

Net Zero, Energy and Transport Committee  
Tuesday 29 October 2024  
31st Meeting, 2024 (Session 6)

## Note by the Clerk on the Local Services Franchises (Traffic Commissioner Notices and Panels) (Scotland) Regulations 2024 (2024/229)

### Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to annulment by resolution of the Parliament until 30 October 2024.
2. The instrument first appeared on the Committee's agenda for 8 October. At that meeting, the Committee agreed to write to various persons and organisations seeking written evidence on specified matters, and to consider the instrument again at its next meeting. (See further under "Committee consideration" below.)
3. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.
4. More information about the instrument is summarised below:  
**Title of instrument:** [Local Services Franchises \(Traffic Commissioner Notices and Panels\) \(Scotland\) Regulations 2024 \(2024/229\)](#)  
**Laid under:** section 13J(5)(c) and section 13T([Transport \(Scotland\) Act 2001](#))  
**Laid on:** 5 September 2024  
**Procedure:** Negative  
**Deadline for committee consideration:** 28 October 2024 (Advisory deadline for any committee report to be published)  
**Deadline for Chamber consideration:** 30 October 2024 (Statutory 40-day deadline for any decision whether to annul the instrument)  
**Commencement:** 1 November 2024

### Procedure

5. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.
6. Once laid, the instrument is referred to:
  - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
  - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
7. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee,

and the Committee must then report to the Parliament (by the advisory deadline referred to above).

8. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

## Committee consideration

9. Following the Committee's discussion of the instrument on 8 October,<sup>1</sup> the Convener wrote with specific questions to these individuals and organisations:

- [Jonathan Bray](#) (advisor to the Welsh Government and Transport for Wales on their bus reform programme)
- [Office of the Traffic Commissioner](#)
- [Transport for Quality of Life](#)
- [Minister for Agriculture and Connectivity](#)
- [Get Glasgow Moving](#)

10. All replied, and their replies are accessible via the hyperlinks above and in Annexe B.

11. At the time of publishing this paper, no motion recommending annulment has been lodged. If so, there would be a debate on the instrument led by the Member who lodged the motion, at which the Scottish Government Minister who lodged the instrument would be entitled to take part in.

12. The Convener has, however, invited the Scottish Government to provide evidence on the instrument. This is a final opportunity for Committee Members to seek clarification on issues relevant to the instrument before formally disposing of it under the next agenda item.

13. If no motion to annul is laid, the Committee will be invited, under the next agenda item, to note the instrument, that is agree that it has no recommendations to make).

## Clerks to the Committee October 2024

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<sup>1</sup>[Meeting of the Parliament: NZET/08/10/2024 | Scottish Parliament Website](#)

## Annexe A: Scottish Government Policy Note

### POLICY NOTE

#### THE LOCAL SERVICES FRANCHISES (TRAFFIC COMMISSIONER NOTICES AND PANELS) (SCOTLAND) REGULATIONS 2024

#### SSI 2024/229

The above instrument was made in exercise of the powers conferred by section 13J(5)(c) and section 13T(1) of the Transport (Scotland) Act 2001 (“the 2001 Act”). The instrument is subject to the negative procedure.

#### Purpose of the instrument:

Sections 13I and 13N of the 2001 Act enable a local transport authority to request that the Traffic Commissioner convene a panel for the purpose of considering whether to approve the making of a proposed franchising framework, or a proposed variation or revocation of a franchising framework. Upon request, the Traffic Commissioner must convene a panel under section 13J or 13O of the 2001 Act, as applicable. The purpose of this instrument is to make further provision with respect to the panels to be convened by the Traffic Commissioner and, in particular, to make provision with respect to the appointment, removal and replacement of panel members, the remuneration of members, and the process to be followed by a panel in making decisions. This instrument also makes provision with respect to the notices issued by the Traffic Commissioner in relation to a proposed franchising framework, or a proposed variation or revocation of a framework.

#### Policy Objectives

The intention of the Transport (Scotland) Act 2019 (“the 2019 Act”) is to provide local transport authorities with access to a range of flexible tools that they may use to revitalise their local bus networks according to their own needs. The 2019 Act builds on (and in some cases replaces) existing powers that were available to local transport authorities under the 2001 Act. In particular, the 2019 Act replaces the quality contracts model provided in the 2001 Act with the local services franchises model. This model involves a local transport authority putting in place an overarching franchising framework and then entering into franchise agreements with bus operators in respect of the local services within the area of the framework. The framework will set out the services to be provided, the standards to be met in doing so, and any additional facilities that are to be provided in the area.

The local services franchises model puts in place a clearly structured process with the intention of making the process transparent and ensuring that franchising proposals are subject to a high level of scrutiny. For instance, the requirements on the Traffic Commissioner to issue notices in respect of new franchising proposals, and the provisions in this instrument about those notices, are intended to make people aware of a local transport authority’s franchising proposals and allow them an opportunity to make representations in relation to the proposals.

A local transport authority proposing to make, vary or revoke a franchising framework must request that the Traffic Commissioner convenes a panel of three persons to

consider the authority's proposal. The local transport authority may only proceed with their proposal if it is approved by the panel.

The role of the panel is to provide an additional safeguard that the local transport authority's franchising proposals are carefully considered, based on evidence, and follow the guidance issued by Scottish Ministers. Moreover, feedback from our public consultation on implementing the bus powers in the 2019 Act, and subsequent engagement with our key stakeholders, highlighted the need for the panels to adopt a balanced, objective, evidence-based, and transparent approach when considering a local transport authority's franchising proposals.

A panel will consist of three members appointed for a period by the Traffic Commissioner. To ensure that the panels can carry out their functions effectively, this instrument sets out the eligibility criteria for appointing panel members, which are focussed on ensuring members have appropriate knowledge and experience, and any real or perceived conflicts of interest are avoided. This instrument also provides that the Traffic Commissioner may pay panel members a level of remuneration that the Commissioner considers appropriate. The Traffic Commissioner will be required to pay or reimburse members' reasonable expenses and will also provide administrative support and accommodation appropriate for a panel to discharge its functions.

