



## BRIEFING PAPER

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# Bus Services Act 2017

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## Summary

This paper explains the policy background to and contents and purpose of the [Bus Services Act 2017](#). It will be updated as the Act is brought into force and implemented over coming years.

The Bill was introduced in the House of Lords on 19 May 2016, it passed all its Parliamentary stages and received Royal Assent on 27 April 2017.

The Act largely extends to England and Wales but applies only in England. However, one provision also extends to Scotland. The main changes in the Act do not affect London.

The Act has been a long time coming. In the mid-1980s the Conservative Government deregulated the bus industry across Great Britain, except in London. From almost the moment deregulation was introduced in October 1986 there have been calls to reregulate it, particularly from the local authorities and Passenger Transport Executives in the metropolitan areas outside London.

These calls have been based on concerns about the decline in passenger numbers; requirements for local authorities to step in and subsidise 'socially necessary' services which are commercially unviable; uncertainty about services and timetables; and a lack of coordination particularly as regards fares.

The private bus industry has defended its record, arguing that since deregulation there has been massive investment and modernisation and that it has successfully navigated changes in passenger expectations based on accessibility, the environment and technology.

The Labour Government introduced a type of reregulation in 2000 in the form of a Quality Contract Scheme (QCS). However, no area has ever introduced such a scheme, largely due to concerns about the complexity of the process and a lack of protection from legal challenge on the part of incumbent private bus operators. The closest anyone has come to introducing a QCS is the North East, whose plans eventually fell by the wayside late in 2015.

Since 2010 the Conservatives in government, first in Coalition with the Liberal Democrats and since 2015 as a majority government on their own, have been moving slowly towards some sort of reregulation for those parts of the country that want it and which meet certain requirements (i.e. a combined authority with an elected mayor). This significant policy change has largely been driven by the 'devolution agenda' for England.

The Act is essentially an enabling Act, extending the ability of local transport authorities to introduce franchising or a new partnership arrangement called an enhanced partnership. It also makes amendments to Quality Partnerships and renames them Advanced Quality Partnerships in England; aims to make it easier to introduce multi-operator ticketing and improvements to enhance passenger accessibility and information.

The main concerns that were raised about the Act during its passage through Parliament were that the bar to implement franchising may still be too high and that the Competition and Markets Authority may be able to quash, water-down or delay franchising; that the Government does not intend to make franchising immediately available to all areas; and that local authorities would be prevented from forming new municipal bus companies.

A number of amendments were agreed in the House of Lords and overturned by the Commons; these included the removal of automatic franchising powers to all local

authorities in England and the reintroduction of a ban on the formation of new municipal bus companies.

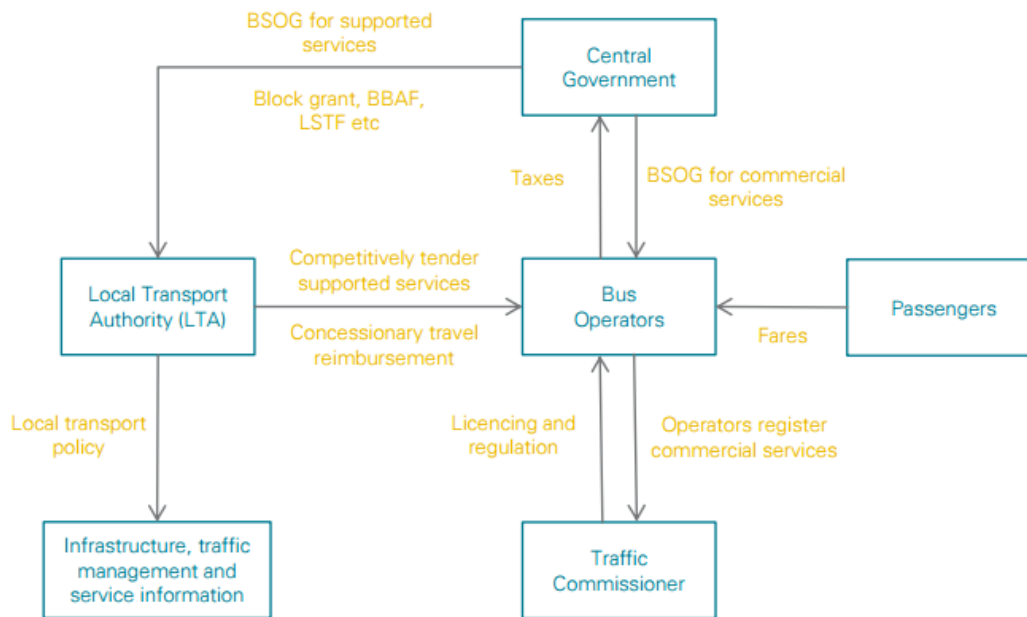
In its report of 25 November 2016 the Transport Select Committee generally welcomed the Act, though it supported many of the changes made by the Lords and later overturned in the Commons. It also criticised the Government for not bringing forwards draft secondary legislation and guidance in time for the Committee to scrutinise it. The Government published draft regulations and guidance on 8 February 2017.

On 4 May 2017 six regions of England held elections for newly created combined authority mayors (Tees Valley; Greater Manchester; Liverpool City Region; West Midlands; Cambridgeshire & Peterborough and the West of England). These mayors will have automatic access to the bus franchising powers contained in the Act from 27 June 2017. It remains to be seen who will take them up, how and when.

Further information on bus policy can be found on the [bus policy page](#) of the Parliament website.

# 1. The English bus market

Local bus services in England are delivered within a complex, deregulated arrangement, involving central government, local government, the Traffic Commissioners and bus operators. In its January 2016 analysis of the market accountants KPMG illustrated the interactions between these entities as follows:<sup>1</sup>



Source: KPMG Analysis

In effect, bus operators have almost total freedom as to whether, how, where and when they run their services, providing they meet certain requirements in terms of relevant notice etc. These are generally called 'commercial services'. Local authorities can fund non-commercial, 'socially necessary' services under a tender agreement. Government in the form of the Department for Transport provides some specific funding – Bus Service Operators' Grant (BSOG), Better Bus Area funding (BBA) – and the general, non-hypothecated grant, including concessionary fares. Operators are licensed and to some extent regulated by the Traffic Commissioners.

With some relatively minor changes, this has been the arrangement since bus services were deregulated by the Conservative Government in the mid-1980s.

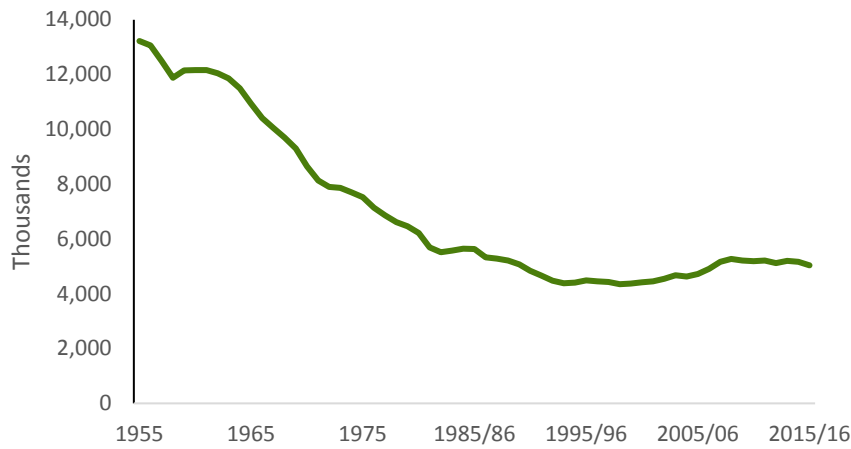
## 1.1 Patronage

Bus travel has been in long term decline since the 1950s: current levels of journeys are less than half of those seen in the immediate post-war years.<sup>2</sup>

<sup>1</sup> KPMG, *Local Bus Market Study*, 26 January 2016, p17, fig. 1

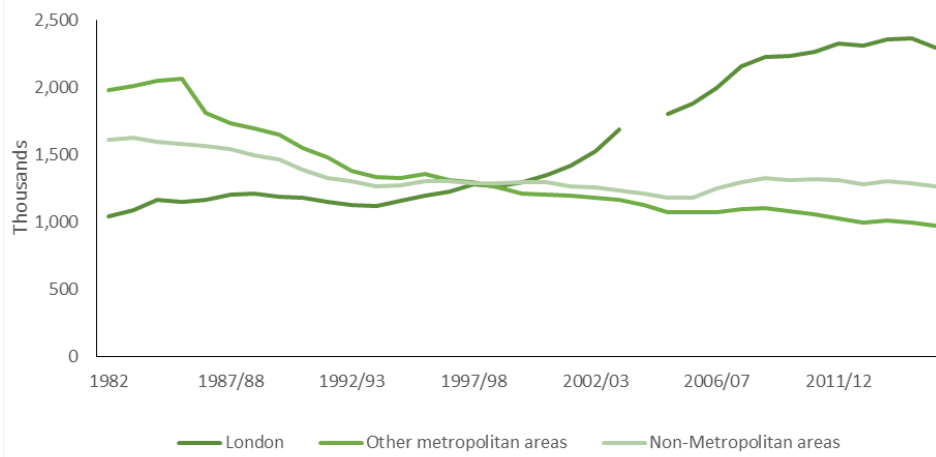
<sup>2</sup> DfT, *Local bus passenger journeys (BUS0101)*, 29 September 2015

Local bus journeys, GB, 1955 - 2015/16



Source: DfT Table BUS 0101

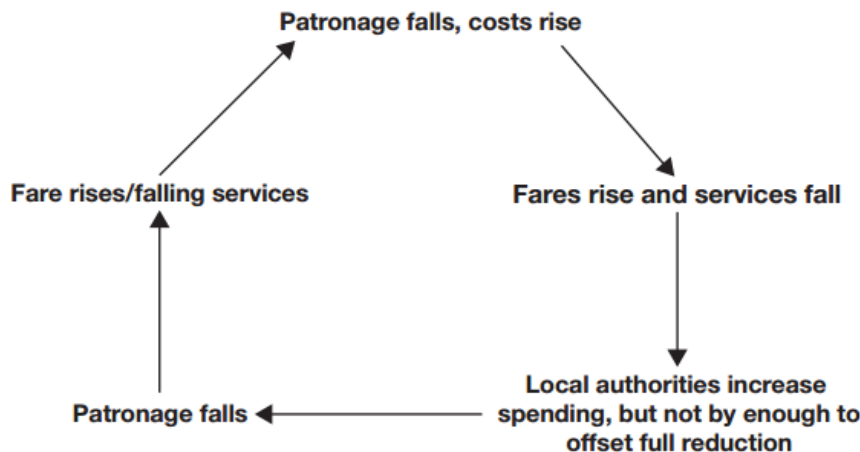
Bus journeys by area type, England, 1982 - 2015



Source: DfT Table BUS 0103

Declining patronage puts pressure on supported services and local authority expenditure, creating a risk of an on-going spiral of declining services and rising subsidies in more and more local communities:<sup>3</sup>

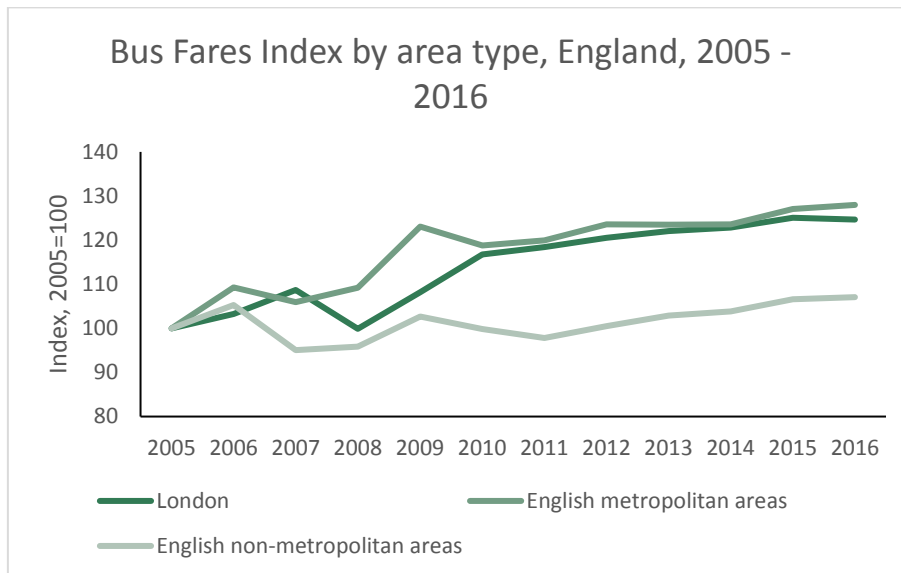
<sup>3</sup> DfT, [Putting passengers first](#), December 2006, p32



## 1.2 Fares

The average bus fare in England rose by 45% in real terms between 1995 and 2016.<sup>4</sup> However, this disguises significant regional variation: fares in London rose by 36% over the same period, compared to a rise of 60% in the other metropolitan areas outside London and 34% across English non-metropolitan areas. Fares in Scotland over the equivalent period rose by 27% and in Wales by 39%.<sup>5</sup>

Between 1997 and 2010 fares across England as a whole (including London) rose by 29%; followed by a 7% increase on 2010 fares by 2016. Fares in Scotland over the equivalent periods rose by 17% and 3% and in Wales by 35% and 3%.<sup>6</sup>



Source: DfT Fares Survey, ONS

<sup>4</sup> 1995 is the earliest year for which comparable figures are available

<sup>5</sup> DfT, [Costs, fares and revenue \(BUS0405B\)](#), 14 June 2016

<sup>6</sup> *ibid.*

Since 2009 the TAS Partnership<sup>7</sup> has published a bi-annual National Fares Survey, which seeks to benchmark bus fares within Great Britain.<sup>8</sup>

For single fares, minimum and median fares have increased but maximum fares have fallen since 2013 after a significant increase between 2011 and 2013. In 2015

- The minimum fare was £1.10 (up from 80p in 2013 and 70p in 2011);
- The median fare was £2.20 (up from £2.00 in 2013 and £1.90 in 2011); and
- The maximum fare was £4.00 (down from £5.00 in 2013 but up from £3.85 in 2011).

