

1. INTRODUCTION

- 1.1 The attached report (Annex A) provides Scrutiny Panel members with some background on how bus services are provided in Greater Manchester. It then sets out the provisions of the Bus Services Act 2017, including explanation of the four main sections of the legislation, namely, franchising, partnerships, ticketing and open data, and information for bus passengers. The report concludes by setting out some next steps.
- 1.2 The GMCA approved the report and its recommendations, and work is now underway in terms of the requests to bus operators for data that will be required to prepare an assessment of a proposed franchising scheme.
- 1.3 In order to more fully inform Scrutiny Panel members of how bus services are provided now, the options that the Bus Services Act provides and an update on the programme of activity to date, it is proposed that TfGM officers present to members at the next (October 2017) meeting.

Date: 30 June 2017

Subject: Bus Services Act 2017

Report of: Andy Burnham, GM Mayor and Portfolio Lead for Transport and Jon Lamonte, Chief Executive, TfGM

PURPOSE OF REPORT

To update Members on the Bus Services Act 2017, its provisions, and associated next steps for Greater Manchester.

RECOMMENDATIONS:

Members are requested to:

- i) Note the contents of the report;
- ii) Agree to prepare an assessment of a proposed franchising scheme in accordance with Section 4, S123B of the Bus Services Act 2017;
- iii) Approve a notice stating the Combined Authority's intention to prepare an assessment of a proposed franchising scheme in accordance with Section 4, S123C (4) of the Bus Services Act 2017; and
- iv) Approve the administration arrangements for the notice to be published and to delegate authority to the Chief Executive of TfGM for the assessment to be prepared.

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RISK/ FINANCIAL/ LEGAL CONSEQUENCES/DETAILS

Risk Management – N/A

Legal Considerations – Section 9 and Section 10

Financial Consequences – Revenue – N/A

Financial Consequences – Capital – N/A

BACKGROUND PAPERS:

- i. Bus Services Act 2017 Section 4, inserting new S123B and S123C(4) into Transport Act 2000; and
- ii. Draft notice of intention to prepare an assessment of a proposed franchising scheme (attached at Appendix 1).

TRACKING/PROCESS		
Does this report relate to a major strategic decision, as set out in the GMCA Constitution (paragraph 14.2) or in the process (paragraph 13.1 AGMA Constitution) agreed by the AGMA Executive Board:		Yes
EXEMPTION FROM CALL IN		
Are there any aspects in this report which means it should be considered to be exempt from call in by the AGMA Scrutiny Pool on the grounds of urgency?		N/A
AGMA Commission	TfGMC	Scrutiny Pool
	16 JUNE 2017	

1. INTRODUCTION

- 1.1 The 2014 Greater Manchester Agreement between the Greater Manchester Combined Authority and Government contained a commitment from the Government to introduce a Buses Bill within that current Parliament, in order to enable the directly elected Greater Manchester Mayor to decide whether, following consultation, to use the bus franchising powers within it.
- 1.2 The Bus Services Bill received Royal Assent on 27 April 2017 and the powers of the Bus Services Act 2017 will come into force on 27 June 2017.

2. BACKGROUND

- 2.1 Bus operators are free to run services by giving just 56 days' notice to the Traffic Commissioner (subject to minimum safety, resource and competency standards). Operators can determine their own routes, fares, and vehicle type. They can cancel, change or increase services, again with just 56 days' notice.
- 2.2 TfGM has no control over commercial bus services, which comprise around 80% of the total operated mileage in Greater Manchester. In places and at times where operators are unwilling to operate buses but where there is a demonstrable need, TfGM directly subsidise these. These represent the remaining 20% of bus services.
- 2.3 TfGM works with bus companies to try and tackle some of the current issues with the bus market. This includes voluntary agreements that some operators have signed up to known as Quality Bus Partnerships. However, the ability to achieve Greater Manchester's transport objectives, outlined in the 2040 Transport Strategy, through these voluntary arrangements remains restricted. The Bus Services Act 2017 therefore provides Greater Manchester with new powers to reform the bus market and these powers include new types of partnership and the option to franchise services.
- 2.4 Enhanced Partnerships have been introduced by the Act and these provide opportunities for authorities and operators to work together to agree certain requirements for local services including vehicles, frequency, timing of services, information and publicity. Bus franchising is a procurement method that sees the transport authority specifying the service requirements in a series of contracts, with bus operators competing for each contract to provide the services. This is the system used to provide buses in London and elsewhere in Europe. It is a well understood and efficient competitive mechanism that brings together the best of the public and private sectors.
- 2.5 Through bus franchising, Greater Manchester would have the ability to decide the routes, frequencies, fares and quality standards for all buses in the city region. The services would still be operated by private companies under contract, through a competitive tendering process.

