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The *Transport Bill*: Part II Local Transport Plans and Buses

Bill 8 of 1999-2000

Part II of the *Transport Bill* covers local transport plans and buses. The bill imposes a duty on local transport authorities to prepare and publish a local transport plan setting out their policies for transport in their area. It introduces measures to improve bus services including statutory backing for quality partnerships and improved ticketing and information. It gives local authorities the power to enter into quality contracts agreements. It also introduces a national concessionary fare.

This paper deals only with part II of the bill: other aspects are covered by research paper 99/102 on aviation, research paper 99/104 on road pricing and workplace parking and research paper 99/105 on railways.

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BUSINESS & TRANSPORT SECTION

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Summary of main points

- Local transport authorities have a duty to prepare and publish a local transport plan setting out their policies for the promotion of safe, integrated, efficient and economic transport facilities in their area, and to develop a bus strategy for carrying out their bus functions. These plans are given statutory backing. Local authorities will be expected to set out their proposals for both capital and revenue expenditure on transport. The government will use the new plans as a basis for an annual block allocation of credit approvals to spend on capital.
- The *Transport Acts 1980* and *1985* deregulated the bus industry outside London. Road service licensing outside London was abolished in October 1986. At the same time proposals were introduced to change the structure of the bus industry through privatisation. London was treated differently: the bus operating companies were privatised but it retained a regulated regime and all services are secured following competitive tendering.
- Bus patronage now appears to be fairly stable at about 4.3 billion journeys a year after a long period of decline since the 1950s. Buses are still the dominant form of public transport for local journeys, accounting for 69% of journeys on all public transport. Support from central government for the bus industry totalled £981 million in 1997/98: £269 million for additional local bus services, £441 million for concessionary fares and £271 million as bus fuel duty rebate.
- The success of the government's integrated transport policy will rest largely on the increased use of buses. Details of government policy were set out in the transport white paper *A new deal for transport: better for everyone* in July 1998 and the "daughter" document, *From workhorse to thoroughbred: a better role for bus travel*, published in March 1999. Proposals included more effective use of bus priority measures, better arrangements for passenger information and ticketing, and better regulation. Great emphasis was given to quality partnerships where the local authority provides traffic management schemes such as bus lanes, priority at junctions, park and ride; and the bus operator offers better quality (in terms of comfort, 'greenness', accessibility and staff training), improved marketing, better integration and more reliable services.
- The government is giving local authorities the power to introduce quality contracts. These mark a radical change in policy as open competition is replaced by a licensed regime. They involve operators bidding for exclusive rights to run bus services on a route or group of routes, on the basis of local authority service specifications and performance targets, similar to what happens in London at the moment.
- Local transport authorities will be able to require bus operators to co-operate in the provision of joint ticketing and the provision of bus passenger information in their area.

- A national minimum concessionary fare scheme for elderly people is being introduced with a maximum £5 a year charge for a pass entitling the holder to travel at half fare on buses.
- Provision is made to change the rules applying fuel duty rebate. The power of the traffic commissioners to impose a financial penalty on bus operators who are unreliable is made more flexible.
- Part II of the bill applies only to England and Wales.

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I Local transport plans

A. Background

The government's proposals for transport were set out in the white paper, *A new deal for transport: better for everyone* in July 1998.¹ This establishes a policy framework for integrated transport but the delivery of the policy depends to a large extent on action at local level.

A local authority has two prime objectives for public transport. The first is to reduce the amount of travel by private car to prevent the economic and environmental conditions of the community degenerating as a result of increasing traffic congestion, pollution and noise. The objective is enshrined in the *Road Traffic Reduction Act 1997* and one of the ways of achieving this is by increasing the number of people travelling by bus. The second is to reduce social exclusion. This relates to the need for people to reach activities essential to lead an active and fulfilling life. This includes work, education, shops, medical facilities, leisure facilities and suchlike. There are also political and financial considerations that have to be considered by any local authority. The introduction of a bus lane or higher parking charges, for example, may need some "carrots" to be introduced as well as a vigorous public awareness campaign.

In the white paper, the government also announced that the means of allocating resources for local transport expenditure would change: local transport plans (LTPs) would replace transport policies and programmes (TPPs). Through these new local transport plans local authorities would have the opportunity to take a more strategic view of public transport provision in their area and of related expenditure:

Local transport plans

New local transport plans will be a centrepiece of our proposals. Local authorities outside London will set out in these plans their proposals for delivering integrated transport over a five year period. (..)

The plans will provide the basis for an integrated approach, closely linked with Local Agenda 21 strategies and will implement the transport aspects of development plan strategies. Regional Planning Guidance will set the regional framework for local authorities' transport plans. We will look to local authorities to build on present liaison arrangements with their neighbouring authorities (both urban and rural) and at different tiers, in the development of local transport plans, co-ordinating their highway authority and public transport responsibilities. Authorities will need to agree a common or complementary approach on cross-boundary issues.

¹ DETR *A new deal for transport: better for everyone*, July 1998 Cm 3950

In both rural and urban areas, the plan will take account of the transport and accessibility needs of local communities and business, in a way that is consistent with the new approach. Local authorities will need actively to involve local people, businesses, transport operators and other organisations such as those providing health care, in drawing up these plans. Guidance on the new arrangements, to be developed in consultation with local authorities and other interested parties, will reflect the importance of such local participation.

We recognise that there would be advantages in making local transport plans statutory and will legislate in due course. However, we are keen to introduce the new arrangements as soon as possible and will aim to do so in England on a non-statutory basis, during 1999 with the first plans covering the financial years 2000/1-2004/5.

Local authorities will be expected to set out in local transport plans their proposals for both capital and revenue expenditure on transport. To reduce central government involvement in local authority decision-making in England, we will use the new plans as a basis for an annual block allocation of credit approvals to spend on transport capital. We will expect local authorities to give due priority to cost-effective maintenance and development of their transport infrastructure to support integrated transport objectives. Consistency with the local development plan and Regional Planning Guidance will also be a factor in decisions on supporting local transport plans. But central government will no longer dictate specifically how resources are deployed. Instead, authorities' plans will be subject to an annual progress check. The importance of local transport plans as part of our strategy is reflected in the provision made for funding local transport over the next few years.

Local transport plans in England

- local transport plans will be key to the delivery of integrated transport locally;
- local authorities will draw up 5 year plans, consulting widely with local people, businesses, transport operators and community groups;
- will include future investment plans and propose packages of measures to meet local transport needs.

The plans will:

- cover all forms of transport;
- co-ordinate and improve local transport;
- set out strategies for promoting more walking and cycling;
- promote green transport plans for journeys to work, school and other places;
- include measures to reduce social exclusion and address the needs of different groups in society;
- set out proposals for implementation, including bus Quality Partnerships, traffic management and traffic calming, proposals for road user charging and PNR parking charges and freight Quality Partnerships.

Local transport plan targets could include

- air pollution-to improve local air quality;
- traffic reduction-from the Road Traffic Reduction Act 1997;

- cycling-e.g. to increase the number of cycle trips or to increase the proportion of journeys made by cycle;
- walking-e.g. to reverse decline in walking or to increase walking journeys to school;
- use of public transport-e.g. to reverse the decline in patronage and to achieve a shift from car to bus;
- road safety-e.g. to reduce number of road casualties;
- green transport plans-e.g. for the preparation of plans by major local employers or for reducing journeys to school by car.²

Guidance on the plans was issued in draft in November 1998 and a final version was published in April 1999.³ The first provisional plans, covering the period 2000/01-2004/05, had to be produced by 31 July 1999 and on the basis of these, the department will allocate resources for one year. These plans will be rolled forward and "full" plans will be submitted in July 2000. The LTPs are currently non-statutory but it was always intended to give them statutory force in due course. The guidance is clear that the LTP will be expected to boost alternative transport to the car and that "buses have a key role to play in the delivery of integrated transport policy."⁴ Rather than merely filling gaps in the provision of services and operating the concessionary fare scheme, the government envisages a more positive role for local authorities in future, "working in partnership with operators to influence bus provision." Bus strategies in LTPs will provide a focus for this. The guidance also mentions giving statutory duties regarding passenger information and ticketing arrangements, both of which are included in this bill.

