

Bus Users submission to the Buses Bill Consultation

March 2017

Part A: Draft regulations

AQPSs (Annexes D and E)

1. Do you agree with the proposal to replicate, for an AQPS, the existing Quality Partnership Scheme regulations? Please explain your reasons.

Yes, the existing Quality Partnerships have resulted in some excellent schemes which provide good services so we are happy that this option remains.

2. Do you agree with the proposal to allow an authority to include, in an AQPS, any facilities that are more than 5 years old if no operator objects? Please state your reasons.

Yes, assuming they are of sufficient quality, as it should give passengers further options.

Franchising: Service permits (Annex F)

3. Do you agree with the procedure that authorities must follow before they can start to accept applications for service permits? Please explain your reasons.

In general, yes. However, the procedure needs to include a recommended timescale for consultation, as this can vary widely. Passengers often feel that current Local Authority consultations are a meaningless tick box exercise when the decisions have already been taken, as opposed to an opportunity to truly consult all relevant people. The procedure should also make it clear how an LA should proceed if the consultation response does not support the suggested service permits.

4. Do you agree with the categories of conditions (listed in paragraph 3.13) that can be attached to service permits? Please explain your reasons.

Yes, the categories seem reasonable

5. Should other conditions be added? If so, what should these be?

We would suggest that there be clarity in terms of the requirements of the Operators moving in and out of the franchised area

We would also wish to see a statement of the requirements of type of vehicle to be used on the route(s): low emissions, accessible, single decker etc

6. Do you agree with the procedure for revoking and suspending service permits? Please explain your reasons.

Yes, the procedure for revoking or suspending a permit should be set out in the conditions and should be clear about what evidence would be needed to prove that an Operator was failing to meet its responsibilities.

7. Do you have any further comments on the service permit regulations?

There should be a statement of how the LA would ensure that a service would continue to be provided should an operator be suspended, in order to give confidence to passengers.

Franchising: Transitional provisions (Annex G)

8. Do you agree that the provisions to enable services to be registered at short notice during the transition period are useful? Please explain your reasons.

Passenger confidence can be undermined if services are interrupted, so it is helpful to have services registered at short notice for the sake of continuity.

9. Do you agree with the processes that authorities must follow before they can extend the variation and cancellation notice periods? Please explain your reasons.

Yes the LA should be able to give a cogent explanation of their processes and, should it decide to vary notice periods, it should state clearly the rationale for taking that decision.

Where an authority decides to vary or revoke a franchising scheme so that it no longer applies in a particular area there will be a period of time before the variation or revocation takes effect. To ensure continuity of service, the draft regulations propose that applications for registration that are made by bus operators during that period should become effective at the point at which the variation or revocation takes effect.

10. Do you agree? Please explain your reasons.

In principle, but it should be made clear if the 56 day notice is still applicable if an Operator has to register with the Traffic Commissioner as a result of the franchising scheme being revoked.

Franchising and enhanced partnerships: Transfer of staff TUPE (Annex H)

In order for employees to transfer to new employers under TUPE, the Bill requires them to be designated as 'principally connected' with services that are subject to a contract or agreement. The draft regulations set out an approach whereby the authority should look to reach consensus locally with operators and representatives of employees about the principles for determining whether a person is 'principally connected'. We recognise that this may not always be possible, and the draft regulations also provide a definition of 'principally connected' that can be used as an alternative.

11. Do you agree with the process set out in the draft regulations for determining whether a person is 'principally connected' with services that are subject to a contract or agreement? Please explain your reasons.

This seems logical.

12. Where agreement cannot be reached locally, do you agree that both the employee's time spent assigned to the affected local services and their time in continuous employment are the appropriate factors for determining whether they are 'principally connected'? Please explain your reasons.

Yes, this seems logical and should include staff regularly brought in to cover.

13. If you agree that these are appropriate factors:

a) What minimum proportion of a person's time should be spent assigned to affected local services for them to be considered as 'principally connected' (40%, 50%, 60%, over 60%, or a different figure)?

