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Passenger representation and information display consultation
Department for Transport
Zone 3/11
Great Minster House
76 Marsham Street
London SW1P 4DR

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Extension of the remit of Passenger Focus to bus and coach issues and the requirement to display information.

1. Introduction

1.1 TravelWatch NorthWest (TWNW) is an independent Community Interest Company representing users of all forms of public transport in North West England. We welcome the opportunity to comment on this consultation document.

1.2 In its response to DfT's consultation on Passenger Focus (PF) taking over the Air Transport Users Council's (ATUC) role of representing air passengers TWNW said that it "broadly supported the creation of a true multi modal Passenger Transport Users' Council/Committees".

1.3 We set out our Vision - an enhanced role for passenger consumer protection – and repeat this below as we feel it is as relevant to this consultation as to the earlier ATUC consultation.

1.4 TWNW would like to see PF have, as a minimum, the following statutory duties with respect to all modes of public transport ¹.

- Being a passenger champion, representing them, investigation issues they bring to its attention and bringing relevant issues to the attention of the appropriate mode regulator ²
- Keeping services under review
- Handling complaints
- Holding Public Meetings and producing annual reports
- Co-operating with other Public Transport User Bodies

1.5 We consider that PF should have consistent and easily understood "mode agnostic" complaints handling procedures so that passengers will have a

¹ Ferries and Taxis are still outwith PF's remit

² ORR, Traffic Commissioners, Local Transport Authorities, CAA and DfT as appropriate

single portal through which they can lodge a complaint if they are dissatisfied with the initial response (or lack of response) by the transport operator.

1.6 We are however concerned that a further widening of the remit of Passenger Focus might, if not properly managed, result in

- fragmentation of what should be modally seamless representation
- inconsistency of procedures, such as complaints handling, applied to different modes, and
- a poorly constructed and thus widely misunderstood template for passenger representation.

1.7 Our proposed **multi modal remit** is in line with the way consumer protection is progressing in other fields, such as energy and communications³. It makes sense in the context of so many journeys now being multi modal and presents more opportunities for promoting integration between services and modes – e.g. airport surface access, terminal handling procedures, bus and rail station management, remote check in and through ticketing between different modes⁴.

1.8 Our response is thus a plea for consistency across modes, not an objection to any further expansion (in April 2010⁵) of the remit of PF.

1.9 We also, as invited by this consultation, comment below on DfT's proposals to implement section 75 (**Display of Information**) of the Local Transport Act 2008.

1.10 Before attempting to answer the designated questions in this consultation we would like to address one **supplementary issue** which we feel these do not specifically address but is deserving of comment.

2. Passenger Focus' remit to investigate and keep under review road passenger services.

2.1 PF has a duty to keep under review and investigate rail (UK) and also road passenger (England) services.

2.2 Certain elements of new section 112D of the TA Act 1985 cause concern. This section enables PF to decide whether to investigate itself or if it would be better to delegate the matter to someone else. We would make the following points -

- This provision is not replicated in legislation concerning PF's role with other transport modes and is therefore inconsistent.

³ OFGEM now represent gas and electricity users and OFCOM now represent postal, TV and telephone users

⁴ J Carr, CILT Public Policy Committee

⁵ Draft RPC (non rail functions) Order 2010.

- We cannot think of any issue that PF would wish to **delegate** to operators or providers to deal with on behalf of passengers
- PF has sufficient powers when investigating matters to make representations to operators, providers and others, thus involving them in the process.
- PF has to be seen by the passenger as dealing with passenger concerns independently.

In our view there would be no problem with delegating some activities to a recognised passenger users body (under the PF umbrella). The powers in this proposed section should be limited accordingly to such bodies.

3. Questions and answers

a) Extending the remit of PF

Question 1: Should Passenger Focus be the statutory representative for tram passengers?

3.1 **Yes.** TWNW agrees that the powers contained in the Local Transport Act 2008 to enable tram functions to be transferred to Passenger Focus should be invoked.

3.2 Our understanding is that PF currently has statutory powers covering the Manchester Metrolink system though not, strictly speaking, the street running sections in Central Manchester (see attached). To provide consistency the provisions as set out in the proposed section 112C of the TA Act 1985 should also apply to those light rail systems or parts of such systems which are not “tramways” (the latter being defined as being laid wholly or mainly along a street or where the public has access). This would bring the whole of Metrolink (and all other light rail systems) under the same provisions.

Question 2: Do you agree that Passenger Focus' remit should include Community Transport services operated under section 22 permits?

3.3 **Yes.** These are registered local services and fit the definition of public passenger transport in the Transport Act 1985⁶. Now that the Local Transport Act 2008 permits the use of buses with more than 16 passenger seats they are likely to become a more significant component of public passenger transport networks.

There appears to be no remit for international coach services – can this be clarified?

Question 3: Do you agree with the exclusions from the definition of 'road passenger transport services and facilities'? Are any other exclusions needed?