B. The bill's proposals

Clause 92 provides a statutory basis for local transport plans in England and Wales outside London. It defines authorities which are to be local transport authorities (councils of counties and unitary authorities in England, principal councils in Wales and passenger transport authorities) and imposes a duty on those authorities to prepare and publish a local transport plan setting out their transport policies.

The policies must promote 'safe, integrated, efficient and economic transport facilities and services' and will provide a framework for, inter alia, the promotion of improvements to bus services under the powers set out in part II of the bill and the introduction of charging regimes included in part III. Specific mention is made of freight and pedestrians.

Clause 93 states that the LTPs should be kept under review, may be updated and must be replaced at least every five years. The plan must be published and made available for inspection.

² Ibid, para 4.73

³ DETR *Guidance on local transport plans*, 12 April 1999 (draft issued 12 November 1998)

⁴ Ibid, para 6

II Buses

A. Background

1. Deregulation

The regulation of passenger-carrying motor vehicles was introduced by the *Road Traffic Act 1930*. This Act marked the beginning of comprehensive state intervention in the bus industry by its introduction of both quality and quantity regulation. The Act remained virtually unchanged until the 1980s when the Conservative government introduced the *Transport Acts 1980* and *1985* to deregulate the bus industry outside London. The Conservative government, committed to reductions in public expenditure and an increased role for commercial objectives, developed policies to reduce subsidies to buses, to reduce the role of local government in planning and controlling bus systems and to increase competition between bus companies. It decided that the way to deal with the decline in bus services, rising costs and increasing subsidies was to deregulate the industry and allow services to be subject to competition. The *Transport Act 1980* dealt with express coach services and the *Transport Act 1985* with the traditional bus service.⁵

Road service licensing outside London was abolished from October 1986. At the same time proposals were introduced to change the structure of the bus industry through privatisation. In 1985, 75% of bus turnover was in the hands of the public sector. By 1997, it amounted to about 7%. The large number of units set up after 1985 have quickly consolidated into a smaller number of large players and now the three largest private groups - Arriva, FirstGroup and Stagecoach - control about 53.3% of the bus market by turnover.

There have been a number of studies of the bus industry in recent years.⁶ It can be argued that deregulation failed to deliver the Conservative government's stated objective of halting the decline in the bus industry but it did reduce the costs of providing the services and the government subsidy. The question of ownership has now become largely irrelevant and the debate has moved on to the regulation of the industry. Critics of deregulation point to an asset base diminished by property sales since privatisation and windfall gains from sales, a decreasing passenger use and dissatisfaction from those who have no choice but to use the buses. Others see emerging a new stable structure of profitable companies with large sources of City finance to invest in new vehicles, improve quality and seek to attract more passengers.

⁵ More detail of the Conservative government's legislation and the present government's plans is given in Library research paper 99/59 *Buses*, 8 June 1999

⁶ See, for example, TRL Report 353, 1992; Transport Committee *The government's proposals for the deregulation of buses in London*, 4th report 1992-93, 14 July 1993 HC 623; Transport Committee *The consequences of bus deregulation*, 1st Report 1995-96, 22 November 1995 HC 54; John Hibbs and Matthew Bradley *Deregulated decade: ten years of bus deregulation*, Adam Smith Institute 1997

The bus operators are largely commercial operators who need to make a profit if they are to continue in and expand their business, replace and renew their assets, and reward their shareholders. The City calculates that growth of just 1 per cent in passenger numbers would boost the UK industry's annual turnover by 13 per cent.⁷ Professor David Begg (now chair of the Commission for Integrated Transport) calculates that an extra two passengers on every bus would increase the industry's revenue by £400 million per annum.⁸ The TAS Partnership looks regularly at industry profitability and performance. It estimates that a return for the industry of 16 to 18% is needed.⁹ At present the operating margin for the industry as a whole is 11.8% but this disguises considerable differences between areas and companies. The West Midlands is the only region to achieve the target and Wales is the worst area. It found that there was a continuing growth in investment, an improvement in profit levels, a real growth in revenue and, though patchy, an apparent stabilisation in patronage. However it also found that small operators were not investing enough, labour shortages were hampering reliability and profit improvements were still coming from cost control rather than revenue growth.

Since deregulation the industry has been slow to invest in new vehicles but this is beginning to change. The number of new bus registrations is running at historically high levels. The DETR estimate that investment in new buses by the industry is around £270 million a year, some 80% higher in real terms than it was five years ago.¹⁰ TAS calculates that total investment by the industry is £373 million but it also argues that £460 million is needed to bring fleets up to date, plan for renewal, invest in ticketing equipment and depot facilities, and contribute to infrastructure improvements.¹¹ However modern low-floor buses, with easy access for people with shopping, for the elderly and people in wheelchairs and for parents with children in buggies, are increasingly common, ahead of proposed legal requirements under the *Disability Discrimination Act 1995*. There is also increasing interest in buses running on alternative fuels, including compressed gas.

2. London

London was treated differently: the bus operating companies were privatised but it retained a regulated regime and all services are secured following competitive tendering. Buses in London are governed by the *London Regional Transport Act 1984*, which transferred responsibility for the bus network from the GLC to London Regional Transport (LRT). A government statement of November 1993 deferred the previously intended deregulation of buses in London, although privatisation of the bus operating

⁷ See for example, *Observer* 26 July 1998 "Any more fares please, they're mostly profit"

⁸ Quoted in speech, Centre for Transport Policy 23 March 1999

⁹ TAS *Bus Industry Monitor*.

¹⁰ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999 para 2.12

¹¹ TAS estimates that 9% vehicles date from before 1980, 18% from 1980-85

subsidiaries of London Transport proceeded.¹² This was in contrast to the rest of the country where the *Transport Act 1985* deregulated and privatised the buses.

In London's regulated regime, London Transport, through LT Buses, secures all services from private operators following competitive tendering. Its role, in addition to securing services from private operators, is to determine the level and structure of fares to be charged, to determine the general structure of bus routes and their frequency of operation, to provide and maintain the infrastructure, to promote customer information and develop technology and to ensure operators deliver safe, reliable and clean buses.

The *Greater London Authority Act 1999* will transfer responsibility for London's bus services from LRT to Transport for London (TfL). It will decide which local services are required for the purpose of providing "safe, integrated, efficient and economic" transport services in Greater London and will plan the detailed pattern of bus services, which will be known as the "London bus network". The government believes the present arrangements for bus services in London work well but that TfL will be able to develop and improve these arrangements.¹³

¹² Department of Transport press notice 8 November 1993

¹³ *A mayor and assembly for London: the government's proposals for modernising the governance of London*, March 1998, Cm 3897 para 5.23

3. Trends

Bus patronage has fallen over a long period from 38% of all passenger kilometres in the 1950s to 6% in 1998. It now appears to be fairly stable at about 43 billion passenger kilometres a year. If one looks at the number of passenger journeys rather than passenger kilometres, there were 4.3 billion bus journeys in 1998, accounting for 6% of all passenger journeys, but 69% of journeys on all public transport.¹⁴

Share of passenger kilometres by mode, Great Britain

billion passenger kilometres/percentage

	Buses and coaches		Cars, vans and taxis		Rail ^(a)		All modes
1955	91	38.1%	83	34.7%	38	15.9%	239
1960	79	28.0%	139	49.3%	40	14.2%	282
1965	67	19.2%	231	66.2%	35	10.0%	349
1970	60	14.9%	297	73.7%	36	8.9%	403
1975	60	13.7%	331	75.6%	35	8.0%	438
1980	52	10.6%	388	79.0%	35	7.1%	491
1981	49	9.9%	394	79.6%	34	6.9%	495
1982	48	9.5%	406	80.6%	31	6.2%	504
1983	48	9.4%	411	80.4%	34	6.7%	511
1984	48	9.0%	432	80.9%	35	6.6%	534
1985	49	9.0%	441	81.1%	37	6.8%	544
1986	47	8.3%	465	82.2%	37	6.5%	566
1987	47	7.8%	500	82.8%	40	6.6%	604
1988	46	7.2%	536	83.9%	41	6.4%	639
1989	47	6.9%	581	84.9%	40	5.8%	684
1990	46	6.7%	588	85.2%	40	5.8%	690
1991	44	6.5%	582	85.5%	38	5.6%	681
1992	43	6.3%	583	85.9%	38	5.6%	679
1993	44	6.5%	584	86.1%	37	5.5%	678
1994	44	6.4%	591	86.4%	35	5.1%	684
1995	44	6.4%	596	86.4%	37	5.4%	690
1996	44	6.2%	609	86.3%	38	5.4%	706
1997	44	6.2%	614	86.0%	41	5.7%	714
1998	43	6.0%	616	86.0%	42	5.9%	716

(a) National railways plus underground and metro systems

Source: DETR *Bulletin of public transport statistics Great Britain 1999*

¹⁴ More information about industry statistics is available from Paul Bolton, Social and General Statistics section.

