

COMMITTEE	Council
DATE	21 st June 2017
REPORT TITLE	Bus Service Options
REPORT NUMBER	CHI/17/143
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1. PURPOSE OF REPORT:-

The purpose of this report is to advise members on the options available to Aberdeen City Council for the operation of bus services.

2. RECOMMENDATION(S)

It is recommended that the Council:

- (a) Instruct the Interim Director of Communities, Housing and Infrastructure to report to Communities, Housing and Infrastructure Committee in August 2017 with a proposal for a revised Quality Partnership for public transport.
- (b) Instruct the Interim Director of Communities, Housing and Infrastructure to report to Finance, Policy and Resources Committee in September 2017 with options for dealing with gaps in the public transport network, where a need has been identified and for a decision to be made.
- (c) Welcomes the forthcoming consultation on a Transport Bill for Scotland and instructs the Interim Head of Planning and Sustainable Development to engage fully in the consultation process and to report back to Council following the Bill being passed by the Scottish Parliament.

3. BACKGROUND/MAIN ISSUES

3.1 Background

- 3.1.1 At the Council meeting on 15th March 2017 the Council approved the terms of a motion raised by Councillor Grant to *“instruct the Chief Executive to explore all options for Aberdeen City Council to facilitate the running of a bus service, those options to include the setting up of a company and/or working in partnership with an operator who already holds a PSV bus operator’s licence, and to report back to Council in June 2017.”*

3.1.2 This motion was moved as a result of the decision by First Aberdeen to cease bus operations in Kingswells Village and the decision by Stagecoach North Scotland not to undertake commercial bus services in Kingswells Village following the removal by First Aberdeen. The Council also agreed to *“note that bus operators in Aberdeen appear to put profit before the needs of passengers who often rely upon buses to get to and from work.”*

3.2 Current Legislative Framework

3.2.1 The local bus service market is governed by the Transport Act 1985 and the Transport (Scotland) Act 2001.

3.2.2 The local bus service network in Aberdeen is primarily operated on a fully commercial basis by First Aberdeen and Stagecoach North Scotland. Under the conditions of the Transport Act 1985 and the Transport (Scotland) Act 2001 operators have the freedom to set their own routes, timetables and fares. Local Transport Authorities have a duty under sections 63-64 of the Transport Act 1985 to secure the provision of public transport in its area that it deems is required.

3.2.3 Bus services in the UK were deregulated in 1986, as part of the Transport Act 1985. This created a competitive market for bus services and moved away from local authority operated bus services. Local authorities were required to transfer their authority owned bus services to separate companies, at arm's length from council control. Most of these companies have since been privatised, as in Aberdeen, with the exception of a small number of remaining authority owned operations e.g. Lothian Buses in Edinburgh, although these are operated at arm's length and tend to have minority shares by private companies, in order to secure investment. Following the introduction of a deregulated market there is provision for two types of bus service, either commercial or subsidised.

3.2.4 Commercial services are operated without any subsidy (except for the provision of concessionary fares, through the National Concession Scheme and the mileage-based subsidy which offsets most fuel duty, known as a Bus Service Operators Grant; both of which are funded by the Scottish Government). There is no direct provision for local authorities to dictate as to bus routes, timetables or fares as these are for commercial operators to decide.

3.2.5 There is also no requirement for an operator to cross-subsidise services under deregulation. This is where the profits from a better paying route are used to pay for unprofitable routes.

3.2.6 If there are gaps in the commercial bus network, local authorities are able to plan and procure bus services. These are services which the local authority deems to be socially necessary, but are not commercially viable. The fares, routes and timetables on these services are set and funded by the local authority.

