



RESEARCH PAPER 08/49
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Local Transport Bill [HL]: Committee Stage Report

Bill 106 of 2007-08

The Government intends that this Bill, if enacted, would:

- enable local transport authorities to take greater control of local bus services;
- establish a bus passenger champion;
- reform the arrangements for local transport governance in the major conurbations;
- provide for consistency and interoperability of any local road charging schemes; and
- make changes to the role of traffic commissioners.

The Bill received Second Reading in the Commons on 26 March 2008 and was considered in Committee in ten sittings, from 22 April to 8 May.

Louise Butcher

BUSINESS AND TRANSPORT

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Summary of main points

The Queen's Speech 2006 included a draft Bill on road transport. The draft Bill was published on 22 May 2007 as the draft *Local Transport Bill*. It was published with a consultation document, explanatory notes and a regulatory impact assessment. The draft Bill was subject to pre-legislative scrutiny by the House of Commons Transport Select Committee in June-July 2007 and the Committee published its report on 26 July. The public consultation remained open until 7 September. The Government published its response to the Committee's report on 17 October.

The Queen's Speech 2007 announced "legislation to tackle congestion and improve public transport". The Government published its response to the public consultation on the draft Bill on 14 November 2007 along with an impact assessment, the Bill and explanatory notes. The Bill makes the legislative changes necessary to implement:

- the proposals in the December 2006 policy paper *Putting Passengers First*, on bus reform, including changes to make it easier for local authorities to establish bus quality contracts;
- changes to local transport governance, as highlighted in the local government White Paper and the *Eddington Transport Study*, including the ability to make new integrated transport authorities and to change the boundaries of existing ones;
- changes to make any local road charging schemes workable within a broader interoperable framework;
- changes to the powers and responsibilities of the traffic commissioners; and
- a new body to champion bus passengers.

The Bill completed its stages in the House of Lords on 30 January 2008. There were several amendments made to the Bill in the Lords, including: the introduction on the face of the Bill of TUPE arrangements for employees of bus companies in areas where a local authority decide to adopt a Quality Contracts scheme; transitional protections in case of the same; provision to change passenger transport authorities/executives into integrated transport authorities/executives; and a new clause to bring section 36 of the *Disability Discrimination Act 1995* into effect, relating to wheelchair users and taxis used for community services.

The Bill had its Second Reading in the House of Commons on 26 March 2008 and went through Committee stage between 22 April and 8 May 2008 where it received minor amendments.

The Bill applies to England and Wales; a limited number of provisions also apply to Scotland and others to Northern Ireland. These are listed in clause 124 of the Bill.

Background to the Bill and an account of its progress through the Lords is given in Library Research Paper RP 08/18, available on the Parliament website at:

<http://www.parliament.uk/commons/lib/research/rp2008/rp08-018.pdf>

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I Introduction

The *Local Transport Bill [HL]* was introduced into the Commons on 31 January 2008 and was debated on Second Reading on 26 March 2008.¹ A House of Commons Library Research Paper – *Local Transport Bill [HL]* (RP 08/18, 18 February 2008) – provides briefing on the main provisions of the Bill and gives background information to the changes proposed therein.² A Bill Gateway is available on the intranet and the progress of the Bill, together with relevant documentation, can be tracked on the Parliamentary Internet.³

The Bill went into Committee on 22 April 2008 and was completed on 8 May 2008, taking all ten of its allocated sittings. The Committee did not take oral evidence but it did receive written evidence from a small number of submissions.

II Second Reading, 26 March 2008

Much of the debate that took place at Second Reading in the Commons mirrored that which took place four months earlier in the House of Lords. The major areas of concern were the proposed changes to the bus system and the removal of consultation and approval provisions regarding local road pricing schemes. The Conservatives voted against Second Reading on the grounds that:

... it encourages the introduction of Quality Contract schemes to re-regulate bus networks, thus preventing free competition between bus operators, undermining service quality for passengers and jeopardising the partnerships between operators and local authorities that have helped to improve service quality; because it fails to give due weight to the importance of consultation and local consent when local congestion charging schemes are considered; and because it transfers revenue-raising powers to the National Assembly for Wales without proper constitutional justification and in doing so allows Wales to be used as a test bed for the Government's untried, untested national road pricing scheme.⁴

Theresa Villiers, Shadow Transport Spokesman, pointed to areas where the Opposition would seek to amend the Bill in Committee: for example, on **bus competition**;⁵ statutory **Quality Partnerships for buses** (in particular, the nature of 'admissible objections');⁶ and whether non-elected Members would sit on **Integrated Transport Authorities** (ITAs).⁷ The Liberal Democrat Transport Spokesman, Norman Baker, while not objecting to non-elected members sitting on ITAs, was concerned that they should not have any voting rights if they did sit on the Board.⁸

¹ HC Deb 26 March 2008, cc190-293

² <http://www.parliament.uk/commons/lib/research/rp2008/rp08-018.pdf>

³ <http://services.parliament.uk/bills/2007-08/localtransport.html>

⁴ HC Deb 26 March 2008, c204; the Conservative amendment was defeated by 347 votes to 156 (ibid., c288)

⁵ ibid., c206

⁶ ibid., c207

⁷ ibid., c210; ITAs will replace Passenger Transport Authorities under the Bill

⁸ ibid., c222

On **local road pricing**, Mrs Villiers also expressed reservations about the removal of the requirement for local authorities to consult before implementing a local charging scheme and she indicated that the Opposition would encourage local referendums on such proposals.⁹ Conservative Members David Jones and Cheryl Gillan expressed further reservations about the proposed changes to the **Welsh Assembly's trunk road charging powers**.¹⁰

The Minister, Rosie Winterton, explained the **approvals process for bus Quality Contracts** in some detail further to concerns expressed by Labour Members that the process was too long, it would allow bus operators to appeal against any proposed scheme for possibly years and that, in the final event, it should be a decision for elected councillors, not the traffic commissioners.¹¹ Norman Baker was concerned about the capacity of the **traffic commissioners** to cope with their new powers, not only in relation to Quality Contract approvals but with the wider powers being given them in the Bill.¹²

On the broader issue of the proposed **local governance changes**, Graham Stringer, a Labour member of the Transport Committee that scrutinised the draft Bill, raised concerns about the impact of the Bill on local democracy. He reiterated concerns expressed by the Committee as to the procedure whereby ITA changes would be approved in Parliament and went further, questioning how accountable decisions taken by ITAs would be to electors.¹³ Responding to an intervention that, for example, individual councils would have representation on the ITA to make decisions, Mr Stringer said:

Of course, Bury would have representation and would be able to make its case. The difference would be, first, that its electorate would be excluded. Secondly, whereas Bury currently has a veto—it can say no—it could in future be oppressed by a majority of nine to one. Such oppression could happen in other ways. At some time in the future the political complexion might mean that the inner authorities are in a minority compared with the outer authorities—that has not happened for a long time, but it has happened—and I would not want Manchester or Salford oppressed in that way.¹⁴

