

## BUS SERVICES ACT 2017

### GUIDANCE ON THE NEW ARRANGEMENTS FOR REGISTERING, VARYING AND CANCELLING LOCAL BUS SERVICES

#### Who should read this guidance?

- Those within local authorities, particularly those in England, who are responsible for the provision of local bus services.
- Bus operators providing or considering providing local bus services that are registered with the traffic commissioner.

#### Purpose of the guidance

This guidance is intended to explain the new registration arrangements that came into force on 24 April 2018. It is divided into three parts:

##### Part 1

Background to the registration of local bus services, what changes were made and why they were introduced.

##### Part 2

A step-by-step guide to how the new registration rules work and frequently asked questions.

##### Part 3

An explanation of the information that the local authority can ask you to provide if you vary or cancel a local bus service. This also includes a section of frequently asked questions.

This guidance should be read in conjunction with, [PSV353A](#) "Operating registered local bus services in England (except London) and Wales"<sup>1</sup>.

#### What are the key changes?

The Public Service Vehicles (Registration of Local Services) (Amendment) Regulations 2018 came into force on 24th April 2018. The Regulations provide that:

- An operator must provide a copy of their proposed application, including the registered particulars, to local authorities at least **28 calendar days** before they submit an application to the traffic commissioner to register, vary or cancel a local bus service, where the service has a stopping place in that authority's area.
- Local authorities have new powers to request certain information from bus operators about services that are being varied or withdrawn to help them make an informed decision about whether they need to subsidise a replacement service.

# Part 1

## Background on registration

1.1 Section 6 of the [Transport Act 1985](#) provides that local bus services may not be operated unless:

- the prescribed particulars of the service (such as route and timetable) have been registered with a traffic commissioner by the operator of the service; and
- the prescribed period of notice to the traffic commissioner has expired.

In addition, any changes to the registered particulars (such as changing the route and/ or timetable) or any intention to stop operating a service must also be notified to the traffic commissioner.

1.2 Before the new Regulations came into force in April, operators had to wait for a period of 56 days to elapse between submitting an application for the registration of a new service, or a variation or cancellation of an existing service, before those changes could be implemented. The only exception to this rule was when an application was made to the traffic commissioner to reduce the notice period. Even in those circumstances, the traffic commissioner could only permit the reduction if certain conditions were met<sup>2</sup>.

1.3 The Bus Services Act 2017 and the Regulations<sup>3</sup> made under it, made two changes to the rules regarding registering local bus services:

- (a) Bus operators are now required to provide patronage and revenue information when requested by a local authority with respect to any service that the operator proposes to cancel or vary in an area;
- (b) Operators are required to pre-notify local authorities of their intention to register, cancel or vary their services with a traffic commissioner. This is so that the local authority have time to decide if it requires the information from operators under (a) above, and operators have sufficient time to respond to such a request before any application was submitted to the traffic commissioner.

## Why were these changes made?

1.4 Prior to 24 April 2018, if an operator sought to vary, or particularly to cancel, an existing service (and where no other commercial service was available), the local authority only had 56 days to decide whether to 'fill the gap' caused by the variation or cancellation with a replacement service operated under subsidy from the

---

<sup>2</sup> For more detailed information on the registration rules, there is a guidance document which can be found here:

<https://www.gov.uk/government/publications/local-psv-service-registrations-psv353a>

<sup>3</sup> The Public Service Vehicles (Registration of Local Services) (Amendment) Regulations 2018

authority. The local authority would often have very little information, for example, on how many passengers would be affected by the change and what it would cost to provide the replacement service, on which to base their decision. This is very relevant information that the local authority needs so that it can make an informed decision about whether and to what extent, they should provide support for a replacement service. These changes also facilitate healthy competition for any subsidised replacement contracts by strengthening the ability of those operators that are not the incumbent operator to compete for the contracts.

## Part 2

### How the new registration rules work in practice – a step-by-step guide

**Note:** The steps set out below apply if a bus operator is planning to register a new local bus service in England (outside of London) with the traffic commissioner, or to vary or cancel an existing one.

#### Step 1

2.1 At least 28 calendar days before the operator wishes to submit the application for a new service or to vary or cancel an existing service to the traffic commissioner, the operator must notify the local authority of their intentions. They do this by sending the local authority a copy of the application and particulars to be registered<sup>4</sup>.

2.2 If the bus service has a stopping place in more than one local authority area, all of those authorities must be sent a copy of this documentation at the same time. Operators may need to contact the local authority or look on their website to find out the correct email or postal address to use when sending the documentation.