For day and weekly tickets the median day ticket has increased by 20p (5%) to £4.20 since 2013, and by over 13% since the start of the survey in 2009. In comparison, the median weekly ticket has increased by 50p (3%) since 2013, and by over 23% since 2009.

TAS argues that the 'day' ticket has "long exceeded its target of replacing return fares". TAS concessionary fares analysis work has suggested 3.5 trips as typical for a day ticket and that pricing is moving towards these sorts of trip rates.

TAS further notes that bus fares (median single fares) taken from their fares survey increased by 10% between 2013 and 2015 – the highest increase compared to other public transport modes (rail and taxi/PHV). Over the same period, fuel costs decreased in real terms by some 5%.

Many operators have historically stated the link between increased bus fares and the rising cost of fuel. TAS has found that whilst fuel remains a higher proportion of operating costs than 5-10 years ago, fuel and insurance costs have decreased as a proportion of operating costs over the past two years. Other operating costs (overheads), depreciation costs (potentially through the cost of new vehicles), and labour costs continue to increase year on year.

### 1.3 Funding

As mentioned above, the main components of bus funding are: Bus Service Operators' Grant (BSOG), Better Bus Area funding and the general, non-hypothecated grant, including concessionary fares. The largest of these by far is the general grant:

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<sup>7</sup> a research and consultancy company; for more information visit the [TAS website](#) [accessed 1 December 2016]

<sup>8</sup> the following is based on information in the 2013 and 2015 surveys; the relevant figures appear here by kind permission of the TAS Partnership



## Net Support paid by Central and Local Government for local bus services and concessionary travel, England, 2014/15 prices

£ million

Year	Net Public Transport Support <sup>3</sup>	Concessionary Travel <sup>4</sup>	Bus Service Operators Grant <sup>5</sup>	Total estimated net support <sup>1</sup>
<b>England</b>				
1996/97	298	603	282	1,183
1997/98	270	588	274	1,132
1998/99	317	601	319	1,237
1999/00	326	597	394	1,318
2000/01	404	585	419	1,408
2001/02	622	590	417	1,629
2002/03	924	563	424	1,911
2003/04	1,119	556	433	2,108
2004/05	1,077	613	439	2,130
2005/06	1,153	590	446	2,189
2006/07	1,154	863	438	2,455
2007/08	1,191	936	455	2,581
2008/09	<sup>7</sup> 1,249	1,046	478	2,772
2009/10	<sup>8</sup> 1,182	1,070	475	2,727
2010/11	1,000	1,077	450	2,527
2011/12	917	1,049	454	2,420
2012/13	861	1,048	358	2,267
2013/14	885	1,054	303	2,242
2014/15	894	1,053	251	2,198

<sup>1</sup> Figures reflect net revenue cost to the public purse.

Gross expenditure is offset by income sources, including local authority income from passenger fare receipts on some tendered or supported services. Capital funding support for local bus services is excluded.

<sup>2</sup> Adjusted for inflation using GDP deflator (as at November 2015).

<sup>3</sup> Public Transport Support is the total of all local authorities' net costs incurred in support of bus services, either directly or by subsidies to operators or individuals. The bulk of these costs will be accounted for by payments to operators providing tendered or supported bus services (including non-local services in some cases). However, the figures also include administration costs and inter-authority transfers, meaning that a small proportion of the sums shown will not reach bus operators. In London it will also include depreciation on capital.

<sup>4</sup> Concessionary Travel is the total of all local authorities' net costs of statutory or discretionary concessionary bus travel.

Discretionary concessionary travel is decided by local authorities, and can include travel for those that not included within the statutory concession, travel within the peak, or travel on other modes. These figures exclude travel on the London Underground, Mersey Ferries and Rail, West Yorkshire PTE Rail and Light Rail Systems, however they do include funding for taxi tokens. Table BUS0811 shows the total including all discretionary elements excluded here.

The figures include administration costs, meaning that a small proportion of the sums shown will not reach bus operators.

<sup>5</sup> Bus Service Operators Grant (BSOG) is a subsidy provided by Central Government to operators of local bus services.

It costs approximately £1.19 billion per annum to provide the statutory free local bus travel concession in England.<sup>9</sup> In 2014/15 there were 9.84 million concessionary travel passes held across England. The average cost of a pass was £120.<sup>10</sup>

## 1.4 Satisfaction

Outside London, Transport Focus undertakes a survey of passengers each year and reports satisfaction levels as a percentage of passengers who were "very satisfied" or "satisfied with various aspects of their journey".<sup>11</sup> Overall satisfaction has remained relatively constant over recent years, while the percentage of fare-paying passengers who

<sup>9</sup> DfT, [Concessionary travel \(BUS0811\)](#), 15 December 2015

<sup>10</sup> *ibid.*, [Concessionary travel \(BUS0811 and 0820\)](#)

<sup>11</sup> Transport Focus; [Bus Passenger Survey 2015](#) and previous years, 1 July 2016

report being satisfied with the value for money of their journey has increased somewhat, but remains below 2/3 of all passengers:<sup>12</sup>

### Bus Passenger Satisfaction rating, GB outside London, 2012 - 2016

	percentage satisfied	
	Overall satisfaction	Value for Money
2012	85	54
2013	87	60
2014	89	63
2015	87	63
2016	83	70

Source: Passenger Focus

Note: Value for Money rating from fare-paying passengers only

Bus passenger satisfaction in London is ranked on a 0-100 scale in an ongoing survey by Transport for London (TfL). Overall Satisfaction has risen each year, from and 83 in 2013/14 to 86 in 2015/16.<sup>13</sup>

In terms of individual aspects of bus usage, customers were most satisfied with 'Personal safety & security' (score of 88), and 'State of repair of bus' (87). The lowest satisfaction score, by some distance, was for "Value for money (73).<sup>14</sup>

## 1.5 Operators

The main bus operators are Stagecoach; FirstGroup; Arriva; National Express; and Go-Ahead. In its 2011 investigation into the local bus market, the Competition Commission<sup>15</sup> calculated that this so-called 'big five' accounted for 70% of the market by number of services registered. Ten 'mid-sized' operators accounted for a further 11% - split roughly evenly between municipal and private companies.<sup>16</sup>

There are 12 municipal bus companies in the UK – two in Scotland, two in Wales and eight in England.<sup>17</sup> All other municipal bus companies have been sold or merged over the past 30 years following the [Transport Act 1985](#).

Total bus company operating revenue (including BSOG, concessionary fare reimbursement and local authority subsidies) has been roughly stable over recent years, at around £5.6 billion. This is down from a high

<sup>12</sup> A rotating sample of bus companies is used, so small year-to-year changes are unlikely to be significant

<sup>13</sup> TfL, [London Buses Performance Summary](#), July 2016

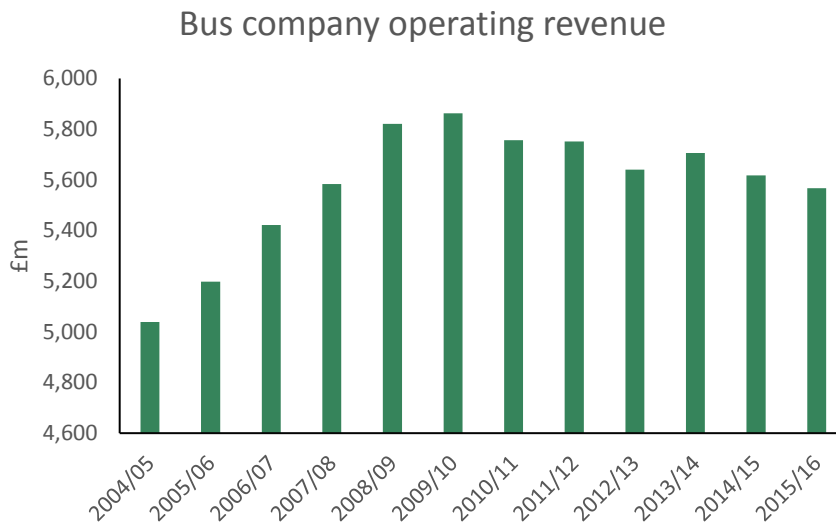
<sup>14</sup> Ibid.

<sup>15</sup> now the [Competition and Markets Authority \(CMA\)](#)

<sup>16</sup> CC, [Local bus services market investigation](#), 20 December 2011, para 3.1

<sup>17</sup> Blackpool Transport Services Ltd.; Cardiff Bus; Lothian Buses Ltd.; DGC Buses; Halton Borough Transport Ltd.; Ipswich Buses Ltd.; Newport Transport Ltd.; Nottingham City Transport Ltd.; Reading Buses; Rosso; Thamesdown Transport Ltd.; and Network Warrington

of £5.9bn in 2008/09, before the reductions in public funding in the wake of the financial crisis and recession.



Source: DfT PSV Survey, TfL, CLG RO forms, DfT BSOG returns, London Councils, HMT GDP deflator  
 Last updated: 15 December 2015  
 Next update: Winter 2016

## 1.6 Local transport authorities

Since deregulation, local authorities' role in the provision of local bus services has been limited to:

- Tendering for supported services;
- Providing discretionary concessionary travel;
- Targeting capital funding (for e.g. integrated transport hubs);
- Planning, infrastructure investment and traffic management (e.g. bus lanes);
- Highway demand management (e.g. congestion charging); and
- Operating municipal bus services (as discussed above, in a small number of cases).<sup>18</sup>

Except where they are involved in partnerships (and then only by agreement with the bus operator), they have little control over the level and structure of fares, integrated ticketing, the stability of the network, branding and marketing, and the overall integration of the bus network into wider transport policy.<sup>19</sup>

## 1.7 Traffic Commissioners

The Traffic Commissioners licence operators, register commercial services and monitor operator service punctuality. They date back to the 1930s;<sup>20</sup> their current powers are set out largely in the [Public Passenger Vehicles Act 1981](#) and the [Transport Act 1985](#), both as amended.

One Traffic Commissioner is the Senior Traffic Commissioner (STC), a statutory appointment. The STC provides statutory guidance to

<sup>18</sup> op cit., [Local Bus Market Study](#), p8

<sup>19</sup> *ibid.*, pp8-9

<sup>20</sup> [Road Traffic Act 1930](#); succeeded by the [Road Traffic Act 1960](#)

colleagues to help secure consistency in licensing decisions and procedures without comprising judicial independence.<sup>21</sup>

The seven Traffic Commissioners are appointed by the Secretary of State for Transport<sup>22</sup> and have responsibility in their traffic area for:

- the licensing of the operators of heavy goods vehicles (HGVs) and of buses and coaches (Public Service Vehicles or PSVs) and consideration of regulatory action against non-compliant officers;
- the registration of local bus services outside London;
- issuing permits under sections 19 and 22 (voluntary and community buses) of the *Transport Act 1985*;
- regulating the conduct of vocational licence holders; and
- monitoring and regulation of operators' compliance with local bus service registrations.<sup>23</sup>

Commissioners are statutorily independent in all their licensing functions. When necessary, they hold regulatory public inquiries, and they consider the possibility of disciplinary action against PSV drivers at driver conduct hearings.

Each bus operator needs to apply for a PSV operator's licence from a Traffic Commissioner in the relevant area and must meet the statutory criteria for eligibility (good repute, financial standing, and competence).

In England and Wales, a bus operator can launch a new local bus service after providing details of the service including the route and timetable and giving 56 days' notice to the Traffic Commissioner, although there is the discretion to accept shorter notice periods. Similar notice must be given for changes or withdrawals of services. In Scotland, an additional 14 days' prior notice must be given to the local authority. Frequent services (i.e. those with a frequency of 10 minutes or less) do not have to register a timetable.

Traffic Commissioners have the power to take action if an operator no longer meets the conditions of its licence or does not operate services in line with the registration that it made. They also set punctuality standards against which the reliability of local bus services is measured.

## 1.8 London

Buses in London were not deregulated in the 1980s, as explained in section 2.2, below. Part IV of the [Greater London Authority Act 1999](#) transferred responsibility for London's bus services from London Transport to Transport for London (TfL). TfL decides which local services are required for the purpose of providing "safe, integrated, efficient and economic" transport services in Greater London and plans the detailed pattern of bus services, known as the London Bus Network. Only TfL, its subsidiary or someone with an agreement with TfL, may provide a service on the network. London Buses, as part of TfL, plans the bus

<sup>21</sup> STC, [Traffic commissioners: local bus services in England \(outside London\) and Wales](#), 14 December 2015; the STC cannot issue guidance on wholly-devolved issues in Scotland and under provisions in the [Wales Bill](#) will not be able to do so for Wales

<sup>22</sup> in Scotland after consultation with Scottish Ministers

<sup>23</sup> op cit., [Local bus services market investigation](#), para 2.59

network and controls fares. At present, London Buses uses a route-based tendering system which groups routes into discrete tranches. This allows neighbouring routes to be tendered together and hence for discounts to be achieved for letting a group of routes to one operator. This also allows review of the service structure of each small network prior to tendering.

The bus network is kept under continuous review with up to 20 per cent of the total 700 route contracts re-let each year. In the five years to 2013, TfL reported that real bus subsidy had been reduced by 40 per cent, with buses in London requiring a third less subsidy per passenger than other metropolitan areas.<sup>24</sup> This system also allows TfL to, for example, specify accessibility and environmental standards.

In terms of funding, TfL's financial plan for London Buses from 2014/15 to 2020/21 shows that when everything is taken into consideration, running the London bus network is not cheap and it is projected to run at an annual operating deficit of between £530 million and £630 million. In contrast London Rail is projected to be in the black by 2019/20; London Underground will have an annual deficit by the same date of about £360 million.<sup>25</sup> However, if revenue foregone as a result of subsidised travel were included, the cost of operating the London bus network (excluding capital expenditure by bus operators) would be covered by income received.

