



[www.getglasgowmoving.org](http://www.getglasgowmoving.org)  
[info@getglasgowmoving.org](mailto:info@getglasgowmoving.org)

Tuesday 22 October 2024

Edward Mountain MSP  
Convener  
Net Zero, Energy & Transport (NZET) Committee  
The Scottish Parliament  
Edinburgh  
EH99 1SP

Dear Edward,

Thank you for your letter dated 9 October 2024 regarding the '[Local Services Franchises \(Traffic Commissioner Notices and Panels\) \(Scotland\) Regulations 2024](#)' Scottish Statutory Instrument (SSI).

We welcome the opportunity to respond to the Committee's questions and concerns about this SSI, in order to help you reach an informed decision on whether or not it should be annulled before your deadline on 28 October 2024.

## **Background**

As you know, [Get Glasgow Moving](#) is a volunteer-run group founded in 2016 to campaign for a fully-integrated, affordable and accessible public transport network to connect everyone across our city region.

The evidence, from around the UK and across the world, is now abundantly clear that the only way full integration of routes, timetables and tickets across different modes can be delivered, is through the regulation of the bus network<sup>1</sup>.

It is only the Local Services Franchises powers ('franchising') in the Transport Act 2019 which will allow regional transport authorities to regulate bus services so that they can be planned and coordinated in the public interest.

This is why the main focus of our campaign over the last few years has been to put public pressure on our regional transport authority – Strathclyde Partnership for Transport (SPT) – to use the new powers in the Transport Act 2019: for franchising, and to set-up a new publicly-owned operator for Strathclyde.

## Our Live Scottish Parliament Petition

Working as part of the new [Better Buses for Strathclyde](#) coalition (supported by more than 11,000 people across the region) we have succeeded in pushing SPT to commit to developing franchising proposals as part of their new [Strathclyde Regional Bus Strategy](#) (SRBS).

SPT's recent [public consultation](#) showed 76% support for bus franchising. We now want to see it rolled out across our region as soon as possible – as is currently happening across English city regions and the whole of Wales.

It is the Scottish Government that is primarily responsible for holding back this process in Scotland. That is why, in order to support SPT's work on the SRBS, this summer we launched a new Scottish Parliament petition to demand that the Scottish Government "[Accelerate the implementation of bus franchising powers](#)".

[The petition](#) has three key demands:

1. Fully-enact the bus franchising powers in the Transport Act 2019
2. Simplify the legislation to accelerate the process
3. Fund the implementation of franchising in Scottish regions

As part of the ongoing process at the Citizen Participation & Public Petitions (CPPP) Committee, on 11 October 2024 we submitted [written evidence](#) in response to the Scottish Government's initial response.

Given the relevance of [this petition](#) to the NZET Committee's consideration of the SSI in question, we ask that you first read our [written evidence to the CPPP Committee](#) in addition to our specific responses to your questions below:

- [PE2116/B: Petitioner written submission, 11 October 2024 \(90KB, pdf\)](#)

## Our Responses to Your Questions

**1. Can you explain why you think safeguards built into the system governing who the Traffic Commissioner can appoint to a local service franchising panel, aimed at avoiding bias amongst members (set out in Regulation 3 of the draft Local Services Franchises (Traffic Commissioner Notices and Panels) (Scotland) Regulations 2024) are insufficient?**

During the Scottish Government's 2021 consultation on "[Implementing the bus provisions of the Transport \(Scotland\) Act 2019](#)" we gave [detailed evidence](#) about the many ways the panel model could be improved. Particularly by ensuring that people with specific experience in human rights and social and environmental justice (matters defined in [Section 1\(5\) of the Act](#) as the key reasons for improving public transport) are prioritised in the panel selection process.

None of this appears to have been taken on board during the last three years that we have been waiting for this SSI to materialise. In fact, the SSI explicitly excludes the democratically-accountable representatives who we believe should have the final say on franchising proposals.

However, having watched developments in bus franchising in England and Wales during this time (with both nations now [seeking to simplify](#) and accelerate the process), we have reached the conclusion that **the panel model of approval simply needs to be removed** from the Act.

Not only does the SSI make clear that the panel would add a minimum of six months onto what is already a complex and lengthy process (it will have taken Greater Manchester more than seven years from beginning its franchising proposals in 2017 to their [full-implementation](#) across the region in January 2025), it also adds significant unnecessary risks for the Scottish transport authorities wishing to implement franchising.

The Traffic Commissioner is simply the wrong person to be given so much power in deciding whether bus franchising can go ahead in Scotland. As clearly set out in our [evidence for the CPPP Committee](#) – they are neither democratically-accountable nor impartial. They exist to maintain the running of the deregulated system and are therefore totally embroiled in the bus industry. This why [the panel model failed when tried in England in 2015](#).

The key question remains: why would any devolved government with power over nearly all aspects of its bus network *actively choose to give away power* over something as fundamental as the basic regulation of bus services (which franchising provides) to an unelected official appointed by the UK Government?

