



**TRANSPORT
SCOTLAND**
CÒMHDHAIL ALBA

CHANGES TO BUS REGISTRATION IN SCOTLAND

ANALYSIS OF RESPONSES AND NEXT STEPS

INTRODUCTION

The objective of this consultation was to seek the views of all interested parties to a number of potential changes to the bus registration process intended to encourage greater collaboration and partnership working between local transport authorities and bus operators in Scotland.

The consultation followed discussions in the Bus Stakeholders Group. It was launched by Transport Scotland on 1 August 2014. It closed on 7 November, the closing date having been extended from 24 October to allow for further contributions. This paper summarises the responses to that consultation and outlines how Transport Scotland intends to proceed in the light of them.

What did the consultation cover?

The key proposals upon which views were sought related to the following areas:

- Extending the period for notifying relevant authorities in advance of registration from 14 to 28 days.
- Strengthening the requirement on bus operators to consult rather than simply notify the relevant authorities of any proposed registration.
- Encouraging the relevant authorities where appropriate to draw concerns arising out of registrations to the attention of the Traffic Commissioner and/or Transport Scotland.
- Reducing the registration period from 56 to 42 days – either for all registrations or for those submitted electronically – in order to maintain the overall time taken for the whole process from initial notification to the start of the service at 70 days.
- Requiring bus operators to detail within registered hourly frequency bands any services that are registered as frequent services.

Background

At present, if a bus operator wishes to operate a new bus route, or change or discontinue an existing route, they are obliged to notify the relevant authorities (any local authority and Strathclyde Partnership for Transport in whose areas the service stops or will stop) 14 days before submitting the application for registration with the Traffic Commissioner. With limited exceptions, the new services – or changes – can be implemented 56 days after registration.

The changes set out in the consultation seek to encourage and facilitate greater collaboration between bus operators and the relevant authorities in planning and implementing changes to bus services at the local level. It is anticipated that this could help reduce or mitigate problems before they arise, and contribute towards greater stability in the bus network.

Although not in themselves major changes to legislation, the proposals are designed to lead to greater behavioural changes on the part of local transport authorities and bus operators. In many parts of Scotland a collaborative approach has already been adopted in order to make the most of available resources. We want to see this become the norm, to the benefit of all parties, most importantly the travelling public.

Such an approach, maximising the tools at our disposal and amending provisions to improve partnership working, is necessary to achieve the best outcomes for

transport users from the public funding that goes into supporting public transport services.

Overall Response

A total of 54 responses were received, as detailed at Annex A. Respondents could be divided into five distinct groups depending on their institutional affiliation and whenever possible we have tried to distinguish between any differences in responses between groups.

The responses came from bus operators (7), local authorities (21¹), Regional Transport Partnerships (7), other professional organisations and trade body associations (12) and individuals (8). These responses will help inform the development of policies we will be taking forward during 2015.

It is notable that 6 of the 8 individual responses were from people living in Law, Carluke, who may have become aware of the Consultation after seeing it advertised on the website for the Law Community Trust (which also submitted a response).

Where respondents have given permission for their response to be made public, these have been placed on the Transport Scotland website. We have checked all responses where agreement to publish has been given for any potentially defamatory material before logging them.

Overall Findings

The consultation asked eight questions about the proposals. An in-depth analysis has been undertaken of the 54 responses and the summary findings for each question are contained in this document.

The overall response to the consultation indicated support for the aims of the proposals although there were notable differences in how to get there. Some respondents advocated statutory provision for almost all proposals while others considered that an approach set out in Guidance or a Code of Conduct might best achieve the aims sought.

The majority of respondents provided positive answers to all the consultation questions with the exception of questions seeking to reduce the registration period from 56 days to 42 days for registrations submitted electronically (Question 4b), where most respondents regardless of their institutional affiliation were against the proposal.

Next Steps

Transport Scotland would like to thank all of the stakeholders who responded to the consultation. The results of the consultation will help with the development of guidance and legislative changes that Transport Scotland will bring forward to improve the process of bus registration in Scotland. More details are provided below following the discussions of the responses to individual questions.

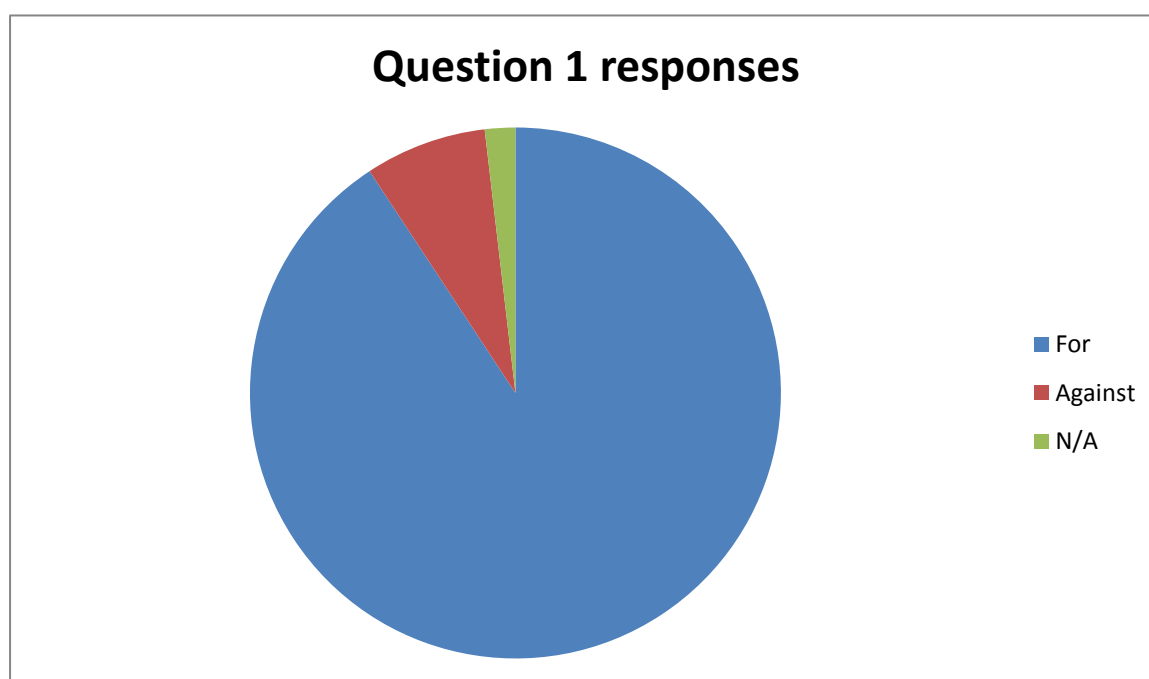
¹ 20 responses were received from 21 Local Authorities. East Ayrshire Council and South Ayrshire Council submitted a joint response as the Ayrshire Roads Alliance

ANALYSIS OF WRITTEN RESPONSES

Question 1: Do you agree with the proposal to extend the pre-registration notice period from 14 days to 28 days ?

The proposed change is designed to allow improved dialogue between the relevant authorities and bus operators in the run up to service changes. Both parties could use the greater period of notice of proposed changes for meaningful discussion and to plan accordingly. For example, the relevant authorities might consider offering to support routes that may otherwise be scheduled to close on financial grounds or suggest possible amendments to proposals in order to mitigate the effects of planned service reductions or changes

For	48
Against	4
N/A	1



The vast majority of respondents agreed with the proposal to extend the pre-registration notice period from 14 days to 28 days. Overall, the existing arrangements did not appear to be working well for transport authorities, who felt more time was needed for dialogue with transport operators and to reduce the number of mistakes made as part of the pre-registration process. Many respondents felt that this question should be considered jointly with question 2. There were also many calls to ensure the overall registration process did not exceed 70 days.

It is not possible to say which group of respondents was clearly against the proposal as the few negative responses have been spread over different types of respondents.

