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# Local Bus Services in Scotland - Improving the Framework For Delivery

## A Consultation

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## MINISTERIAL FOREWORD FROM MINISTER FOR TRANSPORT AND THE ISLANDS, HUMZA YOUSAF MSP

Buses are so important to thousands of people in terms of getting where they want to go. That might be going to work, to the hospital, to school or simply popping down to the shops or to visit friends or family. In our cities buses provide efficient mass transport; they link our towns and villages together and they provide public transport in rural areas, so that those without a car have an option to get where they need to.



Buses are getting greener and offering a high level of service quality, which is reflected in good overall satisfaction scores, but there are areas which face declining passenger numbers. For the bus industry that represents a threat in terms of revenue, but it also means a threat to the network of bus services across the country and therefore the travelling public. If passenger numbers continue to reduce there is a risk that communities will be cut off and I am not willing to sit by and let that happen.

We can also do better for bus passengers in terms of the information they have to plan and make a journey. If we want people to choose the bus it has to be convenient and straightforward so they know in advance when the bus will turn up, when it will arrive at the destination and how much it will cost.

Despite these challenges, bus does not have as loud a voice as you might expect. Three quarters of public transport journeys are by bus, but compared with other modes, bus does not get anywhere near its fair share of 'airtime'. I regard that as a democratic deficit, but my opinion is that we have a responsibility to improve bus services for passengers, and for those who would be bus passengers if we made improvements.

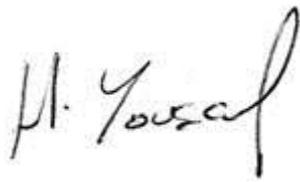
Bus does have a voice at the local level and buses are at heart a local service, but the feedback I get is that the existing set of options for transport authorities is not adequate and can be inflexible or overly bureaucratic. In those cases the interests of the passenger can get lost.

The issue is not who owns the buses, though there is a tendency by some to focus on that issue. A 'one size fits all' solution will not work and I am opposed to the wholesale re-regulation of buses.

We are presenting proposals to improve those options, be they partnership, local franchising or even local authorities running buses. We also propose to require bus operators to share information on routes, timetables, punctuality and fares so the bus travel is more accessible and attractive.

Legislation is not a silver bullet to the key challenges the industry faces, such as congestion, but we can set the framework for the right parties to work together on local solutions.

For many local authorities (or RTPs where relevant), with healthy patronage and a competitive market, the best approach may be to continue just as they are. I will not force transport authorities to adopt these proposals, but where one is looking for a way to improve their bus services, we want to ensure that they have a range of viable and flexible tools at their disposal. I welcome your comments on these proposals, and what checks and balances should be in place, to help shape them in the interests of the passenger.

A handwritten signature in black ink, appearing to read 'H. Yousaf'.

**Humza Yousaf**  
Minister for Transport and the Islands

## Responding To This Consultation

### About this Consultation

Consultation is an essential part of the policy making process. It gives us the opportunity to seek your opinions. This consultation details issues under consideration and asks you questions about what we are proposing. After the consultation is closed we will publish responses where we have been given permission to do so.

Responses are analysed and used as part of the policy making process, along with a range of other available information and evidence. Responses to this consultation will help to inform the development of future laws and guidance on bus services in Scotland.

### Deadline

The consultation will be published on 13 September 2017 and closes at **midnight on 5 December 2017**.

### How to Respond

To encourage wide participation, the Scottish Government has created a number of ways for you to engage in the consultation. You can respond online, by email or by post.

The consultation will also be available in alternative formats on request, including Large Print, Braille and Easy Read.

### Respond Online

To respond online please use the Scottish Government's Consultation Hub, [Citizen Space](#). You can respond in English or British Sign Language (BSL) using this method. You can save and return to your response at any time while the consultation is open. But please ensure that your response is submitted before the consultation closes at midnight on **5 December 2017**.

You will automatically be emailed a copy of your response after you submit it. If you choose this method you will be directed to complete the Respondent Information Form. The Respondent Information Form lets us know how you wish your response to be handled, and in particular whether you are happy for your response to be made public.

## Table of Response Methods

Online	Through Citizen Space
You Tube	Upload your videos and paste the URL into the Citizen Space consultation.
Email	Send us an email with youtube links to a video of your response. <b>Please do not attach videos to the email as we cannot receive large files.</b> Please include the Respondent Information Form.
Post	Send your responses in English to: The Bus Policy Team Transport Scotland Victoria Quay EDINBURGH EH6 6QQ  Please include the Respondent Information Form

With each of these methods you need to include your Respondent Information Form because this lets us know how you wish your response to be handled, and in particular whether you are happy for your response to be made public. You can find this in Annex A in this document.

### Next Steps

After the consultation has closed we will analyse all the responses received and use your feedback to help inform the development of future laws and guidance on bus services. Where permission has been given, we will make all responses available to the public at <https://consult.scotland.gov.uk/>. The responses to the consultation and analysis will be published in early 2018.

### Need Assistance?

If you need support in answering this consultation or alternatively have a query about the consultation process, or a complaint about how this consultation has been conducted you can send your query by email to [busconsultation@transport.gov.scot](mailto:busconsultation@transport.gov.scot) or by writing to:

The Bus Policy Team  
Transport Scotland  
Victoria Quay  
EDINBURGH  
EH6 6QQ

## 1. Introduction

- 1.1. Bus services are important to the people of Scotland with three quarters of all public transport journeys made by bus<sup>1</sup>. However, the sector faces significant challenges with the overall number of passenger journeys decreasing and service cutbacks in some places which can leave communities without a public transport option. We believe that the legislative framework governing bus services requires improvement. This paper sets out why and describes our proposals for improving the legislation.
- 1.2. This consultation begins by setting out why bus is so important and outlining the state of the industry with key statistics showing how things have changed over the long term and in the recent past. We detail the existing regulatory and policy framework before highlighting areas which we think need to change.
- 1.3. Fundamentally, buses are a local service and work best when they are tailored to meet local needs and circumstances. Central government sets the framework of options for local authorities (and RTPs, where appropriate) to improve bus provision. We argue that this framework can be improved to make it more flexible and viable, whether a transport authority wishes to pursue partnership working, local franchising or even running their own buses.
- 1.4. We also believe that there is room for improvement in terms of the information that passengers receive to help them plan and make a bus journey. We have set out our intentions to require bus operators to share data openly.
- 1.5. Smart ticketing is another area where this Government is considering how to ensure operators participate in a nationwide smart ticketing scheme, not only by bus operators but also across other modes of transport. We will consult separately on that.
- 1.6. To secure the bus services we need to help grow our economy, meet the needs of individuals and communities and improve our environment, requires a collective effort with contributions from central and local government, commercial and not for profit providers and individuals, communities and representative organisations. Legislation alone will not solve problems such as congestion or the challenge of providing cost effective public transport services in more sparsely populated or remote communities. But we believe legislation can help drive and support the actions that are needed, and that the current legislative framework can be improved.
- 1.7. Section 5 sets out proposals for improving the regulatory framework and open data. Each sub section has a number of questions and those are all set out together in the response form in the Annex.

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<sup>1</sup> Scottish Transport Statistics (2016), p181.

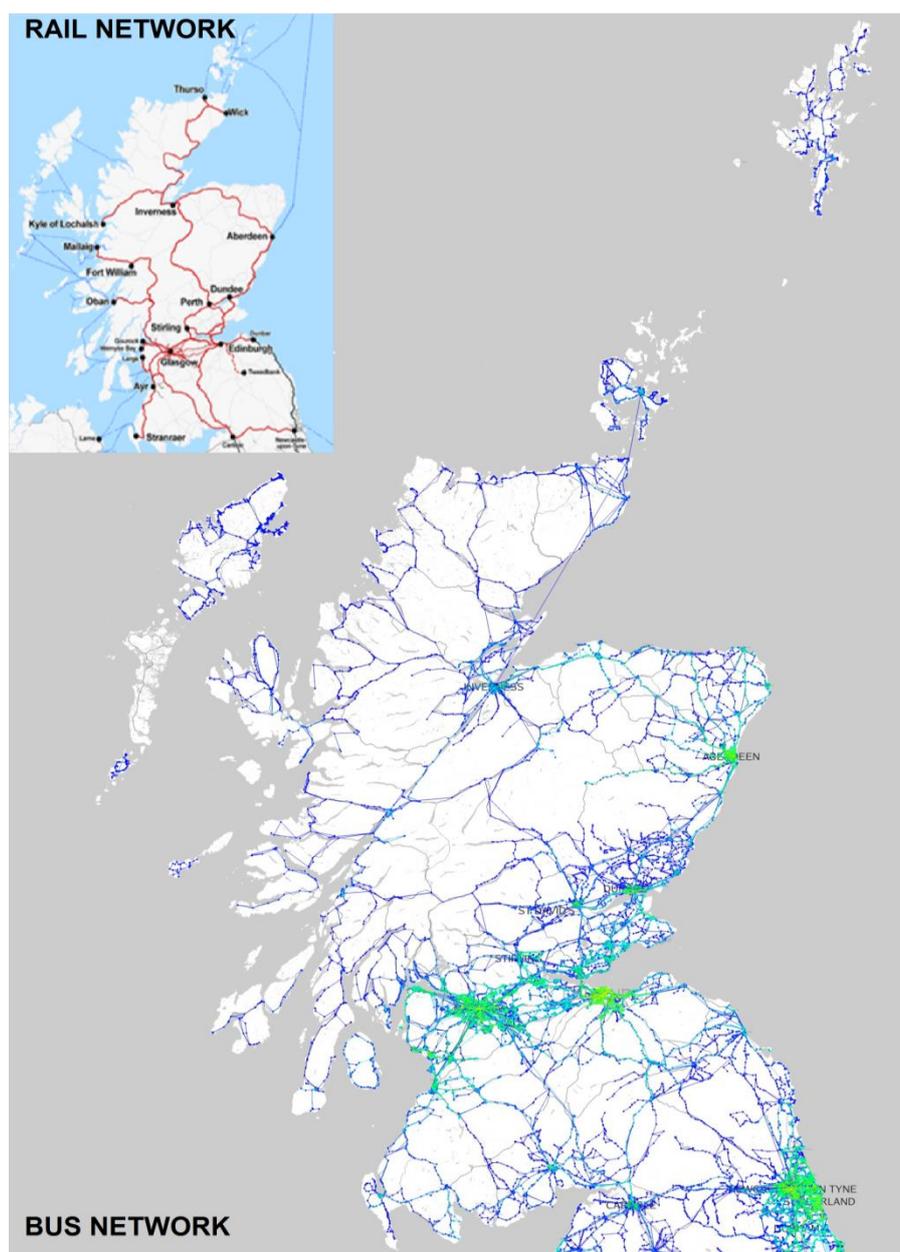
- 1.8. Your answers to those questions are important as we refine our thinking and consider the next steps. This consultation is your chance to have your say and influence the shape of the regulatory framework for bus.
- 1.9. Terminology around the authorities responsible for local transport functions can be confusing. In the main, local authorities carry out their own transport functions. However, some local authorities transfer functions on transport to so-called 'model III' Regional Transport Partnerships (specifically Strathclyde Partnership for Transport (SPT), SWESTrans and Zetrans). A 'local transport authority' is defined in the Transport (Scotland) Act 2001 and refers only to the relevant local authority or SPT. For the purposes of this document and to aid comprehension, we will use 'transport authority' as a convenient shorthand to mean any relevant local authority and any so-called model III RTP. In other areas where we specifically want to refer to a local authority, or to RTPs only, we will use the relevant term, for example where we are referring to wider LA functions such as planning or parking policy.

## 2. Setting The Scene – Bus In Scotland

### The Importance of Bus

2.1. Buses form a fundamentally important part of the transport system in Scotland. In 2015-16, 409 million trips, 76% of all public transport journeys, were made by bus<sup>2,3</sup>.

