



House of Commons
Transport Committee

**The draft Local
Transport Bill and the
Transport Innovation
Fund: Government
Response to the
Committee's Ninth
Report of Session
2006–07**

**Thirteenth Special Report of Session
2006–07**

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The Transport Committee

The Transport Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Transport and its associated public bodies.

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Committee staff

The current staff of the Committee are Tom Healey (Clerk), Annette Toft (Second Clerk), David Davies (Committee Specialist), Timothy Steer (Committee Specialist), Alison Mara (Committee Assistant), Ronnie Jefferson (Secretary) and Laura Kibby (Media Officer).

Contacts

All correspondence should be addressed to the Clerk of the Transport Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 6263; the Committee's email address is transcom@parliament.uk.

Thirteenth Special Report

The Committee published its Ninth Report of Session 2006–07 on 3 August. The response from the Department for Transport was received in the form of a memorandum dated 8 October 2007, and is published as an Appendix to this report.

Appendix

The Transport Select Committee issued its report, *The draft Local Transport Bill and the Transport Innovation Fund* on 3 August 2007 in which it made sixty-one recommendations. The Government's response to each of the Committee's recommendations is set out below.

General

1. It is extremely bad practice for the government to announce, in the middle of its own consultation and at the end of our inquiry, another consultation on matters which are included in the draft Bill. Some of the changes the Secretary of State indicated might be in the consultation were mooted seven months ago; with a little planning and foresight they could perfectly well have been incorporated into the present consultation exercise.

When we published the draft Bill we made it clear that we would be considering whether further modifications to the traffic commissioner system might be necessary to ensure effective delivery of their functions. Our approach allowed the consultation and pre-legislative scrutiny on the vast majority of the Bill's measures to go ahead while we finalised our traffic commissioner proposals. We appreciate that there has been limited time for the Committee to analyse the proposals in the second consultation and look forward to receiving the Committee's comments in due course.

2. We very much welcome the opportunity to consider this Bill in draft. The benefits of pre-legislative scrutiny are now well established and we believe that departmental select committees, with their accumulated experience of focusing on a particular subject area, are well placed to make a major contribution to this work.

The Government fully endorses the value of pre-legislative scrutiny as a means of improving the quality of Bills subsequently introduced to the House, and is keen to increase the number of Bills published in draft.

3. However, we are disappointed with the timing of the publication of the draft Bill. It has not in our view left time for a very detailed analysis either on our part or on the part of witnesses. We hope to see further opportunities to examine the Department's proposed legislation in draft; we also hope to be given more time in which to do so.

We are grateful for the efforts of the Committee – and those who gave evidence – in completing the scrutiny process in advance of the summer recess, and recognise the importance of publishing draft bills in time to allow for proper pre-legislative scrutiny. On

this occasion, we believe that we struck the right balance between having comprehensive proposals on which to consult and allowing adequate time for scrutiny. The Department welcomes the contribution that pre-legislative scrutiny can make, and will seek to publish future Bills in draft where this is appropriate and practicable.

4. It would assist the House if the Government were to provide, in good time for the Public Bill Committee stage, a Keeling Schedule of the sections of and Schedules to the Acts listed in Clause 85 which are amended by the Bill.

We agree that this would be very useful for all those with an interest in the Bill, and we intend to publish Keeling Schedules to the acts listed in Clause 85 as soon as possible after introduction.

The Traffic Commissioners

5. The traffic commissioners do a vital job in somewhat straitened circumstances; they are few in number and they have to operate on small budgets. This Bill greatly increases the powers of the commissioners, and gives them several new duties in relation to bus services. We welcome these provisions of the draft Bill. We do not, however, see how the commissioners will be able to perform these new duties properly without more staff and increased resources. We recommend that the Government increase the resources available to the traffic commissioners in line with their new duties.

Our consultation paper, “Strengthening Local Delivery – Modernising the Traffic Commissioner System” recognised that resourcing was an issue and asked for views on how the reforms should be funded, including considering the case for changing the bus registration fee raising powers. We will be considering any responses on this issue and will respond in full after the consultation closes on 15 October.

6. Although it does not require legislation, we also recommend that the Traffic Commissioners have their own website on which they can publish details of their investigations, reports, journey-time information, and provide information to the public. The current webpage they are allocated on the Department for Transport website is thoroughly inadequate.

The Government recognises the importance of providing operators and the wider public with easy access to the traffic commissioners, their decisions and other relevant information. We will therefore discuss this recommendation with the traffic commissioners.

7. It is clearly important that potentially dangerous buses be removed from our roads. We recommend that new clauses be inserted into the Bill to give VOSA the power to impound illegal or unlicensed passenger-carrying public service vehicles.

The Government recognises that there is a need for a strong deterrent against illegal public service vehicle operations and that the current penalties are not always an effective deterrent against persistent offenders. We are therefore grateful to the Committee for making this recommendation which we will consider carefully before finalising the Bill.

8. We welcome the move to put the role of Senior Traffic Commissioner on a statutory footing. We are, however, concerned that the power of the Secretary of State to issue guidance and general directions to the commissioners—and that of the Senior Traffic Commissioner to issue directions to his colleagues—might compromise the commissioners’ ability to operate independently as local circumstances dictate. The commissioners themselves are concerned that they are being asked to take a lot on faith as regards the Secretary of State’s powers of direction and guidance. The case for the Secretary of State to issue guidance and general directions to the Senior Traffic Commissioner and then on to his colleagues has not been made and we therefore do not support this initiative.

