
Technical Note: Bus Service Delivery Options

1 Introduction

Fore Consulting Ltd (Fore) was appointed by the Tees Valley Combined Authority (TVCA) to undertake a brief review of the options in light of the Bus Services Act 2017 (the 2017 Act). The 2017 Act strengthened arrangements for partnership working between bus operators and local authorities, introducing new Advanced Quality and Enhanced Partnership schemes, and introduced bus franchising powers.

2 Advanced Quality Partnerships

Under a bus partnership scheme services continue to be operated by commercial bus operators, but new standards are set which some or all of the bus operators in the area are required to meet.

An Advanced Quality Partnership (AQP) is an agreement between a Local Transport Authority (LTA) and bus operators. The LTA commits to take steps to support local bus services and in exchange the bus operators are required to meet specific local standards. These standards usually apply to a specific route or corridor. Any operator who does not meet the required standards is unable to use infrastructure provided by the local authority and specified in the scheme.

An AQP extends the measures local authorities can offer as part of a partnership from purely infrastructure facilities such as bus lanes, to service-based initiatives such as parking restrictions and traffic management policies. It also broadens the requirements that can be placed on operators to include the marketing of services, tickets and fares.

The LTA must give notice of its intention to prepare an AQP, publish and consult on proposals including with affected operators, before implementing the scheme. Some of the standards which can be set, such as service frequency and maximum fares, can only be implemented if there are no outstanding objections from operators who would be affected by the scheme. This gives every affected operator a clear say in the proposals, but - as a result - can be a time consuming process.

3 Enhanced Partnerships

An Enhanced Partnership (EP) is an agreement between a LTA and the majority of their local bus operators to work together to improve local bus services. An EP scheme may not be made unless it would improve the quality or effectiveness of services or reduce or limit traffic congestion, noise or air pollution.

An EP enables partnership working to go further than under an AQP scheme and requires collaboration between the LTA and operators. At the core of the process is the collaborative development of an EP plan and scheme:

- An EP plan may cover all, or parts of, the area of an LTA. It should analyse performance of the local bus market; set bus improvements objectives; the geographical area or areas of application; and explain how long the proposal would last.
- An EP scheme should set out the detailed actions to be taken by the LTA and bus operators. It would set out the route requirements for services in the area, which could include frequency and timetables. It would also set out operational requirements, which could include branding, payment methods, ticketing structure and real-time information. However, the LTA would not be able to set fares.

EPs expand the types of standards that partnership schemes can cover, provide for more joined-up network planning and allow local implementation and enforcement of the scheme's requirements. The Government's intention is that an EP should allow LTAs and operators to deliver some of the outcomes that would otherwise only be possible under a franchising model.

EPs are intended to be easier to apply to a wide geographic area than other forms of partnership working. They allow for operators to object to a proposed scheme at several key stages though, in practice, Government expects them to be developed collaboratively between LTAs and operators.

Local bus operators have to be given an opportunity to participate in the development of an EP and have a formal say on the process at several key stages. At these points the EP cannot proceed unless formal agreement from a defined proportion of operators is obtained. Meanwhile the LTA - as the body responsible for formally making the EP - also has to be content with what is proposed.

No EP plan or scheme can be made unless the requirements as to preparation, notice and consultation are met. These provisions effectively mean that scheme requirements cannot be imposed on bus operators by the LTA, but have to have the support of 'sufficient operators' in the scheme area.

4 Bus Franchising

The 2017 Act also provides Mayoral Combined Authorities with the powers to implement bus franchising in their area - akin to the system operated by Transport for London. Under a franchising scheme, bus services would continue to be operated by private bus operators, however they would do so under the direction of the TVCA. The TVCA would specify all aspects of the bus network including routes, fares and vehicle quality and would put this network out to tender. All bus companies would then be able to bid for the right to run the

specified service, while the TVCA would assume the revenue risk of running local bus services.

The implementation of a bus franchising scheme in a particular area would represent a major overhaul of the way bus services are delivered and would be on a scale not seen since buses were deregulated in 1986. A bus franchising scheme would be a unique project, having many attributes of a major transport scheme, but also requiring the TVCA to intervene and regulate an industry. A franchising scheme would therefore have far reaching commercial and legal implications affecting bus companies and their employees. Once a franchising scheme is implemented it would be very difficult to return to the deregulated system, even at the end of the first franchise period.

