessing the economic effect of any agreement.

3.78 Some local authorities considered the definition of a voluntary partnership agreement too restrictive. Local authorities and operators may enter into agreements to improve local services that do not involve the provision of facilities. Under the current draft Bill, these agreements would not qualify for the 'revised schedule 10 test' and would instead have to satisfy general competition law. This would act as a barrier to potentially effective partnerships. It was suggested that the wording of the draft Bill be revised to allow for the 'revised schedule 10 test' to apply to a wider range of voluntary agreements.

Q3: Do the proposed “public interest” criteria for quality contracts schemes cover the right issues?

3.79 In general respondents endorsed the criteria which together make up the test.

3.80 The public interest test under quality contracts schemes was welcomed by local authorities, however some thought greater detail was needed. The test included

an assessment of the contribution of a quality contracts scheme to the authority's transport policies. Many local authorities and regional bodies suggested consideration should be given to the inclusion of non-transport policies such as health and education where policy delivery relates strongly to public transport. Consideration of a local authority's wider objectives, in which transport may play an important part, e.g. tackling social inclusion or deprivation should also be considered.

3.81 Bus operators suggested removing any reference to "reducing, arresting or reversing the decline" in the use of local bus services as it could not justify the upheaval and loss of commercial rights that a quality contracts scheme would entail. They also proposed that other considerations should be included relating to the legitimate interests of bus operators to address issues such as: the effects on shareholder value of the goodwill and brand attributes in the event of the confiscation of the right to trade; the potential loss on disposal of any assets rendered surplus by the proposal; and the potential costs of restructuring an existing business. Bus operators also argued that there needs to be a requirement to compensate existing operators to fully protect the legitimate interests of the bus operator.

3.82 Some respondents suggested the proposed new test should state that, before making a quality contracts scheme, the proposing authority must publish a consultation document or that the test should be replaced by a public consultation document. There were also proposals from those representing particular social groups to have a statutory objective to consult local disabled people and take into account wider issues such as the targets and priorities set out in the local Children and Young People's Plan and take account of the needs of the elderly and vulnerable people. Non-transport business suggested greater liaison with local businesses. Some would also like to widen the test so that it could relate to an increase in the use of public transport generally and not just to an increase in the use of bus services.

3.83 Concerns were raised that the criteria currently lacked a degree of definition, and are therefore open to misinterpretation. Issues for consideration are:

- The absence of any clear guidance on decongestion, environmental and other benefits that may arise from modal shift.
- The operating and transitional costs of any new arrangements.
- The speed with which improved services might be implemented.
- The availability of long term funding, and the balance of funding between passenger fares and taxpayers' subsidies (whether from central or local funds).

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

3.84 The draft Bill proposed to develop a new punctuality performance regime, in which both local authorities and bus operators can be held more strongly to account for their contribution to bus punctuality. The proposed regime would involve a significant extension of the traffic commissioners' responsibilities.

3.85 Concerns were expressed on the costs of data collection to smaller operators. Bus operators felt there were different ways of achieving sufficiently accurate evidence of performance and it should be for each operator and authority to agree the best means in their circumstances, with the opportunity left open to the traffic commissioner to question and if necessary require a change in the agreed practice. Bus operators suggested punctuality must be monitored against an achievable and affordable standard, and not by an arbitrary measure applied uniformly across all locations, routes, seasons, days and times of day.

3.86 Some operators thought it important that any new bus punctuality regime makes allowance for the differing levels of resource and equipment available to operators of different size. Satellite tracking and automatic vehicle location may not be affordable by smaller operators, and in these circumstances physical observations on a sampling basis should be acceptable. However, other respondents thought the distinction between small and large operations is a very subjective one. The requirement to provide this data should apply to all categories of operator, regardless of size. The key issue should be that the data collection is robustly cost-justified and is produced in a form that provides real passenger benefits.

3.87 Some respondents pressed for the need to have guidance on what bus speed is reasonable in congested urban areas, with a level of bus priority that is commensurate with government objectives for bus use increases. Otherwise there would be no means to deliver consistency on punctuality performance.

3.88 Proposals were put forward by local authorities and regional bodies to require local authorities, working closely with relevant operators and other parties affecting the bus service, to provide an annual report to the traffic commissioner. The report would identify what is achievable in terms of bus service punctuality, would outline the actions that the parties will take over the plan period to secure improvements and, in subsequent years, would report on the success of that action (or identify the further remedial work necessary). Operators would be judged against the standards developed with the local authority who could determine locally appropriate solutions. The aim would be to have a programme for action to improve punctuality and to do this in a way that is efficient and effective. This would also allow for co-ordination with other performance regimes through Local Area Agreements.

3.89 Some respondents considered the enforcement of any non-compliance with the punctuality performance regime to be unbalanced between operators and local authorities. Some bus operators did not agree with the proposal to allow traffic commissioners to "cross-penalise" to another subsidiary in the same group, as it would not be possible to penalise other local authorities for the poor performance of one. Therefore bus operators should not be given harsher treatment. Traffic commissioners' actions should only affect the failing services.

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

3.90 The draft Bill includes provisions to amend the rules which permit local authorities to subsidise services, so as to provide more flexibility for authorities and

facilitate more investment. It proposes extending the maximum length of bus subsidy contracts from five to eight years.

3.91 There was general support for the proposal to extend the length of bus contracts from five to eight years as it will ease administration and improve value for money.

3.92 Some bus operators welcomed the extension of powers proposed for the procurement of subsidy contracts as it should benefit to local authorities. However it was suggested that these powers should remain subject to the competition test and that the limits on de minimis payments to operators should be revised in line with EU maxima, so that authorities are enabled to negotiate desired enhancements with incumbent operators in appropriate circumstances.

3.93 Some respondents expressed the need to link subsidy to bus patronage. A range of other targets could also be considered including social inclusion, environmental damage and pollution control.

Responses to Chapter 4: Reforming local transport governance

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

3.94 The need for change to the governance arrangements in the metropolitan areas outside London was widely endorsed across all categories of respondent. The existing pattern, based on Passenger Transport Authorities (PTAs)² with fixed powers and areas of operation dating back to the 1960s, was seen as no longer optimal for present and foreseeable needs: changing transport patterns, the substantial transfers of transport operators from the public to the private sector, and reforms to regional, sub-regional and local governance structures beyond transport highlighted the constraints.

3.95 City regions in particular saw the proposals as helpful in delivering their emerging visions and strategies for transport, and a few other local authorities outside metropolitan and urban areas welcomed the facility to establish new PTAs covering more than one local authority area. A trade union welcomed the option to create more PTAs as a means of increasing the accountability of bus and rail operators to public bodies.

INTEGRATION

3.96 There was a broad consensus across respondent categories that there was a challenge for the metropolitan areas in securing integrated transport policies because of the division of responsibilities between PTAs and metropolitan district councils, particularly where political control of councils changed or differed. But

² Unless the context indicates otherwise, references to PTAs should be taken also to refer to Passenger Transport Executives (PTEs).

there was less agreement on solutions (see Questions 7 and 11). In terms of possible changes, many respondents commented on the importance of securing better alignment of public transport planning with the planning and management of highways and parking provision, an approach which attracted particular support among bus operators though was not confined to them.

3.97 The current remit which was perceived to limit PTAs to passenger transport was proposed as a further area for reform, particularly by the freight industry respondents.

REFORM OUTSIDE THE METROPOLITAN AREAS

3.98 Comments indicated that the need for reform was not limited to the former metropolitan counties. City regions outside these metropolitan areas – for example, the Three Cities sub-region in the East Midlands – were identified as particularly in need of new approaches to transport governance which brought the benefits of an integrated approach. However, it did not follow that the PTA model was the only way of achieving this, and some respondents said that the Bill should not require establishment of a new PTA as a pre-requisite for reform.

3.99 Several local authorities plus a range of other respondents commented on the impact of change in the metropolitan areas on the rest of the country. They thought that the draft Bill was urban-centric and did not address the needs of people in rural areas and smaller towns. It would be important for PTAs not to focus solely on addressing problems within their own boundaries but to take account of the impact of their policies on the surrounding areas (the construction of Park and Ride facilities in rural areas was cited in this context). A few local authorities expressed concern that adoption of a Transport for London (TfL) model in the metropolitan areas would require higher levels of subsidy, to the detriment of the non-metropolitan areas.

