

## **BRIEFING NOTE ON BUS SERVICES BILL- JUNE 2016**

The Bill was introduced into the House of Lords on 20<sup>th</sup> May 2016. The promise is that the legislation and regulations required will be on the statute books in time for any newly elected Mayor in May 2017 to be able to use the powers.

The Bill is split into 5 sections as follows:-

1. Advanced Quality Partnership Schemes- the existing legislation is amended to increase the opportunities to utilise the power;
2. Franchising- a new franchising regime is introduced for Mayoral Combined Authorities (and other authorities authorised by the Secretary of State); allowing a route to franchising;
3. Advanced Ticketing Schemes- amendments to the existing ticketing scheme powers of LTA's updated to capture new technology (smart ticketing);
4. Enhanced Partnership Schemes- the introduction of new partnership arrangements powers to add to Quality Partnership schemes and Voluntary Partnership arrangements;
5. Open data provisions- provisions requiring operators to make data available on fares, punctuality etc.

Each element is considered below.

### **1. ADVANCED QUALITY PARTNERSHIP SCHEMES (AQPS)**

These provisions effectively replace, for England only, the existing provisions in the Transport Act 2000. A Quality Partnership Scheme is a scheme where the LTA specify minimum standards of bus operation in terms of vehicle quality, frequency, emissions, fares and in return for operating to such a standard, the LTA is required to provide certain minimum facilities. Any provision as to operator standards that related to fares or frequency can be blocked by operators objecting.

The new AQPS allows the LTA to provide measures rather than facilities, and as such means investment in softer measures e.g. real time, marketing etc would justify an AQPS being proposed and introduced.

The changes are minimal but not unwelcome.

### **2. FRANCHISING**

The proposed new powers seem to match what the LTAs that are moving to a Mayoral CA model were promised, with what looks like a useable and coherent set of provisions. Franchising can be of the whole LTA area or any part, and franchising can be phased in.

Importantly no Government or independent body would be required to approve the proposals to franchise. There is a clear process to follow and the Mayor/CA decision to proceed will be susceptible to judicial review at various decision points, but the process is far improved from having to take a case through the Quality Contract Scheme Board (the body that effectively quashed the Nexus/Tyne and Wear application).

The process includes preparing an assessment of the options, impacts, business case, VfM etc; consultation; and making the scheme. The transitional period (the period between a decision to make a Scheme and the scheme itself coming into operation) remains an issue in that incumbent operators who do not want franchising or are unsuccessful when contracts are tendered may look to disrupt the market by, for example, de-registering services. The DfT will be looking to introduce regulations to help mitigate this risk, but there will always be some residual risk of market disruption. Strategies to manage these risks would be worked up if a scheme proceeded.

For areas where there is a preference to work in partnership with operators, having a plausible franchising power will assist in developing a partnership and extracting maximum passenger benefit therefrom.

Work with DfT officials to develop the secondary legislation and guidance will take place through the summer. In addition work with UTG to develop any legislative amendments that will improve the legislation is on-going. UTG will seek to lay these amendments in the House of Lords via a sponsor Lord.

Based on the legislation and the experience from NEXUS, as an initial estimate the process of franchising and the services starting to operate under service contracts would be expected to take a minimum period of 3-3.5 years from a decision to prepare an assessment.

### 3. ADVANCED TICKETING SCHEME

These provisions effectively replace the existing provisions in the Transport Act 2000 relating to ticketing schemes. They apply to England only due to devolution.

The provisions allow an LTA to make a scheme relating to multi-operator multi-modal ticketing if such a scheme is in the interests of the public and would contribute to the implementation of their transport policies.

The provisions are updated to make it clear that a scheme covers the method of payment including smart technology. It also allows requirements as to information, sales outlets/channels and promotion to be set.

