This document is issued pursuant to section 4C of the Public Passenger Vehicles Act 1981 (as amended). Representative organisations have been consulted in accordance with that provision.

<table>
<thead>
<tr>
<th>Commencement:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Contents:</td>
<td>Page</td>
</tr>
<tr>
<td>GUIDANCE</td>
<td></td>
</tr>
<tr>
<td>Punctuality and Reliability Standards Review</td>
<td>2</td>
</tr>
<tr>
<td>Legislation and Local Services</td>
<td>2</td>
</tr>
<tr>
<td>Powers and sanctions available to a traffic commissioner</td>
<td>3 - 4</td>
</tr>
<tr>
<td>Case Law</td>
<td>4 - 6</td>
</tr>
<tr>
<td>DIRECTIONS</td>
<td>7</td>
</tr>
<tr>
<td>Partnerships to deliver reliable and punctual services</td>
<td>7</td>
</tr>
<tr>
<td>What traffic commissioners should expect of operators</td>
<td>7 - 8</td>
</tr>
<tr>
<td>Window of tolerance</td>
<td>9 - 10</td>
</tr>
<tr>
<td>Systems</td>
<td>10</td>
</tr>
<tr>
<td>Start Up</td>
<td>10</td>
</tr>
<tr>
<td>Timetables</td>
<td>10 - 11</td>
</tr>
<tr>
<td>Services contracted from the Local Authority</td>
<td>11</td>
</tr>
<tr>
<td>Public Information</td>
<td>11 - 12</td>
</tr>
<tr>
<td>Established services</td>
<td>12 - 17</td>
</tr>
<tr>
<td>What traffic commissioners should expect of local traffic authorities</td>
<td>18 - 19</td>
</tr>
<tr>
<td>What traffic commissioners should expect from partnerships</td>
<td>19 - 20</td>
</tr>
<tr>
<td>What traffic commissioners should expect of DVSA, Bus Users Cymru and Bus Users Scotland</td>
<td>20 - 22</td>
</tr>
<tr>
<td>Standards expected of Local Bus Services</td>
<td>22 - 23</td>
</tr>
<tr>
<td>Circumstances under which a Public Inquiry is likely to be called</td>
<td>23 - 24</td>
</tr>
<tr>
<td>Guiding principles on use of regulatory powers</td>
<td>24 - 25</td>
</tr>
<tr>
<td>Annex 1 Sample Road Works Protocol and Partnership agreement</td>
<td>26 - 27</td>
</tr>
</tbody>
</table>

Issued:

Beverley Bell
Senior Traffic Commissioner
2014
GUIDANCE

1. The Senior Traffic Commissioner for Great Britain issues the following Guidance under section 4C(1) of the Public Passenger Vehicles Act 1981 as to the way in which the Senior Traffic Commissioner believes that traffic commissioners should interpret the law in relation to the requirements.

Punctuality and Reliability Standards Review

2. The traffic commissioners have previously set targets regarding the operation of registered bus services. The first guidance was issued by the Senior Traffic Commissioner in 2002 and revised guidance by way of a Practice Direction in January 2005. In February 2011 the Department for Transport set out a proposed new approach to ensuring bus punctuality compliance and in July 2011 guidance for local authorities and operators regarding Bus Punctuality Partnerships was issued by the Department for Transport. A revised version was issued in July 2012¹. The Local Transport Act 2008 amended the powers of traffic commissioners regarding bus punctuality compliance.

Legislation and Local Services

3. Section 2 of the Transport Act 1985 defines local bus services and Section 6 sets out the requirements for the registration of those services with the traffic commissioner.

4. To register a local service, operators must meet the requirements of the Transport Acts 1985 and 2000 and The Public Service Vehicles (Registration of Local Services) Regulations 1986 as amended and hold either a PSV operator's licence or a section 22 permit and must as a general rule give 56 days notice of their intention to run or cancel a service.

5. If an operator wishes to start a service with a shorter notice period, exemptions may apply but most of these need the consent of the traffic commissioner as per regulation 7 of the Public Service Vehicles (Registration of Local Services) Regulations 1986.

6. The operator is required to register stopping points on the route including recognised bus stops, which are signed and established unmarked stops. If there is always less than 10 minutes between stops this may be treated as a frequent service (paragraph 9 of the Schedule of the Public Service Vehicles (Registration of Local Services) Regulations 1986 and paragraph 10 of the Schedule of the PSV (Registration of Local Services) (Scotland) Regulations 2001).

7. The traffic commissioner may, at the request of the transport authority, attach traffic regulation conditions to a PSV operator's licence if the traffic commissioner is satisfied that they are required in the interests of safety or to reduce severe traffic congestion or pollution in a particular area.

¹ http://www.dft.gov.uk/publications/bus-punctuality-partnerships-guidance/
Powers and Sanctions available to a traffic commissioner

8. Traffic commissioners have powers under the Transport Act 1985 and the Transport Act 2000 as amended and Sections 38 and 39 of the Transport (Scotland) Act 2001 to take regulatory action against operators who do not operate their services in accordance with the registered particulars.

9. Just as importantly traffic commissioners have a discretionary power to accept short notice applications for registrations to either commence or cease. The use of this discretion will always be a delicate balance but traffic commissioners are encouraged to ensure that they adopt a practical approach and that whilst they have a duty to ensure the promotion of fair competition that they also promote the swift facilitation of service improvements.

Operators

10. Where an operator has failed to run a service as registered, without a reasonable excuse, the traffic commissioner has a range of powers that are set out in Sections 26(1A) and 26(5A) of the Transport Act 1985 and Section 155 of the Transport Act 2000 which has been amended to provide additional sanctions for failures by bus operators.

Local Authorities and Operators

11. Section 27A of the Transport Act 1985 provides that traffic commissioners may direct a local traffic authority to provide him or her, within a specified period of time, with specified information connected with any aspect of the performance of their duties for network management under sections 16 or 17 of the Traffic Management Act 2004. The information that may be specified must be information which the local traffic authority has in their possession or can be reasonably expected to acquire. This includes information relating to the management of a local traffic authority’s road network or the use of their road network by different kinds of traffic or the effects of that use.

12. If the traffic commissioner identifies any remedial measures which could be taken by the operator, or by a local traffic authority, the traffic commissioner may prepare a report recommending the implementation of those measures to enable or facilitate the operation of the service in accordance with the registration. The report must be copied to the operator and local traffic authority, and if appropriate the Integrated Transport Authority, and any other persons the traffic commissioner considers appropriate, such as the appropriate national authority.

13. If a traffic commissioner holds a public inquiry into allegations of poor punctuality performance they can, by summons, require a representative from the local traffic authority to attend to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry. Any person who refuses or deliberately fails to attend, or to give evidence, or who deliberately alters, suppresses, conceals, destroys, or refuses to produce any book or other document which he is required or is liable to be required to produce, shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding six months, or to both.
14. However it must be noted that traffic commissioners have no powers other than this over local traffic authorities.