Figure 1: Rail and Bus Networks Comparison



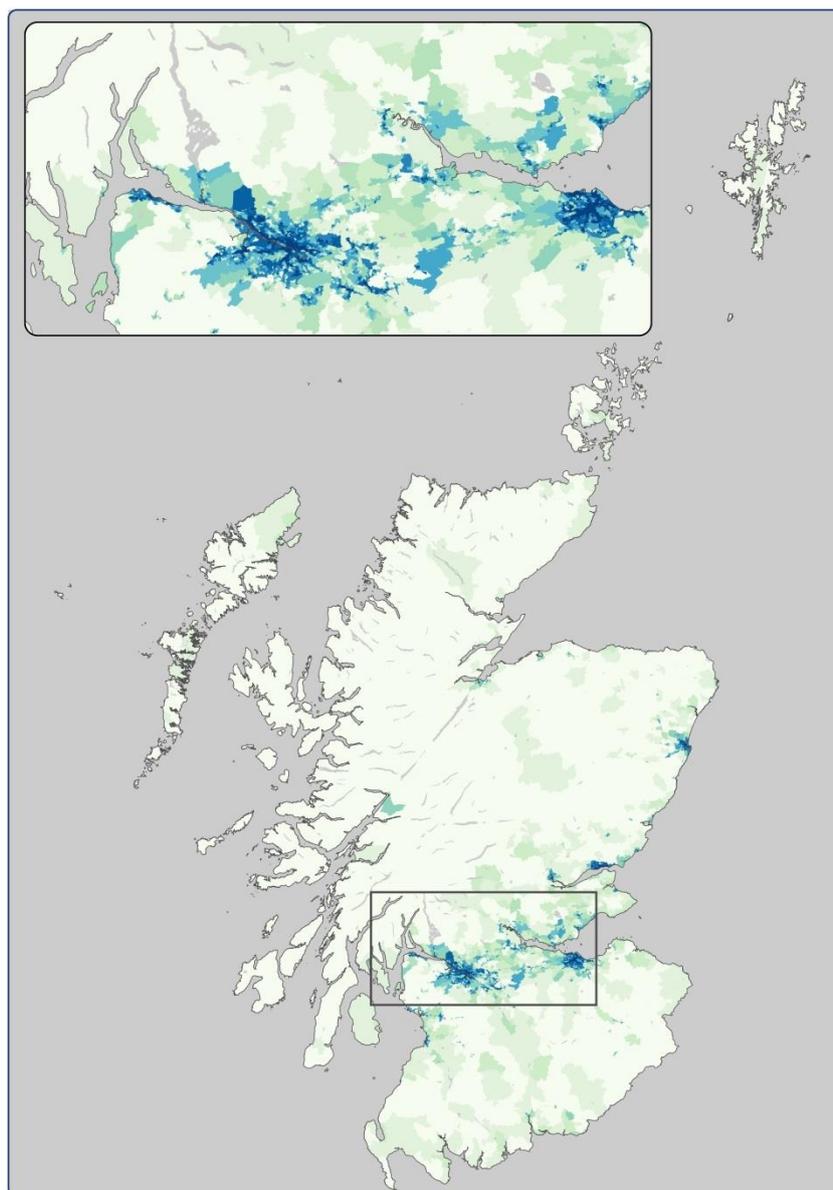
Source: Bus Network map supplied by Traveline Scotland (green = more frequent services)

<sup>2</sup> Scottish Transport Statistics (2016), p181.

<sup>3</sup> Scottish Transport Statistics (2016), p55.

- 2.2. The above map of the bus network gives an indication of its reach. From this we can see that buses are able to serve a much wider area than rail which is more restricted by geography and, of course, fixed infrastructure. Bus services are flexible and can be developed and introduced quickly where demand is identified.
- 2.3. The above comparison also highlights the importance of bus, particularly to rural areas where other options may be limited.

**Figure 2: Scottish Access to Bus Indicator 2017 – Weekday Score**



Source: Transport Scotland GIS analysis. The full results of this analysis will be published later this year.

- 2.4. Bus services in South West Scotland (which includes Strathclyde) and the South East account for 82% of overall bus journeys in Scotland<sup>4</sup>.

<sup>4</sup> Scottish Transport Statistics (2016), p62, table 2.2b.

Unsurprisingly, as can be seen by the above map, urban areas are better served by more and more frequent buses (denoted by darker colours from greens into blues) when compared with rural areas, owing largely to the ‘critical mass’ of passengers making services commercially viable.

- 2.5. It is not just the geographical reach of bus that is important. When we look at the people that use buses it is clear that those from lower incomes use the bus relatively more than they use other modes of transport<sup>5</sup>. Car ownership is lower in lower income groups<sup>6</sup> making bus relatively more important owing to the lack of alternatives.
- 2.6. It is important not to think of bus only as the mode for the less well off. More than a quarter of bus journeys are by the two most prosperous groups in the country<sup>7</sup>. 11.2% of people use the bus as their mode of travel to work<sup>8</sup>. Given the current employment levels, this means that around 290k people take the bus to work in Scotland. A University of Leeds report<sup>9</sup> identified a number of significant linkages between bus services and the wider economy including access to jobs, shopping and leisure facilities. The conclusion of that report was that people place value upon having bus as an option for them and/or their community.

### Alternative Transport Solutions

Scheduled bus services are not always the right public transport solution, even where a train service is not possible. Whilst this consultation focuses on local bus services, an increasing number of transport authorities, particularly in more rural areas, are looking into employing options such as car share or demand responsive transport via community transport or other means.

A good example is the award winning ‘Dial M for Moray’ service which has been operating for the last few years. The service is an accessible door-to-door bus service for those unable to use existing forms of transport, but where it differs from other schemes is that it is available for those who do not have access to a regular scheduled bus service, regardless of age or disability. The service currently covers the entire county of Moray operating between school and adult day service peaks with some vehicles operating post school peak.

Our view is not that a scheduled bus service is always the right answer, but that local authorities should be given the tools to make bus services work where appropriate.

<sup>5</sup> Transport and Travel in Scotland (2016), table 28.

<sup>6</sup> Transport and Travel in Scotland (2016), table 18.

<sup>7</sup> TAS – The Economics of Bus Operation in Scotland

<sup>8</sup> Scottish Transport Statistics (2016), p17.

<sup>9</sup> Buses and the Economy II – University of Leeds, 2014. <http://www.greenerjourneys.com/wp-content/uploads/2014/07/Buses-and-the-Economy-II.pdf>

- 2.7. Buses only contribute around 5% of road transport carbon emissions, compared to cars contribution of 60%<sup>10</sup>. However, with their large capacity per vehicle they have the potential to play an important role in encouraging modal shift, removing cars from the road, thereby reducing both overall emissions and congestion.
- 2.8. In addition, the latest 'Euro VI' diesel buses mark a substantial reduction in terms of NOx and particulate emissions, which is a big step forward for air quality<sup>11</sup>. The Low Carbon Vehicle Partnership confirms that a Euro VI diesel bus emits less NOx than a Euro 6 car and bus performs ten times better on a per passenger basis<sup>12</sup>. Operators are investing in low emission technologies, such as hybrid, full electric and hydrogen fuel cell powered vehicles, which can further reduce emissions.
- 2.9. Increasing the patronage of clean buses, by encouraging modal shift, therefore plays an important role in reducing both overall emissions and congestion.
- 2.10. Buses can also be supported, via a range of measures, to make a significant contribution to the Government's strategy to tackle Air Quality. For example, we have committed to implementing Scotland's first Low Emission Zone by 2018, to create a legacy on which other areas can build.
- 2.11. There are now around 500 low carbon buses in Scotland – over 10% of the overall fleet – and that number is increasing. The Government target is for 50% of the bus fleet to be low emission by 2032.<sup>13</sup>

### **The State of the Bus Sector**

- 2.12. There is a widespread perception that bus in Scotland is in decline. Passenger numbers have been decreasing over the long term and the industry faces a number of external and internal challenges (these are covered later under Section 4: The Case for Change). This section provides a high level summary of the state of the sector.

#### Patronage

- 2.13. Bus passenger numbers in Scotland have been declining since at least the 1960s. The graph below shows the trend from 1960 to 2015. The decline between 1986 (when deregulation began) and 1998 generally followed the same trend as in previous years. Bus passenger numbers remained more stable at around 460 million passengers per year for around a decade prior to a further, slow decline since to around 409 million passengers in 2015.

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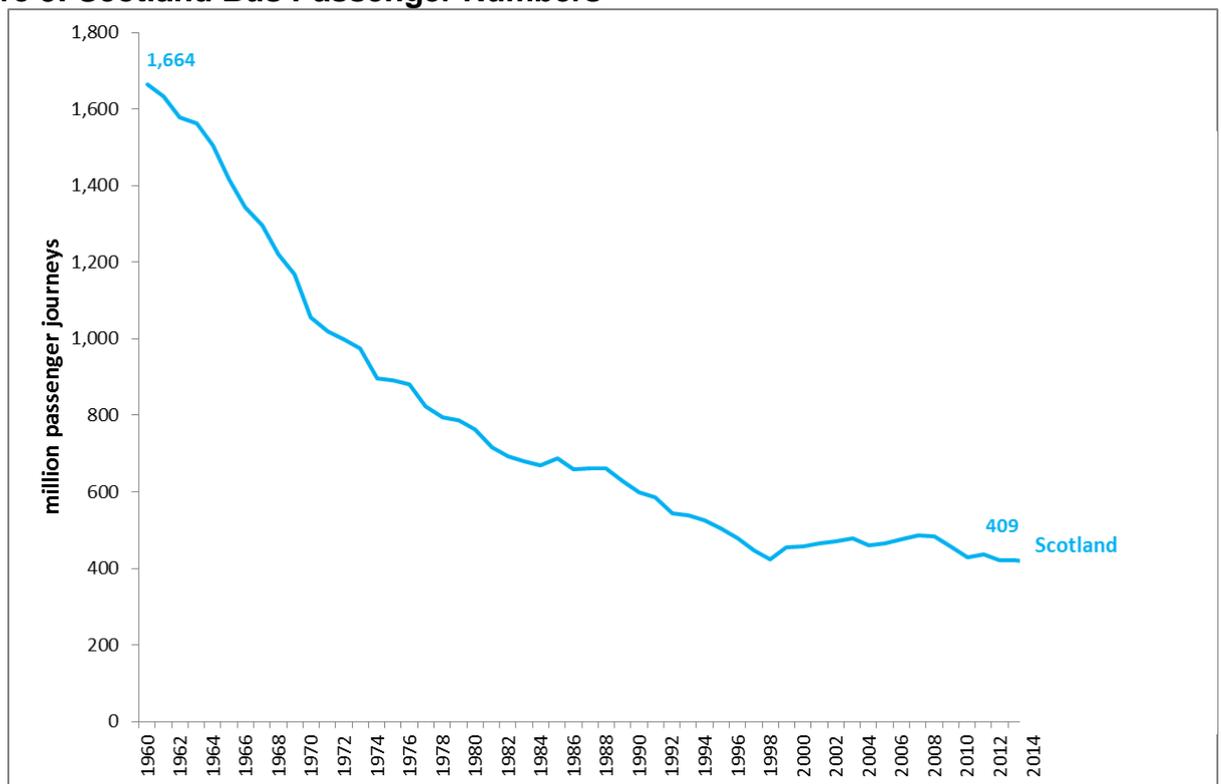
<sup>10</sup> Draft Climate Change Plan - the draft Third Report on Policies and Proposals 2017-2032, p63.

<sup>11</sup> The Journey of the Green Bus, LowCVP 2016

<sup>12</sup> Low CVP 2017 analysis using COPERT Factors at 25km/h average speed, using average passenger loading (DfT)

<sup>13</sup> Draft Climate Change Plan - the draft Third Report on Policies and Proposals 2017-2032

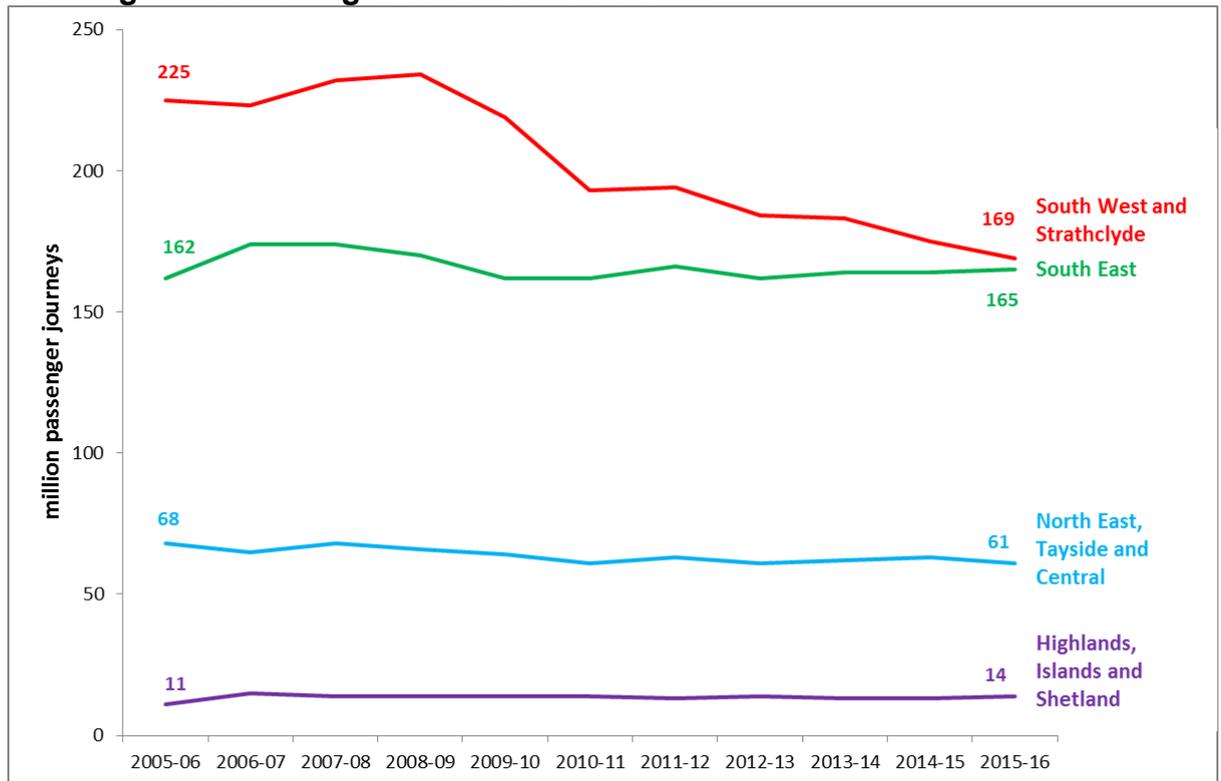
**Figure 3: Scotland Bus Passenger Numbers**



Source: Scottish Transport Statistics 2016

- 2.14. Rates of decline in England (excluding London), Wales and Scotland have been similar. London has seen patronage increasing with a more recent levelling off.
- 2.15. Along with passenger figures in Scotland, vehicle kilometres, bus fleet sizes and staff numbers have been decreasing over the last five years, indicating a general contraction in the industry.
- 2.16. The overall decline in Scotland has been dominated by that in the South West, which in turn is dominated by Strathclyde and Glasgow, as the graph below shows. There has been a small increase in the South East and a decline of over 10% in the North East, Tayside and Central. Patronage in the Highlands, Islands and Shetland has grown by a proportionally large amount (27%), albeit from a relatively low base.