⁶ section 63(10)

3.4 This is a very complex issue. The proposed amended definition of a road passenger transport service as “*a service for the carriage of passengers by road at separate fares on which the passengers travel together on a journey, with or without breaks, from one or more places to one or more other places and back*” is wider than the definition of “public transport” in section 63(10) of the Transport Act 1985.

3.5 Arguably road passenger transport services could include schools transport ⁷, taxi buses ⁸, Community Transport and Excursions and Tours (E&T), although the latter are, in our view, rightly excluded.

3.6 Although **section 19 Community Transport** services do not usually carry the public at large, many are demand responsive, run to a timetable and charge separate fares. On balance we think these should be included, but agree that “Group Hire” CT services ⁹ (like E&Ts) should be excluded.

Question 4: Do you agree with the proposed arrangements for bus and coach matters partly or wholly operating in London?

3.7 We agree with these paragraphs. There needs to be effective co-ordination where cross boundary services are concerned. Similarly where services cross the Welsh or Scottish borders.

Question 5: Do you agree that Passenger Focus should be able to request any information from a relevant party?

3.8 TWNW agrees with the suggestion that Passenger Focus should be able to request any information from a relevant party, and we note with satisfaction that the newly drafted section 112E of the Transport Act 1985 will enable them to make such statutory requests. We would suggest that as well as having statutory rights to obtain information from operators, these should be extended to include information from the statutory procurers of services – the Local Transport Authority (LTA).

Question 6: Should there be an independent arbiter for disputed information requests and if so, who should it be?

3.9 There should normally be no need for an independent arbiter for disputed information requests. However it would be useful to have such a “back stop” even if it were used rarely. We are not convinced that the Traffic Commissioners would be appropriate given their other possibly conflicting

⁷ specifically included in section 63(10) of the Transport Act 1985 which it is proposed the wider definition will amend.

⁸ Taxis (and Ferries) are currently outwith the remit of PF

⁹ section 19 CT services, other than those for the elderly and disabled, are excluded by s 63(10)

interests in the provision of road passenger transport. We would put forward the CILT as an independent body who could carry out this arbitration role.

Question 7: Should Passenger Focus be required to conduct a 'value for money' test before making a representation? If so, what form should it take?

3.10 We are in agreement with the draft Order not including a value for money obligation.

Question 8: How should operators and local authorities be expected to respond to representations made by Passenger Focus?

3.11 Operators and Local Authorities should respond co-operatively.

Question 9: Do you think it would be appropriate for Passenger Focus to refer a matter to the Traffic Commissioners or the Secretary of State for them to exercise appropriate powers when it does not receive an adequate response?

3.12 We agree that there should be a referrals procedure with road passenger transport as there is with rail to give consistency as well as enhancing PF's powers. We believe the Traffic Commissioner would be the appropriate person to fulfil this role mainly, both where operators and procurers are concerned. TCs should also be able to hold local transport authorities to account and deal effectively with referrals about facilities (such as bus stops) provided by an LTA.

3.13 We agree that PF should have powers to make referrals to the Secretary of State as proposed in the Order.

Question 10: Who should act as the enforcer for tram services where Passenger Focus has not been able to achieve a satisfactory response?

3.14 There are now so many new and embryonic light rail systems in the UK that it might be sensible to create by statute a Tram Regulator with similar powers to the Rail Regulator or Traffic Commissioners. This should be written into the statute and cover all light rail networks (not just tramways).

Question 11: Do you agree with the proposals about representations made by Passenger Focus to Traffic Commissioners?

3.15 TWNW supports the proposal that PF will be able to refer matters to the Traffic Commissioners where it appears that operators are in breach of their licence. Section 112H demonstrates the need for PF to handle Appeal bus complaints (see next question). Examples of licence breach are likely to come to light through complaints which is one reason why PF should handle them.

Question 12: Do you agree that Passenger Focus' role in handling complaints should be determined after it has completed a review of the complaints system?

3.16 TWNW completely disagrees with the statement in paragraph 2.39 of the consultation document that it is not proposed that PF will deal with bus complaints appeals (as it does with rail). We do not regard the Bus Appeals Body as being the appropriate body to carry on with this role after the Order is made. It should be remembered that BUUK which acts as a “gatekeeper” to the BAB is industry funded and perceived by some passengers as not being totally impartial.

3.17 The BAB’s current remit with regard to complaint handling is very limited. ***It is not a statutory body.*** We understand that its terms of reference only permit it to deal with complaints from bus users regarding specific incidents or operational matters such as running to time, charging the correct fare and the behaviour of staff towards passengers. It cannot deal with commercial or operational matters such as the level of fares, the level of service provided, or the routes taken by buses.