Case Law

15. This Guidance is subject to any decisions of the higher courts and to subsequent legislation. However the Senior Traffic Commissioner has extracted the following principles from existing case law.

16. In regard to the registration of local services, regulation 7(1)(b) of the Public Service Vehicles (Registration of Local Services) Regulations 1986 gives a traffic commissioner a discretion in the cases specified in paragraph 7(2) to specify such date as the traffic commissioner may determine as the date on which notice to cancel a service is to take effect. Paragraph 7(2)(h) allows an application in circumstances “where an operator, due to circumstances which he could not reasonably have foreseen, failed to make an application in sufficient time for the period of notice apart from this sub-paragraph to operate”. The test is not to be applied to the situation as at the date when the application for short notice cancellation is actually made. The test has to be applied at an earlier stage, namely at the date on which the operator would have made the application if he had been able to foresee the events which were not reasonably foreseeable. The legislation is intended to ensure that operators take all reasonable steps to keep services operating but that if they do so and still find that it is not possible to operate a particular service the traffic commissioner has the power to abridge the period of notice2.

17. When convening a public inquiry and considering whether to take regulatory action, the Court of Appeal has ruled that a traffic commissioner is entitled to regard a sample of journeys monitored as sufficient and representative of an operator’s operation as a whole and that it will be appropriate to make a comparison and extrapolate from it. The Court of Appeal concluded that it was important that traffic commissioners’ statutory powers should not be emasculated by an over-elaborate approach to the investigation or an unnecessary attention to detail3. However as the Transport Tribunal went on to indicate “there is a limit to the extent to which the latitude in decision making allowed to traffic commissioners can go to overcome problems of methods and sizes of samples and special traffic situations”4. Traffic commissioners must decide whether to discount the findings presented to them and may decide to give the operator the benefit of the doubt in relation to journeys which are close to the window of tolerance. It is for the traffic commissioner to weigh up the evidence and determine which is preferred having heard the witnesses5.

18. Case law states that the correct approach for the traffic commissioner is to firstly determine whether the operator has either failed to operate a local service registered under Section 6 of the Act or has operated a local service in contravention of that section. The ability to make this finding may depend on the size of the sample but the “window of tolerance” indicated in the attached

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2 2009/030 Pilkingtons Accrington Ltd v/a King Transport
3 Ribble Motor Services Ltd v. Traffic Commissioner for the North West Traffic Area [2001] EWCA Civ 172
4 2000/057 Yorkshire Rider Limited and 2000/062 First Bristol Buses Limited
5 2004/138 Parkash Ram Banga v/a Banga Travel
Statutory Directions has been approved of. After that finding the traffic commissioner must then make a finding on the existence of a reasonable excuse or danger or the frequency of conduct.

19. Once that finding is made “the burden lies squarely with the operator to prove that he had reasonable excuse for his overall failure to meet the timetabling requirements”. “The traffic commissioner’s jurisdiction is essentially inquisitorial rather than adversarial in nature, and, there being no-one to adopt a prosecutor’s role in seeking to disprove any excuses proffered, it should be for the operator to establish them”.

20. Reasonable excuse is available as a defence for “matters outside an operator’s control”. Operators are therefore expected to assist the traffic commissioner in his or her consideration of the issue of “reasonable excuse”.

21. The window of tolerance allowed by traffic commissioners takes account of many of the day to day problems which operators can face and for which operators can reasonably be expected to have contingency plans. Any operator should be in a position to foresee and plan for events such as staff departures. There is no absolute obligation on the operator to have resources to deal with any eventuality. It may be necessary to examine the operator’s contingency planning to determine what is reasonably foreseeable and to consider the resources available to the operator.

22. “It must be borne in mind that the object of imposing penalties is to focus minds so as to achieve the statutory purpose”. The penalty is of course only directed at failures to comply with registered services. The case law identifies a number of factors to be taken into account in deciding whether to impose a penalty under Section 155:

- traffic commissioners must make an assessment of the individual case based on the facts as found;
- a reasonable percentage of the routes under consideration should be monitored and an extrapolation made in appropriate cases. (It is open to the operator to submit that the VOSA/DVSA monitoring exercise is not representative of the operator’s services as a whole but the burden of proof rests with the operator);
- the nature and extent of the monitoring exercise will depend upon the type of route (city or rural) and the total mileage of the operator (where this is relevant);
- where particular routes are targeted (for example, as a result of complaints), then in-depth monitoring should be carried out, with random sampling of a proportion of other routes to identify any “patterns”;

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6 2000/024 Arriva Tees & District
7 Ribble Motor Services Ltd (as above)
8 2003/254 Alison Jones
9 Pilkington Accrington (as above)
10 2003/300 Andrews (Sheffield) Ltd
11 2008/151 Tuc Tuc
(e) traffic commissioners should set out fully reasoned decisions as to why a penalty under Section 155 of the Transport Act 2000 has been imposed.

23. “Commissioners should continue to impose sanctions on those who seriously fail the travelling public”\(^{12}\). Parliament has decided that the maximum penalty should be calculated by reference to the total number of vehicles which the operator is licensed to use and the penalty brackets indicated in the Statutory Directions have been approved of on appeal\(^{13}\). Larger penalties may be necessary to ensure that the statutory objectives are achieved\(^{14}\).
**DIRECTIONS**

24. The Senior Traffic Commissioner for Great Britain issues the following Directions to traffic commissioners under section 4C(1) of the Public Passenger Vehicles Act 1981. The aforementioned Guidance relates to matters which may be relevant to the consideration of Local Bus Services.

25. These Directions are addressed to the traffic commissioners in respect of the approach to be taken by staff acting on behalf of individual traffic commissioners and inform the operation of delegated functions. Submissions to traffic commissioners should reflect and address all of the following Directions:

**Partnerships to deliver reliable and punctual services**

26. Delivering punctual and reliable services is a joint responsibility between operators and local traffic authorities. Whilst this joint accountability is reflected in statute, traffic commissioners have not been given powers to take action against local traffic authorities that do not work in partnership with operators to promote punctual and reliable services.

27. The registration of commercially run bus services is entirely a matter for the individual operators who run them and consequently they are free to register timetables in accordance with Section 6 in whatever manner they see fit.

28. Operators who register services that are subsidised by the local traffic authority have to work in conjunction with that local authority. Regardless of the nature of the registration operators are still required to achieve reliability and punctuality and to keep those under review; it must be realistic and achievable and operators must ensure that the services are scheduled appropriately and kept under review. They also have control over issues such as mechanical problems and staffing issues. Local traffic authorities have responsibilities for managing their road networks in terms of local traffic and on-street traffic and parking management and enforcement issues. Local traffic authorities consequently play an important role in respect of the timetabling of subsidised services.

29. Whilst the Senior Traffic Commissioner has previously set a clear punctuality target of 95%, it is recognised that it will be appropriate in some instances, following the benchmarking of data, for the partnership to initially agree a lower target but with comprehensive and regular reviews being carried out to ensure that the final compliance rate that is achieved is as high as possible taking account of all of the external factors that prevent operators from achieving full compliance with the registered particulars. Consequently partners are encouraged to set and strive for stretching targets and provide full justification where this is not considered possible.