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<sup>24</sup> TfL, [Business Plan 2013](#), December 2013, p73

<sup>25</sup> TfL, [Business Plan 2014](#), December 2014, table 9 (p79) and table 13 (p84)

## 2. How did we get here?

### 2.1 Brief history of the post-war bus market

The regulation of passenger-carrying motor vehicles was introduced by the [Road Traffic Act 1930](#). The Act established a system of road vehicle licensing controlled by regional Traffic Commissioners. This covered quality - regulation of the operators, vehicles and drivers – and quantity - regulation of the number and types of services operated.

It awarded licences to operators to run a service defined by route and timetable with a specified fare scale. Once granted, a licence in effect conferred local monopoly rights on the operator, particularly where local services in urban areas were concerned. Such services were developed on a comprehensive basis and provided a co-ordinated network, parts of which were usually dependent on cross-subsidy. Ownership of the local services was predominantly public.

The structure of the bus industry changed little over the 50 years to 1980, but the market in which it operated had altered dramatically with the increased use of the private car. Bus patronage halved between the 1960s and 1980s.<sup>26</sup>

Concomitant with this, operating costs, fares and levels of subsidy increased. Almost all companies suffered from a shortfall between revenue from fares and their operating costs and local authorities played an increasing role in sustaining public transport through revenue support payments. To retain the network of services and maintain fares at acceptable levels, local authorities were asked to make good the losses by subsidy payments. The level of support provided varied considerably from area to area. Because of the extent of cross-subsidy between routes, it was often difficult to assess the value for money obtained. Bus services in large parts of rural Britain, together with many commuter-based rail and bus networks in the conurbations, continued in existence only because of public subsidy.

By the early 1980s the bus industry was dominated by public sector companies. In the six English metropolitan counties and Greater Glasgow the vast majority of urban bus services were planned, funded and operated by Passenger Transport Authorities (PTAs). A number of other cities and towns had, by historical precedent, municipal bus companies under the control of the relevant district council in England and Wales, or the regional council in Scotland. Most of the remaining urban services and a high proportion of inter-urban and rural routes were operated by subsidiaries of the state owned National Bus Company (NBC) in England and Wales, and by the Scottish Bus Group (SBG) subsidiaries in Scotland.

### 2.2 Deregulation in the 1980s

The Conservative Government that took office in 1979 was strongly in favour of bringing private investment and management into public

<sup>26</sup> DfT, [Transport Statistics Great Britain 2015 \(TSGB\)](#), December 2015, Table TSGB0102

transport. It argued that this would improve the passenger experience by making buses and trains more efficient. It therefore developed policies to reduce subsidies to buses, limit the role of local government in planning and controlling bus systems and increase competition between bus companies. It decided that the way to deal with the decline in bus services, rising costs and increasing subsidies was to deregulate the industry and allow services to be subject to competition. The basic argument was set out in the 1984 buses White Paper:

For 50 years from 1930 to 1980 local bus services were subject to a highly restrictive licensing system. Within this system the belief grew up that the way to provide comprehensive public transport is to protect the existing operators so that their profits from popular routes can cross-subsidise services for which there is less demand. The result of these worthy intentions has been to maintain a pattern of services developed for a different age and to neglect the best parts of the market. There has been too little incentive to develop markets, to woo the customer. Operators have been hampered by a philosophy that is defensive and inward-looking.

[...] There is good evidence that services could be improved and costs reduced if we went about it in a different way. Without the dead hand of restrictive regulation fares could be reduced now on many bus routes and the operator would still make a profit. New and better services would be provided. More people would travel. This is not idle speculation. In 1980 the Government removed regulation from the long-distance coach services. As a result fares have come down, new services have been provided, the number of people travelling has gone up, new vehicles with greater comfort compete for custom. Competition has done all this – and the customer is the beneficiary.

If the customer has the final say, bus operators will look keenly to see where and when people want to travel. If one operator fails to provide a service that is wanted, another will.<sup>27</sup>

Later analysis by the TAS partnership showed that between 1974 and 1986: “bus patronage in the PTE [Passenger Transport Executive] areas declined by 20%, as fleets were reduced by 29% and over 6,800 jobs were cut. Despite huge fares increases, revenue fell by 15% in real terms, but operating costs rose by 4%. Revenue support grew by 65% to reach £267.5m (£725m in today's money)”.<sup>28</sup>

Legislation to deregulate the industry outside London was introduced in the *Transport Acts* of 1980 and 1985. The former dealt with express coach services and the latter with the traditional, ‘local’ bus service. The Secretary of State for Transport at the time, Nicholas Ridley, stated that the aim of deregulation was “to halt the decline that has afflicted the bus industry for more than 20 years”.<sup>29</sup>

Part I of the 1985 Act abolished road service licensing in Great Britain, except in London, from October 1986. It replaced the licensing system with a system of registration and removed the duties of local authorities

<sup>27</sup> DoT, *Buses*, Cmnd 9300, July 1984, paras 1.4-1.6

<sup>28</sup> TAS Partnership press notice, “[TAS analyses pre-deregulation PTE performance](#)”, 8 July 2016

<sup>29</sup> [HC Deb 12 February 1985, c192](#); information on the changes to coach services under the 1980 Act can be found in section 2.1 of HC Library briefing paper [SN1534](#)

to co-ordinate public passenger transport in their areas. Thus, a bus company could register any service that it chose to operate on a commercial, i.e. unsupported, basis.

The licensing authorities (the Traffic Commissioners) lost many of their former powers. Once the Act was implemented, any licensed bus operator merely needed to register its intention to set up a service with the Commissioner responsible for the area, giving at least 56 days' notice.<sup>30</sup> The operator was then obliged to run the service according to the specification in the registration.<sup>31</sup> Individual bus operators were responsible for the timetable and the introduction of new services depended on the operator's opinion of the demand for it and its commercial viability. There was no requirement in the 1985 Act or its consequent regulations for the commercial bus operator to consult before making changes to the timetable and the position of bus stops. The criteria for registration did not include any reference to public demand or to existing services and objections could no longer be made by other operators or local authorities.

Local authorities were given powers to secure, using subsidy, socially necessary services which were not provided by the commercial market and to specify fare levels, type of bus and so on for these services, on the condition that they went out to open tender.<sup>32</sup>

## London

Buses in London were not deregulated in the 1980s with those in the rest of Great Britain. The reasons for this are complex and highly political.

In the 1980s there was a fundamental disagreement between the then Labour-run Greater London Council (GLC) and the Conservative Government. The GLC was created in 1963 and took control of London transport in 1970 when a London Transport Executive (LTE) was set up. The GLC was responsible for the general policy of the LTE and part-funded it via grant (the rest coming from fares). The Conservative Government in the early 1980s had concerns about two aspects of transport in London: the GLC's 'fare's fair' policy (which was in direct conflict with the Government's policies to contain the size of the public sector and local authority spending) and the general decrepit nature of the public transport and roads systems in London.<sup>33</sup> The GLC was ultimately abolished in 1986.

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<sup>30</sup> originally 42

<sup>31</sup> *Public Service Vehicles (Registration of Local Services) Regulations 1986* (SI 1986/1671), as amended

<sup>32</sup> this latter requirement is contained in [section 89 of the 1985 Act](#); this effectively prohibits local authorities from awarding contracts directly to an operator (municipally-owned or otherwise) – a competitive tendering process must always be undertaken

<sup>33</sup> this paper does not go into detail about 'fare's fair', but the legal case and controversy about the scheme ultimately came down to how it was funded; for further information see the Commons debate that followed the legal judgement: [HC Deb 22 December 1981, cc889-929](#); and Philip S Bagwell, *The Transport Revolution 1770-1985* (1988), pp408-409



In July 1983 the Government published a command paper on reform of public transport in London. This painted an excoriating picture of transport provision in the capital; highlighting poor organisation and services, see-sawing fares and a general 'shabbiness' that needed to be rectified. It announced the Government's intention to transfer control of the LTE from the GLC to the Secretary of State for Transport, where it would be reconstituted on the pattern of a small holding company, with its bus and Tube operations established as separate subsidiaries. The holding body would be renamed London Regional Transport (LRT).<sup>34</sup>

The paper also outlined the Government's plans to reform buses in London. What it meant in effect was that LRT would plan and regulate bus services but that private operators could, if they wished, run additional services to provide on-road competition.<sup>35</sup>

The [\*London Regional Transport Act 1984\*](#) achieved these changes by transferring responsibility for the bus network from the GLC to LRT and requiring London Transport to set up subsidiary operating companies to run bus and Underground services. This was followed by the buses White Paper in July 1984 which announced that the Government did *not* intend to completely deregulate the London bus market 'for the time being':

The need to take a grip on subsidy has led the Government to take over responsibility for the London Transport Executive from the GLC and reconstitute it as London Regional Transport, with new powers and duties. The London Regional Transport Act 1984 requires changes in the way London's buses and tubes are run, requires LRT to contract out work whenever suitable and provides for greater involvement by the private sector in the provision of services both as contractors to LRT and in competition with them. In particular, LRT is required by the Act to invite tenders from private firms to carry on certain of their activities and to accept satisfactory tenders where this would save costs.

In addition, for the first time bus operators will be able to apply to the traffic commissioners for a road service licence to run local bus services in London rather than having to depend, as formerly, on obtaining an agreement from London Transport. These are major changes which will bring a measure of competition into the provision of London bus services. The Government has decided, in these special circumstances, to defer deregulation in London while the changes, so recently instituted, bear fruit.<sup>36</sup>

In 1985 the Government formed the wholly-owned subsidiary London Buses Ltd.

It was not until late 1993 that the Government announced it would defer the previously intended deregulation of buses in London, although privatisation of the bus operating subsidiaries of London Transport would proceed.<sup>37</sup> This was achieved in 1994.

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<sup>34</sup> DoT, *Public Transport in London*, Cmnd 9004, July 1983, para 16

<sup>35</sup> *ibid.*, para 24

<sup>36</sup> *op cit.*, *Buses*, para 4.18

<sup>37</sup> DoT press notice, "Delivering the best bus services for London", 8 November 1993 [PN 93/437]

Bearing all the above in mind then, since 1985 the system in London has been and remains one of competitive tendering of bus operations, in effect 'regulated competition' – competition *for* the market rather than 'on the road' competition of deregulated operations.

## 2.3 Labour Government: Quality Partnerships and Contracts

During its 13 years in office between 1997 and 2010 Labour never seriously considered reregulating bus services across England as a whole. Instead it proffered some statutory schemes whereby local authorities who chose to, could exert more influence on, or control over, bus services in their local areas. Few local areas have considered using this legislation since it was introduced in 2001, for a number of reasons discussed below.

Labour's transport White Paper, published in July 1998, estimated that car traffic would grow by more than a third in the twenty years to 2018, and the success of the Government's integrated transport policy would rest largely on the increased use of buses. Without increased bus use, the paper argued, pollution and congestion would inevitably increase with a corresponding damage to both public health and the economy. In order to address this problem, more people should be persuaded to take more journeys by public transport and fewer by private car.<sup>38</sup>

Further detail of how this could be achieved was given in the subsequent buses policy document, published in March 1999.<sup>39</sup> This set out Labour's overall bus policy and included proposals to give local authorities franchising-like powers to implement what became known as Quality Contract Schemes (QCS). The paper also proposed statutory Quality Partnership Schemes (QPS): an arrangement whereby local authorities and bus companies enter into mutual agreements to provide services and infrastructure. QCS and QPS formed the centrepiece of Labour's changes to bus policy, legislated for in Part II of the [Transport Act 2000](#).

In December 2006 the Government published a paper setting out proposals to reform bus services. They undertook this reform in the light of the failure of any local transport authority to implement a QCS. Its proposals included an enhanced QPS, and a reduction in the burden on local authorities wishing to introduce a QCS.<sup>40</sup> These changes were legislated for in what became the [Local Transport Act 2008](#).<sup>41</sup>

### Quality Contract Schemes

Quality Contract Schemes (QCS) have often been referred to as franchising or 're-regulation' by another name. In practice however, in order to implement a QCS a local authority, Integrated Transport Authority (ITA) or Combined Authority (CA) has to jump through a

<sup>38</sup> DETR, [A new deal for transport: better for everyone](#), Cm 3950, July 1998, paras 3.13-3.25

<sup>39</sup> DETR, [From workhorse to thoroughbred: a better role for bus travel](#), March 1999

<sup>40</sup> DfT, [Putting Passengers First](#), December 2006, p7

<sup>41</sup> details can be found in HC Library briefing papers [RP 08/18](#) and [RP 08/49](#)

number of hoops set out in the legislation. This has meant that since QCS was put on the statute books in 2000, not one has ever been implemented, despite the obvious desire of many authorities to have more control of their bus services.

