

Purpose

This briefing will provide an impartial overview of the Bus Services Act 2017. It will explore the existing policies in the West Midlands, including the Vision for Bus and Vision for Bus Delivery Plan, and will look in detail at the powers available through the Bus Services Act 2017 for shaping and influencing the region's bus network. The briefing will look at the four different options (Advanced Ticketing schemes, Advanced Quality Partnership Schemes, Enhanced Partnership and Franchising) and will provide an overview of:

- What is it;
- Why would you implement it, and what could it offer the Coventry and the wider West Midlands;
- What would be the process for developing and implementing it;
- What are the opportunities and risks of implementing it; and
- How much would it cost to implement.

Introduction

Coventry and the West Midlands have strong growth ambitions to improve productivity and the quality of life for everyone who lives and works in the region. 2021 Coventry City of Culture, the 2022 Birmingham Commonwealth Games, and the now approved HS2 scheme will be once in a lifetime opportunities to transform the region and drive investment.

The West Midlands Combined Authority's (WMCA) Strategic Economic Plan (SEP) sets the overarching vision for the region; by 2030, the SEP plans for:

- 500,000 new jobs;
- 20,000 more businesses;
- 16,000 additional hectares of employment land; and
- 215,000 additional homes.

The SEP recognises that an efficient and resilient transport system will underpin future economic success, by connecting communities to

opportunities, and by connecting businesses to markets. Transport is fundamental to economic development and growth to enable Coventry and the wider region to thrive, and deliver on the WMCA's Local Industrial Strategy, Housing Deal and Public Service Reform.

Congestion on the region's roads remains a challenge to these ambitions however; Transport for West Midlands (TfWM) is working closely with Coventry and other local authority partners and investing in developing a world-class integrated transport system that will allow seamless, convenient travel across the region and will reduce the need for private car journeys.

Within the existing West Midlands public transport offering, buses play a fundamental role in supporting travel and accessibility. Whilst the bus network is facing certain challenges, including ongoing declining bus speeds, it remains the most popular and important mode of public transport in the region carrying 80% of all public transport trips. TfWM created the Strategic Vision for Bus in partnership with Coventry and the other 6 metropolitan authorities to acknowledge the importance of the mode in the region and commit to supporting the mode to maximise the positive benefits that it can deliver.

Vision for Bus

Public transport is essential for inclusive growth, and 4 out of 5 public transport journeys in the region are taken by bus. The bus network is facing serious challenges however, with decreasing reliability and accessibility of the bus and negative perceptions acting as a barrier to greater uptake in bus usage.

As a Mayoral Combined Authority, the Mayor, through the WMCA, has new powers that could greatly influence the future of the network, and technological innovations provide the potential to deliver a smarter network with integration between other modes of travel. It was necessary to set a Vision for Bus to set the benchmark for what we want from the bus in Coventry and the wider West Midlands, helping to enable us to assess the

options and opportunities presented to us now and in the future.

The Strategic Vision for Bus was approved and adopted by the WMCA Board on the 9th November 2018, and set out a clear narrative on the importance of bus in the region, the current challenges facing buses, and a number of opportunities that exist that could help them thrive. With an established Vision for Bus, and nine objectives that characterise the vision, it allows decisions to be made on the best options available for achieving it.

The Vision:

“A world-class integrated, reliable, zero emission transport system providing inclusive travel for all across the West Midlands. With excellent customer service and simple payment and ticketing options. Customers will be able to make easy and safe door-to-door journeys, benefitting from new innovative transport solutions that meet the needs of a modern and diverse 21st Century economy, reducing the reliance on private single occupancy car journeys.”

Vision for Bus Delivery Plan

As part of the Vision for Bus, nine objectives were established that together characterise the vision statement above, and clear progress can be made towards each objective through strategic intervention. As committed in the Vision for Bus, a Delivery Plan has been created to show how TfWM are planning on delivering the objectives in Coventry and the West Midlands, and highlighting where further work needs to be directed. The Delivery Plan takes stock of the direct and indirect interventions taking place in the region currently, or in the future, that will contribute to achieving the objectives.

The Bus Services Act 2017

Introduction

The Bus Services Act 2017 was introduced in 2016 in the House of Lords and received Royal Assent in 2017. The aim of the Act is to improve bus services for passengers by providing local authorities, the Secretary of State and bus operators with a new toolkit to enable improvements to be made to bus services in their areas.

The 2017 Act provides a new legislative framework to help bus operators and local authorities to improve local bus services and realise untapped growth potential; the powers have the potential to lead to better journeys and value for taxpayers and passengers.

In particular, the 2017 Act:

- Strengthened arrangements for partnership working between bus operators and local authorities in England, introducing new Advanced Quality and Enhanced Partnership schemes;
- Introduced, in England, bus franchising powers to replace previous Quality Contract Schemes;
- Modernised previous ticketing legislation; and
- Provided the powers necessary for a step change in the information available to passengers through audio and visual on-board information (across Great Britain) and through the provisions of open data on timetable, fares and bus service arrival times (in England).