**What traffic commissioners should expect of operators**

30. Operators are required to run services in accordance with the registered particulars, or to have a reasonable excuse where they do not. To meet this requirement traffic commissioners should expect operators, as a minimum to:
(a) upon registration of the service keep records of compliance with the registered particulars and keep records of any reasons for significant non-compliance with the registered timetable;

(b) monitor the resources available to them, especially vehicles and drivers, and avoid making or holding on to timetables that they cannot run with those resources;

(c) analyse the records kept of compliance of the service with the registered particulars and establish the percentage levels of compliance on each registered service;

(d) following on from that analysis set realistic targets of the percentage levels of compliance that can be achieved on particular routes and thereafter set and strive for stretching but realistically achievable targets

(e) produce these records to DVSA or Bus Users Cymru or Bus Users Scotland or the traffic commissioner upon request;

(f) regularly review registered timetables as a result of the analysis of the records of compliance and in the light of predictable traffic and operating conditions and taking account of any local Code of Conduct on Bus Service Stability in force in their operating area;

(g) in carrying out that review seek to guard against the setting of timetables that are intended to achieve very high percentage levels of compliance but which result in passengers waiting at timing points for long periods of time. It is unacceptable to inconvenience passengers with defensive registrations;

(h) have someone who is specifically responsible for service performance management as part of their job;

(i) have proper systems in place for managing and diverting resources such as having cover if a driver is off sick, or vehicles break down and similar;

(j) have proper systems in place for dealing with any issues found;

(k) provide evidence of partnership working with the relevant local traffic authorities on reliability and punctuality, including a joint action plan to deliver high standards;

(l) where partnership working is not in place have the necessary evidence to not only substantiate this but also to show the efforts that have been made to initiate this.

31. The purpose of this guidance is to provide all operators with some general guidance as to the sort of systems and procedures that will assist an operator to maintain their services at or above the target levels and to achieve appropriate levels of punctuality and reliability in the operation of their registered bus services.
Window of Tolerance

32. Historically traffic commissioners have stated that it is expected that 95% of registered services must depart from timing points ‘on time’ and that timetabled services’ (i.e. those with five buses or less per hour) punctuality is determined by comparing actual departure times with scheduled departure times.

33. Historically traffic commissioners have set a “window of tolerance” when determining if registered services run “on time” and this window has previously been set at the parameters of up to 1 minute early and up to 5 minutes late. These parameters were set by the Senior Traffic Commissioner in 2002.

34. It has been recognised that full consultation is essential and these Directions take specific account of the many responses to that formal consultation. As a result the window of tolerance has been revised to take account of the current operating conditions for operators, the many competing demands on the road networks, the competing demands of the provision of essential services, the fact that all journey times by road are increasing, that road traffic congestion is increasing, the needs of passengers and the approach of the industry. This will always be a difficult balance to achieve. The Senior Traffic Commissioner therefore directs that the “window of tolerance” will now be altered to take account of the above. Consequently the window of tolerance will now be “up to 1 minute early and up to 7 minutes late”

35. Many operators also run frequent services which are described as routes on which “the service interval is 10 minutes or less”. Traffic commissioners have therefore historically expected that on at least 95% of occasions six or more buses will depart within any period of 60 minutes and the interval between consecutive buses will not exceed 15 minutes.

36. Bus operators may, in certain circumstances, be able to persuade traffic commissioners that there is justification for not reaching the recognised targets by demonstrating justifiable explanation(s) for failing to achieve the target or for applying a different target based on the variability of road conditions and the overall benefit of passengers. There is also clear evidence that whilst bus operators would like to be able to achieve these standards, many operational conditions do all mean that in reality it has been the case that many services have not and cannot run within the window of tolerance.

These factors include, but are not limited to,

- the adequacy and infrastructure of the road network in the operational area,
- the many competing demands upon that road network,
- the impact of breakdowns, accidents and road closures on major trunk roads,
- the impact of motorway accidents and closures on the surrounding road network,
- the impact of road works and poor road surfaces,
- the sheer volume of unpredictable traffic volumes (for example a wet day can produce significantly different traffic patterns from a dry day),
- the effect of school holiday periods,
- the lack of parking, and bus priority measure enforcement,
- illegal obstruction by parked or loading vehicles
• obstruction at bus stops,
• passenger illness resulting in delay to the service,
• adverse weather conditions,
• the lack of flexibility on departure slots,
• the lack of lay over facilities within the operational area,
• the changing or closure of the road infrastructure without prior consultation
• the sheer variety of roads used on longer services,
• and the conflict that buses come into with other road users (for example cyclists and tractors)

37. However, many operators have been reluctant to admit that they have not achieved the 95% target as they have been concerned that as a result they might face regulatory action by the traffic commissioners. So whilst many operators do have detailed knowledge of their percentage levels of compliance across their services they have not published these for their passengers or volunteered them to the traffic commissioners. Consequently there is currently very little data in the public domain of the current percentage levels of compliance. The Senior Traffic Commissioner does not consider this to be desirable.

38. It must however also be recognised that many services can and do meet the window of tolerance consistently which demonstrates that this can be achievable and consequently that traffic commissioners will expect an operator to provide detailed evidence to them if they are asserting that the window of tolerance is unachievable or that to devise timetables that meet it would be contrary to the overall interest of passengers.

Systems

39. Different operators will have different resources available to register, implement, monitor and manage reliable and punctual services. The principles of registering, implementing, monitoring, reporting and varying registered services however are much the same, and it is just the scale of the systems required that changes.

Start up

40. When an operator decides to start running either their first registered service, or a new registered service, they must have all reasonable processes in place to ensure that they can operate the service in accordance with the registered particulars and that they can satisfy the window of tolerance with their punctuality and reliability.

Timetables

41. Consequently it is incumbent on the operator to ensure that the timetable is properly calculated and is therefore realistic and achievable. For operators calculating their own timetable there are tried and tested methods for establishing the calculation methodology for a new timetable.

42. Prior to registration it is expected that an operator will test the timetable prior to commencement. This may be done with, for example, an out of service vehicle to identify whether the start and finish times and intermediate timing points as
well as overall running time, potential pinch points, potential loading delays and variations due to morning, evening and other peaks, are all taken into account to ensure that when the registered service starts the operator, who, without the benefit of having run the service previously, is best placed to run on time or as close to what is achievable.

**Services contracted from the Local Authority**

43. Many operators will receive proposed timetables for registered services that have been drafted by the local authority which the operators have won as part of the tender process.

44. These operators may have no control over the timetable at the tender stage and indeed that timetable may have been run by a previous operator for a number of years and one in which the local authority has confidence. This may be the case where the previous operator has not previously notified the relevant local authority that they have not been running the service in accordance with the registered particulars. In such cases where the services have not been run on time the local authority will not know if this is because of failings by the operator or by the local authority or indeed by a combination of the two. The local authority should require contractors, as a condition of contract, to monitor the performance of services and inform the authority of any difficulty in maintaining timetables.

