

Consultation on changes to bus registration in Scotland



RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

CPT Scotland

Title Mr Ms Mrs Miss Dr *Please tick as appropriate*

Surname

White

Forename

Paul

2. Postal Address

CPT Scotland

2 Walker Street

Edinburgh

Postcode EH3 7LA

Phone 0131 260 5107

Email paulw@cpt-uk.org

3. Permissions - I am responding as...

Individual

Group/Organisation

Please tick as appropriate

- (a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Transport Scotland web site)?

Please tick as appropriate Yes No

- (b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick **ONE** of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

- (c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Transport Scotland web site).

Are you content for your **response** to be made available?

Please tick as appropriate Yes No

- (d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Transport Scotland to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

No

CONSULTATION QUESTIONS

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

Yes No

The industry recognises the benefits that can be achieved by having an extended pre-registration period. Indeed, many operators already do this informally as a matter of good practice. We would therefore, in principle, be prepared to support the proposed change to increase the pre-registration period from 14 to 28 days.

It is fundamental to build effective discussion, maintain trust and confidence that local transport authorities introduce systems to work within the proposed 28 day consultation period. As a result, we propose 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 in order to allow the operator proper time to provide an informed response and/or amend their plans, i.e. 14 days to review the registrations and 14 days to then discuss any concerns with the operator etc. A number of our members reported difficulty in getting any response from some local authorities when trying to discuss their plans and this approach prevents the process becoming a hostage to apathy. The proposed way of working will simply fall into disrepute if we allow a situation to arise where on day 27 the local transport authority raises issues and determines that there hasn't been sufficient consultation and the operator has insufficient time to respond.

The 28 day period, if properly applied by all parties, must be set up such that the consultation activity leads to a conclusion in time for the final registrations to be submitted immediately at its end, unless all parties agree otherwise.

We would also suggest that, for any new regime to be effective, the parties must have a clear understanding of the point at which the consultation process starts and the operator must be able (and if necessary required) to demonstrate at the time the registration is submitted to the Traffic Commissioner, that either there have been discussions or that no points have been raised by the local transport authority(s) within the specified timescales.

As is currently the case, evidence of submission of draft registration(s) to the transport authority should be sufficient proof. This makes it absolutely clear to all parties that the 28 day period is live.

There may be occasions where on receipt of a registration the Traffic Commissioner may require evidence that consultation has in fact taken place. Such evidence could include any exchange of correspondence prompted by initial

contact by the local transport authority(s) to an operator, as set out in paragraph 2 above. This could include any letters, email, meeting notes etc., which is clearly sufficient to demonstrate that consultation has taken place.

Consideration will also have to be given to the process to be followed where either party (operator or local transport authority) claims that the other party has failed to consult appropriately. However, the definition of clear process and timescales in the redrafting of Regulations will minimise the potential for this unsatisfactory outcome.

Clearly, if this proposal is implemented it will have to work both ways. If a local transport authority wants to terminate or amend services for whatever reason, they too will have to go through this same process before they can make changes. We would anticipate that linked changes to commercial registrations resulting from such discussion would be treated in a way that allowed both to commence on the same date.

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?

Yes No

CPT's position on this question is a preference to retain the duty to inform, although we acknowledge and understand the desire to encourage greater dialogue between operators and their respective local transport authorities.

In striving to encourage greater dialogue between operators and their respective local transport authorities, the industry could accept guidance which advocated consultation. However, this must be supported by further clear and unambiguous guidance which leaves the local transport authorities and the Traffic Commissioner in absolutely no doubt that any requirement or encouragement to consult cannot be linked formally or otherwise to any presumption as to the outcome of the consultation process. An operator will take into account and provide informed responses to points raised but the operator must retain the final decision on issues which are likely to affect the commercial viability of their business.

An outcome that fails to meet an Authority's aspirations either in full or part, following consultation, cannot allow a local transport authority to claim that consultation has not taken place when the registration is submitted to the Traffic Commissioner. This point will need to be dealt with explicitly in any Regulation in order to provide confidence and clarity to all parties.

We would also urge that local transport authorities are invigorated to make greater use of de-minimis arrangements as part of this consultation process, where, for example, gaps in service or social need may be identified. We are aware that where this approach has been embraced the process of consultation and amendment has been made easier with benefits to all parties.

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?

Yes No

We are firmly of the view that beyond the changes proposed in items 1 and 2 above, which subject to detailed drafting the industry are prepared to support, the existing service registration process thereafter must be maintained. It works well and is fully fit for purpose, i.e. if it ain't broke, don't fix it!

The extended pre-registration period allows sufficient time for consultation to be undertaken. At the end of this period, the requirement that the Traffic Commissioner must accept all properly completed applications to register services must again be retained.

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?

Yes No

We would suggest that a registration period of 42 days for all registration formats should be the acceptable standard; this will also allow the existing 70 day registration window to be maintained.

However, 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.

