

promoting quality public transport.....

Peter Laslett
Concessionary Travel Team
Department for Transport
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22nd January 2009

Dear Mr Laslett,

Consultation on the definition of eligible services for the statutory bus concession in England

1. Introduction

1.1 TravelWatch NW (TWNW) is part of the National Travel Watch Network representing public transport users North West England.

1.2 In its response¹ on the Concessionary Bus Travel Bill 2007 TWNW agreed with the House of Commons Transport Committee's (HOCTC) view that "the concessionary fares system in England was in a mess"².

1.3 TWNW acknowledged that "without primary legislation there would be no quick fixes" and that the provisions of the Bill, and how these will be implemented, would be important to all stakeholders, including passengers. We are glad therefore of the opportunity to contribute to this consultation on the Department for Transport's (DFT's) proposals.

1.4 TWNW also noted that this consultation on the proposed criteria for identifying eligible services on which concessions should be available in no way precludes Local Transport Authorities (LTAs) and Travel Concession Authorities (TCAs – where these are different) from making, at their own expense, discretionary extensions to statutory minimum entitlements simply by disallowing some or all of the proposed exemptions from eligibility.

¹ in March 2007 to the Department for Transport

² HOCTC "Bus Services in the UK" Third Report, Session 2006/7 para 20

1.5 It is further noted that these proposals miss an opportunity to include any changes to the current criteria for the eligibility of services for entitlement to Bus Service Operator Grant (BSOG).

1.6 In this context TWNW would point to its earlier responses to DfT consultations on BSOG³ and on the Concessionary Bus Travel Bill 2007⁴ which suggested that, whilst combining the grant with concessionary fares reimbursements is in the longer term at least “superficially attractive”, it does nevertheless have the merit of aligning the criteria for both. We advised at the time that this option should eventually be revisited.

1.7 This response looks in turn at each of the five proposed exemptions to the Travel Concessions (Eligible Services) Order 2002. It notes that before then⁵ eligibility for participation in the then existing statutory concessionary travel schemes had been variously defined by references to Stage Carriage Services⁶ and, later, Registered Local Services, provided these themselves were eligible for Fuel Duty Rebate (FDR)⁷. The 2000 Act and 2002 Order appear to refer to poorly defined Local Bus Services.

1.8 TWNW does not entirely agree with the assertion that since 1st April 2008, when free off peak bus travel across England was introduced for eligible passengers⁸, eligibility for the concession has been “ambiguous at the margin” and that the exemptions proposed would reduce this ambiguity. In some cases they could simply substitute new barriers to take up or replace one ambiguity by another.

The five proposed exemptions are now considered in parts 2 – 6 below.

2. Services on which the majority of seats can be reserved in advance of travel

2.1 TWNW does not think this should be a valid exemption since many such services are long distance and interurban, but with portions of their route registered as local services. This entails stopping on these sections at least every 15 miles and whilst this may be done by the operator so as to claim BSOG, or, as the consultation points out, to pick up or set down at convenient suburban points, it is also the case that in some instances, especially in the rural areas penetrated by such services, there are no other registered local services.

³ In May 2008 to the Department for Transport

⁴ In March 2007 to the Department for Transport

⁵ Pre 1985 local (largely municipal) schemes; Transport Act 1985 s.93 and the Travel Concessions Regulations 1986; Transport Acts 2000 (half fares on ‘local journeys’) and 2005 (local free travel)

⁶ Pre 1985

⁷ BSOG now replaces FDR

⁸ Mainly pensioners and the disabled

2.2 Examples in the North West are National Express services between Manchester and South Yorkshire (A628) and between Penrith and Kendal (A6), as well as summer “express” services across the Pennines on the A66.

2.3 Passengers in rural areas already have a restricted choice of local services compared to their urban equivalents, and an exemption such as this would limit their choices even more. The exemption, if made, should not apply to portions of routes registered as local services. Tying in BSOG with the exemption, as suggested above, might be another way of achieving this outcome.