45. The new operator must therefore note that they are responsible for running the contracted service in accordance with the registered particulars in spite of the fact that to begin with they have little or no control over its make up. Therefore in order to mitigate the impact of a poorly registered timetable, the operator is expected to engage with the local traffic authority to ensure that the contracted service timetable is realistic and achievable. If the local traffic authority does not listen to and act upon operator feedback the operator is expected to keep a full record of this and to notify the traffic commissioner or BOAM officer from DVSA or Bus Users Cymru or Bus Users Scotland.

**Public Information**

46. It is important with all services and especially with new or varied services, that members of the public who want to use those services, have quick and easy access to accurate and easily understood timetable data. It is recognised that the provision of public information by, or at the expense of, bus operators is regulated by local traffic authorities and that some authorities have established a Code of Conduct on Bus Service Stability. Operators are reminded of the need to ensure compliance with this code.

47. Where variations or changes to services occur, it is important that they are brought to the public’s attention prior to the introduction of those changes or variations or as soon as possible thereafter, to enable passengers to adapt to those changes. This can be done by a variety of means, including websites\(^\text{15}\), internet notifications, the use of social media websites, the use of text and email

\[^{15}\text{http://traveline.info/ and http://www.transportdirect.info/}\]
messages, large clear notices on buses, notices at bus stops, through bus station information offices and any other normal outlets.

48. The Senior Traffic Commissioner also considers it highly desirable that operators become much more open and transparent about their current percentage levels of compliance of their local bus services. This will enable reliable data to be released into the public domain and will allow passengers to make informed decisions about the services they use. The Senior Traffic Commissioner also considers it desirable that operators publish the current targets of percentage levels of compliance that they seek to achieve as well as the likely time periods for improvements to take place. In addition operators should publish their final target – namely the target that they ascertain can and will be achieved once all remedial action has been taken – even where this is below 95%.

Established Services

After launch – monitoring of commercial and subsidised services

49. Once the operation has started real information can then be obtained on the actual performance of the service. Historically many operators have monitored a small percentage (5 to 10%) of their services and have relied on this monitoring to seek to ensure compliance with the registered particulars. Traffic commissioners have previously expressed concern that this approach might not, in all cases, present a full enough picture of compliance or otherwise with the registered particulars. However as stated at paragraph 16 the Court of Appeal has endorsed the principle of monitoring a percentage of the services.

50. It is well established that it is neither practical nor desirable to require that all operators keep a record of 100% of the running of their services in accordance with the registered particulars as this would place an unnecessary burden on some operators. However as a general principle operators are expected to keep sufficient records to establish that there is proper monitoring of all of their services. It is understood that this monitoring will vary according to the reliability and punctuality of the route. The less reliable the route the more monitoring and remedial action will be required. Conversely where a service is achieving high levels of percentage compliance with the registered particulars then less monitoring will be required.

51. Traffic commissioners expect operators to keep proper records of the running of their services so as to show compliance (or otherwise) with the registered particulars. The method of record keeping will vary according to the type and size of operator and the type of equipment and facilities that it has available. Some operators may rely on their real time information systems to keep a record of 100% of their services and thereby produce exception reports of non-compliance. Some operators may keep a manual record of the monitoring of their service compliance. Where those operators do keep proper records the traffic commissioner will conclude that proper monitoring has been carried out. But where operators choose not to keep proper records then traffic commissioners will conclude that proper monitoring is not being carried out and that the operator does not have proper arrangements in place to ensure compliance with the registered particulars. In such circumstances it will be very
difficult for an operator to claim reasonable excuse for failing to run in accordance with the registered particulars if it has not monitored its compliance.

52. In ensuring that a new service operates compliantly it is important that whichever method the operator uses that a new service is monitored very closely. There may be unforeseen problems with that service and prompt action may be required to relieve poor reliability and punctuality. It is expected that operators will keep more detailed records of compliance with the registered particulars when a new route is registered and run so that any problems can be addressed early on. As the route becomes established and these problems are addressed the need for the keeping of records will change. This targeted approach will enable operators to allocate their resources in an efficient and proactive way, taking swift and effective action against the unreliable and unpunctual routes whilst at the same time keeping a weather eye on those that are working well.

53. It is important that adequate resource is allocated by the operator to monitor a new service and that where failings are identified that the appropriate variation applications are made to the service to make it compliant. In such circumstances it may be desirable for the traffic commissioner to grant short notice of an application designed to achieve compliance. Furthermore it may be necessary to allocate further short or long term resource, to relieve the problem. It is expected that this extra resource will be used in conjunction with active management of the service.

54. Once the new service has been run for an established period, any required variations have been made and the service is running within the window of tolerance then the operator should bring the monitoring of that service into line with the monitoring systems for all other services.

Established services – Proactive route management – monitoring and subsequent action

55. Studies undertaken of the actual monitoring carried out by some operators have also revealed that this has in certain cases been approached in a haphazard and unstructured manner and that even where monitoring has taken place no action has been taken thereafter. Traffic commissioners reassert the importance of having an established and effective system not only to continuously monitor registered service operation but also to take action to ensure punctuality and reliability.

56. Monitoring can and does take many formats. As technology advances at an ever increasing rate, greater reliance is often placed on the use of that technology to monitor registered services. This is to be encouraged provided that proper use is made of the data collected. But it is also vital to acknowledge the importance and value of monitoring on the route itself whether by way of regular feedback from the driver of the route or whether by the placement of roadside monitors to personally observe the journeys, either at timing points or by travelling upon individual routes.

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16 Passenger Focus Bus Punctuality Project Progress Report January 2013
17 Passenger Focus Bus Punctuality Project Progress Report January 2013
57. Actual observation on the ground of what is happening is invaluable. Monitoring should follow a standard organisation wide format that is easily understood. The monitor should record the service number, the time the bus arrives at and departs from the stop and from that information the time of variance from the registered timetable, indicating compliance or otherwise. The monitor should also note compliance with destination board requirements and any other items of note such as any driver conduct issues. Monitoring should be carried out at different times of the day and night to take account of peak and off peak periods and at different times during the year to take account of seasonal variations.

58. Research has shown that the drivers of the services are a vital information source. Dialogue between driver and operator will often reveal areas where action can be taken to improve compliance. This dialogue reflecting the shared responsibilities of driver and operator is to be encouraged. Drivers may provide a wealth of relevant information, which operators should obtain and act upon. Conversely some drivers will themselves be the cause of early or late running and where such instances are found it is expected that the roadside monitors will bring this to the attention of the relevant management staff so that proper training and where necessary proper disciplinary action can be taken.

59. Many operators have historically relied upon the use of their electronic data to monitor their services. In such cases a wealth of information can be and often is provided and research has shown that consequently operators can often feel that they have too much information and that they cannot easily or readily extract the relevant information that is needed to establish the level of compliance. There have also been many instances of operators who have collected the data electronically but have not considered it all and so whilst they are in possession of data that establishes the reliability or otherwise of a registered service, they are actually ignorant of the level of compliance or otherwise. This situation is to be deplored.

