

## Practice Direction: Standards For Local Bus Services

Effective from: 1<sup>st</sup> January 2005

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### INTRODUCTION

1. The Traffic Commissioners are the regulators of the bus industry and the registrars in their Traffic Areas of all local bus services (as defined by Section 6 of the Transport Act 1985). They have powers under that Act to take action against operators who fail to run their services in accordance with the registered particulars.
2. Guidance issued under the first edition of this Practice Direction, which was last updated in May 2002, set out the punctuality standards against which the reliability of local bus services should be measured.
3. Following the establishment of a Task and Finish Group under the auspices of the Bus Partnership Forum in 2003, a review of the current standards has been undertaken.
4. The Group's membership comprised the Confederation of Passenger Transport UK, the Local Government Association, the Association of Transport Co-ordinating Officers, the Passenger Transport Executive Group, and the Department for Transport with advice from the Senior Traffic Commissioner.
5. This Practice Direction has, therefore, been revised to reflect the findings of the Task and Finish Group.

### PUNCTUALITY STANDARDS

6. It should be the overriding aim of operators to run their registered services to their published times. Nevertheless it is accepted that traffic and other hazards, such as road works, can cause short-term problems, and Commissioners therefore accept that a bus may be delayed in these circumstances. But they can see no justification for a bus to run early.
7. Whilst operators state that passengers, once aboard, do not like to be kept waiting if an early-running bus has to slow down to conform to the timetable, Commissioners believe that this is preferable to prospective passengers either missing an early-running bus or being kept waiting for a late-running one, particularly in inclement weather and at the many stops where no shelter is provided, and represents the better option whereby the passenger should be reassured by timetable information that the destination will be reached on time.

8. Traffic Commissioners have set a target whereby 95% of services should depart from the Timing Points within the bracket of up to 1 minute early and up to 5 minutes late. Decisions by the Court of Appeal and the Transport Tribunal have endorsed this approach. Whilst accepting that a general benchmark of this nature may not always be achievable, that target is the one to which operators should work.

9. Traffic Commissioners will expect all services to depart from the starting point of the journey within the following brackets:

a) Frequent Services These are described at paragraph 9 of the Schedule of SI 1986 No. 1671 PSV (Registration of Local Services) Regulations and at paragraph 10 of the Schedule to SSI 2001 No. 219 The PSV (Registration of Local Services) (Scotland) Regulations 2001 as routes on which “the service interval is 10 minutes or less”. Commissioners will expect that on at least 95% of occasions:

- Six or more buses will depart within any period of 60 minutes, and
- The interval between consecutive buses will not exceed 15 minutes.

b) Timetabled Services Commissioners will expect that 95% of buses will depart within the bracket “up to 1 minute early or up to 5 minutes late”.

10. At other timing points the approach of Traffic Commissioners will be as follows:

a) Frequent Services Performance measurement will be based upon the Transport for London concept of excess waiting time. This is the difference between the average waiting time actually experienced by passengers and the waiting time which is expected from the Schedule. The target to be applied is that buses which are scheduled to run frequently are expected to operate regularly, ensuring that excess waiting time does not exceed 1¼ minutes. Statistically, for a service which is expected to run every 10 minutes, the average waiting time is half that gap (i.e. 5 minutes).

b) Timetabled Services:

1. The absolute minimum standard which an operator will be expected to attain is that 70% of buses will depart within the bracket “up to 1 minute early or up to 5 minutes late”.
2. Operators who fail to achieve this minimum standard of performance can expect to be visited by penalties being imposed by Traffic Commissioners in the upper range of penalties under

Section 155 of the Transport Act 2000. This approach will apply where the operator cannot establish the existence of a reasonable excuse.

3. For operators whose compliance is in the 70% - 95% bracket, Traffic Commissioners will adopt a graduated approach to the imposition of any penalty where they deem a penalty to be appropriate.
4. Credit will be given to operators who, prior to any Public Inquiry, have implemented a Punctuality Improvement Partnership, drawn up jointly with the local transport authority.