**Figure 4: Regional Patronage Over the Last Decade**



Source: Scottish Transport Statistics (2016)

Transport Authority Supported Services

2.17. 80% of bus services are commercially operated with the remaining 20% supported by transport authorities. This varies significantly across Scotland, particularly with some rural areas being more heavily subsidised owing to lower patronage.

2.18. Over a third (36%) of the transport authorities in Great Britain reduced funding for supported bus services in 2016/17, the Association of Transport Coordinating Officers’ (ATCO) latest report on council passenger transport services shows<sup>14</sup>.

Competition

2.19. The bus market in Scotland has matured since privatisation began in the mid-1980s. Competition now takes a variety of forms. The Competition Commission found in 2011<sup>15</sup> that head to head competition between bus operators was uncommon but that where it did exist (in a sustained form) it delivered significant benefits to customers. There were barriers to entering new geographic markets with established incumbents which made potential competition between operators less effective. Bus does however face

<sup>14</sup>ATCO Local Authority Passenger Transport Survey (2016)

<sup>15</sup> Competition Commission – Local Bus Services Market Investigation (2011)

competition from other modes – notably car and in some areas rail which constrain for example the fares which can be charged.

2.20. The level of competition differs by location with some areas enjoying a market with several significant operators and others where there were one or two dominant operators.

2.21. Bus operators compete directly for transport authority tendered services. Transport authorities in Britain report<sup>16</sup> that competition for local bus service contracts has reduced, with an average of 2.9 bids per contract (2.0 in Scotland). 30.9% of contracts had only one bid (48.7% in Scotland), and 1.8% had no bids (1.6% in Scotland), so almost a third of contracts had no competition. It should be noted that only ten Scottish local authorities responded to the survey. Where there is less competition, there is the risk of tender prices increasing, which in turn puts pressure on transport authority support budgets.

### Bus Fares

2.22. Bus fares are set by the operator. Fares in Scotland have increased by 6% in real terms (adjusting for the effects of inflation) over the past five years. In current prices, i.e. viewing fare increases in the way that a consumer would, fares have risen by almost 19% over the past five years. The increase in current prices is lower than in Great Britain as a whole, which has seen an increase of 25% over the last five years.

### Passenger Satisfaction

2.23. Overall satisfaction with bus services in Scotland was at 90% in 2016 according to the latest Bus Passenger Satisfaction Survey<sup>17</sup> and, though this was a slight reduction from the 92% found in 2014, this compares favourably with other parts of Great Britain. Journey time satisfaction was 86%, punctuality was 79% and value for money was 68%. The analysis in the study across Great Britain attributed worsening scores on journey time satisfaction and punctuality in part to congestion.

### **Bus Operators Costs, Revenue and Profits**

2.24. There are roughly 200 commercial bus operators in Scotland which vary greatly in size from operators with only a few buses to those with several hundred. In addition, a number of bus services are operated by community transport providers in areas where there is no suitable public transport or where it is limited. Services are provided mainly by third sector organisations on a not for profit basis. As described below in Section 5 on transport authority run buses, some transport authorities provide services direct, under island-specific provisions. However, the vast majority of bus services are commercially operated by private businesses and they are our focus in this section.

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<sup>16</sup> ATCO Local Authority Passenger Transport Survey (2016)

<sup>17</sup> Transport Focus – Bus Passenger Survey Autumn 2016 Report

## Costs

2.25. The Confederation of Passenger Transport's (CPT) UK Cost Index<sup>18</sup> shows that wages, staffing and labor accounted for around 59% of operating costs, with fuel the next largest single area of cost, accounting for 16%. Operating costs have risen consistently over time with costs per journey rising by 15% over five years from £1.27 per passenger journey to £1.46<sup>19</sup> (Note that this is an average over a range of journey lengths and masks very significant variations between journeys).

## Revenue<sup>20</sup>

2.26. Bus operators in Scotland received £671 million in revenue in 2015-16. Adjusting for the effects of inflation this was similar to five years ago.

2.27. Almost half (£301 million, 45%) of operator revenue came from Local or Central Government through concessionary travel reimbursement (£189 million), Bus Service Operators Grant (BSOG; £53 million) or payments from local transport authorities for supported services (£59 million). Passenger revenue (i.e. ticket sales to non-concessionary passengers) accounted for around 55 per cent of operators' revenue (£370 million).

2.28. In real terms (adjusting for the effects of inflation), funding from Local and National Government is now 5% lower than five years ago and passenger revenue is similar to 5 years ago. When looking at these figures it is necessary to consider the passenger number figures and the fares data. Passenger revenue over the last five years has not increased due to a 5% decrease in passengers, although fares have increased by 6% above general inflation over the same period.

## Profitability

2.29. Scottish bus companies earned profit margins of 8.6% on average in 2016, a reduction of nearly a percent which is attributed to decreasing revenue against static costs<sup>21</sup>. The 2016 profit figure is higher than the figures for the English shires (7.3%) but lower than that for English metropolitan (10.3%) areas and Wales (9.9%). Note that profits here are Operating Profits, or earnings before interest and taxation. Published company reports from the larger operators suggest a recent downturn in profitability.

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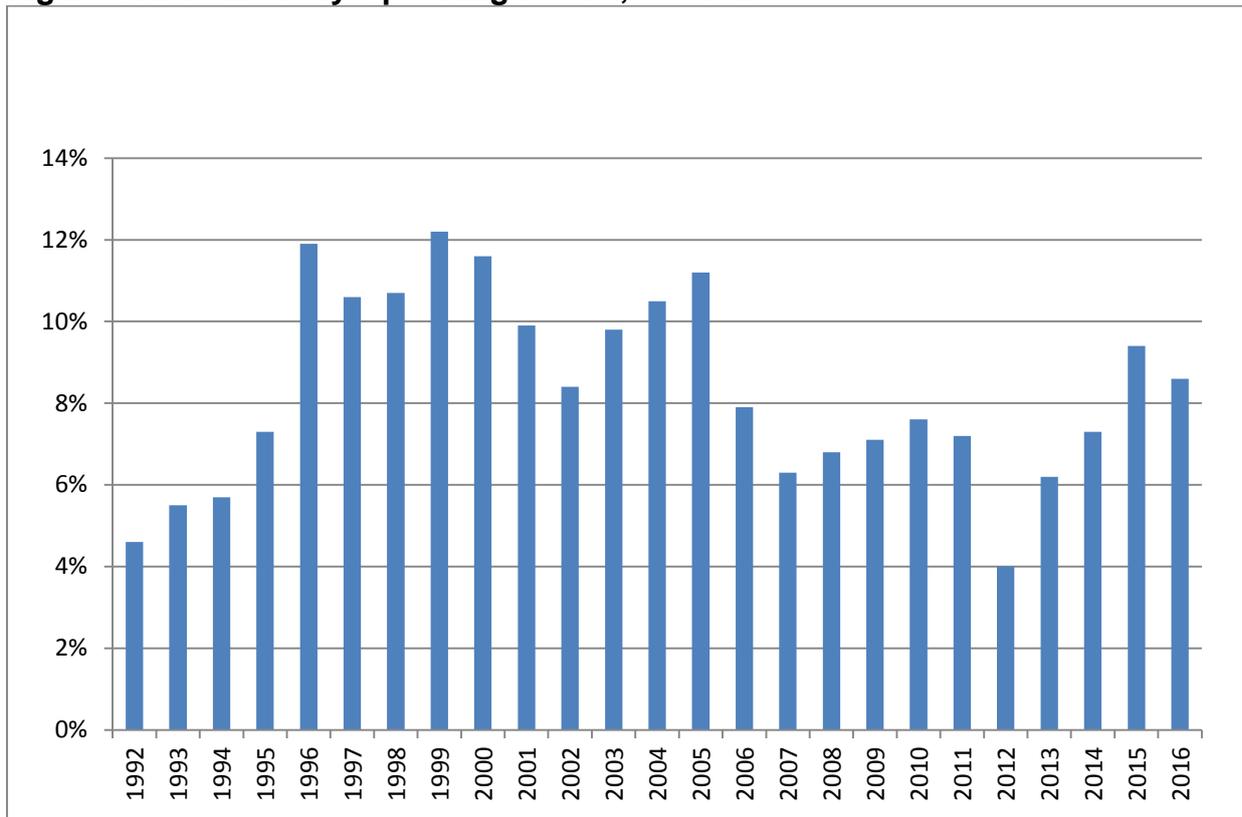
<sup>18</sup> CPT Cost Index (December 2016)

<sup>19</sup> Scottish Transport Statistics (2016), p57

<sup>20</sup> Scottish Transport Statistics (2016), p57

<sup>21</sup> TAS – Bus Industry Performance (2017)

Figure 5: Bus Industry Operating Profits, Scotland



Source: TAS – Bus Industry Performance 2017

### 3. The Current Regulatory and Policy Framework

- 3.1. The regulation of the provision and funding of bus services in Scotland is largely devolved to the Scottish Parliament. The regulatory framework is similar to that in England (outside London) and Wales and is based on a commercial market with some government subsidy for bus services (via BSOG) and funding for concessionary travel (as described above) and with a range of transport authority powers including the ability to subsidise otherwise non-commercial services where necessary.
- 3.2. The legal framework for bus services is primarily contained in the following Acts:
  - Transport Act 1968
  - Public Passenger Vehicles Act 1981
  - Transport Act 1985
  - Transport (Scotland) Act 1989
  - Transport (Scotland) Act 2001
  - Transport (Scotland) Act 2005
- 3.3. There are numerous Statutory Instruments that sit below these pieces of legislation that set out the detail of the various regimes.

#### Regulation and Policy

- 3.4. The Scottish Government's agency, Transport Scotland, sets the national policy framework and provides funding to support bus services (as set out below).
- 3.5. The Traffic Commissioner for the Scottish Traffic Area is the independent licensing and regulatory authority. The Commissioner is a 'cross border public authority' with reserved and devolved responsibilities. Licensing of bus operators (Public Service Vehicles; PSV) and disciplinary action against PSV drivers are reserved to the UK. Registration of services is devolved and subject to the Public Service Vehicles (Registration of Local Services) (Scotland) Regulations 2001. The regulatory regime is designed to ensure that bus service operators are of good repute and that services are introduced, varied or cancelled in an orderly fashion and operated safely and reliably as registered.
- 3.6. Provided that an operator registers a service with the Office of the Traffic Commissioner they can operate any route they wish to any timetable (subject to certain limitations where a quality partnership or contract scheme is in place or where the Traffic Commissioner has imposed a traffic regulation condition at the LTA's request). Bus operators use their commercial judgement to determine service routes and frequencies. This market based approach encourages innovation and entrepreneurship and provides incentives for operators to bear down on costs, provide new services and develop new types of service. The statutory process for registration of bus services was changed in January 2016

to extend the time period for pre-registration engagement with communities. Guidance can be found on the Transport Scotland website<sup>22</sup>.