3.100 Joint working between adjacent local authorities was proposed as a more realistic option for rural areas than the PTA model. One transport interest group commented that clause 46 as drafted appeared to prevent district councils in shire counties from being properly engaged in transport functions, which would hinder integration. A passenger user group suggested the creation of rural public transport catchment area management boards to produce integrated transport strategies for rural areas.

LINKS TO REGIONAL STRATEGIES

3.101 Respondents from several categories considered there was insufficient emphasis in the proposals on ensuring integration with land-use planning, economic development strategies and environmental policies. One local authority partnership proposed that PTAs and city region transport partnerships should be statutory consultees under planning legislation. One respondent was concerned about a lack of clarity over how the new proposals would relate to the planning system, fearing additional complexity.

3.102 A business representative suggested that decisions on transport planning should be taken at the regional level, in the best economic interests of the region, and to improve alignment with the new Integrated Regional Strategy combining the Regional Economic Strategy and the Regional Spatial Strategy. A regional assembly proposed that the Bill should define the input required from the nominated Regional Planning Body in establishing new PTAs and developing their strategies and plans. Other regional interests thought the draft Bill would be helpful in enabling regional and sub-regional delivery of national policies.

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

3.103 The draft Bill includes a range of powers which enable the Secretary of State, subject to Parliamentary approval, to respond to proposals from local transport authorities and others: to create new PTAs and dissolve existing ones; to change a PTA area of operation and its constitution; and to vary the respective responsibilities of PTAs, metropolitan district councils and the Secretary of State, as part of a devolved approach to transport planning.

3.104 Respondents across all categories fully supported the need for the Bill to provide flexibility in governance arrangements. As the consultation document recognised, circumstances varied even across the metropolitan areas, both in the number of constituent authorities and in travel patterns.

3.105 Differences of view centred on the extent of the flexibility to be allowed, rather than the principle.

EXTENSIVE FLEXIBILITY

3.106 Many local and regional authorities pressed the case for as much flexibility as possible. Some suggested that the Bill should provide greater encouragement for the establishment of sub-regional partnerships without setting up a PTA, enabling alignment with the changes following the sub-national review³. There was support for the facility to create a “strategic transport authority” with broader powers than PTAs, and for highway authorities to be able to transfer their powers to a sub-regional partnership or named lead authority. A business representative body was concerned that areas in between city regions could face serious problems about the interoperability of, for example, concessionary and incentive fare schemes and proposed a region-wide PTA as the solution.

3.107 Some local authorities commented that the Bill should enable a local transport authority to work in partnership with more than one set of partners, including local authorities in Wales which formed part of an English travel to work area. A transport interest group commented that clause 46 as drafted enabled a single metropolitan district council to block the establishment of a new PTA,

³ Review of sub-national economic development and regeneration, July 2007, by HM Treasury, Department for Business Enterprise and Regulatory Reform, and Department for Communities and Local Government: referred to in this report as the “sub-national review”.

irrespective of majority support for it in the area, and proposed extending the duty to cooperate to shire district councils.

LIMITED FLEXIBILITY

3.108 From another perspective, transport operators and business representatives argued that excessive flexibility would result in a proliferation of differing arrangements which would be confusing for the public and would present unwelcome complications for operators functioning in different geographical areas. This view received support from some expert bodies and some shire county local authorities. Regional bodies identified the need for a degree of consistency so that, for example, workable Multi-Area Agreements which crossed regional boundaries could be put in place.

3.109 To avoid excessive divergence, suggestions were put forward for developing a set of agreed models or templates for adoption, or for reviews to be guided by a set of principles based on good practice. These might be set out in Secretary of State guidance. Whatever approach was adopted, those concerned about excessive divergence considered it important that the Secretary of State retained the power to take the final decision on new arrangements, including the ability to reject or modify a proposed scheme, though recognising this would be a power of last resort.

3.110 There was one point on which there was extensive agreement among respondents, and which attracted more requests for an amendment to the draft Bill than any other single issue in the governance chapter. Although the draft Bill at present would allow additional areas coterminous with a local transport authority boundary to be included in a revised PTA area, it makes no provision for only a part of a local transport authority area to be so included. Commentators were clear that this was an unwelcome inflexibility: it was important that a PTA area should be defined on a functional basis, such as a travel to work catchment, without the need to extend its responsibility throughout a local transport authority area where no benefit would arise from doing so.

DEMOCRATIC MANDATE

3.111 A few metropolitan authorities stressed the importance of transport authorities having a clear democratic mandate, with the option of direct elections to PTAs and to their equivalents in city regions. By contrast, two groups representing local authorities asked whether the Secretary of State's power to determine constitutional arrangements for PTAs was broad enough to allow direct elections to be introduced, which was seen as potentially unhelpful to maintaining local authority influence over transport in the sub-region. It was suggested that if the power was so broadly drafted, it should be amended to be exercisable only with the consent of the constituent local authorities.

3.112 One transport infrastructure provider requested that clause 49 should be amended to require explicitly that where the Secretary of State removes an area from PTA jurisdiction the new transport authority for the removed area should be an elected county, district or unitary council, and that similar provision should be made under clause 50 in the event of the dissolution of a PTA. The same respondent and

a shire county council said that the extension of a PTA area should require the consent of the local authorities affected and that clause 46 should explicitly provide that the Secretary of State could only delegate a local authority function to a transport authority if the affected local authorities agreed.

SPECIFIC INTERESTS

3.113 London: Transport for London (TfL) requested that certain powers which the Bill would confer on the Secretary of State should also be available in London, specifically:

- Clause 45 should enable the Secretary of State also to delegate her functions to TfL, as well as to PTAs, so that TfL could exercise responsibilities in relation to the strategic road network.
- Clause 47 should also enable the Mayor of London or TfL to give a direction to a highway authority in London.

3.114 Airports: An airports operator requested that its airports should be exempted from the provisions of clauses 45 and 46 to ensure that it retained control of airport roads and that the Secretary of State could not delegate the control function to a transport authority.

PROPOSED ADDITIONAL PROVISIONS

3.115 A body representing education institutions requested the Bill should include a new duty on local transport authorities to provide affordable transport for 16-18 year olds travelling for education purposes, in support of the Government's policy that young people should remain in education until 18.

3.116 An organisation representing cycling interests argued that there was insufficient emphasis on the need to promote environmental sustainability, as opposed to economic and social objectives, in deciding whether to establish a PTA (which is distinct from the proposed new climate change duty on PTAs once established). It proposed amending the Bill in several places to add "environmental sustainability" alongside the "effectiveness and efficiency" tests.

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?

3.117 The draft Bill provides that a review of governance arrangements is triggered by the Secretary of State issuing a direction. The draft Bill does not specify which body should lead a review, but there is provision for the Secretary of State to issue guidance on the conduct of the review or the preparation of a new governance scheme. The Secretary of State would have the power to make an Order implementing a new scheme, or to modify or reject a proposed scheme.

LEAD BODY

3.118 Although a majority of respondents favoured having cities in the lead on preparing new governance proposals, there was a range of opinion on what this meant in practice. PTAs, metropolitan district councils acting jointly, city region structures, sub-regional partnerships, regional bodies and individual local authorities were all proposed for the lead role. One county council proposed that the review should be led by an independent body which would develop an impartial assessment of the options.

3.119 Whoever led, there was widespread agreement that consultation with other parties should be integral to the process, that buy-in from all affected local authorities at the political level was essential, and that effective and genuine partnership was needed to deliver locally workable plans.

INITIATING A REVIEW

3.120 There were suggestions for modifying the proposed right to initiate a review. Some regional bodies and local authorities wanted a local transport authority to be empowered to initiate a review, including putting forward proposals for a new PTA. One local authority considered city regions should be explicitly excluded from initiating a review.