It should also be noted that although the franchising arrangements were part of the 2017 Act, this actually amends the Transport Act 2000, which sets out a comprehensive process that any authority or authorities must follow before it can introduce bus franchising in its area. This means that although a Mayoral Combined Authority has access to franchising powers under the 2017 Act, it cannot just invoke them - there is a clear process that needs to be followed to take up franchising powers.

The key steps in developing a bus franchising scheme are as follows:

- **Formal notification to local bus operators that the authority is considering a scheme.** Local bus operators are aware that the TVCA is considering all options for delivery models as set out in the Bus Services Act.
- **Formal request to operators for the information required to develop a franchise scheme.** One of the benefits of the 2017 Act is the legal requirement for bus operators to provide the detailed financial information that is essential to the development of a robust business case by TVCA - this has been a flaw in previous attempts to introduce similar arrangements in the North East. However, it should be noted that taking the step of making the formal request to operators for this information is highly likely to affect the relationship between operators and the TVCA and the local authorities since it will, in the operators' view, signify that the TVCA is embarking on a robust assessment of the merits of franchising.
- **Conduct an assessment of the proposed franchising scheme.** An authority cannot implement franchising until this assessment has been completed and the other legislative requirements complied with, such as the need to consult. Any assessment of a proposed franchising scheme must describe the likely effects of the scheme and compare making the proposed scheme to one or more other courses of action. The assessment should also consider:
 - Whether the proposed scheme would contribute to the implementation of the authority's local transport plan policies;

- The impact on bus services in neighbouring authorities' areas;
- Whether the authority would be able to afford to make and operate the scheme; and
- Whether the proposed scheme would represent value for money.

The factors that the 2017 Act requires authorities to consider reflect broadly the HM Treasury five case business case model, particularly in relation to the latter point above around value for money. Through this process, the authority should clearly set out its conclusions having completed the detailed assessment of options, drawing clear distinctions between the performance of the different options with respect to achieving the objectives of the authority, and their impacts on different groups in society. The authority should then identify its preferred option, clearly setting out the rationale for this decision.

- **Independent audit of the business case.** The business case, once completed, must then be submitted to an independent auditor who assesses the robustness of the business case, but is not expected to pass judgement on whether or not the scheme should proceed. The ultimate decision would rest with the TVCA, and the 2017 Act states that franchising authorities should ensure that the assessment of the proposed scheme contains sufficient detail to enable an informed decision to be taken. It is possible of course that the business case and auditor's report suggest that a bus franchise scheme does not represent the best way forward.
- **Consultation on detailed business case.** Once the authority has developed a business case and has satisfied itself that the scheme is viable, it must consult widely and deeply with everyone impacted by the scheme; this includes local people, bus passengers, bus operators, local businesses and neighbouring authorities. The consultation exercise should cover full details of the proposed scheme (fares, routes etc.), and make public the business case and the auditor's report.
- **Decision to formally make the scheme.** Once the results of the consultation exercise have been assessed, the authority must take the final decision as to whether to:
 - Proceed with the scheme as consulted;
 - Amend the scheme in response to the consultation and then proceed; or
 - Not to proceed with the scheme.

If the authority chooses to proceed with the scheme either in its original form, or as amended by the consultation, it must formally 'make' the scheme. This decision should include a timeline detailing when the scheme comes into force. The decision to 'make' the scheme also triggers the transitory protection elements of the 2017 Act that are

designed to ease the transition from deregulated to franchised operations (e.g. amendments to bus service registration requirements).

- **Procurement of the scheme and transition period.** The procurement of the scheme takes place once the authority has formally ‘made’ the scheme. The procurement process will carry with it a cost which should have been considered as part of the business case for the scheme. In tandem with the procurement, the authority needs to ensure other preparations required by the transition from deregulated to franchised operation are made. This includes aspects such as:
 - Ensuring any infrastructure (e.g. depots) is available for the start of the franchise period;
 - Ensuring arrangements for any cross boundary services are in place (service permit scheme); and
 - Ensuring continuity of service for passengers (in the event of large scale service de-registrations).
- **Franchised network in operation.** Once the successful bidder has been chosen and all aspects of the scheme are in place, then the winner of the franchise(s) begins operating services under the new franchise arrangements.

This process is prescribed by the regulations and it needs to be followed exactly, in case there is the possibility of legal challenge. By way of example, even in its very early stages of examining bus network delivery models, Liverpool City Region has engaged legal advisors to minimise the risk of any future legal challenge.