60. Monitoring can also be carried out by third parties employed by the operator. They may also be required to report on all aspects of the journey and all aspects of the passenger experience. The allocation of these “mystery travellers” to registered services is more likely to be analogous to an audit rather than full monitoring but it can nonetheless provide useful evidence to substantiate what may initially have been discovered with other monitoring methods.

61. Upon receipt of the roadside and/or electronic monitoring the operator is expected to regularly review the results according to the routes, times of operation and the road network and any issues arising. The information gained through all the monitoring should be analysed on an ongoing basis to give an accurate picture to the operator of how they are performing in comparison to their registrations.

62. As stated in the DfT Guidance for local authorities and operators regarding Bus Punctuality Partnerships where problems are identified and it is established that a service is not running in accordance with its registered particulars an early investigation into the causes should be made so that the appropriate

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18 Passenger Focus Bus Punctuality Project Progress Report January 2013
19 Passenger Focus Bus Punctuality Project Progress Report January 2013
action can be taken to solve the problem. Once the investigation is complete, the relevant management team (or individual/s in the case of smaller operators) are expected to proactively manage the situation until the appropriate levels of service are achieved. This management can take many forms but may include, for example:

- speaking in detail with the drivers of the route to ascertain why services are unduly delayed or arriving too early (with the consequent unacceptable risk of drivers departing too early or of passengers being frustrated at having to sit on a stationary bus to wait for the allocated departure time);

- identifying if there is any action that the local transport authority can (and will) take to reduce delay such as the implementation or enforcement of bus priority measures or the alteration of part of the road layout or infrastructure arrangements around the bus stops;

- consulting with passengers to ascertain their views and the effect upon them of an unreliable or unpunctual service as well as understanding passengers’ preferences between simplicity, speed and punctuality;

- subsequently informing passengers that action is being taken to improve punctuality and reliability and where appropriate informing passengers of the details of that action;

- detailed analysis of any other sources of information about the service such as inspector feedback forms and reports and/or passenger complaints;

- giving consideration to alteration of the service to make it more punctual and/or reliable and where necessary considering how to service those passengers affected by such a change;

- giving consideration to reducing or altering the frequency of the service;

- where appropriate test any new proposals at various times of the service operation to ascertain if the proposed remedial measures will achieve higher levels of compliance;

- where appropriate submitting variation applications to the traffic commissioner in a timely manner and where necessary requesting that these be granted under the short notice provisions. In such cases it would be advantageous to seek and obtain the support of the local transport authority.

Established services – Proactive route management – Daily Log

63. Many operations desks keep a daily log of events. This is an important tool in identifying any incidents which may have happened which affected the operation on a given day and provide a reasonable explanation, for example a driver falling ill and having to be replaced whilst in service, or a passenger having a problem and the service bus having to wait whilst an ambulance comes or where there is a sudden and unexpected heavy downfall of snow or an influx of thick fog. This information and the reasons for the delay can not only then be used to inform the passengers but can also be valuable at any time thereafter if an explanation is sought by the traffic commissioner or DVSA
in response to a complaint made by a passenger. It is recommended that the
daily log record be kept for a period of 12 months in the event of passenger
complaint or DVSA or Bus Users Cymru or Bus Users Scotland investigation.

Established services – Proactive route management – Road works

64. Road works are a common cause of reliability issues. Whilst they are an
everyday occurrence it is widely understood that they do impact significantly on
the reliability of services. Traffic commissioners will distinguish between pre-
planned road works, which are notified, and emergency road works that might
appear without notice. They will also take account of the extent of and amount
of notification of these road works to the operator by the local traffic authority.
Operators are advised to seek a full explanation where any department within
the local authority has failed to notify them.

65. Operators are therefore expected to establish a full and regular dialogue with
local traffic authorities to ensure that they receive advance notification of
planned road works wherever possible. Where such notification occurs
operators must look at the services that are likely to be affected and establish
what action can be taken to alleviate the problem. A key part of this will be good
communication with their passengers.

66. It is understood that often the impact cannot be ascertained until the road works
have actually started particularly on adjacent routes to the road works which
may see increased traffic flows trying to avoid the road works. It is also
understood that the impact may vary from hour to hour, day to day or week to
week as the nature or location of the works changes.

67. Consequently operators are expected to actively monitor the situation and to
establish the likely problem and resultant effect. In some cases there may be no
practical arrangements that can be made and in this situation operators are
expected to keep a log of that fact and the reasons why.

68. As a general principle the longer term the road works, the more an operator will
be expected to have reacted to mitigate their effect.

69. The sudden appearance of road works that have not been notified prior to their
start is a recurring problem for the industry, causing much delay, confusion and
annoyance to bus operators and their passengers alike. The unforeseen impact
of this can often be quite dramatic. In these circumstances immediate analysis
on the ground is required to find out the proposed length of time and nature of
the works, followed by an action plan to mitigate the effect where possible.

70. These types of road works could include (but are not limited to) emergency road
closures for utility issues (gas/water leaks), road traffic collisions or police
operations and further unannounced disruptions which can equally affect the
punctuality of services.

71. In these cases it is expected that the operator will keep a record of any road
works, their impact, and subsequent action plan or reasons why no action was
taken as again this can then be used to inform the passengers but can also be
valuable at any time thereafter if an explanation is sought by the traffic
commissioner or DVSA in response to a complaint made by a passenger.
Established services – Proactive route management – Local Traffic Authorities

72. Many operators rely on local traffic authorities as work providers, timetable setters, and external monitors and as the body responsible for bus route improvement measures. They can also be a valuable source of information on up and coming developments and road maintenance schemes. Often some input from various local bus operator groups is encouraged to ensure a dialogue on major infrastructure changes.

73. If an operator is not given an opportunity to participate in such discussions, then their views are unknown and no account will be taken of the potential impact on that operator and their passengers. If an operator is involved in the dialogue and their views are not the deciding factor, at least if and when things go wrong on reliability, the operator will be able to establish that they did warn the local traffic authority of the likely effect.

Established services – Proactive route management – Keeping a record for the traffic commissioner or DVSA or Bus Users Cymru or Bus Users Scotland

74. In certain circumstances the traffic commissioners or DVSA or Bus Users Cymru or Bus Users Scotland may request an operator to provide details of the reasons for a poorly run service, either on a particular day or over a period of time. Consequently operators are expected to keep a proper record of any matters that do affect the reliability of their services and details of the remedial action to try and mitigate the impact of these incidents. This record can then be produced upon request.

Established services – Proactive route management – Passenger Complaints

75. Passenger complaints take a variety of forms but should always be dealt with seriously and effectively, as they can escalate quickly if ignored. A complaint should be recorded and investigated and the reason and result should also be recorded and an appropriate response sent to the passenger. A model code of practice for dealing with complaints can be found on the Confederation of Passenger Transport (CPT) and other websites. Passengers understand that there are differing causes of unreliability and unpunctuality. Put simply they can be broadly categorised as follows:

- Unavoidable – such as the unexpected downfall of snow or emergency road closure by the Police due to a security incident
- Understandable- such as emergency road works and road traffic accidents
- Avoidable – such as known events, staff holiday periods, scheduled vehicle maintenance
- Unacceptable – such as unrealistic scheduling or the pursuit of profit at the expense of staff or vehicle numbers.