- 3.2.7 The Transport Act 2001 provides for 'Quality Partnerships'. This is where local transport authorities may make a Quality Partnership scheme covering the whole or any part of their area, or combined area, if they are satisfied that the scheme would help implement their policies and would also:
- Improve the quality of local services and facilities provided in the area to which the proposed scheme relates in such a way as to bring material benefits to persons using those services and facilities; or
 - Reduce or limit traffic congestion, noise or air pollution.
- 3.2.8 Aberdeen City Council is currently party to a voluntary Quality Partnership, which is in place to improve public transport quality standards across Aberdeen City and Aberdeenshire. An initial voluntary agreement was set up in 1998 between Aberdeen City Council, Aberdeenshire Council, First Aberdeen and Stagecoach Bluebird. In 2007 Nestrans joined the agreement and a revised partnership agreement was issued in 2010.
- 3.2.9 Quality Partnerships can be enforced by legislation and parties are required to take part. A statutory Quality Partnership (sQP) is where local transport authorities can put in place schemes to improve the quality and reliability of bus services, encourage patronage growth and improve the environment by reducing levels of congestion and pollution. Through a sQP authorities can specify the quality of buses, minimum frequency of services to be operated and as part of the partnership; authorities will improve the infrastructure (including bus stops and bus priority measures such as bus lanes and priority junctions).
- 3.2.10 The north east of Scotland's Local Authority and Bus Operators Forum (LABOF) (consisting of Aberdeen City Council, Aberdeenshire Council, Nestrans, First Aberdeen and Stagecoach North Scotland) have been reviewing the current voluntary Quality Partnership and looking to create a more substantial and governed Quality Partnership, such as the introduction of a statutory Quality Partnership (sQP). Various discussions have been undertaken regarding the benefits and dis-benefits of a region wide (Aberdeen City and Aberdeenshire) sQP agreement versus one with a focus on specific transport corridors. Following considerable research it is the view of LABOF that a region wide sQP agreement would not work for this area and that sQP improvements need to be identified on a corridor basis in order to achieve meaningful benefits and improvements for passengers.
- 3.2.11 LABOF are proposing the development of a more ambitious voluntary region wide agreement to be established which sets the objectives, standards and targets for the region; governance arrangements and a programme and timeframe for delivery of transport corridor specific interventions which could then be the subject of statutory agreements. This voluntary agreement would replace and update the current voluntary Quality Partnership agreement which was signed in 2010 and strengthen it to commit all partners to the development of sQP's within a set timeframe. It would specify at a region wide level the commitments from all parties to improving bus travel and set standards and targets to be met region wide. It is proposed that a report is presented to both Aberdeen City and Aberdeenshire Council with regards to a revised voluntary Quality Partnership. It is proposed that this be presented to the Communities, Housing and Infrastructure Committee in August 2017.

3.2.12 The Transport (Scotland) Act 2001 also allows for 'Quality Contracts'. This is where local transport authorities may make a Quality Contract scheme covering their area, or combined area, if this is the only way they can implement their general transport policies and the scheme will do this in an economic, efficient and effective way. A Contract cannot be made unless the authorities have complied with statutory consultation requirements, and obtained the approval of Scottish Ministers.

3.2.13 A Quality Contract is a franchise type arrangement and gives a transport authority more control than can be achieved through a statutory Quality Partnership. Under a Quality Contract authorities are able to determine what local services should be provided and specify routes, the standard and quality of services and fares. The authority may then grant a Contract to bus operators giving exclusive rights to operate services on such terms as specified, and these terms may include service frequency, fares and standard of service. This must be done through a competitive tender.

3.3 Local Authority Operated Bus Company

3.3.1 Local bus services can be operated if the service has been registered with the Traffic Commissioner. Anyone who holds a PSV bus operators licence can generally register a local bus service; provided specific requirements are met.

3.3.2 The 1985 and 2001 Acts legislate for local authorities to secure the transport in its area that it deems required and this would be undertaken through subsidised bus services, i.e. through tendering and contracting services to the commercial market or entering statutory Quality Partnerships and not through local authority operated services.

3.3.3 A local authority could apply for a section 22 community bus permit in order to operate local bus services on the basis of the social needs of a community, on a non-profit making basis. Vehicles being used under a section 22 community bus permit can carry members of the general public. The operation of such services is to meet the needs of a specific community and would be where there are no suitable commercial local bus services in operation and as such could not compete with commercial bus services.

3.3.4 While the Council could take these forward to cover gaps in the commercial network, consideration toward the required resources to deliver such a service is a key factor. The Council currently do not have section 22 permits and operate minibuses under section 19 community bus permits. Section 19 permits cannot be used to provide transport to members of the general public and organisations must ensure that they are only carrying passengers that their organisation is set up to benefit, i.e. for education or dial-a-bus services where passengers are members of the dial-a-bus scheme.