Panel members may resign, and the Traffic Commissioner may remove members if they fail to meet conditions set out in this instrument. This is to address situations where a member is unable to discharge their duties or the Traffic Commissioner has become aware of a potential conflict of interest, which may impact the panel's decision making.

A panel may invite individuals to submit evidence as part of its evidence gathering, and may hold oral evidence sessions in which the panel determines the procedure to be followed. This is to allow panels to be open and transparent by holding evidence sessions in public to discuss specific aspects of a local transport authority's franchising proposal, particularly if it is causing potential concern to stakeholders and it has not been addressed by the authority.

Feedback from several respondents to our public consultation and subsequent engagement with the Association of Transport Co-Ordinating Officers (ATCO) and the Office of the Traffic Commissioner supported this approach.

This instrument also provides that a panel must submit its decision on whether to approve the proposed making, variation or revocation of a franchising framework to the Traffic Commissioner within a specified time period. This instrument also confers a power on the Traffic Commissioner to give panels guidance on exercising their functions under the 2001 Act and in this instrument.

### **UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility**

The Scottish Ministers have made the following statement regarding children's rights:

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the Local Services Franchises (Traffic Commissioner Notices and Panels) (Scotland) Regulations 2024 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

### **EU Alignment Consideration**

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

### **Consultation**

A public consultation on the implementation of the bus provisions contained in Part 3 of the 2019 Act took place from 14 July to 6 October 2021. A wide range of stakeholders were consulted, including local transport authorities, regional transport partnerships, CoSLA, trade unions, representatives of bus operators, the third sector, and bus user representatives. There were 42 organisations who responded to the consultation and commented on the questions within the document.

The public consultation asked questions about the make-up of the panel and its functions. The main theme that emerged from local transport authorities and regional transport partnership responses was the need for the panel to adopt a balanced, objective, evidenced-based and transparent perspective, and they should not create an undue barrier in exercising the franchising powers to be inserted into the 2001 Act.

There were several comments about the make-up of the panels, in particular, the need for at least one member of the panel to have knowledge of the Equality Act 2010. A trade union/campaign organisation suggested that no panel should be dominated by individuals from the bus sector. Most respondents suggested there is a need for panel members to have financial or transport expertise. In addition, some trade union/campaigning organisations focused on the need for any panel membership to gather a breadth of perspectives and knowledge so that a range of policy aims and human rights duties inform any decisions made. Some respondents highlighted the need to ensure the selection process is transparent and that the panel members are accountable and independent.

A total of 18 respondents, including local transport authorities, regional transport partnerships, operators, trade unions and some individuals, responded to a question on the appointing, removing or replacing of panel members. A key theme from the responses was the need to ensure there are no conflicts of interest, and if a conflict of interest is discovered, this should lead to the immediate removal of the person in question from the panel.

The key themes from the 22 responses which focus on the functions of the panel included the need for all decisions made by a panel to be fully justified, transparent and accountable. In addition, representatives should be able to attend formal public hearings and be allowed to provide written or oral submissions, and the process a panel must follow should be specified and have robust and detailed criteria.

Following the public consultation, we have had subsequent discussions with key stakeholders, including ATCO, CoSLA, the Competition and Markets Authority, and the Confederation of Passenger Transport to obtain views to inform the development of these regulations. Officials have also engaged with public sector organisations, including the Traffic Commissioner ("TC") on technical elements of these regulations.

### **Impact Assessments**

A final Business and Regulatory Impact Assessment ("BRIA") has been produced for this instrument. This supplements the partial BRIA that was completed for the implementation of part 3 of the 2019 Act. The primary costs resulting from these regulations are expected to fall to the OTC in the form of remuneration, expenses, and associated work costs. The

Scottish Government is in discussion with the TC on how this work will be funded.

The following impact assessments were conducted in relation to the implementation of the bus provisions contained in Part 3 of the 2019 Act:

- An Equalities Impact Assessment
- An Islands Screening Assessment
- A Childrens' Rights and Wellbeing Impact Assessment (CRWIA)
- A Fairer Scotland Duty Impact Assessment

**Financial Effects**

Primary costs are expected from the TC in the form of remuneration, expenses, and associated work costs for setting up the panels. Costs to local transport authorities and businesses as a result of these regulations are expected to be negligible.

Scottish Government  
*Transport Scotland September*

*2024*

## **Annexe B - Responses to Committees letter regarding the Local Services Franchises (Traffic Commissioner Notices and Panels) (Scotland) Regulations 2024, received 18 October 2024**

**Letter from Jonathan Bray, received 18 October 2024**

### Background

I have been actively involved in legislation pertaining to bus services in the UK for over twenty years. Part of my role as Assistant Director and then Director of the Urban Transport Group (which brings together the transport authorities for most of the UK's largest urban areas) was to lead on responding to changes to bus legislation and the wider regulatory regime including drawing up consultation responses, liaising with DfT officials, briefing parliamentarians as well as drafting and giving evidence to select committee inquiries. This includes both the 2008 and 2017 Westminster primary legislation on buses. I also provided Nexus with assistance on comms and stakeholders during their attempt to use the 2008 Westminster legislation to bring buses in the North East under public control. Since leaving UTG I am the advisor to the Welsh Government and Transport for Wales on their bus reform programme.

1. What, if any, concerns do you have about giving final approval of any proposed Scottish bus franchising scheme to a panel appointed by the Scottish Traffic Commissioner?

I have significant concerns and believe it will be both regretted and ultimately reversed in the future.

My concerns are:

Firstly, this approach borrows and amplifies the role of a panel in the failed 2008 Westminster buses legislation. Nexus (the then Tyne and Wear Passenger Transport Executive) was the only organisation to have experience of a similar panel. No other transport authority attempted to use the 2008 Westminster legislation on Quality Contract Scheme (franchising) due to the risks and uncertainties surrounding a panel decision in what is, by its nature, a challenging and unprecedented move from an unplanned and deregulated market to a planned and franchised market.