Operators should be aware that whilst passengers will be forgiving of the first two reasons they are unlikely to be forgiving of the latter two reasons and that traffic commissioners will be likely to find that the former two fall into the category of reasonable excuse but that the latter two will not.
What traffic commissioners should expect of local traffic authorities

76. DfT guidance makes clear that partnerships need to be open and transparent to all, and that instances of partnership working should be notified to the relevant traffic commissioner. Ideally, details of the partnership would be recorded, for example in a plan, and made available (just because the details are recorded does not make it a formal agreement). Whilst it is not necessary for partnerships to be documented, if there is no written record it will be harder for operators and local authorities to demonstrate to a traffic commissioner’s satisfaction that they are doing all they can to improve punctuality. It is to be noted that punctuality partnerships can be most effective if they encompass all operators on a corridor or within an area as most local problems will be common to all local operators.

77. Local traffic authorities have a statutory duty to manage their road network so as to secure the expeditious movement of traffic on the network as referred to in Sections 16-19 of the Traffic Management Act 2004. Better network management is directed at reducing congestion and improving reliability. It is for each local traffic authority to decide how they will undertake their duties but this can be done in a number of ways such as monitoring and managing traffic flow, managing traffic signals, coordinating and managing road and street works effectively; managing individual incidents as and when they occur, and controlling parking.

78. Traffic commissioners should expect local traffic authorities to be proactive in the way in which they comply with their statutory responsibilities. Whilst traffic commissioners understand that local traffic authorities have a duty to manage a number of competing demands upon the road network nevertheless they are expected to:

- manage the road network in an effective and efficient manner taking into account the vital need for bus operators to run a reliable and punctual registered bus service;

- take proper account of the effect of any planned road works on the highway on the local bus operators and to use all reasonable endeavours to reduce the adverse impact upon the bus operator and consequently its passengers;

- provide bus operators with detailed, frequent, clear and advance information about emergency and programmed works on the highway (both highway and statutory undertaker works and Traffic Management Act pre-notice requirements when these apply);

- provide bus operators with detailed and sufficient notice of the works on the highway giving as much notice as is possible. They are expected to inform bus operators when works are expected to be completed and the highway restored to full operational use by all road users. It is also recommended that operators consult local traffic authorities on any proposals to change routes or timetables well in advance of the registration application to the traffic commissioner;

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21 In some areas the local traffic authority will be the same as the local transport authority.
• use civil parking enforcement to deal with parking issues that can often obstruct buses and contribute to late running e.g. bus lane enforcement as well as using signal junction improvements, including the introduction of bus priority at traffic lights;

• provide upon request to the traffic commissioner or DVSA or Bus Users Cymru or Bus Users Scotland full and detailed evidence of partnership working with the relevant operators on reliability and punctuality, including the development and implementation of joint action plans to deliver high standards. Consequently where partnership working is not in place they will need to provide in evidence the reasons for this and the efforts they have made to initiate this. They are expected to have in place a road works protocol and partnership agreement. (An example agreement can be found at Annex 1).

79. Consequently where there is poor reliability and punctuality and a partnership does not exist, it will be harder for a local traffic authority to defend their position if called to a public inquiry. Similarly where a local traffic authority has taken deliberate action that results in even poorer reliability and punctuality and a partnership does not exist it is difficult to see how they could defend their position if called to public inquiry.

80. Whilst traffic commissioners will request information from local traffic authorities informally in the first instance, local traffic authorities are reminded that traffic commissioners have the ability to direct a local traffic authority to provide the requested information if it is not forthcoming.

81. Partnership working should also include the local transport authority. Local transport authorities have a statutory duty to “develop policies for the promotion and encouragement of safe, integrated, efficient and economic transport to, from and within their area” and are required to prepare a local transport plan, which they should review. It should set out the authority’s policies and their proposals for implementing those policies.

What traffic commissioners should expect from partnerships

82. Where partnerships are in place it is essential that these are notified to the relevant traffic commissioner or DVSA or Bus Users Cymru or Bus Users Scotland upon their behalf. Traffic commissioners need to be aware of the partnership so that they have a full understanding of the actions being taken to address punctuality issues. Bus punctuality partnerships place a commitment on bus operators and the local authority (local traffic and transport authorities) to work together on issues affecting bus punctuality, and to identify any problems and solutions through the production of a punctuality partnership plan. A punctuality partnership will thereby provide operators and authorities with a framework for addressing any future difficulties which may arise and enables opportunities for further improvement to be taken. Such partnerships can and do take many forms. It is their effectiveness rather than their format which is important here.

22 Including statutory Quality Partnerships
83. Traffic commissioners expect partnerships to share reports on the levels of punctuality and reliability, on which performance was benchmarked, and any progress reports. This will ensure that they understand what actions the partnership is proposing to take to meet its target and can assess whether the actions have been taken and the progress being made.

84. Traffic commissioners already expect operators to monitor the punctuality of their services, and this expectation is extended to the partnership. Without monitoring it will be difficult for the partnership to provide sufficient evidence to demonstrate that it is doing all it can to deliver high punctuality levels.

85. Traffic commissioners expect partners to have regular and effective liaison meetings to discuss concerns and review the plan to ensure that it remains appropriate. Without evidence of this it is difficult to see how the partnership can be effective. Discussions should be based on the collected data. Traffic commissioners expect the partnership to keep actions under regular review, particularly where aspects have not been delivered to ensure they are reconsidered. Traffic commissioners expect to be notified of any revisions to ensure that they are aware of the latest position.

86. Traffic commissioners and members of staff acting on their behalf are entitled to ask operators and local authorities for cogent evidence when considering whether or not to take regulatory action against an operator and/or local authority or whether to call an operator and/or local authority to public inquiry.

What traffic commissioners should expect of DVSA, Bus Users Cymru and Bus Users Scotland

87. The Driver and Vehicle Standards Agency (DVSA) is currently responsible for investigating whether operators are complying with the registered service requirements in England. In Wales this responsibility is joint between DVSA and Bus Users Cymru. In Scotland this responsibility is joint between DVSA and Bus Users Scotland. They are charged with carrying out detailed investigative work on behalf of traffic commissioners into the actions being taken by operators and local traffic authorities to deliver high standards of punctuality and reliability. This work is currently undertaken by Bus Operator Account Managers (BOAMs) at DVSA and by bus compliance officers at Bus Users Cymru and Bus Users Scotland. Therefore, traffic commissioners expect operators and local traffic authorities to co-operate with the BOAM or bus compliance officer on reliability and punctuality issues. In the first instance, the evidence of compliance with the traffic commissioners’ expectations should be provided to the BOAM or bus compliance officer. This also enables the BOAMs or bus compliance officers to feed in their local knowledge of an operator.