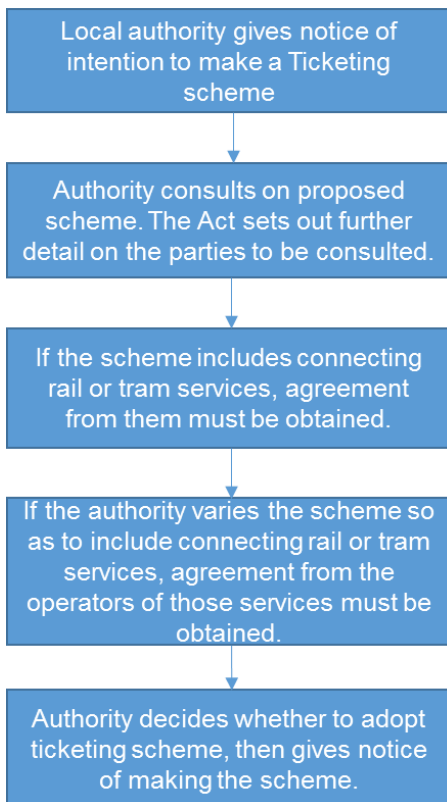
Advanced Ticketing Schemes

New powers allow the establishment of multi-operator and multi-modal ticketing schemes so that local authorities can specify, among other things, the technology to be accepted (e.g. contactless bank cards, mobile technology, smart cards). It also ensures that an authority developing new advanced ticketing arrangements thinks about the need to facilitate journeys to and from other nearby authorities and whether their scheme might

make it easier for nearby authorities to adopt similar arrangements.

The powers do not allow local authorities to set the price of multi-operator or multi-modal tickets which will need to be agreed with the relevant operators.

Process for setting up an Advanced Ticketing Scheme



Current Activity

At present, TfWM provide a multi-operator and multi-modal ticket through the Swift platform, which offers the ability to buy a pass for travel on bus, tram and trains in the region. This was delivered through existing voluntary partnerships.

Advanced Quality Partnership Scheme

An Advanced Quality Partnership Scheme (AQPS) is made by a local authority and commits to take steps to support local bus services in exchange for bus operators being required to meet specific local

standards. These standards usually apply to a specific route or corridor, but it is possible for an AQPS to cover a wide geographical area, such as an entire local authority or city region like Coventry. Any operator who does not meet the required standards is unable to use infrastructure provided by the local authority and specified in the scheme.

Examples of outcomes that could be achieved with an AQPS include:

- Better Journeys
 - Better buses (e.g. Wifi, lower emissions);
 - Minimum service frequency or evenly-spaced timings;
 - Improved passenger information;
 - Route or area branding and/or marketing;
 - Smart cards and contactless payments.
- Better places
 - Better transport connections;
 - Low emission busses.
- Better value
 - Maximum fares for given routes or services.

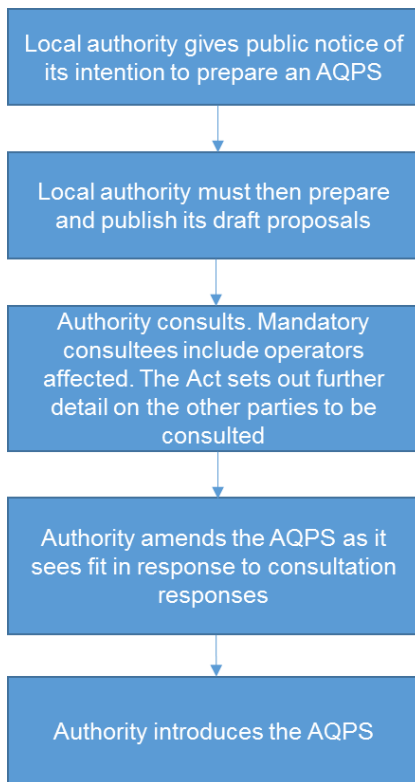
Some of the standards, such as service frequency and maximum fares can only be implemented if there are no outstanding objections from operators who would be affected by the scheme.

The local authority's 'side of the bargain' in an AQPS can involve providing bus-related facilities and/or committing to take measures that directly or indirectly encourage bus patronage, such as:

- Parking policies that encourage the use of public transport;
- Traffic management policies that prioritise buses; and
- Advertising and marketing campaigns to promote the use of local bus services.

Advanced Quality Partnerships were an attempt to upgrade the provisions of the Transport Act 2000 which introduced the Statutory Quality Partnership Scheme, so continue to deliver outcomes that were previously possible before the BSA 2017.

Process for setting up an Advanced Quality Partnership Scheme



Current Activity

There are three AQPS's already in place in the West Midlands:

- Birmingham City Centre;
- Solihull Town Centre; and
- Wolverhampton City Centre.

