



UNISON Scotland response: Implementing Part 3 of the Transport (Scotland) Act 2019: Bus Services October 2021

Introduction

UNISON is Scotland's largest trade union with 150,000 members across the public, private and voluntary sectors. Our members work in local government, health, energy and other key sectors delivering vital services to the public. We organise and represent staff working for regional transport authorities and in the roads and transportation divisions within local authorities. As tax payers and as bus passengers, our members' contribute towards the public funding received by bus operators in Scotland.

A broken system

As in so many other areas of service provision, privatisation has failed public transport in Scotland and in the rest of the UK. Since devolution in 1999, the strategy of attempting to improve bus services through various models of partnership working between public authorities and private bus operators has failed. Drastic central government spending cuts to both regional transport partnerships and local authorities for over a decade have exacerbated this. Budget cuts have undermined the ability of public authorities to fund 'socially necessary' routes, leaving many rural and peripheral communities abandoned. The turn towards community transport is essentially an admission that our deregulated privatised system of running buses cannot and will not deliver the services the public needs.

Private control of buses – routes, timetables and fares – now constitutes a barrier to addressing both poverty and climate change. We cannot achieve the scale of modal shift away from private car use that is needed to reduce carbon emissions without providing an alternative in the form of affordable, well integrated, efficient and green public transport. We cannot ensure that every citizen is able to exercise their human right to access healthcare, education and other services and maintain a family life and relationships without affordable reliable and accessible provision of public transport.

More than 30 years of privatised deregulated bus services and 20 years of post-devolution 'partnership' efforts have left us with an expensive, disjointed and fragmented bus system which fails to meet citizens' needs, but facilitates the extraction of millions of pounds of public money from our communities by private companies.

Fares continue to climb (by 26% above inflation between 2009 - 2019) while bus patronage continues to decline, with the steepest drop occurring amongst those on the lowest incomes. We know we have a broken system when citizens have to fight for bus services to access hospitals for treatment or work, because private bus operators will not provide 'uneconomic' i.e., unprofitable routes and local authorities lack the money to subsidise them.¹²³⁴ Professor Philip Alston and colleagues at New York University's

¹ <https://www.clydebankpost.co.uk/news/14607675.clydebank-bus-to-queen-elizabeth-university-hospital-needs-more-public-support-to-survive/>

² <https://www.falkirkherald.co.uk/news/transport/forth-valley-royal-hospital-employee-blasts-first-bus-decision-split-service-3032804>

³ <https://www.centralifetimes.com/news/14586043.challenge-over-hospital-bus-loss/>

Centre for Human Rights and Global Justice have concluded that our privatised bus system raises significant human rights concerns and has proposed that “Given the essential role of transportation in securing a broad range of rights...it should be viewed not only as an indispensable means of realising rights but perhaps also as a right in itself.”⁵

It is not efficient to continue pouring public money into a model of service provision that does not work. It is time for a radically different approach: publicly controlled and provided bus services. This makes perfect sense at the time when the operator of last resort power is being used to return rail passenger services to public control, because of similar failings. The provision of bus services should be motivated by the wider public interest, and not private profit. We believe this simply because – as well evidenced in cities and towns across Europe and around the world – publicly run transport systems *work efficiently* and are *affordable*.

We therefore welcome the new powers for local transport authority bus services and to re-introduce some measure of public regulation of bus services via franchising. We are aware of many local authorities who are interested in using these. The Guidance for Part 3 must ensure that they can.

Bias against public control and delivery

We are concerned at the bias shown by the Government in favour of Bus Service Improvement Partnerships. It is telling that the majority of questions in this consultation are focused upon them. The consultation paper states that Part 3 provides a flexible suite of options. It says that a 'one size fits all approach' is unlikely to be appropriate, and stress that LTA's must choose the option(s) that best suit their local needs.⁶ In fact the Scottish Government has already imposed a 'one size fits all' approach by making 'working towards a Bus Service Improvement Partnership' the main criteria for accessing the £500m fund for bus infrastructure. Indeed the funding available for bus infrastructure is even called the 'Bus Partnership Fund'.

While this does not prohibit an LTA from using the other options in Part 3, it means that the Government has already financially incentivised one of the three bus options in the Act, before the guidance has even been written. Similar financial incentives are not being offered for local transport authority bus services or franchising schemes. By intervening in this way, at a time when LTAs and councils are developing their new regional and local transport strategies, the Government has undermined the credibility of the STAG processes currently being undertaken and interfered in the local democratic process.

