



House of Commons
Transport Committee

**Bus Services Bill:
Government Response
to the Committee's
Eighth Report of
Session 2016–17**

**Eighth Special Report of
Session 2016–17**

*Ordered by the House of Commons to be printed
9 January 2017*

Transport Committee

The Transport Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Transport and its associated public bodies.

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The following was also a member of the Committee during the inquiry:

[Mary Glendon MP](#) (*Labour, North Tyneside*)

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The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Publication

Committee reports are published on the Committee's website at www.parliament.uk/transcom and in print by Order of the House.

Evidence relating to this report is published on the [inquiry publications page](#) of the Committee's website.

Committee staff

The current staff of the Committee are Gordon Clarke (Committee Clerk), Nehal Bradley-Depani (Second Clerk), James Clarke (Committee Specialist), Andrew Haylen (Committee Specialist), Daniel Moeller (Senior Committee Assistant), Michelle Owens (Committee Assistant) and Estelle Currie (Media Officer).

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Eighth Special Report

The Transport Committee published its Eighth Report of Session 2016–17, *Bus Services Bill* (HC 611), on 25 November 2016. The Government's response was received on 20 December 2016 and is appended to this report.

In the Government response, the Committee's recommendations appear in **bold text** and the Government's responses are in plain text.

Appendix: Government Response

Introduction

The Government welcomes this opportunity to respond to the Transport Select Committee's recommendations on the Bus Services Bill.

We are pleased to note that the Committee chair has stated that “there is a lot to welcome in this Bill. By giving local authorities new powers and offering practical measures such as improved passenger information and services, these proposals have the potential to bring about significant improvements for both passengers and communities.”

Partnership, franchising and ownership

Recommendation 1: The Government should publish further detail regarding the voting mechanism as soon as possible to allow the House of Commons to scrutinise the possible impact of Enhanced Partnership Schemes on competition. (Paragraph 26)

The Government agrees with this recommendation. Department for Transport officials have been working closely with bus operators, local authorities and the Competition and Markets Authority (CMA) to develop draft regulations in this area. We plan to consult in early 2017 on the draft secondary legislation that will set out the detailed requirements on the operator objection mechanism. We propose that this mechanism will be based on a combination of market share (by bus mileage) and the number of operators that object. Our intention is that no single operator would be able to prevent an Enhanced Partnership Scheme progressing. The Bill already permits a bespoke objection mechanism to apply after initial agreement to the scheme has been secured.

Recommendation 2: If the Government wishes to reinstate the consent requirement, it must produce more detailed guidance on how the Secretary of State will exercise these powers. A key consideration for the Secretary of State would be the extent to which the proposals for franchising ensure small and medium sized operators are not prevented from entering the market. The detailed guidance must be produced in good time for the Commons Public Bill Committee stage. (Paragraph 41)

The Government agrees with this recommendation. We welcome the Committee's observation that, “there may be a case in principle for reinstating the secondary requirement for the Secretary of State's consent before any individual authority other than a mayoral combined authority can franchise” (paragraph 41). We also agree with the Committee that Government should clearly set out its policy for granting consent to authorities other

than Mayoral Combined Authorities. As the Committee noted, a draft policy statement was published on the 12th October to help inform debate in the House of Lords and the Commons.

The Government feels that it has addressed this recommendation through that draft policy statement and intends to reflect on it further, following debate in both the House of Lords and the Commons and publish a finalised policy statement shortly after the Bill receives Royal Assent.

We have indicated clearly throughout the passage of the Bill that small and medium sized operators must be carefully considered in any move towards a franchising scheme. The Bill explicitly includes duties on local authorities to indicate how they will facilitate the involvement of small and medium sized operators in their procurement process for a franchising scheme, and Government intend to reiterate that message in the guidance which is being produced for authorities to consider when implementing franchising. That guidance is currently being developed with consultation planned for the New Year.

Recommendation 3: The Government should commit to publishing all relevant draft secondary legislation and guidance when a Bill is introduced into Parliament. (Paragraph 42)

The Government partially agrees with this recommendation. The proper scrutiny of secondary legislation and guidance is vital. However, it is not always realistic to have drafts of these available at the time of introduction given the overall Parliamentary timetable. That is why we published a set of policy scoping notes setting out our intentions for the development and content of the secondary legislation. It is important that these materials are developed in consultation with their potential users, which has been happening alongside the Bill's passage. It is our intention to formally consult on key pieces of the draft secondary legislation and guidance in January, which will also help inform the scrutiny of the Bill in the House of Commons.

Recommendation 4: We recommend that the Government also commits to devolving BSOG to those authorities who implement an Enhanced Partnership Scheme or Advanced Quality Partnership. (Paragraph 49)

The Government disagrees with this recommendation. We intend to continue to consider requests for the devolution of BSOG, other than where franchising is in place, on a case by case basis – with a focus on the benefits to be achieved for passengers.