Most bus services in Great Britain are operated commercially, but some 16% of the total mileage operated are subsidised. Support from central government for the bus industry totalled £981 million in 1998/99: £269 million for additional bus services, £441 million for concessionary fares and £271 million as bus fuel duty rebate. The Commission for Integrated Transport has been asked to review funding priorities, including what is spent on social services transport and school travel (currently amounting to £520 million).

Support and grants for local bus services, Great Britain

£ million

	<u>Payments by or for passengers</u>		<u>Payments for services</u>			Total
	Payments by passengers ^(a)	Concessionary fare reimbursement	Public transport support	Fuel duty rebate	Rural bus grant	
1998/99 prices^(b)						
1969/70	3,233	9	26	193		3,461
1974/75	2,938	214	622	205	17	3,996
1979/80	2,674	372	717	183		3,946
1984/85	2,318	466	1,078	225		4,086
1989/90	2,141	486	403	205	6	3,241
1990/91	2,110	503	414	216	1	3,243
1991/92	2,069	472	477	227		3,245
1992/93	2,036	459	461	228		3,184
1993/94	2,084	456	311	247		3,099
1994/95	2,133	471	301	248		3,153
1995/96	2,129	464	269	247		3,110
1996/97	2,155	452	251	239		3,097
1997/98	2,181	446	227	233		3,145
1998/99	2,192	441	269	271		3,173

(a) Passenger receipts on stage services

(b) Adjusted using the GDP deflator

Sources: *DETR Bulletin of public transport statistics Great Britain 1999*
D L Munby, Inland Transport statistics Great Britain 1900-1970
Public expenditure 1968-69 to 1973-74 (Cm 4234)

Since 1975 rail fares have increased by about two thirds in real terms and bus fares have increased by more than half, but real motoring costs have fallen by 6%. Comparisons with rail and motoring costs are given below;

Transport components of the Retail Price Index

	Constant prices ^(a) 1995=100		
	Motoring costs	Rail fares	Bus fares
1980	107.0	76.2	78.9
1985/86	101.1	80.4	81.7
1990/91	93.3	86.3	88.9
1995/96	99.7	100.4	100.5
1996/97	101.4	101.1	103.1
1997/98	102.7	100.6	105.1
1998/99	102.1	105.1	106.6

(a) Adjusted for general inflation using the RPI

Source: DETR *Bulletin of public transport statistics Great Britain 1999*

4. Government policy

For the past ten years or so the emphasis has been on deregulation and its effects. The policy emphasis now is on buses being a major part of an integrated transport policy. It is not just the level of fares or subsidy, or the number of passengers carried, but also the effects on pollution and congestion if the public do not use the buses.

The government announced a review of the buses in June 1997 as part of the integrated transport review.¹⁵ The then minister, Gavin Strang, said his aim was to see increased use of the bus as a means of reducing congestion and pollution, particularly by attracting motorists from their cars.

The transport white paper was published in July 1998 and, on buses, it concluded:

2.36 Deregulation of the local bus market, outside London, caused substantial upheaval because of 'bus wars' and confusion over changing service patterns. There have been some good examples of innovation but frequent changes to bus services, poor connections and the reluctance of some bus operators to participate in information schemes or through-ticketing undermined bus services. In this climate, it was not easy for buses to match the levels of comfort, reliability and access offered by the private car.

¹⁵ PQ HC Deb 25 June 1997 c 518W; DETR press notice *Gavin Strang announces bus review*, 25 June 1997 "

2.37 Deregulation has not broken the spiral of decline in local bus use. Since 1986 bus use has fallen by about a quarter—by about one billion fewer journeys a year; in contrast with London, within a regulated market, where use has held up. More recently, there have been good examples of bus companies and local authorities working together in Quality Partnerships to change the image of bus services and stem, sometimes even reverse, the decline in patronage.¹⁶

With car traffic estimated to grow by more than a third over the next twenty years, the success of the government's integrated transport policy will rest largely on the increased use of buses. Without it pollution and congestion will inevitably increase with a corresponding damage to both the health of the population and the economy. The aim is to persuade more people to take more journeys by public transport and fewer by private car. This has to be done by making journeys not only viable but also attractive. According to emerging market research, there are three key factors that determine public attitudes to using public transport - frequency of service, reliability of service and attractive fares. People will not switch from the comfort of their cars to buses that are old, dirty, unreliable and slow. A radical change is needed in overall public perception of bus services to attract middle income and car using groups.

More detail of how this could be done was given in the white paper's "daughter" document, *From workhorse to thoroughbred: a better role for bus travel*, published in March 1999.¹⁷ This set out the government's overall policy but also requested views on matters of detail. It looked at all aspects of buses including the scope for more effective use of bus priority measures, coupled as necessary with traffic restraint; better arrangements for passenger information and ticketing, including inter-modal travel; regulatory and other measures to improve the quality of bus services notably through the "quality partnership" approach between operators and local authorities. Great emphasis is given by the government to quality partnerships where the local authority provides traffic management schemes such as bus lanes, priority at junctions, and park and ride, and the bus operator offers better quality (in terms of comfort, 'greenness', accessibility and staff training), improved marketing, better integration and more reliable services.

Many of the proposals can be implemented without legislation but legislation is being introduced to back them up. Legislation is needed to introduce quality contracts. These involve operators bidding for exclusive rights to run bus services on a route or group of routes, on the basis of local authority service specifications and performance targets, similar to what happens in London at the moment.

The government can set out the legal framework but local needs have to be met locally and responsibility for improvements in bus usage will rest largely with the local authorities and the bus operators.

¹⁶ DETR *A new deal for transport: better for everyone*, July 1998 Cm 3950 paras 2.36-2.37

¹⁷ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999

B. Bus strategies

Since deregulation the scope for local authorities to influence bus services in their area has diminished. The government wants to encourage them to be more proactive and has stressed that they retain two important powers, to fund services that are socially necessary and to manage traffic to give buses priority. Part of every area's local transport plan is therefore to include a bus strategy.

Clause 94 requires local transport authorities to develop as part of their local transport plans and after consultation in accordance with **clause 95**, policies as to how best to secure the provision of appropriate bus services in their area. In formulating those policies they must have regard in particular to the needs of the elderly and people with mobility problems.

C. Quality Partnerships

a. Background

Quality partnerships (QPs) are partnerships between the bus operator and the local authority. Bus operators invest in higher quality services, including new vehicles (often environmentally friendly ones) and staff training. Local authorities invest in traffic management schemes that give buses priority, or in better bus stations, shelters and other facilities for passengers. Often too there are concerted efforts to improve passenger information, covering both timetables - how the buses ought to run - and information on how they actually are running.

Quality partnerships are considered to be the key to improvements in bus use. Most commentators will agree that the main successes of the last ten years have come where local authorities have worked with operators to establish higher quality services on selected corridors. Examples such as Ipswich Superoute 66, Edinburgh Greenways and the Leeds Guided Busway are often cited. One of the most extensive is Greater Manchester's 1998 Countywide Agreement covering a population of over 2.5 million. Quality partnerships have been developed in over 30 other towns and cities, including Aberdeen, Birmingham, Brighton, Bristol, Nottingham and Oxford. The bus consultation paper reports that they have increased patronage by typically 10 to 20% and by up to 40% where there is bus segregation and substantial improvements in roadside infrastructure. They have also attracted new passengers who previously used cars and taxis.¹⁸

¹⁸ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999 p 22

The Transport sub-committee, however, was less convinced:¹⁹

With a few notable exceptions, they [quality partnerships] had not been very successful. A survey of 16 quality partnerships found clear evidence of car users transferring to buses in only three of the schemes. Increased bus use, which was quite small in some cases, could often be attributed to existing passengers travelling more frequently. Most of the schemes were too small and unambitious to reduce bus journey times significantly.