11. Commissioners will expect 95% of all services to arrive at the final destination point no more than 5 minutes late, and they wish to emphasise that they would not expect to find undue recovery time inserted in the timetable towards the end of a journey.

12. Bus Compliance Officers and other monitoring agencies will record departure times from timing points except at final destination points where they will only check against late arrival times.

## CONSIDERATIONS

13. In accepting that there will be short-term difficulties that may cause delays, Commissioners nevertheless believe that operators must construct their timetables to take account of known peaks of congestion etc. This may require different running speeds on particular sections of a route, or at different times of day, or on different days of the week. An operator always has the opportunity to persuade a Commissioner that there was a “reasonable excuse” for a bus failing to run to its registered timetable, but the Commissioner will be particularly interested in patterns of timekeeping and whether the operator had taken all reasonable steps to ensure buses run to their published times. Commissioners are of the view that it is more important to offer passengers a timetable that can normally be achieved rather than one which in theory relies upon clock face headway “which is easy for the public to remember” but which rarely achieves its aspirations. Operators are of course free to vary their registrations to meet changing circumstances, and Commissioners consider that where known problems regularly exist it is appropriate to vary the registration to reflect what is achievable and actually happening rather than retain an unworkable aspiration.

14. Commissioners will therefore consider the detailed circumstances of each route that is brought to their attention at a Public Inquiry. Operators should however be clear that Commissioners expect timetables to be realistic in the knowledge of the individual circumstances, including congestion, which affect each route. By allowing an operating bracket (see paragraphs 9 to 11 above) Commissioners are already building in a degree of flexibility, and would thereafter expect a properly constructed timetable normally to be achievable.

15. A Traffic Commissioner is generally required, in the event of a Public Inquiry investigating allegations that services are not being run in accordance with the registered particulars, to determine whether or not the operator had “reasonable excuse” for a failure. In arriving at that decision, a Commissioner will wish to consider whether the operator had managed registered services with the objective of achieving appropriate levels of reliability and punctuality. In particular the Commissioner will wish to consider:

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

16. Following the implementation of Sections 154 and 155 of the Transport Act 2000 (in Scotland, Sections 38 and 39 of the Transport (Scotland) Act 2001), a Traffic Commissioner may impose a penalty up to but not exceeding £550 multiplied by the total number of vehicles which the operator is licensed to use under all the PSV operator’s licences held by him. Clearly each case will have to be considered on its merits, but it is unlikely that the full penalty will be ordered unless the operator is found to have failed to achieve even 70% of the services running within the brackets set out in paragraphs 9 to 11 above.

## **TIMING POINTS**

17. Historically operators have informed their Commissioner of “principal timing points” on a route (see also the Schedules to the Regulations already quoted). These are the only points where Bus Compliance Officers have been able to check on running times. There has been no prescribed gap, in time or distance, between these points, causing potential passengers at intermediate stops considerable uncertainty (exacerbated at the many stops in the country where no timetable is displayed). Since Commissioners have a responsibility for ensuring compliance, and thereby for looking after the interests of passengers all along a route, it is no longer acceptable that operators should only nominate Timing Points as and where they suit the operator.

18. The Traffic Commissioners consider that there needs to be a reasonable balance between the requirements of passengers for an accurate indication as to when a bus is due and the needs of the operator to have some degree of elasticity in running time, and they accept that some flexibility is necessary. Traffic Commissioners will therefore require operators to nominate Timing Points not more than 15 minutes apart (except where the next stop is more than 15 minutes running time from the preceding stop when that next stop will become the Timing Point). However they acknowledge that on many services running times will vary by time of day and/or day of week to

take account of different operating speeds. It will be beneficial for passengers and make timetables more easily understood if the same Timing Points are used for all journeys on a service. Commissioners will therefore require the 15 minute criterion to be met by the majority of journeys. It will be acceptable for running time between Timing Points to exceed 15 minutes, providing it is timetabled, on other journeys which have slower operating speeds. Traffic Commissioners will exercise their discretion with regard to Timing Points for demand-responsive transport.