Existing arrangements are not working well for transport authorities

Many respondents within transport authorities agreed that the current notice period of 14 days was not suitable from their point of view. It was considered to be too short to allow in-depth analysis of the proposals, especially in situations where operators propose extensive changes to their network.

“The current 14 day notification period can already be very tight for transport authorities ...”. (Nestrans)

“...14 days is a relatively short period for meaningful consultation and it is likely to preclude transport authorities from being able to effectively influence the registration process in a positive way. We believe that the proposed 28 day registration period will allow transport authorities to have a more constructive role in the bus registration process.” (PTEG)

More time for dialogue between operators and transport authorities

There was broad agreement that extending the notification period would result in more time for the relevant authority to undertake analysis and provide comments in a more measured way that would allow engagement in more meaningful dialogue with operators.

“An extended period of notice will give officers time to fully analyse the impacts of proposed changes to the local bus network.” (SWestrans).

“An extension...would allow more rigorous consideration of registration documents when they are received ‘in bulk’ to the benefit of transport authorities, operators and most importantly the travelling public”. (Aberdeenshire Council)

The positive impact of longer pre-registration timescales

Some of the reasons for which a longer registration period would benefit the registration process were provided by respondents and can be seen below. These mainly include mentions of more time to consider the implications of the changes and to engage more constructively with operators.

“A longer pre-registration period will allow Public Transport Authorities to have a more productive and considered input into any decision, notify service providers of the likely consequences of any changes and correct any errors or technical faults within the submission” (GCC Labour Group)

“To extend the notification period to 28 days would provide authorities adequate time to give full consideration to the registration documents and allow more time to analyse the changes and the impact of these in more depth.” (Aberdeen City Council)

One of the most important comments regarding benefits deals with the reduction of mistakes made in the pre-registration process. As it can be seen from the quotes below, respondents also pointed out that the large volumes of work required to process the applications within the limited 14 day period can result in mistakes being made as part of the notification process.

“...more time for authorities to work with operators to eliminate errors from final registrations.” (COSLA)

“Given the tight 14 day timescale it is not unusual for problems to be identified by the operator or Transport Authority after the 14 day period...”
(Aberdeenshire Council)

In addition to reducing the likelihood of mistakes and allowing transport authorities to engage more meaningfully in a dialogue with the operators, the extended pre-registration period was also reported to be more realistic by taking into account the practicalities of local government decision making.

“Additional time is crucial given local authority committee cycles and the legal requirements of tendering”. (Falkirk Council)

Current informal arrangements are similar to the proposed changes

Some respondents say that informal arrangements are already in place where bus providers inform local authorities as early as possible about any changes, but many also add that making this a requirement would be helpful. For this reason many respondents felt it important to consider responses to questions 1 and 2 jointly.

“... many operators already do this informally as a matter of good practice”
(CPT)

“While we do already generally get informal notice in advance of 14 days from operators of service changes, formalisation of this would be beneficial.”
(Angus Council)

“As they are interrelated, we are making a joint response to Q1 and Q2.”
(RTPs)

Making the proposed changes work for transport authorities.

Respondents from transport authorities also suggested ways in which the pre-registration process could be improved for them. As part of those suggestions, they highlighted the need for bus operators to provide them with sufficient background information such as patronage data as part of their proposals.

“Operators should be obliged to give authorities... patronage data for commercial services which are to be withdrawn. Otherwise the usefulness of the extra time to assess data would be limited by operators’ co-operation.”
(Perth and Kinross Council)

“We would... expect that operators would provide sufficient background information behind their proposals (e.g. patronage figures), in particular if they suggest to withdraw or to reduce the service ...” (SEStran)

One respondent made a more general comment that in order for the extended pre-registration period to work, formal guidance needs to be issued to facilitate effective dialogue between both parties.

“An extension to the pre-registration notice period is likely to be helpful only if both parties engage in meaningful discussion. To ensure dialogue is meaningful and that both parties have the same expectation of the purpose of

the dialogue, formal guidance should be set out by the Office [of the] Traffic Commissioner.” (Dundee City Council)

Concerns about the proposed changes

Concern about increasing the overall registration process to 70 days was raised by some respondents. At least one of the positive responses to this question was conditional on reducing the length of the registration period.

“...if extending the notice period from 14 to 28 days, the registration period would need to be reduced to 42 days.” (ALBUM)

“So long as the overall period for registration does not exceed the current maximum of 70 days, i.e. 28 days for LA’s and then 42 days with the Scottish Traffic Commissioner” (Tayside Public Transport Co Ltd).

Improving the pre-registration process

One respondent also highlighted a way in which a variation to the proposed changes could lead to improvements in the decision making process. It was suggested that:

“...there should be a break point within the 28 day period whereby the local transport authority must have made the operator aware of any concerns they may have relative to the registration(s) submitted....” (CPT)

It has also been suggested that the term ‘relevant authorities’ needs to be better defined.

“‘Relevant authorities’ should be clearly defined as ‘Public Transport Authorities’ which in some cases may refer to the Regional Transport Partnership... or the local council.” (West Dunbartonshire Council)

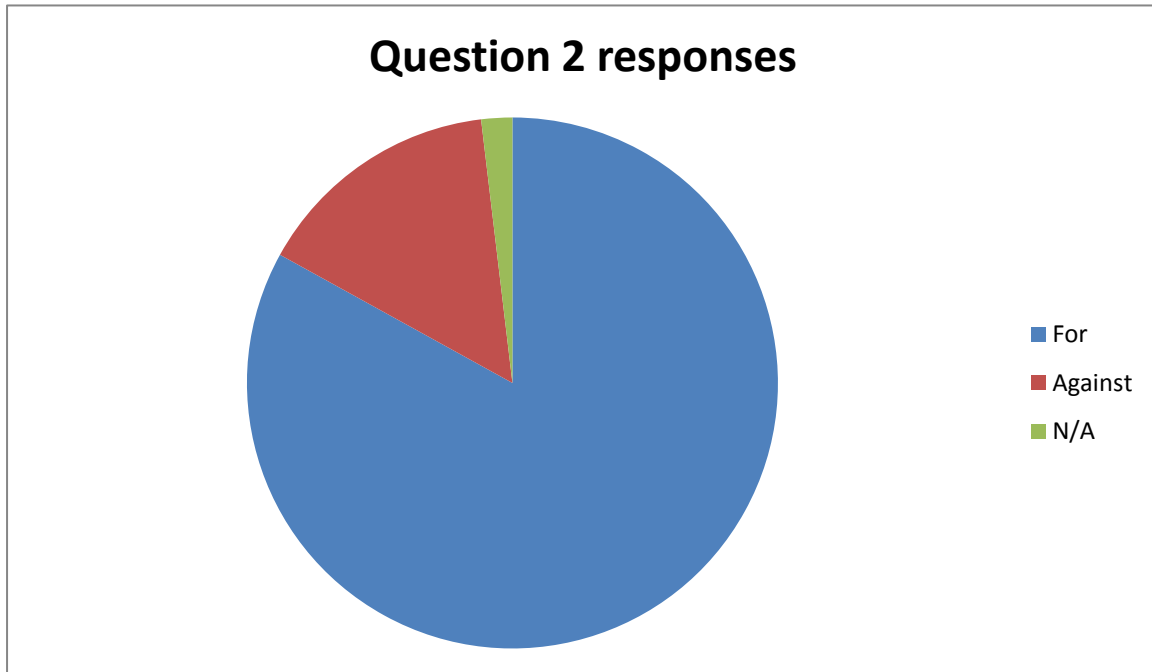
Reasons for not extending the pre-registration period

Respondents who were against extending the pre-registration period argued that *“Anything that delays the implementation of a new or an improved service is not in the interest of the travelling public” (Individual Respondent)* and that *“14 days is long enough” (Key Coaches)*

Question 2: Do you agree with the proposal to replace the duty to inform the relevant authorities before making an application for registration with a duty to consult with the relevant authorities?