- 3.7. Transport authorities (local authorities, or so-called ‘model III’ Regional Transport Partnerships for their regions) are responsible for ensuring that bus services in their area meet local needs. Under the Transport Act 1985, they have a duty to subsidise services that they deem to be socially necessary<sup>23</sup> and that would otherwise not be provided commercially.
- 3.8. Transport authorities are also responsible for infrastructure – including bus stations and stops, bus lanes and other priority measures – and ensuring the provision of passenger information. Through the planning system and management of roads and parking, local authorities also have a significant influence on the context in which services have to operate.
- 3.9. The Transport (Scotland) Act 2001 gives local authorities wide ranging powers to work with operators in improving bus services, including statutory Quality Partnerships (sQPs) and Quality Contracts (QCs). These are described in more detail below. The Transport (Scotland) Act 2005 allows for certain powers to be transferred to, or exercised concurrently by, RTPs.

#### Statutory Quality Partnerships

- 3.10. The Transport (Scotland) Act 2001 currently provides transport authorities with powers to influence bus services in their area. sQPs allow local transport authorities to use investment in infrastructure in a specified geographical area to secure improvements in services. They do this by setting standards which bus services using the infrastructure must satisfy.

#### Quality Contracts

- 3.11. The Transport (Scotland) Act 2001 also introduced QCs, which allow transport authorities to introduce local franchising arrangements. They enable transport authorities to specify a wide range of standards such as frequency, fares, vehicle types, customer service and routes in the QC area. Exclusive contracts are then awarded by competitive tender, through a public procurement process, to an operator or operators for a period of between 3 and 7 years.
- 3.12. The current tests which a transport authority would need to satisfy in order to introduce a Scheme are:
  - the Scheme must be necessary to implement the transport authority’s general policies;
  - the implementation of policies needs to be economic, efficient and effective;
  - Scottish Ministers need to give approval for the QC scheme, applying a public interest test.

<sup>22</sup> <https://www.transport.gov.scot/public-transport/buses/bus-policy-and-guidance/#45540>

<sup>23</sup> The expression ‘socially necessary’ is commonly used to paraphrase text in section 63(1) of the Transport Act 1985.

3.13. There has been no instance of a Quality Contract Scheme being introduced or even attempted in Scotland. A number of large authorities in England have considered introducing QC Schemes under the similar E&W legislation, often as a fall back if a suitable QP Scheme or voluntary arrangements could not be secured, but only one – NEXUS – developed a formal proposal. In the event, this was abandoned following an adverse report from the Independent Board provided for in the E&W legislation.

### Competition

3.14. Effective competition helps ensure that passengers get the best possible bus services. As commercial undertakings, bus operators are subject to normal competition law provisions to prevent practices that harm passengers' interests, such as colluding to raise prices or geographic market sharing. The primary competition legislation in the UK is the Competition Act 1998, which contains prohibitions on actions which could prevent, restrict or distort competition.

3.15. Passengers can benefit from effective partnerships and close cooperation between transport authorities and operators, including through the introduction of better integrated networks, multi-operators ticketing schemes and integrated information management. Legislative mechanisms are in place to ensure that competition law does not prevent consumers benefitting from such improvements that can only be secured through partnership working. The general principle is that, where agreements or cooperation might limit competition in order to deliver socially desirable benefits, a fair share of those benefits should go to users and the agreements should be no more restrictive of competition than is necessary to achieve their objectives.

3.16. The Competition and Markets Authority (CMA), a non-Ministerial department of the UK Government, recognises that the perceived threat of enforcement action can be a significant barrier to closer partnership working. The CMA has discretion in which competition cases it pursues so it has published prioritisation principles<sup>24</sup> that determine which cases they will pursue where there could be competition or consumer issues.

3.17. There are some competition specific transport statutory provisions in primary legislation and secondary legislation. The Transport (Scotland) Act 2001 creates a specific competition test that applies in certain circumstances, for example it could potentially apply in a voluntary partnership. It sets out bus improvement objectives, which should be balanced against effects on competition. Transport Scotland has published guidance in relation to that<sup>25</sup>.

3.18. The Competition Act 1998 (Public Transport Ticketing Schemes Block Exemption) Order 2001, which are UK wide Regulations, were introduced to allow operators to form agreements on ticketing schemes that would otherwise be subject to prohibitions. The Order was amended in 2005, 2011 and 2016.

<sup>24</sup> <https://www.gov.uk/government/publications/cma-prioritisation-principles>

<sup>25</sup> <http://www.gov.scot/Publications/2010/07/16112649/0>

The CMA has provided guidance<sup>26</sup> on the block exemption to help operators, local authorities and scheme administrators when assessing new and existing ticketing schemes.

### Transport Authority Procurement of Bus Services

3.19. Transport authorities tendering bus services must comply with relevant European and domestic procurement legislation. The three 2014 European Directives in relation to public procurement have been transposed into national legislation by Regulations:

- Directive 2014/24/EU on public procurement, transposed by the Public Contracts (Scotland) Regulations 2015;
- Directive 2014/25/EU on procurement of entities operating in the water, energy and transport and postal services sectors, transposed by The Utilities Contracts (Scotland) Regulations 2016; and
- Directive 2014/23/EU on the award of concession contracts, transposed by The Concessions Contracts (Scotland) Regulations 2016.

3.20. The Procurement Reform (Scotland) Act 2014 focuses on a small number of general duties on Scottish public authorities regarding their procurement activities and some specific measures aimed at promoting good, transparent and consistent practice in procurement processes. It requires contracts to be advertised on Public Contracts Scotland<sup>27</sup> and provides for regulation of public procurements above specified thresholds<sup>28</sup>.

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<sup>26</sup> <https://www.gov.uk/government/publications/public-transport-ticketing-schemes-block-exemption-guidance-cma53>

<sup>27</sup> The Scottish Government's official national portal for public sector contract opportunities: <https://www.publiccontractsscotland.gov.uk/>

<sup>28</sup> For further information see: <http://www.gov.scot/Topics/Government/Procurement/policy/10613>

## The UK Bus Services Act 2017

The UK Bus Services Act received Royal Assent on 27 April 2017. With very limited exceptions, the Act applies only in England and is designed to fit the specific issues and governance there, including for example combined authorities and elected mayors. However, many of the challenges faced by bus in Scotland are the same as England and the UK Act contains a number of elements which could be potentially useful in Scotland. The Act contains measures as follows:

- Automatic access to franchising powers for Mayoral combined authorities, with other authorities having access on a case-by-case basis.
- New powers to encourage partnership working between local authorities and bus operators.
- Requirements on bus operators to provide LAs with information on services being withdrawn in order to assist the LAs identify and deal with any consequential requirements for supported services.
- Open data powers to provide increased information to bus passengers.
- A restriction on local authorities setting up their own bus companies.
- A section which will require bus operators to provide audio and visual information, such as next stop announcements, on buses in Great Britain (this element is a reserved policy area and therefore will apply to Scotland and Scottish Ministers and stakeholders will be consulted on associated Regulations).

Our approach is to utilise elements that fit with Scottish bus policy, ensuring that they work in a Scottish context. In the sections below on our proposals we refer to the UK Act where appropriate.

## Funding

- 3.21. The Scottish Government provides funding to support bus services via the Bus Service Operators Grant (BSOG). Bus operators can claim BSOG at 14.4 pence per km. Operators of low carbon buses are eligible to claim an additional amount of 10.1 pence per km. There is also an incentive rate for buses that run on biodiesel. The 2017-18 budget for BSOG is £53.5 million.
- 3.22. BSOG aims to benefit passengers, by helping operators to keep their fares down and enabling them to run services that might not otherwise be commercially viable, thus contributing to the maintenance of the overall bus network as well as incentivising the use of green buses.
- 3.23. Local authorities receive funding from the Scottish Government via the block grant and have a duty to consider supporting socially necessary services which are otherwise not commercially viable. Local authorities spent £59 million on these services in 2015-16.

- 3.24. We also fund free bus travel throughout Scotland to those aged sixty and over and to people who have an impairment that severely affects their mobility and ability to carry out day to day activities.
- 3.25. We reimburse bus operators for carrying concessionary travel card holders at an agreed rate negotiated with representatives of the bus industry on the basis that they should be no better or no worse off as a result of their participation. In 2017-18 the reimbursement rate is 56.9% of the cost of the adult single fare for the journey undertaken. The capped budget set for concessionary journeys under the older and disabled persons scheme for 2017-18 is £196.16 million.
- 3.26. We are consulting separately on ways to ensure the longer-term sustainability of the scheme to ensure free bus travel is delivered to those who need it most.
- 3.27. We also provide capital funding to assist with the purchase of low carbon buses via the Scottish Green Bus Fund. The fund has paid out £14.8 million to date over six rounds and £3 million is available in 2017/18.

## 4. The Case For Change

### A Vital Service Facing Significant Challenges

- 4.1. We have demonstrated the importance of buses in terms of getting people where they need to go right across Scotland, serving a wide range of people, including those who do not own a car, and providing sustainable public transport in those areas that rail cannot reach.
- 4.2. Bus patronage is declining in Scotland and, although not universal across the country, this does present a challenge. Bus satisfaction scores are high but have reduced in recent years, particularly in relation to punctuality and reliability. It is clear that passengers expect more from their bus services in terms of better information and ticketing offers. For that reason we are looking at what could be done to improve the situation.
- 4.3. In more rural areas the low population density means it is becoming increasingly difficult for services to remain commercially viable and hence for the network to be maintained. Whilst some transport authorities are looking to non-bus solutions such as demand responsive transport, there is increasing concern over the availability of bus services in rural areas. Some transport authorities report challenges with reducing competition in their market pushing costs up and making services vulnerable. The importance of retaining bus networks across Scotland is clear.

## What Scottish Bus Passengers Want

Bus Users Scotland (BUS) aims to drive up standards in bus travel and put the needs of bus passengers at the heart of transport policy. They have a focus on four key areas:

- Compliance monitoring to check bus services are running where and when they should be;
- Complaints management, to ensure that complaints are handled efficiently and effectively;
- Good practice development: working with bus companies, acting on complaints and sharing best practice; and
- Advocacy: working with government, local authorities, special interest groups, Transport Scotland and bus companies to make sure the views and interests of passengers are properly represented.

BUS have conducted an analysis of the main areas where passengers were looking for improvements from complaints received by BUS and feedback from community 'Your Bus Matters' events and Focus Groups. Passengers look for more reliable services, friendlier drivers and other staff, bus services that continue to run into the evenings and on Sundays, and better specified and maintained buses.

Passengers look for clear and up-to-date information about bus services (including fares), at bus stops and stations, and on in-bus audio-visual next stop journey information. The standard of printed information available at the stops where passengers board their bus can vary widely throughout Scotland. Poor information is often cited as a reason why many non-users are reluctant to try buses.

There are some similar messages from Transport Focus's work across Britain and in Scotland. Both organisations continue to work to ensure that passengers are at

- 4.4. There is no single cause for the decline in passenger numbers. A number of research studies have been done to analyse the decline in passenger numbers across the UK<sup>29</sup> and specifically in Scotland<sup>30</sup>. There is no doubt that the increase in car ownership over an extended period and the recent low cost of car use – and in some cases parking – has had a direct impact on bus patronage. Other reasons include national lifestyle changes such as online and out of town shopping.

<sup>29</sup> TAS study – 'The Bus Demand Jigsaw' (2017) (has to be purchased)

<sup>30</sup> The Factors Behind Scotland's Decline in Bus Patronage - Professor David Begg (2017)

- 4.5. Congestion is the single issue that is raised by the industry more than any other. Reducing bus speeds have been mapped against patronage and a correlation found<sup>31</sup> across the UK, notably in Glasgow. Congestion is also associated with reduced reliability and increasing costs as more vehicles and drivers are needed to offer a given level of service.
- 4.6. Legislation is not the sole answer to all of these issues. However, it can provide the framework for the right organisations to collaborate to improve bus services.

### **A Viable and Flexible Framework of Options for Local Solutions**

- 4.7. Buses are a local service, tailored to meet the specific needs of each community that they serve. It is clear from our engagement with transport authorities and operators that the picture varies significantly across the country in terms of characteristics such as level of competition within bus and across modes, as well as the quality of service and patronage figures. As such, a 'one size fits all' approach is not appropriate. Rather, transport authorities require a usable set of tools to ensure that their bus services meet local needs. The right approach will differ from one transport authority to the next.
- 4.8. The Transport (Scotland) Act 2001 attempted to set such a framework, but the evidence has shown a disappointing level of uptake, with only four sQPs in place with limited success in improving bus services. Similarly, voluntary partnership arrangements vary and we have seen a number of vQPs begin in Scotland with good intentions but peter out with little or no evaluation of outcomes. The Bus Stakeholder Group, a group chaired by the Transport Minister and made up of the key interested stakeholders, has indicated that more flexibility should be worked into the partnership framework.
- 4.9. There have been no attempts to introduce a Quality Contract in Scotland, despite a number of recent calls for local franchising from some local authorities. Our feedback is that the QC system is felt to be too burdensome even to attempt.
- 4.10. A number of local authorities have also publicly stated their desire to run their own buses either directly or via an arm's length company much like Lothian Buses. They report that the existing legislation around this issue is unclear and that inhibits them pursuing this choice.
- 4.11. The general message from our early engagement is that elements of the existing legislation are unclear and/or may be over-burdensome and that they do not include the flexibilities that they ideally would. It is these issues that we are seeking comment on via this consultation.