The Nexus experience of the 'Quality Contract Scheme (QCS) Board' in 2015 was a process in which ended up with one party, the transport authority, having to justify changing everything in the market place, whilst the other, commercial bus operators, only had to justify why changing just one aspect of the market place was too risky. Considerable evidence, including exceptionally complex economic analysis, was submitted to the QCS board, proving extremely difficult for an under-resourced panel to adequately consider the complexity of the proposals.

The QCS board voiced concerns regarding forecasts around funding, value for money of a QCS versus a Voluntary Partnership Agreement and also proportionality. On proportionality, whilst the QCS board accepted that the scheme put forward by Nexus would generate significant economic benefits to the public, they advised that the disbenefits to

incumbent monopoly operators would be significant and disproportionate to the benefits accruing to residents in Tyne and Wear as a result of the scheme. In essence, they put the potential losses of a monopoly business ahead of the interests of the residents of Tyne and Wear in their judgement.

Furthermore, the Scotland Bill proposes powers that go beyond the English 'QCS board'. The 'QCS board' was only required to make a recommendation, with the transport authority making the final decision on whether to proceed. However, the proposed panel in the draft legislation is given the duty to make the approval for a franchising scheme. This will put great weight on the decision of the panel and may leave the panel at risk of judicial review from incumbent monopoly bus operators. Again risking the panel leaning towards the safer option of rejection.

The Nexus experience of the panel process was also one of mismatched resources with incumbent monopoly operators employing large, intimidating and expensive legal representation to seek to undermine the case for change.

Secondly, the proposal for a panel based decision fundamentally goes against the principles of local democracy. In effect the future of local bus services, and the people who rely on them, has been handed over to an unelected quango. Imagine a scenario where bus regulation is a significant factor, and manifesto pledge, in local elections giving the authority a clear democratic mandate to bring buses under public control and operate them in the public interest. Yet that mandate could be rendered null and void by a small number of unaccountable individuals.

Thirdly, one of the principles that underpins the idea of a panel is that independent experts can scrutinise the proposals and come to a balanced and independent view. However, the fact is that there are very few people involved in the bus sector that don't already have a view on franchising. Those who would have time to play a role in a lengthy panel process are most likely to skew older and in the bus industry that usually means they skew towards justifying a career in working within a deregulated bus sector. For example, the former Traffic Commissioner for Scotland, Joan Aitken, gave vent to her trenchant and hostile views about SPT's franchising case in this interview <https://www.route-one.net/news/spt-bus-franchising-approach-criticised-by-former-tc-for-scotland/>

The Government's proposal is that the Traffic Commissioner for Scotland will choose the members of the panel. As can be seen with the previous Traffic Commissioner for Scotland's views this puts a lot of power in the hands of someone who may be less than impartial. What's more the Traffic Commissioners are appointed by the UK Secretary of State for Transport. To put a UK appointed person in such a critical role in determining the future of the main form of public transport (and the form of public transport most relied upon by Scots with the least) seems a very odd thing for a Government committed to far greater autonomy of decision making for Scotland to do.

Fourthly, the Conservative Westminster administration clearly recognised that the panels were fundamentally flawed which is why they abolished them in the Westminster legislation which is now in force (Bus Services Act 2017) in England.

To introduce an approach to Scotland that has demonstrably failed in England seems both cynical and of a piece with the excessive foot dragging by officials in



getting the legislation fully enacted in Scotland. It suggests a general hostility to making franchising a viable option at the very time when franchising is [demonstrating its value](#) in Greater Manchester (more passengers, more reliable services, affordable fares, more integration with other public transport modes and all with lower operating costs).

2. Can you briefly describe the proposed system of bus franchising that you are developing on behalf of the Welsh Government? What are the key stages of the proposed approval process?

I am advising the Welsh Government and Transport for Wales on bringing buses under public control in Wales but I am not responsible for drawing up or developing the legislation in Wales.

The draft legislation has also not yet been brought before the Senedd for scrutiny and approval. This is expected to happen Spring of next year.

In the meantime the best summary of the approach in Wales is set out in the following documents:

[https://www.gov.wales/written-statement-one-network-one-timetable-one-ticket-planning- buses-public-service-wales](https://www.gov.wales/written-statement-one-network-one-timetable-one-ticket-planning-buses-public-service-wales)

<https://www.gov.wales/bus-reform-wales-our-roadmap-franchising>

In essence the approach in Wales is to ensure that all bus services in Wales are brought under public control through a collaborative process between local authorities and the Welsh Government / Transport for Wales on determining the networks to be provided. However, Transport for Wales will ultimately be the franchising authority.

This differs from the approach in England (where it is down to the LTA to bring forward a proposal for franchising with the Government playing no role once the formal process has begun) and the proposed approach in Scotland (where it is down to the LTA to bring forward a proposal for franchising and an unaccountable quango will decide whether it happens or not).

A key rationale for the Welsh approach is a desire to ensure that Wales has an integrated public transport network and that small local transport authorities do not necessarily have the resources to franchise their local bus networks themselves. The Welsh government standing behind the process also protects local authorities from battalions of expensive lawyers that incumbent monopolies may employ to protect those monopolies.

3. Are there any significant lessons from the experience of bus franchising across the UK and Europe that could inform the development of bus franchising in Scotland?

Firstly, as set out above, the decision to use panels to determine the future of bus services in Scotland is anachronistic and undemocratic. It leaves Scotland as a backwards facing outlier on public control of franchised bus services in the UK. In Northern Ireland buses are already under public control, in England there is a

workable process for LTAs to move forward on franchising (which they are now doing at scale starting in the largest urban areas) and the whole of Wales is moving to public control (led by the Welsh Government).

Looking more widely in Europe there are not many examples in comparable economies in Europe of bus services being deregulated in the first place (given the failure of the UK deregulation experiment and also that in Europe bus services tend to be seen as primarily a public service). Instead, there's more likely to be a move from municipal control to franchising. Therefore it is difficult to point to other examples in Europe which are relevant to Scotland given Scotland's deregulated starting point. The most relevant examples therefore are England and Wales.