The question of what a QCS is and whether it is franchising by another name, is a good one. In its 1999 consultation paper on bus reform the Labour Government stated that QCS are "on similar lines to what is sometimes known as 'franchising'" and "local authorities outside London would be given similar powers to grant exclusive operative rights on defined routes or within a defined area". It set out the benefits of a 'contracted' bus network (network stability, local authority control of fares, service quality and quantity, interoperability with other modes, and cross-subsidy) and the possible disadvantages (less responsiveness to the customer, reduced flexibility, less incentive to innovate, a squeeze on smaller operators, a 'race to the bottom' in terms of staff wages and conditions, and costs to local authorities).<sup>42</sup>

In light of this, the Labour Government stated that it saw "a potential role for [QCS] in some areas, where a case can be made in the light of special local circumstances". To that end, the onus would be on local transport authorities "to demonstrate, as part of a local transport plan, that the benefits in terms of modal shift or environmental improvements would not be met by other means, and that any extra costs involved would be offset by other benefits".<sup>43</sup>

QCS were legislated for under sections 124-134 of the [Transport Act 2000](#).<sup>44</sup> The legislation included the requirement that making a QCS must be "the only practicable way" of implementing the policies set out in the relevant authority's bus strategy and that a QCS would implement those policies in a way which was economic, efficient and effective. A QCS required approval from the Secretary of State in England.<sup>45</sup>

In the years following the implementation of the 2000 Act there was a debate about why no QCS was ever applied for, let alone implemented. This resulted in a December 2006 policy paper from the Labour Government proposing to make QCS a realistic option, while "ensuring that these schemes can only be brought forward where the benefits are sufficient to justify them, and safeguarding the legitimate interests of bus operators".<sup>46</sup> Consequently, sections 19 to 45 of the [Local Transport Act 2008](#) made changes to the arrangements for QCS in England (with some changes also applying to Wales).<sup>47</sup> The main changes were the replacement of the requirement that a scheme must be the "only practicable way" of implementing the policies in the local authority's bus strategy with a new set of criteria; abolition of the

<sup>42</sup> op cit., [From Workhorse to Thoroughbred: A better role for bus travel](#), chapter 6

<sup>43</sup> ibid.

<sup>44</sup> introduced by the [Transport Act 2000 \(Commencement No. 7\) Order 2001 \(SI 2001/3342\)](#) on 26 October 2001

<sup>45</sup> the Scottish Government in Scotland; the Welsh Government in Wales

<sup>46</sup> op cit., [Putting Passengers First](#), p7

<sup>47</sup> they came into force in January 2010 under four statutory instruments: [SI 2009/3243](#), [SI 2009/3244](#), [SI 2009/3245](#) and [SI 2009/3246](#)

requirement for schemes in England to be approved by the Secretary of State; a new right of appeal for bus operators; and employment protections for affected workers.

## Partnership schemes

There are two sorts of partnership scheme: statutory Quality Partnership Schemes (QPS) and non-statutory voluntary partnership schemes (VPS).

A QPS is essentially a formal agreement between a local authority and one or more bus operators whereby the former provides particular facilities at specific locations along the routes used by local bus services, e.g. priority measures, bus stations and shelters, and the latter (who wish to use those facilities) agree to provide services of a particular standard through, e.g. new, green vehicles and staff training. There might also be joint measures for the benefit of passengers such as real-time passenger information.

In its 1999 consultation paper, the Labour Government was pretty clearly in favour of partnerships rather than QCS. Much of this enthusiasm was on the back of notable local partnership successes in the 1990s in e.g. Aberdeen, Birmingham, Brighton, Bristol, Ipswich, Edinburgh, Leeds, Nottingham and Oxford.<sup>48</sup>

Sections 114-123 of the [Transport Act 2000](#) legislated to put QPS on a statutory footing.<sup>49</sup> This allows local authorities to set quality standards for the partnership facilities that they provide such as bus lanes, or access to high-quality shelters with real-time passenger information. Buses that do not meet the standards can be excluded. This gives local authorities extra scope for influencing bus quality, whilst providing operators with the confidence to invest and to decide about service provision and innovation. Compliance with the quality standards in a partnership scheme are enforced through the bus registration system, overseen by the Traffic Commissioners who have powers to impose financial penalties and restrictions on an operator's licence.<sup>50</sup>

In its December 2006 paper on reforming bus services the Labour Government set out the criteria underpinning successful partnership working:

- political will at the local level to support bus transport;
- commitment from local bus company management to making improvements; and
- the right environment in which to prosper (i.e. bus priority measures, robust parking measures and effective enforcement).<sup>51</sup>

<sup>48</sup> op cit., [From Workhorse to Thoroughbred: A better role for bus travel](#), chapter 4; not everyone agreed with this rosy portrayal, see e.g. ETRA Committee, [Integrated transport white paper](#) (ninth report of session 1998-99), HC 32, 31 March 1999 and Audit Commission, *All aboard: a review of local transport and travel in urban areas outside London*, 1999

<sup>49</sup> introduced by the *Transport Act 2000 (Commencement No. 7) Order 2001* ([SI 2001/3342](#)) on 26 October 2001

<sup>50</sup> further information on the bus-related powers of Traffic Commissioners can be found in HC Library briefing paper [SN1523](#)

<sup>51</sup> op cit., [Putting Passengers First](#), p30

It also noted that while a number of VPS existed, (although outcomes to date were mixed), the QPS provisions in the 2000 Act had not been used.<sup>52</sup> The reasons given for this were that frequencies, timing and fares could not be included in a QPS. Sections 13 to 18 of the [Local Transport Act 2008](#) made changes to remedy this – within limits.<sup>53</sup>

One of the main considerations with partnership schemes is their compatibility with competition law. The competition authorities stated in 2003 and 2011 that there was no evidence of partnership schemes posing a threat to competition.<sup>54</sup>

The Confederation of Passenger Transport (CPT) cited particular successes with partnership working in South Yorkshire.<sup>55</sup> This was echoed by the Urban Transport Group (UTG) which stated that the most recent Sheffield Bus Partnership had grown the number of fare-paying passenger bus journeys by nearly 10 per cent.<sup>56</sup> The Brighton & Hove Bus Company is also often cited as a successful example of a bus company that dominates a local market working in a constructive partnership with the local authority: it says that it has “successfully grown the market for local bus travel by an average 5% each year since 1993, something which is unique in the bus industry”.<sup>57</sup>

## 2.4 Conservative-led governments: fiscal consolidation and devolution

The Conservative-led governments since 2010 have attempted to make transport more efficient and better value for money in a climate of public spending restraint. It is trying to do this in a more decentralisation way, to enable local government to initiate and fund transport projects and their day-to-day transport needs free of ring-fencing and ‘diktat from Whitehall’. This spirit of decentralisation has encompassed devolution of further transport powers to local areas across England as well as to Scotland and Wales.<sup>58</sup>

### Cuts to subsidised services

‘Subsidised services’ are those that are not deemed commercially viable by private operators and have to be supported by local authorities if they are to continue. The viability of these services depends on local authorities having the funds to support them.

The background to the provision of these services is, as the National Audit Office (NAO) estimate, there was a 37% real-terms reduction in

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<sup>52</sup> *ibid.*, p38

<sup>53</sup> set out in the *Quality Partnership Schemes (England) Regulations 2009* (SI 2009/445), which came into force on 6 April 2009

<sup>54</sup> OFT, *The Transport Act 2000 ...: Guidance on the Competition Test* (OFT 393), October 2003, p15; and *op cit.*, *Local bus services market investigation*, para 15.388

<sup>55</sup> *op cit.*, *Making buses better together*, p4

<sup>56</sup> pteg, *Bus regulation: myths and facts*, February 2015, p8

<sup>57</sup> BHBC, *All About Us* [archived 19 April 2016]

<sup>58</sup> for further information on transport devolution, see HC Library briefing paper [SN5735](#)

central government funding to English local authorities between 2010/11 and 2014/15.<sup>59</sup>

It has therefore been for local authorities to decide where spending cuts or savings must be made across the whole spectrum of their services: as indicated above, many local authorities have chosen to cut subsidised bus services. It has long been the case that for many rural and isolated communities the bus is the only form of public transport, but those services are often 'unprofitable' and have suffered the brunt of local authority cuts to subsidised services over the past six years. Linked to this is the fact that some routes are dependent on passengers who are also subsidised – through the concessionary bus pass for older and disabled people. Often there is a correlation between those rural and isolated communities and high numbers of subsidised passengers (particularly older people).<sup>60</sup>

The Campaign for Better Transport (CBT) has run a high profile campaign since 2010 to highlight cuts to local subsidised bus services.<sup>61</sup> A CBT survey showed that 46 per cent of local authorities reduced their expenditure on subsidised bus services during 2013/14; the Urban Transport Group predicted a reduction in annual expenditure of £500 million over the four years from 2010, allowing for inflation.<sup>62</sup>

While it is probably true that without overall central government cuts to local authority budgets most if not all of these services could have been saved, that is not necessarily the case. One can see this by looking at the question in reverse: if local authority budgets were to increase over the next five years, would that mean more subsidised bus services or would local authorities find other priorities on which to spend the new money?

The only *certain* way to improve and increase subsidised services would be for central government to allocate specific amounts of money for the purpose and to legally require that the money be spent on subsidised bus services. At a time when the Government is determined to devolve more power to local authorities to take their own decisions, the trend has been away from this sort of 'hypothecation', or 'telling councils what to spend their money on' (see below).

## The drive to devolution

English local government is divided in some areas into county councils (the upper tier) and district councils (the lower tier). The two tiers have distinct functions, though they overlap in some matters. In other areas, 'unitary authorities' carry out all local government functions. There are 353 local authorities in England, of which 27 are county councils, 201

<sup>59</sup> NAO, [The Impact of Funding Reductions on Local Authorities](#), 19 November 2014; due to differences in services and funding, direct comparison with the position of councils in each of the three nations is not possible (England, Scotland and Wales)

<sup>60</sup> for further information on the difficulties faced by those living in rural and isolated communities, see: Transport Committee, [Passenger transport in isolated communities](#) (fourth report of session 2014–15), HC 288, 22 July 2014

<sup>61</sup> CBT, [Save Our Buses](#) [accessed 28 November 2016]

<sup>62</sup> "[Cuts to tendered bus services – is there another way?](#)", *CBT blog*, 17 March 2015

are district councils, and 125 are unitary authorities, of which 32 are London boroughs and 36 are metropolitan boroughs.<sup>63</sup>

The Greater London Authority (GLA) exercises a range of functions in transport, policing, planning, fire and rescue, housing and economic development. It is not a local authority for most purposes. In other parts of England, central government manages some of the functions that the GLA undertakes for London.<sup>64</sup>

Seven Combined Authorities (CAs) have been established in England. These are not local authorities but joint legal bodies through which groups of authorities can work together. In 2014-16, the Government negotiated 'devolution deals' with several areas. Each of the existing CAs has negotiated a deal. Five of the CAs will be mayoral combined authorities, electing their first mayors in May 2017 (Manchester, Liverpool, Sheffield, Tees Valley and the West Midlands).<sup>65</sup>

Overlaid on this structure are Local Enterprise Partnerships (LEPs). The first cohort of LEPs were announced in late 2010; they are non-statutory bodies which have assumed many of the responsibilities of Regional Development Agencies (RDAs) and have responsibility for Enterprise Zones.<sup>66</sup>

There is also a patchwork of transport authorities, including county and unitary councils, Integrated Transport Authorities and city-wide entities like Transport for London (TfL) and Transport for Greater Manchester (TfGM). The Government has also proposed new sub-national transport bodies (STBs) in the North and the Midlands, with others likely to follow. These bodies all have different responsibilities for transport planning and funding.

There are a number of sources of funding for local transport, the main ones being central government grant; Local Growth Deals & the Single Local Growth Fund; the Local Majors Fund; the Regional Growth Fund; the Access Fund; local authority property taxes and localised charges; and local authority capital finance.

Local and regional authorities of one sort or another, supported by various commissions, pressure groups and think tanks, have been calling for more powers to plan, fund and manage transport in their areas for decades. Successive governments have legislated to reform local and regional transport delivery, sometimes through more general machinery changes but also via specific transport-related initiatives.

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<sup>63</sup> for further information on local authority structures and powers see HC Library briefing paper [SN7104](#)

<sup>64</sup> for further information on the GLA see HC Library briefing paper [SN5817](#)

<sup>65</sup> for further information on Combined Authorities, see HC Library briefing paper [SN6649](#)

<sup>66</sup> for further information on LEPs see HC Library briefing paper [SN5651](#)

Over the past couple of years there have been a slew of reports looking at this issue.<sup>67</sup> In September 2014 the Urban Transport Group<sup>68</sup> argued that cities outside London should have more powers over their bus networks and ‘meaningful’ devolution of local rail services, which together would allow them to deliver ‘Oyster-style’ smart and simple ticketing;<sup>69</sup> single, integrated transport networks and a clearer interface with the public, local businesses and investors on service delivery and development.<sup>70</sup> In October 2014 CBT called for more powers for cities outside London to allow for the introduction of smartcards and integrated transport networks; the creation of new multi-authority ‘transport consortia’ outside the big cities to join up different councils and deliver smart tickets and other transport improvements; and regional groupings to manage strategic roads and local rail services.<sup>71</sup>

In March 2015 the Coalition Government and the leaders of Northern councils published a report announcing the establishment of a body called Transport for the North (TfN), under the leadership of an independent Chair, to bring together ‘all the relevant parties’ to work in partnership to establish a “clear, long-term, strategic transport vision for the North of England that is shared by all parties and allows the North to speak with a single voice and execute that vision”. It would be tasked with developing strategic, prioritised transport investment opportunities and the Government would provide financial certainty via a “clear future budget envelope to be agreed at the Government’s Spending Review in 2015”.<sup>72</sup> At about the same time IPPR North published a report on transport in the North of England, calling for further devolved and integrated transport powers to be delivered in three phases between 2015 and 2025.<sup>73</sup>

A ‘one size fits all’ approach to devolution of transport powers seems both unlikely and undesirable. The ‘London model’, for example, is one approach and the proposals for Greater Manchester are different again. Outside of the main metropolitan areas, the ‘directly elected mayor’ model with attendant consolidated transport powers, may not be the best option for more rural or geographically diffuse areas where public transport is sporadic and the populace is largely car-dependant.<sup>74</sup>

For information on the Northern Powerhouse see HC Library briefing paper [CBP 7676](#)

<sup>67</sup> e.g. the ‘[City Centred](#)’ campaign, launched by leaders of London and the UK’s Core Cities (Birmingham, Bristol, Cardiff, Glasgow, Leeds, Liverpool, Manchester, Newcastle, Nottingham, and Sheffield) in September 2013 and Lord Adonis, [Mending the Fractured Economy](#), July 2014

<sup>68</sup> formerly the Passenger Transport Executive Group (pteg)

<sup>69</sup> when people say ‘Oyster-style’ they mean an integrated, contactless payment system or similar which enables users to easily switch between modes of transport across a region (as in the [London Oyster Card](#))

<sup>70</sup> pteg, [Policy Futures - Urban Transport outside London](#), September 2014; see also City Growth Commission, [Unleashing Metro Growth](#), October 2014

<sup>71</sup> CBT, [Making Transport Local: devolution for transport in England outside London](#), October 2014

<sup>72</sup> HMG, [The Northern Powerhouse: One Agenda, One Economy, One North](#), March 2015, p39

<sup>73</sup> IPPR North, [Transport for the North: A blueprint for devolving and integrating transport powers in England](#), March 2015, summary

<sup>74</sup> information on difficulties experienced in these areas can be found in op cit., [Passenger transport in isolated communities](#)



The first 'devolution deal' was announced by the Government and the Greater Manchester Combined Authority in November 2014. As of November 2016, devolution deals with nine areas have been agreed.