III Committee Stage, 22 April-8 May 2008

The Public Bill Committee took place between 22 April and 8 May 2008. It used all of the ten sittings allotted to it and was reported with a small number of amendments, all made by the Government. The Committee had 17 Members: two Liberal Democrat, five Conservative and ten Labour, including the Minister of State for Transport. The full membership was as follows:

Chairmen: David Taylor, Ann Winterton

⁹ *ibid.*, cc212-213

¹⁰ *ibid.*, c269

¹¹ *ibid.*, cc199-200

¹² *ibid.*, c222

¹³ *ibid.*, c239

¹⁴ *ibid.*, c240

Members:

Baker, Norman (*Lewes*) (LD)
 Betts, Mr. Clive (*Sheffield, Attercliffe*) (Lab)
 Carswell, Mr. Douglas (*Harwich*) (Con)
 Hammond, Stephen (*Wimbledon*) (Con)
 James, Mrs. Siân C. (*Swansea, East*) (Lab)
 Kidney, Mr. David (*Stafford*) (Lab)
 Knight, Mr. Greg (*East Yorkshire*) (Con)
 Laxton, Mr. Bob (*Derby, North*) (Lab)
 Leech, Mr. John (*Manchester, Withington*) (LD)
 McCarthy, Kerry (*Bristol, East*) (Lab)
 Scott, Mr. Lee (*Ilford, North*) (Con)
 Smith, Ms Angela C. (*Sheffield, Hillsborough*) (Lab)
 Stewart, Ian (*Eccles*) (Lab)
 Stringer, Graham (*Manchester, Blackley*) (Lab)
 Watts, Mr. Dave (*Lord Commissioner of Her Majesty's Treasury*)
 Winterton, Ms Rosie (*Minister of State, Department for Transport*)
 Wright, Jeremy (*Rugby and Kenilworth*) (Con)

The Committee received written evidence from the Passenger Transport Executive Group (pteg); Guide Dogs for the Blind Association; and the Greater Manchester Momentum Group.¹⁵

Proceedings in Committee are outlined below, not necessarily in chronological order, but by subject area. The Government made several relatively minor changes to the Bill in Committee; these were:

- In clause 3 of the Bill, to **put the guidance that the Secretary of State gives to the Senior Traffic Commissioner (STC) onto a statutory footing**. This is to ensure that the Secretary of State's guidance sits on the same footing as that of the STC which would already be statutory under the Bill.¹⁶
- On **Quality Contracts**, the Minister made a technical amendment to clause 22 of the Bill to remove the provisions relating to the **Council on Tribunals**, which has ceased to exist.¹⁷
- On **Quality Partnerships**, to **allow the traffic commissioners to pay consultants a fee** for any advice provided to them in making a decision regarding a Partnership scheme.¹⁸
- An amendment and new clause to correct an error in the *Traffic Management Act 2004* to enable shire councils to implement **civil parking enforcement**.¹⁹

¹⁵ available to view at: <http://www.publications.parliament.uk/pa/cm/cmpblocaltran.htm>

¹⁶ PBC Deb 22 April 2008, cc36-37

¹⁷ PBC Deb 29 April 2008, c208

¹⁸ PBC Deb 24 April 2008, c124

- Some **minor drafting amendments** in clause 124 regarding secondary legislation and in clause 125 on procedure.²⁰

A. Bus services

1. Quality Partnerships

Stephen Hammond, for the Conservatives, moved an amendment to clause 13 of the Bill to **remove the ability of local authorities to impose restrictions on the registration of any bus services that are not part of a Quality Partnership scheme in an area where such a scheme exists.**²¹ The Minister, Rose Winterton, stated that the clause was there to prevent operators from coming into a Partnership area and undercutting services which were part of a Partnership scheme or otherwise overloading the network. She also stated that the power in the clause would not enable an authority to institute a 'blanket ban' on other services, but that the authority would be able to make a case to the traffic commissioner as to whether a service would be detrimental to a Partnership were the commissioner to permit its registration.²²

Graham Stringer proposed a series of amendments to clause 13 to **remove the right of bus operators to object to a Quality Partnership scheme and to remove the decision as to the validity of any objections from the traffic commissioners and give it to the relevant local authority or ITA.**²³ There was a great deal of debate about this portion of the Bill, and in particular about the nature of the 'admissible objections' that a bus operator could make about a Partnership scheme, with Mr Stringer and others taking the view that such objections allow the bus operators an effective 'veto' over a Partnership scheme.²⁴ The Minister explained at great length how objections should work and what an objection should entail. She also emphasised the fact that objections could only be made by a 'relevant operator'. She said:

We are certainly not talking about individual bus operators having a veto over the standards proposed in a quality partnership scheme. Moreover, we certainly do not want schemes that are in the best interests of passengers to be undermined by frivolous or vexatious objections. That is why we have moved to a system whereby only admissible objections to requirements in a scheme, by relevant operators, would require the local authority to think again about a particular standard or an aspect of it. I will come back to the "thinking again" bit (...)

An operator should be able to object only if it is a "relevant" operator. There was a fear initially—this is relevant to an amendment tabled by the hon. Member for Wimbledon—that the scope of "relevant operators" would be widened. We are saying that for an operator to be relevant, it must show that it is either already providing local services within the scheme's area, or had already applied to the traffic commissioner to register such services. It must be involved at the time in running services or have registered to run services (...)

¹⁹ PBC Deb 8 May 2008, c379

²⁰ *ibid.*, cc378-379

²¹ PBC Deb 24 April 2008, cc105-106

²² *ibid.*, cc110-112

²³ *ibid.*, cc112-113

²⁴ *ibid.*, c114

The draft regulations propose clear criteria that must be met before an objection would be admissible. They specify deadlines for each stage of the process to ensure that the making of a scheme is not unduly delayed by the admissible objection process. What specific issues in a quality partnership scheme could an operator object to? In terms of practicality, which is the first ground that I addressed, an operator could object if it needed more time to procure vehicles or to take on more staff to deliver the quality enhancement stipulated in the scheme. If the operator was operating only one service an hour on a route and wanted to operate two services, for example, it could ask for more time to recruit extra staff, to provide more buses or to adapt existing buses if there were accessibility issues.