These agreements have been put in place with a focus on generating significant uplifts in bus operator quality standards, especially exhaust emissions. For the Birmingham City Centre AQPS (the biggest of its kind in the UK), the local authority 'side of the bargain' was a multi-million pound investment in bus shelters, way-finding and bus lane enforcement.

The schemes operate for a period of 10 years from the commencement date, notwithstanding any postponement or variation.

Enhanced Partnerships

Enhanced Partnerships (EP) differ from AQPSs in a few different ways. It is a more formalised agreement between a local authority and local bus operators, and allows for a wider range of measures to be included. By agreement, local authorities within EPs can take on service registration functions from the traffic commissioners, providing greater powers over network provision and better insight into buses operating in the region.

Under an EP, the requirements of the scheme – either area-based requirements, such as smart ticketing scheme, or route-based requirements such as maximum frequency of service on an individual bus route – are included as requirements of registration. This means that if an operator wishes to register a local bus service on a route that is subject to an area or route-based requirement, they must comply with those requirements for as long as the service remains registered or those requirements in the EP exists. Failure to do so can result in enforcement action by the Traffic Commissioner.

The Enhanced Partnership includes a high level vision and objectives for bus services in the local area (known as the EP plan) and accompanying actions to achieve them (set out in one or more EP schemes).

An EP still requires trust and consensus to ensure a successful partnership is achieved, so local bus operators need to be given the opportunity to participate in the development of an EP and have a formal say on the process at several key stages.

Examples of outcomes that could be achieved with an EP include:

- Better journeys
 - Better buses (e.g. Wifi);
 - Service frequency;
 - Route/ area branding;
 - Smart cards and contactless payment.

- Better places
 - Links to employment;
 - Better transport connections;
 - Environmental standards;
 - Better routes in communities (e.g. serving health and education services).
- Better value
 - Multi operator tickets, including price setting;
 - Common ticket rules and fare zones;
 - Uniform discounts for apprentices and other groups.

As with an AQPS, authorities that make EPs can agree to provide either or both facilities or bus improvements which directly or indirectly encourage bus patronage. Whilst an EP scheme does not have to contain local authority commitments, it is unlikely to receive support from a sufficient proportion of local bus operators unless it does so.

EPs could provide local authorities with the ability to deliver much of what could be delivered under a franchise (such as setting standards operators must meet covering vehicle specification, branding, fares, ticketing and frequencies, powers over the price of multi-operator tickets and the ability to specify how passengers are able to pay for tickets, and the opportunity to take over responsibility for bus registrations from the Traffic Commissioner), but with the operators retaining the revenue risk. Operators would still be required through competition law to provide their own tickets and neither TfWM, Coventry City Council nor other local authority would have full control over service delivery or an operators' revenue streams.

Process for setting up an Enhanced Partnership

Before any formal processes are embarked upon, informal conversations should be held between the authority, operators and a wider set of stakeholders to explore how an EP could improve bus services in the area. These informal discussions are beneficial as they generate ideas

on what is likely to be collectively deliverable under the EP.

To enable formal discussions to begin, the local authority is required to give notice of its intention to prepare an EP and invites all the local bus operators to participate in that process before they start to prepare the plan and scheme.

Once the formal processes begin, the development of an EP is still a negotiation between the authority and operators. Whilst under the legislation the authority 'makes' the EP, they cannot do so in isolation without the agreement of a defined number of relevant operators. Flexibility and compromise will be key to achieving agreement between parties. As part of the development of an EP plan and scheme, it is important that the needs of small and medium sized (SMOs) are also considered because they may not be well placed to implement the requirements of an EP quickly, especially if the requirements attract considerable administrative burden or large financial outlay.

Any commitments made by the authority or by bus operators once a formal EP is 'made' are legally binding. An authority that does not fulfil its obligations can face legal action by the bus operators in courts; likewise an operator not meeting service standards could be in breach of its local bus service registration and face action.

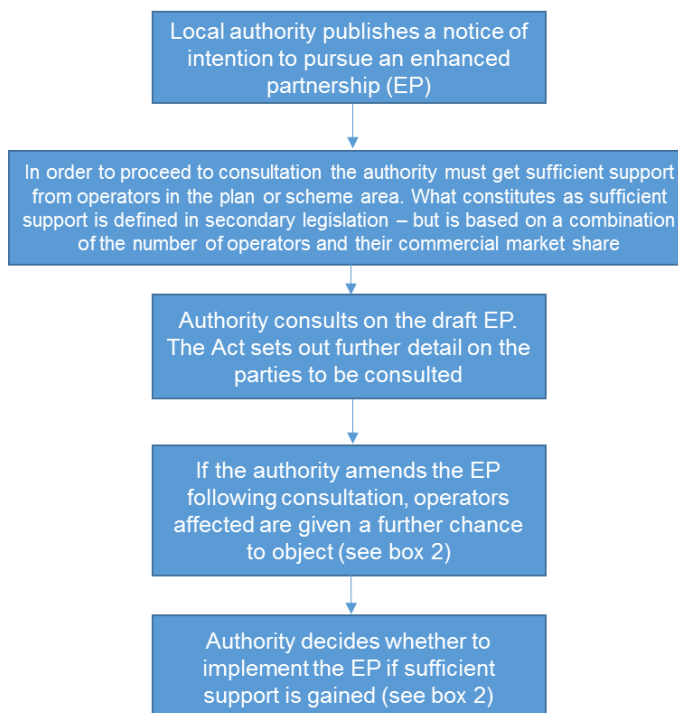
A core legal requirement of making an EP plan is that there must be at least one EP scheme associated with it that is made at the same time. The plan cannot be made or stay in force without at least one associated EP scheme. There is nothing to prevent further schemes being introduced at any time later on, subject to proposals.