The Audit Commission reported similar findings.²⁰ In a recent report, it criticised quality partnerships and argued that local authorities invested far more than the bus operators but had few specific objectives and no systematic programme to assess results. It found a shortage of local authority funds and a chronological mismatch between operator and authority spending periods. The Commission maintained that there was only limited evidence demonstrating that QPs resulted in a switch in trips from the car to public transport, despite the fact that this was often the major reason for investing in improved bus provisions. It also suggested that increases in patronage were generally due to existing passengers travelling more often.

The government has accepted the argument, advanced both by operators and by local authorities, that QPs would be more effective, and more widely adopted, if they had statutory force. Legislation can address the potential problem that operators who do not agree to raise their standards cannot be excluded from using the new facilities. Bus operators might be reluctant to enter partnerships and spend money if they can be undercut by low cost, low-quality rivals. Statutory backing would allow local authorities to set quality standards for the QP facilities that they provide such as bus lanes, or access to high-quality shelters with real-time passenger information. Buses that did not meet the standards could be excluded. This would give local authorities extra scope for influencing bus quality, whilst providing operators with the confidence to invest and to decide about service provision and innovation. In many cases QPs do not involve bus operators and local authorities alone, but also involve train operators (e.g. through ticketing), light rail operators and enforcement authorities.

QPs vary enormously and can be adapted to suit different locations and situations. Highest standards can be set where there is high demand and a need to restrain local car traffic, with priority measures helping to give the bus an advantage in congested streets. More modest standards might be appropriate where operators stand to benefit less from local authority investment, or where the level of demand may not justify high levels of investment. Rural Quality Partnerships, for example, might have a stronger emphasis on better information for passengers and improving bus stops and shelters.

¹⁹ Environment, Transport and Regional Affairs Committee *Integrated transport white paper*, 9th report 1998-99, 31 March 1999 HC 32 para 87

²⁰ Audit Commission *All aboard: a review of local transport and travel in urban areas outside London* 1999

The consultation paper set out the key legislative provisions of a statutory QP as:

- fair and open access: all operators would be entitled to be a QP partner so long as they met the necessary standards. There would be no room for local discrimination in favour of particular operators.
- QPs would be about quality standards - typically vehicle standards: easy-access low floors, features to assist the mobility or visually impaired (as recommended by the Disabled Persons Transport Advisory Committee), emission standards or other aspects like driver training/customer care qualifications (e.g. NVQs). If a local authority wants extra routes or more frequent services, it can buy them through tendering.
- the power of a local authority to exclude operators would apply only to the facilities it was providing or improving as part of the QP agreement. It could not be used to ban non-QP operators from whole routes or areas.
- before implementing a QP, a local authority would be obliged to consult all operators in their area who used, or might use, the QP facilities, to make clear what those facilities would be and what standards it would be imposing on bus operators in return for using them. There should also be consultation with the local community.²¹

Concern has been expressed that partnerships could be anti-competitive. The Audit Commission found doubts expressed over the legality of partnerships, in terms of competition law, and warned that "robust defences against cartels or other anti-competitive practices will be essential" if they are introduced.²² Some operators and local authorities are wary about agreeing to quality partnerships until the effects of the *Competition Act 1998* have been clarified. In recent years there has been increasing co-operation between companies. Operators recognise that if they are to expand their market, they have to win passengers from the private car. However, some operators have had difficulty constructing multi-operator partnerships, which might involve restricting the number and ensuring the quality of buses in urban streets, which are not considered to be illegal "market sharing".

The success of a quality partnership can be judged on the basis of four criteria: higher bus ridership; a good rate of return on bus operator investment; a modal shift from car to bus; and a consequent reduction in vehicle emissions and accidents. The DETR wants to encourage more quality partnerships but there are no rules or guidance available on how they should be implemented or judged. It has therefore commissioned the TAS Partnership and Leeds University's Institute of Transport Studies to look at some

²¹ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999 para 4.6

²² Audit Commission *All aboard: a review of local transport and travel in urban areas outside London* 1999

examples to identify the optimum structures and contractual arrangements. Competition concerns are a particular focus, while the study also aims to develop tangible strategies and benchmarks. The first results should be available in the summer.

b. The bill

Clauses 96 to 103 empower local transport authorities, either alone or jointly, to set up quality partnership schemes as part of the process of implementing their bus strategy. A QP scheme entails the authority providing special facilities, and setting standards to be observed by bus operators as a condition of using the facilities. A scheme must implement the bus strategy and either improve local bus services for the benefit of bus users or improve the environment. "Local services" are defined in **clause 138** by reference to the *Transport Act 1985* (section 2). In essence they are bus services carrying passengers less than 15 miles.

Clause 96 allows a local transport authority, or more than one acting together, to make a QP if they are satisfied it will implement at least some of their bus strategy and will:

- Improve services in the area; or
- Reduce or limit noise or air pollution

A quality partnership is defined in clause 96 (3):

(3) A quality partnership scheme is a scheme under which-

- (a) the authority or authorities provide particular facilities in the whole or part of their area, or combined area, and
- (b) operators of local services who wish to use the facilities must undertake to provide local services of a particular standard when using them.

Clause 96 (4) says the facilities to be provided under a scheme must include facilities (such as bus lanes and shelters) at specific locations along bus routes (or where appropriate prospective routes) which bus operators can use. They cannot include facilities being introduced under clause 119 of the bill, such as information facilities. Standards which may be imposed on operators include vehicle standards but cannot refer to service frequency or timing. The Explanatory Notes say this is because separate provision is made for this in the *Transport Act 1968* section 9A and the *Transport Act 1985* section 63 and a comprehensive local authority approach to determining timetables is provided for in the separate Quality Contracts clauses (see clause 104-114 below).

The bill does not prevent authorities and operators from making voluntary arrangements as they do at present.

Clause 97 sets out the consultation that must be carried out prior to a scheme being made. The authority must consult:

- (a) all operators of local services who would, in the opinion of the authority or authorities, be affected by it,
- (b) such organisations appearing to the authority or authorities to be representative of users of local services as they think fit,
- (c) every other local transport authority or metropolitan district council, and any council in Scotland, any part of whose area would, in the opinion of the authority or authorities, be affected by it,
- (d) the traffic commissioner for each traffic area covering the whole or part of the area to which it relates,
- (e) the chief officer of police for each police area covering the whole or part of that area, and
- (f) such other persons as the authority or authorities think fit.

Clauses 98, 99 and 101 provide for the making (with or without modification), postponement, variation and revocation of schemes. Once a scheme is in operation, it must remain so for at least 5 years. There is provision for excluding certain services from schemes where this is considered appropriate (for example a community bus service acting as a feeder to a main bus route).

Clauses 102 and 103 allow the secretary of state or the National Assembly for Wales (NAW) to make regulations about matters such as the procedure to be followed when making or revoking a scheme or the local services that may be excluded from it. They may also issue guidance, which the local authorities must heed.

Compliance by the operators will be secured under the existing bus registration system. Paragraphs 7 and 17 of **Schedule 10** amend sections 26 and 111 of the *Transport Act 1985* to empower traffic commissioners to take enforcement action if an operator is in breach of his duty under these provisions.