3. Services that do not run at least once per week for a period of at least 6 consecutive weeks

3.1 TWNW would be concerned that such an exemption might inadvertently disqualify schools services. Many of these are registered as local services and available to and regularly used by members of the public. Most are procured by Local Transport Authorities either as Local Education Authorities or on behalf of LEAs in their areas.

3.2 In many rural areas the school bus is the only surviving form of public transport. It is bad enough to lose this at holiday times, but losing it altogether would be another case of reducing or even removing choice from concessionary pass holders.

3.3 Whilst the six weeks criteria neatly mirrors the 42 days period of notice to the Traffic Commissioners under the PSV (Registration of Local Services Regulations) 2004, it is unrealistic. Many schools have at least a six week summer break and often don't reopen until part way through a seventh week because, for example, the first few days are designated staff training days.

3.4 De-coupling of schools services from BSOG (as suggested in earlier consultations⁹) would create an even bigger anomaly.

4. Services operated primarily for their historical interest or for tourism

4.1 Visitor services are often a vital component in a transport network, especially in rural areas. The level of indigenous use of these services has never been properly researched, but it has been estimated¹⁰ that between 11% and 22% of passengers are local inhabitants using them to travel in the opposite direction to the visitors to their area. Many are registered local services and it would be difficult to phrase legislation to exempt them.

⁹ Local Bus Service Support – Options for Reform Response by Travel Watch North West to a consultation by the Department of Transport March 2008

¹⁰ “Rural Transport Funding”, TWNW, Aug 2006

4.2 An example in the NW is the AD102 service which runs primarily for visitors parallel with Hadrians Wall but is used by many Northumbrian and Cumbrian pass holders to travel to Newcastle, Hexham and Carlisle.

5. Rail replacement services

5.1 By their very nature these are not registered local services, but are unregistrable “contract carriages” where the contract is between the Bus and Rail operators for the former to carry the latter’s passengers. Thus a valid rail ticket is required to travel, and it is sensible to exempt them.

6. Services where the fare charged by the operator has a special amenity element.

6.1 This is perhaps the most intractable proposed exemption.

6.2 Any payment of separate fares which confers a right to be carried (even if a premium fare is paid in consideration of another matter, such as an admission charge) constitutes Hire or Reward and makes the bus a Public Service Vehicle ¹¹ and the service registerable if it is available to the public at large (including presumably pass holders). It is thus, as with visitor transport (see above) hard to understand how such an exemption could be phrased and enforced.

6.3 However, the consultation makes mention of **Park and Ride** services. Here it could be argued that the “fare” conveys a right to be carried but that the service is not registerable but instead is a “contract carriage” (the contract being between the operator and the LTA) similar to a rail replacement service.

6.4 By not being available to the public at large it would not be useable by pass holders. But if the Park and Ride site is on the line of route of a registered local service it would be difficult to prevent pass holders parking and boarding the bus for free, so long as they did so “off peak” (when there should in any case be capacity on the service).

6.5 It might also be asked why any LTA should want to exclude pass holders from using a Park and Ride facility in preference to driving to their destination and thus making a benign modal shift?

7. Conclusions

7.1 TWNW would suggest that DfT looks again at some of these proposed exemptions. The question might be asked if the anomalies identified at the margin are sufficiently serious to require corrective legislation (if indeed it could do so), or whether a simple all embracing entitlement for pass holders to travel off peak on any registered local service qualifying for BSOG would be sufficient?

¹¹ Public Passenger Vehicles Act 1981

7.2 TWNW hopes these comments will inform DfT's approach to defining eligibility criteria for bus services on which statutory concessions are available and where re-imbursments are made by Travel Concession Authorities (TCAs) in respect of the use made of them.

7.3 At some stage consideration will have to be made as to the class of persons eligible (e.g. the proposed extension to "scholars" age 16-19).

7.4 Thank you for the opportunity to comment. TWNW will be pleased to be asked to contribute to such further consultations and is also prepared to amplify orally or in writing any aspects of this response.

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