

TravelWatch NORTHWEST

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promoting quality public transport.....

Ben Jones
 Department for Transport
 Zone 2/17
 Great Minster House
 33 Horseferry Road
 London SW1P 4DR

11th October 2012

Dear Ben,

Consultation on EU Regulation 181/2011

1. Introduction

1.1 TWNW is an independent Community Interest Company representing all public transport users in North West England.

1.2 We welcome this opportunity to comment on this consultation, and will be happy to enlarge in writing or verbally on any of the issues we are raising.

1.3 We have already responded to parallel consultations on matters surrounding the championing of both national and international air, rail and bus passengers' interests and the protection of their rights. These can all be found on our website at www.travelwatch-northwest.org.uk

2. Complaints Handling

2.1 An issue which we have raised in each of these responses is the absence of any multi-modal body with statutory representation and complaints handling powers, and how this can generate confusion for passengers with each mode having very different procedures and indeed being answerable to different regulators. We mention this as the consultation is said to aim to ensure that bus and coach passengers have similar legal protection to those using other modes. We are not at all content with the existing complex non statutory complaints handling procedures currently available to bus passengers.

2.2 We therefore find it difficult to comment (**Question 17**) on the proposals in **Chapter 2** that (almost by default) the *status quo* should continue and the

already established bodies should be appointed (as the EU Directive requires) as the **Designated Bus Passengers' complaints handling bodies**. Our views on this issue are as they were when we responded to the consultation on extending Passenger Focus' remit to buses in October 2009 (*appended*). We said the following -

"We do not regard the Bus Appeals Body as being the appropriate body to carry on with this role after the Order is made. It should be remembered that BUUK which acts as a "gatekeeper" to the BAB is industry funded and perceived by some passengers as not being totally impartial."

"The BAB's current remit with regard to complaint handling is very limited. ***It is not a statutory body***. We understand that its terms of reference only permit it to deal with complaints from bus users regarding specific incidents or operational matters such as running to time, charging the correct fare and the behaviour of staff towards passengers. It cannot deal with commercial or operational matters such as the level of fares, the level of service provided, or the routes taken by buses."

"There is a need for cross modal consistency. PF currently handles rail complaint appeals and it is proposed that it will carry out a similar role for air passengers and for trams (paragraph 2.43). Being consistent across modes will be less confusing for and in the interests of passengers and will facilitate the handling of appeals where journeys are cross modal and interchange is involved. In our view it is inconceivable that a national consumer representative body should not have a robust complaints handling procedure for the consumers it represents i.e. passengers."

"The wording of the proposed statute (proposed section 112C of the Transport Act 1985) places a duty on PF to investigate any matter regarding buses which is brought to its attention by users or potential users. This is standard phraseology for other modes as well and is the trigger for complaints handling. Unlike BAB there are no restrictions on what those matters are, save for them not appearing to be frivolous or vexatious. In our view this makes the argument compelling."

2.3 The above comments may not fully match the outcome of that consultation but the overriding principle is that Passenger Focus is the statutory body and as outlined in the last paragraph in the table above (confirmed by the provisions of The Passengers Council (Non Railway Functions Order) 2010) ***must*** deal with matters brought to its attention by users – i.e. complaints.

2.4 If there is insufficient time to revisit the consultations on Bus Passenger representation and the role of Passenger Focus, we suggest that this be attempted sometime in the next four years, when the scope of the directive widens. We note there is similar EU legislation applicable to Air and Rail. Meanwhile we continue to have a longer term aspiration for a single UK wide multi-modal body.

2.5 We also make the point that any complaints handling mechanisms must be able to deal on the passenger's behalf with all factors affecting bus service performance – the impact of road works, local and highways authority and police involvement, etc.

2.6 We agree with the proposal (**Question 9**) to make Traffic Commissioners the designated enforcement body for this EU Regulation but not to handle complaints.

3. Derogations.

3.1 We understand DfT's policy to make full use of exemptions available to member states which can reduce industry costs but caution that this must be proportional to any passenger disbenefits.

3.2 The need for drivers' and terminal managements' disability awareness training is obvious, but we can accept that as over 75% of drivers now hold professional Driver CPC it might be reasonable to delay this mandatory requirement for not more than four years to allow new entrants and existing drivers "working towards" a Driver CPC qualification to complete their training (**Question 5**).

3.3 It should be remembered that some terminals used by **regular services over 250kms (155miles)** are owned and operated by Local Transport Authorities, and also that there is a potential conflict of interest in that the **Competition Commission's** recently closed consultation on **Bus Station access** excludes coaches, the dominant vehicles used on such services!

3.4 We agree that the National Express Code of Practice offering free continuation of disrupted journeys is a template of good practice which could be rolled out to other applicable service providers.

3.5 Although there is no statutory requirement for operators to register applicable services, many do so in order to claim BSOG, so we can see no reason for delaying for four years (**Question 3**) the general application of such an important right for bus passengers on **UK domestic services**. This is fundamental as it lays down the responsibilities of **operators, terminal managers** and owners in the event of delay, cancellation and disruption, as well as the provision of timely information to passengers.

4. Conclusions

We believe that our response so far has answered consultation questions **3,5,6,9 and 17**, and give in the tabulation below short answers to the remaining questions which are in most cases only of marginal concern to the passengers whom we represent.

Question	Comment
1	No relevant data held
2	Megabus is the other major ;long distance operator
3	See text above
4	No comment
5	See text above
6	See text above
7	Agree exemption for where domestic legislation more inclusive than this UK Regulation cannot be used in UK!
8	Nothing to add to final impact assessment
9	See text above
10	It would not be proportionate to make breaches of the EU Regulation criminal offences, rather than civil transgressions.
11	Agree Traffic Commissioners be given power to issue improvement notices
12 13	The Traffic Commissioners' existing powers to impose maximum and lesser discretionary penalties are sufficient, proportionate and appropriate. They should not need enhancing.
14 15	Only indirectly applicable to passengers (through the fare box), but in any event it seems unhelpful to draw comparisons with maximum criminal fines.
16	The enforcement role of local authorities' Weights and Measures departments under the Package Holidays and Tours Regulations 1992 could be strengthened by also designating them as enforcement authorities, but only in this context.
17	See text above
18	We agree with the proposed criteria for designating terminals but believe that they should include more than just London Victoria and Birmingham Digbeth. In the NW, Manchester Chorlton Street could be considered for designation.

Thank you for the opportunity to respond

Yours sincerely,

John A Moorhouse

John Moorhouse
Company Secretary

Response prepared by Paul Fawcett MPhil FCILT