We welcome the Committee’s endorsement of our proposal to put the Senior Traffic Commissioner on a statutory footing. We fully agree that the independence of the traffic commissioners is one of its strengths and would not want to compromise this. It is worth noting that the existing power of the Secretary of State to issue general *directions* to traffic commissioners would be replaced under the draft Local Transport Bill with a power for the Secretary of State to issue *guidance* to the senior traffic commissioner. Under our proposals, the Senior Traffic Commissioner would have the power to give guidance and general directions to the traffic commissioners. Overall, we believe, this will make the traffic commissioners more independent, not less.

Bus Services

9. We were pleased to see that the Government had adopted many of our recommendations on bus services, particularly those relating to quality contracts and the powers of the traffic commissioners. We welcome the provisions in this draft Bill which will give effect to recommendations in our Eleventh Report of 2005–06.

The Government is grateful to the Committee for its useful recommendations which helped to inform the development of our policy proposals.

10. The existence of various non-statutory complaints bodies is evidence that there is genuine demand for an independent, publicly-funded body to hear the complaints of bus users. We recommend that the Government take powers in this Bill to establish such a body.

Our consultation paper, “Strengthening Local Delivery – Modernising the Traffic Commissioner System”, recognised the need for a stronger passenger voice in championing the improvement in the quality of local bus services. We recognise the arguments for a statutory body and will be responding after the close of the consultation on 15 October.

11. The Bus Service Operators Grant, which acts as a general, non-targeted subsidy to all bus companies, however efficient or inefficient or however environmentally or non-environmentally friendly, is not justifiable and should be replaced. We recommend that the Government should begin consultation as a matter of urgency in order that the relevant legislative changes can be incorporated into this Bill when it is presented to the House.

As the Committee's report notes, we undertook in *Putting Passengers First* to discuss with stakeholders whether changes to Bus Service Operators Grant would increase its contribution to delivery of our objectives on congestion, accessibility and the environment. We have already had useful input from stakeholders to this process and will continue to discuss possible changes. Our view is that any resulting changes to the grant, including those suggested by the Committee, will not require legislative changes, given that these would be covered by the broad power in section 154 of the Transport Act 2000 to make grants to bus operators (and associated regulation-making powers).

12. We recommend that the Government amend the wording of Clause 3 to guarantee that partnership criteria such as frequencies and timings are set by agreement between the authority and bus operators. The Clause should also provide that, where such an agreement is reached within a partnership, the right of the operator unilaterally to withdraw or alter services is nullified. The PTAs should be given powers to fine bus companies for breach of the partnership agreement.

13. Quality partnerships will not work if operators outside the partnership are allowed to come into the area and compete against partnership services, possibly overloading the network on the core routes and undermining the efficiency of the partnership. Quality Partnerships must not be a negotiated monopoly. Where a partnership exists bus operators should only be allowed to run bus services in competition where they comply with the standards of the partnership agreement. If an operator makes an application to run services in a partnership area the traffic commissioners should have the power to refuse to grant a licence if doing so would undermine any partnership agreement in place. If the commissioners do not have this power there is a real danger that the work that has gone into a partnership agreement will be wasted.

We are carefully considering these two Recommendations alongside the various consultation responses on this issue.

We had always assumed that a local authority would not consult on a controversial proposal without having attempted to secure in advance a measure of agreement from the operators affected by it, as recommended in the Department's Guidance on the existing quality partnership provisions. We recognise the strong arguments for specifying that requirements as to frequencies and timings, as well as maximum fares, should be set by agreement between the authority and the bus operators. Equally, a balance needs to be struck between the interests of local authorities and operators, and the spirit of partnership needs to be maintained as far as possible. In line with existing legislation, it would be the role of the traffic commissioner, rather than the local authority, to penalise an operator who contravenes the requirements of a quality partnership scheme.

We are consulting, in "Strengthening Local Delivery – Modernising the Traffic Commissioner System", on possible measures to make it more difficult for operators to vary or cancel their services, or register new services, in ways that would impede a quality partnership scheme. This does, of course, raise a number of competition issues and it is important that a procedure is put in place which strikes the right balance between the needs of incumbent and new operators, while also protecting the objectives of the quality partnership scheme. A final decision on these matters will not be taken until the further consultation exercise referred to above has closed.

14. We think that, as a minimum requirement, bus operators involved in quality contracts should operate on an ‘open book’ basis.

We feel that this is an issue for local transport authorities and operators to take into consideration when negotiating any quality contracts and would not want to impose a single model for all circumstances.

15. The Government is confident that any legal challenge to a quality contract scheme would fail. However, even an action which is unlikely to succeed could delay the implementation of a quality contract for years. Further claims for compensation under the Human Rights Act could then follow. If these legal actions are unsuccessful, there is the risk that the operator will cease to run services, with serious implications for passengers and staff. We recommend that the Government give further consideration to the ways in which the Bill might be amended so as to offer further reassurance to transport authorities faced with sabre-rattling bus company lawyers. Such measures could include compulsory purchase powers given to the transport authority to buy depots and the right of the transport authority to be the bus operator of last resort. This would also have the benefit of giving a public sector benchmark for competing bus operators.

16. Networks, assets and employees should be protected during any transitional period before the implementation of a quality contracts scheme. We recommend that the Government introduce transitional provisions, or at least the relevant regulation-making powers, into the Bill.

The Government is considering these matters very carefully, in light of the responses to the consultation. The Government is committed to ensuring that the legislation it introduces in Parliament is compliant with the European Convention on Human Rights and the provisions in the draft Bill were drafted very much with this in mind. The less protection that the Bill offers to operators, the greater the risk of a legal challenge disrupting a local authority’s plans for implementing a quality contracts scheme.

We accept the need to manage effectively the transitional period between a local transport authority announcing its intention to bring forward a Quality Contracts scheme and the commencement of services under the new contracts.