In terms of lessons on franchising in general (as in how best to carry out franchising once there has been approval to move to franchising) my starting point would be that franchising is a means to an end. The end being enforceable contracts for the operation of a service that is specified (to a greater or lesser degree) by the public sector. Compared with deregulation it also gets you integrated ticketing and networks under a single brand and with a single organisation clearly responsible for the network.

Beyond that what you get depends on a) how much funding you have available b) the nature of the franchise contract and the selected operator.

On funding bus franchising will get you more for the same amount of money because it is a more efficient way of funding bus services. It is more efficient because a) you can cross subsidise between profitable and unprofitable services as oppose to the current situation whereby operators make a profit on commercial services and on the unprofitable services which local government has to pay for b) you can eliminate excess profit and/or over bussing on the busiest corridors c) you pay for everything once as part of a single contract rather than paying for everything you want a bus service to do separately and at a cost often determined by the operators (such as green buses, fares initiatives, audio-visual announcements etc). However, these efficiencies won't buy you a major upgrade in services or a big fares reduction this will require further funding. However, again further funding buys you more than it does under deregulation for the reasons set out above.

The nature of a franchise contract can be determined by the public authority. Broadly speaking there is a spectrum between a tightly specified contract (such as that in place in London where TfL controls nearly everything including fares, timetable and colour of the buses) or a looser form of contract where the contract sets out the objectives that the authority is seeking but gives flexibility to the operator on how those objectives are to be achieved. Across Europe there are multiple examples of the full range of different types of contracts for bus services.

Given the unusual nature of this transition to franchising (from a state subsidised, de facto cartel of poorly regulated private monopolies to franchising) then the most likely, and arguably the safest bet, is to go for relatively tightly specified contracts with revenue risk sitting with the local transport authority. This is what has happened in Greater Manchester. This approach also allows you to move more quickly to an integrated public transport network and a single brand. It will probably also be more cost effective as risk sits with the transport authority rather than being priced in by

bidders.

In short then:

- It is my contention that if Scotland adopts the panel approach, then this will be a serious mistake which ultimately will be seen as such (as it has been in England). It's hard to see any rational justification for it other than it serves the interests of those who wish to maintain the status quo for as long as is possible.
- Although there is an argument for adopting the Welsh approach of a partnership between local and national government based on bringing all bus services in Scotland under public control this would be a fundamental change of direction for which there is no detectable appetite at present and would also run contrary to thrust of the new Scottish primary legislation. Instead, therefore the decision on how local bus services should be determined is best taken by the most appropriate level of locally accountable transport authorities (in Scotland's case the RTPs) and the panels should be deleted from the process. This would broadly replicate the model provided by the current Westminster legislation, which is fair, reasonable and proportionate allowing a fair hearing for all interested parties, for scrutiny and testing and ultimately for legal challenge if aggrieved parties believe that the process has not been properly followed.

Jonathan Bray  
18<sup>th</sup> October 2024



Dear Mr Mountain,

**Local Services Franchises (Traffic Commissioner Notices and Panels) (Scotland) Regulations 2024**

I refer to your letter of 9 October 2024 regarding the above-mentioned regulations. I have been asked to respond on behalf of the Senior Traffic Commissioner in his capacity as Deputy Traffic Commissioner for Scotland and whilst the post of Traffic Commissioner for Scotland is currently vacant.

As you will be aware the provision for the franchising of local bus services was set out in the Transport (Scotland) Act 2019, which amended the Transport (Scotland) Act 2001. The role of the Scottish Traffic Commissioner to convene a panel to review any franchise proposal was set out in the 2019 Act. The draft regulations create a framework for that role.

Those draft regulations provide that the Traffic Commissioner may appoint as a panel member any person that the Traffic Commissioner considers to have knowledge or experience relevant to that panel's functions. In discussion with Scottish Government, we have drawn upon our experiences with the panel formed for a Quality Contracts Scheme in England. For this reason, the Senior Traffic Commissioner is alive to the need to ensure that any panel has a breadth of skills and experiences required to provide an informed and balanced opinion.

Discussions with Scottish Government have identified the need for a panel to include legal, operational and passenger expertise, which will then take evidence including from people affected by the proposal to franchise.

The draft regulations prevent a person from sitting on the panel who, in the opinion of the traffic commissioner, reasonably give rise to a concern as to whether that person could act impartially as a panel member. A person's impartiality will be assessed prior to appointment through an understanding of their background and by a process of self-declaration. If any concerns are subsequently raised, they may be removed from the panel using the powers provided in regulation 5.

You will gather that discussions have been held with Scottish Government officials, which commenced during the drafting of the regulations. We have provided advice, drawing on our experiences gained from other jurisdictions. We are due to meet in Edinburgh on 22 October 2024 to consider the administrative support to the Traffic Commissioner's statutory role. We also understand that the Scottish Government intends to issue general advice on franchising.

Work will continue to provide a clear process and instruction for when the regulations come into force.

Yours sincerely

John Furzeland  
Traffic Commissioners' Corporate  
Office Office of the Traffic  
Commissioner

## Letter from Transport for Quality of Life, received 21 October 2024

Dear Edward,

Thank you for your letter of 9 October 2024, regarding the [Local Services Franchises \(Traffic Commissioner Notices and Panels\) \(Scotland\) Regulations 2024](#). We appreciate you inviting Transport for Quality of Life to provide further information on the following questions:

1. What, if any, concerns do you have about giving final approval of any proposed Scottish bus franchising scheme to a panel appointed by the Scottish Traffic Commissioner?
2. Can you briefly describe the proposed system of bus franchising that you are developing on behalf of the Welsh Government? What are the key stages of the proposed approval process?
3. Are there any significant lessons from the experience of bus franchising across the UK and Europe that could inform the development of bus franchising in Scotland?

We provide some thoughts below and hope that this information is useful to your committee.

If you require any clarifications or have further questions, please don't hesitate to get in touch.