On commercial grounds, the operator might object that it would not be possible to provide the requested service and make a reasonable financial return ... Objections under the commercial criteria, however, would have to be addressed case by case, taking account of local circumstances, market trends and cost and revenue implications in the context of the scheme as a whole. It would be for the bus operator to make its case, but if it said that the scheme was not commercially viable, the local authority or the traffic commissioner would have to take into account issues such as the estimated cost of operating services to the specified standards, the expected revenue from operating those services—taking into account any potential increase in demand—whether the operator could be expected to secure an appropriate rate of return from the operation of services to the standard specified in the scheme, taken together with other services the operator provided in that area, and the views of other relevant operators about whether it would be commercially viable to provide services to that standard. Therefore, where two operators were satisfied that a particular set of requirements was commercially viable, but a third operator objected, it seems unlikely that the objection would be admissible.²⁵

Mr Hammond moved an amendment to clause 17 of the Bill to **remove the minimum period before which a Partnership scheme could be reviewed**.²⁶ The Minister argued that a minimum period was needed in order to ensure that a scheme could be properly implemented, and said that there would be consultation on what the minimum period would be.²⁷

John Leech, for the Liberal Democrats, proposed amendments and a new clause to ensure that any **regulations made on the issue of objections to both Quality Partnerships and Quality Contracts would be subject to the affirmative procedure**.²⁸ The Minister resisted the proposals on the grounds that the Delegated Powers and Regulatory Reform Committee had considered the Bill and had not found the negative procedure for these types of regulations insufficient.²⁹

²⁵ *ibid.*, cc116-118

²⁶ *ibid.*, c134

²⁷ *ibid.*, cc135-136

²⁸ *ibid.*, cc137-138; i.e. debated in both Houses of Parliament

²⁹ *ibid.*, c138; see: DPRR Committee, *First Report of Session 2007-08*, HL Paper 11, 22 November 2007, pp8-10

The Conservatives proposed a new clause to require **local authorities to consider how best to utilise bus partnerships when developing their local transport policies**; although supported by the Liberal Democrats it was defeated on the vote 9-5.³⁰

2. Quality Contracts

a. Approvals board

Mr Stringer moved a series of amendments to clause 19 of the Bill to **remove the power to approve Quality Contracts schemes from the approvals board, chaired by a transport commissioner, and give it to the relevant local authority or ITA**.³¹ There followed a long debate on this issue in which Mr Stringer and others set out their objections in principle to giving the decision on a Contracts scheme to the commissioners. He said:

The Bill contains a seven-stage process, with the transport authority going out for consultation, then to an approval board, then a tribunal. The amendments, and the consequential ones, ask whether we need such a long process. Is it not right in principle for elected councillors to make the decision, rather than an approvals board and a tribunal? Those matters are of great local concern—the electorate and our constituents care about them. Is it not right that the electorate have a say about the people who make the decisions, and that the people who stand for election and campaign for better bus services, a new route or whatever, make the decision? That is the essence of the amendment—the integrated transport authority should make the decision (...)

What worries me most about the process, apart from the fact that local councillors will not take the decisions, is that economic viability will be part of the assessment made by the approvals board and the tribunal when they come to their decision—not the decision of the elected councillors who put the scheme out to work. Is what is proposed sensible? That is difficult to assess, unless it is tried out. Furthermore, saying whether something is economically viable is close to a policy decision. For example, in an area that I know well, south Manchester, putting out a tender in Wythenshawe for groups of minibuses rather than larger buses on the main routes is a serious policy matter in respect of council estates that were built without easy access to buses. That decision, as part of a tender, should be left to elected members, not to what would necessarily end up as an argument between professors of transport economics, who could get it wrong. One could say that they might be right in their argument, but that the process will protect us from judicial review, because we will have been seen to be reasonable—the people putting the scheme out to tender would not make the decision.

Second-guessing the courts is always difficult, but when the nature of what is going on is to test the market to say which scheme the transport authority thinks is viable, how can professors of transport or economists be better at knowing the market than the tendering bus companies? They are the market. If the transport authority is wrong, it will be clear from the tenders coming back that the bus companies do not think the scheme viable. It would not be beyond the wit of

³⁰ PBC Deb 8 May 2008, cc380-382

³¹ PBC Deb 29 April 2008, c143

integrated transport authorities to put variabilities—on fares and routes—in the tender, so that bus companies had a range of mix-and-match options. One would not expect a simple assessment that could be made in a day. Tenders for fixed-route tram systems, for instance, are complicated documents and such complicated tender documents would be better dealt with by competitive tender than by outside assessment.³²

The Minister responded to the points on how the approvals board would function and the prospect of judicial review in the following terms:

We are trying to replace the current system with one that gives the ability not only to go through the process and to make representations, but to provide some protection from judicial review. I understand the point made by my hon. Friends and by the hon. Member for Lewes in particular, that the protection is still not there, but there is strong advice that if an appeals process is in place, it is much more difficult to get leave to go to judicial review. That is generally accepted. At the point of applying for judicial review, what will be taken into account is whether the first processes—the approvals board and Transport Tribunal—have been gone through. If those processes are still open, it will be difficult to get leave to go to judicial review. If an application is made after those processes have been gone through, it is more difficult to say what grounds there could be for judicial review, because, while allowing for an unreasonable decision, there is an endorsement at both levels for the decision taken by the local authority (...)

As I said, we agree that transport policy is a matter for the local authority. I repeat, the approvals board would not opine on whether an authority's transport policies were right; instead, it would look at whether due process had been followed and whether a proposed scheme was consistent with the authority's proposals (...)

... the Bill sets out a very specific definition of the public interest in this context, and the board will assess whether the authority has met the criteria set out in legislation. That does not necessarily mean that the authority will have to go right back to the beginning; the board can, however, say that it believes that the public interest test will be met if certain modifications are made. It is highly unlikely that an approvals board would completely kick out a scheme, which is what could happen under judicial review. That is the point that we are trying to get to.³³

Mr Hammond moved a large group of amendments **to extend the remit of the approvals board to Wales**, as well as England.³⁴ The Minister stated that the National Assembly for Wales had indicated to the Government that it wished to retain its ability to approve any Contracts schemes in Wales, which was why the approvals board would only apply in England.³⁵ Both Norman Baker, for the Liberal Democrats, and Mr Hammond proposed amendments to the **composition of the approvals board**. Mr

³² *ibid.*, cc145-146

³³ *ibid.*, cc160-165; the Liberal Democrats later proposed a large group of amendments in a similar vein to Mr Stringer's which would make the approvals board a consultative committee, giving the final approval role to the relevant local authority or ITA, it was defeated on the vote 9-5; see *ibid.*, cc212-222 and PBC 8 May 2008, cc382-383

³⁴ *ibid.*, cc199-200

³⁵ *ibid.*, c200

Baker proposed that a passenger representative should sit on the Board and Mr Hammond that there should be a pool of people from which board members would be chosen on a case-by-case basis.³⁶ The Minister was not convinced by either proposal and resisted the amendments. Mr Hammond also proposed amendments to **limit the power of the Secretary of State to make rules and give guidance to the approvals board**. He outlined his concern that “there is the possibility that a wholly inappropriate intervention or interference could come from the Secretary of State. That seems to defeat any object of having an independent board”.³⁷ The Minister stated that there was no danger of ‘substantive’ interference and that any rules and guidance would be administrative in nature. Mr Hammond said that he would look at the wording in the guidance document and might return to the matter on Report.³⁸