It is important to note that the provisions do not allow the LTA to set the fares of these tickets, this will still be right of the operators covered by the scheme. The only way for fares to be controlled by an LTA is through franchising, though Advanced Quality Partnership Schemes and Enhanced Partnership Schemes may give the LTA a say in such fares.

At present the use of ticketing schemes has been limited nationally due to the weakness of lack of fares control and the fact that the operator will often promote a range of multi-operator tickets through a ticketing company jointly owned by the operators and often with LTA involvement i.e. TravelMaster in South Yorkshire. These schemes rely on complying on competition law and specifically the Ticketing Scheme block exemption to agree the range and in many cases the fares of multi operator/modal ticketing. Where these arrangements operate well and the LTA is involved in fare setting there may be less scope for the LTA to use the new powers. However they should remain to be considered if needed to ensure multi-operator ticketing is effective.

### 4. ENHANCED PARTNERSHIP SCHEMES

These new provisions relating to developing statutory partnerships have been heavily influenced by the work in South Yorkshire and elsewhere in developing Voluntary Partnerships.

The premise being that an LTA, in partnership with local operators (or a sufficient proportion of such operators who want to be involved), will prepare:-

1. an enhanced partnership **plan** (analysis of bus market, determination of how buses contribute to LTA objectives, and required improvements); and
2. an enhanced partnership **scheme** detailing with any of the following by agreement:-
  - a. route requirements (the network, frequencies, timings);
  - b. operational requirements ( vehicle standards, emissions, branding, fare zones, period of tickets, method of payment, price of multi-operator tickets, information provision etc.); and
  - c. What facilities and/or other measures the LTA will provide.

To develop and make an enhanced partnership plan and scheme a specified proportion of the bus operators must not have formally objected to it. The proportion is to be set out in Regulations yet to be published, but is expected to be 50% at most.

To make a scheme there is a detailed process to follow with wide consultation requirements and points in the process where the operators could object and de-rail any proposal. The scheme, if made, will bind all operators and the LTA for whatever period the scheme specifies.

The making of a scheme should mean that there is not over busing on high frequency corridors by a process of voluntary slot allocation, in the absence of operator agreement over which services to operate then the LTA may

contract services where more than one operator wishes to run the service in question e.g. if there is a route requirement in the Scheme that says 8 buses an hour maximum on route x, and 2 operators both wish to register for all those services then the Traffic Commissioner cannot register 16 services as that would contravene the route requirement, as such the LTA would have to run a procurement to determine which operator can operate the services. This is in order to avoid breaching EU procurement rules about granting exclusive rights.

The Traffic Commissioner will be required to register bus services in accordance with the route and operational requirements and cancel any registrations of operators that do not comply with such requirements. There is also provision for the LTA to become the registration authority (in substitution for the Traffic Commissioner) where an enhanced partnership scheme is in place.

## **5. OPEN DATA PROVISIONS**

These new provisions provide that the Secretary of State may make regulations that will require Operators and franchising authorities to make prescribed information available e.g. about routes operated, timetables, fares, and available tickets. The information to be made available may include real time information and performance data. The regulations would specify to whom the information is provided, the format, and when it is to be provided/frequency.

The purpose appears to be make performance data more transparent, fares data more easily available off bus, encourage app development and tech companies to develop passenger tools e.g. journey planning tools etc.

The intention appears to be to implement these types of provisions over a period through to 2020. The provisions are generally welcomed, and we will be pushing for the earliest implementation possible given the passenger benefits of more and more accurate data which will increase confidence in travelling by bus.

### **NEXT STEPS**

SYLTE and the SCR Executive Team will be working closely with the Urban Transport Group (previously called PTEG) and the other Metropolitan areas to push for amendments to the Bill during its passage through Parliament that we feel will improve the legislation and make the bus improvement tools in the Bill more useable and easy to implement.

Overall the Bill represents a positive step forward, particularly the franchising and open data provisions and largely meet the asks that have been made to Government.

S. Davenport, SYLTE. 3<sup>rd</sup> June 2016.

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