3.3.5 In addition an education authority, such as Aberdeen City Council, can register a school bus service provided by their own vehicles, i.e. to provide school transport services.

- 3.3.6 A local authority could apply for a PSV operator's licence or community bus permit, however operating bus services under a PSV licence will have some limitations. It remains unclear how these could be introduced and operated in a fully deregulated market, such as in Aberdeen, primarily due to competition concerns with the existing commercial bus operations. It is also worth noting that there are no examples nationally to draw expertise or experience of this approach.
- 3.3.7 Aberdeen City Council currently does not hold a PSV bus operators licence and application would have to be made to the Traffic Commissioner. This would have to be considered in line with the restrictions placed on the authority by the commissioner following public inquiry in 2014 and any such application would undoubtedly require the authority to attend the commissioner again at a further inquiry to seek such a licence/increase to existing licence. Through this process the Council would have to evidence professional competence to hold a PSV licence, confirm availability of an operational centre and detail how vehicles would be secured/maintained and demonstrate financial standing.
- 3.3.8 Under the 1985 Act, local authorities were required to transfer their authority-owned bus services to separate companies, at arm's length from council control. It would be reasonable to assume therefore that any local authority operated bus service would require to be operated as an arm's-length organisation.
- 3.3.9 In terms of the Council operating its own bus service there are a number of considerations which it would need to take into account. These matters would also prove key to informing the commissioner's inquiry. A business case including an assessment and appraisal of potential capital set up costs and ongoing revenue costs would be necessary. Other key considerations would also include the following:
- Sourcing and operation of suitable passenger service vehicles.
 - Sourcing and management of bus ticket machines and fare revenue management systems and processes.
 - Suitable storage facilities for vehicles.
 - Recruitment and training of staff and creation of new driver and bus service operational posts.
- 3.3.10 Where local authorities seek to supplement the commercial network with supported services, they must ensure that proposals would not adversely affect the commercial network. In terms of good practice local authorities should generally seek to ensure that:
- New services do not duplicate existing commercial services - though some duplication on common sections of route might be impossible to avoid, in which case service specifications should, as far as possible, aim to split existing headways; and
 - Fares charged are consistent with fares on commercial services within the area in which the new service operates.

3.3.11 It could be argued that any local authority operated bus service in Aberdeen would likely duplicate the commercial network. As such any Council bus operation would likely face competition on key routes from existing commercial operations and any business case would have to consider this matter in detail.

3.4 Scottish Transport Bill

3.4.1 The Scottish Government is currently preparing a Transport Bill aimed at tackling the declining bus patronage across the country and is due to be consulted upon in summer 2017. The content of the Bill is still to be confirmed however initial discussions with Transport Scotland have indicated a number of emerging themes. These are considered further below.

3.4.2 The Bill is aiming to tackle declining bus use by improving the options available to local authorities, including local franchising, where there is a case for it. The Bill will consider whether local transport authority powers can be further improved and what additional support and guidance might be helpful to local authorities. The Scottish Government are proposing to consult on a number of measures, including local franchising and are seeking to make clear that local authorities could create a similar model to Lothian Buses, in setting up their own arms-length bus operations.

3.4.3 The Scottish Transport Bill follows the UK Government's Bus Services Act, which applies in England and received Royal Assent on 27th April 2017. The Act introduces, strengthened arrangements for partnership working and franchising for some local authorities (combined authorities with elected mayors) but the Act explicitly prevents local authorities from setting up their own companies. The Act has been introduced following a backdrop of declining bus patronage and cuts to supported services as local authorities face financial pressures.

3.4.4 The English Act has introduced Enhanced Partnerships and it is thought that the Transport Minister is also interested in this approach however it is unclear at this stage what they would involve and whether Scottish legislation will follow suit through the new Transport Bill. The Enhanced Partnership (EP) provisions would encourage partnership working to go further than current voluntary arrangements by allowing the local transport authorities to expand the areas that partnership measures can cover, specifically providing for more joined-up network planning and allowing local implementation and enforcement. They would provide the opportunity to include aspects within a formal agreement that are not covered by sQP legislation e.g. issues relating to ticketing. They will allow transport authorities, with the approval of the operators, to deliver some of the outcomes that are only otherwise possible under a franchising model.