3.121 PTEs said that district councils within a PTA area should not be able to initiate a review without PTA support and were concerned that this option appeared to be allowed under clause 40. A consumer group wanted local authorities adjacent to Greater London to be able to propose that they should be brought within the scope of TfL.

3.122 Some local authorities thought that the Bill should not empower the Secretary of State to require a review or, if the power were to be retained, it should be a reserve power to be used only in the event that there was a clear case for change but no agreement locally on conduct and timetable. Against that, several transport operators explicitly supported the ability for the Secretary of State to initiate a review, with one suggesting that all metropolitan areas should be directed to carry out reviews within 2 years.

DETERMINING THE OUTCOME

3.123 The Secretary of State's power to determine the outcome attracted varied comments. There was considerable support for the power in the interests of ensuring some consistency across the country (see Question 7 above). However others - particularly metropolitan local authority interests - considered that the use of the power should be constrained, for example by including a test that the proposed solution should improve the coordination and integration of public transport in an area and/or should take full account of wider economic, social and environmental objectives agreed for the area. Alternative suggestions included requiring the final decision to be taken at regional level or giving the affected local authorities a veto over the final arrangements.

ADDITIONAL GUIDANCE

3.124 Many respondents welcomed the flexibility on the leadership role in the draft Bill but made suggestions for issues that should be included in guidance or other implementation mechanisms. These included:

- Guidance on how a PTA (or PTE) could trigger a direction by the Secretary of State for a review: this could be included on the face of the Bill or in guidance.
- Consultees: apart from the PTA, PTE and all the local authorities affected, the regional government office, transport operators (bus and rail), infrastructure providers (road and rail), business representatives, user groups, representatives of disabled people and of elderly people, regional development agencies and regional transport boards were proposed for inclusion in a mandatory list.
- The importance of reviews ensuring that the needs of freight, particularly for local deliveries, were recognised and ensuring that local plans and policies did not adversely impact on the strategic road and rail networks.
- Costs: revised structures should add value, not increase costs.
- The needs of rural areas should be explicitly considered in reviews. In particular, rural areas should not be brought within the scope of city-based governance unless the transport dependencies were significant.
- Consideration as to whether transport issues should be handled within the Local Strategic Partnership framework, to ensure alignment with economic development policies and plans.

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

3.125 The overwhelming majority of those commenting on this point favoured the present broad enabling nature of the draft Bill, though as noted under Question 7 some respondents favoured drawing certain provisions more tightly. One local authority partnership observed that although the powers were drawn broadly, the Secretary of State's power to approve, modify or reject proposed schemes provided a safeguard against excessive divergence of local arrangements without narrowing the provisions further. One respondent proposed that the Secretary of State could specify minimum expectations of a review as a means of ensuring that key policy objectives were met without compromising the flexibility in the Bill.

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?

3.126 There was a clear majority among respondents in favour of retaining the power to allow further development in the light of changing circumstances. One respondent commented that transport operators sought long-term stability so it was important that successful arrangements were given the opportunity to evolve rather than forcing authorities to get it right in a single attempt. A county council said that

the use of the new powers should be periodically evaluated to see whether performance did improve.

3.127 While supporting retention in preference to allowing the powers to lapse, some respondents argued that there needed to be some form of restraint on the frequency with which governance arrangements could be reviewed. Without this, there was a risk that authorities became distracted from their principal role of ensuring the effective delivery of transport provision. Suggestions were put forward for the Secretary of State to set minimum time periods between reviews, or for governance reviews to be carried out on at 15-year intervals aligned to the life-cycle of the Integrated Transport Strategy.

3.128 Some transport operators, a few local authorities and an opposition spokesman considered that allowing the powers to lapse would concentrate minds and prevent a delay in making changes, as well as ensuring that there would be no opportunity for repeated reviews.

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

3.129 The draft Bill proposes three additional powers and duties that would be common to PTAs in the metropolitan counties, irrespective of whatever other local arrangements were adopted:

- A duty for all PTAs and district councils in the PTA area when carrying out transport functions to have regard to government policies and guidance on climate change.
- An extension to PTAs of the “well-being” power available to local authorities under the Local Government Act 2000.
- A power to enable all PTAs to participate in the development of local road pricing schemes in partnership with local authorities.

3.130 There was broad support for the overall package of changes, with some respondents proposing additional powers - summarised below - for all PTAs and city region partnership transport bodies.

CLIMATE CHANGE

3.131 The proposed climate change duty attracted particular support from environmental groups and local authorities. Suggestions were made that the duty should extend to all local transport authorities and that Integrated Transport Strategies should include CO₂ reduction targets and local environmental improvements such as better air quality.

3.132 A small number of respondents – mostly transport operators – queried the purpose of singling out climate change for treatment in this way. They argued that PTAs as public bodies should take account of all relevant national policies, and that climate change objectives would be factored into their plans by that route. A group of local authorities in a city region considered that clarification was needed on the

relationship between the climate change duty and other sustainable development objectives.

WELL-BEING POWER

3.133 No respondent raised objections of principle to the extension of this power to PTAs, but there was some concern among transport operators about how it would be exercised in practice. They considered that its exercise would always require justification: this could be provided, for example, by limiting use of the power to actions directly supporting the Integrated Transport Strategy.

3.134 In particular, the power should not be used to enable PTAs or PTEs to do anything which they are currently prohibited from doing, nor to operate bus services where private sector provision already existed. They requested a tightening of clause 60 of the Bill to prevent this and that the Secretary of State should issue guidance on the use of the power, bearing in mind that PTAs were not directly elected.

3.135 One law firm proposed, in the interests of improving joint working arrangements, that clause 60(4) should also enable the PTA to use the power outside its area in conjunction with any other body having the same powers, though recognising that clause 61 could inhibit joint working by restricting the use of the power by a PTA.

3.136 The same respondent suggested that the power to disapply enactments under clause 62 should be amended so that the power was only exercisable subject to conditions (not specified). TfL requested that the clause 62 power should be exercisable in relation to the Mayor of London and TfL.

3.137 Some public sector transport respondents proposed that the well-being power should be extended to PTEs well as PTAs, or at least that the PTE should be capable of exercising the power to implement a PTA decision. For London, TfL proposed that it as well the Mayor should be able to exercise the well-being power.

LOCAL ROAD PRICING SCHEMES

3.138 See summary of responses to Chapter 5.

ADDITIONAL POWERS PROPOSED BY RESPONDENTS FOR PTAs

3.139 Rail: There was some support from local authority and transport operator interests for PTAs - and sub-regional partnerships without PTAs - to be given powers to take a greater role in specifying local rail services, either by transferring funding to them or by empowering them as co-signatories to rail franchise agreements. However, operators were concerned that such powers should only be exercised in support of rail service objectives set out in an approved Integrated Transport Strategy, adopted only after consideration of the potential of other transport modes. Operators and business representatives considered the Bill should require PTAs – and any other transport authorities engaged in specifying rail provision – to have regard to national rail policies (for example, Network Rail's Route Utilisation

Strategies) to avoid local plans impacting adversely on national network passenger and freight services.

3.140 Roads: Some respondents, principally transport operators, considered that PTAs should be given powers over highways, particularly those needed for frequent bus services, as well as control of parking, local speed limits and planning for sustainable travel options such as walking and cycling. It was argued that car restraint was an inevitable feature of future urban transport strategies. Transport for London was seen by a range of respondents as a model to be replicated, though the London Borough Councils requested that the Bill should give them a formal role in the governance of TfL, as metropolitan district councils had in their PTEs.

3.141 Others noted the successes in improving local transport services achieved by some urban unitary authorities outside the metropolitan areas, where responsibilities were not split. Conversely, there was opposition from some local authorities to giving highways powers to PTAs, arguing that the way forward lay in strengthening partnership working among existing authorities without changes in their respective powers: the proposed Integrated Transport Strategies (Question 12) were seen as an important lever for achieving this.

3.142 Freight: There was support from business representatives and some local authorities for extending PTA responsibilities to cover the movement of freight, perhaps based on a statutory duty to facilitate the movement and delivery of goods across the urban area. Even without such a duty, ensuring a coherent approach to the management of urban freight, particularly local deliveries and the movement of rail freight through conurbations, was seen as essential, particularly where local road pricing schemes are introduced with their potential for displacement.