3. BUS SERVICES BILL

3.1 The Bus Services Bill had its first reading in the House of Lords on 19 May 2016. The Department for Transport (DfT) published an overview document which set out the following objectives for the Bill:

-) grow passenger numbers;
-) tackle air quality;
-) improve bus services for passengers;
-) enable a thriving and innovative bus sector; and
-) help cities and regions unlock opportunity and grow their economy.

3.2 The Bill entered the House of Lords with the First Reading in May 2016, and passed through the Committee and Report Stages in the House of Lords before moving to the House of Commons in November 2016.

3.3 TfGM worked with key legislative stakeholders during its passage through Parliament and provided briefings when requested.

3.4 During the passage of the Bill through Parliament, some amendments put forward by the House of Lords were dropped. One of these was in relation to the ban on creating new municipal bus companies (Section 22 of the Act prohibits the creation of new municipal bus companies).

3.5 Other amendments that were not accepted were provisions mandating the use of low-emission buses in partnerships and franchises after 2019 (it remains open to authorities to include such provisions); and provisions to give automatic access to franchising powers for all authorities, not just Mayoral Combined Authorities (access to the powers remains with Mayoral Combined Authorities only).

3.6 The Bus Services Bill received Royal Assent on 27 April 2017 and the powers of the Bus Services Act 2017 will come into force on 27 June 2017. This two month period between Royal Assent and commencement of powers is prescribed by the legislation

3.7 There are four core parts to the Bus Services Act; franchising, partnerships, open data and ticketing and passenger information.

4. FRANCHISING

- 4.1 The Bus Services Act gives combined authorities with directly elected Mayors the power to introduce bus franchising across all or part of the combined authority area. This replaces the existing Quality Contract Scheme powers.
- 4.2 The Bus Services Act sets out a number of legislative steps that must be undertaken by an authority before a decision can be made by the Mayor as to whether or not to introduce a franchising scheme. An assessment of the proposed franchising scheme must be completed and an authority must compare its preferred model of bus service delivery with one of more other courses of action.
- 4.3 In addition, the assessment must be independently audited and the proposed scheme must be the subject of a public consultation exercise.
- 4.4 If, following the above steps, a franchising model of service delivery is adopted by the Mayor, it will be the responsibility of the Mayor to determine what bus services should be provided and the standards of those services. Operators will then bid for the right to operate a service.
- 4.5 In order to manage services in the city-region that do not form part of a franchising scheme, the Bus Services Act allows authorities to implement a service permit scheme, following a public consultation. If a service permit scheme is implemented by an authority, operators will only be able to operate commercial and cross boundary services in a franchise area if granted a permit to operate by the combined authority.

5. PARTNERSHIPS

- 5.1 The Bus Services Act builds on existing Quality Partnership legislation by introducing Enhanced Partnerships.
- 5.2 Enhanced Partnership powers enable local authorities to work with bus operators to set standards for local bus services including vehicle specifications, branding, ticketing and service frequencies.
- 5.3 Enhanced Partnership schemes can only go ahead if there is sufficient support from the bus operators and they cannot specify the price of single operator tickets or compel an operator to run services it does not want to operate.
- 5.4 Once introduced an Enhanced Partnership would be enforced through the registration of services, with responsibility for registration passing to the local transport authority.

6. TICKETING AND OPEN DATA

- 6.1 The Bus Services Act also provides powers for the Secretary of State to make regulations requiring the release of open data on routes, timetables, punctuality and fares. This is to facilitate opportunities for tech companies and

app developers to bring innovative products to market. In franchising areas, it will be the responsibility of the authority to secure the availability of the data.

- 6.2 The Act also provides the power for local transport authorities to introduce advanced ticketing schemes which amongst other things may specify the way payment is made. This could be used to require commercial operators to accept payment using smart technology, for example.