The Transport Act 2000 includes a power to make transitional provisions by regulation. We are carefully considering whether this power needs to be extended. This issue, also, is covered in “Strengthening Local Delivery – Modernising the Traffic Commissioner System”.

17. We also recommend that the Government produce guidance on transitional procedures for outgoing operators, including best practice for transfer of employees, protection of assets and assurance of the network until the day of transition.

These are important issues and ones which may vary depending on local circumstances. We are committed to working on all these issues in consultation with the major stakeholders and will consider the scope for issuing general guidance.

In relation to transfer of employees, we see a strong case for providing greater certainty that provisions contained in the TUPE regulations will apply where the award of a quality contract results in a change of operator providing a local service. This is clearly important for employees, as well as for maintaining stability in the run-up to a quality contracts scheme. We are considering how best to achieve this.

18. We welcome the new criteria for making a quality contracts scheme, which represent a clear improvement on the burdensome requirements of s.124 of the Transport Act 2000.

19. We believe that the basis for a quality contract scheme to go ahead should be that it will improve significantly the predicted passenger numbers.

We are grateful for the Committee's support on these matters. Our intention is that quality contracts schemes should not be approved unless they would be likely to significantly improve the predicted passenger numbers.

20. We believe that the independent approvals board for quality contracts, as envisioned in the draft Bill, is the right approach. We have reservations, however, about the Senior Traffic Commissioner (STC) automatically chairing the approvals board as we believe the local traffic commissioner will often be more familiar with the local circumstances which have led to the scheme being proposed. We recommend that the provision for the STC to be the traffic commissioner on the approvals board be left out of the Bill, There will be times when it is appropriate for him to chair it but equally there will be occasions when the local traffic commissioner is a more appropriate person. The provision for a traffic commissioner not to chair the board where he or she feels that his or her ability to act impartially is compromised should be retained. The independent approvals board should not have the power or authority to substitute its judgement for that of elected councillors on transport authorities on matters of transport policy. It should base its decisions on whether or not the transport authority has followed the correct procedure and behaved in a reasonable way.

We are grateful to the Committee for generally endorsing the approvals board approach. We are reconsidering the question of whether the Senior Traffic Commissioner or a local commissioner should chair the board and accept there may be a case for greater flexibility over this.

The degree of discretion exercised by the approvals board will to a large extent depend on the guidance issued by the Secretary of State under section 126A(8) of the Transport Act 2000 (see clause 10 of the draft Bill). We will reflect on the appropriate balance between checking that due process has been followed and that the criteria have been met as we finalise the Bill and the relevant draft guidance.

21. We recommend that the Bill specify time limits for the approval period, including appeal to the Transport Tribunal, to a maximum of six months. The presumption should be that schemes which have not been rejected within this time should be permitted to proceed.

We accept in principle that there could be advantages in inserting time limits into the stages leading to approval by the Board. Time limits for appealing against decisions of the

approvals board to the Transport Tribunal would need to be specified in the Transport Tribunal Rules, made under Schedule 4 to the Transport Act 1985. These Rules will need to be reviewed if the draft Bill provisions are enacted.

We do not think it is practicable to impose a fixed limit on the total process on the face of the Bill: some schemes may be much more complex than others, so different time periods might be appropriate in different circumstances. But we will consider the case for regulations and/or guidance to cover such matters.

22. We welcome the Government's recognition in the draft Bill that the length of a quality contract should be longer than is presently allowed. We recommend that the Government change the wording of the Bill to allow for flexible contracts of between ten and fifteen years; leaving the final decision to the local authority designing the contract.

The time-limit for public service contracts in the Regulation of the European Parliament and of the Council on public passenger transport services by rail and road¹ is ten years for coach and bus services, fifteen years for track-based modes. There is a possibility of its extension by 50 percent (i.e. to 15 years for a bus contract) but only if "the public service operator provides assets which are both significant in relation to the overall assets needed to carry out the passenger transport services covered by the public service contract and linked predominantly to the passenger transport services covered by the contract". This condition is unlikely to be met in the case of quality contracts for local bus services.

23. The changes to the Competition test for bus services in this Bill are a step in the right direction, For too long operators and local authorities have had difficulties operating integrated services within the present regulatory framework. We appreciate that this is a complex issue, one that probably cannot be entirely resolved by this Bill. We commend Transport 2000 for commissioning a legal opinion on the viability of a public interest test for buses and we await the outcome with interest. If the conclusions are favourable the Government should look seriously at further legislative changes in this area.

We have been in contact with Transport 2000 (now the Campaign for Better Transport) on this issue and appreciate their initiative in this matter. We are carefully considering their response to the consultation.

24. We welcome the extension of the commissioners' powers to attach conditions to bus operators' licences. We do, however, agree with the Senior Traffic Commissioner that it will not always be appropriate to attach a condition to a licence if that results in an end to most or all bus services in a particular area. We therefore recommend that the powers in this clause be extended further to allow the commissioners to fine an operator in lieu of an attachment where an attachment would have a severely detrimental effect on services. Where actions have a detrimental effect on services the transport authority should be given the power to be the bus operator of last resort.

Where an operator has failed to comply with the terms of a registration, the traffic commissioners do currently have the option of fining the operator rather than attaching

¹ Currently awaiting publication in the official Journal of the European Union.

conditions to the operator's licence. We are examining, with stakeholders and the Senior Traffic Commissioner, ways of further increasing the flexibility of traffic commissioners to impose sanctions on operators that will provide benefit to passengers, rather than measures that would simply reduce services or raise fares.

