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for Transport

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From the Parliamentary  
Under Secretary of State  
The Lord (Tariq) Ahmad of Wimbledon

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Dear Roy

On the first day of the Bus Services Bill's committee, you asked for further clarification about how the powers for the Secretary of State to make regulations in relation to Advanced Quality Partnership Schemes ("AQPS") regarding 'such other incidental matters in connection with advanced quality partnership schemes as the Secretary of State thinks fit' will be exercised (section 113N(g) of the Bill).

This regulation-making power replicates a similar, existing, regulation making power that relates to Quality Partnership Schemes ("QPS"), to be found in section 122 of the Transport Act 2000 (the "Act"). That provision includes various regulation making powers including a power for the Secretary of State to make regulations about 'incidental' matters. The suite of powers in section 122 were used to produce the regulations on Quality Partnership Schemes.

The power to make regulations about 'incidental' matters is intended to be used to address minor issues that emerge, either as the detailed policy is further developed after a Bill becomes law, or to deal with minor issues that need to be addressed in the light of the new legislation being used 'on the ground'. This

ensures that the legislation as a whole is unambiguous and works smoothly in practice.

In the case of the QPS regulations, made under the 2000 Act, the power to make 'incidental' changes was not used. All the content of those regulations fell under other regulation-making powers found in section 122 of the Act – for example, the determination of 'admissible objections' and the review of requirements about frequency and timings of services.

Much of the content of the legislation in the Bus Services Bill governing AQPS will duplicate the quality partnership legislation in the 2000 Act. This is because the AQPS scheme only seeks to change that existing regime in a few areas.

These are:

(a) Removing the existing requirement that local transport authorities should be obliged to introduce 'facilities' (e.g. new bus stops and shelters) as part of the scheme. This allows them to pursue an AQPS even if they have no funding available.

(b) Allow an AQPS to include additional things such as smart ticketing, passenger information and marketing requirements. It also allows the local authority to introduce new 'measures' such as changes to the price or provision of parking spaces, to make buses more attractive.

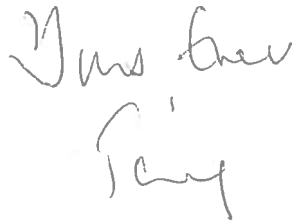
Consequently, much of the draft regulations that we propose for AQPS will also duplicate the 2009 regulations on QPS. The Government has no current plans to use this proposed power in the Bill to address 'incidental' matters because it has again been included to cater for as yet unforeseen matters.

The rules of statutory interpretation would interpret the scope of the general terms such as "incidental matters" restrictively and so it could not be abused by the Government to push through inappropriate regulations.

Any attempt to make regulations that sought to exceed the scope of these powers would be an abuse of power and could, of course, be ruled upon by the courts.

I hope this has reassured you about our intended use of this power under the Bill.

I have placed a copy of this letter in the Libraries of both Houses

A handwritten signature in black ink, appearing to read "Tariq Ahmad". The signature is written in a cursive style with a large initial 'T' and 'A'.

**LORD (TARIQ) AHMAD OF WIMBLEDON**