We do not believe this is an issue for passengers.

b) What is the minimum time an employee should have spent in continuous employment for them to be considered as 'principally connected' (eg. 3 months, 6 months, 9 months, 1 year, greater than 1 year)?

We do not believe this is an issue for passengers.

14. Do you agree with arrangements to enable authorities to request employee-related information from operators?

Yes as this can only be obtained once a franchising scheme is agreed – but it should still be considered confidential information and protected under FOI

15. Do you agree with the process for allocating transferring staff?

We do not believe this is an issue for passengers.

16. Do you have any further comments on the draft TUPE regulations?

If staff changes during the process leave insufficient numbers to provide a new service, time should be factored in for recruitment, so services are not disrupted

Franchising and enhanced partnerships: Pensions (Annex I)

17. Do you agree with the proposals for protecting an employee's pension rights? Please explain your reasons.

We do not believe this is an issue for passengers.

18. Do you have any further comments on the draft pensions regulations?

We do not believe this is an issue for passengers.

Franchising and enhanced partnerships: Information from operators (Annex J)

19. Do you agree that authorities should be able to request the following types of information in connection with franchising functions:

- Information about fixed and variable costs of operating services? Yes
- Information about the vehicles used to provide services? Yes

20. Should other categories be added? If so, what should these be?

% of journeys running to time

Number of customer complaints received and the category of complaint. Timescale for resolving the complaint and ADR used

21. Do you agree that authorities should be able to request the types of information (listed in paragraph 7.12) in connection with enhanced partnerships?

Yes

22. Should other categories be added? If so, what should these be?

Number of customer complaints received and the category of complaint. Timescale for resolving the complaint and ADR used

23. The draft regulations do not currently allow authorities to request revenue information in connection with an enhanced partnership scheme. Is revenue information necessary to developing enhanced partnership proposals? Please explain your reasons.

We do not believe this is an issue for passengers.

24. If revenue information is necessary for developing enhanced partnership proposals, when should local authorities request this information from bus operators? Please explain your reasons.

Enhanced partnerships: Operator objection mechanism (Annex K)

25. Do you agree that the following factors should be taken into account in the operator objection mechanism:

- Market share by mileage?
- Number of operators?

Yes

26. Should other factors be taken into account? If so, what should these be?

Timetabling to provide maximum advantage to potential passengers - so that in the event of predatory timetabling of services, there would be a role for the LA in separating services provided

27. Do you agree that the operator objection mechanism should have two separate tests, with proposals unable to progress if either are satisfied? Please explain your reasons.

Yes, to avoid vexatious objections.

28. For test one, do you agree that:

- objecting operators should represent a minimum 25% of mileage?

Yes, in principle unless the proposals cause the loss of services to a significant group of passengers which would not be replaced under the scheme.

- the 25% of mileage should be made up of at least 3 operators?

Yes, with the same caveat.

29. If not, what alternative values for test one would you propose? Please explain your reasons.

30. For test two, do you agree that:

- At least 50% of operators would be required to object? Yes
- Those 50% of operators should represent at least 4% of mileage? Yes

31. If not, what alternative values for test two would you propose? Please explain your reasons.

32. Do you think that the mileage measure should be based on:

- operated mileage; or
- registered mileage? Please explain your reasons.

Operated mileage, so that all operators running services are given an opportunity to contribute equitably to the discussion. .

33. Do you agree that the following type of services should be excluded from the operator objection mechanism?

- Operators running services under 'gross cost' contracts. Not necessarily. Again the impact on communities should be factored in.
- Excursion or tour services; Yes
- Services with less than 10% of mileage in the enhanced partnership area. Not necessarily. Again the impact on communities should be factored in.

34. Should any other types of services be excluded? Please explain your reasons.

N/A

35. Do you have any further comments on the proposed operator objection mechanism?

No

Information on varied or cancelled services (Annex L) Information to be provided and applications caught by the requirements

36. Do you agree that local authorities should only be able to request information in relation to varied or cancelled services in order to secure socially necessary services? Please explain your reasons.