This proposal, in tandem with the extended notice period set out above, seeks to encourage a collaborative approach between bus operators and the relevant authorities to determine how proposed new routes or changes to existing routes might best be implemented to the benefit of bus users. Although it is not considered practicable to require general public consultation on all registration changes, good practice would be for operators and relevant authorities to engage with user representatives where possible on specific changes and for there to be a continuing public engagement which informs decision making on service changes

For	44
Against	8
N/A	1



The vast majority of respondents agreed with the proposal to replace the duty to inform with the duty to consult the relevant authorities before making an application for registration. In some cases, it was stressed that this question was to be considered jointly with question 1 as these were seen as closely related. The answers against the proposal were evenly spread across different groups of users and it was not possible to determine strong differences in opinions between the groups.

Clarifying the terminology

Many respondents felt it was necessary to clarify what the term “relevant authority” meant and suggested this could include both local councils and RTPs, depending on the area.

“Clarity is required on the term “relevant authorities”. In many areas this will be the local authority but in a number of areas the public transport responsibility rests with the relevant Regional Transport Partnership and consultation with the appropriate transport authority (local and/or regional) must be assured.” (Tactran)

Other respondents also thought that the term “to consult” should be better defined to ensure the relationship between parties is based on cooperation.

“...the term ‘to consult’ should be clearly defined as meaning ‘to discuss, take into account and action agreements made between both parties’. The exchange and extent of information provided between an operator and the PTA must, therefore, be clearly defined and scoped prior to discussions taking place.” (South Lanarkshire Council)

“A duty to consult should ensure a greater partnership approach to changes between operators and SWestrans and should provide a more acceptable result for the travelling public.” (SWestrans).

Need for guidance

Respondents highlighted the need to provide clear information on what constituted a consultation and how the process would be undertaken by the transport authority. Concern was also raised about the possibility of changes suggested by providers being vetoed if deemed inappropriate by the transport authority.

“The statutory obligation to consult should be accompanied by clear guidance on how the process of the consultation should be undertaken. This will set out a clear timeframe over the 28 day period, placing responsibilities on each party to respond and counter respond to the proposals being discussed” (Dundee Council)

“The period in which LAs are entitled to be informed of impending changes should not evolve into an opportunity for them to delay or veto operators plans to vary commercial bus services.” (Tayside Public Transport)

One of the respondents highlighted the existing well-functioning arrangements where bus providers voluntarily engage with the local authorities and users through Area Bus Forums well in advance of the registration process. There was concern that introducing a mandatory consultation might replace a more meaningful and effective mechanism that is already in place.

“...mandatory consultation, involving an expectation of engagement with user representatives, within a short 14 or 28 day time limited period would be less effective than the existing avenues involving comprehensive voluntary consultation prior to the commencement of the registration process.” (Aberdeenshire Council)

Problems with the requirement

Both those who agreed and disagreed with the proposal mentioned the importance of recognising the commercial dimension to the transport providers’ operations and to take account of them when undertaking consultations. This could mean

maintaining a degree of confidentiality at the pre-registration stage, which currently is expected by many operators, and ensuring that transport providers are not forced into a solution that disadvantages them from an economic point of view.

“...the expectation of a collaborative approach involving the council and bus companies as a statutory obligation must always be tempered with the fact that bus companies require a surplus from their operations. Ultimately, this commercial reality will limit the strength of the council within the dialogue ...”
(West Lothian Council)

“Too date many operators expect pre-registration to be kept confidential within an authorities’ public transport team (or equivalent). It has therefore not been possible to begin discussions with elected representatives over planned charges and the need for replacement services.” (Perth & Kinross Council)

“...local authorities must not be put in the position of enabling them to force operators to change proposals, which would be contrary to one of the fundamental principles of local bus deregulation. There must be no obligation to accept a local authority’s position; operators must retain the full commercial freedom to act.” (ALBUM)

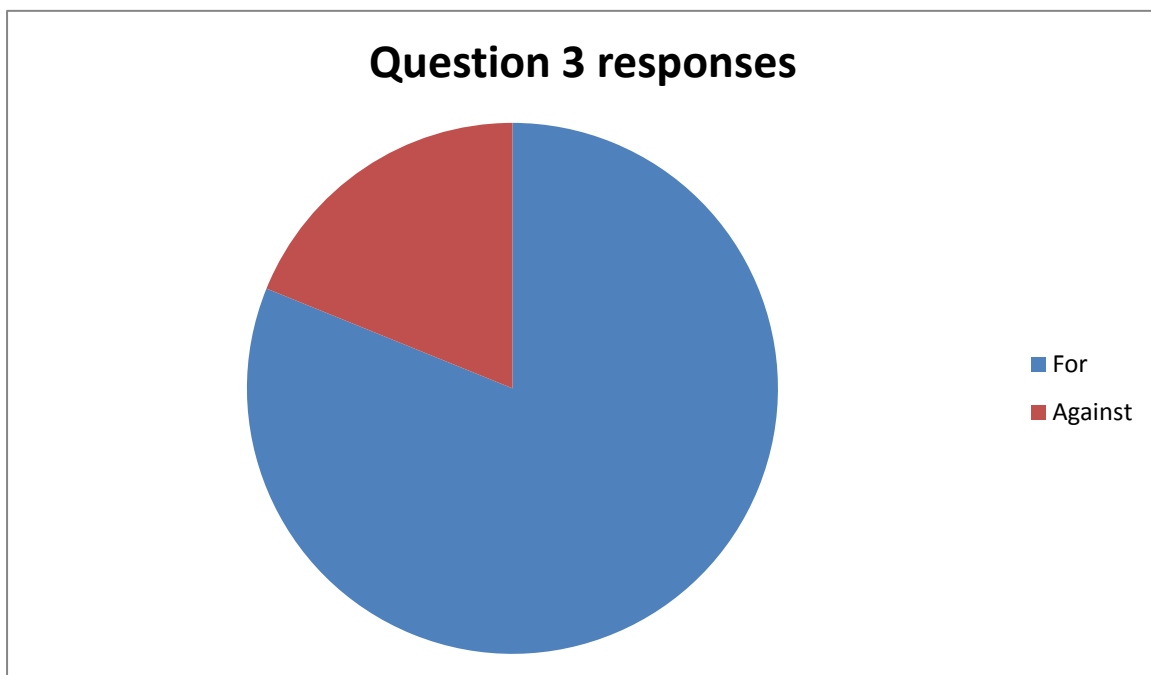
One local authority respondent recognised the importance of commercial independence but suggested that there were circumstances where local government comments should be accepted by operators.

“... we believe that guidance will be necessary to indicate the nature and purpose of such consultation. We would propose that, in the spirit of collaboration, there would be an expectation that operators would accept the views of authorities where there is no significant commercial disbenefit in doing so ...” (Highland Council)

Question 3: Do you agree that relevant authorities should be encouraged through guidance to draw potential concerns about new registrations to the attention of the Traffic Commissioner for Scotland and/or Transport Scotland?

In some circumstances it may be helpful for relevant authorities to draw to the attention of Traffic Commissioner and/or Transport Scotland concerns relating to service changes which might provide the Commissioner with information which could help her in the exercise of her wider powers or identify issues with the operation of national bus service regulation or funding which could inform the development of bus services policy.

For	43
Against	10
N/A	0



Again, the vast majority of respondents agreed that the relevant authorities should be encouraged through guidance to draw potential concerns about new registrations to the attention of the Traffic Commissioner for Scotland. No clear pattern as to which groups answered positively could be established.

Many respondents were in favour of extending the guidance even further, to go beyond new registrations. While overall respondents agreed with the proposal, there were also voices that advised of the potential adverse impact on good working relationships and stressed that the current procedures are sufficient or advised that legislation would be needed to strengthen the guidance. Many respondents were also concerned about preserving the commercial freedom of the operators.

Proposal for the guidance to extend beyond new registrations

Many respondents pointed out that the opportunity to draw concerns to the OTC should not be restricted to new registrations, mentioning that there can be

circumstances when the travelling public are adversely affected. One specific example refers to varied or withdrawn services where operators make changes that are not in the public interest.