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<sup>31</sup> Greener Journeys – The Impact of Congestion on Bus Passengers (2016)

## Requiring a Common Standard for Information Across Scotland

- 4.12. It is clear from Bus Users Scotland’s work that information is not consistent and can be poor, leaving existing bus users confused and ensuring that potential passengers do not make the shift to bus. We intend to set clear requirements and a process for bus operators to provide information on routes, timetables, punctuality and fares so that passengers, via apps or other means, get the information they need to plan and make their journey.
- 4.13. As a separate area of consideration, when a bus operator deregisters a service, the transport authority can use information about revenue and patronage of services to enhance the process of tendering for supported services and ensure the incumbent operator does not have an unfair advantage. Some operators are already providing this to authorities on a voluntary basis, but legislation would ensure compliance across Scotland.
- 4.14. In developing all of our proposals, we have drawn upon legislation and practice from across the UK, including the new Bus Services Act 2017. The regulatory and policy framework that we are working from is different from that in England, both in terms of bus services and local government, and though many of the same issues exist, the same approach will not always be appropriate. However, we have sought to learn from these other approaches so that we can apply best practice in a Scottish context.

## Objectives

- 4.15. The over-arching objective of our proposals is to ensure that there are tools that will help to arrest and reverse the decline in bus patronage and to maintain a sustainable bus network across Scotland. To achieve this we will:
- ensure that there is a flexible and effective partnership framework for transport authorities and operators to work together;
  - ensure that franchising is a viable option for transport authorities, while retaining appropriate checks and balances;
  - ensure that, where appropriate, transport authorities can run their own buses either directly, or by setting up an arms’ length company, with the right checks and balances;
  - ensure that operators share information openly so that it is easier for people to take the bus; and
  - ensure that, where services are withdrawn, operators cooperate with transport authorities to assist the latter in determining whether and how to provide alternative services.

## 5. Our Proposals

### Partnership

#### Introduction

- 5.1. Transport authorities and operators have individual areas of responsibility which are complementary. Transport authorities are responsible in the main for local roads, use of road space, parking charges and the provision of infrastructure such as bus stops. Operators identify routes, service frequency and fares and provide the vehicles and staff to operate them.
- 5.2. The Scottish Government has sought to encourage partnership working between local transport authorities and operators to provide stability for investment, increase bus services which better meet local needs and to address shared areas of concern such as air quality and increasing congestion.
- 5.3. Partnership takes many forms, at its most basic level coming from good communication and joint working between organisations with aligned goals to improve bus services. This can be done on a voluntary basis. However there are limitations to that approach so to encourage partnership working statutory Quality Partnerships (sQPs) were introduced as part of the Transport (Scotland) Act 2001 for transport authorities to consider using. In effect, a sQP scheme allows the transport authority to determine appropriate local quality standards via a formal and legal partnership. In turn the transport authority can commit to infrastructure improvements. A sQP has a legal basis which gives it an advantage over voluntary arrangements and should give operators the confidence to invest.
- 5.4. However, the existing sQPs are not as flexible as they could be and they are led by the transport authority rather than as a true partnership where a shared understanding of the current and future needs for bus services is developed with operators. Our proposals attempt to address those issues.
- 5.5. This section explores partnership working, describes the legislative framework and gives evidence from existing partnership arrangements in Scotland. Finally, it outlines the case for change and gives proposals for a new type of statutory partnership which is more flexible and effective.

### Current Status

#### Existing Legislation – Statutory Quality Partnerships

- 5.6. The Transport (Scotland) Act 2001 introduced Quality Partnerships Schemes. These are often referred to as 'statutory Quality Partnerships', or sQPs, to distinguish them from the voluntary arrangements which operators and authorities sometimes enter into. sQPs allow transport authorities to influence the bus services delivered in their area.

- 5.7. A transport authority may make a sQP if it is satisfied that it will implement to any extent its relevant general policies and either improve the quality of local services and facilities so as to materially benefit users or reduce congestion, noise or air pollution.
- 5.8. A sQP is a formal arrangement whereby a transport authority provides specific infrastructure along the routes used by local bus services in a specific geographical area, for example bus lanes, upgraded bus shelters and stops, and makes its use by bus operators conditional on meeting specified service standards.
- 5.9. The sQP ‘Scheme’ must set out the specified facilities provided by the transport authority, the specified standards of local services to be delivered by operators, the date on which it will come into operation and the procedures for determining any dispute. A sQP Scheme must be in operation for a minimum period of three years and a maximum period of seven years. The facilities and services can be phased in.
- 5.10. A transport authority seeking to make a sQP is required to follow a consultation process laid out in the 2001 Act – including with bus operators, user representatives and other transport authorities whose areas might be affected. Following the consultation process, the transport authority decides whether to proceed with the proposed Scheme, as originally intended or in an amended form.
- 5.11. Unless subject to exemptions under the terms of the Scheme, operators who wish to use the facilities covered by the Scheme must undertake to the Traffic Commissioner to meet the specified standards when using the facilities. This is treated in effect as part of the service registration particulars for enforcement purposes.
- 5.12. *Service standards that could form part of an existing sQP:*
- Vehicle standards, particularly regarding air quality and carbon efficiency
  - Marketing and promotion strategies
  - Information provision
  - Reducing delays to bus services
  - Reducing journey times
  - Cleanliness standards
  - Reduction in air pollution
  - Reduction in noise pollution
  - Setting minimum frequencies
  - Staff training

## Evidence of Use of Partnership Working in Scotland

### *Voluntary Quality Partnerships (vQPs)*

- 5.13. Some transport authorities have tried to attain the benefits of the partnership approach without having to agree a legal process or make formal commitments, where agreements are entered into with local operators to deliver specific targets.
- 5.14. The experience of these voluntary agreements demonstrates that they are ambitious in setting targets such as for patronage growth, punctuality and journey times. However, these targets are rarely delivered. This is partly down to a lack of agreed processes on how to deliver the outputs required and regular monitoring of their status during the period of the vQP. There is no clear commitment on either party to deliver, or sanction, in the event that they fail to do so. There is nothing to stop non-partnership operators from benefitting from the transport authority's investment in the vQP and, in effect, getting a 'free ride' without having to make a similar investment to that made by vQP operators.

### *Bus Punctuality Improvement Partnerships*

- 5.15. One specific type of partnership agreement is a Bus Punctuality Improvement Partnership<sup>32</sup> (BPIP). A BPIP is a voluntary agreement between a transport authority and bus operator designed to achieve improvements in, and maintain consistency of, punctuality and bus journey times in their area. It provides a framework for setting improvement targets, identifying issues and actions for addressing them within a monitoring regime. A BPIP can also be used as a part of a sQP.

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<sup>32</sup> BPIP Guidance: <http://www.gov.scot/Publications/2009/03/30120224/0>

### **Dundee and Angus BPIP**

Successful partnership working between local bus operators, Dundee City Council and Angus Council delivered significant enhancements to both Dundee and Angus's transport systems.

Both local authorities, along with the major operators in the area, Stagecoach Strathclyde and National Express Dundee, committed to developing the first BPIP in Scotland.

The Dundee and Angus BPIP commenced on 1 January 2009 and operated for a period of five years. Initially, four services were covered under the agreement although the original aim was to expand the BPIP to cover all corridors and services in Dundee and other cross boundary services into Angus.

Initially a consultant was used to provide secretariat support and to arrange regular meetings. Results were positive in identifying areas for improvement but councils could not afford consultancy or staff time. The meetings lapsed over time as the process was found to be quite bureaucratic in relation to the benefits delivered.

### **sQPs**

- 5.16. Strathclyde Partnership for Transport, in partnership with councils and operators, have made, so far, the only five sQPs in Scotland since 2012. These include schemes in Glasgow (Streamline & Fastlink sQPs), Ayrshire, Inverclyde and Renfrewshire (Paisley sQP now being time expired). The main aim of these partnerships was to improve the quality of bus service and infrastructure provision in an integrated way in line with the Regional Transport Strategy and Local Transport Strategies.
- 5.17. The Glasgow Streamline Quality Bus sQP was made by SPT, GCC and operators. SPT and GCC delivered a range of enhanced facilities and in return operators were expected, amongst other standards, to improve the quality, operation and efficiency of bus services operating on the Streamline routes and comply with the phased vehicle emissions standards set out in the sQP scheme.
- 5.18. The draft Glasgow Streamline sQP monitoring report for years one to five (2012 – 2017) states that: Euro 3 vehicles make up half the fleet, and the proportion of Euro 5s and 6s have increased; there was some improvement in air quality; bus service punctuality dropped from 95% to 90% within this period (factors such as road congestion will have affected this); and, that while bus patronage fell by 12% since the sQP's inception, the situation would have been significantly worse in its absence.
- 5.19. More recently, SPT has commented that the Fastlink sQP, although in its early days, already appears to be delivering an uplift in terms of bus service quality,

provision, and infrastructure, alongside the most stringent emissions standards of any sQP to date.

5.20. Notwithstanding the above however, SPT has commented that the sQPs have not been as effective as they could have been, due to a variety of factors. They would like to see some form of more integrated, genuine partnership-focused model in place, and to have similar options on offer in Scotland that those in England and Wales have through the Bus Services Act 2017.

### **The Need for Change**

5.21. Currently the sQP is made by the transport authority where it identifies a geographic area for the QP and specifies the infrastructure facilities that it has provided in the last five years. The transport authority then holds a consultation on a proposed list of standards that will apply to an operator's bus services which wish to use this facility.

5.22. The process is controlled by the transport authority which develops proposals ahead of any consultation and then reacts to points raised by operators. It is led by the transport authority but is not based on a shared understanding of the current and future local needs for bus services. Following the development of its own proposal it seeks ideas at consultation stage rather than at initial stages.

5.23. There are also problems with predicating the ability to enter into a partnership with the provision of relevant infrastructure (the infrastructure should be 5 years old or less or no more than ten years old if operators who customarily use it when the scheme is proposed give their consent). Transport authorities can find it difficult to budget for capital investment in infrastructure and could find themselves making nugatory investment in order to be able to make a sQP.

5.24. The range of standards in the sQP is not particularly wide compared with other models and, indeed, the Bus Stakeholder Group recommended that there was an increase in flexibility.

### **Our Proposal: 'Service Improvement Partnership'**

5.25. In developing proposals for a new statutory partnership approach we have taken account, where relevant for Scottish interests, of the Bus Services Act 2017 and in particular its 'enhanced Quality Partnership' proposition.

5.26. Our proposals differ from the existing sQPs in three ways. Firstly they would not require the transport authority to invest in infrastructure (investment could be included, but instead the transport authority could implement policies on parking, for example). Secondly, we would extend the range of standards beyond that allowed in the sQP, including being able to agree frequencies on certain routes and/or setting maximum fare levels. Thirdly, and most fundamentally, we propose to encourage the development of a genuine

partnership approach through joint working from the start and then throughout the partnership.

5.27. The new 'Service Improvement Partnership' (SIP) would be based on a joint review of the local bus service network. This would be conducted by the transport authority and those operators whose bus services run through the proposed area. It would focus on the bus network in the local area and require a joint analysis of the network to establish if it is delivering and meeting local needs.

5.28. The initial analysis, or 'Improvement Plan' would:

- Specify the area and period of the Plan
- Set out an analysis of local services provided
- Set out policies relating to local services
- Set out objectives regarding the quality and effectiveness of local services
- Describe how the related Improvement Scheme is intended to assist in implementing those policies and achieving these objectives
- Describe the intended effect of related improvement schemes on neighbouring schemes.

5.29. Following the analysis, the transport authority and operators would work together to identify what needs to change in the network to meet local needs and how these changes might be incorporated into an 'Improvement Scheme'.

5.30. An Improvement Scheme would:

- Specify the area to which the scheme relates
- Impose requirements in relation to local services that have one or more stopping places in that area by specifying them in the scheme.

5.31. An Improvement Scheme may also:

- Require the authority to provide particular facilities in the area to which the scheme relates
- Require the authority to take particular measures in relation to routes in the whole or part of that that are served, or might be served by local services, and
- Include provision about its variation or revocation

5.32. An Improvement Scheme could only be made if the transport authority is satisfied that the scheme will:

- Contribute to the implementation of the policies set out in the Improvement Plan; or
- Bring benefits to persons using local services in the area by improving quality or effectiveness of services; or
- Reduce or limit traffic congestion, noise or air pollution.