## **TIMETABLES**

19. Traffic Commissioners are concerned to note that there are large areas of the country where timetable information is either totally lacking at bus stops or is not specific to the particular stop. They believe that this information is a basic requirement in encouraging potential passengers to make use of buses, and they wish to encourage operators to advertise their services in this way. They will recommend accordingly to local authorities to make a determination in terms of Section 139 of the Transport Act 2000/Section 33 of the Transport (Scotland) Act 2001.

## **IMPLEMENTATION**

20. The revised tolerances for timekeeping (paragraphs 9 – 11 above) will become effective on 1 January 2005.

21. Principal Timing Points are included, as described in paragraphs 17 and 18, in all new registrations and variations to registrations received in Traffic Area Offices on or after that date.

## **GUIDING PRINCIPLES**

22. After the original publication of this document, the Confederation of Passenger Transport (CPT) sought a meeting with the Department for Transport and the Commissioners to seek further clarification. As a result a further short note was agreed between the Commissioners and CPT, and this is now attached as [Annex A](#).

23. A general graduated approach to the imposition of penalties under Section 155 of the Transport Act 2000 is set out at [Annex B](#).

[Annex A](#)  
[Annex B](#)

## **ANNEX A**

### **PUNCTUALITY TARGETS FOR LOCAL BUS SERVICES – GUIDING PRINCIPLES**

#### **INTRODUCTION**

Clarification has been sought from Traffic Commissioners following the publication of their paper entitled “Standard for Local Bus Services”. As a result, the following guidance note is issued to Operators.

#### **PLANNING BY OPERATORS**

Commissioners expect Operators to take reasonable steps to achieve the target level of punctuality. In particular they should:-

Monitor closely the resources available to them, especially buses and drivers, and avoid making or holding on to timetables that they cannot run with those resources

Collect and analyse as much information as practical on the punctuality of their services

Regularly review registered timetables in the light of predictable traffic and operating conditions

#### **COMMUNICATION BETWEEN OPERATORS AND TRAFFIC AREA OFFICES**

Operators should contact their Traffic Area Office when services are unexpectedly disrupted for more than a short time and any event that was not known to the Operator in time to vary the timetable (for example unannounced road works or unexpected consequences of a known event). This will avoid resources being wasted on monitoring services during periods that would not be taken into account in assessing performance.

#### **INVESTIGATIONS AND SUBSEQUENT PROCESS**

Monitoring resources are limited, so exercises will normally be mounted where there have been complaints (including complaints from both the public and competitors). Where the results of the monitoring exercise indicate that there is a case to answer, the Vehicle Inspectorate Division of VOSA will forward a copy of the report to the Operator. The Operator will be given an opportunity to comment on any adverse findings before the report is submitted

to the Traffic Commissioner for consideration of any formal action. Although the final report from the Vehicle Inspectorate Division will include references to journeys up to one minute early or five minutes late (i.e. those services which have operated within the “window of tolerance”), the Traffic Commissioner will decide in the other instances whether a reasonable excuse exists where this is put forward by the Operator. The Traffic Commissioner will then decide on the next course of action, which may include calling the Operator to a Public Inquiry. In making the decision, the Traffic Commissioner will take account of the factors set out in the Commissioners’ Guidance entitled “Standards for Local Bus Services”.

***P K Brown***

***Senior Traffic Commissioner***

***November 2004***

## **ANNEX B**

### **GUIDELINES FOR THE IMPOSITION OF A PENALTY UNDER SECTION 155 OF THE TRANSPORT ACT 2000**

#### **1. INTRODUCTION**

1.1 With the repeal of Section 111 of the Transport Act 1985, and its replacement by Section 155 of the Transport Act 2000 with effect from 1 May 2002, Traffic Commissioners may now impose a penalty on an Operator of a local service who has, without reasonable excuse,

- a) Failed to operate a local service registered under Section 6 of the Transport Act 1985;
- b) Operated a local service in contravention of that Section or Section 118(4) or 129(1)(b) of the Transport Act 2000; or
- c) Failed to comply with Section 139 or 140(3) of the Transport Act 2000.