3.143 Information: One consumer group proposed that the Bill should include a duty on all PTAs and local transport authorities to provide integrated public transport information for their areas.

3.144 Equality: The Disabled Persons Transport Advisory Committee proposed that the Bill could be used to reinforce the requirement on PTAs to produce a disability equality scheme and an action plan.

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

3.145 The draft Bill proposes that in the metropolitan areas the current requirement to produce a Local Transport Plan (LTP) and a separate Bus Strategy should be replaced by a duty on PTAs to prepare an Integrated Transport Strategy (ITS) and an associated implementation plan. Provisions relating to Local Transport Plans generally will be reviewed in the light of the current separate consultation.

REPLACING THE LTP

3.146 There was general support for combining the LTP and the Bus Strategy, though one local authority was concerned that this could lead to a skewing of funding towards buses at the expense of other modes. However, reaction to the proposal to replace the LTP with an ITS was mixed. Several local authorities commented that LTPs had demonstrably led to improvements, and that the focus should be on refining them rather than replacing them.

3.147 Views were divided over whether the ITS would be less resource-intensive to produce than the LTP, and one respondent suggested there were lessons to be learned from the experience of local implementation plans in London. A further concern was how the ITS and adjacent LTPs would relate to one another, particularly where part of a local authority area became included in a PTA area; and indeed whether a LTP in the “residual” area was needed and, if so, whether it would be workable.

3.148 One county council questioned whether placing responsibility for the implementation at PTA level was consistent with the overall trend of devolving responsibility to local authority level. A business representative advocated strengthening the transport elements of the regional economic and spatial strategies as a means of driving integrated planning rather than introducing a separate ITS.

3.149 Other identified risks in the ITS model included:

- Lack of buy-in, and therefore funding, by metropolitan district councils, particularly where political control changed; it was suggested that the Bill should specify the role of district councils in contributing to the ITS.
- A loss of focus on delivery.
- A focus on big schemes with insufficient attention to simpler methods of achieving sustainable travel, such as Smarter Choices.
- A loss of the integration, inherent in LTPs, across an authority’s policies for its area, and how these support transport goals and vice versa. In particular, the process of integrating Air Quality Action Plans into LTPs, which the government had been encouraging, could be stalled.
- The use of the ITS to micro-manage local transport authorities.

REFINING THE ITS MODEL

3.150 Despite these reservations, there was considerable support for introducing the ITS model into metropolitan areas and city regions. Supporters saw the ITS as an essential underpinning to developing and delivering successful Multi-Area Agreements at sub-regional level. Specific suggestions for the model included:

- The ITS development process should be aligned with the development of the new Integrated Regional Strategy combining the Regional Economic Strategy and the Regional Spatial Strategy following the sub-national review. It should be

consistent with the relevant Regional Transport Strategy, particularly in relation to the strategic road network.

- The ITS should cover a 20 year period to align with Regional Planning Assessment for rail, with the implementation plan covering 5 years to align with Route Utilisation Strategies.
- A 30-year national transport outlook document would provide a useful context for the ITS.
- The ITS should be the key conduit for local transport funding (see next section).
- Freight issues and sustainable travel options, including a walking strategy, should be included in the ITS.
- The ITS should be subject to a Strategic Environmental Assessment.
- In line with wider government policy, the ITS should demonstrate how the Third Sector is to be encouraged and supported.
- Air Transport Access Strategies should be incorporated into the ITS.
- A timetabled strategy for improving access to public transport by disabled people should be included in every ITS.
- Where a new PTA is being established, the start date for the ITS should be 2009, rather than 2011 as envisaged in the consultation document.

3.151 A number of respondents considered that greater clarity was needed about the ITS model before the Bill was introduced to Parliament, and that the consultation on LTPs should be completed before legislation.

FUNDING

3.152 Although respondents recognised that funding arrangements were largely outside of the scope of the consultation, several proposals – largely from local authorities – were put forward with the aim of seeking to ensure that the Bill would allow them as options.

3.153 Local authority interests considered that greater local control of transport funding through local authority partnerships was an essential element of the draft Bill's devolutionary thrust. Additional revenue-raising powers were desirable, for improving infrastructure, for implementing demand management solutions, and for providing the running costs of new capital transport programmes without being excessively dependent on council tax.

3.154 Respondents suggested that funding arrangements should be adopted for a long-term horizon, aligning with whatever governance structure was agreed in individual areas. The Bill should ensure funding structures were sufficiently flexible to allow this. The current arrangements for regional funding allocations should be changed to reflect the conclusion of the sub-national review that regional funding decisions should be devolved to sub-regional partnerships wherever possible. The current process of channelling funding for PTAs through RSG to metropolitan district councils caused problems and direct funding of transport authorities was seen as preferable by one group of city region councils. In addition, another group of

metropolitan councils sought assurance that clause 52 provided sufficient flexibility to enable funding for new governance structures to be made available.

3.155 Some non-metropolitan local authorities argued that funding allocations should not disadvantage them in relation to the PTA areas: transparency and equity should be key principles.

3.156 London Borough Councils requested two changes to the Bill:

- an addition which would specify the circumstances in which funding for transport projects through the London local implementation plan process could be withdrawn;
- a provision to revoke TfL's power to set the amount charged to London Borough Councils for the London Freedom Pass Scheme, instead making the Secretary of State the final arbiter on the amount.

Responses to Chapter 5: Taking forward local road pricing schemes

3.157 The consultation document set out proposals for enabling local authorities wishing to develop local road pricing schemes to do so in a way best suited to local needs within a clear framework for local accountability, and for ensuring consistency and interoperability between local schemes. Although the draft Bill excluded powers to develop a national road pricing scheme, many consultees expressed views about the principle and practicality of moving towards a national scheme.

Q13(a): What are your views on the proposals relating to local freedom, flexibility and accountability

ENABLING A PTA TO PARTICIPATE IN DESIGNING AND IMPLEMENTING A ROAD PRICING SCHEME

3.158 The great majority of comments explicitly on this point - which came from across different categories of respondent - supported the proposal. There was a recognition of a PTA's role in putting in place the public transport improvements widely seen as necessary to accompany the introduction of road pricing schemes. The reform of local transport governance outlined in Chapter 4 of the consultation document was also considered a pre-requisite so that divisions of responsibility for highways and public transport could be addressed, and the ability of a PTA to work across local authority boundaries was seen as an advantage here.

3.159 There were suggestions that the new power should not be limited to PTAs. Two groups of local authorities proposed the power should be available to city region transport partnerships where these were set up. One organisation requested that airports operators should also be able to introduce charging schemes at airports. A charity also proposed that relevant parts of the strategic road network should be included in charging schemes, to demonstrate government commitment.

3.160 Two respondents suggested that, provided the governance reforms were fully implemented, a PTA should be able to initiate a proposal for road-pricing within its city region after consulting the local authorities but without requiring their consent. A Parliamentary opposition spokesman commented that where a scheme was PTA-wide, no individual local authority should be allowed to opt out, otherwise the scheme could fail to work properly. A motoring organisation sought clarification on the powers available to deal with a failing or recalcitrant charging authority.

3.161 In London, Transport for London (TfL) requested “step-in” powers for the Mayor in relation to London Borough Councils on congestion charging; while the London Boroughs requested an amendment to existing legislation to enable them create charging schemes, or participate with TfL in the process, so that they could benefit from the revenues.

3.162 A small number of respondents representing road users opposed the proposal, partly on the grounds that PTAs were seen to be removed from direct electoral accountability and partly because of their perceived lack of responsibility for facilitating freight transport.

REMOVING THE SECRETARY OF STATE'S ROLE IN APPROVING LOCAL SCHEMES

3.163 There was support for the proposal, particularly from local authorities, operators and expert transport bodies, principally because it was in line with the Government’s overall approach to devolving decision-making and because it was expected to speed up the process of introducing schemes.