Other, minor probing amendments on the approvals board included:

- To allow the **board to sit in private** when it had to discuss commercially confidential information (the Minister stated that this would be provided for in regulations);³⁹
- To require that **information pertaining to a board inquiry** would be published and made available to bodies specified on the face of the Bill (the Minister stated that this would be provided for in regulations);⁴⁰ and
- To extend the **payment of costs** incurred in the course of a board inquiry to the traffic commissioners (the Minister stated that the Secretary of State acts as the collecting point for such payments).⁴¹

b. Introduction and operation of a scheme

Mr Hammond moved amendments to **tighten up the criteria for introducing a Contracts scheme** by stating that such a scheme must increase bus patronage by 10 per cent and inserting definitions of ‘economic’, ‘efficient’ and ‘effective’.⁴² In explaining the rationale behind his amendments, Mr Hammond said: “It is important that we see not just a negligible increase due to quality contracts, but that there is a substantial increase in ridership ... only if the benefits to passengers can be shown to be substantially greater than under a quality partnership should we consider going down the quality contract route”.⁴³ The Minister resisted the amendments on the grounds that they set the burden of proof so high as to “make it almost impossible to meet”.⁴⁴ The amendment was defeated by 11-4.

Mr Hammond also proposed an amendment to clause 29 of the Bill to **reduce the period of a Contracts scheme from ten years to five** on the grounds that Contracts

³⁶ *ibid.*, cc200-201

³⁷ *ibid.*, c210

³⁸ *ibid.*, cc210-212

³⁹ PBC Deb 6 May 2008, cc225-226

⁴⁰ *ibid.*, c227

⁴¹ *ibid.*, cc228-229

⁴² PBC Deb 29 April 2008, cc170-171

⁴³ *ibid.*, cc175-176

⁴⁴ *ibid.*, c183

are an unproven mechanism for increasing patronage and could saddle an area with a deficient system for a decade.⁴⁵ The Minister resisted the amendment on the grounds that a Contracts scheme is likely to involve a “quite major reorganisation” of local transport in a given area and that this should form part of a long-term strategy. It would also involve significant costs, for which a ten-year timescale would be necessary in order to justify that amount of money.⁴⁶ The amendment was defeated 10-4. The Conservatives proceeded to vote against Clause 29 on stand part; they were defeated 10-4.⁴⁷ The Conservatives raised similar concerns about clause 30 on making **extensions to a scheme**, and proposed amendments to ensure full consultation and to clarify the circumstances under which an extension to an existing scheme would not have to go through the approvals process again.⁴⁸ On the latter point, the Minister stated that such circumstances might be if an extension was made without any material changes to the services.⁴⁹

Mr Baker proposed an amendment to **make Contracts environmentally sustainable**.⁵⁰ The Minister resisted the amendment on the grounds that this type of issue would be covered in guidance. Both opposition parties put down amendments designed to specify in greater detail on the face of the Bill **who should be consulted when a Contract is in formulation** by a local authority or ITA and to clarify the requirement of the authority to publish.⁵¹ The Minister clarified a couple of the points raised, in particular on the point as to why the police and not other emergency services are required to be consulted on the plans for a scheme. She also said that she would look again at the issue of whether rail operators should be statutory consultees.⁵² The Conservatives moved further amendments to require that the relevant authority should provide **evidence of its case for a Contracts scheme in any consultation document**.⁵³ The Minister resisted the amendment on the grounds that the authority must already ‘justify’ its proposals in the consultation document and explain how any proposed scheme meets the public interest criteria set out in the Bill.⁵⁴ The amendment was defeated 11-4. The Minister also confirmed that **the Government would not pay the costs for any local authorities whose Contracts schemes became subject of judicial review**.⁵⁵

Mr Hammond put down an amendment to test the **Secretary of State’s power to vary the relevant date for the beginning of a scheme or appeal** on the grounds that this could facilitate central interference in what should be a local process.⁵⁶ The Minister argued that the power was necessary to ensure flexibility, for example to allow the

⁴⁵ PBC Deb 6 May 2008, cc230-231

⁴⁶ *ibid.*, c235; Mr Stringer proposed a contrasting amendment to omit the ten-year Contract period, which would allow any scheme to proceed in accordance with EU legislation which would, in effect, permit a 15-year concession, see: *ibid.*, cc237-238

⁴⁷ *ibid.*, c241

⁴⁸ *ibid.*, cc241-244

⁴⁹ *ibid.*, c245

⁵⁰ PBC Deb 29 April 2008, c185; this was identical in intent to an earlier Liberal Democrat amendment to make local transport policies environmentally sustainable (see below)

⁵¹ *ibid.*, cc187-189

⁵² *ibid.*, c191

⁵³ *ibid.*, cc192-193

⁵⁴ *ibid.*, c194

⁵⁵ *ibid.*, c198

⁵⁶ PBC Deb 6 May 2008, cc235-236

Secretary of State to vary the statutory six month period between a scheme being made and coming into force.⁵⁷ Mr Hammond also proposed that the public transport users' committee (PTUC) and the Senior Traffic Commissioner (STC) would have the **power to issue guidance** to local authorities and ITAs on the implementation and operation of Contracts schemes.⁵⁸

c. **TUPE**

Mr Stringer introduced New Clause 8 which would outline **those situations in which TUPE could apply in the case of a Quality Contract**. Ian Stewart, supporting the new clause, explained that it would mean that anyone being transferred into a Contract would come under the provisions of TUPE, whether TUPE applies or not.⁵⁹ The Minister indicated that she would look at the provisions in new clause 8 and come back to the issue on Report if there was anything that she thought should be added to the Bill. She also stated that she would consider whether a bus operator's record in providing employment protection should be taken into consideration when they bid for Contracts and would adjust the relevant guidance accordingly depending on her decision.⁶⁰

Mr Hammond queried the **definition of 'recklessly'** in the Bill insofar as it related to the behaviour of bus operators providing information for the purposes of TUPE.⁶¹ The Minister stated that it means "a failure to take due care to provide accurate information"; Mr Hammond accepted this broad definition but stated that it would need to be very clear in guidance as to the exact meaning.⁶²

3. **Competition**

Mr Hammond put down an amendment to clause 41 of the Bill to **exclude any agreements made between two or more bus operators from the competition test**.⁶³ The Minister said that this was unnecessary as provision for this is already included in the Bill, providing such an agreement has the consent of the local authority.⁶⁴ Mr Baker proposed that **voluntary partnerships should include a requirement that they reduce congestion**; the Minister resisted the amendment on the grounds that it is already within the scope of such agreements.⁶⁵