3.4.5 The Transport Minister, Humza Yousaf MSP, has acknowledged that the only role for local authorities in bus provisions is subsidising services which are not commercially viable and as there are considerable pressures on public funds there are fewer resources for local authorities to sustain such subsidies.

3.4.6 The Bill may potentially also implement franchising to allow local authorities to package services in their area to be contracted to the bus industry where

profitable services are packaged with less commercially viable and socially necessary services, which could be an attractive proposition to franchise.

- 3.4.7 As the Bill is in the early stages it is not clear what the conditions may be for introducing franchising or setting up bus companies, but all local authorities will be heavily consulted and pivotal in steering the direction of the Bill.

3.5 Considerations

- 3.5.1 As can be established there is considerable complexity for a local authority to set up a bus company under the current legislation and this is a model that has never been tested. Local authorities do however contract supported bus services or operate community bus services under current legislation.
- 3.5.2 Local authorities can also enter into Quality Partnerships in their area to work with bus operators to improve the quality of bus services. The focus of these being standards, such as infrastructure, vehicles utilised and frequencies, but these do not relate directly to the operation of services.
- 3.5.3 Quality Contracts also exist for authorities but these can be complex to introduce and given that the forthcoming Transport Bill will explore new powers for local authorities these may better suit the Council's needs.
- 3.5.4 In terms of working in partnership with an operator who already holds a PSV licence, the most appropriate method is through Quality Partnerships or through tendered supported services as applicable under existing legislation, as we already provide in a number of cases following a competitive tendering exercise and again the forthcoming Transport Bill may introduce alternative methods of partnership approaches.
- 3.5.5 There are potentially considerable changes to be introduced in the new Scottish Transport Bill and it is envisaged that these would suit the Council's purposes, as such, rather than take steps before this is implemented, which may place the Council in a detrimental position once legislation is implemented. It is proposed that active engagement with the Scottish Government during the passage of the Bill is undertaken, to place the Council in an optimum position to meet the public transport needs of the City and the travelling public of Aberdeen.
- 3.5.6 There will be a period of time until such legislation is introduced. Work to progress a revised Quality Partnership for the region should continue as the implementation of such measures will be vital in maintaining and improving bus services across the City. Implementing revised Quality Partnerships will also demonstrate the commitment of the Council to improving public transport and establishes a clear intent to improve infrastructure, including allocation of road space for public transport. These will also tie bus operators into specific commitments which will provide for specific measurable data in terms of impact of investments made. As noted, officers propose to report on this matter further to the August Communities, Housing and Infrastructure Committee.
- 3.5.7 The Council will also have to consider how it might deal with gaps in the public transport network in the interim. There are key areas of the City which

currently have an identified gap in public transport provision. Specific options for dealing with these gaps will be appraised and these will be subject to a future report being presented to the Finance, Policy and Resources Committee.

4. FINANCIAL IMPLICATIONS

- 4.1 There are a number of potential financial implications stemming from this report. On the basis of the recommendations there is a requirement to further report to the appropriate committee with greater detail and at that time the financial implications of supported bus services and the revised Quality Partnership for Public Transport will be provided.
- 4.2 There are no anticipated implications in terms of engaging with the Transport Bill consultation other than staff time, which can readily be met from existing resources. Further financial considerations will be required in terms of the Councils response to the Bill and how the measures in the Bill if implemented would impact the Council.

5. LEGAL IMPLICATIONS

- 5.1 The Council must adhere to the legislative requirements for bus services as determined by the Transport Act 1985 and Transport (Scotland) Act 2001.
- 5.2 Under the Local Transport Strategy the Council has committed to increase public transport patronage by making bus travel an attractive option to all users and competitive with the car in terms of speed and cost. In order to achieve this there is a commitment to review the provision of bus services to ensure existing services meet peoples' needs, and where necessary consider provision of supported services where these are deemed socially necessary.
- 5.3 If the Council was to set up their own bus company due consideration would have to be given to the regulatory requirements of an operator's licence. Likewise if a Quality Contract was to be introduced the Council would become responsible for the compliance of bus services in line with regulation.