**2. What is your preferred alternative approval process for a proposed local bus service franchising scheme, assuming the Traffic Commissioner appointed panel were to be removed from the process? Can you explain why you think this process would produce better outcomes?**

We believe that democratically-accountable [Regional Transport Partnership](#) (RTP) Boards – made up of councillors from all local authorities in their areas – should be given the final say on whether franchising proposals go ahead. This should happen after the full independent financial audit and the statutory public consultation as set out in [Sections 13F and 13G of the Act](#).

This would broadly mirror the current process in England as set out in [Section 123G of the Bus Services Act 2017](#), which states that following their public consultation “A franchising authority or authorities... must publish a report setting out: (a) the authority’s or authorities’ response to the consultation; (b) the authority’s or authorities’ decision on whether to make a franchising scheme covering the whole or any part of their area or combined area.”

As well as simplifying and accelerating the franchising process – and giving power back to democratically-accountable public bodies based in Scotland (as opposed to an unelected official appointed by the UK Government), this would also help to **create much needed clarity on transport governance in Scotland**, resolving issues which have been rumbling on for years.

In 2019, as part of the work developing the National Transport Strategy (NTS2), the Scottish Government established the “[Roles and Responsibilities Working Group](#)” to undertake a review of transport governance. This concluded that “transport governance in Scotland should be on the basis of some form of regional model” – something we completely agree with given the evidence of successful transport governance elsewhere in the world (see Endnote 1).

The fact is that we already have a regional model in Scotland in the form of the seven RTPs defined in the Transport Act 2005. So, rather than reinvent the wheel (which will only lead to further confusion and delay implementing bus franchising), we need to build on the structure already in place.

The reason why many RTPs (particularly those that are only ‘Model 1’) have hitherto been ineffectual, is because they have had neither the resources nor the powers necessary to be the proper regional transport authorities that we need. Specifically naming RTPs in the Act as the public bodies responsible for approving franchising proposals in their areas would be a significant step towards empowering them. This would encourage collaboration between local authorities (helping to share costs and benefits across each region) and better reflect the [Verity House Agreement](#) of 2023. It would also chime with the findings of the [Stage 1 Report on the Transport \(Scotland\) Bill](#) published by the former Rural Economy & Connectivity (REC) Committee in March 2019, which noted:

“that if franchising is to succeed in areas where routes operate across local authority boundaries, RTPs are likely to have an important strategic and coordinating role.” p.5

Just like the severely-delayed enactment of the Transport Act 2019 powers, the Scottish Government’s ongoing “Transport Governance Review” has also been a complete farce. It was paused by Jenny Gilruth when she was Transport Secretary in 2022 and then “recommenced” by Fiona Hyslop with the publication of the much-delayed [Fair Fares Review](#) in March 2024.

What we need the Scottish Government to understand is that supporting the implementation of bus franchising by RTPs at a regional level **is** the reform to transport governance that we urgently need to see. As clearly set out in our [evidence for the CPPP Committee](#), the ultimate aim in implementing bus franchising (as in Greater Manchester) is to create a clear line of accountability and responsibility between a democratically-accountable regional transport authority and all the transport services operating in its area.

### **3. Would you prefer to see the current approval system for local service**

**franchising schemes enacted now, even as an interim measure, rather than potentially wait a considerable period for the legislative change required to introduce a revised system, which could potentially delay the introduction of local service franchising in Scotland?**

Before we can answer this question, we need to know whether RTPs will be able to utilise all other aspects of the franchising legislation, and to undertake the work required to develop their franchising frameworks without this SSI.

If yes, then **we definitely recommend that this SSI is annulled.**

According to [SPT's own timeline for the SRBS](#), its franchising proposals will not be ready for the full independent financial audit (to be followed by the statutory public consultation) until the end of 2025. This means that they will not be ready for final approval until later in 2026. This gives a window of at least a year for the necessary legislative changes to be made to remove the panel and enable RTPs to make their own decision after analysing the consultation results.

If no, then we accept that this SSI should be passed *only as an interim measure*. If this is done, then there must be a **clear acknowledgement** from the Scottish Government that this leaves Scotland with the most complex and time-consuming franchising powers in the UK, which place unnecessary risks on the transport authorities wishing to use them. And there must be a **clear commitment** from the Scottish Government to amend the legislation within the timeframe set out above.

We hope that this provides enough information to enable the NZET Committee to make an informed decision on whether or not to annul the SSI. We are happy to answer any follow-up questions you may have, and can attend the next Committee meeting on 29 October if required.

We look forward to hearing from you.

Yours sincerely,

Ellie Harrison  
Chair, Get Glasgow Moving

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<sup>1</sup> See the following reports:

- [Miles better: Improving public transport in the Glasgow City Region](#) (2023), Centre for Cities
- [Public Transport, Private Profit: The Human Cost of Privatising Buses in the United Kingdom](#) (2021), Centre for Human Rights & Global Justice
- [Building a World-Class Bus System for Britain](#) (2016), Transport for Quality of Life

Also see the evidence presented to the Scottish Parliament as part of the [Regulation of Bus Services](#) petition (PE1626) in 2017-2018