25. We believe that the changes in the Bill to enable the traffic commissioners to request information from bus operators and local authorities and to take remedial measures against either when they are failing will be critical to the better functioning of bus services in this country. We did not find the arguments of the local authorities and PTEG convincing. The Network Management Duty in the Traffic Management Act 2004 does not extend to the Highways Agency and Network Rail – both bodies that the local authorities themselves told us can have a dramatic effect on bus punctuality. Even if it did, the passenger ought to have the reassurance that an independent, locally knowledgeable authority is overseeing the performance of both operators and authorities.

We are grateful to the Committee for its endorsement of this policy.

The Highways Agency has no legal personality, but acts in the name of the Secretary of State. While the Network Management Duty does not extend to the Agency as a legislative provision, it is required, administratively, to abide by its principles.

The Government recognises that there are other, non-highway bodies whose activities can have impact on traffic flows, including bus services – not only Network Rail but also the various utility companies. This is a matter that goes wider than the scope of the Bill, but the Traffic Commissioners will be able to take these wider factors into account when deciding what measures to take regarding bus operators or local authorities.

26. On the arguments and evidence presented to the Committee by the Secretary of State we see no case for this new quango. It appears to be a device to enable the Department and the Secretary of State to interfere with the independence of the traffic commissioners. We agree with the Secretary of State that punctuality and reliability are vital to retain and attract new passengers to the bus. However, the most effective way of monitoring punctuality is to make the carrying of GPS equipment a requirement of a bus operator for registering a bus route. It should be a statutory duty of transport authorities to monitor every bus within its area using GPS. The statistics would then be publicly available and could be used as the basis for invoking the measures in the Traffic Management Act 2004.

The consultation period for the proposals on “Strengthening Local Delivery – Modernising the Traffic Commissioner System” is not yet closed and we are willing to look at other options for improving the system. It has never been the Department's intention to interfere with the independence of traffic commissioners.

Discussions with bus operators and local authorities are continuing with regard to the most effective way to monitor bus punctuality without excessive cost, staffing or bureaucracy.

27. All reports produced by the commissioners should be published as a matter of course on their website; the power to use their discretion in deciding whether to publish is unnecessary and should be left out of the Bill.

It is our intention that traffic commissioners should normally publish their reports. However, there may be cases where this is not appropriate because their findings include matters that are commercially sensitive. In our view this is a matter better addressed in directions from the Senior Traffic Commissioner to his colleagues (see clause 1) rather than in primary legislation.

28. We are not persuaded that giving the Traffic Commissioners exclusive responsibility for issuing section 19 small bus permits is necessary to producing a simpler, more effective system of issuing permits. We recommend that Clause 27 be omitted from the Bill.

We have been considering that proposal in the light of the Committee's recommendation and representations from the community transport sector. We recognise the concerns expressed by voluntary organisations. At the same time, we are aware that other consultees have argued that the current devolved system for issuing permits has led to difficulties in enforcement. We are looking to see whether there are alternative ways of meeting those concerns which would not involve the termination of the "designated body" system.

29. Given that the vehicles in question are small – perhaps no bigger than a large family car in some cases – and they are often used by small groups of people travelling together, we believe that the requirement to charge each passenger a separate fare and possibly issue tickets is both unnecessarily burdensome and potentially unenforceable. We recommend that the Bill be amended to remove the separate fare requirement from smaller vehicles operated under section 19 permits.

The "separate fare" requirement for small vehicles arises from the longstanding definition of a "public service vehicle" which excludes vehicles which, if hired as a whole with the services of a driver, would require to be licensed as taxis or private hire vehicles. It was not our intention when developing the draft Bill to allow the community transport sector to compete alongside PHV operators. We are considering the points made by community transport and PHV operators during the consultation.

30. We welcome the extension of taxi-bus licences to private hire vehicles, which is likely to enhance the provision of community-based transport. Since they will be operating a bus service, we recommend that drivers of these vehicles should be subject to the same safety standards as other bus drivers, rather than the locally-applied standards for PHV drivers.

The Government welcomes the Committee's support for the extension of taxibus provisions to PHVs. However, we do not accept that the safety standards imposed on PHV drivers by local licensing authorities are inappropriate or insufficiently stringent in this context.

In order to drive a PHV-taxibus, a driver would have to hold a PHV driver licence granted by the appropriate local authority. The local authority is under a statutory duty to ensure that any person to whom they grant a PHV driver licence is a fit and proper person to hold such a licence. The assessment will typically involve a criminal record check, a medical, a topographical knowledge test and often a special driving test. There is no reason to believe that this is inadequate or that it needs to be enhanced or amended in some way in order for the driver to provide a local bus service using a vehicle of fewer than nine passenger seats.

The existing long-standing provision in the Transport Act 1985 which allows taxi drivers to provide a local bus service does not require the drivers to go through a separate assessment procedure to ensure that they are suitable. Imposing such a requirement on the driver of a PHV-taxibus would unnecessarily act as a deterrent to PHV drivers who wanted to provide a local bus service.

Local Transport Governance

31. We broadly welcome the governance changes proposed by the draft Bill. The reinstatement, after two decades, of the Secretary of State's ability to create new PTAs is a major step forward. We support the possibility of changing PTA boundaries, structures and governance arrangements so as to suit local circumstances. We particularly welcome the emphasis on local determination. We are concerned that it is the Government's intention to enact changes that amount to a major local government reorganisation but are only prepared to offer one and a half hours debate on this issue in the Commons. This is not acceptable.

The Government welcomes the Select Committee's broad support for the governance proposals in the Bill, and for allowing greater flexibility for individual areas to determine the best arrangements for them. As the Secretary of State made clear in her appearance before the Select Committee in June, we are considering further whether the proposals set out in the draft Bill for scrutiny of the orders which would implement governance changes in each region are the right ones or whether alternative or additional arrangements should be put in place.