- 5.33. Under this proposal the transport authority would have powers to request information from bus operators to assist in developing the plan and scheme and for monitoring and reviewing them once implemented.
- 5.34. The Improvement Scheme could include whatever combination of actions the transport authority considers appropriate having involved bus operators in its development. One Scheme could include only ticketing standards, another branding and vehicle requirements, a third a much wider set of actions.

#### Voting Mechanism and Consultation

- 5.35. Once the Plan and the Scheme are drafted, the bus operators who operate services in the proposed area would be able to express a view. There would be a voting mechanism to determine how many operators with what extent of the network are required for an Improvement Scheme to be able to be made. If there were sufficient support then the transport authority would initiate a consultation exercise.
- 5.36. Consultation would be the responsibility of the transport authority and would ensure that passengers views are at the heart of the partnership. Consultees could include: all affected operators, bus passengers and passenger representatives, the CMA and other transport authorities.
- 5.37. Following consultation, the final version of the Improvement Plan and Improvement Scheme would need to be formally 'made' by the transport authority. Before that happens affected operators would be given a further chance to express a view. Without sufficient support from operators the plan or scheme could not be made.
- 5.38. We feel this would deliver specific actions in partnership linked to a clear analysis and shared understanding of the local bus network. This should lead to improved bus service quality and enable increased local use of the network.
- 5.39. It will be important to ensure that the new partnership system is not overly bureaucratic, noting the limits of transport authority resource. We intend to work with stakeholders on that point going forwards.

#### Bus Registration/Traffic Commissioner

- 5.40. Improvement Schemes could direct changes to bus services by creating, varying or cancelling bus services with the agreement of operator to deliver the policies set out in the Improvement Plan. This would require changes of powers to enable the Traffic Commissioner to be able to put these alterations into effect.

## Transition to Service Improvement Partnership

5.41. It is proposed that current sQPs would continue until they are time expired. At that time the transport authority with partners would decide whether they should move to develop, or have developed ready for implementing, a SIP.

### Partnership Questions

<b>Question</b>
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<b>Q 1. Do you think that legislation (either via the existing sQP model or another) is required to secure the benefits of partnership working? Yes/No? Please explain your answer to this question.</b>
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<b>Question</b>
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<b>Q 2. Do you feel that statutory Quality Partnerships as defined in the Transport (Scotland) Act 2001 provide the right framework for partnership working? Yes/No? Please explain your answer to this question.</b>
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<b>Question</b>
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<b>Q 3. Do you agree with our proposals for Service Improvement Partnerships as outlined in pages 32-35? Yes/No? Please explain your answer to this question.</b>
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<b>Question</b>
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<b>Q 4. If a new form of statutory Partnership is introduced, do you agree that statutory Quality Partnerships as defined in the Transport (Scotland) Act 2001 should be replaced (i.e. they would no longer be available as a tool for LTAs)? Yes/No? Please explain your answer to this question.</b>
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### Local Franchising

#### Introduction

5.42. Franchising is a system where the transport authority awards the exclusive right to run a bus route or routes for a set period to the most competitive bidder. The bus service is defined by the transport authority. Tendering is still a competitive process but is competition *for* the market rather than competition *in* the market.

- 5.43. This section explores the option of franchising, from the existing ‘quality contract’ provisions in legislation in Scotland to proposals for enabling franchising in the forthcoming legislation.
- 5.44. The deregulation of the bus market began with the Transport Act 1985 and, in Scotland, the Transport (Scotland) Act 1989. Publically owned companies were split into geographical areas which were then sold to private operators and companies. The only exception in Scotland was Lothian buses, which remained a council-run bus operation. This model is considered in more detail later in the section on transport authority run bus services.
- 5.45. Bus services in Scotland have operated in a largely commercial market since deregulation, through the intense bus wars of the 1990s to the increasing consolidation of the market since 2000.
- 5.46. Since deregulation there have been arguments regarding the principle of whether, what many consider to be a public service, should be run for profit. There have been calls for ‘reregulation’ of bus service delivery, though at times what this would mean has not been well defined. We do not support wholesale reregulation of the industry in Scotland – i.e. buses owned and run nationally – as bus is a local issue and requires a solution tailored to the local situation.
- 5.47. However, there have also been specific calls for bus franchising at the local level, with the suggestion that the existing legislation does not allow this as a practical option. While the current legislation does allow for local franchising, we understand that many feel this is not effective. The following proposals seek to ensure that local franchising is a viable option for transport authorities that wish to progress it, with the right checks and balances in place.

## **Current Status**

### Existing Legislation – Quality Contracts

- 5.48. The Transport (Scotland) Act 2001 originated from UK legislation, primarily a white paper called ‘From Workhorse to thoroughbred: a better role for bus travel’ and sister documents in Scotland and Wales. These set out key themes for an integrated transport policy.
- 5.49. As part of a set of measures contained in the Transport (Scotland) Act 2001, Quality Contracts (QCs) are available for transport authorities to use. QCs are a form of franchising (exclusive rights to operate bus services through competition by tender).
- 5.50. To implement a franchise transport authorities in Scotland need to demonstrate that QCs would be *necessary* for the purpose of implementing their relevant general policies in the area to which the proposed scheme relates.

- 5.51. The precise definition of ‘necessary’ is not given but a reasonable explanation might be where it is not possible to achieve the bus service outcomes of local transport plans without a Quality Contract.
- 5.52. The requirement for making the scheme is that the proposed scheme is economic, efficient and effective (‘the three Es’).
- 5.53. The scheme also needs the approval of Scottish Ministers who must be satisfied that the scheme would be in the public interest.
- 5.54. The main difference between other options (such as partnership) and QCs, is that QCs make the transport authority the specifier for all aspects of the bus network in a specific geographical area, as defined by the authority. Once the routes and standards have been agreed by the LTA the bus services would go out for public tender, probably in groups of bus service routes, also known as bundling, to enable smaller operators the opportunity to gain business and thus maintain the competitive environment in the area.
- 5.55. Following the implementation of the Transport (Scotland) Act 2001, guidance<sup>33</sup> was produced in 2001 to help transport authorities understand how the powers in the Act might be used to implement franchising. The guidance makes clear that the aims in the Local Transport Strategy should be considered using good appraisal practice and satisfying the procedures in STAG (Scottish Transport Appraisal Guidance).
- 5.56. Schemes should be appraised carefully to demonstrate that a QC framework is necessary to deliver the local scheme, before Ministerial approval is sought.

### **The Need for Change**

- 5.57. No QC has ever been developed in Scotland. The feedback that we have been given by transport authorities is that the process is over complex and resource intensive. For example, SPT<sup>34</sup> have said that the present system has proved unworkable and requires change.

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<sup>33</sup> Guidance on Part 2 (Bus Services) of the Transport (Scotland) Act 2001

<sup>34</sup> [http://www.parliament.scot/S5\\_PublicPetitionsCommittee/Submissions%202017/PE1626C.pdf](http://www.parliament.scot/S5_PublicPetitionsCommittee/Submissions%202017/PE1626C.pdf)

## NEXUS Case

Only one Quality Contract scheme has been attempted in England by NEXUS. It is important to note that the English legislation (Transport Act 2008) differs from the Transport (Scotland) Act 2001. One key difference is that approval comes from an independent panel as opposed to Ministers.

The NEXUS scheme failed to obtain approval from the QCS board led by the Traffic Commissioner in that area of England. The process was costly and took around two years. The report contains the board's opinion on whether the scheme meets the public interest criteria and concludes that:

- NEXUS failed to comply with the statutory requirements on consultation
- the proposed scheme cannot demonstrate that it would increase use of bus services because its affordability is not demonstrated
- service quality would improve
- the proposed scheme would contribute to the implementation of the local transport policies
- the proposed scheme does not provide value for money
- the proposed scheme imposes disproportionate adverse effects on operators

More information can be found at: <https://www.gov.uk/government/news/qcs-board-publishes-report-on-tyne-and-wear-scheme>.

5.58. It is important to note that historically, the test that a transport authority needs to satisfy to be able to consider using the QC legislation has tended to be less stringent in Scotland than in England. In England at one stage it was compulsory for a QP to be attempted before considering a QCS.

## Our Proposal: Local Franchising

### Analysis of bus network

5.59. Our broad aim in Scotland is to enable transport authorities to be able to consider a range of policy options to influence the bus services in their local area to ensure they meet local needs.

5.60. To establish which options should be considered in delivering local bus services, a good first step would be a thorough analysis of the current and future local bus network. This would provide the transport authority with a clear understanding of whether local bus services meet local needs and what actions are required to fulfil any unmet needs.

- 5.61. The resultant analysis would identify a set of actions to deliver their bus policies. It is then for the authority to consider how to implement the actions to deliver bus services.
- 5.62. If the action is to deliver a commercial route then identifying an operator might be sufficient.
- 5.63. If there appears to be extensive market failure then other options might be more appropriate. Local franchising of part or all of the local network could be considered an appropriate option.

### Local Franchising

- 5.64. We will consider whether the current Quality Contract legislation can form the basis for a more flexible, simpler and more customised approach to franchising. The aim is to enable it to be used for smaller scale scenarios such as routes or small networks, whilst ensuring that the right checks and balances are in place.
- 5.65. A possible process is described in the paragraphs below to enable a clearer understanding of how transport authorities might consider and assess local franchising in their area.

#### *Initiating a local franchise*

- 5.66. As discussed earlier the condition required before considering a Quality Contract is that it is 'necessary' for the delivery of the transport authority's relevant general policies.
- 5.67. We think that the ability to consider any of the options for improving bus services in their area should apply to all transport authorities where they think it will to any extent deliver their policies.
- 5.68. On this basis it is proposed to remove the requirement to demonstrate that franchising is 'necessary' to deliver the relevant general policies.

#### *Assessment of options*

- 5.69. Any transport authority will need to be clearly satisfied that there is a strong overall business case for franchising bus services in their local area.
- 5.70. The purpose of the assessment is to ensure that a transport authority has thoroughly thought through the impacts, risks, and practical implications of its proposal to introduce franchising.
- 5.71. Rather than basing any assessment on the three E's: economical, efficient and effective, we propose that transport authorities use an analysis of the options for delivering the transport authorities bus policies, including franchising.

- 5.72. The assessment process would describe the effects of a franchise and compare options to deliver the transport authority's policies for bus services.
- 5.73. The precise process will be set out in guidance but would be based on the principles of an Outline Business Case (OBC). The outcome from the OBC is to identify a preferred option and provide evidence regarding the costs and benefits.
- 5.74. It should contain a detailed assessment of the options together with full economic and financial appraisals including appropriate sensitivity tests. The OBC should include detail on how the preferred option would be procured and how risks to delivery would be managed.
- 5.75. To provide a clearer understanding of the work involved, the following example demonstrates what the business case could contain.

## Example approach

### Outline Business Case

This is composed of five parts:

- Developing the case for change
- Setting objectives
- Options generation and refinement
- Detailed assessment of options: *strategic, economic, financial, commercial, management*
- Selection of preferred option

### Detailed assessment of options

The Outline Business Case should generate options and then analyse them to identify the preferred option which can deliver the desired outcomes and offer value for money.

Here are some examples of assessment considerations that would need to be applied to each option as part of the analysis:

Strategic - To establish the extent to which the proposed franchising scheme would contribute to the implementation of their local transport plan policies.

Economic - Does the proposed scheme represent value for money? Authorities would assess the economic, social and environmental costs and benefits rather than solely focussing on transport impacts.

Financial - Authorities would consider as part of their assessment whether the authority would be able to afford to make and operate the proposed scheme.

Commercial - The extent to which the authority is likely to be able to secure that local services are operated under local service contracts.

How the options could be procured competitively and what the contractual arrangements would look like.

Management - How the authority would make and operate the proposed franchising scheme. Consider how they successfully deliver the preferred options and manage risk effectively.

#### *Preferred option*

The authority should finally identify their preferred option based on the analysis suggested above clearly setting out the rationale for their decision.

Assurance

5.76. We also propose an independent auditor is used to establish that processes were correctly followed, that the information used was accurate and that conclusions were based on evidence.

5.77. Suggested considerations by the auditor could include:

- The information relied on by the authority in producing the economic (value for money) and financial (affordability) cases of their assessment is of sufficient quality;
- The analysis of that information is of sufficient quality; and
- The authority has had due regard to guidance issued by the Scottish Government in preparing their assessment.

5.78. The auditor would need to be a qualified accountant with no conflicts of interest.

Approval

5.79. The existing QC process requires final approval from Scottish Ministers who decide whether a QC can be implemented based on a public interest test.

5.80. We believe that before a transport authority makes a local franchise that an element of approval is retained within the process to consider what the franchise delivers and its impact on the local and wider area.

5.81. This could be carried out by an independent panel, by Scottish Ministers or by another individual such as the Traffic Commissioner.