Given the complexity of the process, it is difficult to put an exact timeframe on how long it would take to proceed through all the steps, but based on the development of business cases for major transport schemes taking around 18 months, the mandatory 12 week consultation period, the minimum six month implementation period set out in the 2017 Act and the need for a procurement process, it is estimated that it would take around two and a half to three years from inception to delivery of a franchised bus operation, assuming there were minimal delays.

5 Franchising in Practice

As part of this review, it was considered useful to set out for the TVCA what a franchising scheme may mean in practice in the Tees Valley.

How franchising would work in practice would to a great extent depend upon the final design of the scheme. There are many different models that would need to be assessed,

for example, gross cost, net cost, prescriptive, outcome based etc., which would affect how a franchise would operate.

Under a franchising scenario the decisions around bus services would be taken in a radically different way. The exact division of responsibilities between the various agencies concerned would depend on the ultimate structure of the franchises, for example, marketing, information and customer services could be made the responsibility of the franchised bus operators (although that would potentially divide responsibility for those elements among numerous franchised operators).

It is likely that the TVCA, acting in close consultation with the local authorities, would assume responsibility for the main strategic decisions such as:

- Annual fares review;
- Setting the annual bus revenue budget;
- Setting strategic objectives for the bus network in line with its wider strategic aims;
- Approving funding for capital projects;
- Consulting with residents to ensure policies meet local needs;
- Approving annual network review.

The TVCA would require a bus network management team who would oversee the implementation of its bus strategy and be responsible for overseeing the operations of the bus network and would be responsible for:

- Procuring bus services;
- Designing the network in accordance with the budget set by the TVCA and its policies;
- Performance monitoring and managing bus contracts;
- Managing the revenue risk of the bus network;
- Customer services;
- Marketing and Information;
- Identifying requirements for capital investment;
- Maintenance of capital assets; and

- Managing the annual bus budget in accordance with TVCA policies.

Bus operators would then be responsible for delivering bus services in line with their contractual obligations. In order to be compliant with legislation, it is unlikely that there would be one single franchised bus operator for Tees Valley. The network would probably be delivered by a number of different providers (as in London) under contract to the TVCA. However, since the TVCA is specifying the service, it would be a fully integrated and unified network.

There is no doubt that franchising offers a number of significant benefits; the degree to which any benefits are realised depends to a great degree on the scheme the authority decides to adopt. The main benefits are:

- **Full control of the network.** Unlike the deregulated system, where buses are operated on a basis of commercial gain, under a franchised scheme the TVCA would be able to tailor and specify the bus network to best meet its overarching policy objectives. This would include:
 - Control over bus fares - the deregulated environment only offers limited scope for the TVCA to set fares, usually through concessionary fare schemes, whereas under a franchising scheme the TVCA would be able to set all fares charged, providing the opportunity to deliver a fully integrated ticketing offer which could also include local rail services;
 - Control over routes and frequencies - the TVCA has full control over when and where buses run;
 - Full control of all bus revenue - this allows for the cross-subsidising of less profitable routes with income generated by more profitable routes, whereas under the deregulated system, this activity is precluded by competition law; and
 - Full control over the quality of the bus fleet - this would be specified in the contract, for example the TVCA could specify low emission vehicles, on-board Wi-Fi, audio announcements etc.
- **Ability to develop an integrated transport policy.** There is the opportunity to embed buses more firmly within the Tees Valley's long term transport plans, for example to pursue a policy of low fares to encourage mode shift and improve air quality in urban centres.
- **Stronger links between service provision and infrastructure.** The benefits/cost ratio of planned highway investments would change, since the financial benefits of investing in bus priority infrastructure would accrue to the TVCA and the local authorities, since

the resultant lower costs of bus operation could be passed onto the TVCA in the form of lower contract costs.

In the Tees Valley, there have historically been two key drivers towards the consideration of a franchising scheme that appear in the general list above - integrated ticketing and the need to retain (and potentially) grow the network into the more rural areas, possibly using the cross-subsidy approach.

The recent advent of the **Integrated and Smart Ticketing programme** being rolled out by Transport for the North (TfN) may well provide a solution to the first of these aspirations. The current two phases will see the roll out of smart ticketing across all rail travel in the North and the provision of integrated customer information, disruption messaging and fare information to make journey planning quicker and easier, by the end of 2019.

The third phase of the programme, by 2022, will deliver an account-based back office travel solution that allows passengers to travel using contactless bank cards for payment and enjoy a fair price promise on multimodal, multi-operator journeys across the North. People will be able to travel with confidence in the price they are being charged and operators will have confidence in accurate reimbursement.