3.164 Another considered that the need for local authorities to seek funding through the Transport Innovation Fund (TIF) and for other capital schemes meant that the Secretary of State’s approval would continue in practice.

3.165 The accountability framework at Box 5.1 of the consultation document attracted little comment, other than to request more detail about the guidance and involvement in its preparation. There were suggestions from local authorities that central prescription should be proportionate, and that the accountability framework should not be used to prevent local determination of charges and exemptions.

3.166 However, some road user, consumer and business representatives were strongly opposed to removing the Secretary of State’s involvement which was seen as providing a broader public interest perspective that might not always be acted on by local authorities. In particular, there were concerns that:

- local authorities would be strongly influenced by the prospect of additional revenue accruing from operating charging schemes, and by the perceived bias of the TIF towards encouraging road-pricing schemes;
- the risk of damage to city and town centre competitiveness if traffic diverted to neighbouring centres, a point which some expert transport respondents thought might deter authorities from introducing schemes, especially if reduced income at local authority car parks was factored in;

- local variations in schemes would be unhelpful to road users, particularly freight and goods deliveries, and risked inconsistency in arrangements for disabled drivers; interoperability of schemes would be more difficult to achieve;
- freed of central constraints, those local authorities inclined to be “anti-car” would be able to pursue their policies more easily;
- a poorly thought-out scheme which escaped external scrutiny could damage public confidence in charging schemes generally.

3.167 As an alternative, a few road user and business interests proposed that scheme approvals should be the responsibility of an independent authority, thus removing the Secretary of State’s direct involvement while retaining a national interest perspective. This authority could also have responsibility for setting the range of permitted charges and for monitoring the performance of local schemes. TfL noted that London Borough schemes required confirmation by the Mayor of London.

REMOVING THE SECRETARY OF STATE'S ROLE IN APPROVING A LOCAL AUTHORITY'S PLANS FOR USING THE REVENUES FROM A SCHEME

3.168 Few respondents commented on this proposal separately from that to replace the Secretary of State’s scheme approval role. One business representative body thought that the approval role should not be removed in relation to Greater London, and that there was a role for the Secretary of State in arbitrating on disputed plans. A motoring organisation proposed that schemes should not be allowed to rely excessively on revenue from fines to achieve income targets.

REQUIRING LOCAL AUTHORITIES TO APPLY THEIR NET REVENUES FROM A SCHEME TO SUPPORT ACHIEVEMENT OF LOCAL TRANSPORT POLICIES

3.169 There was broad support for the proposal across the range of interest groups, though a few respondents sought assurances on flexibility while others favoured a narrowing of the power.

3.170 Local authority interests seeking flexibility proposed that authorities should be able to apply some funds to projects outside of the timescale of Local Transport Plans, and to geographical areas and services for which the revenue-earning authority was not statutorily responsible.

- On geographical application, one local authority partnership commented that it should be possible to accumulate and spend revenues at a city region level, which might mean empowering PTAs or city region transport authorities to operate road pricing schemes. The Commission for Rural Communities argued that revenues should be capable of being spent in adjacent rural areas, otherwise rural residents would derive no benefit from the charges they might have to pay to enter their closest urban area.
- On services, there was additional support from transport operator and business interests for not limiting application of revenue to passenger transport: supporting rail freight services was one suggested use. One concern was that “local transport policies” were too often written in terms solely of passenger

transport. There was support from road user and business representatives for ensuring that the Bill provided for revenues to be applied also to road infrastructure.

3.171 Business representatives said that the 10-year limit in the Greater London Authority Act on hypothecation of congestion charging revenues should be removed as hypothecation helps to maintain public support for road pricing. Some local authorities considered the revenues should be available for borrowing against future income streams and matching private sector contributions.

3.172 A limited number of respondents sought a narrowing of the uses to which revenues could be put – a group that did not include any local authority, business or operator interests – and considered that there should be an explicit limitation requiring application to support for transport measures which developed alternatives to car use, to avoid the possibility that an authority could use the funds for other local road building or improvement schemes. A limitation of this sort was seen as an opportunity to direct funding into sustainable transport measures for which revenue funding was often difficult to secure.

3.173 Two respondents suggested that clear guidance was needed from the Secretary of State on how the revenue should be applied. It was argued that transparency was in the interests of authorities seeking to demonstrate the benefits paid for from charging and so to build public support for charging schemes.

3.174 One local authority argued against the proposal in principle, proposing that the revenue should be capable of being applied to broader aims, such as a reduction in council tax.

A NEW REQUIREMENT FOR AUTHORITIES TO HAVE REGARD TO POTENTIAL ENVIRONMENTAL IMPACTS

3.175 Relatively few respondents commented specifically on this proposal, and of those the majority were supportive. Support came from local authorities and environmental interests, with the latter suggesting that clause 71 should be broadened to refer to the wider impacts of charging on the natural environment, such as the effect of new infrastructure on biodiversity and landscape. In addition, one respondent proposed that Strategic Environmental Assessment should be applied to proposals for road pricing schemes and the alternatives.

3.176 Two business representative organisations thought there was too much emphasis on environmental impacts in the draft Bill, one arguing that environmental policy goals should be pursued through dedicated policy instruments, such as a carbon tax or the emissions trading scheme, and not through a policy instrument designed to reduce congestion. One advisory body commented that transport authorities should already be pursuing environmental objectives and the case for additional legislation could be better made.

REMOVING THE SECRETARY OF STATE'S POWER TO REQUIRE A LOCAL AUTHORITY TO CONSULT OR HOLD A PUBLIC INQUIRY

3.177 Opinion was divided among those commenting on this point. Some transport operators and local authorities welcomed it as likely to speed up the process of implementing schemes. A minority of business, road user and transport advocacy groups had no objection to the proposal but considered that the guidance needed to be explicit about the need for full consultation with local people and all interested parties, including all local authorities potentially affected and groups representing disabled people. In particular, it was thought the guidance should recognise that a scheme would impact on people well outside the charging zone or the boundary of the local authority proposing it. Rail operators also commented that the guidance should explicitly require the involvement of rail interests in developing a scheme because of the potential impact on use of rail services.

3.178 There was a significant level of concern from consumer, road user, business and transport advocacy interests about removing the Secretary of State's power. Given that the Secretary of State's power to approve schemes was also being removed, it was suggested that this risked creating a situation in which there were no effective checks on a local authority's ability to push through schemes. It was suggested that unless a local authority acted transparently and inclusively, the public support necessary for local road pricing schemes would not be generated. One respondent argued that a mandatory assessment of the needs of local people, including older people, for easy and economical access should be required as part of preparing a scheme.

ALLOWING LOCAL AUTHORITIES TO VARY PRICES ACCORDING TO THE MEANS BY WHICH A DRIVER CHOOSES TO DECLARE / PAY CHARGES

3.179 This proposal in itself attracted little comment, with the majority of those responding on this issue supporting it in principle. However, several respondents commented on the importance of consistency across the country on charging bands, exemptions and discounts, seeking explicit measures either in the Bill or in the guidance. The Disabled Persons Transport Advisory Committee (DPTAC) commented that all methods of charging should be equally accessible to disabled people. One road user organisation considered the proposal would discriminate against financially poorer people who were less likely to pay in advance or set up direct debit arrangements, and that it would push people into installing equipment in their cars.

3.180 Exemptions from charging were sought, mostly from road user interests, for:

- motorcyclists, arguing (i) that exempting motorcycles from road-pricing schemes has a safety benefit, and (ii) that there would be savings in the cost of the charging technology if it did not have to cater for motorcycles;
- goods vehicles, at least from the first stage of any scheme, again on the grounds of simplifying the technology, but also in the interests of not raising delivery costs for businesses. It was also argued that it was hard for goods vehicles to modify their behaviour and travel at a different time;

- Airport park and ride buses, on the grounds that they reduce congestion in airport areas;
- Rescue vehicles operated by certified organisations, on the grounds that they contribute to reducing congestion by clearing away breakdowns;
- Taxis, as public service vehicles;
- Disabled people.