7. INFORMATION FOR BUS PASSENGERS

- 7.1 The Bus Services Act provides specifically for improving facilities for disabled persons requiring operators to make available information about local services to all users whilst on the service. This includes the setting of standards for audio, visual and displayed information.
- 7.2 The DfT has yet to undertake a consultation regarding the regulations which will set out the detailed requirements and timescales associated with this important aspect. Understandably, this will apply to all services irrespective of the regulatory environment under which they operate.

8. DRAFT REGULATIONS AND GUIDANCE

- 8.1 The DfT published for consultation, draft regulations and guidance to accompany the Bus Services Act in February 2017. A detailed response to this consultation was submitted by TfGM. There is currently no published timetable for the publication of the finalised guidance and regulations and in addition there are other aspects of the Act for which a further round of consultation will be necessary by the DfT.
- 8.2 TfGM officers are maintaining active dialogue with DfT officials throughout this process.

9. PROCESS TO A MAYORAL DECISION

- 9.1 As noted in paragraph 4.2, before a decision can be made as to whether or not to introduce franchising or to pursue another course of action, a number of actions are required in order to enable that decision to be made by an elected Mayor.
- 9.2 The Bus Services Act prescribes in Clause 4, Section 123B that “a franchising authority or authorities that propose to make a franchising scheme covering the whole or any part of their area, or combined area, must prepare an assessment of the proposed scheme.”
- 9.3 This assessment must “describe the effects that the proposed scheme is likely to produce, and compare making the proposed scheme to one or more other

courses of action.” It may be informed by information requested by the authority from operators, in accordance with provisions in the Act, about bus services operated in the authority’s area.

- 9.4 The assessment must be audited by an independent auditor; and the assessment and auditor’s report must be published alongside a consultation document relating to the proposed scheme, for a period of public consultation on the proposals.

10. NEXT STEPS

10.1 The Greater Manchester Combined Authority and TfGM now have the opportunity to consider the Bus Services Act’s powers and to assess the new bus reform options available to the city-region. Before preparing an assessment of a proposed franchising scheme and comparing it to other options, the Act prescribes that the authority must publish a notice stating that they intend to prepare such an assessment.

10.2 In accordance with this statutory obligation, the Greater Manchester Combined Authority is asked to:

- i) Agree to prepare an assessment of a proposed franchising scheme and approve a notice stating that the Combined Authority intend to prepare an assessment of a proposed franchising scheme in accordance with Section 123B and S123C(4) of the Bus Services Act 2017;
- ii) Approve the administrative arrangements for the notice to be published and the assessment to be prepared by TfGM.

10.3 As this is considered a key decision to be made by the Greater Manchester Combined Authority, a notice of this decision was accordingly placed on the website of the Greater Manchester Combined Authority on 1 June 2017.

10.4 Following approval by Greater Manchester Combined Authority, the notice will be published and TfGM officers will work to prepare the assessment. This will involve:

- i) requesting data from operators, pursuant to the powers available in Section 5 of the Bus Services Act 2017; and
- ii) engaging with bus operators in relation to realistic alternative options that should be considered and assessed alongside the franchising proposition (a process described in the published draft Guidance).

11. RECOMMENDATIONS

11.1 Recommendations are set out on the front page of this report.

Dr Jon Lamonte

Chief Executive, TfGM

APPENDIX 1

[DRAFT NOTICE]

Greater Manchester Combined Authority Notice

[DATE TBC FOLLOWING THE 30 JUNE GMCA MEETING]

In accordance with sections 123B and S123C (4) of the Transport Act 2000 (“Act”), the Greater Manchester Combined Authority (“Authority”) has authorised the publication of this notice confirming that it is preparing an assessment of a proposed bus franchising scheme (“Proposed Scheme”).

The Proposed Scheme as currently envisaged will cover the whole of the Greater Manchester Statutory City Region (“Region”).

Pursuant to section 123C (2) (a) of the Act the Secretary of State’s permission to carry out the assessment of the Proposed Scheme is not required because the scheme relates to the area of a Mayoral Combined Authority.

The Bus Services Act was enacted on 27 April 2017 and its powers commence on 27 June 2017. The Bus Services Act 2017 provides the Authority with powers to reform the bus market and these provisions provide for new types of partnership schemes and the option to franchise bus services.

The Authority has directed Transport for Greater Manchester as the Transport Executive for the Region to assess the new bus reform options available under the Act including an assessment of the Proposed Scheme. Before undertaking such an assessment section 123 C (4) of the Act prescribes that the Authority must publish a notice stating that they intend to prepare such an assessment.