All of the major public transport operators within the Tees Valley (and across the North) are involved in this programme, and so a truly integrated and fairer ticketing system should be implemented in any event before the implementation of any franchising scheme would take place.

On the issue of rural networks, the process requires the authority to assess the value for money of any franchising scheme. So the Economic Case section of the franchising scheme business case will need to compare the predicted future benefits and costs of the 'do minimum' option (the minimum intervention required to deliver core objectives, which excludes any additional features that may also be possible and bring additional benefits) alongside the franchising proposal as a benchmark.

As only Redcar and Cleveland Borough Council (RCBC) currently provides bus subsidies, any funding on top of RCBC's subsidies through the franchising scheme for a rural network is likely to be classed as additional expenditure over the 'do minimum' through the HM Treasury guidance and could affect the value for money assessment of the franchising option. The value for money assessment in rural areas would therefore need to be looked at carefully. HM Treasury and Department for Transport guidance is often biased towards areas where there are large numbers of existing users as opposed to assessing the benefits of growing a market or addressing market failure, which means that making the case for wider services in rural areas is more challenging in practice.

6 Franchising in Other Mayoral Combined Authorities

The status of current franchising arrangements in the other Mayoral Combined Authorities has also been reviewed to provide the TVCA with some comparator information.

Greater Manchester is the only Mayoral Combined Authority that has announced that it is actively considering franchising at present. In September 2017, the GM Combined Authority agreed to prepare an assessment of a proposed franchising scheme under the 2017 Act and has so far committed £11.5 million to this work, with Transport for Greater Manchester (TfGM) preparing an assessment of a proposed franchising scheme for the whole of Greater Manchester.

In Spring 2018, a wide-ranging market engagement was undertaken with bus operators, businesses and public transport users and in July 2018, the GM Combined Authority instructed TfGM to secure the conditional availability and preliminary briefing of an independent auditor, so that it can be ready to prepare a report on the franchising assessment, as required by the legislation, as well as to prepare for the public consultation exercise.

An assessment into the future of the city-region's bus market has now been completed and recommended franchising as its preferred option. The assessment will be considered by the Greater Manchester Combined Authority (GMCA) on 28 June 2019.

The **Liverpool City Region** has an existing Bus Alliance with operators Arriva and Stagecoach which includes a termination notice of three years, although Merseytravel has ruled out serving notice without a replacement operating model being in place.

In April 2018, the LCR Combined Authority agreed to proceed to the next stage of its preliminary review of bus network delivery options, that being an examination of three options - retaining the existing bus alliance, enhanced partnerships and franchising.

As part of this work, the Mayor launched a 'Big Bus Debate' in October 2018 which involved online surveys aimed at finding out what perceptions both bus users and non-users have about the bus system and what changes they would like to see. Current work includes more detailed interviews and focus groups. The outcomes of the research are yet to be published.

In the **Sheffield City Region**, the Mayor has just announced a review of the delivery options for an improved bus network which is expected to report towards the end of 2019..

In the **West Midlands**, again there is an existing enhanced bus partnership arrangement, and the WM Combined Authority set out in 2017 the conditions under which pursuing a bus franchising model would be justified, principally if the commercial bus market is generally unresponsive to local policy and failing to invest. However, the WM Combined Authority was clear that there was no case for pursuing a franchising scheme at that time, and no announcement has been made since to contradict this position.

In June 2017, the **West of England** Combined Authority outlined that it would keep the option of franchising available but noted that it was not actively looking at franchising at that time based on the fact that bus patronage in the area was increasing following a recently signed partnership agreement. The Mayor re-affirmed this position in evidence given to the Transport Committee in November 2018, although there has been a recent petition led by a member of the public to require the WE Combined Authority to consider franchising.

Finally, in November 2017, the **Cambridgeshire and Peterborough** Combined Authority announced an intention to agree funding of £150,000 for a strategic review of commercial, subsidised and community services, which would explore franchising. Part 1 of this work was a strategic review of bus service provision within the area, intended to help explore opportunities for transformational change as well as for improving the service in the short term.

This review reported in January 2019 and concludes that both partnership and franchising models offer the opportunity to deliver the outcomes required. The review has subsequently led to the formation of a cross-organisational bus reform group that will work and negotiate with bus operators to implement the improvements highlighted in the bus review in the short term, whilst overseeing more work on delivery model options.

The review does indicate a minimum implementation period for a franchising scheme of two and a half years, with a minimum cost of £3 million to the C&P Combined Authority, based on a pro-rata calculation of the outlay in Greater Manchester.