3.181 One respondent argued for the extension of the TfL policy of refunding charges in full for certain people attending NHS appointments – though as an exemption in the first place rather than a refund – noting that the centralisation of specialist treatment facilities in fewer hospitals meant that many people had to travel further and more often for treatment. Others commented that reliance on the blue badge alone as a criterion for exemption was insufficient, as it would not necessarily exempt sick people travelling for treatment or partially sighted people.

3.182 Criteria proposed for discounts or variable charges were:

- low emission vehicles (funded by a premium charge on the most polluting vehicles);
- residents who had no easy access to a park and ride service;
- a person's ability to pay;
- necessity of the journey.

3.183 A transport operator commented that the consultation document did not address how disputed charges would be adjudicated.

3.184 One individual proposed creating a market in road space by giving local authorities power to sell road space to wholesalers who would sell it on to users under competitive terms.

REPLACING STATUTORY REFERENCES TO "LOCAL TRANSPORT PLANS" WITH "LOCAL TRANSPORT POLICIES"

3.185 This proposal attracted no specific comment.

OTHER COMMENTS - NATIONAL OR LOCAL?

3.186 The most commonly repeated comment, which came from across the range of respondent categories, was that irrespective of whether a national road-pricing scheme was to be rolled out, it was essential for central government to show clear leadership in encouraging and supporting the development of local schemes. Without such leadership, there was concern that no significant improvement in reducing congestion would occur. It was suggested by some local and regional authorities that the present proposals placed all the political risk at local level, which could act as a disincentive to local authorities to bring forward schemes.

3.187 Some local authority, business and transport advocacy interests argued that transport was essentially a national rather than local system, and that if the

government believed road pricing was a solution it should now announce a timetable for a national scheme, taking the necessary powers in the Bill. Without this, it was suggested that there would be uncoordinated differential impacts across the country, confusion for road users, and it was thought that individual local authorities would spend unnecessary time and resources reinventing the wheel. Some thought that freight in particular would only be shifted from the road network if a national lorry charging scheme were introduced, and as such it was suggested that the present proposals could only have limited impact on the sector.

ALTERNATIVES TO ROAD PRICING

3.188 There was broad agreement, implicit and explicit, with the consultation document's emphasis that local road pricing had to be viewed as part of a wider package of measures to tackle congestion. A substantial number of respondents across all categories stressed the importance of putting in place improvements to local transport before a road pricing scheme became operational.

3.189 This approach, seen as essential to secure public support, created a potential finance gap in that the additional revenue from the road pricing scheme would not be available at the outset to fund the other transport improvements. For example, one transport operator commented that there was currently little or no spare bus capacity at peak times, so investment in new bus lanes and new buses would be necessary if displaced travellers were to be catered for. Some thought that support from the TIF was insufficient, so the ability for authorities to use charging revenue to repay advance borrowing was considered essential.

3.190 Many respondents recognised the importance of fully researching alternative options to solving congestion locally, as part of an integrated transport plan, before any decision was taken to introduce road pricing. These might include intelligent transport systems, access control, bus lanes and park-and-ride schemes, all of which could offer good value for money in certain circumstances.

3.191 Some business and local authority interests were particularly concerned at the incentive to propose road pricing schemes provided by the current rules for access to the TIF, which could favour such schemes over others. Some argued that TIF should be available to local authorities putting forward viable alternatives to road pricing schemes; others considered the Bill should explicitly prevent the TIF from being used for road building or improvements. There was concern that TIF directed to road pricing schemes reduced the funds available to local authorities where road pricing was not a sensible option.

MODAL SHIFT AND DISPLACEMENT EFFECTS

3.192 Several respondents commented on the effects of road pricing schemes, with some noting that further work was needed to understand the economic and business impacts of charging and the displacement effects. For example, some commentators considered that local schemes could merely shift the congestion problem to an adjacent unrestricted area, including rural areas, or that differential pricing according to time of day could merely shift the congestion from peak hours to off-peak. Others suggested that zone-based charging was inequitable and had

adverse impacts on town centres: a pay-as-you-go scheme, with differentiated tariffs, would be fairer and less distorting.

3.193 Business and road user interests were particularly concerned about freight. They noted that buses and trains offered the option of a modal shift for motorists, but this was less easily achieved for freight, particularly without a national charging scheme. Some respondents suggested that local authorities and PTAs were not developing appropriate policies on freight transport.

3.194 It was argued that lorries were responding to customer demand and would be unlikely to stand idle to wait for cheaper or free charging periods (not least because of legal limits on drivers' hours). It was therefore thought that the Bill should specify differential charges related to the ability of the vehicle and/or its content to effect a modal shift. One respondent said that lorries should be viewed as "freight buses" and treated accordingly: the priority lanes shared by buses and lorries and Exeter and Newcastle-upon-Tyne were cited as a good practice.

3.195 One respondent noted that station car parks were the original park-and-ride scheme and should be treated differently from parking provision generally.

WORKPLACE PARKING LEVY (WPL)

3.196 There was relatively little comment on the statement in the consultation paper that there were no current plans to change the legal framework for WPL schemes. One local authority suggested a number of amendments to the WPL provisions; another thought there was insufficient evidence for the conclusion that WPL schemes should only be used as an exceptional measure. Others suggested that the Bill should enable local authorities to introduce parking levy schemes on (i) all private non-residential parking spaces and (ii) out of town retail developments as a means of improving the integration of transport policy within an area, and as an alternative to road pricing as a source of hypothecated funds. One local authority proposed that TIF should be available for WPL schemes.

3.197 Conversely, some business interest groups suggested that the government should actively discourage schemes from being introduced as the levy targeted only one section of the commuter population.

Q13(b): What are your views on the proposals relating to consistency and interoperability?

3.198 There was widespread support across all respondent categories for these proposals, with most comments offered as examples of the detailed issues that would need to be addressed in regulations and guidance. However, some local authority and transport operator respondents suggested it would be preferable to have experience of a few local schemes before developing national standards, and there was concern that the emphasis on interoperability would increase the costs of local schemes. The latter point was proposed for analysis in the final RIA. A business representative body considered that fleet operators should not have to bear the costs of installing the IT necessary to manage charging in relation to their fleets.

3.199 Several transport operators warned that there was a downside to taking steps to make car travel easy, if the government was serious about managing demand.

3.200 On common standards, there were several comments favouring early introduction in particular to help those planning local schemes from developing systems that subsequently proved to be incompatible.

3.201 On the detailed issues, respondents commented as follows:

- A single method of paying for different schemes was needed, especially for businesses and fleet operators, with the latter needing sufficient information coming back to them to enable effective management of their fleets. It was suggested that for lorries, a single piece of equipment in the cab should be considered. It was therefore suggested that the Department should take a lead here.
- The Department should ensure local authorities adhere to EC Directive 2004/52 when making technology choices and should act as the focus for technology design solutions.
- The draft Bill did not appear to cover equipment used on existing toll roads, which should be included.
- Limits on charges, common rules on discounts, exemptions and penalty charges, standardised equipment and traffic signs, and vehicle classification should all be defined in legislation. These should extend to all schemes.
- Interoperability across networks in other countries should be an objective, and schemes should be developed in the light of the proposed European Electronic Tolling System. One organisation suggested that equipment and charges should relate to kilometres, not miles.
- The Bill should clarify that the roadside equipment needed for schemes is not “development” in planning legislation terms, so that planning permission does not have to be obtained.
- The London congestion scheme should be aligned with the standards applying in the rest of the country.
- The impacts on car-borne tourism should be assessed: adverse effects could be mitigated by securing standardised schemes which were easy to use

3.202 A professional body warned that a shortage of engineers could put delivery of standards and schemes at risk.

Q13(c): What are your views on the proposals relating to information?

3.203 Although most of those commenting on this point accepted the underlying principle of the proposals, there was some scepticism from local authority interests about the proposal to allow government to charge a fee for providing information. One respondent challenged the contention in the consultation document that the expected increase in the volume of requests justified the fee, on the grounds that the

principal cost of information lay in collection and maintenance, while costs did not increase significantly in proportion to the number of occasions the information was supplied. Others commented that the playing field was not level, in that local authorities were not empowered to charge for the information they would have to supply to the government. Those who accepted charges said that the level of the charge should be reasonable or nominal, and set to reflect only actual costs at most.