D. Quality Contracts

a. Background

The transport white paper recognised that quality partnerships may not be sufficient to guarantee the necessary improvements needed to bus services. The government is therefore introducing legislation to give powers to local authorities to enter into quality contracts for bus services.²³

These will mark a real change from the present system as they will replace open competition with a licensed regime. It involves operators bidding for exclusive rights to run bus services on a route or group of routes, on the basis of a local authority service

²³ DETR *A new deal for transport: better for everyone*, July 1998 Cm 3950, para 3.20

specification and performance targets. At present London is the only area where this happens. The government will grant enabling powers for a local authority to move to quality contracts for all or part of its services subject to prior ministerial approval, or that of the NAW or the Scottish Executive. The onus will be on the local authority to demonstrate as part of the local transport plan that the benefits could not be met by other means and that any extra costs involved would be offset by other benefits. The government has made it clear that it only expects a minority of cases to be covered by quality contracts.

Some of the advantages and disadvantages of such a system were set out in the bus consultation paper:

6.4 The expected benefits of a 'contracted' bus network include stability of the network and services, local authority control over fares and the ability to specify the quality and quantity of services, and the connections with other buses - or other modes. There is also an argument that passengers would benefit if operators used revenues on the busier routes to subsidise the less busy ones.

6.5 But there are also potential disadvantages. Decision-making would be largely removed from the operators, with a danger that there would be less responsiveness to the customer, reduced flexibility and less incentive to innovate. Smaller operators in particular could find themselves squeezed out by the larger groups. Experience suggests that contracting can become a competition between operators for the lowest-cost wages and conditions for staff. And there would be costs to local authorities in setting up and monitoring bus Quality Contracts.

6.6 Bus franchising in various forms is fairly common elsewhere in Europe, though other circumstances differ. Public ownership in the bus sector is still high in many parts of Europe compared with the UK, and public subsidy (as a percentage of operating costs) tends to be substantially higher. Results vary from country to country in terms of service levels and the degree of integration and no single model emerges as a template for success.²⁴

The bus operators are supportive of the idea of bus partnerships, but are not enthusiastic about contracts. They consider them to be bureaucratic and inflexible, will lead to increased public expenditure, and will reduce the incentive for operators to improve the quality and quantity of services, to the detriment of the travelling public.²⁵ Franchise administrators, rather than the commercial operators will take an increasing role in decision making, based on short-run rather than long run impacts. There could be practical and legal problems over the withdrawal of a right to offer a service to the public that could lead to compensation claims. However, the bus operators do see their potential existence as a strong inducement to make partnerships work.

²⁴ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999 para 6.4-6.6

²⁵ Environment, Transport and Regional Affairs Committee *Integrated transport white paper*, 9th report 1998-99, 31 March 1999 HC 32. See, for example, evidence from bus companies, 18 November 1998.

The transport committee, however, questioned whether quality partnerships would be "sufficient to bring about the necessary improvements in bus services" and instead called for local authorities to be urgently given the powers to enter into quality contracts, allowing them to specify the level of services they require.²⁶

There is no indication how many local authorities will apply for a QC scheme. The criteria states that it should be the only way for a bus strategy to be implemented. Schemes also have to be approved by the secretary of state, who has said he does not expect to approve many. There will be local authorities that are convinced the buses will never be run properly unless the local authority is dictating terms. Others will want the benefits of cross-subsidy: they will want to see the profits now going to the private sector used to finance uneconomic routes. Other may have operators in their area who are not prepared to work with the local authority and a QC is the only way they can introduce the necessary improvements.

b. The bill

Clause 104 enables a local transport authority, either alone or jointly, to make a quality contract scheme, if they are satisfied that it is the only way to implement their bus strategy and that the scheme proposed will implement those policies in a way that is "economic, efficient and effective."

A quality contract scheme is defined in clause 104 (3) as a scheme under which:

- (a) the authority or authorities determine what local services should be provided in the area to which the scheme relates, the standards to which they should be provided and any additional facilities or services which should be provided in that area, and
- (b) local services may only be provided in that area in accordance with quality contracts (subject to section 107(3)).

A quality contract is defined in clause 104 (4) as an agreement under which:

- (a) the authority or authorities grant to another person the exclusive right to operate the local services to which the contract relates, and
- (b) that person undertakes to provide the services on such terms (including in particular as to frequency and standard of service) as may be specified in the agreement.

²⁶ Ibid, para 94

Under a QC scheme, the local authority will determine what local services should be provided in the area concerned (including the routes, the timetable and the fares) and will let contracts with bus operators granting them exclusive rights to provide services to the authority's specification. The authority may make payments to the provider of the services and either party may be required to provide additional features or services.

Clause 104 (7) imposes an obligation on the authority to keep under review the extent the contracts are complied with.

Clause 105 requires an authority to publicise and consult upon a proposed scheme. There is a requirement in particular to consult operators and users' representatives, similar though not identical to that in clause 97 (consultation on QPs):

- (a) all persons operating local services in the area to which it relates,
- (b) all other persons holding a PSV operator's licence or a community bus permit who would, in the opinion of the authority or authorities, be affected by it,
- (c) such organisations appearing to the authority or authorities to be representative of users of local services as they think fit,
- (d) every other local transport authority, and any district council in England or council in Scotland, any part of whose area would, in the opinion of the authority or authorities, be affected by it,
- (e) the traffic commissioner for each traffic area covering the whole or part of the area to which it relates,
- (f) the chief officer of police for each police area covering the whole or part of that area, and
- (g) such other persons as the authority or authorities think fit.

If an authority wishes to proceed with the scheme, it submits it to the secretary of state or the NAW under **clause 106**, stating the reasons why they want to make the scheme. Operators affected by it may put objections to the appropriate national authority. That authority may approve the scheme, with or without modifications, only if satisfied that it is in the public interest.

Clause 107 describes what a scheme must contain and in particular provides that certain services may be excluded from it (subsection (3)). It may not come into operation for at least 21 months after it is made. This is in recognition of the fact that some bus operators currently operating in the area may lose the right to do so, and must be allowed due time to adjust and redeploy assets. A scheme may not last for more than 10 years. **Clause 108** provides that the operation of a scheme may be postponed.

Clause 109 provides that once a QC scheme is in operation, sections 6 to 9 of the *Transport Act 1985* cease to have effect in the relevant area. Section 6(2) of the 1985 says:

no [local] service shall be provided in any traffic area in which there is a stopping place for the service unless -

(a) the prescribed particulars of the service have been registered with the traffic commissioner for that area by the operator ...

No local service in an area covered by a QC may be provided except in accordance with that QC. The normal role of the traffic commissioners in monitoring services is therefore excluded and enforcement becomes a matter for the local transport authority in accordance with the terms of the QC. If a service is excluded from a QC scheme, however, sections 6 to 9 will continue to apply and the traffic commissioner may take action for breach of any conditions.

Clause 110 provides for the letting of individual contracts. Tenders must be sought by general invitation no later than 3 months after the making of the scheme and contracts when let may last no more than 5 years. Tenders may only be accepted from licensed operators of public service vehicles or persons holding a community bus permit under section 22 (6) of the *Transport Act 1985*. The *Transport Act 1985* part V sets out standard provisions about subsidising services. **Clause 130** amends the criteria used by local authorities in deciding which tender to accept. It introduces a new "best value" test (see section H below for more detail).

Clause 111 provides for cases where the normal tender procedure does not apply. **Clause 112** makes provision for the variation or revocation of a scheme. The national authority may also revoke the scheme before it comes into operation. This clause is included in case the local authority changes its mind about introducing a scheme and enables it to be withdrawn. For example the political composition of an authority might change and may affect its policy towards QCs or the tender process might unexpectedly collapse. **Clause 113 and 114** provide a power for the appropriate national authority to make regulations.

E. Information and ticketing

Bus services must be reliable to attract new custom. One of the criticisms most commonly levelled at the deregulated system has been instability of services. It is argued that timetables change too frequently, confusing potential passengers. Sometimes frequent changes have been associated with 'bus wars', with one company's buses being run just ahead of another's. In its bus white paper the government therefore proposed a package of measures to promote greater stability and integration, improve enforcement and streamline administrative procedures. Some, such as those relating to information and ticketing, require primary legislation and are included in the bill. Others, such as changes to the timetable, notice periods and the "five minute" rule can be introduced through secondary legislation or need no legislation at all. Most will be relevant whether or not a local authority operates statutory backed quality partnerships, but will not apply where exclusive contracting has replaced the service registration process.