Yours sincerely,

Lisa Hopkinson  
Director

### 1. Concerns about final approval by panel appointed by Scottish Traffic Commissioner

The panel approach proposed by the Scottish Government in the captioned Regulations echoes the now discredited approach for Quality Contract Services (often described as franchising by another name). A 2018 House of Commons Research Briefing on the [Bus Services Act 2017](#) notes there were many calls to remove the QCS Boards, independent panels convened by a Traffic Commissioner, which had final approval of any proposals put forward by local authorities.

These calls to remove the Boards were reinforced by the [2015 report](#), of the QCS Board which rejected the proposed Tyne and Wear QCS put forward by Nexus (the Tyne and Wear Passenger Transport Executive). In [their response](#) to the Board's report, Nexus said they were "*extremely disappointed*" with the decision, and that they were concerned that the Board "*took a highly pessimistic and surprising view of financial risks*".

The outline process for bus franchising proposed by the Scottish Government (figure 3 in the [2021 consultation document](#)) already has an audit of financial implications

step, to ensure quality of analysis and that guidance has been followed. Adding a further decision-making process, in the form of a panel convened by a Traffic Commissioner, creates an extra, unnecessary stage which could prove an effective blockage to the process. Further Traffic Commissioners are not a disinterested party, as they are effectively part of the existing system, and whose strategic objectives are to minimise regulatory burden on operators rather than to provide the best possible passenger service.<sup>2</sup>

On a non-technical point, we would point out that it appears strange that the system presently being proposed by the Scottish Government and Scottish Parliament appears to undermine the devolution settlement by giving the final decision on the franchising of Scotland's bus services to Traffic Commissioners – who are appointed by the UK Government over the heads of the Scotland's Government and Parliament. The Committee may wish to draw attention to this (presumably unintended) perverse outcome of the legislation as presently formulated. It would be a straightforward matter to amend the legislation to correct this.

If additional safeguards and oversight were considered necessary, this would be better provided by a democratically-accountable body whose objectives are in line with the Scottish Government priorities. The [recommendations](#) of the Scottish Government's 'Roles and Responsibilities Working Group' that "*future transport governance arrangements should be on the basis of some form of regional model*" also suggest a role for regional transport bodies.

The House of Commons briefing notes that no QCS was ever implemented since it was put on the statute books in 2000 "*despite the obvious desire of many authorities to have more control of their bus services*". This would seem to be a backwards step towards a better bus system in Scotland.

Similar points about the need for a simpler system were also made in January 2017 by our former Director Dr Ian Taylor, now retired, who gave evidence to the Scottish Parliament's Public Petitions Committee about bus franchising based on the report [Building a world-class bus system for Britain](#). That evidence can be seen in the [Committee's meeting report](#) (pp14 onwards) and [video of the meeting](#) (39 minutes in). He pointed out that franchising should be the default option and that "*previous transport bills [in England] have tried to set up legislation that works, but it has proved to be too tortuous.*"

## 2. Proposed system of bus franchising by the Welsh Government and key stages of approval process

The Welsh Government consulted on proposals for bus franchising in their White Paper of 2022 [One network, one timetable, one ticket: planning buses as a public service for Wales](#).

In March this year they published [Our Roadmap to Bus Reform](#), which built on those proposals and set out a timetable for introducing bus franchising.

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<sup>2</sup> According to the [Traffic Commissioners for Great Britain Annual Report 2023-24](#) the overarching aims of the Traffic Commissioners are: "To deliver a modern and effective operator licensing regime that ensures operators are fit to hold a licence whilst minimising the regulatory burden on the compliant; and to promote and develop a safe road transport industry, which delivers compliance, fair competition and protects the environment."

Please note that Dr Ian Taylor was involved in the former document as an advisor to the Welsh Government, but Transport for Quality of Life has not been involved in the latest report.

However, it is clear from both documents that the Welsh Government is proposing a much simpler system of bus franchising to enable a reliable, affordable, flexible and easy to use bus network. Their three objectives for the new bus system include:

1. A bus network which is linked in with the rest of public transport in Wales and easy to navigate (One Network).
2. Coordinated timetables which are easy to use and allow connection across public transport in Wales (One Timetable).
3. Simpler ticketing which enables travel across public transport in Wales with affordable and consistent fares (One Ticket).

Based on the current timetable, they plan to make some improvements to bus services ahead of the new legislation and form a 'Bridge to Franchising' and introduce the Bill to the Senedd this year.

Their legislative proposals include:

1. Requiring the franchising of bus services across Wales.
2. Allowing local authorities to create new municipal bus companies.
3. Relaxing restrictions on existing municipal bus companies to put them on the same footing as new ones.

The White Paper sets out the proposed stages of the franchising process:

- a. Local authorities would develop a plan for a bus network that meets the needs of their communities.
- b. Corporate Joint Committees (CJCs) (formed from the membership of principle councils, established in statute, and able to directly employ staff, hold assets and manage funding) would then be responsible for bringing these together to agree a regional plan.
- c. Transport for Wales would work with CJCs, on behalf of the Welsh Government, to combine these networks into a national plan, to be reviewed by the members of the supervisory board and agreed by Ministers.
- d. At each of these stages Transport for Wales would offer specialist network planning support and work with local authorities and CJCs to help develop their plans and ensure they are well integrated with rail services across Wales.
- e. The supervisory board must include representation from each of the CJCs (to feed their regional perspective into the overall plan and to ensure inter-regional join up) as well as from the Welsh Government, an operator, staff (of operators) and public transport users.