When a plan and scheme has been prepared, operators are given the opportunity to view the proposals and raise objections if desired. The authority must assess objections, and if the objections satisfy specific criteria, the local authority cannot proceed to the next step. If

objections do not satisfy specific criteria, or if there are no objections, the local authority can proceed to the next step, a consultation to liaise with wider stakeholders on the plan and scheme.

Once the consultation exercise is complete and the responses have been properly analysed and any changes made, operators once again have the opportunity to object to a modified plan and scheme. There is no need for a further operator objection process if the proposals remain unmodified after consultation.

Once the objection process has been completed and if there are not sufficient objections to prevent the plan and scheme being made, the authority can then make the plan and scheme.



What would we potentially use it for in Coventry and the West Midlands?

In Coventry and the West Midlands, an Enhanced Partnership could be used to deliver a number of improvements that may not be possible under a traditional AQPS.

For example, Sprint is a critical transport scheme being delivered in the wider region with associated financial risk. An operating model needs to be clarified to enable effective delivery of the service, and as part of this, there needs to be contractual certainty around who can use the highway infrastructure being deployed for Sprint, and to minimise competition between Sprint and regular bus services. An Enhanced Partnership could therefore be a mechanism for securing this certainty amongst operators.

An Enhanced Partnership could also be used to implement improved ticketing options that an AQPS or voluntary partnership may not be able to deliver. Examples of this include requiring all bus operators to:

- Set all their tickets and fares on a standard set of ‘zones’ that apply to all operators;
- Follow common ticket rules for their own tickets (such as a standard length of ‘period’ tickets or age to qualify for a youth concession if offered); and
- Charge a set price for a multi-operator ticket.

Choosing the right type of partnership

Whilst much of what can be specified in an AQPS or an EP Scheme can be delivered through a voluntary partnership (such as the Bus Alliance), an AQPS or EP is useful where either party (local authority or operators) is looking to ensure certainty through legal commitments, or where voluntary partnerships are not seen to be working.

Through developing the legislation, it was envisaged that AQPSs and EPs would be used in different scenarios, summarised below.

AQPS most likely to be used where:

- There is broad support from operators for the scheme; and/or
- Operators and the authority feel it would help for both the authority and operators to have a legislative obligation to deliver ‘their side of the bargain’; and

- The geographical area to be covered was comparatively limited; and
- The desired outcomes were relatively modest and could be met through an AQPS.

Enhanced Partnership most likely to be used where:

- It was important the requirements applied to all operators in the area concerned; and
- The majority of bus operators are likely to agree to the scheme, but a minority of operators would oppose some or all of the package; and
- Where the scope of the scheme is likely to be more ambitious than an AQPS – for example: by including a zonal-based multi-operator ticketing scheme that may also set the prices of the ticket; and/or
- Where the local transport authority wishes to take over the registration and enforcement of local bus service registrations from the Traffic Commissioner.

If choosing between a partnership route, it is important to have a clear rationale and assessment to why one partnership route is preferable to the other i.e. why an EP is more suitable than AQPS, or vice versa.

Franchising

Franchising powers are automatically accessible to mayoral combined authorities and provide the greatest opportunity for controlling the bus network, but equally the greatest risk.

It is an established model for providing bus services used in London and in many cities and regions across Europe, and in a franchising scheme, local authorities will determine the details of the services to be provided – where they run, when they run and the standards of the services. Typically bus operators provide their services under contract to the local authority who can let whatever sort of contract they feel is appropriate. No other services can operate in the franchised area without the agreement of the franchising authority.

The franchising authority has considerable scope in determining how services are specified and provided; contracts could be awarded on a route-by-route basis, or one contract for the whole network for example.