6. MANAGEMENT OF RISK

- 6.1 There are a number of risks which could stem from aspects of this report, but are not pertinent to the recommendations, these risks would require further consideration as the Council considers its position.
- 6.2 Financial - There are no financial risks as a result of the recommendations of this report and further consideration to such risks will be addressed through the future reports to committee.
- 6.3 Employee - There is a risk that there is insufficient staff time and resource to prepare the required reports for committee and to fully engage in the Transport Bill consultation. There is a low likelihood of this occurring and the

workloads of Officers will be managed by the Interim Head of Planning and Sustainable to ensure deadlines are met.

- 6.4 Customer / Citizen - There is a risk that if the Council does not step in, in areas where there are no commercial services, that there will be no public transport. This will significantly impact residents, particularly in their ability to attend work, education, social activities and healthcare, and in some cases will result in social isolation. It is highly likely that such a risk would occur. Further communication with communities across this City with regards public transport is crucial especially in helping shape our feedback to ongoing legislative conversations and this will help minimise this risk.
- 6.5 Environmental - There are no environmental risks as a result of the recommendations of this report and further consideration to such risks will be addressed through the future reports to committee.
- 6.6 Technological - There are no technological risks as a result of the recommendations of this report.
- 6.7 Legal - There are no legal risks as a result of the recommendations of this report and further consideration to such risks will be addressed through the future reports to committee.
- 6.8 Reputational - There are no reputational risks as a result of the recommendations of this report and further consideration to such risks will be addressed through the future reports to committee.

7. IMPACT SECTION

7.1 Economy

Proposals to come forward to future committees are focussed on improving public transport in the City and ensuring strong connectivity. A high quality public transport system is important for any thriving economy in transporting people to work and education and directly support the business and education sectors and ensures the workforce can travel effectively and that all have access to appropriate education opportunities and access to all facilities in a cost effective way.

A consistent approach to delivery of public transport in the City will ensure that local environmental factors, changing priorities and customer needs are considered as well as available budgets are taken into account on a reviewed basis.

7.2 People

The operation of bus services links to the Community Plan vision of creating a *'sustainable City with an integrated transport system that is accessible to all.'* The actions in the Action and Delivery Plan assist in the delivery of actions identified in the Single Outcome Agreement (SOA) 2013, in particular the Thematic Priority – Older People (*'Older people in Aberdeen have increased independence'*) and the Multi-lateral Priority – Integrated Transport

(‘Aberdeen is easy to access and move around in’) and the Underlying Principle – (A presumption for community based access to services – *‘Services are accessible to all citizens in the ways which meet their needs’*).

This report will be of interest to the public as the citizens of Aberdeen have a vested interest in the public transport network and accessibility to services.

An Equality and Human Rights Impact Assessment (EHRIA) has not been completed, as all aspects were considered as part of the Local Transport Strategy.

7.3 Place

The Local Outcome Improvement Plan (LOIP) sets out that we will improve multi-modal access to Aberdeen. The LOIP identifies that transport is a major contributor to carbon emissions and in Aberdeen there is an exceptionally high level of car ownership and usage. It is a vicious circle – poor air quality and poor road safety discourages people from walking or cycling, yet reducing reliance on private transport is the best way to improve air quality and a high quality public transport network is critical to this and this is identified in the LOIP which sets out the requirement for a competitive and accessible public transport system.

The provision of bus services will assist delivery of the Strategic Business Plan to provide and promote a sustainable transport system which reduces our carbon emissions.

The Equality Outcomes sets out that Aberdeen will be an accessible city. The provision of a fully integrated and accessible public transport network is crucial to this as it is for ensuring physical and social barriers are removed for those with a disability to access services and public space

7.4 Technology

There are no technological impacts as a result of recommendations to this report at the present time.

8. BACKGROUND PAPERS

N/A

9. APPENDICES

N/A

10. REPORT AUTHOR DETAILS

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