

Transport and Environment Committee

10.00am, Tuesday, 27 August 2013

Bus Regulation (Scotland) Bill: Council Response to Consultation by Iain Gray MSP

Item number 7.7
Report number
Wards

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Executive summary

Bus Regulation (Scotland) Bill: Council Response to Consultation by Iain Gray MSP

Summary

The report recommends a Council response to a consultation document by Iain Gray MSP on a proposed Bill to regulate local bus services.

The background to the proposed Bill is discussed and responses to seven specific questions are provided, along with general comments.

Recommendations

To approve the proposed response to the Consultation by Iain Gray MSP on the proposed Bus Regulation (Scotland) Bill.

Measures of success

Response submitted by 30 August 2013.

Financial impact

There are no financial impacts as a result of this report.

Equalities impact

As this report refers to a Scottish Parliament consultation, there are no Equalities Impacts for the Council as a result of this report.

Sustainability impact

As this report refers to a Scottish Parliament consultation, there are no Sustainability Impacts for the Council as a result of this report.

Consultation and engagement

No formal consultation has been carried out. However, bus operators are aware of the proposed Bill and also have the opportunity to respond to the consultation.

Background reading/external references

Consultation Document:

Bus Regulation (Scotland) Bill: A proposal for a Bill to provide transport authorities with greater powers to set service levels for local bus services, including a power to group profitable routes with non-profitable routes before they are put out to tender with operators.

Consultation by Iain Gray MSP May 2013

Bus Regulation (Scotland) Bill: Council Response to Consultation by Iain Gray MSP

1. Background

- 1.1 In May 2013, a consultation was launched by Iain Gray MSP on his proposals for a Member's Bill to be put before the Scottish Parliament later in the same year. Responses were invited by 30 August 2013.
- 1.2 The aim of the proposed Member's Bill is to 'give transport authorities greater control over bus services in their area'. This would restore some controls over the provision of public transport in Scotland that were lost, following the Transport Act 1985 which took effect in October 1986.
- 1.3 The Transport Act 1985 effectively removed the barriers to open competition between bus operators that previously existed, together with the regulatory controls previously administered by the Traffic Commissioner.
- 1.4 The 1985 Act, allowing Councils to continue to own but not to operate bus companies. As a result, all municipal bus operations were reconfigured as free-standing companies, governed by their own board of directors and removed from Local Authorities' control.
- 1.5 This arrangement resulted in many municipal bus operations being sold to private companies. In Scotland, Lothian Buses plc is the only bus company that is still municipally owned.
- 1.6 The aim of the 1985 Act was to introduce competition to stimulate the public transport market and to reduce, or remove, the heavy subsidy borne by central government in maintaining the largely state-owned bus and coach networks.
- 1.7 The opening of the bus market to competition often involved aggressive competition between operators in their efforts to increase profits and market share.

- 1.8 After several years, the situation stabilised with the establishment of a few large groups, many smaller independent operators and a few surviving municipals, including Lothian Buses plc.
- 1.9 From a passenger viewpoint, the initial effects were lower fares and more frequent services. However, in the longer term, economic realities led to service reductions or withdrawals, particularly in rural areas. Unremunerative early morning, late evening and weekend services were particularly vulnerable.
- 1.10 In cities the outcomes were more positive, with denser networks catering for large movements of passengers in the peak periods. Strong competition produced lower fares, or at least slowed down fare increases. Often, however, even in cities the vulnerable off-peak services became sparse or disappeared altogether.
- 1.11 In Edinburgh, Lothian Buses retained a strong hold on its market sector despite challenges from a number of bus operators, most of whom withdrew with time. In the 1990s, FirstGroup mounted a strong competitive challenge to Lothian Buses in an attempt to increase their market share, but this strategy proved unsustainable in the longer term.
- 1.12 Local Authorities came under pressure to provide financial support for bus services at these unprofitable times, a situation that still pertains and continues to be costly.

Car Ownership and Other Transport Modes

- 1.13 The wider context, within which bus service are provided, must also be considered.
- 1.14 Car ownership in Scotland has steadily increased. In 1981, 51.3% of households in Scotland had one or more cars available. By 1991, this had risen to 57.4%, and by 2001 to 65.8 %. In Edinburgh, between 1996 and 2001, the number of private and light goods vehicles increased by 8.2%.

- 1.15 The real cost of 'all motoring' has fallen. An index set at 100 in 1980 would show equivalent motoring costs now as falling to around 85, whereas bus and coach fares have risen to 140. (Source: Office for National Statistics – *Transport Tends 2007*).
- 1.16 Bus patronage in Edinburgh has risen from 82 million journeys in 1998 to 111 million in 2011. Cycling and Walking in Edinburgh has also increased in recent years. Cycling rose by 16% from 2010 to 2012, and walking by 7% from 2009 and 2012.
- 1.17 Increased competition from car usage, cycling and walking tends to draw patronage away from bus travel however there remains a continued increase in bus patronage is gratifying.