⁵⁷ *ibid.*, c236

⁵⁸ *ibid.*, cc247-248

⁵⁹ PBC Deb 6 May 2008, cc256-257; the Cabinet Office *Statement of Practice* indicates that where personnel are transferred between public sector employers, even if TUPE does not apply in strict legal terms, staff should be treated no less favourably than they otherwise would have been if TUPE had applied. In addition, the guidance sets out the policy that public/private partnerships and contracting exercises (including re-tendering) will be conducted on the basis that staff will transfer and TUPE will apply, unless there are genuinely exceptional reasons for it not to (see: Cabinet Office, *Staff Transfers in the Public Sector Statement of Practice*, January 2000: http://www.hm-treasury.gov.uk/media/7BB/E3/staff_transfers_145.pdf)

⁶⁰ *ibid.*, c260

⁶¹ PBC Deb 6 May 2008, cc250-251

⁶² *ibid.*, c253

⁶³ *ibid.*, c261

⁶⁴ *ibid.*, c262; introduced at Report stage in the House of Lords, see: HL Deb 16 January 2008, cc1339-1340

⁶⁵ *ibid.*, cc265-266

4. Public Transport Users' Committee⁶⁶

The Minister indicated that, after receiving representations regarding representation for **light rail and tram passengers**, she needed time to look at this issue and might return to the matter on Report.⁶⁷

The Liberal Democrats proposed an amendment to **make PTUC a complaints body** in addition to being a passenger watchdog. The Conservatives supported the thrust of the proposal and the Minister stated that the Government would be “working with Passenger Focus over the coming months on future arrangements and on whether it should have a direct complaints-handling role”. This would be covered in secondary legislation.⁶⁸

Several other amendments were debated on the clauses relating to PTUC:

- The Liberal Democrats proposed that it should be allowed to **work on a regional basis** (the Minister confirmed that it would be able to do this under the Bill);⁶⁹
- Mr Hammond proposed that PTUC should make an **annual report** to certain bodies (the Minister stated that this would be covered in secondary legislation);⁷⁰
- Mr Hammond probed the meaning of the **powers given to PTUC in clause 68** and how they would be varied;⁷¹ and
- Mr Hammond also proposed limiting PTUC's **power to 'contract out'** its work to other passenger groups (the Minister stated that this was unnecessarily restrictive and would eliminate groups such as the National Consumer Council from fulfilling such a role).⁷²

5. Other

On the revival of certain PTE powers,⁷³ Mr Stringer proposed an amendment to permit **PTEs to become the operator of last resort**, for example where a bus company went bankrupt or for some other reason withdrew its services.⁷⁴ The Minister resisted the amendment, claiming that a such a provision would not work for the reason that the PTE

⁶⁶ the Secretary of State announced on 8 April that the role envisioned for a public transport users' committee (PTUC) would be devolved on the rail watchdog, Passenger Focus, and the relevant clauses in the Bill now reflect that. However, for the purposes of clarity, the references to this body during debates are to PTUC, not Passenger Focus (DfT press notice, “Bus passengers to be championed by watchdog”, 8 April 2008)

⁶⁷ PBC Deb 6 May 2008, cc305-306

⁶⁸ *ibid.*, cc301-302

⁶⁹ *ibid.*, cc299-300

⁷⁰ *ibid.*, cc300-301

⁷¹ *ibid.*, cc302-304

⁷² *ibid.*, cc304-305

⁷³ the Bill proposes to change the name of Passenger Transport Authorities (PTAs) to Integrated Transport Authorities (ITAs); the work of PTAs is carried out by the Passenger Transport Executive (PTE); under the new arrangements PTEs would continue to carry out the policies of the new ITAs and their name will not change

⁷⁴ PBC Deb 6 May 2008, c294; the amendment had previously been moved by Lord Rosser in the House of Lords (HL Deb 17 December 2007, cc218-221GC) and was rejected by the Minister on Report (HL Deb 16 January 2008, cc1349-1351)

would have to be able to deploy a fleet at a moment's notice and in order to do that they would need an appropriate licence, funding, staff, etc.⁷⁵

Mr Leech for the Liberal Democrats proposed that the **contact details of any relevant PTE should be included on bus premises and on vehicles** themselves so that people can comment and/or complain to them as they see fit.⁷⁶ The Minister stated that this issue was better dealt with by the Secretary of State by regulations made under clause 70 of the Bill, in order to ensure consistency.⁷⁷

There was a debate about the implications of clause 66 of the Bill which, as Mr Hammond read it, would remove the **prohibition on local councillors from debating or voting on bus-related matters** where they had an interest in a bus company. The Minister contended that that was not the meaning of the clause and that it simply removed the stipulation that any dispensation granted to relevant councillors to allow them to debate and/or vote on such matters must be made by the Secretary of State; in the future that role would be undertaken by local standards committees. The prohibition itself would remain. Mr Hammond disagreed with this interpretation of the clause and put it to the vote; the Conservative amendment was defeated 10-5.⁷⁸

B. Local road pricing

Rather than tabling a large number of amendments, the Conservative approach in Committee was to vote against the main road charging powers in the Bill in their entirety. There was a long debate on stand part of clause 96 on the **power of ITAs to make road charging schemes**. Stephen Hammond set out the Opposition's view that, taken together, the clauses in the Bill could amount to national road pricing 'by the back door':

More Machiavellian figures than I might wonder whether part 6 is nothing more than an attempt by the Government to reintroduce national road pricing by the back door, by allowing integrated transport authorities to make charging schemes singly. Evidence for that view is that the recent round of applications to the transport innovation fund was available only to local authorities that had plans to implement a road charging scheme contained within their bid. Whether or not a local authority wanted a road charging scheme or thought that it was appropriate, it had to include one in its bid if it were to receive any funds. I fail to see that investment in a local transport infrastructure should necessarily be linked or dependent on a road pricing scheme.

The second piece of evidence of an attempt at national road pricing by the back door is that there are several clauses in the Bill where the provisions could be used to impose road user charging on local authorities, even if they decided that they did not want it. Here at the outset, it would be helpful for the Government to lay out their position in some detail. I often find when discussing the whole aspect of road user charging that there is a confusion between road user charging and congestion charging or low emission zones. The former, road user charging, is a

⁷⁵ *ibid.*, c296

⁷⁶ *ibid.*, cc292-293

⁷⁷ *ibid.*, c293

⁷⁸ *ibid.*, cc298-299

continuous toll on a road, the latter allows for variable rates at variable times of travel. We want to be clear that, if the Government are going to introduce blank road user charging, they must ensure that it is cost-effective.

In London, where the initial scheme was set up, 47 per cent. of the revenues go to the cost of running the scheme. The *Evening Standard* produced evidence last year that adding together the operating expenditure and the capital expenditure repayments, together with the depreciation, accounted for 97 per cent. of the revenues. One needs to be pretty cautious. The hon. Member for Manchester, Blackley will want to talk later about the scheme in Greater Manchester, but that scheme was clearly dependent upon the first point that I made—it came about as a result of the need for TIF. That position seems to be put forward regularly by various local authorities in that area.