Examples of outcomes that could be achieved through franchising include:

- Better journeys, giving Local Government power to decide:
 - What bus services run where and when;
 - The types of ticket available including discounts for apprentices or other passengers as required;
 - What types of payment must be accepted including smart and contactless; and
 - What information is available to passengers.
- Better places:
 - Putting responsibility for key local roads, and deciding which bus services run, in one place;
 - Giving Local Government the power to decide what sorts of buses must be used - including their emissions standards or technologies.
- Better value:
 - Local Government accountable to local people – setting all fares;
 - Giving Local Government the central funding for bus services that is currently provided directly to operators;
 - Taking a more strategic view of what services are needed and where, and focusing services where they are most needed – rather than where the best commercial opportunity may be;
 - Creating effective competition to run bus services in areas where there is little on-road competition today;
 - Local Government joining up their planning of local transport services across modes and types of provision (including school and health transport); and
 - Allowing commercial bidder for franchises to innovate too.

It is important to understand that under franchising, bus services should continue to be provided by commercial operators, not local authorities. Local authorities cannot set up new municipal bus companies to compete for franchised services with existing operators or any new private sector providers.

Local authorities also need to be aware of the risks of pursuing franchising including:

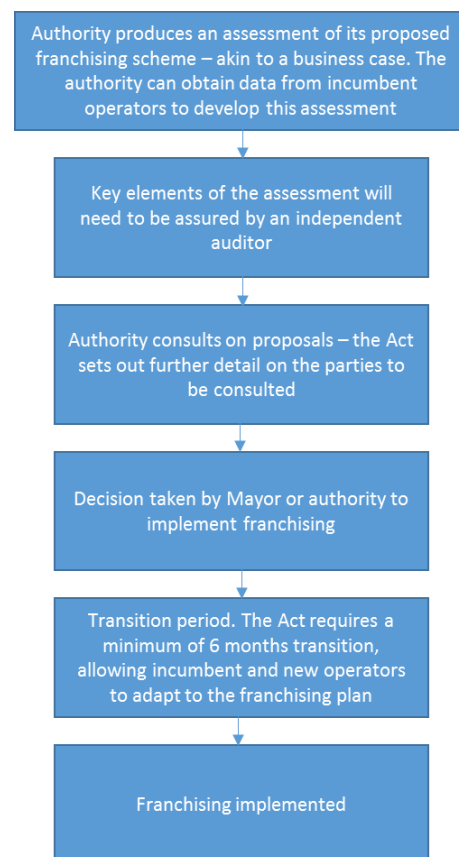
- Potential legal challenges to franchising from operators;
- Local authorities would take on the full cost of scheme preparation whereas, under an EP, preparation could be shared with operators and overall costs would be lower than a franchise, because the local authority would not have to devote the same level of analysis to appraising financial risk;
- Local authorities would be required to take some or all revenue risk under a franchise, whereas under an EP, it is likely that revenue risk would remain with operators;
- Risk and costs associated with Transfer of Undertakings (protection of Employment) Regulations 2006 (TUPE) transfer of staff and their pension protection where relevant;
- Potential 'stranded assets'; and
- The potential for transitional risks, if operators choose to reduce commercial operations in the period leading up to the commencement of franchised operations.

Process to Introduce Bus Franchising

As set out in the Transport Act 2000, the process of introducing a bus franchise is made up of five key stages:

- Preparation of an assessment of the proposed franchising scheme- akin to the development of a business case
 - including requesting any relevant information required from operators to develop the assessment
 - including commissioning a report to be prepared by an independent auditor on the assessment;

- Consultation and engagement;
- Responding to the consultation and, if the decision is to make a scheme, making and publishing the scheme;
- Transition, including staff transfers; and
- Implementation, including the operation of the service permit scheme



Criteria and Factors to Take into Account

- Plans for improving bus services - how does an authority intend to use franchising to deliver better services?
- Powers to make franchising a success - an authority needs a suite of powers in place to make franchising a success, e.g. control of both local roads and public transport, planning responsibilities, and control of issues such as parking policy;
- Strong governance arrangements - Decision-making and accountability arrangements need to be transparent to local people;

- Effective geography to make franchising a success- ensuring that franchising can be put into practice effectively across the geography of an area, appropriate to travel to work and leisure behaviour patterns; and
- Capacity and resources - the authority needs to be able to demonstrate that it has the capacity and resources to deliver franchising.

Development of a Franchising Scheme assessment

A Franchising Scheme assessment is required under Section 123B of the Transport Act 2000; without it an authority cannot implement franchising.