32. A mechanism to allow part of a local authority area to join a passenger transport area in exceptional circumstances should be developed and included in the Bill proper. It is vital that PTA boundaries can be fixed in ways that reflect local strategic partnerships as well as local travel-to-work-patterns.

The Government received a number of representations, as part of the consultation on the draft Bill, identifying the need to allow areas greater flexibility to identify the ideal boundaries for existing or new Passenger Transport Areas. We agree that proposals need to reflect the different needs of areas, and are looking closely at the feasibility of allowing for further flexibility.

33. It should be considered whether the Secretary of State's powers to direct a review were better framed as reserve powers only.

We are pleased that many areas are keen to carry out reviews of their governance arrangements, and some have already started doing so. We accept that the Bill should allow flexibility to enable areas to undertake reviews in the way they think best, for example in terms of who should take part and the timing to be adopted. However, we agree it is also sensible to allow the Secretary of State a reserve power to direct a review where he believes this is necessary to improve existing arrangements in an area.

34. The criteria of "effective and efficient" must be more clearly explained if there is to be transparency and predictability for authorities seeking to develop new or review existing passenger transport areas. The ambiguities in the Bill are compounded by the

absence of stated objectives and duties defined for the Secretary of State. This could in future lead to a malevolent Secretary of State abolishing all PTAs and PTEs by Order.

The Bill allows for the Secretary of State to issue guidance to areas on carrying out reviews of governance arrangements and we would expect to give more detail in this of the factors which we consider areas would need to take into account in determining the effectiveness and efficiency of existing arrangements.

The draft Bill does not allow for a future Secretary of State unilaterally to abolish PTAs. Clause 51(7) makes clear that he cannot make an order which would have the effect of abolishing a PTA unless a majority of the relevant councils in that PTA area have given their consent.

35. We welcome the extension of the remit of PTAs, bringing it closer to the highly successful model witnessed in London. It should be a minimum requirement for local authorities to consult on any major transferral of power to an indirectly elected body. We are concerned that the electorate do not have a formal involvement in the process via the ballot box. We recommend that the Secretary of State's powers under Clause 44 should be exercised under the super-affirmative resolution procedure used for Regulatory Reform Orders.

In publishing the draft Bill earlier this year the Government made very clear that the bodies carrying our governance reviews would be expected to consult widely and reflect the views of others in their proposals. We envisage underlining this in the guidance on governance reviews. As explained above in the response to recommendation 31, the Government is considering whether the scrutiny arrangements set out in the draft Bill are the most appropriate ones.

36. We recommend that the Department for Transport publish a joint document with the Department of Communities and Local Government setting out how a variety of governance models would connect and how funding arrangements would change to support the strategies.

We envisage publishing guidance on both the procedure and substance of governance reviews. The Department will work closely with DCLG in preparing that Guidance.

37. Clause 57 should be revised to place a duty on authorities to take account of the full range of national transport policies. Reducing the effects of climate change is only one of a number of vital policy objectives that should be observed in PTA decision-making, and one such objective should not be singled out on the face of the Bill.

As the Secretary of State made clear in her appearance before the Committee in June, she will be looking closely at the proposed duty in the Bill and considering whether this is the best way of helping to achieve the Government's climate change objectives in this field.

38. It is critical that the new powers vested in PTAs do not bias decision-making to the exclusion of some transport sectors such as freight. Integrated Transport Strategies must include all modes of transport and consider the needs of all users.

In carrying out the new duties which the draft Bill would place on them, in particular the drawing up of transport policies for their areas, PTAs would need to take account of the

whole range of transport modes and needs, including freight, and this would be made very clear in guidance on the production of transport strategies. Section 108(2) of the Transport Act 2000, as amended by the draft Bill, already highlights that PTAs' duty to develop transport policies includes those for the transportation of freight.

39. There is a lack of clarity over the future funding arrangements for new PTA areas and Clause 61 appears very restrictive. The options for borrowing available to PTAs need to be set out and consulted on prior to the Bill being presented to Parliament. Flexibility is required to enable transport initiatives to be funded that support the greater powers being provided.

PTAs generally have similar borrowing powers to other local authorities, including powers for prudential borrowing under the Local Government Act 2003. The restrictions in Clause 61 on the power to promote well being are also similar to those applying to other local authorities.

Local and London Charging Schemes

40. Parliament has already given local authorities the power to establish local road charging schemes. However, it is important to recognise that the framework revisions contained within the Bill and the introduction of the Congestion Transport Innovation Fund significantly boost the potential for roll-out of these schemes, with the aim of establishing local road pricing initiatives across the country.

The aim of the Draft Bill is to ensure that those local authorities who wish to develop local schemes have the freedom and flexibility to do so in a way that best meets local needs. At the same time changes in the Bill will allow the Government to work in partnership with local authorities, through TIF funding, at all stages of scheme development.

41. Parliament should not be invited to confer powers on the Secretary of State which she has no intention of using in the immediate future and for which there is no present need. We believe the Government is right to leave powers to introduce national road pricing out of this Bill. A national road-pricing scheme would be a major departure from the local schemes envisaged in this Bill, which would merit its own piece of primary legislation.

The Government welcomes the Committee's endorsement of this position. No decisions have been made on national road pricing. The Government is clear that any such decision would need to be informed by experiences from local charging schemes and should only come after a full and informed public debate. Further primary legislation would be required.

42. We recommend that the specific duty to have regard to the likely effects of the scheme on vehicle emissions should be supplemented by references to other environmental, social and economic objectives to which a charging scheme might contribute.

The Government agrees in principle that scheme proposers need to understand the environmental, social and economic impacts of their schemes. This is reflected in the

WebTAG guidance issued to local authorities. The Government is considering how this point might best be reflected in the Bill.