3.18 There is a need for cross modal consistency. PF currently handles rail complaint appeals and it is proposed that it will carry out a similar role for air passengers and for trams (paragraph 2.43). Being consistent across modes will be less confusing for and in the interests of passengers and will facilitate the handling of appeals where journeys are cross modal and interchange is involved. In our view it is inconceivable that a national consumer representative body should not have a robust complaints handling procedure for the consumers it represents i.e. passengers.

3.19 Further confusion for passengers is engendered by the role of the Traffic Commissioners in complaints handling. It is likely that few passengers are aware of this role and our worry is that there is a conflict of interest between the Traffic Commissioners’ complaints handling remit and their other duties. Passengers will want ***one*** point of contact for complaints appeals and that should be the statutory passengers representative.

3.20 The wording of the proposed statute (proposed section 112C of the Transport Act 1985) places a duty on PF to investigate any matter regarding buses which is brought to its attention by users or potential users. This is standard phraseology for other modes as well and is the trigger for complaints handling. Unlike BAB there are no restrictions on what those matters are, save for them not appearing to be frivolous or vexatious. In our view this makes the argument compelling.

3.21 In summary we would like to see a single “mode agnostic” Passenger Council (PC) appeals complaint handling procedure. We are not opposed to the Regional resolution of complaints, but if this is to be subcontracted it must be to independently funded agents and under the banner of Passenger Focus.

3.22 If PF does carry out a review of the complaints system we would hope that the outcome is as above. We would ask to be consulted if and when such a review takes place.

Question 13: Do you agree that as there is currently no appeals body for tram passengers, Passenger Focus should also take on this role if it is given a tram remit?

3.23 **Yes.** This coincides with our arguments in response to the previous question. It should be pointed out that PF will have a duty under the legislation to investigate such appeals (unless they are seen to be frivolous or vexatious).

Question 14: Are any other changes required to the constitution of the (Rail) Passengers' Council?

3.24 We support RPC's change of name to the **Passengers' Council**. This better reflects its new multi modal remit.

b) Requirement to display information

Question 15: Do you agree with the information that operators would be required to display on their bus?

3.25 TWNW was encouraged to see that section 75 of the Local Transport Act 2008 enabled the making of secondary legislation prescribing the information which operators will be obliged to display. We also note with satisfaction the role which the Traffic Commissioners will be given in enforcing this requirement.

3.26 However we believe that simply requiring bus operators to display their name and contact details is too narrow a template to be useful to passengers. Train operators are required to display not only their own details but also PF's name and contact details and a note advising passengers unhappy with a train operator's reply (or lack of reply) to contact the PF. No less a requirement should be placed on bus operators and enforced by the Traffic Commissioners. It should be clear to whom passengers can appeal i.e to **one** body (PF) with statutory powers to help passengers

Question 16: Do you think that the providers of bus stops and bus stations should also be required to display such information?

3.27 Just as details of PF and its function are required at rail booking offices and stations, so too should the same information be required at bus stations.

3.28 However it could be difficult to clearly define a bus station in this context. Most stops at major interchanges and those serving frequent or multi operator services have display panels conveying information such as timetables and

could generally accommodate the necessary statutory notice. Nevertheless many bus stops are no more than a flag on a pole.

3.29 Stops are in the main the responsibility of Local Transport Authorities who generally do a good job of maintaining them and keeping what information they carry up to date, a not inconsequential task in an unstable deregulated bus market. The sheer number of bus stops in some LTA's areas would make providing a statutory display at every one a very onerous and expensive task.

3.30 Perhaps a more sensible requirement would be for all published timetables (which are often displayed in panels at bus stops) to carry a statutory notice directing complaints in the first instance to the operator and then to the RPC, Traffic Commissioners, BUUK or Travel Watch (depending on the outcome of this consultation). Hyperlinks to complaints procedures could be created on operators', LTAs' and timetable websites¹⁰.

Question 17: Do you think that operators of PSVs with fewer than nine seats which are being used to provide local services should be required to meet the information requirements?

3.31 **Yes.** When a Taxi or Private Hire Vehicle is providing a registered local service at separate fares it becomes a taxi-bus and should be required to display the same statutory notices as any other bus. The same requirement should apply to section 22 Community Buses.

Question 18: Do you think that the providers of tram services should also be subject to the information requirements? If yes, who should enforce this?

3.32 **Yes.** The new Tram Regulator

Question 19: Should the location and design of information be prescribed in the regulations?

3.33 **Yes.** A consistent design and location will over time become recognisable by passengers, as will its absence. However at the very least the location and design should ensure that the information can be easily seen and read.

Question 20: Do you agree with the information that operators would be required to display other than on the vehicle?

3.34 We agree that there should be a requirement for bus and coach operators to include contact details for the organisation dealing with appeals. We believe this should be Passenger Focus as previously argued. (END)

¹⁰ e/g. DfT's Transport Direct and Traveline. TWNW has also noted and reported (Information about Bus Fares June 2009) the lack of fares information.