3.204 Some rail operators noted that train companies might find it necessary to charge for providing information on passenger flows and operating costs when authorities were developing schemes.

3.205 Some local authority interests questioned what information would be required and whether the scope of the power was too broad.

PRIVACY

3.206 Some respondents noted that the government recognised there were privacy issues that needed to be fully debated and resolved before a national scheme could be introduced. Similar issues arose for local schemes and people thought that the draft Bill did not address this point. It was also thought that collating information about the movement of vehicles was particularly sensitive.

3.207 The Information Commissioner commented that compliance with data protection legislation would be necessary, and these considerations, including the adoption of privacy-enhancing technology, should be built into the design of any scheme at any early stage. He thought that undertaking a privacy impact assessment would be valuable both in identifying risks and providing reassurance to the public. Clause 78 – power for the Secretary of State or the national authority to require information – appeared to refer only to non-personal information but was not explicit on this point. He felt that clarification would be prudent, since if personal information could be within with the scope of the clause, there would be data protection considerations.

3.208 Transport experts commented on the need to obtain information on vehicle keeper information for vehicles registered in other countries, or at least within the EU, for enforcement purposes. They wanted DVLA to be empowered to share such information with local authorities for enforcement purposes. They also thought that a common format for information and agreed protocols on security, storage and sharing of data between national authorities would be required.

Responses to 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?

3.209 The proposals in the draft Bill would significantly expand the remit of the traffic commissioner in the bus sector. They would be responsible for delivering the

strengthened punctuality performance regime, and would chair the Approvals Board responsible for the approval of quality contracts.

3.210 Respondents generally welcomed the enhanced powers of traffic commissioners. It was recognised that their work in respect of road safety has made a very substantial contribution to the excellent road safety record of both passenger and freight sectors. The majority of respondents welcomed replacing the existing power for the Secretary of State to issue directions to traffic commissioners with a new power to issue 'guidance' on matters of general process and policy and thought that this would provide greater autonomy for the system as a whole.

INCONSISTENCY

3.211 In general there were few reports of inconsistencies in approaches. A few local authority respondents outlined inconsistencies such as different interpretations to dispensations given to the granting of bus registrations with less than 56 days' notice. Many respondents thought that adequate guidance should reduce any inconsistencies which might currently exist. Others thought it would not be wise to be too prescriptive and thought the commissioners should still have some room to exercise their professional discretion. Respondents felt that it was important that the traffic commissioner's independence should be preserved.

RESOURCES

3.212 There was a general concern across all categories of respondents that traffic commissioners might not be provided with the resources they require. A number of respondents highlighted the need for traffic commissioners to be provided with adequate support and resources to maximise their role in improving public transport. Capacity and resource constraints were considered to be the major issues inhibiting the traffic commissioners' ability to discharge their responsibilities and liaise with local transport authorities effectively.

3.213 There was also a concern raised by some industry sectors that the extension of the role of the traffic commissioner in the passenger area could impact on their performance. It was suggested it could distract from their primary road safety role and there were concerned about how it might impact on the road haulage industry.

3.214 It was suggested by some respondents, including regional and public bodies, that there could be the potential for devolution of some traffic commissioner roles to PTEs on an agency basis.

ROLE OF THE TRAFFIC COMMISSIONERS AND THEIR AREA BOUNDARIES

3.215 A transport interest group suggested the traffic commissioners' role could be expanded further with a core set of objectives set down in legislation. These objectives could include, for example, promoting growth in bus services or ensuring high quality services. The traffic commissioners should also have a range of obligations in terms of policing national minimum service standards, protecting quality contracts and partnerships, and delivering a stable bus network to meet the

needs of passengers. The traffic commissioners could ensure operators give priority to passenger needs, by setting and monitoring national minimum service standards for operators of registered services, and with the ultimate sanction of taking vehicles off the road.

3.216 A few respondents also raised problems associated with traffic commissioners' area boundaries. Some felt that traffic commissioners were reluctant to consider cross-border issues due to the regionalised nature of the organisation and do not appear to follow up matters with operators in neighbouring areas in the same way they do for operators based in their own area. There were concerns that the regional structure meant that traffic commissioners may not be as familiar with the local issues relating to individual areas. It was also felt by some that the regional structure of the commissioners means that the public is more likely to request action against an operator if they operate in the area in which the commissioner is based. More direct contact between the councils and the traffic commissioner's office would be helpful.

3.217 A few respondents suggested that the draft Bill include the setting up of a Welsh Traffic Commissioner to be based in Wales. This was thought to be more consistent with the devolution of transport matters in Wales.

3.218 A number of respondents indicated they would be submitting a full response to the further consultation on the role of traffic commissioners (Strengthening Local Delivery – Modernising The Traffic Commissioner System) issued in July 2007.

Q15 Do you agree the proposals outlined would help to reduce costs?

3.219 Few respondents felt they could comment on the cost implications of the proposals, although the majority of those that did comment did not think they would result in a significant increase in costs. A bus operator suggested that following a review of the skills needed to fulfil the traffic commissioners' new roles there might be a small increase in costs, but this could be justified by the impact of the decisions that Commissioners will make using their new powers. The Community Transport Association was concerned that the increase in workload for the traffic commissioners would result in the fee for issuing section 19 permits increasing.

Chapter 4:

Summary of responses to the consultation on the traffic commissioners

Introduction

4.1 This report summarises responses to the *Strengthening Local Delivery – Modernising the Traffic Commissioner System* consultation. The consultation sought views on proposals to clarify and strengthen the way in which traffic commissioners fulfil their statutory obligations by establishing a new Board of Traffic Commissioners, as well as other changes.

4.2 The formal consultation was launched on 26 July 2007, and closed on 15 October 2007. Copies of the consultation document were sent to approximately 140 organisations, of which 49 replied. These broke down as follows:

- 18 responses were from local authorities and regional assemblies;
- 11 responses were received from related organisations, such as Passenger Transport Executives (PTEs) and the Association of Transport Coordinating Officers (ATCO);
- 6 responses were from organisations in the bus industry;
- 2 responses were received from freight associations;
- 1 response was received from the traffic commissioners;
- 1 response was received from a Member of Parliament;
- 10 replies were received from other interested groups and individuals.

Analysis of responses

4.3 The consultation asked 10 specific questions. In general, support for the proposed establishment of a new Board to oversee the work of the traffic commissioners was limited. Many responses were consistent with the view that more incremental reform would be preferable to the proposal outlined in the consultation document.

4.4 There was greater support for the idea of giving a stronger voice to bus passengers, though there were concerns about whether this function could sit comfortably with the traffic commissioners' regulatory functions. Some respondents suggested that an arm's-length body should be established to carry out this role.

4.5 A range of views were also expressed about proposed changes to certain specific powers of the traffic commissioners. On most of these proposals, the balance of responses tended to be favourable.

Q1 – Do the proposals strike the right balance between local accountability and national consistency?

4.6 The majority of respondents felt that the proposals did not strike the right balance between local accountability and national consistency. The general feeling was that it is more important to retain a strong regional focus within the traffic commissioner network.

4.7 Numerous organisations, including local authorities, felt that the introduction of a Board of Traffic Commissioners would remove accountability at a local level. This view was echoed in the responses of a number of stakeholders. It was argued by more than one stakeholder that the Board of Traffic Commissioners, as suggested in option 2, is unnecessary.

4.8 Other stakeholders such as bus operators suggested that the senior traffic commissioner should be free from regional responsibility, but all other traffic commissioners should still be regionally based. There was support for the strengthening of the role of the senior traffic commissioner, but not a national board. In their response a local authority stated that traffic commissioners are remote from the public at present. They felt that a move to introduce a national board would exacerbate this problem – particularly in Wales, where a traffic commissioner is shared with the West Midlands.

Q2 – What are your views on the resource implications of the proposed changes?