1.2 This note sets out guidelines as to how the new powers of Traffic Commissioners may be exercised.

1.3 It is important to remember that what follows are guidelines only which are not to be followed slavishly. They should, however, lead to a consistent approach amongst Traffic Commissioners, to assist them when considering their powers to impose a penalty under Section 155(1) of the Transport Act 2000.

#### **2. GENERAL GUIDELINES**

2.1 Any initial guidance must be offered in the context of the Transport Tribunal's decision in the cases of Yorkshire Rider Limited and First Bristol Buses Limited v. DETR (Appeals 57/2000 and 62/2000 respectively) and the Court of Appeal's decision in Ribble Motor Services Limited v. Traffic Commissioner for the North Western Traffic Area (The Times Law Report 8th March 2001).

2.2 The concluding comments of the Transport Tribunal in its decision dated 22 January 2001 in the Yorkshire Rider and First Bristol case, indicate that "there is a limit to the extent to which the latitude in decision making allowed to Traffic Commissioners can go to overcome problems of methods and sizes of samples and special traffic situations".

2.3 The Court of Appeal, however, in *Ribble Motor Services*, stated that if a Commissioner is entitled to regard a sample of journeys monitored as sufficient and representative of an Operator's operation as a whole, then it will be appropriate to make a comparison and extrapolate from it. The Court of Appeal concluded (paragraph 57 of the judgement) that it was important that the statutory powers should not be emasculated by an over-elaborate approach to the investigation or an unnecessary attention to detail " ... broad judgements have to be made as to the adequacy and reliability of an Operator's published services".

2.4 The Transport Tribunal has also provided guidance on the implementation of penalties under Section 155 of the Transport Act 2000 in appeals 2003/300/301 and 302 (*Andrew Sheffield Limited, Yorkshire Traction Company Limited and Barnsley and District Traction Company Limited*).

2.5 In the light of the above, therefore, there are several factors to be taken into account in deciding whether to impose a penalty under Section 155. These are as follows:

- a) Traffic Commissioners will make an individual assessment of the case on the facts as found. This will involve a consideration of each case on its individual merits.
- b) Following the *Ribble* decision, a reasonable percentage of the routes under consideration should be monitored and an extrapolation made in appropriate cases. If the Operator wishes to submit that the monitoring exercise conducted by or on behalf of the Vehicle Inspectorate is not representative of the Operator's services as a whole, the burden of proof will rest with the Operator to satisfy the Traffic Commissioner to this effect.
- c) The nature and extent of the monitoring exercise will depend upon the type of route (city or rural) and the total mileage of the Operator (where this is relevant).
- d) Where particular routes are targeted (as a result, for example, of numerous complaints about certain services), then in-depth monitoring should be carried out, with random sampling of a proportion of other routes. Where targeted monitoring takes place, this would enable monitors to adduce bus reliability "patterns" in evidence.
- e) Traffic Commissioners will need to set out full reasoned decisions as to why a penalty under Section 155 of the Transport Act 2000 has been imposed. They will then give reasons for the amount of the penalty which is to be imposed.

### **3. SPECIFIC GUIDELINES**

3.1 Emphasising the caution expressed at paragraph 1.3 ante, Traffic Commissioners might find the guide set out below useful in assessing the amount of any penalty to be imposed under Section 155.

3.2 Where a Traffic Commissioner has concluded that an Operator of a local service has contravened Section 155, any penalty will be based upon the following guidelines and may be increased or reduced to reflect the circumstances of each case:

<b>Compliance Rate</b>	<b>Range of Penalty Per Vehicle</b>
94% - 90%	£ 50 - £150
89% - 85%	£150 - £250
84% - 80%	£250 - £400
79% - 70%	£400 - £550
Less than 70%	£550

#### **4. CONCLUSION**

4.1 By taking account of sampling sizes and the overall performance of an Operator, the figures set out in paragraph 3.2 above may need to be adjusted in the light of individual circumstances. It should be noted that the maximum penalty per vehicle will normally be applied where the Operator of a local service has a compliance rate of 70% or less.

4.2 The above proposals are guidelines only which are designed to assist Traffic Commissioners in assessing the amount of any penalty to be imposed under the legislation.

***P K Brown***

***Senior Traffic Commissioner***

***November 2004***