Stricter requirements will also be introduced about displaying the route number more clearly on the outside of the bus, and fare and timetable information inside the vehicle.

This will be done through regulations to be made under the *Disability Discrimination Act 1995*.²⁷

1. Ticketing

A frequent complaint about deregulation, and the fragmentation of services it often entailed, has been the loss of flexibility in ticketing. Too often, passengers cannot buy a ticket that permits a return journey on a different bus operator's service or they cannot easily buy tickets for through journeys involving different bus operators or bus and train services. The position varies widely across the country, and between operators. Travelcards and multi-modal tickets have survived in most PTE areas, and more recently there has been an increase in bus/rail ticketing, often stimulated by joint ownership of the two industries in parts of the country. Modern ticketing systems are helping to reduce the practical problems of revenue allocation. Simple 'add-on' tickets, with revenue being retained by the operator who sells the ticket, do not need a sophisticated allocation method.

In November 1997, the government issued new instructions to the rail franchising director to encourage multi-modal travel schemes, including the London travelcard, provided they did not incur new net costs to his budget. Many new schemes have been established under train operators' franchise commitments and at their own commercial initiative. Sometimes this is the result of the same operator running rail and bus services, for example First Group and Stagecoach. Thames Trains and the Oxford city bus network issue through tickets and Virgin/Stagecoach have a £1 add-on return bus ticket in 21 towns. In the bus white paper the government proposed to give local authorities more power to make bus operators offer integrated ticketing if existing arrangements are not considered adequate.²⁸

Clauses 115 to 118 empower local transport authorities, alone or jointly, to set up ticketing schemes, whereby operators of local bus services are required to make and implement arrangements to accept each other's tickets or provide integrated ticketing in ways specified in the scheme. The local transport authorities must be satisfied that this is in the public interest and implements their bus strategy.

"Ticketing scheme" is defined in clause 115(3):

(3) A ticketing scheme is a scheme under which operators of local services of a class specified in it are required to make and implement arrangements under which persons may purchase, in a single transaction, a ticket (or tickets) entitling the holder-

(a) to make more than one journey on particular local services or on local services of a specified class (whether or not operated by the same person),

²⁷ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999, para 8.13

²⁸ *Ibid*, para 9.5

- (b) to make a particular journey on two or more local services (whether or not operated by the same person), or
- (c) where a particular journey could be made on local services provided by any of two or more operators, to make the journey on whichever service the holder chooses.

Clause 116 and 117 gives details of the consultation and publicity to be carried out by a transport authority intending to introduce such a scheme.

Clause 118 imposes a duty on operators to implement the scheme from the date it comes into force. Failure to do so may attract enforcement action by the traffic commissioner under section 26 or 111 of the *Transport Act 1985*, by virtue of **schedule 10** paragraphs 7 and 17.

2. Information

It was announced in the bus white paper that legislation was planned to ensure bus information was available locally. This will contribute to the government's aim of a national integrated journey timetable covering all public transport services planned for 2000. Local authorities have the statutory power to publish information but are not required to do so. The Department of Transport in 1996 issued guidance on good practice and in practice some 80% of authorities do so. The new proposal makes it a duty for them to do so and also allows them to recover reasonable costs from the operators. The information will have to be supplied in a standard format and perhaps even electronically.²⁹

Clauses 119 requires local transport authorities, alone or jointly, to determine in accordance with their local transport plan what local bus information should be made available and how. If an authority considers it is not available, it should seek to arrange with operators for its provision.

Local bus information is defined as:

- (6) In this section "local bus information", in relation to a local transport authority, means-
 - (a) information about routes and timetabling of local services to, from and within the authority's area, and
 - (b) such other information about facilities for disabled persons, travel concessions, connections with other public passenger transport services or other matters of value to the public as the authority consider appropriate in relation to their area.

²⁹ Ibid, para 8.5, 8.11

A duty is imposed on operators by clause 120 (3) to furnish information to the authority or a third party in such circumstances, to enable the authority to meet its obligations. Again, failure to do so may attract enforcement action by the traffic commissioner under section 26 or 111 of the *Transport Act 1985*.

If arrangements cannot be made by agreement, the authority must make the information available or ensure that it is made available under **clause 120** and in such a case it is given power to recover reasonable costs from the operators concerned. Guidance on what would be considered reasonable is given:

120. - (1) If the authority are unable to make satisfactory arrangements with one or more of those operators, they-

(a) must make available, or secure that there is made available, in the appropriate way such of the required information as is not being made available or is not being made available in that way (whether by virtue of arrangements made under section 119(5) or otherwise), and

(b) may recover from that operator or those operators the reasonable costs incurred by them in doing so as a civil debt due to them.

(2) In determining for the purposes of subsection (1)(b) what is reasonable in relation to a particular operator, the authority must have regard to-

(a) the amount of information which has to be made available, and

(b) the way in which that information has to be made available,

in respect of the local services provided by that operator.

Clause 121 provides that, in exercising their powers, the authority must have regard to economy, efficiency and effectiveness, and must not discriminate against operators.

F. Environment

The *Transport Act 1985* allows any qualified operator an unrestricted right to provide local bus services on a commercial basis. The traffic commissioners are prohibited from taking into consideration the number of operators on a particular route when registering another service on that route. However, section 7 does allow the traffic commissioners to determine, following a request from a traffic authority, conditions governing routes and stopping places of local services in order to prevent danger to road users or to reduce severe traffic congestion:

Clause 122 extends the powers of the traffic commissioners to impose traffic regulation conditions on local bus services under section 7. In addition to the two situations already provided for, a commissioner will also be able to determine routes and stopping places in order to reduce or limit noise or air pollution.

G. Travel concessions

a. *Outside London*

The government announced in the transport white paper that it intended to introduce a new national minimum standard for concessionary fare schemes for elderly people:

We will introduce a national minimum standard for local authority concessionary fare schemes for elderly people with a maximum £5 a year charge for a pass entitling the holder to travel at half fare on buses. This will enable elderly people, especially those on low incomes, to continue to use public transport and to use it more often, improving their access to a range of basic necessities such as health care and shops and reducing social isolation. Local authorities will still be able to offer more generous schemes if they wish to do so. The change will require legislation.³⁰

It is estimated the extra cost will be about £25 million a year.³¹ Many local authorities already give generous concessions and it is likely that the extra money will be added to the total amount available to all local authorities. It will be up to those who do not now provide travel concessions to adjust their budgets to find the money.

The *Transport Act 1985* allows the Passenger Transport Authorities and local authorities in England, Scotland and Wales (outside London) to provide at their discretion travel for elderly persons as well as for other specifically defined categories of persons set out in section 93. This includes:

- pensioners
- children under 16
- those between 16 and 18 in full time education
- the blind
- the disabled

It should be noted that the Act simply limits the groups to whom authorities can provide concessionary travel; authorities need not provide concessionary travel at all (and a number do not) nor need they provide concessions to everybody within the statutory categories.

There are considerable differences between one area and another in the nature and availability of concessionary schemes. Hitherto such fares have been seen as a matter for locally elected and accountable authorities. Within a statutory framework setting out the categories of people eligible, local authorities take their own decisions on what schemes to provide in the light of their judgements of local circumstances and financial priorities. There

³⁰ DETR *New deal for transport: better for everyone* July 1998 Cm 3950 para 4.81

³¹ PQ HC Deb 12 January 1999 c 96

are 10 local authorities in England (the district councils for Caradon, Eden, Hambleton, Kennet, Kerrier, Malvern Hills, North Cornwall, Penwith, Scarborough and South Holland) with no concessionary scheme for their pensioners and these pensioners represent 2.6 per cent of the total number in England.³² All Scottish local authorities, except Orkney Islands Council, operate concessionary travel schemes.³³ Orkney has no scheme within its area but does provide help to pensioners travelling to the mainland.

UK Concessionary Fare Schemes gives details of all the travel concession schemes throughout the country.³⁴ The survey reported on 450 local authorities in England, Scotland and Wales at March 1998. An earlier survey had been undertaken in 1995. The report's main conclusions were summarised as:

- Expenditure on concessionary fares schemes in mainland Britain has grown by 15.4% in cash terms over the last five years, representing an increase in real terms of just under 1%.