2. Main report

- 2.1 The aim of the proposed Bill is to give Local Authorities and Regional Transport Authorities control over the public transport network. It focuses on buses and particularly the expansion of the powers of the Traffic Commissioner, in policing the activities of operators and the operation of the public transport system generally.
- 2.2 The Bill would remove the current need to prove that 'market failure' had occurred in order to implement Quality Partnerships/Contracts and franchising of networks. This requirement explains the very small number of such arrangements in Scotland.
- 2.3 It would permit network franchising and bundling of profitable routes with unprofitable ones, along with the ability to set and enforce service quality standards are key aspects of the proposed Bill.
- 2.4 It would also permit local authority fleets to be used to provide socially useful services where there are gaps in provision.
- 2.5 To some Local Authorities, particularly rural ones and those that have felt the negative effects of the current unregulated bus market, these ideas will be attractive. Should the proposal pass into law, public expectation will probably be that such plans be implemented. However, circumstances in the cities, notably in Edinburgh, are very different, as set out in the proposed response below.

2.6 The Consultation asks eight questions as follows:

1. *Do you support the general aim of the proposed Bill? Please indicate 'yes/no/undecided' and explain the reasons for your response.*

Proposed Council Response:

Yes. The aims of the Bill are relevant in many parts of Scotland, particularly in rural areas, and may well have applications even in cities such as Edinburgh, where the bus network is extensive and dense. Bus patronage in Edinburgh has grown from 82 million journeys in 1998 to 111 million in 2011, with a continuing growth trend. The main benefits of the proposed Bill in Edinburgh would be to address specific localised network deficiencies, such as in the rural West, where the proposed powers may help to meet local aspirations through, for example, the bundling of routes, which would also help with off-peak and weekend services in other parts of the city. It should be noted that although satisfaction with public transport services in many areas of Scotland may be low, Scottish Household Survey data shows that only 3.7% of Edinburgh residents rate local public transport as 'poor'. 69.1% rate it 'very convenient'.

2. *What would be the main practical advantages of the legislation proposed? What would be the disadvantages?*

Proposed Council Response:

The main practical advantage of the Bill would be that Local Authorities would be able directly to influence and control the public transport network and its quality standards.

The main disadvantage, which requires to be addressed, is the potential heavy cost of providing the network under these arrangements.

3. *In what ways do you envisage re-regulation being used to improve bus services?*

Proposed Council Response:

For some Local Authorities, particularly large rural ones, franchising seems an obvious method. It would provide stability and the opportunity to ensure maximum network coverage. Control of fare levels, frequency and service quality would also be possible. However, this would have only limited utility for this Council, bearing in mind the existing dense and high quality bus network in the city; although it would help to provide some local improvements

4. *How can community transport be better utilised to serve communities and particularly low passenger volume routes?*

Proposed Council Response:

The Council is currently reviewing its Community Transport arrangements, working with partners such as the NHS. The vehicles used for these purposes are often specially adapted to the needs of their users, and may be unsuitable for more mainstream local service operation.

5. *Do you agree that the Traffic Commissioner should be able to impose greater financial penalties on operators who a) fail to meet the terms of the franchise or b) walk away from the franchise altogether?*

Proposed Council Response:

Adequate contractual remedies should be built into any contract, partnership or franchising agreement and the extension of the Traffic Commissioner's powers in this respect may not be necessary. Additional contract requirements will be perceived by bus operators as risks, with a consequent inflationary effect on contract prices.

6. *What is your assessment of the likely financial implications of the proposed Bill to you or your organisation? What other significant financial implications are likely to arise?*

Proposed Council Response:

Edinburgh benefits from a comprehensive bus network provided largely on a commercial basis by bus operators. The Council's annual spending on Supported Bus Services amounts to some £1.2m, a sum significantly lower than that spent by many large rural Authorities. The provisions of the proposed Bill are likely to lead to an increase in expenditure for Scottish Local Authorities, although in Edinburgh the effect may be limited, as alterations to the network are likely to be less significant. Enhancement of evening and weekend service provision would be the principal result, along with some new or reinstated links. If franchising the network is the method of implementation chosen, then the effective removal of on-street competition may well ameliorate the financial consequences of an expanded or enhanced bus network. However, without an idea of the final configuration of the proposed legislation, it is difficult to speculate on financial implications with any degree of accuracy.

7. *Is the proposed Bill likely to have any substantial positive or negative implications for quality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?*

Proposed Council Response:

The proposed Bill would allow any desired level of service quality to be stipulated. The quality standard of bus services in Edinburgh is already very high, and the Council's own Supported Bus Service contracts maintain that standard

The proposal would, however, allow a high level of public transport integration, in network terms as well as in ticketing and information provision.

8. *Do you have any other comment or suggestion that is relevant to the need for, or detail of, this Bill?*

Proposed Council Response:

The Bill would offer Local Authorities considerable power in establishing integrated public transport networks, and addressing issues of social inclusion, access to employment, education and leisure facilities.

Clarity must also be provided on existing legislation for example, the Transport Act 1985 and the Competition Act 1998, both of which are UK legislation, and may require modification.

3. Recommendations

- 3.1 To approve the proposed response to the Consultation by Iain Gray MSP on the proposed Bus Regulation (Scotland) Bill.

Mark Turley

Director of Services for Communities

Links

Coalition pledges	P19 – Keep Lothian Buses in public hands and encourage the improvement of routes and times.
Council outcomes	CO7 - Edinburgh draws new investment in development and regeneration. CO8 - Edinburgh's economy creates and sustains job opportunities.
Single Outcome Agreement Appendices	SO2 – Edinburgh's citizens experience improved health and wellbeing, with reduced inequalities in health.