LA's should be able to obtain patronage information on any service so that they are able to make an assessment as to whether they can provide a replacement service, subsidised or otherwise, in order to prevent loss of service to passengers.

The draft regulations set out exceptions from the circumstances in which a local authority can request information from operators when a service is cancelled or varied. These are listed in paragraph 9.10.

37. Do you agree with the list of exceptions? Yes

38. Should other exemptions be added? If so, what should these be?

39. Do you agree with the disclosure provisions? Please explain your reasons.

None of the provisions should prevent the authority from consulting with passengers on any changes because it felt some of the information is commercially sensitive.

40. Do you foresee any other circumstances in which authorities should be able to disclose this information? Please explain your reasons.

Pre-notification period and time periods for issuing and responding to requests

41. Do you agree that a pre-notification period should be introduced? Please explain your reasons.

Yes a pre-notification period should be introduced so that both LA and Operators have time to hold the necessary conversations regarding service change. This period should commence after there has been passenger consultation as to the possible changes and the reasons why these changes are being suggested.

42. If you agree that a pre-notification period should be introduced do you think it should be for 14 or 28 days? Please explain your reasons.

Pre-notification should be a minimum of 28 days, so that all parties have sufficient time to make agreements as part of the 56 day notice period. Passengers should be notified of any changes at minimum of 42 days' notice if 28 days were the adopted pre-notification period.

43. Is 7 days a reasonable amount of time for the local authority to decide whether to request the information? Please explain your reasons.

7 working days is an absolute minimum amount of time required to organise a request for information and clarify precisely what is required.

44. Is 7 days a reasonable amount of time for the operator to supply the relevant information to the local authority? Please explain your reasons.

It is possible but depending on the size of the Operator and the amount of information requested it may not be feasible to extract the information in 7 days.

Part B: Draft guidance

General guidance for improving bus services (Annex M)

45. Do you have any comments on the general guidance for improving bus services?

The general guidance does identify some of the key problems in delivering bus services within England, which need to be addressed e.g provision of rural services.

It should be highlighted that whilst Community Transport is an excellent ingredient into a menu of services for a full and robust network of services, it cannot replace a timetabled service. Many community transport services are demand responsive and thus may not be available when you need it, or you forget to book it and therefore can't just travel when you want to. Or it is not available to all passengers as it some services are only available to disabled or those in ill-health. It should also be highlighted that most people have to pay for community transport, thus not making it a financial option for some, who would usually use their free pass.

There is very little comment on talking and listening to passengers about what they believe will improve their bus service.

Franchising: Assessment of a proposed scheme – (“Business case guidance”) (Annex N)

46. Do you have any comments on the business case guidance?

In developing the business case the authority must keep at its forefront what passengers and local people want and if a change could bring into effect those improvements. The business case should set a clear benchmark on current experience which can be measured against to demonstrate improvements as a result of the change.

As part of the quest to gain an insight into customer experience, LA's should also obtain information about customer complaints within the network and the categories that they fall under to inform the benchmark exercise. Complaints data can often reflect something that someone from the transport sector has not appreciated, as they become fixed on the idea of improving air quality or congestion. Passengers should be included in the development of the business cases to ensure whatever model designed will see an improvement to services.

Franchising: Guidance in relation to the role of the auditor (Annex O)

47. Do you have any comments on the role of the auditor?

The auditor should check that any consultation has been carried out in a timely and robust fashion.

Enhanced partnerships: Delivering an enhanced partnership (Annex P)

48. Do you have any comments on the guidance for delivering an enhanced partnership?

Passenger participation and consultation is key to organising an enhanced partnership, to ensure that service improvement is seen. The EP plan should cover not only problems faced by Operators, but also those faced by the LA, key stakeholders and passengers. The EP plan should form a set of measureable benchmarks which can be used to evidence improvements made as a result of establishing the partnership.

Enhanced partnerships: Competition considerations (Annex Q)

49. Do you have any comments on the guidance concerning competition in an enhanced partnership?