“This should not be restricted to new registrations as there could be situations where changes to existing registrations have a significant impact that should be highlighted with the Traffic Commissioner.” (HITRANS)

“This is a welcome opportunity to highlight safety, congestion or competition concerns. In addition, in the event of widespread network changes, where a considerable number of registered services would change at the same time, transport authorities should be able to bring to the Traffic Commissioner’s attention concerns about whether there is adequate time to produce comprehensive publicity to inform the general public”. (Clackmannanshire and Stirling Councils)

“...helpful opportunity for transport authorities to highlight with the Traffic Commissioner any specific concerns about not only new registrations, but also in relation to varied or withdrawn services, particularly where the implications of proposed changes are not in the public interest.” (SCOTS)

Potential impact on good working relationships

A word of caution against using the proposed approach indiscriminately was issued by some of the respondents. Many respondents also suggested that any guidance should highlight the examples when reporting matters to the OTC should be compulsory.

“Positive working relationships may be damaged if there is a perception that the local authority has briefed against the operator’s desire to register specific services or journeys. The guidance should clearly set out to operators ...what concerns a local authority is expected to report to the OTC.” (Dundee Council)

“Such actions [raising concerns to the OTC] could also prove counterproductive and undermine partnership working arrangements between operators and local transport authorities” (Perth & Kinross Council).

“Guidance would need to be issued detailing the types of concerns which would be appropriate to bring to the attention of the Traffic Commissioner”. (Angus Council)

Existing procedures work well

Some respondents have pointed out that existing procedures work well and the opportunity to raise concerns with the Scottish Traffic Commissioner already exists in certain cases.

“The existing service registration process) works well and is fully fit for purpose ...” (CPT)

“There is already the opportunity for Transport Authorities to raise concerns with the Scottish Traffic Commissioner if it is considered that a registration is in breach of the legislation/regulations.” (Aberdeenshire Council) and (Perth and Kinross Council)

Call for legislation to strengthen the guidance

Respondents also highlighted the importance of having the right legislation to be able to address any of the registration concerns reported to Traffic Commissioner by the transport authorities.

“Currently authorities already have the ability to raise concerns with the Scottish Traffic Commissioner if it is considered that a registration is in breach of the legislation and/or regulations. To provide other comments on registrations ... would be of minimal benefit if the Scottish Traffic Commissioner or Transport Scotland do not have the legislative powers to address the concerns raised.” (Aberdeen City Council)

It was also suggested that raising the concerns with the Traffic Commissioner should be avoided as the operator should be contacted in the first instance.

“Any ... objections to intended service changes should be addressed to the operator involved in those changes and NOT the Traffic Commissioner” (Tayside Public Transport Co Ltd).

Importance of commercial freedom

Some responses from the transport operators' sector also stressed the importance of ensuring that the operators' commercial freedom should not be infringed by this proposal.

“The right of a local authority to call on the Traffic Commissioner ... (should) not include matters relating to an operator's commercial freedom, which are a prerogative of operators”. (ALBUM)

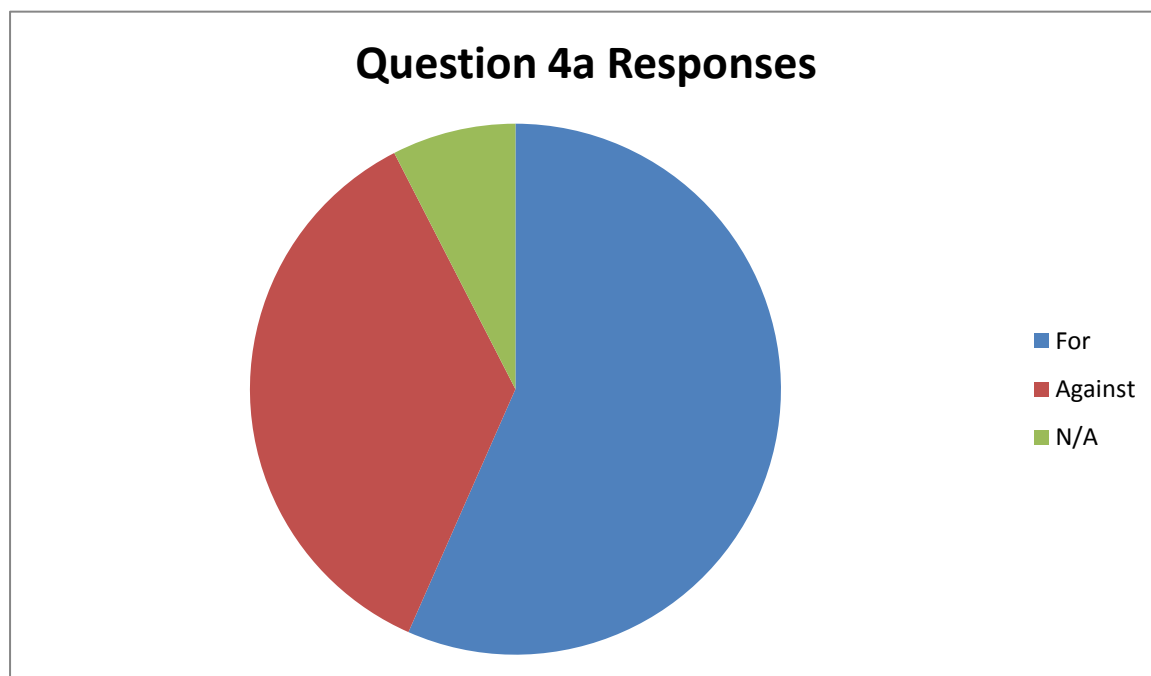
“...concern arising from a purely commercial decision (to withdraw an unremunerative service) would not normally be appropriate. However, there could be an appropriate concern if an operator was to strategically withdraw parts of a service in a way that would make it difficult for any rival to win a contract for a replacement service.” (ATCO)

“It is imperative that no new scope is introduced to raise matters impinging on operators' commercial freedom”. (Lothian Buses)

Question 4a: Do you agree with the proposal to reduce the period of registration from 56 days to 42 days? What difficulties if any do you consider such a change might present and how might these be addressed?

In order to avoid any delay to the implementation of desired service changes brought about by extending the pre-registration notice period by 14 days, the timetable for the registration process itself could be reduced by 14 days, to 42 days. This would preserve the overall timetable from notification to service change at 70 days. However, a 42 day period might present difficulties in the provision of passenger information such as timetables in advance of the changes taking effect.

For	30
Against	19
N/A	4



While the majority of respondents agreed with the proposal to reduce the period of registration, a significant minority were against this. Those against the proposal came from a range of backgrounds, including individual users, local authorities and transport companies. In fact most of the RTPs and individual users and half of the local authorities were against the proposed reduction.

Concerns about the proposal

Many respondents highlighted the potential problems with disseminating timetabling information within the shorter registration period. Other concerns dealt with the difficulty in informing different stakeholders of the proposed changes and the lengthy procurement timescales.

“There would be little point in increasing the notice period if the registration period is reduced by the same amount. ... Procurement processes are now lengthy and it is not usually possible to replace a withdrawn service (other

than temporary) within the 56 day registration period, except in the case of low-value contracts.” (Highland Council).

“... we do recognise that reducing the 56 days to 42 days may increase the risk that some local transport authorities will struggle to meet deadlines for providing service registration data to Traveline Scotland for public consumption, as well as on-street information to the general public. This will be a particular concern where a registration has been submitted manually.” (CPT)

“... any move to reduce the registration period would increase the likelihood of updated information being unavailable at the date of the service change.” (Dundee Council)

“... a shortened final registration period would put greater pressure on the replacement process and reduce the time available to set up and to publicise a replacement service.” (ATCO)

Current registration deadlines difficult to meet

Some respondents from local authorities also point to having difficulty in meeting the current registration deadlines, arguing that they do not leave enough time for consultation with stakeholders about the impact of the potential changes and to react to impacts of the changes.