To ensure this national level contracting scheme operates effectively, the Welsh Government propose that the franchising power sits with the Welsh Government, and that Transport for Wales work with CJCs and local authorities to discharge it on the Welsh Government's behalf. This would have the additional benefit of aligning the powers with rail services, and allow the Welsh Government, through Transport for Wales, to make plans for services, ticketing and journey information for bus and

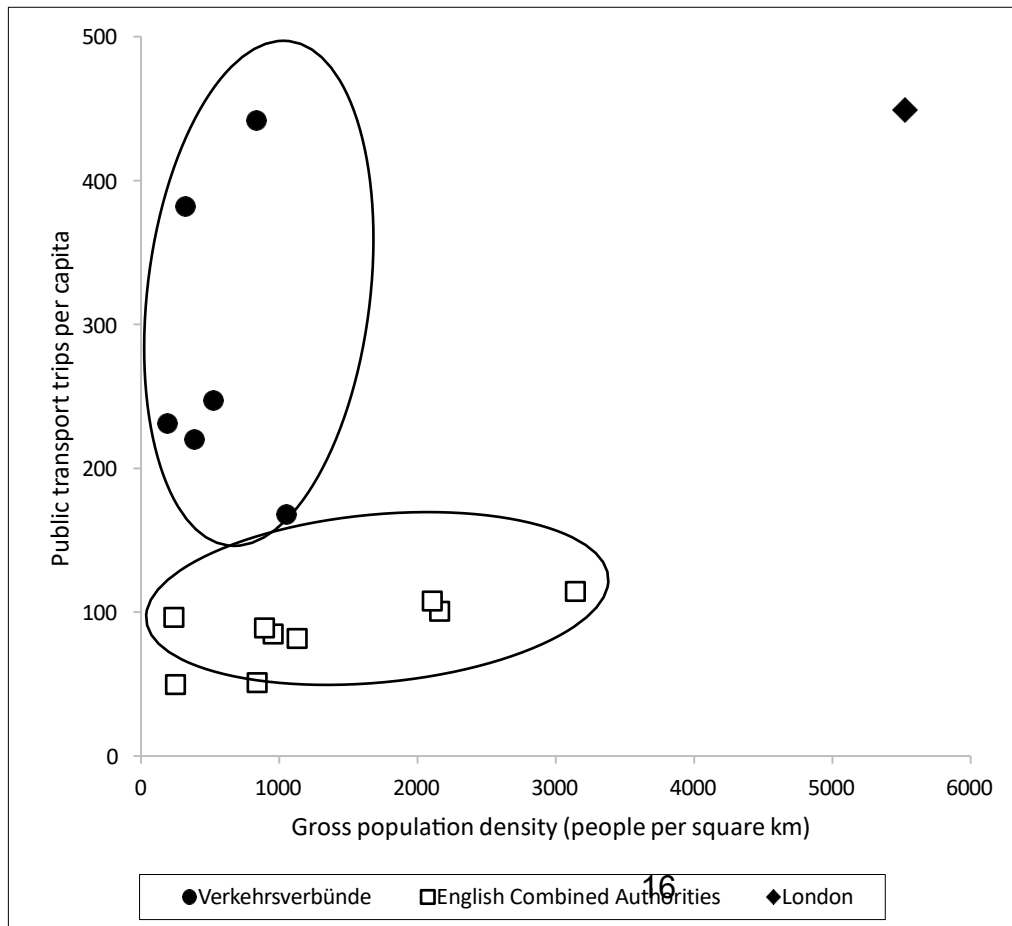
rail side by side.

3. Significant lessons from the experience of bus franchising across the UK and Europe that could inform the development of bus franchising in Scotland

In our 2020 report [Transforming Public Transport](#) we note that in parts of Europe public transport functions as a single system: buses, trams and trains are planned together to provide ‘one network, one timetable, one ticket’. All public transport services, whoever the operator, are coordinated by a public transport governing body or Verkehrsverbund (VV). The VV plans public transport service levels, routes and timetables; is responsible for the ticketing system; awards contracts to operators; and sets and monitors service quality standards. City, district and regional government all play a role in the VV. The VV model for governance and delivery of integrated public transport was so successful that it spread across most of Germany and all of Austria in the 1990s.

The figure below shows levels of public transport use per capita in different areas of Europe with VVs, England and London versus population density. As a result of this integration, levels of public transport use are strikingly higher than in areas of England, even though the geographical and population density is very similar. For example, the geographical area covered by the Munich VV (3<sup>rd</sup> round dot from top) is comparable to the area of the entire West Midlands plus the counties of Warwickshire and Worcestershire (square dot furthest to the right) and has lower population density.

Figure 1: Annual per capita public transport trips (2016/17) in six continental areas (Verkehrsverbünde), the English Combined Authorities, and London

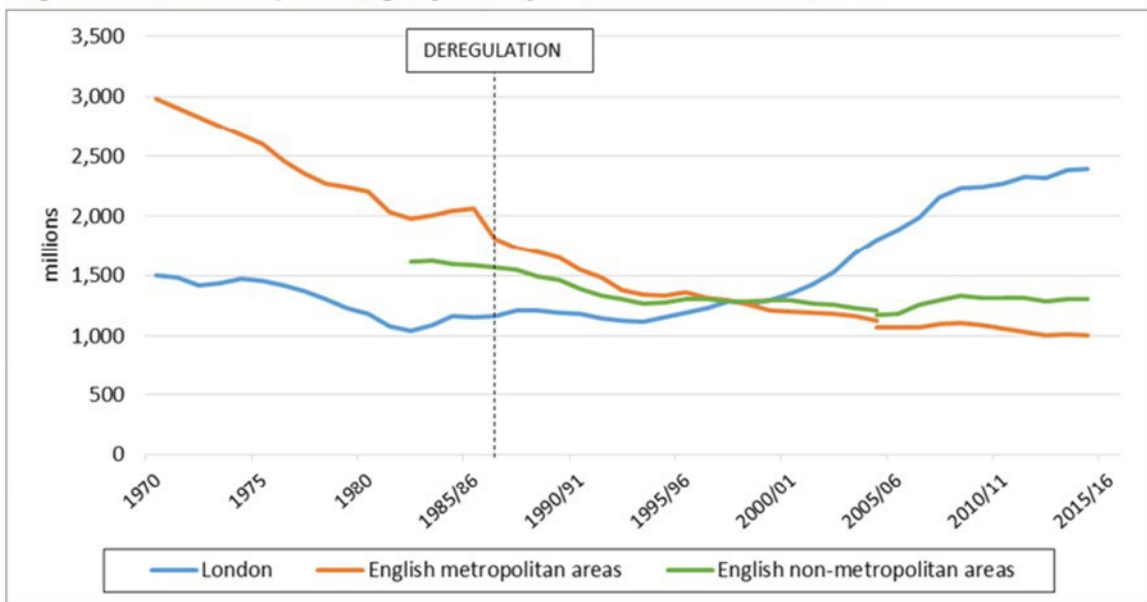




Even in the UK the benefits of franchising are clear:

- London, the only place to retain franchising when bus services in the rest of Great Britain<sup>3</sup> were deregulated, was one of the few places where bus passenger numbers grew rather than decreased. Figure S1 below, from our 2016 report [Building a World Class Bus System for Britain](#), shows the impact of bus franchising on passenger levels. The value of arrangements in London has also been shown in other studies such as the Urban Transport Group’s [What scope for boosting bus use?](#) Greater Manchester, which franchised some of its services in September 2023, has seen patronage<sup>4</sup>, punctuality and revenue increase and the cost of operation reduce in the [first year of operations under franchising](#). The punctuality of services has consistently outperformed both the current non- franchised network and the pre-franchised network.
- In Jersey, which is not bound by UK regulation, they moved to a franchised network in 2013. According to [Practical bus franchising: the Jersey Model](#), prior to Covid they had increased passenger usage by almost a third and reduced public subsidy by £800,000 per year.

**Figure S1: Annual passenger journeys on local bus services**



Some of the lessons of franchising in the UK under the 2017 Bus Services Act model were set out in the 2023 Urban Transport Group report [A Smoother Ride](#). This noted the difficulties, using Greater Manchester as an example, for a Combined Authority to get franchising through in a single Mayoral term. It recommends specific steps to simplify and streamline the process including:

1. Make the assessment process for a proposed franchising scheme quicker, by making it less onerous.

<sup>3</sup> In Northern Ireland public transport has been publicly owned since 1947. It’s currently set up as ‘Translink’ with several operating subsidiaries.

<sup>4</sup> Bus patronage has increased from 155.5 million in 2022/23, to 162.3 million during 2023/24.

2. Ensure Local Transport Authorities have the information they need from operators (at the right level of detail) when they need it, backed by an enforcement regime. In the case of Greater Manchester, data was requested from operators at the start of the assessment process (June 2017) but was not forthcoming. An appeal to the Traffic Commissioner was required and a ruling was not received until over a year later.

## Conclusions

The Welsh Government has learned lessons from the English experience, and consequently is planning legislation that will make franchising the default (mandatory) approach right across Wales.

The Welsh Government approach assumes that it is not appropriate to expect over-stretched and under-resourced local authorities to leap the inevitable hurdles involved in putting franchising in place – on the basis that franchising would take ages to occur, if it were to be achieved at all in Wales, if that approach were adopted. It is highly unlikely that it would be achieved on a scale and at a pace commensurate with Welsh Government policy objectives to transform public transport networks so as to urgently address climate change. That requires a rapid redesign of bus networks so that they work as efficient coherent entire networks dedicated to achieving the best public service available within limited public sector budgets, rather than being designed by bus operators, as at present, so as to maximise their corporate profits.

Welsh national government will therefore simplify the franchising process as much as possible and will take on the franchising powers and responsibility to put franchising in place, working with the expertise of local authorities and its national, publicly owned transport body, Transport for Wales, to do so.

The Scottish situation has many similarities to Wales, albeit with a preference for a regional model. If the Scottish Government wishes to achieve better bus services, and create public transport fit for the climate emergency, it must heed the lessons and lack of success of English franchising legislation and should consider the benefits of adopting a much-simplified approach similar to that of the Welsh Government.

**NZET/S6/24/31/1**

**Letter from Minister for Agriculture and Connectivity, 21 October 2024**

Dear Convener,

Thank you for your letter of 9 October to Fiona Hyslop MSP, Cabinet Secretary for Transport, in which you have listed several questions relating to the Local Services Franchises (Traffic Commissioner Notices and Panels) (Scotland) Regulations 2024 before the Committee can determine whether to make any recommendations to the Scottish Parliament.

Please find attached to this letter a table setting out detailed responses to the questions listed in your letter.

I hope this is helpful.

Yours sincerely,

**JIM FAIRLIE**

**Table of questions and answers in relation to the Local Services Franchises (Traffic Commissioner Notices and Panels) (Scotland) Regulations 2024**

**1. Why was the power to approve any bus franchising scheme given to a panel appointed by the Traffic Commissioner for Scotland, rather than to elected members of the relevant transport authority or Scottish Ministers?**

**A.** In developing the franchising model set out in the Transport (Scotland) Act 2019 it was considered that a final approval stage, external to the local transport authority, was required to ensure that the decision the authority had made to make a franchising scheme was carefully considered.

As set out in the Policy Memorandum to the Bill at introduction, the inclusion of an independent panel appointed by the Traffic Commissioner (as opposed to Ministerial scrutiny) was intended to de-politicise the final decision-making process. Particularly as the Traffic Commissioner is an independent regulatory role, which is independent from all parties involved in the franchising process, including the Scottish Ministers, and indeed, potential operators. These measures remained throughout the three bill stages without anyone seeking to amend them. The rationale for the panel to be independent was set out and accepted by Parliament.

The approval process also potentially mitigates the risk of legal challenge to a local transport authority's franchising proposals that are considered by a panel, since the franchising proposals will have received independent and impartial scrutiny via the consideration of the panel before they are put in place. Without this process, it may be possible that such scrutiny is sought instead via a legal challenge.

Franchising is an important tool for local transport authorities to improve services in their area. However, it is also a significant intervention in the local bus market.

The role of the panel is to provide an additional safeguard to ensure that the local transport authority, in proposing to making a franchising framework, have complied with the relevant procedural requirements contained within these regulations, had regard to guidance issued by the Scottish Ministers on the preparation of the assessment of the proposed framework, have given appropriate weight to the matters prescribed by regulation 12 of these regulations, and have otherwise carefully considered their decision to in make the proposed framework.

This structured approach will ensure that the decision making is more transparent via a process of rigorous assessment and evidence-based analysis.