5.82. We propose at this stage that Scottish Ministers should continue to make a final decision based on a public interest test. The elements of the public interest test would be clearly set out in the legislation and guidance.

**Local Franchising Questions**

<b>Question</b>
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<b>Q 5. Do you think that transport authorities should have the power to franchise bus services (either via Quality Contract or another system)? Yes/No? Please explain your answer to this question.</b>
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<b>Question</b>
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<b>Q 6. Do you think that the existing Quality Contracts require change to make franchising a more viable option? Yes/No? Please explain your answer to this question.</b>
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<b>Question</b>
<b>Q 7. Considering the information on our proposal on pages 38-42,</b>
<b>a) Do you think that there should be any consent mechanism for an authority to begin the process of assessment for franchising? Yes/No? Please explain your answer to this question.</b>
<b>b) Do you think that there should be a requirement for independent audit of the business case for franchising? Yes/No? Please explain your answer to this question.</b>
<b>c) Do you think that there should be an approval process beyond that of the transport authority itself, before franchising can take place? Yes/No? Please explain your answer to this question, including (if yes) what kind of approval process.</b>

## Transport Authority Run Bus Services

### Introduction

- 5.83. A number of transport authorities have indicated a desire to run their own buses, typically where there are few or no commercial operators competing for the relevant service. The message that we get from conversations with authorities is that the existing legislative framework for this is unclear and serves as an impediment to following this route of action in the interests of bus passengers. The Scottish Government has no in principle opposition to transport authorities being able to run their bus services either directly or via an arms' length company, like Lothian Buses, subject to complying with relevant competition law.
- 5.84. This section outlines the existing legislation relating to transport authority run bus services, and explains the need for clarification, before outlining our proposals and questions around those.

### Current Status

- 5.85. The Transport Act 1985 made substantial changes to the model for bus service delivery across the UK by deregulating bus service provision. The Act does not allow local authorities to provide bus services directly. It states that they shall not have the power to provide a service for the carriage of passengers by road which requires a PSV operator's licence (though this does not apply to Islands councils: Section 66, Transport Act 1985). The following authorities currently hold a PSV licence in Scotland: Argyll and Bute, Western Isles and the Shetland Islands.
- 5.86. Section 71 of the Transport Act 1985 does allow a small number of bus vehicles which require a PSV licence to be run by a council on application to the Secretary of State (the number is determined by the Secretary of State and is currently ten).
- 5.87. It has been suggested that Section 66 could prevent local authorities from either directly running bus services and/or setting up a bus company with an independent board. By bus company, we mean companies where the authority would be the major stakeholders but they would not directly instruct the company, rather the company would be managed at arms-length.
- 5.88. However, in Scotland, Lothian Buses operates using this model and there are around eight such operators in England and Wales.

## Lothian Buses

Lothian Buses is widely regarded as one of the most successful transport operators in Scotland. It is the only transport authority owned bus company operating in Scotland with City of Edinburgh Council, and the three neighboring councils as shareholders.

Lothian was previously known as Lothian Region Transport (LRT) and was the only former municipal company in Scotland not to be privatised in the deregulation era. More history of the company can be read here:

<http://www.scotsman.com/heritage/people-places/scottish-fact-of-the-day-lothian-buses-1-3612748>

It is important not to attribute all of Lothian Buses' success to the fact that they are owned by local authorities. Whilst it arguably gives them a longer term investment horizon, there are a number of other reasons why they are successful owing to their management approach and external factors. Edinburgh has relatively favourable conditions for bus with high population density and expensive car parking. In contrast, Glasgow, for example, has a widespread rail network and the underground which compete with the bus offer, and parking is cheap.

Our conclusion is that forming an arm's length bus operation is unlikely to be a 'silver bullet' to falling bus patronage, particularly without associated action to improve the bus offer.

- 5.89. SPT, the Regional Transport Partnership for Strathclyde, as a former public transport executive, retains powers from that role including the ability to hold a PSV operators' licence.
- 5.90. Section 20 of the Local Government in Scotland Act 2003 (the power to advance well-being) gives a local authority the ability to act providing "it is likely to promote or improve the well-being of... its area and persons within that area". However, this legislation has yet to be used by a local authority to set up an arms-length council owned bus company. The feedback we are given is that the interaction between section 20 of the 2003 Act and section 66 of the 1985 Act is not clear and that this potentially forms a barrier to action.
- 5.91. Regional Transport Partnerships (RTPs) have such functions as have been transferred to them by order made by the Scottish Ministers under the Transport (Scotland) Act 2005. RTPs can also enter into arrangements, in relation to transport matters, with the Scottish Ministers or local authorities to do certain things or provide certain services such as are specified in those arrangements.
- 5.92. The functions which can be transferred to RTPs include some relating to bus services but only express statutory functions can be transferred to RTPs and,

as described above, the current legislation does not contain an express power to directly run buses or establish a company to do so. The section 20 power to advance well-being in the 2003 Act does not apply to RTPs and is not a function that can be transferred.

### **The Need for Change**

- 5.93. Patronage on bus services is declining in some areas of Scotland. This means there is increased pressure on the viability of bus services in areas of low population density.
- 5.94. Due to the consolidation of bus operators in Scotland over time, situations arise where only one bid is received for tenders for subsidised services. As there are no competitors there is less constraint on the tender cost, potentially resulting in the transport authority paying out more public money than otherwise. Some authorities have stated that they would like the ability to put in a bid for an in-house service which has the potential to reduce the level of public funding required for a service. In such a case checks would need to be developed to ensure the in-house bid included full costs and no hidden subsidy.
- 5.95. In some more remote areas there are occasions where there are no operators submitting tenders for transport authority subsidised services. However, there is still a need for the provision of public transport. Some authorities have also sought to clarify whether they can set up an arms-length bus company to manage their bus services and to consider the future development of services in the area.
- 5.96. An arms-length bus company manages bus service provision as an independent commercial organisation with its own management board. The main shareholder is the authority but it is not involved in the day-to-day running of the buses.
- 5.97. This could arise, for example, where over time the authority builds up a portfolio of directly run bus services to an extent where it makes economic sense to make the management of the services professional.
- 5.98. There could be considerable costs involved in such a venture but our view is that the option should be available to transport authorities. However, it would be expected that checks are in place regarding affordability, appropriateness and identifiable decision process. A business case (much as that in the previous section on local franchising) should form part of any process before any decision on pursuing establishment of a bus company, as would be the case for any other significant decision by a transport authority.

## Our Proposals – Allowing Transport Authority Run Bus Services

- 5.99. It is clear that the bus market has been consolidating in Scotland over the last 20 years. The situations where transport authority run bus services are an appropriate option are increasing and trends indicate this will continue to increase.
- 5.100. In order to clarify the powers of transport authorities in these situations we propose to legislate to enable them to be able to run bus services directly and/or to be able to set up arms-length companies.

### Competition issues

- 5.101. The Competition Commission's 2011 local bus services market investigation<sup>35</sup> concluded that reducing the number of bidders for bus services can reduce competitive pressure and therefore reduce competitive (downward) pricing pressure. Therefore, allowing local authorities to set up bus companies to operate local bus services may help ensure competitive outcomes, including where franchising is being considered.
- 5.102. However, safeguards are required to ensure that no operator (authority owned or not) has an unfair operating advantage in a deregulated market or in the bidding process for a franchise.
- 5.103. Checks such as a business case would need to be in place before any decision is made by a transport authority to set up an arms-length bus company.
- 5.104. Having a genuine option to run bus services or to set up companies where appropriate, would help transport authorities to develop a bus network which meets the needs of the people in their area, enabling increased accessibility and social inclusion. We propose to remove ambiguity around these options for transport authorities.

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<sup>35</sup>[http://webarchive.nationalarchives.gov.uk/20140402141250/http://www.competition-commission.org.uk/assets/competitioncommission/docs/pdf/inquiry/ref2010/localbus/pdf/00\\_sections\\_1\\_15.pdf](http://webarchive.nationalarchives.gov.uk/20140402141250/http://www.competition-commission.org.uk/assets/competitioncommission/docs/pdf/inquiry/ref2010/localbus/pdf/00_sections_1_15.pdf)

## Transport Authority Run Bus Services Questions

<b>Question</b>
<b>Q 8 (a) Do you think that transport authorities (including ‘model III’ RTPs) should be able to directly run bus services? Yes/No? Please explain your answer to this question.</b>
<b>Q 8 (b) Please describe the circumstances in which this might be appropriate.</b>
<b>Q 8 (c) What, if any, safeguards do you think should be put in place to ensure that no operator has an unfair advantage in a deregulated market? Please explain your answer to this question.</b>

<b>Question</b>
<b>Q 9 (a) Do you think that transport authorities (including ‘model III’ RTPs) should be able to set up arm’s length bus companies to operate local bus services? Yes/No? Please explain your answer to this question.</b>
<b>Q 9 (b) Please describe the circumstances in which this might be appropriate.</b>
<b>Q 9 (c) What if any safeguards do you think should be put in place to ensure that no operator has an unfair advantage in a deregulated market? Please explain your answer to this question.</b>
<b>Q 9 (d) What, if any, checks and balances do you think should be put in place for a transport authority looking to set up an arms’ length company to run buses? Please explain your answer to this question.</b>

## Open Data

### Introduction

- 5.105. Clear, high quality and up-to-date information is essential for the smooth running of bus services. Alongside members of the public (both bus users and non-users) who seek to understand the services available to them, accurate information is important to inform bodies such as transport authorities in supporting their local bus services.
- 5.106. This section outlines the current requirements for data provision in Scotland and the need for change to help take advantage of new technologies before outlining our proposals and questions around those.

### Current status

- 5.107. The 2001 Act requires transport authorities to determine what local bus information should be available to the public and the way in which this should be provided. It also confers on them a duty to make the information available.
- 5.108. In order to obtain information transport authorities are first required to pursue a voluntary approach, however if this proves unsuccessful, the Act empowers them to require operators to supply information and to obtain from operators the costs of publishing and disseminating this information in the local authority area.
- 5.109. While it is a matter for transport authorities to decide what minimum standards of information should be made available to the public the document “Guidance on part 2 (bus services) of the Transport (Scotland) Act 2001”<sup>36</sup> states that the *minimum* level of provision should be:
- “a paper-based timetable at every bus stop used by boarding passengers with some form of fares information, plus timetable and fares information available at community/public facilities such as libraries, information centres, community centres, hospitals/health establishments, education establishments and tourist information centres. On rural routes where stops do not currently exist, information should be made available at post offices, village shops and on community noticeboards.”
- 5.110. The 2008 guidance document “Buses for Scotland - Progress Through Partnership: A Guide for Local Authorities, Regional Transport Partnerships and Bus Operators”<sup>37</sup> expands on this and recommends the following information provision at bus stops: route numbers, bus stop location/stop name, route details, stop specific departure times and an indication of journey times. While most of the guidance relates to printed information at bus stops it also makes some recommendations regarding provision of real-time information.

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<sup>36</sup> <http://www.gov.scot/Resource/Doc/159202/0043316.pdf>

<sup>37</sup> <http://www.gov.scot/Publications/2008/09/26153659/0>

## Traveline Scotland

Traveline Scotland is Scotland's national public transport information service and provides up to date journey planning and timetable information to passengers across Scotland. It provides free impartial travel information, including timetables, journey planning and travel updates, to passengers via telephone, website, smart phone apps, mobile internet and SMS on all modes of public transport in Scotland, including bus services.

Traveline Scotland operates as a partnership with public transport operators, Transport Scotland, and local authorities who together contribute funds, data and expertise towards the running and development of the service. By focusing on the passenger, this partnership approach ensures that Traveline continues to improve the services it offers.

Voluntary arrangements ensure that information on bus services is supplied to Traveline and made available to the public and 3<sup>rd</sup> party developers through the various Traveline services. In this way information is publicly available on bus routes and timetables across Scotland with provision of fares data and live bus tracking increasing.

5.111. In addition to sharing information publicly operators are also required to provide data to the Traffic Commissioner as part of the Bus Service Registration requirements. This data is shared with transport authorities during the registration process. Some operators are already using the Electronic Bus Service Registration (EBSR) system to register services with the Traffic Commissioner however uptake remains limited. The 2016 review of Bus Service Registration Procedures<sup>38</sup> highlighted a number of issues regarding EBSR and made suggestions for improvement. While we acknowledge that improvements are required to the existing system we wish to encourage the use of EBSR for all operators.

### The Need for Change

5.112. Access to clear, accurate information is vital for bus users (both regular and occasional) as well as for tourists and other visitors, and for non-users who argue that a lack of suitable information prevents them from using buses. It is also important for software developers seeking to create alternative services such as 3<sup>rd</sup> party smartphone apps or journey planning systems.

5.113. Historically the focus of information sharing has been physical timetables as opposed to digital platforms, however with the development of new technologies public expectations of the levels of information available to them have increased.