“... the current 14 day notification period and 56 day registration period is already challenging to authorities. Particularly, following the 14 day notification period, the 56 day registration period is challenging in terms of the ability to effectively notify elected members, stakeholders and community groups on the impact of changes” (Aberdeen City Council).

“Reducing the period of 42 days would mean that the introduction of favourable service changes would not be delayed, but leaving the registration period at 56 days would give local transport authorities more time to react to changes to services and revise bus stop/travel information.” (COSLA)

Qualified agreement to the proposal

In some cases where respondents agreed with the proposal it was on condition that such reduction is undertaken in conjunction with an extension to the registration period outlined in Question 1.

“If 28 days pre-registration notice together with consultation were introduced, there would be less concern over the reduction of 56 to 42.” (Argyll & Bute Council)

For one respondent the proposal was acceptable in circumstances that do not involve changes to the entire network.

“...this would not be a concern for us, except in the event of a wholesale network change.... This contingency would be met by the ability to raise concerns with the Traffic Commissioner ...” (Clackmannanshire and Stirling Councils)

Benefits of the proposal

Responses outlining concerns about the proposals are counterbalanced by claims that acknowledge the difficulties associated with disseminating public information but consider the benefits to the travelling public to outweigh those concerns.

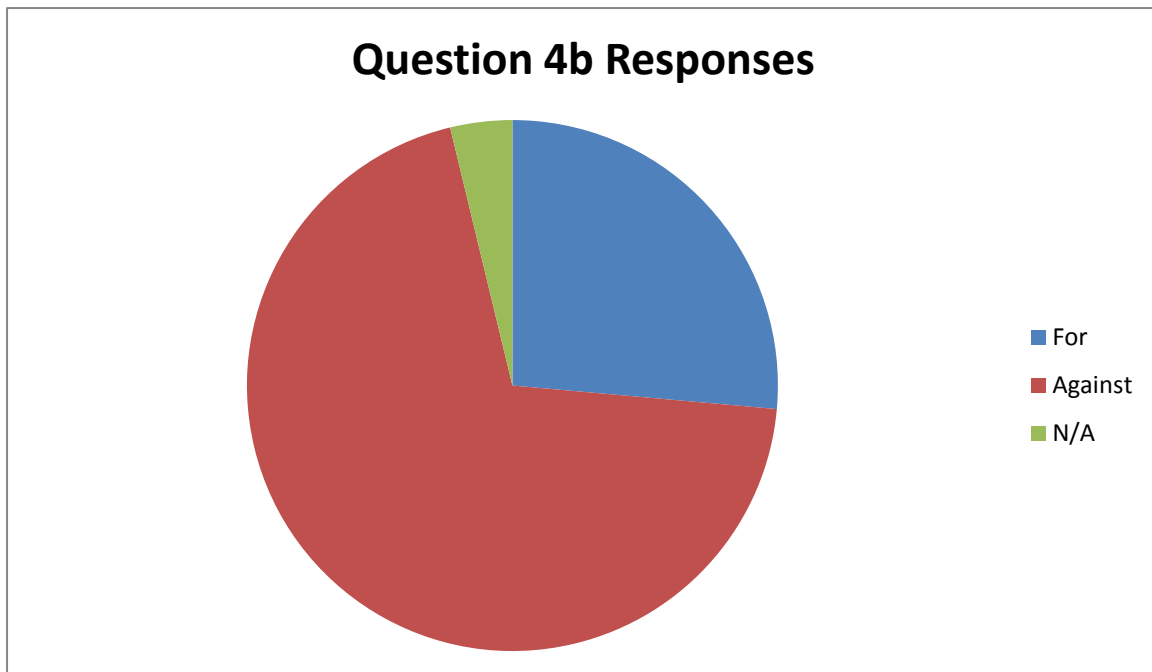
“While there would be implications for ... preparing timetable information, ... the allocation of stances/bus stops, and the provision of electronic information in a timely manner for dissemination ..., the benefits to the travelling public and the ‘public purse’ of the proposal far outweigh any process-related issues which may arise therein.” (West Dunbartonshire Council)

“A reduction from 56 to 42 days could be supported where the appropriate transport authority deems the consultation process to have been concluded satisfactorily ... and has a positive public service impact.” (Tactran)

Question 4b: An alternative option would be to reduce the registration period from 56 days to 42 days only where Electronic Bus Service Registration (EBSR) is used. Do you agree with this?

An alternative option to that proposed at 4a above would be to reduce the registration period to 42 days for electronic registrations only. This would have the additional benefit of incentivising take up of EBSR. The present 56 day period for non-electronic registrations would remain the same.

For	14
Against	37
N/A	2



The majority of respondents were against the proposal to reduce the registration period from 56 to 42 days when EBSR is used. Concerns about the proposal and negative response to the question were expressed by most respondents within all respondent categories.

Overall, respondents mentioned the problems with the user-friendliness of EBSR as a system; the incomplete information it delivers to transport authorities resulting in delays in processing the information and inaccessibility of EBSR facilities to smaller operators. Those who agreed with the proposals emphasised the efficiency of using the system.

Use of EBSR and increase in efficiency

Many respondents giving a positive answer to this question highlight the potential for the reduced registration period to incentivise the use of EBSR. Such a move would potentially be increasing the efficiency of the registration process by:

“... helping reduce work in the manual handling of data used to populate timetable databases such as those that provide the foundation for roadside information, real time passenger information and printed timetables.”
(HITRANS)

“In this day and age it is considered that all registrations should be electronic, via EBSR, which would simplify and streamline their processing; reducing the registration period for all registration should help to encourage this.” (South Lanarkshire Council)

EBSR incentivises larger operators

Concerns about such incentivisation have been put forward by a number of respondents who said that it would favour the bigger operators.

“... differentiating notice periods between EBSR and conventional registration may penalise smaller operators in competition with a larger operator who may have greater capacity to have moved to EBSR” (West Lothian Council)

The issue of equity has been raised by many respondents. It has been argued that not all operators, particularly smaller ones, would have access to the system making it unfair to expect everyone to use it.

“It is imperative that all operators compete on a level playing field. It cannot be equitable that an operator which can afford or chooses to use one particular bureaucratic process gains a commercial advantage over one which can't or chooses not to.” (Lothian Buses)

“EBSR would not be acceptable to this business because the inaugural costs of installation prevent a business case for a fleet of this size in Scotland ...”
(Tayside Public Transport Co. Ltd)

Problems with EBSR

Wider concerns about EBSR were further highlighted in some responses both positive and negative. most notably that it does not comply with current Scottish regulations:

“It (EBSR) is not as user friendly as it needs to be to meet the needs of all types of bus operator in Scotland” (Derek Halden, Chartered Institute of Logistics and Transport).

“(We support) this proposal but only if the EBSR system is altered to reflect the current regulations in Scotland i.e. the provision of a full timetable, a full route description and full route maps.” (Falkirk Council)

“Maps do not indicate individual routes and variants and route descriptions are non-existent. ... The format does not provide full service information where split registrations are used ... and it creates difficulties in producing meaningful publicity for circular services”. (ATCO)

This leads respondents who pointed out the difficulties with using EBSR to conclude that the use of the system does not necessarily lead to a reduction in time saved on processing the registration by the relevant authority. Respondents point out to problems with the format of EBSR registrations and highlight the need to spend more

time trying to make sense of the data submitted through this system. One of the problems identified by respondents is to do with the lack of full service information where split registrations are used, which was highlighted by ATCO.

“... as an authority, we experience a number of difficulties with the current EBSR registrations arrangements and their format and as such, do not find that time is saved compared to paper registrations.” (Aberdeen City Council)

“... the majority of service registrations received in the north east are already electronic. We do not ... feel that there would be any significant time savings to be achieved through this proposal” (Nestrans)

“... the proposal presupposes that EBSR registrations are of high data quality. Local experience suggests that this is not necessarily the case.” (South Lanarkshire Council).