Section 123B continues to state that the assessment must describe the likely effects of the scheme and compare making the proposed scheme to one or more other courses of action. It must also consider the following:

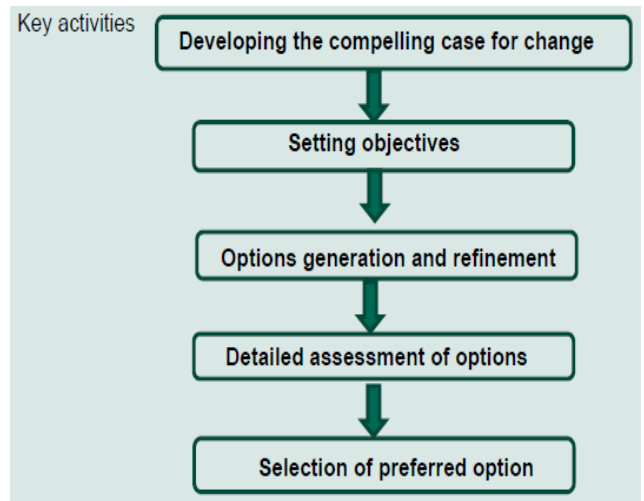
- Whether the proposed scheme would contribute to the implementation of other policies affecting local services;
- Whether the proposed scheme would impact neighbouring local authorities;
- How the authority would make and operate the proposed scheme;
- Whether the authority would be able to afford to make and operate the scheme;
- Whether the proposed scheme would represent value for money; and
- The extent to which the authority is likely to be able to secure that local services are operated under local service contracts.

The decision to change the model of bus service delivery is significant and will impact many stakeholders. This decision has however been devolved to franchising authorities so the assessment of the proposed scheme needs to contain sufficient detail to enable an informed decision to be taken.

Authorities are advised to refer to the Green Book and the Aqua Book for cross-government guidance on appraisal and evaluation, and producing robust analysis when preparing the assessment.

Overview of Assessment Process

The diagram below details the key activities that an authority should undertake when developing their assessment.



Legislation does not require the authority to pass a particular test or prove that franchising will deliver particular outcomes. It is for the Mayor to decide whether franchising is the right course of action in a mayoral combined authority, based on the assessment of the proposed franchising scheme and the results of the consultation.

The assessment should include a level of detail similar to an Outline Business Case and include:

- Detailed assessment of the options available;
- Full economic and financial appraisals, including appropriate sensitivity tests;
- How the preferred option would be procured;
- How risks to the delivery of the project will be managed.

Developing the Case for Change

The authority should set the context of the assessment by describing the overall aims and objectives of the authority, and the role transport (buses in particular) will play in relation to them. This might include economic, environmental or social objectives.

The assessment should involve information about current and predicted future performance of local bus services, including bus patronage, journey speeds and reliability and fares and ticketing.

In developing a case for change, an authority needs to consider:

- Local travel patterns and demand for travel in the local area;
- The geography of the area in which they are proposing to make changes and the reasons why such change is appropriate;
- Current levels of competition in the local bus market and the impacts that may be having on the offer to passengers; and
- Any external or wider trends (such as technological developments and innovation in smart cities or personal travel) which could impact on local bus services in the area.

The case for change needs to justify the need for intervention, and set out the issues that passengers are currently facing.

Setting Objectives

The authority should clearly set out the objectives it is trying to achieve separately from considering the options available to help achieve those objectives.

The objectives should be SMART (specific, measurable, achievable, realistic, and time-bound).

Options Generation and Refinement

The authority should identify a number of options which may help achieve the set objectives. It should not be a desk exercise, and authorities should engage with bus operators to explore options, such as realistic partnership propositions and ticketing solutions that could be considered alongside franchising propositions.

A detailed assessment should be completed for each of the shortlisted options to find the benefits, impacts and costs of each one to further determine the extent to which they would meet the objectives.

Strategic Case

As part of the assessment, authorities should consider whether the proposed franchising scheme would contribute to the implementation of their local transport plan policies and any other of their published and adopted policies that affect local bus services, such as environmental policy. The same consideration needs to be applied to neighbouring authorities' policies.

Economic Case

The authority should consider the economic case in terms of impact on wider society, both from the proposed franchising scheme and from the other options being considered. It should be assessed against a realistic 'do nothing' scenario.

The potential impacts of different options should be explained for passengers, the authority, wider society and bus operators which may include benefits for current passengers with cheaper tickets and more frequent services, or local residents with improved air quality.

The impact of the transition period should also be considered with each option, especially on passengers as they will likely face disruption or withdrawal of their normal service.

The authority should think about the distribution of benefits, costs and risks between different groups when considering the impacts of the options. With respect to franchising proposals, the authority should ensure they have considered:

- Impact on bus users - the likely benefits from changes in fares and measures to improve the quality of their journey experience;
- Fare-box revenue - whether a gross cost or net cost franchising model is being proposed;
- Bus Service Operators Grant (BSOG) payments - devolved to any authority that pursues franchising and, as a consequence, the funding to bus operators will decrease;
- Operating costs - such as leasing assets, staff, training, marketing and branding for example;
- Capital costs - such as investments in depots or buses;

- Bidding and administration costs;
- Implementation costs - including additional staff requirements;
- Operator margins - based on evidence from existing franchising and contractual arrangements;
- Environmental impacts - such as changes in air quality due to changes in congestion or service levels.