- Greater Manchester
- Sheffield City Region
- Tees Valley
- Liverpool City Region
- West Midlands
- Cornwall
- West Yorkshire
- Cambridge/Peterborough
- West of England

Deals with the North-East, Norfolk/Suffolk and Greater Lincolnshire have fallen through.

All nine deals involve bus franchising powers, except Tees Valley (where they are under discussion) and West Yorkshire.<sup>75</sup>

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<sup>75</sup> for full details see Appendix 1 to HC Library briefing paper [SN7029](#)

## 3. Deregulation: the debate

### 3.1 Successes

The bus industry believes that deregulation has generally been a success and has delivered significant investment and service improvements since 1986. In its September 2014 manifesto for buses the Confederation of Passenger Transport UK (CPT) set out what it believed to be the industry's successes:

The commercial market has stemmed the decline in bus patronage and provided passengers with greater choice. Passengers in the biggest towns and cities outside London are benefitting from frequent, good value bus networks, with smart and integrated ticketing options, new ways of purchasing tickets, high investment by commercial operators in bus fleets, all giving passengers more choice. Where bus services are under the control of cash-strapped local authorities, fares are higher, the market is less stable, services are being lost, and passenger satisfaction rates are lower.<sup>76</sup>

In terms of particular achievements it cited the following: improved passenger information and assistance; smart ticketing using a variety of platforms; and contributing to the economy through employment and investment.<sup>77</sup>

In terms of subsidy, Confederation of Passenger Transport (CPT) stated that in 2012/13 almost 90 per cent of the bus network outside London was run commercially with no subsidy from public funds, an increase of 4.6 per cent over the previous five years, and that while mileage on subsidised services fell by 16.5 per cent between 2006/7 and 2012/13, commercial mileage fell by only 1.7 per cent over the same period.<sup>78</sup>

Deregulation has also been supported by a number of think tanks such as the Adam Smith Institute and the Institute for Economic Affairs. The case was perhaps put most forcefully by the late Prof. John Hibbs, one of the architects of deregulation, in a November 2005 pamphlet for the IEA. He argued that "after twenty years of comparative freedom the bus industry today has become a commercial success":

Despite failings in some sectors there are many examples of proactive response to the market, with increased investment and some remarkable developments in man-management and consumer sensitivity. The central importance of costing and pricing for the market has been better understood than ever before and the provision of real-time information is making a new breakthrough in marketing. Some of the small firms snapping at the heels of the larger companies provide poor-quality vehicles which give a poor impression to the public, but the value of open access is recognised by some of the leading figures in the industry, while many small operators offer a high standard of customer care along with lower prices. While the overall proportion of bus travel continues to fall, there are many examples of substantial

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<sup>76</sup> CPT, *Making buses better together*, September 2014, p1

<sup>77</sup> at the time of publication in 2014 the bus industry provided 124,000 direct jobs in the UK

<sup>78</sup> *ibid.*, p4

growth; restructuring of services in Cambridge has led to an increase in patronage of 45 per cent over three years.

What has been sadly lacking ever since 1985 has been a positive attitude on the part of highway authorities. To provide services buses need their own track, like trains. This has to be shared with cars and goods vehicles, but cars are singularly inefficient users of road space and in the absence of road pricing it should be the responsibility of local government to deal with the problem. [...]

The real problem facing the passenger and freight transport industry, whether by bus, car or train, is the prospect of falling overall motoring costs and rising fuel prices forecast over the coming decade. Subsidy, which is an inevitable consequence of franchise, can be no answer to this. Only an industry made up of professional, profit-seeking businesses can hope to meet the challenge, supported and respected by local government planners.<sup>79</sup>

## 3.2 Failures

Almost since the moment it was introduced in October 1986 there has been a sizeable number of people and organisations consistently asserting that deregulation has been a failure leading to cuts in services, higher fares and profiteering by bus companies. Deregulation, they say, has led to a 'free for all'.

Critics of deregulation argue that the introduction of commercial operators into local bus markets has failed to substantially improve competition and has caused a diminution in levels of service. There is a general acceptance that commercial operators cannot now be forced out of the market and that there can be no return to the comprehensive municipal bus model that existed before the mid-1980s.<sup>80</sup> However, critics argue that commercial operators should be compelled to deliver a better service than is currently the case and that there should be some democratic accountability via control by local authorities or other locally elected transport bodies.

The twentieth anniversary of bus deregulation in October 2006 prompted several reviews of how the industry stood and whether it was fit for purpose.<sup>81</sup> In particular, the Transport Select Committee published a report heavily criticising the commercial deregulated system and calling for the Government to make it easier for local transport authorities to take control of bus services in their areas.<sup>82</sup> There are a number of reasons why some local transport authorities and passenger groups take issue with the deregulated system and many of them come down to the same basic issue – deregulation has not benefitted the passenger. The industry is dominated by the 'big five' operators – Arriva,

<sup>79</sup> John Hibbs for the IEA, *The Dangers of Bus Re-regulation*, November 2005, pp65-66; see also: John Hibbs and Matthew Bradley for the ASI, *Deregulated decade: ten years of bus deregulation*, 1997

<sup>80</sup> though widespread this view is by no means universal, see, e.g. Transport for Quality of Life, *Building a world-class bus system for Britain*, May 2016

<sup>81</sup> for example: Public Accounts Committee, *Delivery chain analysis for bus services in England* (Forty-third report of session 2005-06), HC 851, 23 May 2006; and NERA, *The Decline in Bus Services in the English PTE areas*, August 2006

<sup>82</sup> Transport Committee, *Bus services across the UK* (eleventh report of session 2005-06), HC 1317, 26 October 2006

First, Go-Ahead, National Express and Stagecoach – who effectively run monopolies in many areas. Even where two or more of the ‘big five’ operate in the same area, this has not always (or often) led to streamlined, co-ordinated services and cheaper fares.

More recently, in January 2016, Dr John Disney from Nottingham Business School argued that the benefits of deregulation had been exhausted, and that while it was “moderately successful for its first 15 years” when local authorities had sufficient funding to support tendered services to fill the gaps in the commercial network, and newly privatised operators generated efficiency savings compared with their National Bus Company and municipal predecessors, this was no longer the case.<sup>83</sup>

The three main areas deemed to characterise the failure of the deregulated system are: the QCS system; a lack of on-road competition, and subsidies:

- **QCS not fit for purpose:** campaigners have long called for QCS to be modified or replaced, e.g. by removing the QCS Board and the right of bus operators to appeal to the Transport Tribunal from the process; and modifying the Public Interest Test.<sup>84</sup> These criticisms crystallised in November 2015 when the QCS Board for the proposed Tyne and Wear QCS published its report – the first of its kind.<sup>85</sup> The Board concluded that Nexus<sup>86</sup> had failed to comply with the statutory requirements on consultation; that it was not affordable; the effectiveness of the QCS had been significantly overstated due to errors within the modelling; and that the negative impacts on the three existing operators were “wholly disproportionate to the benefits accruing both to the travelling public in Tyne & Wear and the well-being of the wider citizens”.<sup>87</sup> Nexus was naturally disappointed. It was particularly concerned that the Board took a “highly pessimistic and surprising view of financial risks”, and had suggested that the incumbent bus companies should be compensated for missing out on future profits.<sup>88</sup>
- **Lack of on-the-road competition:** in December 2011 the Competition Commission published a report on local bus competition which found that head-to-head competition in the supply of local bus services was uncommon, despite delivering significant benefits to customers where it was found. It raised concerns that some operators were in effect dividing areas up between them to avoid competition and that this might be more widespread than the Commission had been able to determine. On local authority tendered services, it found that in some cases the process of competition was impaired by the way local transport

<sup>83</sup> “We’ve exhausted the benefits of bus deregulation”, *Local Transport Today*, 8 January 2016

<sup>84</sup> UTC, *Policy Futures paper – Buses*, July 2014; for more information on the role of the QCS Board, see: DfT, *Local Transport Act 2008 - Quality contracts schemes: statutory guidance*, December 2009

<sup>85</sup> full details of the proposed QCS can be found via the archived [Nexus bus strategy website](#)

<sup>86</sup> the Tyne and Wear Integrated Transport Authority

<sup>87</sup> Traffic Commissioner, *Quality contract scheme (QCS) board report on the proposed Tyne and Wear QCS*, 3 November 2016

<sup>88</sup> Nexus press notice, “[Nexus response as QCS Board publishes its opinion of Tyne and Wear’s plan for better buses](#)”, 3 November 2015

authorities designed tenders and the limited number of potential bidders in some local areas. Overall, the Commission found that the detriment to consumers and taxpayers as a result of the adverse effects of competition (AECs) in the operation of local bus services (both commercial and tendered services) and the tendering of supported services was considerably in excess of £70 million a year and was likely to be between £115 million and £305 million a year. The Commission made a number of recommendations to remedy these problems, such as market-opening measures to reduce barriers to entry and expansion; measures to promote competition in relation to the tendering of contracts for supported services; and changes to the wider policy and regulatory environment, including emphasising compliance with and effective enforcement of competition law.<sup>89</sup>

- **Required subsidy too high:** grants and subsidies perform a variety of functions in the bus industry and in the provision of services. Subsidies account for around 45 per cent of all bus operators' revenues. The overall net level of Government subsidy (i.e. public transport support, BSOG and concessionary fare reimbursement) for bus services increased dramatically after 1997, rising from approximately £1.13 billion in 1997/98 to approximately £2.2 billion in 2015/16.<sup>90</sup> Total expenditure excluding concessionary fares on bus services in England in 2015/16 was £1.15 billion. Of this, £621 million was spent in London, and a further £199 million in the metropolitan areas.<sup>91</sup> DfT estimates that BSOG helps to keep fares 4% lower, allows operators to run a network 7% larger, and allows passenger numbers to be 4% higher than they would otherwise have been if BSOG was not provided.<sup>92</sup>

### 3.3 Would regulation improve services and cut costs?

As indicated above, those in favour of regulation argue that it would enable local authorities to plan proper bus networks and thus improve services and to provide things like smart and integrated ticketing, which would cut costs for passengers.

The Government clearly believes that franchising could help improve bus services, though this would depend on local circumstances. The impact assessment to the Bill states that:

... the combination of falling bus patronage, reductions in the levels of Government subsidy provided to the bus industry and a legislative framework that has not been utilised as expected has led us to conclude that action is needed to ensure effective bus services continue to be provided to the public and that LTAs have access to the range of tools needed to bring about change.<sup>93</sup>

<sup>89</sup> CC, [Local bus services market investigation](#), December 2011, summary

<sup>90</sup> op cit., [Subsidies and concessions \(BUS0502\)](#). All figures in 2015/16 prices.

<sup>91</sup> ibid.

<sup>92</sup> DfT, [Bus Services Bill: Impact Assessments](#), 27 June 2016, p49

<sup>93</sup> ibid., p51

Many also hope that reregulation can address the ‘market failures’ identified by the Competition Commission in 2011 and KPMG in 2016. For example, it could provide solutions in the areas of:

- Network economies – allowing for service coordination, ticket integration and joint marketing;
- Incentives – better aligning these between operators and the infrastructure provider/manager;
- Contestability of markets – for tendering out routes and/or networks, this could give better value for money and enable new entrants to enter the market; and
- Economic, social and environmental benefits – these by-products of bus travel are not captured fully by private bus operators.<sup>94</sup>

However, some have argued that these benefits could be achieved by more and better partnership working and that re-regulation is not necessary.<sup>95</sup>

In terms of costs, in its 2013 consultation on the proposed QCS Nexus the Tyne and Wear Passenger Transport Executive stated that it would *reduce* public expenditure on bus services by £7 million per annum from the commencement of the QCS, “by both growing commercial fare box income and by achieving better value through competitive tendering of all bus services”.<sup>96</sup> Recent evidence from the re-regulated system in Jersey shows that levels of subsidy have reduced by £800,000 per year while passenger usage has increased by almost a third.<sup>97</sup>

Others argue that it is more debatable as to whether regulated bus services would be cheaper for local authorities than the current deregulated model. For example, on the London bus network (which saw passenger numbers increase by more than a million between 1997/98 and 2015/16)<sup>98</sup> the total amount of subsidy increased from £152 million in 1997/98 to £859 million in 2015/16.<sup>99</sup>

In 2011 the TAS Partnership looked at the subsidy figures for London in some detail. In particular it stated that the one year in recent history when there was no subsidy (1997/98) was only achieved by reductions in drivers’ wages and reduced depreciation charges.<sup>100</sup> In a further report, published in July 2015, TAS argued that the costs of implementing franchising (or a bus service equivalent to that in London) across the whole of England could cost up to £3.2 billion per year.<sup>101</sup> The Urban Transport Group (UTC) contested the credibility of the report.<sup>102</sup>

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<sup>94</sup> KPMG, [Local bus market study](#), January 2016

<sup>95</sup> see, e.g. TAS Partnership, [Making Buses Better](#), 17 June 2015

<sup>96</sup> Nexus, [Proposal for a Quality Contracts Scheme in Tyne and Wear](#), July 2013, p8

<sup>97</sup> HCT Group, [Practical bus franchising: the Jersey model](#), May 2016, p3

<sup>98</sup> op cit., [Local bus passenger journeys \(BUS0103\)](#)

<sup>99</sup> op cit., [Subsidies and concessions \(BUS0502\)](#)

<sup>100</sup> “[Franchising and the cost of buses in London: some facts](#)”, *TAS blog*, 29 July 2011

<sup>101</sup> TAS Partnership press notice, “[Bus tendering regime "could cost up to £3.2 billion a year" says TAS report](#)”, 7 July 2015 [PTEG response to TAS cost of tendering report](#), 28 July 2015

<sup>102</sup> UTC, [PTEG response to TAS cost of tendering report](#), 28 July 2015

In its impact assessment for the Bill, the Government stated that an analysis by Bristol City Council suggested that implementing franchising would cost between £1 million and £2 million (doubled for PTE areas on the grounds that implementing a franchising model in these areas would be “significantly more complicated”).<sup>103</sup>

As discussed above, at present the only form of regulation available is a Quality Contract Scheme (QCS). In its December 2011 report the Competition Commission put the cost of implementing a QCS at up to £1 million with annual running costs of approximately the same amount.<sup>104</sup>

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<sup>103</sup> Op cit., [Bus Services Bill: Impact Assessments](#), p72

<sup>104</sup> op cit., [Local bus services market investigation](#), paras 15.450-51

## 4. The Act

### 4.1 Background and workshops, 2015

In the 2015 Queen's Speech the Government announced a *Buses Bill* to "provide the option for combined authority areas with directly elected Mayors to be responsible for the running of their local bus services".<sup>105</sup> However, a Bill never materialised.