**2. Does the Scottish Government intend to publish guidance on the appointment, operation, and decision-making process of such panels? If so, when can we expect to see a consultation draft?**

**A.** The Scottish Ministers will provide clear guidance for local transport authorities on how the panels will operate. This guidance is currently under development and will be published once the remaining franchising legislation is completed.

The Act and these regulations sets out the matters that the panel must consider when assessing a local authority transport franchising proposals. In addition, these regulations provides that the Traffic Commissioner may give guidance to panels on the exercise of their functions to ensure consistency of approach by different panels.

<p><b>3. How will the views of current and potential bus users, bus operator staff and the wider community be represented on such panels?</b></p>
<p><b>A.</b> Feedback from bus users and stakeholders to our consultation on the implementation of the Part 3 (bus services) of the Transport (Scotland) Act 2019 was used to inform the development of this instrument. The instrument sets out the eligibility criteria for appointing panel members, which is focused on ensuring members have knowledge or experience relevant to the panel's functions. This is likely to include industry and passenger representation experience.</p> <p>In addition, the Act and these regulations, sets out the means by which people may make representations in relation to the franchising proposals before the panel approval stage, (and these representations must be provided to the panel) and by which they seek to provide evidence to the panel when making its determination.</p>
<p><b>4. What safeguards are in place to ensure that any panel appointed by the Traffic Commissioner is truly independent of any commercial parties that may be involved in any bus franchising exercise?</b></p>
<p><b>A.</b> To ensure that the panels can carry out their functions effectively, this instrument sets out the eligibility criteria for appointing panel members, which is focused on ensuring members have appropriate knowledge and experience and that any real or perceived conflicts of interest are avoided.</p> <p>Regulation 3 of this instrument precludes the appointment to a panel of any person employed by an operator who in the Traffic Commissioner's opinion is likely to be affected by the franchising proposal or any other person whose appointment could, in the Traffic Commissioner's opinion, reasonably give rise to a concern as to whether that person could act impartially as a panel member. While the selection of panel members will be a matter for the Traffic Commissioner alone, these constraints are designed to ensure, among other things, that commercial parties affected by franchising proposals may not sit on panels determining whether those proposals should be approved.</p>
<p><b>5. What additional measures could be provided in the guidance issued to the Traffic Commissioner to address some of the concerns raised about the Traffic Commissioner's role?</b></p>
<p><b>A.</b> Conferring the panel functions on the Traffic Commissioner was deliberate as the role is an independent regulatory role, which is independent from all parties involved in the franchising process, including Scottish Ministers.</p> <p>The Traffic Commissioner's general functions are to promote safe, fair, efficient, and reliable passenger and goods transport through licensing and regulation of the commercial vehicle industries.</p> <p>The Traffic Commissioner for Scotland has further devolved responsibilities, which deal with regulatory matters relating to the operation of local bus services.</p> <p>In relation to the franchising approving process, the role of the Traffic Commissioner for Scotland is to simply establish the panel(s) and provide the necessary administration. The eligibility criteria set out in these regulations precludes the appointment of anyone</p>

employed by an operator or commercial party who in the Commissioner’s opinion are likely to be affected by the franchising proposals. The Traffic Commissioner has no direct role in the decision-making section of the process.

**6. Does the Scottish Government intend to revisit the legislation giving final approval of franchising schemes to Traffic Commissioner appointed panels? If so, what legislative processes would need to be followed to enact such change and how long might this take?**

**A.** The Scottish Government has no plans to revisit the Transport (Scotland) Act 2019 at this time, nor specifically the measures relating to the establishment and operation of the panels.

Any decision to significantly amend the panel process as set out in the 2019 Act would require primary legislation, and be subject to the relevant parliamentary timescales and processes. The committee will appreciate that the timescales for policy development of this

sort can be significant and it is unlikely that any local transport authority would look to progress their franchise proposals during such a period of legislative uncertainty, which would delay franchising being introduced in Scotland.

**7. What assessment has the Scottish Government done on bus franchising models in England and Wales?**

**A.** The current franchising model in operation in England only permits mayoral authorities to progress with a franchise without any form of central approval. Any other authority wishing to progress with a franchise is required to obtain consent from the Secretary of State prior to commencing the franchising process. However, we are also aware that the UKG is intending to amend this model via a new Buses Bill to enable all local transport authorities in England to use the franchising powers without prior approval. This legislation is currently under development, and we are not clear what, if any, alternative safeguards it may include.

Separately, we understand that the Welsh Government is exploring a national franchise, with a requirement for primary and secondary legislation for this work to take effect. A bus bill is expected to be laid in the Senedd (Welsh Assembly) this year to begin the process.

Officials have been engaging with DfT, the Welsh Government and local transport authorities in England to learn about the development of their franchising proposals, and how the schemes which are now in operation are working.

**8. Could you set out the implications for the introduction of franchises if the regulations mentioned above are not approved?**

**A.** These regulations are fundamental to the operation of the franchising process, not least in providing certainty to the local transport authority in how their franchising proposals will be considered. If the regulations are not passed, it may be that local transport authorities would be unwilling to invest in the franchising process if they are uncertain of the outcomes, which would delay franchising in Scotland.

Without these regulations, there will be no safeguards on the appointment of panel members to ensure that they are independent of parties affected by the franchising process. In addition, these regulations set out the important procedural and substantive

requirements for the conduct of panels, as well as administrative certainty as regards to their operation.

The procedural requirements provide clarity and legal certainty on fundamental matters, including the rights of interested parties to seek to make representations to panels, as well as providing key legal safeguards against the appointment to panels of commercial parties who may be involved in any bus franchising exercise or who may otherwise not be able to act impartially in panel decision-making.

Regulation 12 sets out the criteria against which panels must assess local transport authorities' proposals, additional to those already set out in section 13J (5) of the 2019 Act, and in so doing further clarify what is and is not relevant to panel decision-making. From an administrative perspective, the instrument makes provision about the payment of panel members' remuneration and administrative support.

## Letter from Get Glasgow Moving, received 22 October 2024

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