#### Step 2

2.3 This next step applies when either of two things happen:

- (a) in response to the draft application for registration, variation or cancellation of a service, and supporting documentation sent under step 1, the local authority(ies) inform(s) the bus operator, before the 28 day notice period has ended, that it has received and considered the draft application<sup>5</sup>, or

---

<sup>4</sup> Updated guidance and application forms are available from the Office of the Traffic Commissioners and can be found here:

<https://www.gov.uk/government/collections/local-bus-service-registration-forms>

<sup>5</sup> A proforma that the local authority can complete and send to the operator in response is attached to form PSV350 - Application to Register a Standard Bus Service. A copy of the form can be found at:

<https://www.gov.uk/government/publications/application-to-register-a-bus-service-psv350>

- (b) 28 calendar days have passed since the operator sent the documentation to the local authority under step 1 and the operator has not received a reply from the local authority.

2.4 In either case, the operator can now send the application and registered particulars to the traffic commissioner to register, vary or cancel the service in the normal manner. This application must include a copy of any response received from the local authority.

**Note:**

- The 28 day period starts from when the application is sent by the operator to the local authority.
- If the operator has not received a response from the local authority by the time the 28 day period has expired, the operator can go ahead and submit their application to the traffic commissioner anyway. **They do not need to wait longer for a response** – but the operator should include proof of the date that the local authority was sent the application under step 1 above with their application to the traffic commissioner. Failure to provide evidence could delay the registration in the event of any dispute with the local authority.
- If the operator receives a reply from the local authority before 28 days have passed indicating that they have received and considered the draft application, the operator can apply to the traffic commissioner straight away.

**Step 3**

2.5 Once the operator submits the application to the traffic commissioner, it is processed by them in the normal way. However, previously operators have had to wait 56 days from the date of submitting the application to the traffic commissioner before the new service could come into force or the variation or cancellation could take effect. Under the new Regulations, **this period has been reduced to 42 days**.

2.6 Operators are reminded that until a traffic commissioner has confirmed acceptance of the application with the date that it can come into effect the new service cannot start, nor can any changes or cancellations implemented. Any operation to the contrary may result in regulatory action being taken by the traffic commissioner.

A **flowchart** setting out these steps is at **Annex A**.

**Frequently asked Questions**

**Q.1. *Do these new rules apply if I am running a community bus service?***

A.1. Yes. You must complete steps 1 and 2 above. However, in this case, once you have submitted your application to the traffic commissioner under step 3, you only need to wait 14 days before the registration/ variation/ cancellation takes effect.

**Q.2. Do these rules apply if I wish to register a flexible local service?**

A.2. Yes. You must complete steps 1, 2 and 3 above.

**Q.3. What about short notice applications?**

A.3. Traffic commissioners will take account of any local authority support when considering any short notice applications. The requirement to pre-notify local authorities still applies and operators must complete steps 1 and 2 above. However, operators can still submit a short notice application to the traffic commissioner under step 3 along with any supporting documentation from the local authority.

**Q.4. Can the local authority veto my application?**

A.4. No. The local authority cannot veto or affect the content of your application in any way. Step 1 above is intended only to give the local authority 28 days advance notice that you intend to register, vary or cancel a local bus service so that they can consider if they require certain information to be provided in order to decide whether to provide a replacement service.

**Q.5. Are there any exemptions from the requirement to submit the notification to the local authority before submitting an application to the Traffic Commissioner?**

A.5. The only exemption is where the local authority is in the transitional phase of franchising the bus market in the area. See Q.12 below.

**Q.6. What about changes in response to roadworks?**

A.6. All applications for registration, variation or cancellation of a registration must be subject to the 28 day notice period including those in response to roadworks. If a variation is made in response to a road closure or roadworks it must still be subject to the notice period requirement. However, it is hoped that if the road closure has been introduced by the local authority, they should provide the required response promptly.

**Q.7. If a service crosses into two or more local authority areas can I send the application to a traffic commissioner before the expiry of the 28 day period if only one local authority confirms that they are content for the registration to proceed?**

A.7. No. For an application to be submitted to a traffic commissioner all relevant local authorities must consent or the 28-day notice period must have elapsed.

**Q.8. What if only part of the service is or needs to be registered as a local service?**

A.8. These rules apply to the part of the overall route that is registered with a traffic commissioner. You can of course, make changes to the unregistered part of the service, as now.

**Q.9. Do these rules apply if I am an English operator wishing to register a service in Scotland or Wales?**

A.9. No. These rules only apply to services operating in England. The existing rules in Scotland and Wales still apply.

**Q.10. What about services that cross the border between England and Scotland?**

A.10. Scotland already operate the same notice periods that have been introduced in England. So operators can submit a single application to the traffic commissioner and the 28 day pre-notification period and 42 day registration period will apply.