There are three main reasons for this. First, as bus services do not respect local transport authority (LTA) boundaries the decisions on the use of devolved BSOG taken by one LTA can have significant implications for the overall viability of a wider network of services. Devolving BSOG automatically could easily lead to perverse and unintended outcomes for local bus services – over which affected passengers could have little or no influence.

Second, not all LTAs wish to have BSOG devolved to them. We do not want to impose costs on LTAs or increased bureaucracy on operators unless there are benefits for passenger to be achieved and a desire from the LTA to achieve them.

Third, the scale of AQP and EP schemes can vary considerably. One LTA might have a scheme (under either approach) which covers a very narrow area – say one corridor – whilst another could cover a wider geographical area. A “one size fits all” policy, such as that proposed by the Committee, would not reflect the reality of local circumstances.

The Government would have been happy to give further detail on this issue to the Committee had Ministers been invited to give oral evidence.

Recommendation 5: We recommend that the Bill be strengthened by agreeing an amendment requiring LTAs proposing Enhanced Partnership Schemes to consult with the appropriate representatives of any affected employees. This would bring the provisions around employee representation for Enhanced Partnership Schemes in line with those for franchising and Advanced Quality Partnerships. We recommend that the Bill be strengthened by agreeing an amendment requiring LTAs proposing Enhanced Partnership Schemes to consult with the appropriate representatives of any affected employees. (Paragraph 54)

The Government disagrees with this recommendation. Consultation with the appropriate representatives of any affected employees is essential for franchising schemes. But the nature of Enhanced Partnership Schemes (or, indeed, in Advanced Quality Partnerships) is very different. The Government has recognised that franchising proposals could have a material impact on employees in terms of a changes to service patterns and, potentially, operators of services, which is why we introduced an amendment in the Lords to ensure that employee representatives are consulted as part of a franchising proposal. (Clause 4, sub-section 123E). It is only in a very particular set of circumstances that an enhanced partnership will lead to changes for employees that are similar to those arising from franchising so we do not consider that placing a statutory requirement for such consultation – which would apply to all schemes, however limited in scale – in the Bill is necessary. Local transport authorities proposing a scheme remain free to consult any organisation or individual that they see fit.

Recommendation 6: We also support the proposal to allow communities to designate bus routes as community assets. (Paragraph 54)

The Government disagrees with this recommendation. Designation of a bus route as a community asset would in effect force operators who are planning to cancel a service to continue to operate that service for a period of 6 months. This is likely to be to the financial detriment of the operator and/or the local transport authority. It would therefore act as a dis-incentive for operators to trial new services or to operate services commercially where local authority funding was no longer available. Such a change might also result in marginal bus services being withdrawn shortly before commencement of the relevant provisions. The unintended consequences could therefore outweigh the benefits that the Committee would like to see.

Operators of registered bus services are already obliged to give at least 56 days' notice of their intention to cancel or vary a bus service to a Traffic Commissioner. Clause 19 of the Bill gives the Secretary of State the power to make regulations which will enable local transport authorities to require certain information about a service from the operator

who intends to vary or cancel it. This is designed to enable local transport authorities to obtain information which will allow them to respond more effectively to the needs of bus passengers.

Recommendation 7: The Government must explain how its devolution agenda will help to support local communities to maintain often critical bus services that nevertheless require ongoing financial support. (Paragraph 55)

The Government partially agrees with this recommendation. We agree entirely with the Committee's conclusion that passenger transport services are vital for isolated communities and recognise that the Bill will only ever be part of the solution. The Department for Transport intends to work closely with local authorities interested in using the powers in the Bill to improve local bus services – as, for example, it is doing with total transport and has done through the Smart Cities Partnership. Through the devolution agenda we are allowing decisions to be taken at a more local level and in a more joined up manner. We are also making new powers and opportunities available to LTAs and bus operators, not least through this Bill. It is, however, ultimately for LTAs to decide how best to use the resources available to them and to find ways to innovate in doing so.

Recommendation 8: We encourage local transport authorities to assess the benefits of partnerships and franchising before they consider setting up a municipally owned operator. The Government should produce guidance setting out the measures it expects local authorities to put in place to ensure that an arm's length relationship is maintained. (Paragraph 59)

The Government disagrees with this recommendation. The Government understands that establishing a company for the purposes of operating local bus services may be something that some authorities would look to do, though this has not happened for many years and no local authority has indicated to Ministers that they wish to pursue such a course of action. However, private sector bus operators have been delivering our local bus services for the last 30 years and we do not want to lose their experience and know-how. We want to ensure that we get the right balance of local authority knowledge and private sector experience.