I am also clear that we need to be absolutely certain about the definitional aspects of road user pricing, congestion charging and low emission zones. I am absolutely clear—for the benefit of the hon. Member for Manchester, Withington—that there should not be a national road pricing scheme. I am absolutely clear that local schemes, be they road user pricing, congestion charging or low emission zones, need local validation—consent—before they are introduced. I am also clear that if there is the possibility at local level of using road user pricing to supplement or increase funding, or in conjunction with the building of local transport infrastructure, then that road user pricing should also have local validation.⁷⁹

The Conservatives voted against clause 96 on stand part and were defeated 10-5;⁸⁰ they also voted against **Schedule 1** of the Bill on the grounds that it facilitates road user charging and workplace parking levies and were defeated 11-5.⁸¹ The Conservatives also voted against clause 115 on stand part which would **extend the powers of the Welsh Assembly to implement charges on trunk roads in Wales**; the Government won the vote 9-4.⁸² The Conservatives were joined by the Liberal Democrats in voting against clause 104 on stand part which would **remove the requirement for local authorities to consult on their plans to implement any local road charging scheme**; the Government won the vote 8-5.⁸³

Mr Stringer proposed that **any charging scheme proposed by an ITA must be approved by local referendum**.⁸⁴ Both the Conservatives and the Liberal Democrats supported the amendment and voted in favour, though it was defeated 9-6; Mr Stringer having voted against his own amendment.⁸⁵ Mr Stringer proposed a further measure which would **prohibit an ITA from proceeding with a charging scheme if all the relevant local authorities had passed a resolution opposing such a scheme**.⁸⁶ The principle, he said, was:

⁷⁹ PBC Deb 8 May 2008, cc347-348

⁸⁰ *ibid.*, c355

⁸¹ PBC Deb 22 April 2008, c67

⁸² *ibid.*, c377

⁸³ *ibid.*, c370

⁸⁴ *ibid.*, c356

⁸⁵ *ibid.*, c364

⁸⁶ *ibid.*, c364

... how far should these schemes be allowed to go if one, two, three or four councils—or 10, 20, or 30 per cent. of councils—oppose to them? Should it be up to the integrated transport authority, or should the integrated transport authority have the power to take action as an unelected body to repress the views of elected councillors? There should be a number, although that is open to debate. Perhaps a majority, or all of them, is too high. If those councils objected, given the deficiencies we discussed when we came to secondary representation and possible co-option on to these bodies, there should be some ability for one council or a number of councils to have a veto over a proposed scheme. After all, councils are directly elected.⁸⁷

The Minister, Rosie Winterton, indicated that she would go away and look again at how the road charging and local governance arrangements fit together and, if necessary, return to the issue on Report.⁸⁸

Mr Hammond proposed an amendment to provide that **any money raised from a local charging scheme would be reinvested in local transport.**⁸⁹ The Minister stated that this was already provided for by clause 114 of the Bill.⁹⁰

C. Local transport policies and governance

1. Local transport plans and policies

Clause 7 of the Bill makes changes to local transport policies. Stephen Hammond for the Conservatives put down an amendment to **remove the requirement that such policies be 'economic'** on the grounds that the term is not adequately defined in the *Transport Act 2000* (the legislation being amended by this part of the Bill).⁹¹ The Minister, Rosie Winterton, responded that it would be 'ridiculous' to remove the requirement that local transport policies be 'economic', in terms of both value for money and in their support of the overall local economy.⁹² Mr Hammond was not entirely satisfied and said that he might return to the matter on Report.⁹³ Norman Baker for the Liberal Democrats moved a further amendment to insert a duty in clause 7 to **make local transport policies environmentally sustainable.**⁹⁴ Although the Conservatives supported the spirit of the amendment,⁹⁵ the Minister argued that it should not be on the face of the Bill and when put to the vote it was defeated 10-5.

⁸⁷ *ibid.*, c365

⁸⁸ *ibid.*, c365

⁸⁹ *ibid.*, c366; he also gave some details of the Conservative policy towards the Transport Innovation Fund (TIF), a pot of money from the Department for Transport being made available to local authorities to develop road charging schemes, stating that his party would de-couple TIF funding from charging schemes, for details see: cc367-368

⁹⁰ *ibid.*, c368

⁹¹ PBC Deb 22 April 2008, cc57-58

⁹² *ibid.*, c59; Ms Winterton explained the interpretation of the term with a 'layer's definition which states that the word should be interpreted in its 'natural sense' and not as a 'technical academic meaning'

⁹³ *ibid.*, c59

⁹⁴ *ibid.*, c60; this was identical in intent to a later Liberal Democrat amendment to make bus Quality Contracts environmentally sustainable (see above)

Mr Hammond moved an amendment to introduce a **duty on local authorities and integrated transport authorities (ITAs) to have regard to the policies and plans of relevant rail infrastructure managers** (in practice Network Rail and the train operating companies) when developing their transport policies.⁹⁶ The Minister argued that such duties should be included in the relevant guidance, not on the face of the Bill.⁹⁷ The amendment was defeated 10-6. Greg Knight for the Conservatives moved another amendment which would **allow local authorities and ITAs to disregard the Government's environmental guidance if 'special local circumstances' apply**. Mr Knight stated that this was not a wrecking amendment but was intended to introduce some flexibility where an environmental policy might prove economically detrimental to a town or city.⁹⁸ The Minister stated that environmental guidance is advisory and not obligatory: "an authority must always make up its own mind. To blindly follow guidance, whatever it was, would be for the authority unlawfully to fetter its discretion".⁹⁹

Both the Conservatives and the Liberal Democrats put down an amendment to clause 9 of the Bill removing the requirements for transport authorities to review their local transport plans (LTPs) at regular intervals. John Leech proposed the Liberal Democrat amendment to **require local authorities and ITAs to review their LTP every five years**; the Conservative amendment would require that the relevant authority give one year's notice of its intention to replace its LTP.¹⁰⁰ The Minister responded that there is already an open-ended duty to review the LTP in the *Transport Act 2000* and that the amendments were, therefore, unnecessary.¹⁰¹

Mr Leech proposed an amendment to **require local authorities to consult with representatives of any town and parish councils within the county when developing their LTP**.¹⁰² The Minister argued that this was overly restrictive, though she could offer no guarantee that parish councils would be covered in the relevant guidance.¹⁰³ The amendment was defeated by 14-1. He also proposed to introduce a **requirement for local authorities and ITAs to consult bus and rail operators before making their LTP**.¹⁰⁴ Despite support from the Conservatives, this was defeated 8-6.¹⁰⁵

Clause 12 of the Bill would remove the right of local authorities to be consulted by ITAs when they make their transport policies. Graham Stringer proposed amending the clause to **restore the duty on ITAs to consult with local authorities in the preparation of their policies**.¹⁰⁶ The Conservatives supported the restoration in principle,¹⁰⁷ but the Minister resisted it on the grounds that the Government would issue guidance on the matter, including the expectation that ITAs would consult relevant local authorities in