Instead, during September and October 2015 the Department for Transport arranged a series of seven Bus Reform Workshops in five locations across the country. The intention was to help the DfT shape the content of the Bill and "ensure that the policy is developed by those involved in the delivery of bus services, including local authorities, the bus industry and passenger representatives".<sup>106</sup> As well as suggesting how franchising might work, it also looked at developing partnership arrangements, improving ticketing and open data.<sup>107</sup> In November 2015 the Government published a summary of the Workshops.<sup>108</sup>

In the 2016 Queen's Speech the Government announced a *Bus Services Bill* to:

- give elected mayors and local transport authorities the power to improve bus services for the people who use them;
- give mayoral combined authorities London-style powers to franchise local services; and
- make data about routes, fares and times available across the country to app developers to give passengers better information about how to make the most of local bus services.<sup>109</sup>

The [Bus Services Bill \[HL\] 2016-17](#) was introduced in the House of Lords on 19 May 2016. It received Second Reading on 8 June and completed all its stages in the Lords on 23 November. It was introduced in the Commons on 24 November 2016. It proceeded quickly through its Commons stages, completing them on 27 March 2017. Following the vote in favour of a General Election on 8 June, the Bill completed its Parliamentary stages and received Royal Assent on 27 April 2017.

On 8 February 2017 the Government published draft regulations and guidance on a number of issues covered by the Bill. Where these relate to specific parts of the Bill they are included in the relevant sections, below. It also included draft general guidance on improving bus services. This covers areas such as rural services, the environment, and disability awareness training.<sup>110</sup> The consultation closed on 21 March.

<sup>105</sup> HMG, [Queen's Speech 2015: background briefing notes](#), 27 May 2015, p100

<sup>106</sup> DfT, [Bus Reform Workshops: background document](#), 21 September 2015, para 1.4

<sup>107</sup> all summarised in: DfT, [Presentations from the Bus Reform Workshops](#), October 2015

<sup>108</sup> DfT, [Bus Reform Workshops Summary](#), November 2015

<sup>109</sup> HMG, [Queen's Speech 2016: background briefing notes](#), 18 May 2016, p26

<sup>110</sup> DfT, [Bus Services Bill: draft regulations and guidance](#), 8 February 2017, Annex M



## 4.2 Reaction

Reaction to the Act was mixed, reflecting to a great extent the long-standing divisions and debates described in previous sections of this paper. Those parts of the Act which elicited the most reaction were about the **ban on new municipal bus companies, accessibility and extending franchising to all authorities**.

Bus operators tended to support the bulk of the Act as regards partnerships and data sharing, but not franchising.<sup>111</sup> Others were slightly more positive or made no comment.<sup>112</sup> Some small- and medium-sized operators (SMEs) expressed concerns about the impact on their businesses of the sort of local franchising arrangements contained in the Act.<sup>113</sup>

Transport for Quality of Life<sup>114</sup> published a report in May 2016 calling for more radical reform, allowing all local authorities to franchise their bus systems and to run services with their own municipally-owned bus companies.<sup>115</sup> The Campaign for Better Transport warned that funding was 'critical' and that "councils and mayors have the funding needed to make these new powers work".<sup>116</sup> The Urban Transport Group welcomed "the prospect of a 'fresh start' for the bus by giving cities a range of more effective tools with which to improve bus services".<sup>117</sup>

The Competition and Markets Authority<sup>118</sup> said that "on-road competition should only be abandoned in favour of competition for the market where it's clear that this is the only way to secure better outcomes for the travelling public".<sup>119</sup> It went on to make a number of recommendations, including that the CMA should be a statutory consultee for franchising schemes.<sup>120</sup> The Government accepted all the CMA's recommendations and made amendments to the Bill where appropriate.<sup>121</sup>

A selection of responses to the Bill can be found in written evidence to the Public Bill Committee in March 2017, [available on the website](#).

<sup>111</sup> see, e.g. CPT press notice, "[Bus Services Bill - CPT Comment](#)", 23 May 2016; "Big city operators blast bus reforms", *Financial Times*, 12 June 2016; "There is no room for one more on top, say bus companies", *The Times*, 6 June 2016

<sup>112</sup> FirstGroup press notice, "[FirstGroup reaction to the announcement of the Bus Services Bill in today's Queens Speech](#)", 18 May 2016

<sup>113</sup> "[Bus companies 'under threat' from devolution plans](#)", *Politics Home*, 29 June 2015; the Competition Commission gave detailed consideration to this phenomenon in Appendix 15.6 of its 2011 report on competition in local bus markets, see: op cit., [Local bus services market investigation](#), A15(6)-6 and (6)-7

<sup>114</sup> A community interest company

<sup>115</sup> Transport for Quality of Life, [Building a world-class bus system for Britain](#), 26 May 2016

<sup>116</sup> CBT press notice, "[Campaigners welcome publication of the Bus Services Bill - "a new era for buses, but only if funding follows"](#)", 20 May 2016

<sup>117</sup> UTG press notice, "[Urban Transport Group welcomes Bus Services Bill](#)", 23 May 2016

<sup>118</sup> there is no provision in bus legislation for the CMA to investigate franchising (see [para 1](#) of Schedule 10 to the *Transport Act 2000*, as amended); any action on the CMA's part would come under its general competition powers; the best guide to how competition law applies in the bus sector remains the OFT's 2003 publication [The OFT and the bus industry](#)

<sup>119</sup> CMA blog, "[Bus Services Bill: retaining the benefits of competition](#)", 5 July 2016

<sup>120</sup> CMA, [CMA Recommendations on the Bus Services Bill](#), 29 June 2016

<sup>121</sup> DfT, [Bus Services Bill: Competition and Markets Authority response](#), 12 October 2016

The Transport Select Committee published a report on 25 November 2016, welcoming the Government's approach in giving local authorities the option of implementing new forms of partnership or franchising, based on their local needs. However, it also made a number of criticisms and recommendations.<sup>122</sup>

### 4.3 Advanced quality partnerships (sections 1-3 and Schedule 1)

This part of the Act is concerned with improving existing partnership working (see section 2.3 above for background).

It intends to do this by creating new 'Advanced Quality Partnerships' (AQP), which extend 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 under an AQP to include the marketing of services, tickets and fares.

The bulk of the legislative changes relating to the introduction of AQP are provided in section 1. This amends the *Transport Act 2000* and largely replicates and builds on the existing provisions in that Act for Quality Partnership Schemes (QPS). The most significant change provides that local transport authorities (LTAs) may set up a scheme based on bus improvement measures as well as, or instead of, infrastructure facilities. These new standards may relate to:

- The marketing and promotion of bus services, ticketing and fares;
- How passenger information is provided; or
- Operators' participation in ticketing and smartcard schemes.

Authorities must set out, as part of their plan or scheme, arrangements for consulting organisations that are representative of users of local services, including parks authorities.<sup>123</sup> There were debates about requiring consultation with employee representatives; this was in the end not included in the final Act.<sup>124</sup>

Amendments which would have the effect of bringing Part 6 of the *Traffic Management Act 2004*, related to moving traffic offences,<sup>125</sup> into force for those areas with an AQP were also subject to much debate but were not in the end included in the final Act.<sup>126</sup>

### 4.4 Franchising (sections 4-6 and Schedule 2)

This part of the Act is concerned with providing franchising powers (see section 2.3 above for background) to local transport authorities. Only Mayoral Combined Authorities will have these powers automatically,

<sup>122</sup> Transport Committee, *Bus Services Bill* (eighth report of session 2016–17), HC 611, 25 November 2016, summary

<sup>123</sup> [HL Deb 12 October 2016, c1899](#); see also [Division 4, cc1926-7](#), these requirements also apply to EPs and franchising

<sup>124</sup> see, e.g. [PBC Deb 14 March 2017, cc10-14](#) and Division 1

<sup>125</sup> for more information, see section 9 of HC Library briefing paper [SN1097](#)

<sup>126</sup> [HL Deb 12 October 2016, c1902-08](#); and [PBC Deb 14 March 2017, cc4-5](#)

upon commencement of these sections of the Act. Franchising powers will only be made available via regulations to other local authorities where the Government judges that the capability and track-record of the authority concerned is sufficiently strong and where there is an appropriate economic geography.

Plans to implement franchising must take account of the needs of small and medium sized operators. Non-commercial community transport operators will not be affected by franchising.

Franchising solicited by far the most interest in the Act. As set out in earlier parts of this paper, many LTAs and public transport campaign groups have been calling for it for many years. In particular there were ongoing debates during the passage of the Act about extending the automatic right to access franchising to all local authorities. In the end the Government succeeded in passing an Act on its original wording.<sup>127</sup>

Any other LTA which wanted to introduce franchising would have to obtain the explicit consent of the Secretary of State for Transport before doing so. This consent would be given under Regulations, made under the Affirmative procedure (i.e. requiring the consent of both Houses of Parliament).<sup>128</sup> The Government set out its anticipated 'two stage process' in draft guidance published on 12 October 2016: "Firstly, regulations must be made to provide a particular category of authority with access, and then the Secretary of State must give his or her consent to any individual authority from within that category". This made clear that in practice the Government expected these two processes to be pursued in parallel for any early adopters of franchising. Further, the Government:

... does not intend to "turn on" a particular category of local authority unless or until it is satisfied that there is one or more local authority in that category that is likely to satisfy the criteria and to whom the Secretary of State is minded to grant franchising powers. One route for such a conversation is through the devolution deal process.<sup>129</sup>

Cornwall will remain a rural unitary authority, but as part of its devolution deal secured powers for franchising bus services in the area by 2018.<sup>130</sup> Lord Ahmad said that Cornwall "is committed to improve local transport in the wider area, and it has made a strong case for having access to franchising powers. If Cornwall decides that it wishes to pursue franchising, the regulations will be brought forward for discussion via the affirmative procedure".<sup>131</sup>

<sup>127</sup> [HL Deb 4 July 2016, cc1750-53GC](#); [HL Deb 12 October 2016, cc1932-3](#) and [Division 5, cc1941-2](#); [PBC Deb 14 March 2017, cc18-38](#) and Division 2

<sup>128</sup> DfT, [The Bus Services Bill: policy scoping notes](#), June 2016, pp7-9

<sup>129</sup> DfT, [Draft Guidance and Policy Statement on Key Issues raised during Lords Committee Debates](#), 12 October 2016, para 69

<sup>130</sup> CLG, [Cornwall Devolution Deal](#), 22 July 2015

<sup>131</sup> [HL Deb 4 July 2016, c1752GC](#)

The bulk of the legislative changes relating to the introduction of franchising are set out in section 4. This amends the *Transport Act 2000* to provide for bus franchising schemes in England. It sets out:

- what an LTA must include in an assessment of a franchising scheme. This includes issues such as how it would contribute to the implementation of the authority's transport and other policies; cost and value for money. It must also compare making the proposed scheme to one or more other courses of action (e.g. making an AQP or Enhanced Partnership);
- the requirement for a franchising scheme proposal to be properly audited before it goes out to public consultation;
- that the LTA must specifically consult relevant bus operators, bus users, the Traffic Commissioner, local police and the Competition and Markets Authority (CMA);<sup>132</sup>
- what must be in the consultation document; this includes a statement about how, in conducting the procurement process for the provision of local services, the LTA proposes to facilitate the involvement of small- and medium-sized operators in the provision of local services; and
- that the Secretary of State may make regulations regarding those services that may be exempted from any franchising scheme. There is no current intention to stipulate any mandatory categories that *must* be exempted.<sup>133</sup>

The employee protection rights (TUPE etc.) in the Act replicate those in the *Transport Act 2000* for quality contract schemes, introduced by the Labour Government.<sup>134</sup>

Variation or revocation of a franchising scheme requires six months' notice. In order to revoke a scheme an LTA has to be satisfied of one of three things:

- Local services in the area to which the scheme relates are likely to be better if the scheme did not apply;
- The continued operation of the scheme is likely to cause financial difficulties for the LTA; or
- The burdens of continuing with the scheme are likely to outweigh the benefits of doing so.