“... the current format of EBSR does not engender total confidence. EBSR generated documents regularly require additional input, often by LAs trying to make sense of the submissions when preparing data output to Traveline etc.” (Midlothian Council)

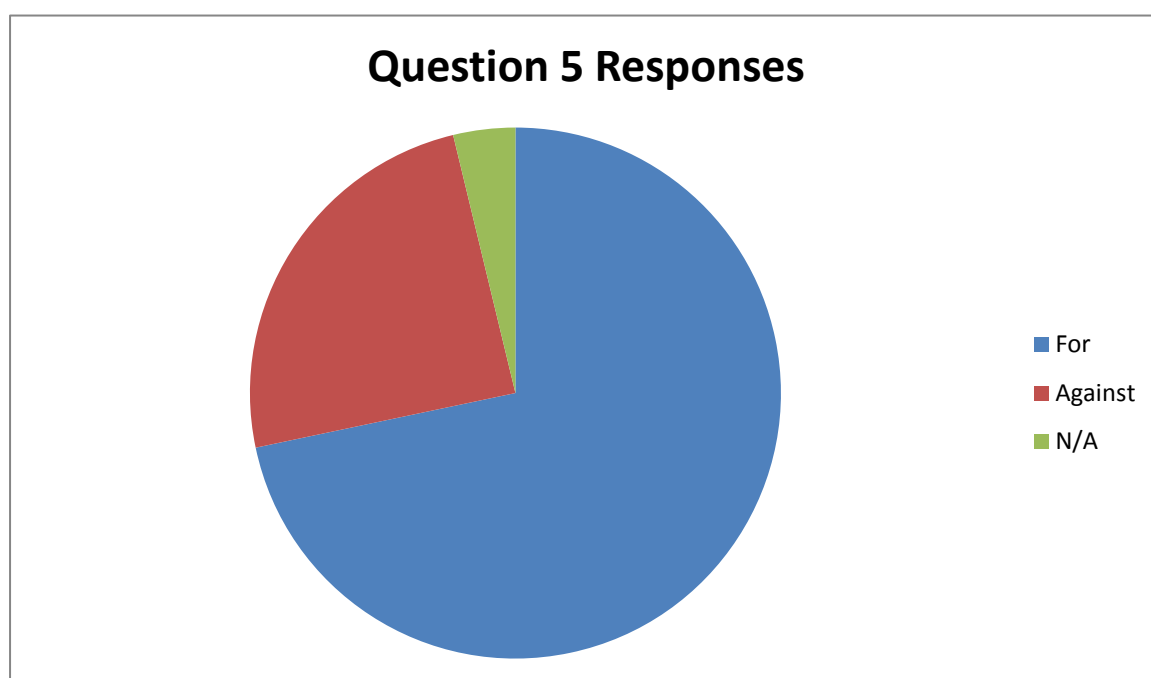
One respondent suggests that in order to promote wider use of EBSR in Scotland, Transport Scotland should *“... arrange a workshop, involving operators, local transport authorities and suppliers ... with the key objective of ... gaining a better understanding of the prevailing issues, real or perceived; and ... agreeing action plans to address the issues ...”* (CPT).

Question 5: Do you agree that we should require operators to detail within registered hourly frequency bands any services that are registered as frequent services?

The Competition Commission's [Local Bus Services Market Investigation](#) published in 2011 recommended that the Scottish Government make changes to local bus services legislation to remove the potential for bus operators to compete in ways that can lead to a rival's exit rather through ongoing competition on the merits of their respective offerings.

Existing rules for registering 'frequent services' (i.e. those that run 6 or more times per hour) simply require a statement of the fact that the service interval is 10 minutes or less. This could allow operators to increase the frequency of buses in response to a competitor's entrance to the market without having to make an application to the Traffic Commissioner. The proposal would be to require frequencies for 'frequent services' to be more precisely detailed in service registrations, in effect limiting how often and quickly service frequencies could be altered since services are required to be operated as registered.

For	38
Against	13
N/A	2



The majority of respondents was in favour of requiring operators to detail within registered hourly frequency bands any services that are registered as frequent services.

While strong arguments in favour are being put, most notably that the proposal would reduce predatory behaviour amongst operators and support planning the services, those opposed claimed that the change would lead to loss of the flexibility that is currently in the system and would not be in public interest. Some respondents

did suggest that changing the existing legislation would prevent operators from using unfair practices against competition.

Benefits of the proposal

An argument has been made by some respondents (largely local authorities) that the information required by the proposed change would be useful in setting up the new service.

“... provision of full information at the registration stage would assist when planning bus allocations and preparation of on-stop publicity. It is likely that ... this change should not cause unnecessary administration for (the bus operators).” (Falkirk Council)

It has also been indicated that the new proposal would

“... allow for an easier route to market entrance for new operators wishing to provide a service on a route with an incumbent operator”. (Glasgow City Council)

Some respondents also indicate that the proposed measure would reduce predatory behaviour of operators against new entrants to the area.

“(it) will minimise the opportunity for operators to squeeze out rival services by adjusting their timetable as they will be required to operate within the strict timetable that they register.” (North Ayrshire Council)

“This can help address the predatory nature of some competition between operators ...” (Tactran)

The use of legislation

Opinions varied regarding the usefulness of amending bus registration legislation.

One respondent claimed that such unfair practices are best challenged through existing legal mechanism rather than the registration process:

“If market entrants believe that incumbents are abusing a dominant position to their disadvantage they have remedy in competition law. Trying to address this rare problem through the bus registration system is misguided because it is burdensome and disproportionate.” (CPT)

The suggestion for existing legislation to be changed can be seen amongst some responses, one of which outlines the need to use legislative measures to prevent the operators from engaging in unfair competition practices.

“As recommended by the Competition Commission, legislation should be amended to preclude the opportunity for operators to increase frequencies immediately and with no recourse to the Scottish Traffic Commissioner, in response to a new competition service” (Nestrans).

Disadvantages of the proposed solution

Opposition to the proposal focuses on a number of reasons. One argument put forward was that legislation may not be as effective as voluntary participation.

“This proposal appears to be attempting to use a statutory process to deal with something that would be better dealt with through a voluntary partnership agreement” (Derek Halden, Chartered Institute of Logistics and Transport).

Another respondent opposing the proposal indicates that the proposal was not useful enough to be implemented.

“...from a route planning and scheduling perspective there is little to be gained by using the frequent service option”. (Dundee Council)

The loss of flexibility that's possible in the current system was another issue that concerned respondents who opposed to the proposal.