88. BOAMs and bus compliance officers carry out visits to both operators and local authorities. The exact nature of the visit will depend on whether it is being carried out in response to a complaint or is self-generated, whether a partnership is in place and whether this is a first or follow up visit. But there is the expectation that operators and local traffic authorities will provide the BOAM or bus compliance officer with the necessary information to enable evidence to be provided to the traffic commissioners as to what actions are being taken to deliver high punctuality standards.
89. The evidence provided by the operator and local traffic authority must be fully recorded so as to inform the discussions and outcome of the visit. Consequently all relevant information and sources will be available to a traffic commissioner in considering whether there is a need for action where reliability and punctuality levels are consistently below the target, with no signs of improvement or plans to achieve this.

90. Where partnerships have been established, problems identified, actions agreed, and there is evidence that the operator(s) and local traffic authority(ies) have demonstrated a programme of continuous improvement so as to achieve a good level of performance, then traffic commissioners should take this into account in deciding whether they need to intervene. As a minimum a partnership should know who each other are, be able to provide evidence of full and regular dialogue and explain the point of the partnership. However, it will be easier for the partnership to demonstrate to a traffic commissioner’s satisfaction that they are doing all they can if there is evidence of benchmarking of performance to establish initial levels and identify where improvements are needed, and the existence of a joint action plan with evidence of progress being regularly monitored and reviewed.

91. In the first instance the BOAM or bus compliance officer will investigate with the operator and local traffic authority what partnership arrangements are in place and what systems the operator has for managing reliability and punctuality and complete an assessment report. If issues are found then normally the BOAM or bus compliance officer would give the local authority and operator time to resolve these. The BOAM or bus compliance officer will schedule follow up visits to ensure any actions have been successfully concluded.

92. Where a BOAM or bus compliance officer has been unable to record a satisfactory outcome the case must be passed to the relevant Office of the Traffic Commissioner for consideration by the traffic commissioner as to whether regulatory action is required. In determining what action to take, if a traffic commissioner does not feel that sufficient evidence has been obtained from the operator and/or local traffic authority as to the level of punctuality and is unable to obtain this from them, then they may request that the BOAM or bus compliance officer undertakes a roadside monitoring exercise and/or obtains from the operator and local traffic authority full details of the monitoring data which they have available.

93. Where a roadside monitoring exercise is undertaken the BOAM or bus compliance officer should forward a copy of the report to the partnership or, where no partnership exists, the operator and local traffic authority. They will both be given a chance to comment on any adverse findings before the report is submitted to a traffic commissioner for consideration. It is to be noted that in a partnership encompassing more than one operator it would be inappropriate to share observations on one operator’s service with another competing operator.

94. In line with the principle that enforcement action should be targeted, monitoring exercises will normally follow receipt of a complaint. Where the results of the monitoring exercise indicate that the above reliability and punctuality targets have not been met the BOAM or bus compliance officer will usually forward a copy of the report to the operator. The operator will usually be given an opportunity to comment on any adverse findings before the report is submitted.
to the traffic commissioner for consideration of any formal action. Where the BOAM or bus compliance officer receives representations from an operator they must indicate in any report to the traffic commissioner whether they accept or reject the representations and whether it alters the basis of their initial conclusions. Full reasons must be given.

95. The traffic commissioner will decide in the other instances whether a reasonable excuse exists. An operator is expected to raise this issue when responding to the BOAM or bus compliance officer report so that the traffic commissioner may take it into account when deciding whether to call the operator to a public inquiry. The submission to the traffic commissioner should refer to the factors set out in these Directions with reference to the standards expected of Local Bus Services.

Standards expected of Local Bus Services

96. These Directions set out the standards against which the reliability of local bus services is to be measured. Operators are expected to demonstrate the primary aim of running their registered services to their published timetables. The Senior Traffic Commissioner accepts that traffic and other hazards, such as road works, can cause short term and long term challenges. Traffic commissioners must accept that a bus may be delayed in these circumstances. However, whilst it might be claimed that passengers, once aboard, do not like to be kept waiting, there is no acceptable justification for a bus to run early. Operators must consider the impact on passengers waiting at bus stops, particularly in inclement weather and/or where there is no shelter provided. Passenger champions have stressed the priority to keep to timetable.

Starting points

97. All services should depart from the starting point of the journey within the following brackets:
   - for frequent services (where the service interval is 10 minutes or less23) on 95% of occasions: six or more buses will depart within any period of 60 minutes, and the interval between consecutive buses will not exceed 15 minutes;
   - for timetabled services 95% of buses will depart within the bracket of up to 1 minute early and up to 7 minutes late”.

Timing points

98. Previously traffic commissioners have not accepted timing points more than 15 minutes apart (except where the next stop is more than 15 minutes running time from the preceding stop when that next stop will become the timing point) in the interests of passengers who may wish to join the service anywhere along a route. Service running times may vary by time of day and/or day of week to take account of different operating speeds. Furthermore in some cases the timing point restrictions have led to “defensive” registrations that are intended to ensure high compliance levels but which in fact do nothing to promote efficient journeys or good experiences for the passengers. Consequently the Senior

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23 paragraph 9 of the Schedule to the Public Service Vehicles (Registration of Local Services) Regulations 1986 and at paragraph 10 of the Schedule to the Public Service Vehicles (Registration of Local Services) (Scotland) Regulations 2001
Traffic Commissioner considers it desirable that the 15 minutes is now to be regarded as a starting point and that greater flexibility is desirable.

99. At timing points the approach of traffic commissioners will be as follows:

- for frequent services performance measurement will be based on the concept of excess waiting time. This is the difference between the average waiting time actually experienced by passengers and the waiting time which is expected. The target to be applied is that buses which are scheduled to run frequently are expected to operate regularly, ensuring that excess waiting time does not exceed 1.25 minutes. Statistically, for a service which is expected to run every 10 minutes, the average waiting time is half that gap (i.e. 5 minutes);
- for timetabled services the standard is that 95% of buses will depart within the bracket “up to 1 minute early and up to 7 minutes late”.

100. The Senior Traffic Commissioner therefore encourages that traffic commissioners exercise their discretion with regard to timing points.

Final destination

101. Commissioners will expect 95% of all services to arrive at the final destination point no more than 7 minutes late, and they wish to emphasise that they do not expect to find undue recovery time inserted in the timetable towards the end of a journey.

102. BOAMs, bus compliance officers and other monitoring agencies will record departure times from timing points except at final destination points where they will only check against late arrival times.

Circumstances under which a Public Inquiry is likely to be called

103. The intention is that operators be given time to resolve punctuality issues where the compliance rate is above 80% and to demonstrate a programme for continuous improvement. In those circumstances the BOAM or bus compliance officer will provide update reports at 6 months and 12 months after the initial report. The BOAM or bus compliance officer must keep a record of all discussions they have had with the operator and local authority so there is a comprehensive record for a traffic commissioner to consider when deciding whether a public inquiry is necessary. By implication any performance falling below 80% must be referred to the traffic commissioner as soon as possible.