**Q.11. What happens about services that cross the boundary between England and Wales?**

A.11. The notification periods in England and Wales are now different. It is 56 days in Wales and up to 28+42 in England. Operators have a choice:

- a) If they wish to make a variation or introduce a service that would apply in England and Wales at the same time

The operator can submit a single application for the whole route. However, if operators wish the whole service to start at the same time, this cannot happen until BOTH the English and Welsh registration rules have been complied with. This may mean that the service will not be able to start or changes take effect until the requirement to notify English local authorities has been complied with and then the full 56 days for the Welsh registration period has passed. In practice, this may mean that it could take 74 days (28 days English pre-notification period + 56 days registration period in Wales) before the whole service can start operating.

- b) If they wish to introduce the English and Welsh changes at different times (e.g. the changes on the Welsh side to apply before the English side)

The operator would need to submit two separate applications – one for the English section of the service and a separate one for the Welsh section. This would mean that the application for the Welsh section could be submitted immediately to a traffic commissioner whereas the application for the English section would require to be notified to the relevant English local authorities and the operator may have to wait up to 28 days before submitting to a traffic commissioner. In this scenario the traffic commissioner would expect the relevant sections of route to be operated in accordance with the application submitted.

Of course, if a variation only applies wholly to the English part of the route, or wholly to the Welsh part, the variation application would abide by the relevant English or Welsh notice period.

**Q.12. What happens if the bus market is being franchised?**

A.12. These rules do not apply where a franchising authority has issued a transitional notice to franchise. This is because the franchising authority will already have had the ability to increase the notice period to 112 days.

**Q.13. What about bank holiday changes?**

A.13. Services can be varied without formal variation of the registration in respect of any journey in a week that includes 24 December, Christmas Day, Good Friday or

any bank holiday. As the registration is not being formally varied, the 28 day pre-notification requirement does not need to be met in these instances. However, operators are still encouraged to engage with local authorities in these circumstances. Operators are reminded that they must still comply with their obligations to notify the traffic commissioners and local authority/ties no later than 21 days before the variation is to take effect.

## **Part 3**

### **Information that the local authority may request from operators if they are varying or cancelling an existing local bus service registration**

3.1 As explained in part 1 above, if an operator is varying or cancelling an existing local bus service, the local authority has new powers to request certain information from them about that service, so that it can make an informed decision about whether to 'fill the gap' using a subsidised service.

**Note:** These powers do not apply if the service is varied to:

- provide additional stopping points,
- increase the frequency of the service, or
- extend the times of operation.

3.2 The new rules specify what information the local authority can request from the operator about the service that is being varied or cancelled. The local authority must request this information within 14 days of receiving the notification required in Part 2, step 1 of this guidance.

3.3 When making a request, the local authority can ask for the following information.

- The total number of journeys undertaken by passengers on the service in question;
- The number and types of passengers using the service (e.g. those using a concessionary pass or paying any youth or jobseekers concession);
- The journeys made by those passengers;
- The types of fares paid and tickets used by passengers;
- The revenue received by the service. This can include revenue received by specific fare types or journeys undertaken and at specific times of the day or week.

3.4 The local authority can request information for the last 12 months ending with the date on which it is being requested or for all the period the service has been operating if it has been running for less than 12 months. The local authority can also request information for all or only part of the service.

3.5 The operator must respond within 14 days of the receipt of the request from the local authority. The operator may take into account what is reasonable to provide, bearing in mind how they keep the information, when providing it to the local authority.

## **Exemptions**

3.6 Some types of applications are exempt from the requirements to provide the local authority with information. These are:

- Applications to vary a service that would provide additional stopping places (without removing any existing ones);
- Variation applications that would increase the frequency of service or extend its period of operation;
- Applications to vary or cancel services where the traffic commissioner has agreed to process it as a short notice application.
- Where a franchising authority has issued a transitional notice to franchise (see Q.12. in Part 2 above).

## **Disclosure of service information by local authorities**

3.7 The local authority may disclose information to others in the following specific circumstances:

- (a) with other local bus operators if they intend to 'fill the gap' in service provision using subsidy; or
- (b) with other local bus operators or public transport providers in the authority's area during discussions about the provision of adequate public transport in that area. For example, the local authority might use this information to encourage another operator to 'fill the gap'.

3.8 When providing information, the operator may request that it is not provided under (a) or (b) above if they believe it would damage their commercial interests. The operator can provide the local authority with evidence of this. It is for the local authority to decide, taking into account any evidence provided, whether to agree to the operator's request.

3.9 Where the local authority does disclose information to third parties:

- Information provided under paragraph 3.3, bullets 2-4 above (passenger and fares), can only be disclosed if it is aggregated on a 4-weekly basis.
- Information provided under paragraph 3.3 bullet 5 (revenue) must be aggregated on an annual basis.