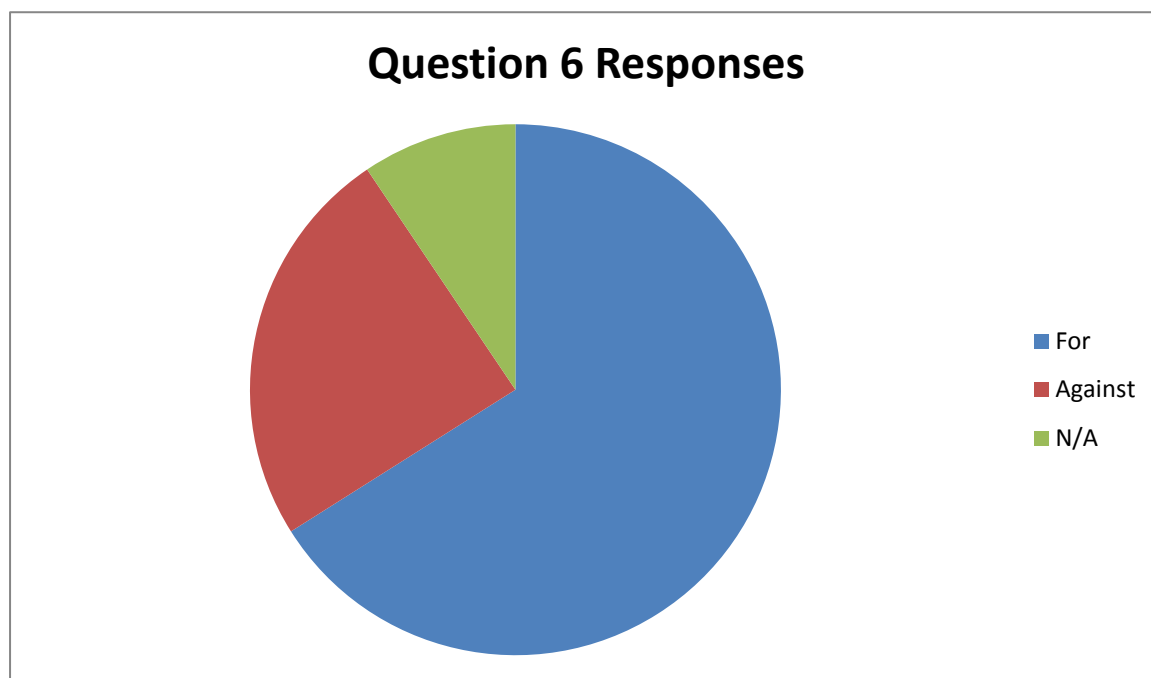
“We are concerned that the suggested measure could prevent operators responding to sudden increases to demand at busy periods (e.g. the Edinburgh Festival). We would suggest this is of greater importance to the general public ...” (SEStran)

“This would take away from the very flexibility that the system is there to provide ...”. (ALBUM)

Question 6: Do you consider that if the proposed changes set out above are adopted, they would improve the bus registration process in Scotland ?

Will the changes proposed improve bus service management, allow for greater engagement between bus service operators and local transport authorities and increase the stability of the bus service network in Scotland? Or might they have consequences other than those stated above?

For	35
Against	13
N/A	5



Most respondents were in agreement with the statement that if the proposed legislation was to be adopted, it would improve the bus registration process in Scotland.

Looking at the breakdowns of responses within the respective stakeholder groups, it appears that most of the individual respondents, transport authorities and user groups agreed with the statement, while the majority of bus service providers were against.

Disadvantages of implementing the changes

Some respondents have argued that the proposals reducing commercial flexibility would be detrimental to the registration process. It has also been highlighted that the existing system works better than comparable procedures in England and Wales, partly because of the additional number of days built into the process.

“One of the key benefits of the deregulated market is the stimulus it gives to bus operators to be innovative. Proposals that would reduce the degree of

commercial flexibility ... would put at risk the fundamental benefits the legislation is intended to achieve.” (ALBUM)

“The bus registration process works well in Scotland. The process is already 14 days longer than many areas of the UK and this does bring benefits. Introduction of many of these suggestions would introduce cost, complexity and reduce the very flexibility that delivers a first class bus service to members of the public.” (ALBUM)

“The current registration procedures followed in Scotland work for the public and are being considered for adoption by our colleagues in England and Wales. (We have) concerns that the proposed changes will bring additional pressure on bus operators, local authorities, the Office of the Traffic Commissioner and Traveline Scotland to process registrations more quickly in order to accommodate the proposed extended consultation period within the preferred 70 day timeframe.” (CPT)

Some also highlight how the reduction in the number of days set aside for registration would affect the transport authorities:

“To reduce the 56 days to 42 days would be detrimental to Transport Authorities’ ability to process registrations, in particular in producing bus stop information, updating Traveline and the ability to respond to changes by implementing mitigating measures, such as supported bus services” (Aberdeen City Council)

Respondents also point to the lack of new specific legislative powers as part of the proposals, which is likely to introduce little change from the current situation.

“There are no legislative powers to be implemented as part of these proposals, which means that very little would change from the current process.” (Aberdeen City Council).

Benefits of implementing the changes

Those in favour of the proposals highlighted the

“... opportunity for a more collaborative approach between authorities and bus companies ...” (Moray Council)

and agreed that they

“...should lead to better dialogue between transport authorities and operators ...” (CTA).

There were also voices that

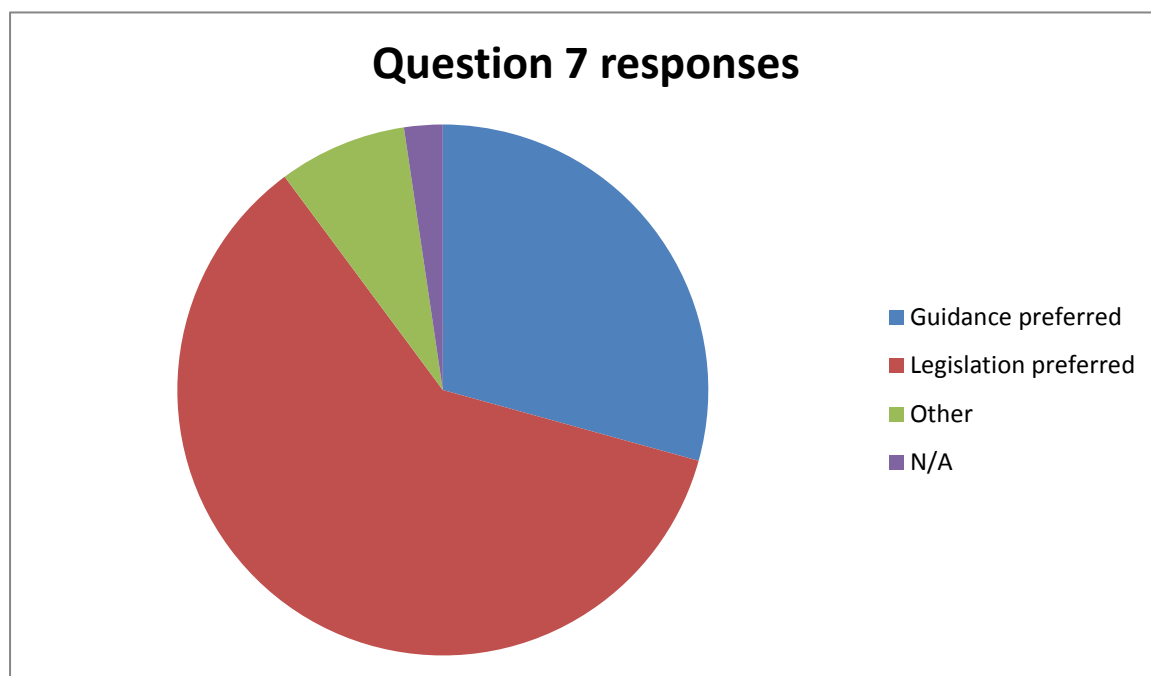
“... clear and authoritative guidance issued by the OTC setting out the expected roles and responsibilities of each party” (Dundee Council)

was needed.

Question 7: It is possible that much of what is proposed above could be achieved through Guidance and/or a Code of Conduct to facilitate engagement between operators and relevant authorities rather than changes to the legislation. Do you have any views on this?

The proposals set out above are designed to give an impetus and create room for bus operators and the relevant authorities to work better together rather than to prescribe a rigid sequence of steps to be undertaken. If they are to be pursued would this be better accomplished through the provision of guidance to be followed by the parties rather than by legislation?

Guidance or Code of Conduct	15
Legislation required	31
Other	4
N/A	2



The majority of respondents were in favour of the proposal but there were many who did not agree. While many respondents agreed with the need for guidance, there were many who felt legislation was needed to make the changes to the registration system work. Legislation was seen as particularly effective in situations where the drive for profit could take precedence over community need. Partnership working has been recognised by many respondents as an ideal to strive for and some proposals were made to reconcile the need for both informal guidance and strict enforcement of rules.

Need for changes in legislation

While the majority of respondents agreed that the proposal should be implemented, there were some who felt quite strongly that changes to legislation would be needed to make the changes proposed in the consultation work.

“... any benefits the ... proposals would introduce could not be guaranteed through a voluntary code of practice or non-statutory guidance” (COSLA).