Local transport authority bus services

To allow this option to be utilised LTAs and their constituent local authorities require centrally provided resources in the form of expertise and capital funding to assist them in navigating the way towards public delivery of services and to deal with any legal challenges. The most effective route towards local transport authority bus services will involve collaboration between local authorities and LTAs in different parts of Scotland and is likely to build upon the existing model of Lothian Buses, one of the most successful publicly owned bus companies in the UK.

⁴ <https://povertyinequality.scot/wp-content/uploads/2019/06/Transport-and-Poverty-in-Scotland-Report-of-the-Poverty-and-Inequality-Commission.pdf>

⁵ [Report-Public-Transport-Private-Profit.pdf \(chrgj.org\)](#) p.35

⁶ <https://www.transport.gov.scot/consultation/implementation-of-part-3-bus-services-of-the-transport-scotland-act-2019/> pages 10-11.

UNISON views the provision of local transport authority bus services as the 'transport arm' of Community Wealth Building. Lothian Buses exemplifies a Community Wealth Building approach to local transport provision in action. Its public ownership model enables its operating surplus to be reinvested in local services rather than being extracted and the benefit lost to the local community. Given the Scottish Government's support for Community Wealth Building – to be progressed through legislation in this parliament – one option is for the central team dedicated to helping LTAs develop local transport authority bus services, to be part of – or linked with - the CWB team inside Scottish Government – as an alternative to Transport Scotland. There is plenty for a central team to work on. It should work with the Scottish National Investment Bank to consider its role in the provision of needed start up capital. It should proactively develop plans to enable public sector agencies to act quickly should major operators decide to withdraw from the Scottish bus market, as First Bus announced its intention to do in 2019 (later reversed).

The Government should not forget that councils and regional transport authorities also need adequate long term funding and resources to enable them to provide economic and socially necessary bus services. This should be recognised as an essential anti-poverty measure. The extension of free bus travel to under 22s is a progressive policy, but it means nothing unless there are bus services available to use. At the moment, without adequate government funding for 'socially necessary' services i.e. unprofitable routes private operators refuse to run, this policy may only exacerbate existing inequalities. (And of course this illustrates yet again why we must replace our broken deregulated privatised system with a more efficient system based on public control and delivery of bus services).

Bus Service Improvement Partnerships

Bus Service Improvement Partnerships will leave control over routes, fares and timetables firmly with private bus operators while allowing them a greater degree of influence over public policy. The Act presents BSIPs as a reform but in fact they represent a continuation of the failed voluntary partnership approach pursued by successive administrations over the past 20 years of the Scottish Parliament.

The guidance must ensure that, once a BSIP is established, then bus operators are unable to veto any decision to transition towards local services franchises. LTAs must be able to revoke a partnership scheme if they are making a franchising scheme.

The guidance should specify that partnership schemes must include a provision for public authorities to revoke the partnership without the agreement of operators. Partnership schemes should set out the conditions in which revocation should be considered and place a time limit on the life of the partnership should performance expectations including public interest objectives fail to be achieved.

Local Services Franchises

The franchising option in the 2019 Act also requires resources in order to be utilised. The costs involved will be greatest for the first LTA to take this up but will diminish thereafter but funding must be provided to LTAs who want to prepare a franchising scheme. The creation of a central team of expertise, referred to in relation to Local Transport Authority Bus Services, is also required to advise and assist LTAs in taking forward franchising schemes.

It is regrettable that the 2019 Act provides for the panel system of decision-making borrowed from previous English legislation and which has already been discredited and replaced in England. The Traffic

Commissioner has too narrow a base of professional knowledge and experience to draw on in selecting a panel and should be supported with this task. The Scottish Human Rights Commission for example, could be an appropriate body to provide advice to the Traffic Commissioner. The guidance should specify that panel members must have a background which equips them to assess schemes against the wider public interests on which national and regional transport policy is based (as set out in the Act).

Trade unions should be fully consulted and actively involved at the outset and during the development of franchising schemes. Minimum standards must be put in place with the agreement of trade unions to protect the workforce and ensure no detriment. The Scottish Government Fair Work Framework and Action Plan must apply and act as a floor which no contractor can breach, but can build upon.

Bus operators must be compelled to share all data necessary for the LTA to be able to properly plan and coordinate a fully integrated public transport network. As providers of public services and beneficiaries of significant public funding they should be subject to the Freedom of Information Scotland Act.

Conclusion

UNISON believes we deserve a world class bus system. We will only get it by taking a radically different approach to how we provide bus services. The Transport (Scotland) Act 2019 is a flawed piece of legislation – it failed for example to re-empower LTAs – but it does provide the option of publicly delivered bus services, an option which remains illegal in England. Little political priority has been given to bus services since devolution precisely because those who *depend* upon them to access work and services are disproportionately poor and female. Rectifying this requires a political commitment to resource the powers for local transport authority bus services and franchising schemes.

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