

## ABERDEEN CITY COUNCIL

---

<b>COMMITTEE</b>	Operational Delivery Committee
<b>DATE</b>	16 <sup>th</sup> May 2019
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Management of Gaps in the Public Transport Network
<b>REPORT NUMBER</b>	PLA/19/080
<b>DIRECTOR</b>	N/A
<b>CHIEF OFFICER</b>	Gale Beattie
<b>REPORT AUTHOR</b>	Chris Cormack
<b>TERMS OF REFERENCE</b>	Purpose 1

---

### **1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to update members on the position of operating bus services under a section 22 Community Bus Permit following a review by the Department for Transport and to update on the performance of all supported bus services (excluding school transport services).

### **2. RECOMMENDATION(S)**

That the Committee:

- 2.1 Note the outcome of the review into s19 and s22 Community Bus Permits by the Department for Transport.
- 2.2 Agrees that no changes are made to the current provision of supported bus services this financial year.
- 2.3 Note that a Service Update report will be circulated following completion of Judicial Review into Community Bus Permits and the further review of the Permit Scheme by the Department for Transport.

### **3. BACKGROUND**

#### **3.1 Background**

- 3.1.1 At the Finance, Policy and Resources Committee on 20<sup>th</sup> September 2017 the Committee instructed *“the Interim Head of Planning and Sustainable Development to report to the Communities Housing and Infrastructure Committee in May 2018 with regards to the position of operating services under s22 Community Bus Permit and to update on the performance of all supported bus services.”*
- 3.1.2 The report on 20<sup>th</sup> September 2017 considered supported bus services 15a (Airyhall/Craigiebuckler Evening Bus Service) and 40 (Dubford/Denmore Sunday Service) being provided under a section 22 (s22) community bus permit, which can be utilised to operate local bus services, but this must be on the basis of the social needs of a community and on a non-profit making basis. At the time there was an imminent Department for Transport (DfT) consultation with regards to the operation of s22 permits to ensure adherence to EU Regulations and it was considered that this may have significant implications on the operation of these permits and services. On this basis it was recommended that the Council would be best to await the outcome of the consultation before implementing any s22 services.
- 3.1.3 The delay to this report being presented to committee is due to delays to the DfT’s response to the consultation on the use of section 19 and section 22 permits for road passenger transport in Great Britain, which was issued on the 15<sup>th</sup> March 2019. The full response can be viewed at: <https://www.gov.uk/government/consultations/section-19-and-22-permits-how-to-apply-eu-regulation-10712009>
- 3.1.4 In December 2018, the Bus and Coach Association applied to the High Court for permission to judicially review the DfT’s current position in respect of community transport. Specifically, they are challenging the DfT’s approach to a *‘non-commercial’* exemption (not for profit as aforementioned). DfT in their response have not made any further reference about what the *‘non-commercial’* exemption means and so the guidance does not include any advice on this. The definitive view of what the non-commercial exemption means will be a matter for the High Court.

#### **3.2 s22 Permit - Bus Operation**

- 3.2.1 Following the DfT’s response it would appear there remains an existing exemption which would allow the Council to provide bus services under a s22 permit, namely that the organisation *“has a main occupation other than that of road passenger transport operator.”* The issue of permits would be approached on a case by case basis, with consideration of the organisation’s actual activity, i.e. this could be supported by accounts, etc. The guidance doesn’t specifically consider local authority in-house bus operations, but it is considered that this would be applicable and would allow the Council to operate.

- 3.2.2 At the same time, there is an ongoing Judicial Review into these permits and the High Court decision may significantly impact the ability to operate bus services under s22 permits, the hearing is anticipated for Autumn 2019. DfT have also advised that they will undertake a further review of the permit regime in 2019, which it is anticipated will review permit issuing bodies and limits on the size of operations, etc.
- 3.2.3 The report on 20<sup>th</sup> September 2017 estimated that operating the services 15a and 40 under a s22 permit would cost in the region of £37.5k per annum but based on current staff costs this would be approximately £39.5k in 2019/20. The current contracted cost for providing both services is £38.5k per annum, so there is a slight saving contracting these externally.
- 3.2.4 The forthcoming Transport Bill, has provision for Local Authorities to operate bus services in-house under an operator's licence, which may present a further option for operating these services in the future.
- 3.2.5 On the basis of ongoing Judicial Review, legislation changes and the limited cost benefits, it is recommended that the Council would be best to await the outcome of these and continue to contract these services externally.

### **3.3 Supported Service Performance**

- 3.3.1 The service 14, Kingswells – City Centre, operates all day Monday to Sunday and is operated by Stagecoach North Scotland. In the first few months, there were problems with the punctuality and reliability of the service, but these have been addressed with the service provider and the service is now operating well. Patronage on the service has been strong during peak times. Monday to Friday averages around 367 passengers per day, with an average subsidy per passenger of around £1.91, and approximately 60% of passengers travel at peak times. Saturdays average around 265 passengers per day, with an average subsidy per passenger of around £2.58 and Sundays average around 120 passengers per day, with an average subsidy per passenger of around £4.90. Patronage continues to see growth and the cost per passenger is low, Monday to Saturdays and moderate on Sundays and as such no changes to the service are recommended. The Sunday service is currently funded by Bus Lane Enforcement monies and when this money ceases in March 2020, consideration will be given to removing the Sunday service to ensure the service can be delivered within budget.
- 3.3.2 The service 15a, Airyhall/Craigiebuckler – City Centre, operates evenings Monday to Sunday and is operated by Stagecoach North Scotland. The service operates well in terms of punctuality and reliability. Patronage on the service is not high, but this is not expected given it is a socially required evening only service, at the same time the subsidy per passenger is moderate. Monday to Friday averages around 18 passengers per evening, with an average subsidy per passenger of around £4.70; Saturdays average around 26 passengers per evening, with an average subsidy per passenger of around £3.30 and Sundays average around 8 passengers per evening, with an average subsidy per passenger of around £8.13. Patronage continues to see some growth and the