We have discussed the risk at some length with Traveline Scotland and we would suggest that a change of approach by local transport authorities could remove this

as an issue. We suggest that at the point of receiving a registration, work commences immediately on inputting data into the various systems to thereafter allow electronic transfer to Traveline, as well as other systems producing travel and timetable information. The final transfer of this data can be held in abeyance until a final position on the registrations submitted is achieved, or the end of the extended 28 day consultation period approaches, with any changes agreed between the operator and local transport authority being accommodated in the intervening period. (Appendix 1 sets this out in a diagrammatic format)

We would also suggest that, in moving to a 42 day registration period, it is imperative that the Traffic Commissioner's office is required to confirm acceptance within a specified period to enable all the operational production processes to take place in time to achieve the change date, i.e. timetable production, RTP1 data load, crew rosters and scheduling, preparation of bus stop information, Traveline Scotland and journey planner data loading etc. Given everything that needs to be completed in this period, operators and Traveline simply cannot risk finding out 30 days before implementation that a registration has been rejected.

Although Traveline have no specific representation on the Bus Stakeholder Group, we would suggest that they are approached to comment on the relevant areas of this proposal as it is fundamental to their ability to provide accurate information in a timely fashion to the people of Scotland.

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?

Yes No

CPT fully understands the desire of some parties to move to electronic registration, however, the diverse range of undertakings providing services in Scotland means that it could disadvantage some and advantage others. We, therefore, cannot support this suggestion unless through funding or other means, all potential inequities are resolved.

Also, for very similar reasons CPT cannot currently support a move towards mandatory use of EBSR for submitting bus registration particulars, as the financial and technical challenges placed on small to medium sized operators would place an undue burden which carries the risk of withdrawal from the market resulting in a lessening of competition, reducing services and loss of employment.

Whilst there is agreement that EBSR is the correct path to follow, there needs to be recognition that smaller operators will require help. Such help could include the

development of web based or bureau services, provided through either local transport authorities or RTPs.

We understand that a very small number of operators may already be using EBSR to submit registrations. Clearly, the longer term objective is to see greater use made of EBSR for electronic registration submissions. However, there appear to be a number of challenges to achieving this and we would again suggest that Transport Scotland should arrange a workshop, involving operators, local transport authorities and suppliers etc., with the key objective of firstly a) gaining a better understanding of the prevailing issues, real or perceived; and b) agreeing action plans to address the issues and initiate real progress.

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?

Yes No

After careful consideration, we have reached the conclusion that the practical difficulties of introducing regulatory bands of frequency for frequent services are so great, both in terms of operations on the ground and in relation to the registration system (particularly TransXchange) that they outweigh any possible benefit in adjustments to the competitive balance in the market.

If market entrants believe that incumbents are abusing a dominant position to their disadvantage they have a remedy in competition law. Trying to address this rare problem through the bus registration system is misguided because it is burdensome and disproportionate. Creating a new offence of running too many buses when an operator has committed themselves to run a frequent service would, in our view, be severely unhelpful to passengers.

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

Yes No

The current registration procedures followed in Scotland work well for the public and are being considered for adoption by our colleagues in England and Wales. As such, any move away from the status quo in Scotland has to be properly considered and be shown to bring demonstrable improvements.

CPT Scotland has 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. There is also a degree of ambiguity about what will be deemed appropriate consultation and whether operators will be pushed to adopt EBSR to submit registrations.

Additionally, the proposal to require operators to detail within registered hourly frequency bands any services that are registered as frequent services may also curtail operators' ability to respond quickly to market demands.

The current model could be improved, potentially through the adoption of a code of conduct that holds those involved to working more efficiently together to submit and process bus registrations in a timely manner. The proposed changes may also achieve this or they may lead to unintended consequences such as disagreements over the consultation, insufficient time to process registrations and bus services that are unable to respond to local demand as quickly as is currently the case.

CPT is unconvinced that the majority of the proposed changes will bring benefits that outweigh the potential risks. If the question is whether or not the proposed changes will result in a notable improvement for passengers then the evidence is scarce.

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?

Yes No

Starting from the position that we are dealing with a customer service industry, with rapidly changing demands and dynamics, there is a clear need for flexibility. Operators must be allowed to retain the flexibility to try new options, as well as the ability to remove them where the anticipated demand has not been achieved. In our view, the existing registration requirements in Scotland amply allow for this.

The current registration procedures followed in Scotland work well for the public and are being considered for adoption by our colleagues in England and Wales, why change?

However, if there is a consensus for change, we believe this would be best achieved through the Code of Conduct approach. [CPT has already shared a draft Code of Conduct proposal with Transport Scotland].

Rather than being faced with a one-size fits-all approach, the approach proposed, would recognize the diverse geographical, economic and demographic nature of Scotland, whilst providing the necessary flexibility to meet the differing issues and challenges in each of the local bus markets in Scotland.

Appendix 1
Proposed Service Registration Process