⁹⁵ *ibid.*, c63

⁹⁶ *ibid.*, c68

⁹⁷ *ibid.*, c71

⁹⁸ *ibid.*, cc72-73; for a specific example of how this might be applicable, see c73

⁹⁹ *ibid.*, c78

¹⁰⁰ PBC Deb 24 April 2008, cc81-82

¹⁰¹ *ibid.*, c83

¹⁰² *ibid.*, c84

¹⁰³ *ibid.*, c86

¹⁰⁴ *ibid.*, c87

¹⁰⁵ *ibid.*, c89

¹⁰⁶ *ibid.*, cc92-93

¹⁰⁷ *ibid.*, c94

drawing up their plans.¹⁰⁸ Mr Stringer accepted this explanation and sought leave to withdraw his amendment; this was opposed by the Committee and the amendment was defeated 8-6; Mr Stringer voted against his own amendment.¹⁰⁹

2. Integrated Transport Authorities

The Conservatives, the Liberal Democrats and Labour backbenchers all put down amendments to this part of the Bill to make changes to the circumstances in which ITAs could be established and who would sit on them. Mr Hammond proposed amendments that would **require all relevant local authorities to agree, by resolution, and for there to be a local referendum before an ITA could be set up.**¹¹⁰ The Minister argued that such restrictions were unnecessary as the approach taken in the Bill to setting up new ITAs is “very much a bottom-up approach”.¹¹¹ Mr Hammond withdrew his amendments but stated that the Opposition might return to the issue on Report. There followed a lengthy debate on various amendments: Mr Stringer proposed that **ITAs should be directly elected**, the Conservatives that an **ITA should reflect the political make up of its constituent councils**; and the Liberal Democrats that **non-elected ITA members should not have the right to vote.**¹¹² Mr Stringer indicated that his was a probing amendment and that he would return to the issue on Report by which time he wanted the Minister to have considered his concerns about local accountability of ITAs. He said:

The Government need to give a serious response to this probing amendment and explain why it is not currently their view that we should have direct elections. There are three issues: how to get to an ITA while consulting the people—I worry about the consultation process and the repression of electorates and councils; having direct elections; and, finally, the parliamentary process, which we will come to later. For what is a local government reorganisation, having one affirmative resolution as the procedure is not good enough.¹¹³

The Minister stated that the Conservative amendment was unnecessary as the balance on ITAs would be protected by existing legislation, which would be brought into force under clause 86 of this Bill. Mr Hammond was not satisfied with this response and pressed his amendment to the vote; it was defeated 10-5.¹¹⁴ The Liberal Democrat amendment was also defeated 9-6.¹¹⁵

Mr Leech for the Liberal Democrats proposed an amendment which would introduce a number of safeguards and procedural requirements for any **order making an ITA**, including that any such order be laid in draft and be subject to consultation.¹¹⁶ Mr Stringer shared the concerns underpinning the Liberal Democrat amendment but stated that there might be better procedural safeguards that could be put in place – perhaps by the

¹⁰⁸ *ibid.*, c96

¹⁰⁹ *ibid.*, c100

¹¹⁰ PBC Deb 8 May 2008, c311

¹¹¹ *ibid.*, c313

¹¹² *ibid.*, cc315-316

¹¹³ *ibid.*, c316

¹¹⁴ *ibid.*, c318 and c322

¹¹⁵ *ibid.*, c326

¹¹⁶ *ibid.*, cc338-340

use of regulatory reform orders. The Minister stated that the powers in the Bill were not unprecedented and that all orders would be subject to the affirmative procedure.¹¹⁷

Mr Hammond proposed that **PTUC should be consulted by local authorities when proposing an ITA**. The Minister stated that this requirement was not necessary on the face of the Bill.¹¹⁸ Mr Hammond also proposed that local authorities must consider **cost effectiveness** when proposing or reviewing arrangements for an ITA. The Minister indicated that this would be covered under statutory guidance.¹¹⁹ Mr Stringer proposed that a **review of an ITA could only be triggered by two relevant local authorities** and the ITA itself if applicable. The Minister stated that the Bill already provides for revision only where two or more authorities agree.¹²⁰ Mr Stringer proposed an amendment to clause 80 to ensure that **local authority functions cannot be delegated to an ITA without the relevant authority's explicit agreement**. The Minister indicated that this requirement is necessary to ensure that, where any ITA is established, the requisite powers can be delegated to it; the power would ensure that local authorities could not thwart an ITA by refusing to delegate their powers.¹²¹

D. Traffic commissioners

a. Organisation and general powers

The concern about political 'interference' with the commissioners' decisions was raised again in relation to clause 6, where the Conservatives put down an amendment to **remove the Secretary of State's discretion** in secondary legislation to "make different decisions in different cases".¹²² The Minister, Rosie Winterton, responded that the measure was purely administrative; for example, if any of the commissioners' functions were moved to a central 'office of the traffic commissioner' it would be necessary to remove those functions from the individual commissioners.¹²³

Although no amendments were moved to clause 1 on **traffic areas**, Stephen Hammond for the Conservatives asked about the intent behind the clause and raised concerns that it could be used to break the link between the traffic commissioners and the geographic regions in which they worked, undermining their local knowledge. He also queried whether the clause would allow the Secretary of State to abolish traffic areas altogether.¹²⁴ The Minister acknowledged that the purpose of the clause was to introduce some flexibility to allow the Secretary of State to decide on the best deployment of the traffic commissioners and would also, in theory, allow for the abolition of traffic areas.¹²⁵ The Conservatives followed this with an amendment to clause 2 to specifically **link traffic commissioners with a geographic area**; this was largely a probing amendment

¹¹⁷ *ibid.*, c341

¹¹⁸ *ibid.*, cc322-323

¹¹⁹ *ibid.*, cc323-324

¹²⁰ *ibid.*, cc325-326

¹²¹ *ibid.*, cc329-330

¹²² PBC Deb 22 April 2008, c55

¹²³ *ibid.*, c56

¹²⁴ *ibid.*, cc9-10

¹²⁵ *ibid.*, c10

to ascertain why the Government had chosen to break that link.¹²⁶ The Minister resisted the amendments and explained that the intention behind the change was to allow commissioners to specialise in areas of expertise rather than having to cover all aspects of their remit for a geographic area. She also, however, stated that the Government would “ensure that traffic commissioners can continue to use their local knowledge when considering cases”.¹²⁷ The primary Conservative amendment was defeated by 11-4.