LTAs can in effect be 'operators of last resort'. This means that where an operator fails to provide an agreed service or ceases to provide a service before the end of the specified period the LTA may provide an 'interim service' for a period of no more than six months. It is not clear how this would work in practice; in the rail sector this role is held by the Secretary of State for Transport.<sup>135</sup>

<sup>132</sup> [HL Deb 23 November 2016, cc1968-71](#); for concerns about the role of the CMA in franchising, see: [Written Evidence Submitted by the West Midlands Combined Authority](#) (BSB0017), August 2016, para 8.6

<sup>133</sup> services operating under a section 22 permit are already excluded by way of provisions in new section 123J(5); for more information on section 22 permits, see: HC Library briefing paper [CBP7426](#)

<sup>134</sup> [PBC Deb 14 March 2017, c52](#)

<sup>135</sup> Section 30 of the [Railways Act 1993](#), as amended, provides that if a franchise is terminated or there are no acceptable private bids, the Secretary of State for

Some non-franchised commercial services may be provided in a franchise area. This would require a service permit, issued by the relevant LTA.

Section 5 gives LTAs the power to obtain information from operators in order to prepare a franchising scheme. The sort of information that may be requested includes number of journeys; structure of fares; revenue; distance covered; persons employed; and journey forecasts.

During House of Lords debates Lord Ahmad made it clear that where an authority implements franchising, the Government plan to devolve the bus service operators grant (BSOG – see section 3.2, above) that would have been paid to commercial bus operators in the area to the LTA. He argued that by pooling these subsidies in a franchised system, “they can be used more effectively, and authorities will be able to get the most out of the funding already provided”.<sup>136</sup> This is not dissimilar to existing arrangements as regards Better Bus Areas.<sup>137</sup>

## 4.5 Ticketing (sections 7-8 and Schedule 3)

This part of the Act is concerned with improving ticketing. It is intended to make journeys across modes easier by increasing the take up of multi-modal tickets and contactless payment.

It gives local authorities a range of new tools to make buying a ticket and paying for bus services easier for passengers; update existing powers to establish multi-operator and multi-modal ticketing schemes; and ensure that anybody developing new ticketing arrangements considers what other schemes exist or are being prepared nearby.

The main changes relating to advanced ticketing schemes are set out in section 7. This amends the *Transport Act 2000* to strengthen the powers that LTAs (including LTAs acting together) have in England to make joint and through ticketing schemes. It largely replicates and slightly amends the existing legislation in order to achieve a more joined-up approach to ticketing issues across LTA boundaries and clarify the scope of the powers to accommodate future technological change.

Rail and tram services may be included in ticketing schemes by agreement with the relevant operators.

The Transport Select Committee welcomed these provisions but took a view that “more must be done to ensure that innovation in ticketing technologies is encouraged and not hampered”. To that end it recommended that within six months of Royal Assent, the Department for Transport should produce, in consultation with industry partners, guidance to support LTAs in developing ticketing schemes “that do not impede newer technologies, are not a disproportionate burden on operators, and which pay due regard to the accessibility needs of

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Transport (in the case of England and Wales) can take over the franchise as an operator of last resort; for more information see: DfT, [A guide to the railway franchise procurement process](#), May 2011, paras 29-31

<sup>136</sup> [HL Deb 29 June 2016, c1602GC](#)

<sup>137</sup> for more information see section 4 of HC Library briefing paper [SN1522](#)

different groups". It also recommended that the Government co-ordinate the development of back office ticketing functions "to limit unnecessary complexity or duplication".<sup>138</sup>

## 4.6 Enhanced partnerships (sections 9-15 and Schedule 4)

This part of the Act is concerned with introducing a new form of partnership working called an 'enhanced partnership' (EP) (see section 2.3 above for background).

It enables partnership working to go further than under a QP or AQP scheme and requires collaboration between LTAs and operators. At the core of the process is the collaborative development of an Enhanced Partnership plan and scheme:

- An **EP plan** may cover all, or parts of, the area of an LTA. It would 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** set out the detailed actions to be taken by the authority 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 LTAs would not be able to set fares.

EPs would expand the types of standards that partnership schemes can cover; specifically providing for more joined-up network planning; and allowing local implementation and enforcement of the scheme's requirements. The Government's intention is that an EP would 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.

The main changes relating to advanced ticketing schemes are set out in section 9. This amends the *Transport Act 2000* to establish EPs for LTAs in England. It sets out what EP plans and schemes are. A plan may lead to one or more schemes – a number of schemes may be made under a single plan. 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.

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

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<sup>138</sup> op cit., [Bus Services Bill](#), para 77

operators' in the scheme area. There is no definition of what constitutes 'sufficient' on the face of the Act; this will be specified by the Secretary of State in regulations (see section 5, below).<sup>139</sup> The same applies to revoking or varying an EP.

EPs may make service requirements in a number of areas, including types of vehicles; concessionary fares; information and publicity; branding and ticketing.

## 4.7 Information for bus passengers (section 17)

Section 17 was introduced into the Act at Lords Report stage by the Government. It sets out an accessible information requirement which would ultimately require bus operators to provide accessible information, using both audible and visible media, on board local bus services in England, Scotland and Wales.<sup>140</sup> A scoping note gives further information, specifically who would be obliged to comply, what information they would be obliged to provide and in what format. It also speculates that the order-making power which would bring this into force could also include exemptions for small operators.

The Government's anticipated timetable for introduction is to launch a consultation in spring 2017, with a view to publishing finalised secondary legislation in April 2018.<sup>141</sup>

The introduction of this section followed an effective external lobbying campaign and extensive debate. It reflects the successful [Talking Buses](#) campaign, supported by Guide Dogs for the Blind and others, to persuade the Government to require bus operators to fit audio-visual equipment to all buses. The Government had long been reluctant to mandate this sort of thing, instead preferring to let the market provide a solution.<sup>142</sup>

## 4.8 Information about English bus services (section 18)

The Act includes powers to make regulations regarding the release of open data on routes, timetables, punctuality and fares, including its format. The policy scoping notes to the Act stated that the intention of this section is to make it easier for passengers to access information about bus routes, timetables, fares, tickets and punctuality, enabling them to make more informed travel choices. Further, a comprehensive open data set for the bus industry, which includes accurate information about routes, fares and timings, would "allow application developers to innovate and develop products that passengers want".<sup>143</sup>

<sup>139</sup> op cit., [The Bus Services Bill: policy scoping notes](#), p27

<sup>140</sup> [HL Deb 24 October 2016, c54](#)

<sup>141</sup> DfT, [Accessible information regulations – scoping note](#), 12 October 2016

<sup>142</sup> [HC Deb 11 June 2015, c1309](#)

<sup>143</sup> op cit., [The Bus Services Bill: policy scoping notes](#), p55

All operators of local bus services will be required to release the requested information. In franchising areas the responsibility will lie with the franchising authority.<sup>144</sup> The Government intends to phase in these requirements, with registration data being required in 2017, and fares and punctuality data being added in stages by 2020. The Government takes the view that this transitional approach “should make the process of releasing data easier for operators to manage”.<sup>145</sup>

It also sets out the purpose for which information can be used and the persons or description of persons to whom the information is to be disclosed. The Secretary of State must consult before making any relevant regulations under this section.<sup>146</sup>

The Transport Select Committee welcomed the provisions and commented that London showed “the potential of open data in empowering passengers and allowing local authorities and operators to better understand local needs and gaps in the service”.<sup>147</sup> The Community Transport Association (CTA) commented on the potentially ‘transformational’ implications of these provisions for bus network planning and development.<sup>148</sup>

## 4.9 Ban on new municipal bus companies (section 22)

Section 22 of the Act provides that a relevant authority (county or district council, Combined Authority, Integrated Transport Authority or Passenger Transport Executive) “may not, in the exercise of any of its powers, form a company for the purposes of providing a local service”. In effect it forbids any local transport authority in England from forming a new municipal bus company.

As explained in section 1.5, above, there are eight municipal bus companies remaining in England. This provision does not affect them.

[We Own It](#), a not for profit company limited by guarantee, which campaigns for public ownership, collected signatures on a petition to get the Government to drop what was originally Clause 21 of the Bill. It gained over 21,000 signatures.<sup>149</sup> This was on the back of work by Transport for Quality of Life published in May 2016, which set out how a nationwide network of municipally owned bus companies could deliver planned, regulated bus services. It said that if all deregulated

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<sup>144</sup> the widening of the powers beyond franchising areas was as a result of Government amendments; see: [PBC Deb 16 March 2017, cc87-88](#)

<sup>145</sup> DfT, [The Bus Services Bill: An Overview](#), May 2016, p17

<sup>146</sup> [HL Deb 24 October 2016, c66-7](#); this followed concerns by the House of Lords, see: HL Delegated Powers and Regulatory Reform Committee, [Bus Services Bill \[HL\]](#) (1st Report of Session 2016–17), HL Paper 13, 17 June 2016, para 17

<sup>147</sup> op cit., [Bus Services Bill](#), para 73

<sup>148</sup> [“The Bus Services Bill could help transform transport through better data”](#), *City Metric*, 22 November 2016

<sup>149</sup> see also this article by We Own It campaigner Matthew Bramall: [“The bus bill could rob communities of high quality, affordable bus travel”](#), *The Guardian*, 3 August 2016



areas switched to municipal operation, there would be financial gains of the order of £412 million in England excluding London.<sup>150</sup>

The Labour Party and the trade unions also called for Clause 21 to be dropped.<sup>151</sup> On 16 August 2016 the Leader of the Labour Party, Jeremy Corbyn, announced a policy to give all councils in England the power to set up publicly run municipal bus companies.<sup>152</sup>

During Parliamentary debates on the Act the ban was removed and then restored.<sup>153</sup>

The Government's view was that "passengers will see the most benefit where the commissioning and provision of bus services are kept separate. That purchaser-provider split is a frequent feature of our public services, and as such we do not think authorities should be able to set up new bus companies [...] We have no intention of having authorities setting up bus companies and awarding themselves contracts".<sup>154</sup>

Labour members raised the spectre of a dominant bus company pulling out of a local area because it did not agree with plans for franchising. They queried whether local authorities would have the power to step in and form their own companies in that event. The minister argued that they would not and that other bus companies would snap at the chance to enter a vacated market.<sup>155</sup> The Labour Spokesman, Daniel Zeichner, argued:

We have made it absolutely clear that we completely disagree with this punitive measure, which also contradicts the Government's supposed commitment to localism [...] The Minister has made it clear that the Government's view is that the commissioning and provision of bus services should be kept separate from each other [...] I am not sure the purchaser-provider split will stand the test of time. That is the argument. With the Bill introducing extra powers and more local authority control of local services, we understand that the Government are nervous, and that they are trying to avoid a situation whereby, in their view, private bus operators might be blocked out of the bus market because a franchising authority could award contracts to its own company. They are trying to protect the investment that private bus operators have made.

That is the case they put forward, but as we examine it, we are not convinced that the evidence bears out those concerns. On the first case, there is no reason to believe that a combined authority introducing a franchise scheme would automatically award the franchise to its own bus company [...] It is already illegal under UK law for a local authority to award directly a contract to a company run by itself. The Government are assuming for some reason that franchising authorities would, after going through the process of

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<sup>150</sup> op cit., [Building a world-class bus system for Britain](#), p97

<sup>151</sup> see, e.g. "[Bus Bill threatens public routes](#)", *Unite Live*, 4 August 2016

<sup>152</sup> [Jeremy Corbyn Transport Policy Launch](#), 16 August 2016

<sup>153</sup> [HL Deb 24 October 2016, cc69-77](#) [Division 1] and [PBC Deb 16 March 2017, c92, Division 5](#)

<sup>154</sup> [PBC Deb 14 March 2017, cc57 & 59](#)

<sup>155</sup> *ibid.*, cc57-63

inviting bids to tender, award the contract to their own municipal bus company.<sup>156</sup>

## 4.10 Other sections (16, 19-21, 23-27)

The remaining sections of the Act are uncontroversial.

Section 16 relates to powers to make Traffic Regulation Orders (TROs). It is a consequential provision to make the relevant changes to the *Road Traffic Regulation Act 1984* with regards to franchising, AQP and EP schemes so that TROs may be issued under that Act for these schemes.<sup>157</sup>

Sections 19, 20 & 21 relate to registration and fees and rail replacement bus services. Section 19 makes provision for regulations under which operators of local bus services would be required to provide the relevant LTA with certain information relating to patronage and revenue of the service when making an application to vary or cancel a bus service. Section 20 exempts temporary rail replacement bus services in England from the need for registration. Finally, Section 21 enables any person authorised to accept applications to register, vary or cancel a local bus service instead of the Traffic Commissioner to recover the costs of their activities in carrying out this function. The fee amount would be set by the Secretary of State.

Sections 23 & 24 make consequential and transitional provisions. Section 23 confers what are often referred to as '[Henry VIII powers](#)'. The Lords Delegated Powers and Regulatory Reform Committee has repeatedly expressed concern about provisions in Bills which allow regulations to make consequential amendments by amending, repealing or *otherwise modifying* a provision of primary legislation, but only require the affirmative procedure where the regulations *amend or repeal* a provision of primary legislation and did so again with regard to this section.<sup>158</sup> Section 23 gives the Secretary of State a power to make Regulations to provide for transitional provisions. This could be particularly important to English local authorities that may have set up a ticketing scheme under existing legislation but which wish to develop an advanced ticketing scheme under section 7 of the Act.<sup>159</sup>

Section 25 deals with extent. The majority of the Act *extends* to England and Wales, but not to Scotland or Northern Ireland. It is intended that the majority of sections should *apply* to England (outside London).<sup>160</sup> Section 17 is the only substantive provision that extends to England and Wales, and Scotland because it amends the *Equality Act 2010*.

Section 26 deals with commencement. The regulation-making powers in the Act came into force at Royal Assent; the remaining powers will take effect on 27 June 2017.