43. The Government is right to seek to give local authorities more freedom to decide whether or not road pricing is appropriate for their areas and, if so, what form it should take.

The Government welcomes the Committee's views and its support for giving local authorities the freedom to decide whether or not road pricing is appropriate for their areas. The Government believes that road pricing schemes can be an effective way of tackling local congestion problems – but any decision on a scheme is one that should be taken at the local level, with local accountability.

44. Regulations and guidance governing local charging schemes must balance the need for consistency, interoperability and fairness against the need to provide flexibility to tailor schemes to local requirements. The strengths and weaknesses of this framework will play a key part in determining whether or not the local schemes are successful. We believe that Parliament should have a clear indication of the framework the Government intends to put in place; we therefore recommend that the Government publish a draft of the regulations and statutory guidance it intends to make in relation to road pricing schemes well before the Local Transport Bill begins its Committee Stage in the House.

The Government agrees with the Committee's view that consistency and interoperability are important parts of a road pricing scheme. The Government will work with authorities developing schemes to ensure that interoperability and consistency are secured where required. We hope to achieve as much as possible through working in partnership. As the potential benefits of interoperability are considerable, we expect that Local Authorities will want to build this facility into their schemes anyway. The Government's developing thinking on whether, and if so how, it wishes to use these powers will be informed by the shape of emerging local proposals and the degree of convergence. We will update Parliament on progress when the Bill is in Parliament.

45. Proper consultation should not be seen as an obstacle to introducing local charging schemes; it is an essential part of their proper introduction and a means of ensuring that they are well designed, that they meet local needs and that road users understand why they are being introduced and what the expected benefits are. We recommend that Clause 73 be omitted from the Bill.

The Government agrees that proper consultation is important. We would expect all authorities considering introducing a charging scheme to consult fully on the proposals. As the consultation document recognised, the Government values the importance of allowing local authorities the freedom and flexibility to consult in the manner most appropriate to their proposal and in the light of local circumstances. The Government is considering how this position might best be reflected in the Bill.

46. We welcome the additional flexibility given local authorities to vary the level of charge according to the method and means of payment which a driver chooses. However, it is also important that a vehicle can be driven from one charging area to another without having to register for each scheme individually and possibly acquire

several sets of in-car equipment. The Secretary of State, in making regulations governing charging schemes, must ensure that there is at least one universal method of collecting and paying charges which is transferable between all schemes.

The Government agrees with the Committee's view. The Government's aim is to ensure that schemes are interoperable so that a road user who wishes to have one set of in-car equipment and a single account which would cover all of their interactions with all local schemes can do so. The Government hopes to encourage all local schemes to facilitate such a situation voluntarily, but if necessary the provisions in the Bill would allow the Government to regulate to ensure that this happens.

47. The potential intrusion into individuals' privacy represented by the monitoring of vehicle movements is a significant and legitimate concern which tends to undermine public support for road pricing schemes. Although witnesses were confident that the technology was available to collect charges while protecting drivers' privacy, we are not convinced that the current statutory framework is sufficiently robust to address these concerns. The Government must ensure that its statutory guidance relating to protecting privacy in charging schemes is tough enough to address public concerns. We recommend that the Government include more detail on the face of the Bill as to exactly what information may be required, and under what circumstances, under the provisions in clause 78.

The Government is determined that privacy should be safeguarded in the design of road pricing schemes. Our guidance to local authorities highlights that privacy is a key issue which they must address when developing their schemes. Schemes will have to operate within the protections of the Data Protection Act 1998. If we are to remove the Secretary of State's approval role, the purpose of this provision is to ensure that central government still has appropriate access to information about local authorities' use (or proposed use) of their road pricing powers. It is intended that this provision would cover general aspects of a scheme such as information about systems and technologies which would not need to include user-specific data. This will help us learn lessons to inform the national debate on road pricing.

48. Charging authorities across the country will each need access to driver and vehicle licensing information from across Europe if they are to stand any chance of collecting charges from foreign-registered motorists. We recommend that the Government press for a European agreement on access by charging authorities to driver and vehicle licensing information, and for common enforcement standards.

The Government accepts the importance of this issue and is considering the options put forward through the consultation for the collection of charges from foreign-registered vehicles. However, the cross-border enforcement of penalty charges is a complex issue. Regardless of whether information is obtained, there can be other practical and legal obstacles to the enforcement of penalty charges once the driver or keeper has left the UK. The Government recognises the value of a cross-Europe agreement and is working to progress the issue at the European level.

49. The revenue from charging schemes represents an additional payment made by certain users of the local transport network. It is right that it should be retained for

reinvestment at the local level. It should not be offset against local authorities' funding allocations from central government.

The Government welcomes the Committee's support for the requirement that revenues from a charging scheme be retained and spent on local transport policies. The Government acknowledges that public acceptability of schemes increases when revenue is linked to spending on transport and views this as an important attribute of a scheme. Annual allocations of block capital funding and Revenue Support Grant for local authorities are currently distributed on the basis of broad formulae intended to reflect need. Such formulae do not generally take into account the various alternative sources of revenue available authorities. There are no plans to change this policy. In allocating specific grants for major schemes, the Department takes into consideration any revenue likely to be generated by the investment.

The Transport Innovation Fund

50. We welcome the introduction of the Transport Innovation Fund to help local authorities explore solutions to the growing problem of congestion. But it can only be seen as one part of a much wider approach to tackling congestion. In particular it must be tied to improved local public transport, better co-ordination of neighbouring authorities, and increased strategic control over transport services.