The Conservatives put down a further amendment to clause 2 to compel the **Secretary of State to consult with the relevant local authorities and the Senior Traffic Commissioner before appointing a new commissioner**.¹²⁸ Although Norman Baker, on behalf of the Liberal Democrats, supported the amendment, the Minister resisted it on the grounds that it would actually interfere with the independence of the commissioners.¹²⁹ Mr Hammond argued that the Government had looked more favourably on a similar amendment in the House of Lords and pressed the matter to a vote;¹³⁰ it was defeated 10-6. Mr Hammond also put down an amendment requiring the **STC to consult the statutory bus passengers’ body** set up by the Bill and other passenger groups as he sees fit before issuing his guidance to the commissioners.¹³¹ The Minister recognised the merits of the arguments and agreed to look further at the issue and come back to it at Report.¹³²

The Liberal Democrats put down an amendment to **limit the commissioners’ terms to three years** in order to make them more accountable.¹³³ Mr Hammond supported the principle of the amendment but queried the choice of three years as the term limit; he asked the Government to accept the principle and bring its own amendment forward at a later stage.¹³⁴ The Minister resisted the amendment on the grounds that it was unnecessary further to the changes in the dismissal procedure provided for in clause 4 of the Bill.¹³⁵ Nevertheless Mr Baker pressed the amendment to a vote; it was defeated 10-6. Mr Baker put down a further amendment to require the **commissioners to publish an annual report and financial statement**, indicating how much they had spent on expenses.¹³⁶ Ms Winterton stated that the commissioners are already required to submit an annual report to the Secretary of State which the Government has published (though there is no requirement for it to do so). She also intends to consult on whether the commissioners should publish relevant financial information and agreed in principle that where public funds are involved, the details of that expenditure should be published.¹³⁷

On clause 4 of the Bill the Conservatives put down an amendment to **extend the Secretary of State’s powers to dismiss commissioners to deputy**

¹²⁶ *ibid.*, c11

¹²⁷ *ibid.*, cc14-15

¹²⁸ *ibid.*, c17

¹²⁹ *ibid.*, cc19-20

¹³⁰ HL Deb 6 December 2007, cc38-40GC

¹³¹ PBC Deb 22 April 2008, c33

¹³² *ibid.*, c35

¹³³ *ibid.*, c22

¹³⁴ *ibid.*, c22

¹³⁵ *ibid.*, c23

¹³⁶ *ibid.*, c29

¹³⁷ *ibid.*, cc30-32

commissioners.¹³⁸ The Minister responded that the deputy commissioners work on an entirely different basis to the traffic commissioner and are, in any case, on fixed, three-year contracts.¹³⁹

The Conservatives put down an amendment removing the **power of the Scottish traffic commissioner** to act in England and Wales and vice versa; he argued that it was nonsensical to have a specific traffic commissioner for Scotland but allow full cross over with England and Wales.¹⁴⁰ The Minister stated that the Scottish commissioner was required to exercise specific devolved powers, which was why his specific role was retained in the Bill.¹⁴¹ Mr Hammond accepted this reason and asked for a list of what those devolved powers are.¹⁴²

b. Bus powers

The commissioners have the power to attach conditions to bus operators' licences for being in breach of their registration details. Mr Hammond put down an amendment to clause 57 of the Bill to **remove the power of the commissioners to extend those conditions to any associated licences** (e.g. licences of the same operator to run services in different areas of the country under subsidiaries).¹⁴³ The Minister resisted the amendment as it would undermine the efforts of the commissioners to prevent bus operators circumventing conditions that they currently apply by, for example, simply re-registering services under a subsidiary company.¹⁴⁴ Mr Hammond also proposed an amendment stating that **where the commissioners fine an operator for being in breach of their licence, that that money should go to the relevant local authority or ITA**, not to the Government, as currently happens.¹⁴⁵ The Liberal Democrats indicated their support for the proposal and the Minister stated that she would discuss the issue with colleagues in the Treasury to see whether anything might be done.¹⁴⁶

The Liberal Democrats proposed a further requirement that **all commissioner decisions as to whether to attach a condition to an operator's licence should be sent to the relevant local authority**. The Minister stated that it would be too burdensome and resisted the amendment; Mr Leech stated that the Liberal Democrats might return to the issue on Report.¹⁴⁷

Mr Hammond proposed that the **requirement that the traffic commissioners have regard to representations from local authorities, ITAs and bus operators when considering applications for bus registrations in Quality Partnership areas be removed** as it is implicit in their broader powers.¹⁴⁸ The Minister resisted the amendment

¹³⁸ *ibid.*, c49

¹³⁹ *ibid.*, c51

¹⁴⁰ *ibid.*, c27

¹⁴¹ *ibid.*, c28

¹⁴² *ibid.*, c29

¹⁴³ PBC Deb 6 May 2008, cc284-285

¹⁴⁴ *ibid.*, c286

¹⁴⁵ *ibid.*, c290

¹⁴⁶ *ibid.*, cc290-291

¹⁴⁷ *ibid.*, cc287-288

¹⁴⁸ *ibid.*, cc267-268

on the grounds that this is a necessary provision in order to ensure that the commissioners make informed decisions with all of the information that is available.¹⁴⁹

On the commissioners' powers as they relate to Quality Contracts, Mr Hammond proposed that the **commissioners should have the ability to approve additional services in Contract areas**, following consultation with the relevant local authority or ITA and the approvals board for that Contract scheme.¹⁵⁰ The Minister resisted this change on the grounds that decisions such as this, in areas where Contract schemes are in place, are for the relevant local authority or ITA, not the traffic commissioner; she explained:

The aim of providing flexibility is to allow the local authority to say that it accepts that a particular service will not undermine the quality contracts scheme, and that it is happy for it to go ahead and for it to be registered with the traffic commissioner. We believe that the local authority that made the scheme should have the discretion to do so, and we do not believe that the decision should be handed over to the traffic commissioner.¹⁵¹

Mr Hammond was not entirely satisfied and indicated that he might return to the issue on Report.

E. Community transport

Clauses 50 and 51 make provision for the **carriage of passengers in wheelchairs in vehicle providing local services**. Norman Baker for the Liberal Democrats proposed an amendment to clause 51 to insert **a duty on local authorities to maintain a list of any relevant vehicles** affected by the new measures.¹⁵² The Minister argued that this was unnecessary as the option of maintaining such a list is included in the legislation and is in line with the Government's broader policies on taxis.¹⁵³

On community transport services, Stephen Hammond for the Conservatives proposed an amendment to clause 54 of the Bill stating that **community transport drivers should receive specialist training** and to close a **'loophole' which he claimed allows 'cowboy' bus companies to operate commercial services** under the auspices of community transport.¹⁵⁴ On the first point, the Minister responded that training requirements could be included in regulations made under existing powers; and on the second point she stated that the *Transport Act 1985* already contains powers for the traffic commissioners to use their judgement in licensing companies to provide community services.¹⁵⁵

¹⁴⁹ *ibid.*, c269

¹⁵⁰ *ibid.*, cc269-270

¹⁵¹ *ibid.*, c271

¹⁵² PBC Deb 6 May 2008, c276

¹⁵³ *ibid.*, c276

¹⁵⁴ *ibid.*, cc278-279

¹⁵⁵ *ibid.*, cc281-282