Based on this examination of the other Mayoral Combined Authorities, the previous conclusion about the process being lengthy and costly is re-inforced. Those areas with strong existing partnerships (Liverpool City Region, West Midlands and West of England) are not dismissing franchising as an option at this stage, but are focusing on how they can build on their existing arrangements.

7 Costs and Risks

As noted in the Cambridgeshire and Peterborough work, it is difficult to estimate exactly how much a full franchising scheme process would cost, especially given the potential for legal challenge at key points in the process.

However, previous work undertaken by the TVCA concluded that the total estimated cost of implementing a bus franchising scheme could be around £4 million. The two largest parts of this cost are anticipated to be the cost of completing and auditing a full business case (£1.5 million) and the costs of managing the process of procuring the actual scheme (estimates from other Urban Transport Group areas suggest a procurement exercise could cost £1 million).

A franchising scheme would be expensive to implement in comparison to a new partnership agreement. Whilst the 2017 Act makes the implementation of bus franchising a more realistic proposition, the process of delivering a bus franchise scheme carries substantial costs with no guarantee of a successful outcome.

Indeed, the Cambridgeshire and Peterborough review notes that *“It is highly unlikely that a franchising proposal could be sustained against a legal challenge if it hadn’t been adequately tested against an Enhanced Partnership alternative, so there is every incentive to start discussion of an Enhanced Partnership plan and schemes as soon as possible”*. Therefore, pursuing a franchising scheme without also carrying out enhanced partnership discussions carries inherent legal risks under the 2017 Act.

In terms of operational risk once a franchise is implemented, there are four key risks to the TVCA, all of which include some element of financial risk. These are:

- The current system operates with a near zero level of public subsidy. A franchised bus system would need to be underwritten by the TVCA. Any shortfall in fares income would need to be paid for either with taxpayer subsidy, a reduction in services or an increase in fares. Effective management of the revenue risk associated with franchising would potentially mean the TVCA having to take unpopular decisions, or re-allocate funds from other interventions.
- For bus franchising to be effective, there needs to be vigorous competition for service contracts. The current model of delivery favours incumbent operators who already have the necessary infrastructure in place to deliver bus services. In order to ‘level the playing field’, the TVCA would need to invest in infrastructure such as depots (and possibly vehicles) that could be used by any new entrant into the market. This potential investment would need to be considered as part of the detailed business case.
- The transition from a deregulated to a franchised bus operation is without precedent in the UK. The likely response of operators in this scenario has never been tested, but some operators have stated that they would not be co-operative should an area decide to proceed with franchising.
- For local bus operators, franchising would represent a major intervention in the running of their businesses, as franchising could potentially deprive operators of their right to continue to operate in the Tees Valley. This also has implications for bus company employees, some of whom might need to transfer to any new operator(s) under TUPE regulations, so great care would need to be taken with planning for effective staff and Union consultations.

8 Next Steps for the Tees Valley

This Technical Note has provided a summary of the options in light of the 2017 Act.

The previous Tees Valley Bus Quality Partnership Agreement lapsed in 2015 on completion of the Tees Valley Bus Network Improvement major scheme and has not been replaced.

However, during the period of the Quality Contracts review in the North East, the three main bus operators came together as the Tees Valley Bus Operators Association (TVBOA) and suggested an enhanced partnership be developed - this was principally to head off the threat of Quality Contracts and potentially to undermine the case being heard in the North East. This proposal was based on the Liverpool Bus Alliance given that it involved the same two principal operators.

Regular meetings are still held with the TVBOA, and so there is the possibility to revisit the TVBOA in the short term and work with them to develop a new partnership agreement that would provide greater focus on bus issues across the Tees Valley.

To help give the revised bus partnership some momentum, the TCF allocation within the newly agreed Tees Valley Investment Plan could be used in two ways to help develop the next pipeline of bus improvement measures:

- First, to bring forward an upgrade of the existing Urban Traffic Management and Control system, followed by a separate piece of work to scope out how the new system can be used to better manage the Tees Valley's Key Route Network and improve punctuality and reliability on the core bus network. This work would not only involve the bus operators, but also the emergency services and key business representatives who rely on the reliability of the Key Route Network;
- Second, to develop proposals for a small number of core bus corridors on the Key Route Network as a trial of this new approach, to understand how to improve punctuality and reliability that will deliver real benefits for passengers and bus operators, and to provide detailed information around costs and benefits against which to benchmark future programmes.

It would also seem sensible to continue to monitor what is happening in other Combined Authorities.