“All changes resulting from this consultation must be backed by legislation, otherwise there will be little change from the current position because some operators will choose not to comply with any guidance etc. unless it’s backed by law.” (Falkirk Council)

“A code of conduct might work well in most cases, but where there are competitive pressures, circumventing a non-compulsory code of conduct, or if operators of debatable repute are involved, it is possible the code of conduct could be breached.” (RELBUS)

Why legislation to support the changes is needed

Many respondents point to the weakness of non-binding solutions and argue in favour of introducing legislation to enforce the changes. An argument has been made by some that this would help prevent a situation where drive for profit prevails over community needs.

“The existing parameters binding bus operators do not sufficiently ensure the protection of socially necessary services. Nor do they demand sufficient attention be given to the needs of communities reliant on less profitable routes when cuts to services are being considered. ” (Glasgow City Council Labour Group)

“Unfortunately, we do not live in a perfect world, so to ensure the public receives the best service from operators and local authorities alike, we are of the opinion that the measures above should be included in revised legislation.” (Midlothian Council)

One respondent points out the benefits of both legislation and code of conduct by commenting that the less coercive option would be better for driving improvement.

“Legislation is good at dealing with failure but a Code of Conduct would be better at driving improvement.” (Derek Halden, Chartered Institute of Logistics and Transport).

The value of partnership working

Many respondents recognised the value of partnership working, highlighting it as good practice and as a way to ensure flexibility can be applied to individual situations locally.

“...most changes in the bus industry should be managed through partnership agreements between bus operators and local authorities/transport authorities. All parts of the UK with the best bus services have excellent partnership working between the public agencies and the operators”. (Derek Halden, Chartered Institute of Logistics and Transport)

“... where possible it would be preferable for these (proposals) to be progressed through non-mandatory guidance rather than regulation/legislation. This approach would provide transport authorities and

operators with more flexibility to adapt registration processes and procedures to local situations ...” (Aberdeenshire Council).

Modification to the proposals

At the same time some were cautious about introducing a code of conduct as the recommended approach and described a modification to the proposals:

“... perhaps after a trial period the need for legislation could be revisited if engagement is failing.” (Argyll & Bute Council).

“Where possible it would be our preference that the proposals...be progressed through non-mandatory guidance, (however) if alternative registration timescales are to be made available, it must be clear and unequivocal to which timescale/period any operator must adhere.” (Nestrans)

TRANSPORT SCOTLAND RESPONSE

Transport Scotland welcomes the strong stakeholder support for the majority of the proposals put forward in the Consultation. We also welcome the constructive use of the Consultation responses by stakeholders to draw to our attention a range of potential alterations and additions to the bus registration process.

Based on the feedback received, it is clear that the majority of respondents consider that there is room for improvement in the process of bus service registration.

However, we note that there is a degree of disagreement on some proposals, notably on whether to reduce the registration period from 56 days to 42 days, either for all registrations or for those registrations where only EBSR is used.

Next steps

We intend to proceed with the proposals outlined in Questions 1, 2, 3, lengthening the pre-registration period, drafting guidance to encourage the shift towards consultation rather than notification and encouraging authorities where appropriate to draw concerns to the attention of the Traffic Commissioner and/or Transport Scotland

We also intend to proceed with the proposal put in Question 4a, to reduce the period between registration and changes coming into effect from 56 days to 42. Further discussion on this point with local transport authority representatives reinforced the view that the corresponding 14 day increase in the pre-registration period would allow sufficient time to plan for service changes and prepare public information.

As part of this further work, we will also develop best practice guidance on the bus service registration process for bus operators and local transport authorities – as envisaged under Question 7.

We do not intend to proceed with the proposal in Question 4b, to introduce a shorter timescale for registrations submitted electronically. We are however keen to encourage more use of EBSR, which has a number of potential benefits including streamlining the production of passenger information. As part of the further work mentioned above, we will seek to identify the specific barriers to the use of EBSR in Scotland. We will also work with DfT, who are also looking to promote wider use of EBSR.

Although a majority of respondents supported the proposal in Question 5, to require 'frequent service' registrations to be detailed within hourly frequency bands, there were some significant counter-arguments and we are not minded to proceed with the proposal at this time.

Annex A – list of respondents to the consultation

Local Authorities

Stirling Council
Clackmannanshire Council
Argyll & Bute Council
West Dunbartonshire Council
Dundee City Council
Aberdeenshire Council
South Lanarkshire Council
West Lothian Council
Perth and Kinross Council
Midlothian Council
Aberdeen City Council
North Ayrshire Council
Moray Council
Angus Council
Falkirk Council
Glasgow City Council
Highland Council
Comhairle Nan Eilean Siar
Inverclyde Council
East Ayrshire Council (as Ayrshire Roads Alliance)
South Ayrshire Council (as Ayrshire Roads Alliance)

Regional Transport Partnerships

HITRANS
SPT
SWESTRANS
SEStran
Nestrans
TACTRAN
Chairs of Regional Transport Partnerships

Bus Operators

First UK Bus Scotland

Lothian Buses

Stagecoach Group plc

Colchri Ltd

Perrymans Buses

Tayside Public Transport Company (National Express Dundee)

Key Coaches

Other Organisations

Law Community Trust

Rural East Lothian Bus Users Group (RELBUS)

Chartered Institute of Logistics and Transport

Convention of Scottish Local Authorities (COSLA)

Community Transport Association (CTA)

Association of Transport Coordinating Officers (ATCO)

Scottish Association for Public Transport (SAPT)

Society of Chief Officers of Transportation in Scotland (SCOTS)

Association of Local Bus Managers (ALBUM)

Passenger Transport Executive Group (PTEG)

Confederation for Passenger Transport (CPT) Scotland

Glasgow City Council Labour Group

Individuals

Jim McCulloch

Elizabeth Clark

David Shearer

5 additional respondents who wish to remain anonymous

Further copies of this document are available, on request, in audio and large print formats and in community languages (Urdu; Bengali; Gaelic; Hindi; Punjabi; Cantonese; Arabic; Polish).

اس دستاویز کی مزید کاپیاں آڈیو کیسیٹ پر اور بڑے حروف کی چھپائی میں اور کمیونٹی کی زبانوں میں طلب کیے جانے پر دستیاب ہیں، برائے مہربانی اس پتے پر رابطہ کریں:

এই ডকুমেন্ট-এর (দলিল) অতিরিক্ত কপি, অডিও এবং বড়ো ছাপার আকারে এবং সম্প্রদায়িক ভাষায় অনুরোধের মাধ্যমে পাওয়া যাবে, অনুগ্রহ করে যোগাযোগ করুন:

Gheibhear lethbhreacan a bharrachd ann an cruth ris an èistear, ann an clò mòr agus ann an cànan coimhearsnachd. Cuir fios gu:

इस दस्तावेज़/कागज़ात की और प्रतियाँ, माँगे जाने पर, ऑडियो टैप पर और बड़े अक्षरों में तथा कम्प्यूनिटी भाषाओं में मिल सकती हैं, कृपया संपर्क करें:

ਇਸ ਦਸਤਾਵੇਜ਼/ਕਾਗਜ਼ਾਤ ਦੀਆਂ ਹੋਰ ਕਾਪੀਆਂ, ਮੰਗੇ ਜਾਣ 'ਤੇ, ਆੱਡਿਓ ਟੇਪ ਉੱਪਰ ਅਤੇ ਵੱਡੇ ਅੱਖਰਾਂ ਵਿਚ ਅਤੇ ਕੰਮਿਊਨਿਟੀ ਭਾਸ਼ਾਵਾਂ ਦੇ ਵਿਚ ਮਿਲ ਸਕਦੀਆਂ ਹਨ, ਕ੍ਰਿਪਾ ਕਰਕੇ ਸੰਪਰਕ ਕਰੋ:

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ISBN: 978-1-909948-53-2

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Published by Transport Scotland, July 2015

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