The Government welcomes the Committee's support for the aims of the Transport Innovation Fund and agrees that road pricing alone doesn't offer a complete solution. We are committed to a wide-ranging approach to tackling congestion and are already investing in the road network and public transport to tackle congestion. This includes new road capacity where it is justified (£1.7 billion over the next 2 years), improving the way roads are managed to help traffic flow better and public transport alternatives. Local transport investment has more than doubled since 1997: £2.5 billion a year on buses, £88 million each week on railways. Sustainable travel will have received £22m funding in 2007/08 and by 2010, the Government will have committed more than £140m to support the Travelling to School project.

On top of this we are making up to £200 million per year available from TIF to ensure that appropriate alternative transport provision is there to support local authorities introducing road pricing measures.

Meanwhile, the provisions of the draft Local Transport Bill would ensure that local authorities have a wide range of options available to them to ensure that local bus services work for passengers and major conurbations can take a more coherent, co-ordinated approach to local transport.

51. The draft Bill aims to create greater flexibility for the transport authorities to decide whether to introduce charging schemes and what form they should take. On the other hand, access to Transport Innovation Fund money is entirely dependent on those authorities being prepared to introduce charging schemes. Since the fund now represents the only significant additional money that is available outside the regional allocation process, the pressure on local government to bring forward proposals for charging schemes is now very powerful. In the face of severe funding pressure we do not

accept that Congestion TIF guidance should, in effect, restrict the availability of funds for much needed improvements in transport infrastructure to only those authorities that will consider local road pricing schemes. This risks blackmailing local authorities to conduct road pricing trials on behalf of Government in advance of a possible national scheme.

The Government rejects the suggestion that local authorities are being blackmailed and forced to introduce charging schemes against their will. The Government has consistently made clear to local authorities considering charging schemes that they need to be sure that they have a congestion problem that is receptive to being tackled by charging, and that charging as part of a wider package is the right solution. While local pricing schemes will inform the wider debate about road pricing we are not looking at road pricing trials or experiments; indeed we will not support schemes unless there is robust modelling to show that schemes will be beneficial.

While it is true that additional funding is linked to innovative demand management measures, we are making unprecedented levels of funding available to support demand management and better public transport, including investing more than £5.5 billion in the English regions outside of London through the Regional Funding Allocation process, and supporting soft demand management through Local Transport Plan funding, the Travelling to School project and the Sustainable Travel Towns.

52. If the Congestion TIF is to encourage genuine innovation the fund should be open to all authorities, including those for whom road pricing does not represent the best solution to their congestion problems. We recommend that the requirement for TIF bids to include road pricing or a workplace parking levy be dropped. An important role that can be played by “soft” measures, which also need to attract funding in order to be developed fully.

We fully agree that there is an important role to be played by softer measures in tackling congestion but in some cases these will not be enough. The benefits are not being sustained as traffic builds up again. Road pricing offers the greatest potential to lock benefits in over the long-term. That’s why we have been clear that proposals must include an element of hard demand management, and that we are most likely to fund packages involving road pricing.

That does not mean that the Government is not supporting other forms of demand management; we are, for example, supporting three Sustainable Travel Demonstration Towns. Meanwhile, the Transport Innovation Fund, and the revenues created by hard demand management, mean that Local Authorities have the funding available to support a wide range of transport interventions, including smarter choices.

53. While there may be a place for limited road building as part of an overall package of measures funded from the Congestion TIF, large scale road building has potential to run entirely counter to the objectives of the fund. We recommend that the Department clarify the extent to which road building can form part of a bid and the way in which it will be assessed. We urge the DfT to be vigilant in preventing opportunistic attempts to access Congestion TIF funds to support long-standing, controversial and expensive

road building programmes, particularly as it could be linked to, and thereby undermine, support for local road pricing schemes.

The Department agrees that the inclusion of inappropriate road building schemes would be counter productive. The Department has been clear that the Transport Innovation Fund was set up to promote local solutions brought forward by local areas to resolve congestion problems. The Department is particularly looking for packages that provide better public transport. However, the Department recognises that there might be cases where some investment might also be needed on the highway infrastructure to make sure the pricing scheme works. All bids will be considered in their local context and in accordance with the published guidance.

54. We recommend that the Guidance include a specific requirement for local authorities to have made sufficient improvements to local transport in order to provide real improvements to car use well in advance of any road pricing scheme coming into force.

Whether or not local transport improvements will need to be in place before a road pricing scheme becomes live depends on the package itself and the specific needs of the local area. In some cases additional capacity will be needed upfront for the pricing scheme to operate effectively and fairly. Conversely some schemes may be able to operate without significant upfront investment.

The Department agrees that the best way to demonstrate how road pricing can work in practice is alongside complementary transport improvements and we are prepared to invest in additional transport measures before any demand management scheme goes live. We will want to be sure that where approval is given to spend on transport investment, the demand management scheme is also delivered.

55. The Minister's evidence to us about the need for the TIF to address a wide range of social, economic and environmental issues is at odds with the provisions of the draft Bill which require authorities to have regard specifically to climate change, and nothing else. We believe a balanced approach, taking account of economic and social benefits of congestion-reducing measures is the right one. The Government should look to amend the draft Bill so as to make this clear.

The Department agrees with the Committee that TIF bids have the potential to reflect a range of social, economic and environmental issues and notes the Committee's recommendation to amend the draft Bill.

Key to the success of TIF schemes will be the combination of demand management with investment in the transport network. In allocating TIF funds the guidance clearly outlines the requirement for mutually supportive packages that address local congestion problems in a way that supports economic growth, and supports other objectives for environmental protection, safety and social inclusion. The Department has been clear that there will be no support for any schemes that impose unacceptable environmental, social or other costs.

56. We recommend that schemes under the Congestion TIF be used as an opportunity to explore the displacement effects of road pricing; otherwise it will not be possible to fully assess the strengths, weaknesses and potential design of a national scheme.