cost per passenger is moderate, Mondays to Saturdays, but high on Sundays, no changes to the service are recommended at this time. The Sunday service is currently funded by Bus Lane Enforcement monies and when this money ceases in March 2020, consideration will be given to removing the Sunday service to ensure the service can be delivered within budget. This service does cost more per passenger than other supported services, as such consideration of future provision will need to be considered in line with available budgetary resources.

3.3.3 The service 40, Dubford/Denmore – City Centre, operates all day Sundays only and is operated by First Aberdeen. The service operates well in terms of punctuality and reliability and patronage on the service has been strong. Sundays average around 194 passengers per day, with an average subsidy per passenger of around £0.88. Patronage continues to grow and the cost per passenger is low, as such no changes to the service are recommended.

3.3.4 It is advised that supported bus services should continue to be contracted externally until their contracted termination date.

#### **4. FINANCIAL IMPLICATIONS**

4.1 There are no financial implications as a result of this report. The continuation of the services can be met within the budget allocation for 2019/20 and the Bus Lane Enforcement funding assigned for the operation of these services.

4.2 The current contracts terminate in 2020, with potential to extend to 2021, and further financial considerations will be undertaken prior to any tendering exercise to ensure best value, taking into account the success of the services.

#### **5. LEGAL IMPLICATIONS**

5.1 Given the ongoing uncertainty around Community Bus Permits, no change to services are recommended. There are no other legal implications.

#### **6. MANAGEMENT OF RISK**

	<b>Risk</b>	<b>Low (L), Medium (M), High (H)</b>	<b>Mitigation</b>
<b>Financial</b>	There is a medium risk that there will not be sufficient budget to provide supported services in the forthcoming years.	M	Officers will work to ensure options are costed and work with members to identify how to accommodate services in line with available resources. Consideration is also to be given to the possible options under the forthcoming Transport Bill to establish

			more sustainable delivery methods of bus services
<b>Legal</b>	Uncertainty remains around the outcome of the Judicial Review into Community Bus Permits and the 'non-commercial' exemption.	M	Recommend no action until outcome of Judicial Review.
<b>Employee</b>	N/A	N/A	N/A
<b>Customer</b>	There is a risk that where the Council does not provide supported bus services that 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.	M	Ongoing provision of services in line with available resources and consideration of opportunities under the forthcoming Transport Bill to establish more sustainable delivery methods of bus services, will mitigate this risk
<b>Environment</b>	N/A	N/A	N/A
<b>Technology</b>	N/A	N/A	N/A
<b>Reputational</b>	There is a risk of adverse publicity and repute for the Council if supported bus services are not provided or if residents do not feel the services are sufficient.	M	We will ensure any decision is managed through our communications team and details are fully set out with regards to the reasoning for any decision and ensure officers continue to engage with the communities involved and to work in collaboration with the communities.

## 7. OUTCOMES

<b>Local Outcome Improvement Plan Themes</b>	
	<b>Impact of Report</b>
<b>Prosperous Economy</b>	<p>Investment in infrastructure and economic growth - the recommendations in this report are focussed on improving public transport in the City. 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.</p> <p>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 considered on a reviewed basis.</p>
<b>Prosperous People</b>	<p>People are supported to live as independently as possible - The improvement to public transport links to the Community Plan vision of creating a <i>'sustainable City with an integrated transport system that is accessible to all.'</i> 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 (<i>'Older people in Aberdeen have increased independence'</i>) and the Multi-lateral Priority – Integrated Transport (<i>'Aberdeen is easy to access and move around in'</i>) and the Underlying Principle – (A presumption for community based access to services – <i>'Services are accessible to all citizens in the ways which meet their needs'</i>).</p>
<b>Prosperous Place</b>	<p>People friendly city - the 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 circular agreement – poor air quality and poor road safety discourages people from walking or cycling, however 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.</p>

<b>Design Principles of Target Operating Model</b>	
	<b>Impact of Report</b>
<b>Customer Service Design</b>	<b>Co-design:</b> The provision of these supported bus services followed considerable consultation and engagement with communities and stakeholders.
<b>Organisational Design</b>	<b>Enabling:</b> The Council will be working with partners to deliver improvements to public transport and this will be a collaborative and joint effort with each partner playing a role.

## 8. IMPACT ASSESSMENTS

<b>Assessment</b>	<b>Outcome</b>
<b>Equality &amp; Human Rights Impact Assessment</b>	Full EHRIA not required
<b>Data Protection Impact Assessment</b>	Not Required
<b>Duty of Due Regard / Fairer Scotland Duty</b>	<b><i>Not Applicable</i></b>

## 9. BACKGROUND PAPERS

9.1 N/A

## 10. APPENDICES (if applicable)

10.1 N/A

## 11. REPORT AUTHOR CONTACT DETAILS

Chris Cormack  
 Team Leader, Public Transport Unit  
[CCormack@aberdeencity.gov.uk](mailto:CCormack@aberdeencity.gov.uk)  
 01224 523762