As such, we think that local authorities, with their knowledge of the local area, local needs, and controls over other aspects such as local roads and parking policies, are well placed to help shape and influence the services that are provided, with private sector bus operators using their operational experience to deliver services on the road.

We, therefore, believe that the commissioning and provision of services are best kept separate, and that local authorities should not be able to set up new companies to run bus services.

Accessibility, Open Data and Ticketing

Recommendation 9: The Government should ensure that bus users and their representatives are involved not just in the development of the regulations but also in assessing their impact after they have been implemented. The Government should commit on the face of the Bill to implement this change by 1 January 2019. (Paragraph 67)

The Government agrees with some elements of this recommendation. It is our intention to work with key stakeholders and the Disabled Persons Transport Advisory Committee (DPTAC) in developing the regulations for the Accessible Information Requirement and any associated guidance. We would also anticipate working with Transport Focus, DPTAC and other passenger representative bodies to monitor their implementation.

The Government is committed to delivering these regulations as quickly as possible. We are also conscious of the need to develop these proposals in such a way that bus operators, especially small and medium enterprises, and the services that they operate are not disproportionately impacted. It is important that we get these regulations right, and that they work for both users and operators. The Government has already gone beyond the approach that was recommended by Baroness Campbell and by Guide Dogs in adopting an approach which will deliver improvements for passengers across the country in years rather than decades. It would be premature to set a date for implementation of the change until we, the Government, has a fuller understanding of the capabilities of the supply chain and of the practical impacts on operators and marginal services.

Recommendation 10: The Government should publish an update on its previous open data policy including, ideally, draft regulations, to allow Parliament to better assess the impact that these provisions are likely to have on industry. (Paragraph 73)

The Government agrees with the underlying principle of this recommendation. The Government recognises that the Bill only sets out the high-level framework for the open data provisions, but believes this is the right approach given the speed with which developments in data standards and technologies can move. The secondary legislation will be subject to the affirmative resolution procedure and the detail of the policy will, therefore, receive detailed assessment by Parliament in due course.

The impact assessment which accompanied the Bill already provides an initial assessment of the impact of the open data proposals on the industry. The Department for Transport is continuing to engage with stakeholders, including bus industry representatives, to get their input into how best to deliver the open data policy given the existing processes, systems and standards already in place or available. We intend to formally consult on our proposals next year which will help ensure that the final regulations effectively support the delivery of the open data policy objectives.

Recommendation 11: Within six months of Royal Assent, the Department should produce, in consultation with industry partners, guidance which supports local transport authorities 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 different groups. The Government should co-ordinate the development of back office ticketing functions to limit unnecessary complexity or duplication. (Paragraph 77)

The Government disagrees with the final part of this recommendation. However, we intend to provide practical guidance on how the ticketing provisions in the bill can be delivered. The technology in this area will continue to progress at pace, so our intention is that this guidance will be predicated on how to determine and deliver the desired outcomes for passengers of any new ticketing regime, rather than the technology used to underpin it.

As outlined above, the Department also intends to work closely with local authorities interested in using the powers in the Bill to improve local bus services following Royal Assent.

Road Conditions and Congestion

Recommendation 12: We therefore encourage the Department to produce guidance within six months of Royal Assent to assist authorities who wish to draw up performance and reporting frameworks. (Paragraph 84)

The Government agrees with this recommendation. The effect of traffic speeds on the journey times and reliability of bus services has a major effect on the attractiveness of bus services, both to new and existing passengers. We therefore expect franchising and partnerships to consider, as part of the overall package, what measures should be taken to minimise the effects of congestion on the service to passengers.

We intend that DfT guidance will include advice on what reporting and monitoring options are available for bus operators and LTAs that are seeking to reduce the effect of congestion on local bus services. We particularly intend to encourage LTAs and operators to consider journey time or congestion-related outcomes or targets as part of Enhanced Partnership Plans and as part of the strategic assessment of franchising schemes.

Recommendation 13: We repeat our previous recommendation that the Government immediately bring into force the remaining provisions of Part 6 of the Traffic Management Act 2004 to allow all local authorities in England to enforce moving traffic offences should they so wish. (Paragraph 87)

The Government disagrees with this recommendation. In its Report of 2013 into local authority parking enforcement, the Committee expressed concern about the way in which local authorities used CCTV for parking enforcement. There were concerns around revenue raising, penalty levels and the number of penalty charge notices (PCNs) issued. In response to this, new legislation was enacted in 2015 to restrict the use of CCTV for parking enforcement. Against this background the Government remains to be convinced about the case for giving all authorities the powers to install a raft of new cameras on yellow box junctions and elsewhere to issue PCNs for moving traffic contraventions. Indeed, some box junctions in London have made large sums of money.