Information on how 'English Votes for English Laws' or EVEL applied can be found in HC Library briefing paper [CBP 7339](#) and this [handy visual guide](#)

<sup>156</sup> *ibid.*, cc63-64

<sup>157</sup> for further information on TROs, see HC Library briefing paper [SN6013](#)

<sup>158</sup> *op cit.*, [Bus Services Bill \[HL\]](#), paras 27-31

<sup>159</sup> *op cit.*, [The Bus Services Bill: policy scoping notes](#), p64

<sup>160</sup> the [Wales Act 2017](#) gave the National Assembly for Wales legislative competence for bus services

## 4.11 Matters not in the Act

Some other notable issues raised during the passage of the Act were:

- **Reform of the Bus Service Operators' Grant (BSOG).**<sup>161</sup> The Minister, Andrew Jones, said that the Government is undertaking a review of how BSOG is spent in England and plans to publish detailed proposals later in 2017.<sup>162</sup>
- **National bus strategy.**<sup>163</sup> Mr Jones said that while central Government had "a valuable role to play in providing funding and setting the wider agenda through policy initiatives such as the low-emission bus scheme and our Total Transport pilots", he did not think that a centrally determined strategy for local bus services would "help local authorities to address issues relevant to them and their area".<sup>164</sup>
- **Bus safety** (i.e. requiring subscription to the Confidential Incident Reporting and Analysis System (CIRAS)).<sup>165</sup> Mr Jones, said that "road safety is a critical issue and a matter of national importance", and he had "asked ... officials to explore how the issue could be addressed through guidance, to encourage operators and local transport authorities to consider the benefits of an independent confidential reporting system when establishing a franchising or partnership scheme".<sup>166</sup>
- **Accessibility-related issues.**<sup>167</sup> Mr Jones said that disability awareness training would be a requirement from 1 March 2018 under EU rules and that "even after we have left the European Union, our policy objective of ensuring that bus drivers are equipped with the knowledge and skills to assist disabled passengers will not change. That obligation will not be removed".<sup>168</sup> He also said that "Ultimately ... operators are already required by law to comply with their Equality Act duties and to anticipate and respond to the needs of disabled passengers. I struggle to see how a new legal requirement to comply with an existing legal requirement will positively impact the level of service that disabled passengers receive".<sup>169</sup> The Government had previously said that it would include in guidance the expectation that authorities will produce statements specifying policies, services and facilities to ensure an inclusive approach to bus network design and management, and to provide disabled passengers with the necessary information to make informed choices about their travel arrangements.<sup>170</sup>

<sup>161</sup> see: [HL Deb 20 July 2016, cc706-9GC](#); [HL Deb 24 October 2016, cc83-6](#) and [PBC Deb 16 March 2017, cc114-115](#)

<sup>162</sup> [PBC Deb 16 March 2017, c115](#)

<sup>163</sup> see: [HL Deb 20 July 2016, cc709-10GC](#); [PBC Deb 16 March 2017, c94](#) Labour pushed their amendment to a vote, it was defeated by 9 votes to 5 [Division 6] and [HC Deb 27 March 2017, cc34-49](#) Labour pushed the matter to a vote where it was defeated by 278 votes to 193 [Division 188]

<sup>164</sup> *ibid.*, c95

<sup>165</sup> further information on [CIRAS](#) can be found on its website; see [HL Deb 24 October 2016, cc77-8](#); [HL Deb 23 November 2016, c1979](#); [PBC Deb 16 March 2017, cc111-112](#) and [HC Deb 27 March 2017, cc56-77](#)

<sup>166</sup> [PBC Deb 16 March 2017, c113](#)

<sup>167</sup> see: [HL Deb 20 July 2016, cc654-64GC](#); and [PBC Deb 16 March 2017, cc97-114](#)

<sup>168</sup> *ibid.*, c107

<sup>169</sup> *ibid.*, c107

<sup>170</sup> [HL Deb 24 October 2016, c53](#)

### **FirstGroup Plc v Paulley [2017] UKSC 4**

There has long been concern amongst disability rights groups about the requirements for wheelchair spaces on buses to be vacated if occupied and the circumstances under which, for example, a driver should require someone with a child's buggy or pram to fold it and/or remove it from the wheelchair space.

Doug Paulley took his case against FirstGroup on this issue to the Supreme Court. In its [judgement of 18 January 2017](#) the court held that FirstGroup's rules for their drivers failed to do enough to ensure that wheelchair spaces on buses are reserved for wheelchair users.

The basic legal principle is that, under [section 29\(7\)](#) and [20](#) of the *Equality Act 2010*, service providers must make "reasonable adjustments" for disabled service users. This can include adjustments to physical features of buildings/vehicles (e.g. the provision of a wheelchair space on a bus) and adjustments to policies and procedures (e.g. the rules determining what drivers must do to ensure those spaces are usable by disabled passengers).

In *FirstGroup v Paulley* the Supreme Court held that FirstGroup's rules for drivers failed to make sufficient adjustments for the needs of disabled service users. The rule being challenged was one which, broadly, required drivers to ask a person occupying the space to move for the wheelchair user, but to do nothing more if the person refused. The Court held that this fell just short of what the law required. The law requires that the policy should stipulate that drivers must ask the occupant to move, and if they don't, to ask them again, be more insistent and judge what further action (e.g. stopping the bus) should be required on a case-by-case basis.

## 5. Regulations and guidance

### Draft regulations and guidance, February 2017

The Government's May 2016 policy scoping note stated that it intended to bring forward regulations, which would provide for:

- Definitions of measures that an LTA can include within a scheme;
- Whether facilities or measures that existed before the AQP came into effect can be included within the scheme;
- How admissible objections are addressed; and
- What the review mechanism is for requirements that include frequency; timings, maximum fares or ways in which passengers may pay a fare.<sup>171</sup>

On 8 February 2017 the Government published draft regulations and guidance on a number of issues covered by the Act. The consultation on the drafts closed on 21 March 2017.

For **AQPs**, the draft regulations include the processes by which bus operators can object to elements of an authority's proposals for an AQP and place some limitations on the facilities that an authority can provide as part of the scheme. Specifically, they would allow the local authority to include in a scheme any facilities that are more than 5 years old if no operator objects.<sup>172</sup>

For **franchising**, the draft regulations deal with the following:

- *Service permits*: the detail regarding how service permits should work in practice, including fee levels, the conditions that authorities are able to attach to service permits and notice periods;<sup>173</sup>
- *Transitional provisions*: a number of practical and transparent arrangements and processes to assist in the transition from the current model of bus provision to franchising. This includes enabling authorities to extend the notice period which must elapse before a bus operator can cancel or vary a bus service in the area in which franchising is to be implemented; provisions to enable services to be registered at short notice in the event that the authority procures a service to replace a service that has been withdrawn; and provisions to deal with the registration of services if a franchising scheme is revoked, or varied so as to apply to a smaller area;<sup>174</sup>
- *Transfer of staff (Application of TUPE)*: the processes that should be followed when determining whether a person's employment is principally connected with the provision of particular services, and whether that person should therefore transfer under TUPE and which new operator employees should transfer to; and require operators of local services to provide the franchising authority with certain information in relation to their employees;<sup>175</sup>

<sup>171</sup> op cit., [The Bus Services Bill: policy scoping notes](#), p4

<sup>172</sup> op cit., [Bus Services Bill: draft regulations and guidance](#), pp9-10

<sup>173</sup> ibid., p12

<sup>174</sup> ibid., p16

<sup>175</sup> ibid., p19

- *Pension protection*: details regarding the protection of an employee's pension rights when they are transferred under TUPE;<sup>176</sup> and
- *Information from operators*: categories of information that can be requested by an authority in connection with their functions, including information about the fixed and variable costs of operating services and the vehicles used to provide services.<sup>177</sup>

The Government intends that the final franchising guidance, which it plans to publish later in 2017, should cover a number of issues, such as:

- How an authority should go about assessing its proposed franchising scheme;
- Requesting information from operators;
- The role of the auditor;
- The consultation process;
- Practical guidance for authorities when designing their franchising scheme;
- Practical guidance for authorities when procuring local service contracts; and
- Guidance for authorities in establishing their service permit scheme.<sup>178</sup>

The consultation only seeks feedback on two areas: the assessment of a proposed franchising scheme and the role of the auditor. The detailed proposals are set out in Annexes N and O to the consultation respectively.

For **EPs**, the draft regulations deal with the following:

- *Transfer of staff (Application of TUPE)*: the processes that should be followed when determining whether a person's employment is principally connected with the provision of particular services, and whether that person should therefore transfer under TUPE and which new operator employees should transfer to;<sup>179</sup>
- *Pension protection*: details regarding the protection of an employee's pension rights when they are transferred under TUPE;<sup>180</sup>
- *Information from operators*: categories of information that can be requested by an authority in connection with their functions, including current and projected passenger usage; fare structures and ticketing; time taken for journeys and timetabling; distance covered; type of vehicles; and the result of any activities undertaken with a view to promoting increased passenger use of the local service;<sup>181</sup> and

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<sup>176</sup> *ibid.*, p24; the proposals are similar to those already in existence under Quality Contract provisions; for more information on TUPE and pensions, see: HC Library briefing paper [SN1665](#)

<sup>177</sup> *ibid.*, p26

<sup>178</sup> *ibid.*, p43

<sup>179</sup> *op cit.*, [Bus Services Bill: draft regulations and guidance](#), p19

<sup>180</sup> *ibid.*, p24; the proposals are similar to those already in existence under Quality Contract provisions; for more information on TUPE and pensions, see: HC Library briefing paper [SN1665](#)

<sup>181</sup> *ibid.*, pp26-8

- *Operator objection mechanism*: two tests by which operator objections should be measured, with those tests based on a combination of two principle factors – market share and number of operators. The tests would be used to determine whether objections to EP proposals are sufficient to stop it from progressing. If either test is satisfied then the proposals cannot progress any further – unless the proposals are revised and bus operators are given an opportunity to object again.<sup>182</sup>

The Government intends that the final EP guidance, which it plans to publish later in 2017, should cover a number of issues, such as:

- The different partnership models available and what can be achieved through each;
- Further detail on how to establish both an advanced quality partnership scheme and an enhanced partnership scheme;
- How authorities should go about requesting information from operators to inform an enhanced partnership proposal;
- Competition considerations and the role of the Competition and Markets Authority; and
- Practical guidance for authorities when operating their partnership proposals.<sup>183</sup>

The consultation only seeks feedback on two areas: guidance for authorities and operators to follow when delivering an EP proposal and in relation to competition considerations. The detailed proposals are set out in Annexes P and Q to the consultation respectively.

Finally, on the provision of information under section 19, it stated that regulations would:

- require bus operators to notify authorities at least 14 days in advance of their application to the Traffic Commissioner to vary, cancel or register a service;
- define the sorts of service variations for which an authority can request information;
- set out the time periods within which authorities must notify operators of their request for information, and the periods within which operators must respond to those requests;
- set out the types of information that can be requested; and
- set out the situations in which information can be disclosed.<sup>184</sup>

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<sup>182</sup> *ibid.*, p31

<sup>183</sup> *ibid.*, p45

<sup>184</sup> *ibid.*, p37

## 6. Implementation

As stated above, parts of the Act, particularly to do with the making of regulations, came into force at Royal Assent, on 27 April 2017. The remaining powers will take effect from 27 June 2017.

On 4 May 2017 six regions of England held elections for newly created combined authority mayors (Tees Valley; Greater Manchester; Liverpool City Region; West Midlands; Cambridgeshire & Peterborough and the West of England). These individuals will automatically have access to the bus franchising powers contained in the Act from 27 June. It remains to be seen who will take them up, how and when.

Of those who won on 4 May three have pledged to use the powers in the Act. Andy Burnham, Labour Mayor of Greater Manchester, said:

We will use new powers to make our bus services more affordable, more reliable and more accessible to disabled people and families with pushchairs. We will use the latest technology to introduce an integrated ticketing system on all forms of public transport, making travelling round the city-region more affordable and more convenient. We will require bus operators to provide accessible information on their services, including audio announcements and visible media.<sup>185</sup>

Steve Rotheram, Labour Mayor of the Liverpool City Region, said:

We will use devolved powers promised by the Government to re-regulate the buses; we want to build a properly integrated transport network for our region that provides more accessible connections for all, when needed, whilst investing in updating our fleet with new, clean, green buses to tackle air pollution.<sup>186</sup>

Tim Bowles, the Conservative Mayor for the West of England, said:

An integrated transport network needs a reliable and attractive bus service. Working with our council leaders, I would develop an improved strategic bus network using the Mayor's bus franchising powers. Integrated transport also needs smart ticketing across different means of transport – not just for bus routes – by using modern technology like contactless payment and smartphones.<sup>187</sup>

Andy Street, the Conservative Mayor for the West Midlands, did not make any pledge to use the franchising powers in the Act but he did state that buses “should be clean, safe and a pleasant experience. Some of the newest buses are like this: free Wi-Fi, extra legroom, contactless payments. We need to make sure there are buses like this all across the region”. He pledged to make buses accessible, require a certain standard for new buses and “accelerate the roll out of contactless and smart payments on West Midlands buses, meaning that fares can have a daily maximum price cap”.<sup>188</sup>

James Palmer, the Conservative Mayor for Cambridgeshire & Peterborough, and Ben Houghton, the Conservative Mayor for the Tees

<sup>185</sup> Burnham for Mayor, [Our Manifesto for Greater Manchester](#), April 2017, p8

<sup>186</sup> Steve Rotheram, [Our Future Together](#), April 2017, p22

<sup>187</sup> ["This is what Tim Bowles' vision for the West of England is"](#), *Bath Chronicle*, 5 May 2017

<sup>188</sup> Andy Street 4 WM Mayor, [My West Midlands Renewal Plan](#), April 2017, p11



Valley, do not appear to have made any comment on using the powers in the Act.

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