5.114. The quality of information available to passengers in Scotland is continuing to advance, however the current system is not subject to regulation, and there is

<sup>38</sup> <https://www.transport.gov.scot/media/35767/bus-registration-guidance-best-practice.pdf>

a risk that any future changes to the way operators share information could result in a reduction of the current levels of service.

## **Our proposals – Requiring Bus Operators to Share Information**

### Information for the Public

- 5.115. In Scotland we want to ensure that bus service users have access to the same levels of information as passengers on other transport modes (notably rail) making it easier for passengers to find out when their bus will arrive and how much it will cost.
- 5.116. In order to build on existing voluntary arrangements we propose to make provision to require the operators of local services to provide information on routes, timetables, punctuality and fares for public access. By building on existing voluntary arrangements we will seek to ensure consistency of approach across Scotland as well providing opportunities for innovative developments in both use and access to information.
- 5.117. In implementing this proposal we are of the view that that publication requirements should be phased in over several years to allow all operators time to develop appropriate systems.
- 5.118. Elsewhere in the UK it has been suggested that the data provided by operators would be stored on a central data hub or ‘one-stop-shop’ and made available to third parties. We are minded to take a similar approach in Scotland. This would ensure ease of access to information for all parties, subject to appropriate safeguards. It would also help reduce duplication and complexity for those operators with services both north and south of the border, as well as developers who will be working under multiple systems.

### Provision of information on deregistered services

- 5.119. In 2011 the Competition Commissions Local Bus Services Market Investigation<sup>39</sup> recommended that transport authorities should be given powers to obtain, and where appropriate disclose, information about revenue and patronage of services being deregistered. This was to enhance the transport authorities ability to manage tenders for supported services and to prevent incumbent operators having an unfair advantage.
- 5.120. In line with this recommendation we propose to bring forward legislation to ensure that authorities have the power to obtain the information about revenue and patronage of services being deregistered where required. While some operators are already providing this to local authorities on a voluntary basis, legislation on this issue will ensure compliance across Scotland, and address those matters identified by the Competition Commission.

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<sup>39</sup>[http://webarchive.nationalarchives.gov.uk/20140402141250/http://www.competition-commission.org.uk/assets/competitioncommission/docs/pdf/inquiry/ref2010/localbus/pdf/00\\_sections\\_1\\_15.pdf](http://webarchive.nationalarchives.gov.uk/20140402141250/http://www.competition-commission.org.uk/assets/competitioncommission/docs/pdf/inquiry/ref2010/localbus/pdf/00_sections_1_15.pdf)

## Open Data Consultation Questions

### Question

**Q 10. Do you agree with our proposals to require the operators of local services to release open data on routes, timetables, punctuality and fares in a specified format? Yes/No? Please explain your answer to this question.**

### Question

**Q 11 (a) Do you think that data provided by operators should be stored in a central data hub? Yes/No? Please explain your answer to this question.**

**Q 11 (b) if you do not support the use of a central data hub how do you think data should be stored/ made available?**

### Question

**Q 12. Do you support proposals for transport authorities to have the power to obtain, information about revenue and patronage of services being deregistered, and where appropriate disclose this as part of a tendering process? Yes/No? Please explain your answer to this question.**

### Other

### Question

**Q 13. Please provide any other comments or proposals around the regulation of bus services in Scotland that were not covered in the above questions.**

## 6: Assessing Impact

### Equality

6.1. In proposing to improve bus services in Scotland the public sector equality duty requires the Scottish Government to pay due regard to the need to:

- eliminate discrimination, victimisation, harassment or other unlawful conduct that is prohibited under the Equality Act 2010;
- advance equality opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a relevant protected characteristic.

6.2. These three requirements apply across the 'protected characteristics' of:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion and belief; and
- sex and sexual orientation.

6.3. At this early stage in our planning for improving bus services in Scotland it is difficult to determine whether significant effects are likely to arise and the aim of the Scottish Government is to use this consultation process as a means to fully explore the likely equality effects, including the impact on children and young people.

6.4. Once completed the Scottish Government intends to determine, using the consultation process, any actions needed to meet its statutory obligations. Your comments received will be used to complete a full Equality Impact Assessment to determine if any further work in this area is needed.

Question
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<b>Q 14. Are there any likely impacts the proposals contained within this consultation may have on particular groups of people, with reference to the 'protected characteristics' listed above? Yes/no? Please be as specific as possible.</b>
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**Question**

**Q 15. Do you think the proposals contained within this consultation may have any additional implications on the safety of children and young people? Yes/no?**

- **If yes, what would these implications be? Please be as specific as possible.**

**Business and Regulation**

6.5. In our work to improve bus services a Business and Regulatory Impact Assessment will analyse whether the policy is likely to increase or reduce the costs and burdens placed on businesses, the public sector and voluntary and community organisations.

**Question**

**Q 16. Do you think the proposals contained in this consultation are likely to increase or reduce the costs and burdens placed on any sector? Yes/no? Please be as specific as possible.**

**Privacy**

6.6. We need to ascertain whether our proposals for improving bus services in Scotland may have an impact on the privacy of individuals.

**Question**

**Q 17. Are there any likely impacts the proposals contained in this consultation may have upon the privacy of individuals? Yes/no? Please be as specific as possible.**

**Environmental**

6.7. In relation to our plans for delivering a consistent approach to improving bus services in Scotland the Environmental Assessment (Scotland) Act 2005 ensures those public plans that are likely to have a significant impact on the environment are assessed and measures to prevent or reduce adverse effects are sought, where possible, prior to implementation.

**Question**

**Q 18. Are there any likely impacts the proposals contained in this consultation may have upon the environment? Yes/no? Please be as specific as possible.**

## ABBREVIATIONS LIST

**ATCO** – Association of Transport Co-ordinating Officers'

**BPIP** – Bus Punctuality Improvement Partnership

**BSOG** – Bus Service Operators Grant

**BUS** – Bus Users Scotland

**CMA** – Competition and Markets Authority

**E&W** – England and Wales

**GCC** – Glasgow City Council

**LA** – Local Authority

**LRT** – Lothian Regional Transport

**LTA** – Local Transport Authority

**OBC** – Outline Business Case

**PSV** – Public Service Vehicle

**QC** – Quality Contract

**QCS** – Quality Contract Scheme

**QP** – Quality Partnership

**sQP** – statutory Quality Partnership

**vQP** – voluntary Quality Partnership

**RTP** – Regional Transport Authority

**SIP** – Service Improvement Partnership

**SPT** – Strathclyde Partnership for Transport

## ANNEX A – Response Form

### Respondent Information Form

Please Note this form must be returned with your response.

Are you responding as an individual or an organisation?

- Individual  
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:-

- Publish response with name  
 Publish response only (anonymous)  
 Do not publish response

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 Scottish Government to contact you again in relation to this consultation exercise?

- Yes  
 No

## Consultation Questions

The consultation questions are listed below. Respondents are asked to give an answer to the questions put on our policy proposals, this is typically to say whether you agree with them or not, and to explain that answer in a comment. There is a separate section at the end which looks at likely impacts.

### Partnerships

**Question 1** - Do you think that legislation (either via the existing sQP model or another) is required to secure the benefits of partnership working?

Please answer Yes , or No .

Please explain your answer to this question:-

**Question 2** - Do you feel that statutory Quality Partnerships as defined in the Transport (Scotland) Act 2001 provide the right framework for partnership working?

Please answer Yes , or No .

Please explain your answer to this question:-

**Question 3** – Do you agree with our proposals for Service Improvement Partnerships as outlined in pages 32-35?

Please answer Yes , or No .

Please explain your answer to this question:-

**Question 4** – If a new form of statutory Partnership is introduced, do you agree that statutory Quality Partnerships as defined in the Transport (Scotland) Act 2001 should be replaced (i.e. they would no longer be available as a tool for LTAs)?

Please answer Yes , or No .

Please explain your answer to this question:-

## **Local Franchising**

**Question 5** – Do you think that local authorities should have the power to franchise bus services (either via Quality Contract or another system)?

Please answer Yes , No .

Please explain your answer to this question:-

**Question 6** – Do you think that the existing Quality Contracts require change to make franchising a more viable option?

Please answer Yes , or No .

Please explain your answer to this question:-

### **Question 7- Considering the information on our proposal on pages 38-42**

**Question 7(a)** – Do you think that there should be any consent mechanism for an authority to begin the process of assessment for franchising?

Please answer Yes , or No .

Please explain your answer to this question:-

**Question 7(b)** – Do you think that there should be a requirement for independent audit of the business case for franchising?

Please answer Yes , or No .

Please explain your answer to this question:-

**Question 7(c)** – Do you think that there should be an approval process beyond that of the local authority itself, before franchising can take place?

Please answer Yes , or No .

Please explain your answer to this question **including (if yes) what kind of approval process:-**

## Transport Authority Run Bus Services

**Question 8(a)** – Do you think that transport authorities (including ‘model III’ RTPs) should be able to directly run bus services?

Please answer Yes , No .

Please explain your answer to this question:-

**Question 8(b)** – Please describe the circumstances in which this might be appropriate:-

**Question 8(c)** – What, if any, safeguards do you think should be put in place to ensure that no operator has an unfair advantage in a deregulated market?

Please explain your answer to this question:-

**Question 9(a)** – Do you think that transport authorities (including ‘model III’ RTPs) should be able to set up arm’s length bus companies to operate local bus services?

Please answer Yes , No .

Please explain your answer to this question:-

**Question 9(b)** – Please describe the circumstances in which this might be appropriate:-

**Question 9(c)** – What if any safeguards do you think should be put in place to ensure that no operator has an unfair advantage in a deregulated market?

**Question 9(d)** – What, if any, checks and balances do you think should be put in place for a transport authority looking to set up an arms’ length company to run buses? Please explain your answer to this question.

### Open Data

**Question 10** – Do you agree with our proposals to require the operators of local services to release open data on routes, timetables, punctuality and fares in a specified format?

Please answer Yes , No .

Please explain your answer to this question:-

**Question 11 (a)** – Do you think that data provided by operators should be stored in a central data hub?

Please answer Yes , or No .

Please explain your answer to this question:-

**Question 11(b)** – if you do not support the use of a central data hub how do you think data should be stored/ made available? :-

**Question 12** – Do you support proposals for transport authorities to have the power to obtain, information about revenue and patronage of services being deregistered, and where appropriate disclose this as part of a tendering process?

Please answer Yes , or No .

Please explain your answer to this question:-

### Other

**Question 13** – Please provide any other comments or proposals around the regulation of bus services in Scotland that were not covered in the above questions.

## Impacts

### Equality

In creating a consistent approach to improve bus services in Scotland the public sector equality duty requires the Scottish Government to pay due regard to the need to:

- eliminate discrimination, victimisation, harassment or other unlawful conduct that is prohibited under the Equality Act 2010;
- advance equality opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a relevant protected characteristic.

These three requirements apply across the ‘protected characteristics’ of:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion and belief; and
- sex and sexual orientation.

At this early stage in our planning for improving bus services in Scotland it is difficult to determine whether significant effects are likely to arise and the aim of the Scottish Government is to use this consultation process as a means to fully explore the likely equality effects, including the impact on children and young people.

Once completed the Scottish Government intends to determine, using the consultation process, any actions needed to meet its statutory obligations. Your comments received will be used to complete a full Equality Impact Assessment to determine if any further work in this area is needed.

**Question 14** - Are there any likely impacts the proposals contained within this consultation may have on particular groups of people, with reference to the ‘protected characteristics’ listed above?

Please answer Yes , No .

Please be as specific as possible:-

**Question 15** - Do you think the proposals contained within this consultation may have any additional implications on the safety of children and young people?

If yes, what would these implications be?

Please answer Yes , No .

Please be as specific as possible:-

### **Business and Regulation**

In our work to improve bus services a Business and Regulatory Impact Assessment will analyse whether the policy is likely to increase or reduce the costs and burdens placed on businesses, the public sector and voluntary and community organisations.

**Question 16** - Do you think the proposals contained in this consultation are likely to increase or reduce the costs and burdens placed on any sector?

Please answer Yes , No .

Please be as specific as possible:-

### **Privacy**

We need to ascertain whether our proposals for improving bus services in Scotland may have an impact on the privacy of individuals.

**Question 17** - Are there any likely impacts the proposals contained in this consultation may have upon the privacy of individuals?

Please answer Yes , No .

Please be as specific as possible:-

### **Environmental**

The Environmental Assessment (Scotland) Act 2005 ensures those public plans that are likely to have a significant impact on the environment are assessed and measures to prevent or reduce adverse effects are sought, where possible, prior to implementation.

**Question 18** - Are there any likely impacts the proposals contained in this consultation may have upon the environment?

Please answer Yes , No .

Please be as specific as possible:-



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ISBN 978-1-911582-16-8

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Published by Transport Scotland, September 2017

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