Financial Case

As part of the assessment, an authority needs to consider whether they would be able to afford to make and operate the proposed franchising scheme. In developing a financial case for the assessment, an authority should ensure they have considered:

- Whether the options would require capital spending, such as for the purchase of depots, buses or other infrastructure;
- Whether the options would require revenue spending, such as for additional staff, in particular considering the costs associated with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) transfer of staff and their pension protection where relevant;
- How BSOG funding will be used; and
- Considerations mentioned in economic case.

The financial case element of the assessment should set out:

- A year by year cost analysis, broken down by capital and resource expenditure, for the authority;
- The budget available to the authority in each of the relevant years;
- A year by year income forecast for the authority if relevant (for example if a gross cost franchise is proposed);
- Whether the option requires additional borrowing by the authority and if so what interest assumptions and repayment arrangements have been used;
- A summary of the key financial risks, particularly to any forecast income to the authority and including any quantified impacts and high level mitigation plans; and

- A sensitivity analysis, reflecting the range of financial risks.

Commercial Case

It is necessary for authorities to consider how they intend to facilitate the involvement of small and medium sized operators, especially as there is a need to ensure competition for the first and subsequent rounds of procurement.

An authority also needs to set out how they intend to facilitate cross-boundary services, including how the service permit system will be used to enable those services to operate.

Authorities should ensure that during the transition periods to the new options they know how they intend to ensure passengers are protected during the period and what commercial arrangements they plan to put in place to manage the process.

In developing the commercial case of the assessment, an authority should consider:

- The commercial model they intend to employ;
- The size and geographical scope of the areas to which contracts will relate;
- The lengths of contracts;
- Whether franchising will be phased-in gradually;
- Other key contractual arrangements, including those relating to staff transfer;
- How they intend to facilitate strong competition for contracts; and
- The key commercial risks, their potential impacts and how they would be mitigated and managed.

Management Case

The authority should consider how it would successfully deliver and manage the options, and set out the arrangements it plans to put in place to manage and mitigate risk in relation to each option.

The authority needs to state how it will manage the transition period from the current system to the new proposed options; the authority needs to clearly set out any contingency plans for providing replacement services should operators stop

running their services before the introduction of the franchising scheme.

Information Request

To inform the assessment, an authority needs to gather robust information and data. The Transport Act 2000 enables an authority to request certain data from operators of local services in the area in which the franchising scheme is proposed in order to help develop their assessment.

Authorities should also provide evidence for the assessment through information gathered from passenger surveys or information about local travel patterns, other research and evidence about the likely benefits or impacts of changes to bus services.

Assurance Report Prepared by the Auditor

Once the assessment has been prepared and an authority wishes to proceed with its proposed franchising scheme, it must receive a report from an independent auditor on the assessment.

The auditor's report must outline whether:

- The information relied on by the authority in producing the economic (value for money) and financial (affordability) cases of their assessment is of sufficient quality;
- The analysis of that information is of sufficient quality; and
- That the authority has had due regard to guidance issued by the Secretary of State under section 123B of the Transport Act 2000 in preparing its assessment.

The guidance issued by the Secretary of State in relation to the auditing process has two parts:

- 1) Guidance for franchising authorities on the matters to be taken into account by a franchising authority when selecting a person to act as an auditor.
- 2) Guidance for the appointed auditors, concerning matters to be taken into account by auditors when forming an opinion as to whether the information

relied on by the authority, and the analysis of that information by the authority, is of sufficient quality.

Consultation

Following the preparation of the assessment and the report prepared by the auditor, the authority should then consult widely on their proposals to ensure that local passengers, businesses and transport providers are able to comment on the proposals.

The Transport Act 2000 specifies a number of key stakeholders that an authority must consult on their proposals, including:

- Local bus operators;
- Representatives of employees of such operators;
- Organisations representing local passengers;
- Local authorities who would be affected by the proposed scheme, including National Parks Authorities where relevant; and
- A Traffic Commissioner, Chief Officers of Police for areas to which the proposed scheme relates, Transport Focus (the Passengers' Council), and the Competition and Markets Authority.

Where the authority is a mayoral combined authority, it must be the Mayor that takes the decision on whether or not to proceed with the franchising scheme following consultation.

Transition to a Franchising Scheme

Where an authority has decided to implement a franchising scheme, the market will need to transition from a de-regulated system, where operators register services with a Traffic Commissioner, to a system whereby the majority of services are specified by the authority or authorities and operated under contract to that authority.

Staff Transfers

The Transport Act 2000 recognises that where franchising is introduced, there may be a need for staff to transfer to new operators who have won local service contracts to provide franchised bus

services. Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply in this situation which should protect existing staff working on the affected bus services, help reduce the burden of redundancy payments for operators who have to cease trading or downsize because of franchising while ensuring that there is a workforce ready to provide the new franchised services.

All affected employees who transfer when franchising is introduced should be provided with access to a broadly comparable pension scheme.