4.9 There were concerns over the resource implications of the proposed changes. Examples of concerns are as follows:

- There were concerns from local authorities that the cost of a new Board of Traffic Commissioners would be substantial, and were concerned that this would increase the costs to industry. This concern was reiterated by a number of stakeholders.
- Some stakeholders raised concerns that a Board would take resources away from other functions of the traffic commissioners.
- The traffic commissioners stated that a new Board would create a need for additional funding.

4.10 Some respondents used this question to comment that the current resources of the traffic commissioners are inadequate.

4.11 Other respondents felt that the resource implications were not clear in the consultation, so chose not to comment.

Q3 – Should the terms of the appointment for future traffic commissioners be fixed?

4.12 The consultation looked at the terms of appointment for traffic commissioners, and proposed the introduction of time limited reviewable contracts that may be renewed for further periods by mutual agreement for any future traffic commissioners (not those currently in post).

4.13 There was a mixed response to this question. Many respondents made no comments at all on this issue. The majority of respondents with an opinion were against the idea. The following responses, for example, were against the idea of fixed term contracts:

- The traffic commissioners were not in favour of fixed term contracts. They stated that fixed term contracts could compromise the impartiality of traffic commissioners whether by the perception of others or the recognised factors which have made such term appointments at odds with modern judicial appointment and established case law.
- A large bus operator highlighted the fact that judicial appointments are generally made on a permanent basis, and they saw no reason why commissioners should be any different.
- A local authority felt that fixed term contracts might affect the calibre of applicants applying for the posts.

4.14 The following comments supported the idea of fixed term contracts:

- A local authority stated that they could see the merit in fixed term contracts. They felt that as long as the appointments were “medium term” there would not be a problem with impartiality.
- Another favoured a limited period appointment with options to extend rather than the current appointment “for life”.

Q4 – Do you think that the proposals in this paper give the traffic commissioners a strong enough role in representing passenger interest? If not what changes would you like to see?

4.15 The general consensus was that a separate bus passenger representational body would be more suitable. It was felt by numerous stakeholders that there should be a separate body set up by central government.

4.16 It was questioned whether traffic commissioners could exercise their “quasi-judicial functions” whilst also meeting the accepted standards for consumer representation.

Q5 – Would limiting the terms of appointment compromise the impartiality of Traffic Commissioners

4.17 Question 5 follows on from question 3, and specifically asked respondents whether fixed term contracts would compromise the impartiality of traffic commissioners.

4.18 Again there was a mixed response, and many of the respondents made no comment on the question.

4.19 Amongst those who felt that time limited contracts would compromise impartiality were transport coordinators, who stated that the contracts would prejudice the traffic commissioners' independence, and is neither necessary nor appropriate.

4.20 Other stakeholders took the middle ground, and stated that there is a possibility that the contracts could affect impartiality.

Q6 – What are your views on allowing the traffic commissioners powers to refuse or modify an application to register a service on the grounds that a quality partnership scheme is in operation in the proposed area of the service?

4.21 This suggestion was supported in principle by the majority of respondents. An example of a stakeholder in agreement was a community interest company, who stated that they would welcome the powers provided that it can be shown that the refusal or modification reflected the results of consultation with the regional representative body for buses. The traffic commissioners also supported the proposal.

4.22 Amongst those against the idea were bus operators, who felt that the proposed powers were unnecessary.

Q7 – What are your views on allowing the traffic commissioners powers to refuse or modify an application to register a service on the grounds that such competition may lead to aggressive and excessive on road competition?

4.23 The majority of respondents felt that this was a good idea. The proposal was supported by all local authorities that responded. A county council felt that it is an excellent idea, as long as care was used to avoid a monopoly situation. Another was in favour, as long as such intervention is limited to specific and justified situations.

4.24 There was some negative feedback, particularly from bus operators who were not in favour of this change. One felt that the proposal is unworkable, arguing that it is impossible for traffic commissioners to predict before a service has started what might be 'aggressive' or 'excessive' competition.

Q8 – What are your views on the proposals to allow the operation of additional services in an area where a quality contracts scheme is in place? Do you favour local authorities being granted such a power or should this power be conferred upon the traffic commissioners (subject to the application having the support of the local authority responsible for the scheme)?

4.25 This proposal was generally supported by all local authorities.

4.26 The bus operators were amongst those who disagreed with the proposal. They felt that it would not be appropriate for these powers to rest with the local authorities. A community interest group offered the solution of the decision being made by the local authorities managing the quality contracts scheme, with the right of appeal to the traffic commissioners.

Q9 – What are your views on the proposals to allow traffic commissioners to allow or refuse dispensations to the 56 day rule in the pre-contract transitional period for a quality contracts scheme in order to protect bus passengers?

4.27 The respondents generally agreed that traffic commissioners should have the power to allow or refuse dispensations to the 56 day rule to protect bus passengers. All local authorities supported the suggestion, as did the traffic commissioners.

4.28 However, some stakeholders believed that staff would leave their employer if and when it became clear that they had no future in the area, and therefore the service would not be able to continue to run. This was echoed by bus operators.

Q10 – Do you agree that separate traffic areas be retained for Scotland and Wales?

4.29 All respondents who expressed a clear view felt that it is appropriate to have separate traffic areas for Scotland and Wales. These respondents attached considerable importance to the retention of a separate statutory traffic area and an identifiable commissioner for each of the devolved territories, thereby reflecting the devolution settlements and local identities.

4.30 This question also received some feedback relating to traffic boundaries generally. A Regional Assembly and local authority both suggested that traffic boundaries might be more suitably aligned to Government Office boundaries.

Chapter 5:

Summary of Bill-related responses to the consultation on local transport planning

Introduction

5.1 The consultation on local transport planning⁴ included two questions about legislative proposals for potential inclusion in the Local Transport Bill. This Annex provides a summary of the responses to those questions. The remainder of that consultation will be covered in a separate government response later this year.

Summary of responses to Bill-related questions

Question 8: Do you agree that there be more flexibility in future about the form of the local transport plan?

5.2 There was widespread agreement that the flexibility proposed in the consultation paper will allow for future local transport plans (LTPs) that better reflect local priorities and build upon the successes of the first and second round of plans, published in 2001 and 2006 respectively. There were a very small number of exceptions – two respondents did not see the value of continuing the LTP system, two wanted more detail before agreeing, and two wanted no change.

5.3 However, a number of local authorities and transport organisations were concerned that:

- local transport authorities should not be left to their own devices;
- that LTPs should remain statutory; and
- that guidance from the Department should still be forthcoming.

5.4 They were also concerned that there should be more clarity on the relationship between Local Area Agreements and LTPs to ensure that transport maintains its profile in local councils. Some questions were also asked about the future geographical coverage of LTPs and cross-boundary travel and working.

⁴ *Local transport planning: the next steps*, Department for Transport, 26 July 2007.

Question 9: Do you agree with the proposals for amending legislation as described in the consultation?

5.5 With a small number of exceptions, there was widespread support for the proposals for amending legislation as described in the consultation document.

WORDING OF THE REQUIREMENT TO PREPARE A PLAN

5.6 A clearer statement about strategy/ policy-making and implementation was generally considered a welcome extension of the LTP structure. In many cases it is an adoption of existing practice.

REMOVAL OF THE REQUIREMENT TO REPLACE THE PLAN EVERY FIVE YEARS

5.7 The flexibility of timing was also generally supported. However several local authorities offered alternative timings.

REMOVAL OF REQUIREMENT FOR A SEPARATE BUS STRATEGY

5.8 Most respondents who commented agreed that a separate duty to prepare a bus strategy is now redundant since local transport authorities included these in their LTPs anyway. However some consultees would prefer to keep a separate bus strategy to highlight the importance of buses and in one case deliver operator funding support.

GENERAL

5.9 Two local transport authorities considered that there is not enough detail in the consultation to warrant useful comments, and one disagreed with nearly all the proposals.

5.10 A number of respondents requested more detail on the future role of Regional Development Agencies in LTPs. Many asked for clarity on the relationship between LTPs and regional and sub-regional organisations and documents. In particular, some highlighted the need for conformity amongst Regional Spatial Strategies, Local Development Frameworks and Local Transport Plans, with some proposing an extra statutory duty.