In the English Passenger Transport Executive areas, spending was reduced by 2.4% in real terms, and in Scotland by almost 19%. In London, it rose by 4.5%.

- The cost per head of the population of concessionary fares in London was £18.94 in 1997/98, but the cost to each borough varies from £16.47 to £26.26.
- Of the PTEs, the largest budgeted expenditure per head is in Merseyside, at £27.66. West Yorkshire is spending the least, at £9.57.
- In Scotland, the figures vary between £15.25 in Fife and £2.03 in Scottish Borders, and in Wales from £6.58 in Cardiff to £0.87 in Conwy.
- In the English shires, Reading spends the most for each member of its population – £17.67 per head.
- The report estimates that half-fare pass schemes cost, on average, £2.27 per head, compared with £3.28 for tokens and £23.95 for free travel schemes.
- The number of authorities not providing any form of concession has fallen from 12 in 1995 to 10 in 1998. This means that only 1.6% of Britain's 10.25m pensioners have no access to some form of concessionary travel. There is considerable variation in the sections of the population eligible for concessions and in the qualifications for disabled people. The situation is anomalous and confusing.

³² PQ HC Deb 8 December 1998 c 127W; 1 February 1999 c 470W

³³ PQ HC Deb 9 November 1998 c 36W

³⁴ TAS Publications and Events Ltd 1998; Less detailed information is given in the DETR's *Bus Data 1998*

- A half fare reduction remains the most popular form of concession, available in 171 authorities. Outside the 33 London Boroughs, only 13 authorities now offer free travel. There are 23 flat fare schemes.
- Pass-based schemes remain the most popular amongst authorities, with 226 offering them, as opposed to 64 using tokens, and 7 offering vouchers. The number of authorities offering a choice or mixture of schemes is now 55, up from 46 in 1995. This reflects growing diversity of provision, particularly in respect of disabled people.
- The number of authorities making a charge to eligible people for the concession has increased from 220 to 225 since 1995, and the average charge levied has risen from £8.71 to £8.92. The analysis suggests that some 120 authorities would be obliged to reduce their charges if the White Paper pledge of a £5 maximum were to be implemented.
- The number of schemes which involve the use of taxis as a mode of transport for some or all of their clients has risen sharply, from 25 in 1992 to 90 in 1995.
- A total of 23 schemes offers an alternative to travel for qualifying people. The most popular is assistance with television licence costs.
- Just fewer than 26% of authorities still make no allowance for trip generation in reimbursement to transport operators. The most popular method of calculating reimbursement remains a combination of operator returns and surveys, which is used by 51% of authorities.

Concessionary fares are within the remit of the Scottish Parliament and Welsh Assembly. In Scotland, the white paper *Travel choices for Scotland* announced a commitment to work towards a voluntary national scheme offering free travel on public transport for blind people.³⁵ In Wales ministers have made it clear that they expect all local authorities to meet the planned minimum standards for pensioners with effect from April 1999. They also made clear their intention to move towards free bus fares for pensioners over the next two or three years.³⁶

Both the *Transport Act 1985* and the *London Regional Transport Act 1984* include a category of elderly persons which was originally defined in terms of age as "men over the age of sixty-five years and women over the age of sixty years". The secretary of state for social security issued his proposals for equalising the state pension age in a white paper in December 1993³⁷ and legislation was passed in 1995 to raise the women's pension age gradually to reach 65 by the year 2020. The change will start in 2010 and be phased in over

³⁵ *Travel choice for Scotland* July 1998 Cm 4010

³⁶ PQ HC Deb 20 April 1999 c 502W

³⁷ December 1993 Cm 2420

the following 10 years. Ministers decided that the link between concessionary fares and the state pension age should continue and amended the travel concession legislation to follow the changes in the state pension age.³⁸ This redefined those who are eligible as "persons who have attained pensionable age."

b. The bill

Clauses 123 and 124 give elderly people (defined in clause 124 as "a person who has attained pensionable age") the entitlement to a half-fare concession on local bus travel during the "relevant time" (defined as Saturdays, Sundays and bank holidays and between 9 am and 11 pm). Eligibility may be made conditional on the holding of a bus pass for which a charge of no more than £5 a year may be made by the authority issuing it. This sum can be varied by order by the secretary of state or the NAW.

An elderly person can opt not to take the statutory minimum concession if their authority has a discretionary scheme under the 1985 Act that is more attractive

Clause 125 allows the secretary of state or the NAW by order:

- to extend the eligible categories to other persons eligible to participate in discretionary schemes made under section 93 of the 1985 Act;
- to extend the qualifying journeys to those on other public passenger transport services;
- to vary the relevant times;
- to improve the concession to better than half the fare.

Clause 126 provides that systematic failure by operators to provide the mandatory concession is an offence, attracting a fine not exceeding level 3 on the standard scale (currently £1,000).

Clauses 127 and 128 make provision for the reimbursement of operators by local authorities, on the same basis as the present system under the 1985 Act.

c. Greater London

The existing London concessionary travel scheme is operated under section 50 of the *London Regional Transport Act 1984*.³⁹ The 32 London boroughs and the City of London may between them unanimously agree a scheme or concessionary fares for elderly, blind and disabled people, to be operated by London Transport on their behalf. The transport operators are then be reimbursed by the local authorities. Unanimous agreement to continue the voluntary scheme for each financial year must be reached by 31 December of the

³⁸ *Pensions Act 1995* section 126 and schedule 4

³⁹ *London Regional Transport Act 1984* section 50(7)(a)

previous year. If unanimous agreement is not reached the Act provides for the secretary of state to enforce a scheme on the boroughs.

The London scheme provides a standard concession for the elderly, blind and disabled people across the 33 boroughs, with the costs of the single scheme being charged back to each of the boroughs under an agreed formula, based on the number of permits issued to the residents of each borough. The scheme provides free travel for passholders on bus, underground and the DLR services. The London scheme of free travel was extended to the London area services of British Rail in April 1995 in lieu of the previous half fare. Child concessions are not included in the legislation and are provided on a commercial basis by London Transport.

Under the *Greater London Authority Act 1999* responsibility for concessionary fares remains with the boroughs. It establishes a similar scheme to the existing one: the local authorities may make voluntary arrangements with TfL and other transport operators, but if they do not agree, TfL will be able to implement a reserve scheme and charge the boroughs for the cost of doing so.

d. The bill

Clause 129 makes similar provision for Greater London as in the rest of the country, by modifying the provisions in the *Greater London Authority Act 1999* defining when the reserve free travel scheme will be triggered. At present the London boroughs and London Transport have agreed a voluntary free scheme and this is unaffected by the clause. In practice it would only be triggered if the London scheme became less generous than the statutory one.

H. Subsidised services

a. Background

Although most bus services in Great Britain are operated commercially, some 16% are subsidised. As a consequence of the *Transport Act 1985* local authorities are no longer permitted to provide blanket support for bus services in their areas. They are, however, allowed to subsidise services required to meet social needs that would not otherwise be met. The powers of local authorities to subsidise public passenger transport services are subject to detailed tendering provisions.⁴⁰ All contracts over £12,000 per annum must be awarded through tender and any one operator may receive a maximum of £70,000 a year without tendering. The rule applies to changes to existing contracts as well as to new ones and is known as the *de minimis* rule.

⁴⁰ Laid down in sections 88-92 of the *Transport Act 1985*, Department of Transport circular 5/85, and the *Service Subsidy Agreements (Tendering) Regulations* SI No 1985/1921, as amended by SI 1989/464 and SI 1994/1227

Section 89 of the 1985 Act states that the objective of competitive tendering is to secure the most effective and economic use of funds, and to secure the required level of service through fair competition. The code of practice on tendering identifies two main reasons why authorities need to consider the implications of subsidised services for existing commercial services:⁴¹

- Under section 92 of the 1985 Act, transport authorities have a duty not to inhibit competition. The code considers that "it is inevitable, except in remote areas, that an authority's decision to subsidise a service may affect other existing services" (paragraph 4). That should not necessarily be held to inhibit competition, even if this involves some loss of revenue on commercial services, but local authorities could, for example, be in danger of inhibiting competition "if the subsidy mechanism was used to support services which combined lower fares and higher frequencies to such an extent that existing commercial services could not be expected to compete successfully." In practice this section may have deterred authorities from using their bus subsidy powers to buy additional frequency.
- Second, the local authority has a duty to obtain the best value for public money in achieving improved services for passengers.