Although no decision has been taken on whether or when a national scheme might be implemented the Department agrees that schemes supported by Congestion TIF should inform how road pricing might develop in the future, and contribute to the debate on a possible national scheme.

The Department is working closely with local authorities and has supported their in depth analytical work. The modelling of the schemes, covered in the WebTAG guidance published in February 2007, will cover the displacement effect of road pricing on traffic and other impacts on travel behaviour, and will form a significant part of the assessment of the business cases.

The Department is currently developing an Impact Evaluation Framework for Congestion TIF funded packages so that lessons can be learned. Any Congestion TIF funded packages will be evaluated following the Congestion TIF Impact Evaluation framework, which explains how to measure displacement. The Congestion TIF Evaluation will cover both the impacts and processes of a road pricing scheme, and evaluation findings will inform how road pricing might develop in the future.

57. While there is a need to balance the cost and complexity of making a bid against the need for a rigorous and comprehensive assessment, we urge the Government to consider ways of simplifying the existing arrangements – we fear they may be especially burdensome for smaller authorities. We also urge DfT to consider distributing the funds as part of a longer-term approach that makes use of regional mechanisms with the aim of increasing certainty over funding and reducing the need for such a cost-intensive, and potentially wasteful, bid-orientated approach.

While there is clearly some merit in increasing certainty over funding and making use of regional mechanisms, the nature of TIF and road pricing based schemes means that the decisions are best taken at a national level. TIF provides the required significant public transport investment to support road pricing schemes that allocating the funding regionally on a formulaic basis would not provide.

We have been careful to ensure that the burden on authorities of developing business cases is proportionate and reasonable. However, it is crucial to developing an effective, fair road pricing scheme that the design is based on robust analysis. We know that this work can be intensive and expensive and that is why we made available up to £18 million of pump priming to support scheme development and have been working closely with interested local authorities through the Road Pricing Local Liaison Group.

58. We understand the DfT's desire to progress the bids as quickly as possible, but a failure to consult before the funding decision is made may waste the time and money that has been invested in the event that political support is not forthcoming within the local area. We recommend that minimum 12-week consultation before submitting a bid be stipulated in the TIF guidance; the views of the local population should be fully considered within the bidding process. The Government should not accept bids where local authorities have not adhered to Cabinet Office guidelines on consultation, including the 12 week stipulation.

The Department agrees with the Committee that public consultation is key to making sure that local road pricing works for the local people and that their views are fully considered,

and the Department expects public consultation on proposals to take place. It is for local authorities to judge how best to do this. There will be various stages in the process, from formulation of initial ideas to making the scheme order, where public views will need to be taken; if a formal consultation is undertaken at every stage then there is a real risk of “consultation fatigue”. That is why we want local authorities to develop strategies for engaging the public which meet our criteria but which are best suited to local circumstances.

59. We urge DfT to explore the possibility of aligning the timetable for seeking funds from TIF to the timetable for seeking funds from other sources, including the Regional Funding and Local Transport Plan funding.

We want local authorities to come forward with their proposals when they are ready. When we announced the Transport Innovation Fund it was clear that the scale of business case development work meant that we could not align timetables for TIF with the Regional Funding Allocation process or Local Transport Plan submission. The potential size of the funding, and the fact that the bids are the first of their kind to be produced mean that the Committee’s suggested timetable would be inappropriate at the moment but we will explore the possibility of this in the future.

60. The DfT told us that “TIF offers local authorities the resources to make hard demand management a realistic intervention within their local transport strategies”. However, the size of the fund may not be sufficient to allow more than a small number of major projects to be progressed at the same time. We are concerned that the scale and cost of emerging bids in relation to the overall allocation of funds might prevent a broad and varied range of town and city regions from being able to explore comprehensively the best solutions to congestion.

We are looking to explore the potential for road pricing through local schemes and we have been clear that any decisions on national road pricing would need to be informed by experiences from local schemes. We are making available up to £200m per year from TIF to support local authorities in implementing these schemes. However it is too early to tell how many schemes will be brought forward or that we might support, but we have always made clear that we could make more funding available should suitable schemes to a higher value emerge.

61. The Government’s policy to use TIF-funded projects at the local level to explore the impact of road pricing. These projects are supposedly trials and experiments but their costs are extremely high. In the cases of Greater Manchester and the West Midlands, £3 billion and £2 billion respectively, with debts lasting up to 30 years. The failure of these projects would place a huge burden on the public purse. A range of town and city centre pricing schemes will not tell us a great deal about the impact of road pricing on inter-urban routes and major trunk roads. If the Government proposes to bring forward proposals for a national road-pricing scheme, we recommend that it first conduct pilot studies of the effect of pricing on the strategic road network.

The Department notes the Committee’s concerns over the scale and potential risks of the larger of the potential TIF bids. We are not, through allocating the congestion element of the Transport Innovation Fund, seeking to promote the implementation of local charging

schemes as ‘experiments’. Rather, we are interested in seeing the early application of charging – as part of a wider package – where there is good reason for believing it will work to help tackle local transport issues, recognising that different authorities are necessarily dealing with different circumstances. All proposed schemes are to be rigorously assessed, including for deliverability, value for money, and sound financial planning as detailed in the published guidance.

We agree that there are congestion problems on parts of the strategic road network, but 88% of congestion is in urban areas, therefore it is sensible to prioritise the assessment of road pricing in these areas. We believe that where there are congestion problems on both local and trunk roads it makes sense for the local authorities to develop proposals for tackling them, and we will examine these individually on their merits.

It is not the Department’s intention at this stage to take the separate powers needed to price the national road network.