Service Permits

Where a franchising scheme is introduced, an authority will also need to operate a 'service permit scheme' to ensure that other services, which do not form part of the network of services under local service contracts, are still able to operate, including cross-boundary services. A consultation is required on an authority's proposed service permit system before it can operate.

The authority will review applications from operators for service permits on a case-by-case basis and assess whether the proposed service will benefit local passengers, and whether it will adversely impact on any of the services in the franchised network. A franchising authority has the power to suspend or revoke a service permit under certain circumstances.

Role of the Traffic Commissioner

When franchising is issued, services no longer need to be registered with the Traffic Commissioner if, for example, they are operated as part of a local service contract, or through a service permit.

As with Enhanced Partnerships, enforcement is still the responsibility of the Traffic Commissioner however, as they remain the body responsible for licensing and regulation of the industry. Traffic Commissioners are able to take action against operators, including attaching conditions to licenses and issuing fines, where operators are for example running services in the franchising

scheme area when prohibited from doing so or where they fail to provide information when required by an authority under the Transport Act 2000.

Enforcement of local service contracts themselves, and the standards imposed by those contracts, is a matter for the franchising authority, who should ensure they build in the necessary contractual mechanisms to deal with poor performance.

Authorities are also able to take action against operators that are not complying with the conditions of their service permit, by revoking or suspending such a permit. In this case, the Traffic Commissioner will act as the appeal body. Issues relating to safety or that could impact on the good repute of an operator should be reported to the Traffic Commissioner.

Devolved control over registering vehicles would be beneficial for the franchising authority as it would be able to enforce its own vehicle standards and criteria as well as enforcing penalties against punctuality for example, an area the Traffic Commissioner may not be as proactive currently.

Varying a Franchising Scheme

It is possible for an authority to vary a franchising scheme once it has been implemented. For a mayoral combined authority, it is the Mayor who is required to take the decision as to whether or not to vary the scheme.

Consultation is required for significant changes proposed to a franchise scheme. The same process as done when making the franchise scheme needs to be followed.

Revoking a Franchising Scheme

Although franchising is intended to be a long-term model, it can be revoked with good reason. An authority may only revoke such a scheme if they are satisfied that:

- 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 authority; and
- The burdens of continuing with the scheme are likely to outweigh the benefits of doing so.

If one or more of these reasons are met, it is the Mayor's decision to revoke the scheme in a mayoral combined authority.

What would we potentially use it for in Coventry and the West Midlands?

To make franchising a success, an authority must be able to demonstrate it has the right suite of powers in place; authorities that have control of both local roads and public transport, together with planning responsibilities and control of issues such as parking policy, will be better placed to implement franchising as they are able to directly control many of the factors that impact on bus patronage.

Where an authority does not have control of these aspects, they could put in place alternative practical arrangements such as:

- The creation of a key route network of local roads across different authorities – under one management organisation and decision making structure; and
- A proposition for how the authority and its districts or constituent authorities will work together throughout the different tiers to implement franchising with a shared vision and approach for local bus services.

At present, the WMCA does not demonstrate the full suite of powers to make franchising a success, so there may be limitations at present to how well it could be delivered.

Franchising would be the mechanism that could deliver the greatest control of the bus network in the region and there are various models of franchising that could be explored, such as what area is franchised (region vs. corridor), and whether it is a gross cost or net cost franchising model. Different models would provide different

benefits and costs, which would have to be explored in greater detail.

Franchising Summary

The powers to implement a bus franchise are automatically available for a mayoral combined authority.

To implement a franchise, the Mayoral WMCA would need to prepare an assessment of the proposed scheme (with an audited report), consult with relevant stakeholders and then have the Mayor and the Mayoral WMCA determine whether to implement the proposals.

Key questions to ask before pursuing franchises:

- Is there a compelling case for change?
- Is franchising economically and financially viable?
- Will franchising help achieve wider economic, social or environmental objectives?
- Is there a more suitable option e.g. Enhanced Partnership or AQPS?
- Will additional revenue be needed for more staff, especially TUPE costs and pension protection?
- Can the devolved powers from the Traffic Commissioner be used effectively to benefit the franchising authority?

Bus Services Act 2017 Summary

The Bus Services Act 2017 provides local authorities, the Secretary of State and bus operators with a new toolkit to enable improvements to be made to bus services in their areas.

Along with modernising previous legislation with Advanced Ticketing schemes, three main options available to local authorities when working in partnership with bus operators are presented:

- Advanced Quality Partnership Schemes;
- Enhanced Partnerships; and
- Franchising.

Each option presents different mechanisms for improving buses and their suitability can be assessed based on what a local authority is seeking to improve.

Whilst voluntary partnerships (such as the Bus Alliance) are effective in generating improvements in the bus network, the new powers can be used to improve commitments through contractual arrangements.

A full assessment of the options should be undertaken to evaluate the costs and benefits of each option and to assess the degree that each option can deliver against local authority objectives.