The government announced in the bus white paper that it would clarify local authorities' powers to buy in extra services to boost frequencies on a particular route.⁴² It is clear local authorities do have power to buy additional frequency but the duty not to inhibit competition may have prevented some from doing so. This subject is discussed at length in the report of the Transport sub-committee of the House of Commons Environment, Transport and Regional Affairs Committee on tendered bus services.⁴³

b. The bill

Clause 130 amends the criteria set out in section 89 of the *Transport Act 1985*. This stated that an authority could only subsidise a local bus service if it had invited open and competitive tenders for the provision of the service. The decision whether to accept a particular service is taken solely by reference to what in its view was the most effective and economic application of the funds available for paying subsidies. Clause 130 introduces a new 'best value' test by requiring local authorities to have regard to economy, efficiency and effectiveness and also to have regard to the relevant bus strategy, and environmental issues such as the reduction or limitation of noise or air pollution:

⁴¹ Contained in annex to circular 5/85

⁴² DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999 para 5.6

⁴³ Environment, Transport and Regional Affairs Committee *Tendered bus services*, 18th report 1998-99, 28 July 1999 HC 429

(7) An authority issuing an invitation to tender under this section shall, in determining whether to accept a tender submitted in response to the invitation or which (if any) of several such tenders to accept, have regard in particular to-

- (a) a combination of economy, efficiency and effectiveness;
- (b) the implementation of the policies set out in the appropriate current bus strategy; and
- (c) the reduction or limitation of noise or air pollution

This clause also removes the present constraint, imposed by section 92(1) of the 1985 Act, that in exercising powers to subsidise those services local authorities must not act so as "to inhibit competition". One of the options considered by the government was to qualify the requirement with an obligation to take into account the interests of the travelling public (actual or potential), to allow the social benefit of the extra frequency to be weighed in the balance alongside other factors. As a result the requirement to so conduct themselves "so as not to inhibit competition" has been replaced by a new duty to have regard to the interests of the public and of operators. This is intended to make it easier for authorities to subsidise additional service frequency.

I. Fuel duty rebate

Bus fuel duty rebate is a grant paid by the DETR to reimburse bus operators for some of the excise duty paid on the fuel consumed in operating an eligible bus service. It is not a 100 per cent rebate on the pump price of fuel. Under the scheme, registered local bus services receive a rebate of around two-thirds of the fuel duty they pay for diesel and petrol.

Details of the expenditure on the bus fuel rebate scheme was given in response to a PQ in February 1999:

Ms Glenda Jackson: Expenditure on fuel duty rebate for Great Britain as a whole is expected to be £270 million in the current financial year. Expenditure in future years will depend on the total of fuel consumed in operating eligible routes for which bus operators make claims for rebate, and on decisions still to be taken on the proportion of duty paid to be rebated in each year.⁴⁴

One of the criteria for eligible bus services is that they should be available to all members of the general public, and that members of the public are aware of the service's stopping times and places. As a consequence community transport schemes which provide a door-to-door service for the elderly do not qualify for the rebate.

⁴⁴ PQ HC Deb 15 February 1999 c 447W

In the last session Patrick McLoughlin, with all party support, introduced a private member's bill "to exempt operators of certain community bus services from payment of excise duty on fuel used in operating those services".⁴⁵ The bill was dropped after a second reading debate on 12 March 1999. The government has announced that possible changes to the scope of the scheme will be considered as part of the advice on all aspects of the public funding of buses that has been requested from the Commission for Integrated Transport.⁴⁶ A preliminary report is expected in about six months.

Hitherto the government's view was that summarised in response to a petition on 1 November 1999:

Fuel Duty Rebate (FDR) is a grant paid by the DETR to reimburse bus operators for part of the excise duty paid on the fuel used in operating local registered bus services. The grant was introduced under the *Finance Act 1965* with the purpose of protecting such services from the effects of duty increases and to keep local bus fares down. To be eligible for the receipt of rebate a bus service must not only be a local service registered with the traffic commissioner but also meet a number of strict criteria to ensure that it is a service available to the general public and that it stops at registered stopping places (rather than being for example a pre-booked door-to-door service).

There is a wide range of transport services which do not meet these requirements. To include all such services, useful though they are to particular groups of people, in the scope of the FDR scheme would be a significant extension to the scheme's purpose.

FDR is an important element in government financial support for bus services. Possible changes to the scope of the scheme will be considered as part of the study the department has asked the new Commission for Integrated Transport to undertake on value for money from all aspects of public funding for bus services. The department will also be considering carefully all the recommendations (including those on a possible extension of FDR) of the review of voluntary and community transport commissioned by the department, the report of which has recently been published.

Clause 131 makes new statutory provision for grants to bus operators, including power to make regulations as to the classes of bus services for which grant may be paid, and the method of calculation. When introduced, this power could replace the current fuel duty rebate scheme with a more flexible power enabling grant to be paid by the secretary of state or the NAW to bus operators on a different basis from the present scheme. Provision could, for example, be made for differential rates of grant to encourage the use of more environmentally friendly fuels or vehicles.

⁴⁵ Bill 10 1998-99

⁴⁶ PQ HC Deb 26 May 1999 c 173W

J. Traffic commissioners

The traffic commissioners, oversee the bus route registration process, which governs all new bus services and changes to existing services, and they have powers to ensure that bus operators run the services they have said they will run.

They are currently empowered under section 111 of the *Transport Act 1985* to fine a bus operator 20% of eligible fuel duty rebate (FDR) for failure to operate services in accordance with the registered details. This is seen as too draconian and rigid because it applies to operators, rather than services. So, for example, a misdemeanour by a major operator on only one of his routes lays him open to recovery of 20% of his entire FDR for that quarter. This would almost certainly be disproportionate to the 'offence' and, as a result, the penalty is rarely used. Two options were put forward in the bus white paper. One was to amend the penalty provision so that a fine of 'up to 20%' could be imposed. This would be much more flexible, and would make it a practical option in a wider range of circumstances. An alternative was to create a new free-standing penalty more closely linked in some way to the bus operations in question.⁴⁷

Clause 132 replaces section 111, once the fuel duty rebate scheme has been replaced by clause 131. Under clause 132 the traffic commissioners will be able to impose a financial penalty up to a maximum of £550 (or such other sum as may be prescribed by order) multiplied by the number of vehicles the operator is licensed to use. This represents approximately the same level of penalty as the current penalty. There will continue to be a right for operators to appeal to the transport tribunal, as now.

Clause 135 will apply until clause 132 is introduced. It amends the present power of the traffic commissioner under section 111 to impose a penalty on a bus operator, if he fails "to a significant extent" to operate his services as registered. Currently the commissioner must impose a penalty of 20% of the FDR rebate paid in the previous three months. The amendment will enable a commissioner to impose a penalty between 1% and 20% and he will no longer need to satisfy himself that the operator has failed "to a significant extent", thus allowing a more flexible, and perhaps more frequent, use of the power.

K. Rural bus grant

In his 1998 Budget speech, Gordon Brown announced an additional £50 million for each of the following three years for rural transport.⁴⁸ £45 million would be used to support additional bus services in rural areas and the remainder would be available for

⁴⁷ DETR *From workhorse to thoroughbred: a better role for bus travel*, March 1999 para 10.7

⁴⁸ HC Deb 17 March 1998 cc 1111-2

community-based transport schemes. This is currently paid by special grant reports, which have to be approved annually by Parliament under section 88B of the *Local Government Finance Act 1988*.

Clauses 133 and 134 put on a permanent statutory basis support for rural local transport in England and Wales. They empower the secretary of state or NAW to make grants to local transport authorities and to PTAs for general local transport purposes. Although these clauses are designed to cover the rural bus grant, it is worded in a rather more general way than is needed at present.

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