3.10 The local authority may also disclose information to another local authority where the service(s) in question has a stopping place. However, those authorities must not disclose this information to any other local authority where the service does not have a stopping place in its area.

## **Frequently asked Questions**



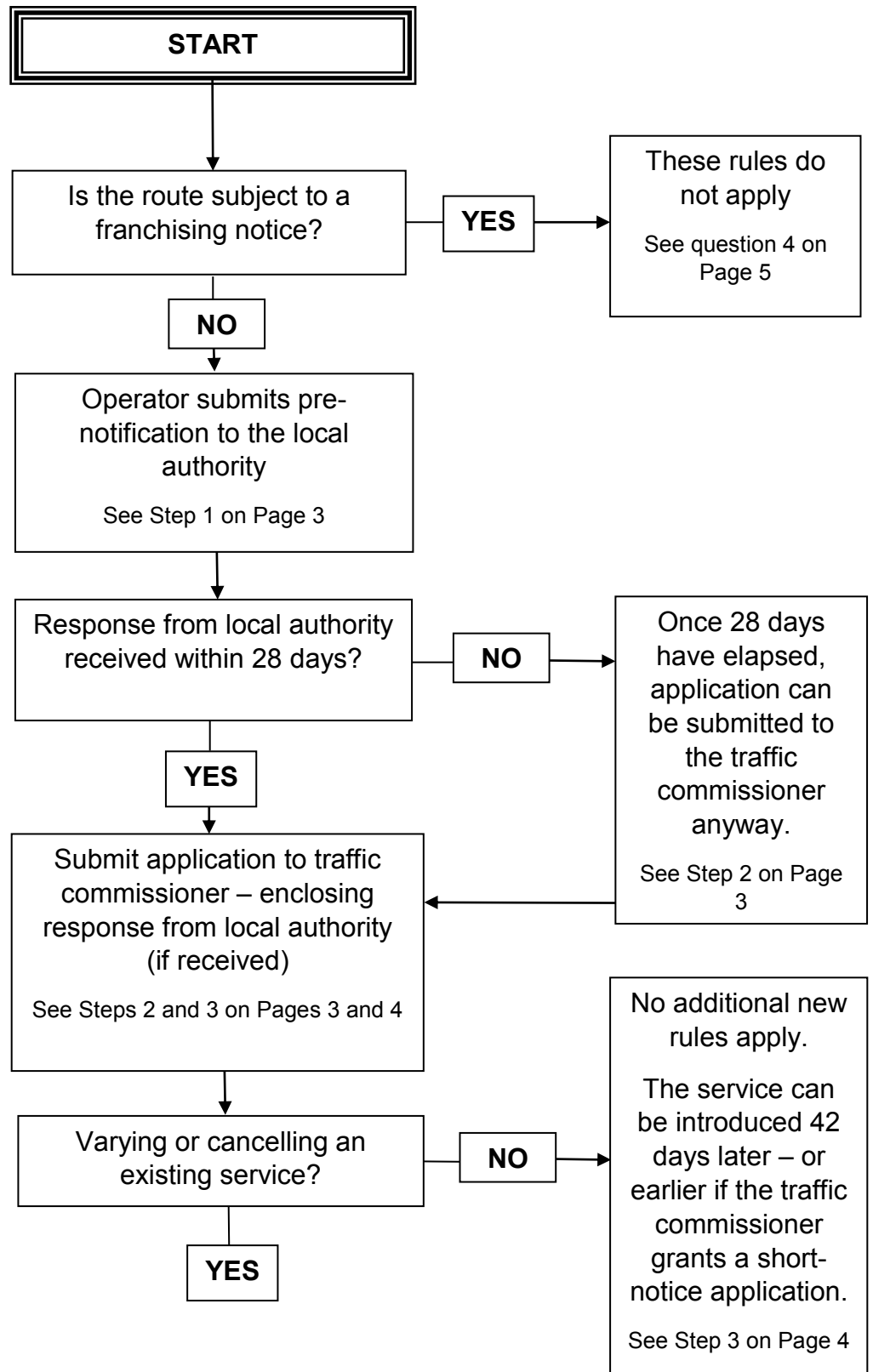
**Q.14. Can an operator refuse to provide the information to the local authority?**

A.14. No. The local authority has a legal power to require operators to provide this information. They can report any refusal to the traffic commissioner who can take regulatory action.

**Q.15. What if an operator does not have the information in the format the local authority wants?**

A.15. The operator should discuss the request with the local authority as soon as the request has been received, so that agreement can be reached on what is possible and reasonable for the operator to provide.

Registration flow diagram





The local authority can request  
additional information

See Part 3 on Page 7