104. It will be for the traffic commissioner to decide whether to convene a public inquiry at that stage, taking account of any relevant previous history. A traffic commissioner may decide to hold a preliminary hearing to determine whether a public inquiry is required or whether to allow the operator (and local authority, where appropriate) a period of time in order to improve its punctuality and/or reliability. Such preliminary hearings will be digitally recorded and the traffic commissioner will decide whether and how to publicise the outcome of any such preliminary hearing.
105. Whilst traffic commissioners retain the right to call a public inquiry where they think the circumstances of the case justify this, there are a number of circumstances under which a public inquiry is likely to be called. These include:

- where the operator and/or local authority has failed to co-operate with a BOAM or bus compliance officer investigation and there are a number of complaints about poor punctuality;
- where a partnership exists but one or more of the partners is deliberately departing from the agreed action plans;
- where a partnership is working together but the proposed actions have failed to deliver any improvements and subsequent reviews are still failing to deliver any improvements; and
- where the punctuality level is below 80% and insufficient or little effort is being made to improve reliability and punctuality.

### Guiding principles on the use of regulatory powers

106. Traffic commissioners have a wide range of powers available to them. Whilst penalties can be used to focus the mind of operators, they provide limited benefits to those passengers affected by the poor performance; they do not guarantee improvements and do not reflect the role that a local traffic authority might have played.

107. When considering whether to convene a preliminary hearing or public inquiry and at the hearing itself, regarding allegations that services are not being run in accordance with the registered particulars, the traffic commissioner may need to determine whether or not the operator had a “reasonable excuse” for a failure.

108. In arriving at that decision, a traffic commissioner will wish to consider whether the operator has proactively managed registered services with the objective of achieving appropriate levels of reliability and punctuality in accordance with the principles contained herein.

109. Furthermore in particular the traffic commissioner will also wish to consider:

- Whether the registration has been regularly reviewed in the light of known road conditions and the resources available to the operator.
- Whether the control strategies are appropriate and adequate.
- Whether adequate resources are provided.

110. The use of preliminary hearings is therefore to be encouraged. At such a hearing the traffic commissioner can hear full and detailed evidence of all relevant issues and of what steps are being taken by the operator and the local traffic authority to improve levels of compliance. The traffic commissioner can then obtain a structured and timed action plan from them to improve compliance levels and where appropriate this can be put into the public domain. In such cases the onus will be on the operator and the local traffic authority to provide regular updates to the traffic commissioner who can then ascertain if the plan is working. If it is not or if the operator or local traffic authority is not complying
with the plan then the traffic commissioner of course reserves the right to then convene a public inquiry. This action plan can include the voluntary implementation of measures that might have been imposed at a public inquiry.

111. Public inquiries generate a lot of public interest. Some of this will be adverse to the bus industry as a whole and will do nothing to promote the greater use of public transport. They are however part of a range of tools available to traffic commissioners to generate change and include the ability to prepare a report recommending the implementation of remedial measures, which can be taken by the operator or the local traffic authority to improve the operation of a service. The publication of such a report might generate a lot of media interest, and whilst a traffic commissioner does not have the ability to require a local traffic authority to implement a particular measure, local traffic authorities are accountable to local communities and so may come under pressure from them to implement the recommended actions. In respect of operators, traffic commissioners do have powers that enable them to require an operator to put the remedial measures in place. A traffic commissioner can require an operator to expend money on or towards the provision or improvement of local services or facilities to be used by such services.

112. In instances where passengers have suffered sustained poor performance and where an operator is failing to take prompt and appropriate action to remedy the situation, in addition to recommending the implementation of remedial measures, it might also be beneficial to require the operator to provide compensation to passengers. However, like imposing a penalty this does not reflect the role that the local traffic authority has played. Therefore, this sanction and the application of a penalty are likely to be most appropriate where an operator flagrantly makes no effort to run reliable and punctual services, or shows a deliberate disregard for compliance with the registered particulars.

113. When deciding whether to impose a financial penalty a traffic commissioner should take account of the existence of partnership arrangements and how effectively the operator and local authority have worked together as well as the overall levels of performance. The traffic commissioner must also consider what steps the operator has taken to ensure compliance with the registered particulars.

114. In the interests of consistency the Senior Traffic Commissioner directs that the following be adopted as the starting point for a traffic commissioner when considering their powers to impose an order to expend a certain sum of money by imposing a penalty under section 155 of the Transport Act 2000.

- Under 95% compliance – up to £100
- Under 90% compliance – up to £250
- Under 85% compliance – up to £400
- Under 80% compliance – up to £550
ANNEX 1

Sample Road Works Protocol and Partnership Agreement

Partnership principles

1. This agreement is made between Council Name and Bus Operator.

2. The two parties recognise and support the investment made through the LTP and the need to increase the number of bus passenger journeys made annually as a contribution to improving network efficiency and reducing carbon and other vehicle emissions as a commitment to combating the impacts of climate change.

3. Both parties recognise and accept that the provision of a reliable, efficient service to bus passengers is essential, and that buses should be treated in a different way from general traffic, so that interference with their services by road works is minimised.

4. Both (or all involved) parties agree to work together constructively to achieve these objectives.

Obligations of the Bus Operator:

1. To provide timely and constructive responses to all consultations.

2. To provide the Council (and/or other relevant bodies/agencies) with a list of appropriate contacts who have the authority to respond to consultation and to ensure that this is kept up to date.

3. That while pressing fully the case for bus passengers, the operator will be mindful of the Council’s statutory responsibility under the TMA and other legislation and will not make unreasonable demands.

Obligations of the Council:

1. To understand the legal obligations of bus operators to meet the registered timetable within the time parameters set and regulated by the Traffic Commissioner. Bus operators have to submit changes to their registrations at least 56 days before the change is to take place. A through consultation would enable discussion on how road works may be timed or bus passage may be accommodated. It would also enable bus operators sufficient time to make alternative arrangements with passengers in the event that a through way is not going to be possible.

2. To consult with the bus operator about proposed road works affecting the services it provides to its passengers, normally allowing a minimum period of consultation which should be related to the 56 day registration notice period although accepting that planning legislation requires a more rapid consideration of applications.
3. To provide the bus operator with a list of appropriate contacts who have authority to respond to the bus operator’s representative(s) and to ensure this is kept up to date.

4. To use its reasonable endeavours to avoid/minimise interruption to bus services when planning and implementing road works, and monitoring and authorising road works undertaken by third parties under the relevant legislation (including the New Roads and Streetworks Act 1991).

5. When commenting on the highway aspects of planning applications, to ensure as far as possible that the LPA and in turn, the developer, are made aware that works to the highway which involve interruption to bus services must be avoided wherever possible and that the developer will be expected to meet the cost of such measures as may be necessary to fulfil this requirement.

6. To ensure that the Traffic Manager takes account of the requirements of bus passengers when planning and co-ordinating works on the highway.

7. To ensure that this protocol is also followed by its partnering / agent councils and contractors.