



CONFEDERATION OF PASSENGER TRANSPORT PROPOSED CHANGES TO FRANCHISING GUIDANCE: CONSULTATION RESPONSE

About CPT:

We help a dynamic bus and coach industry to provide better journeys for all, creating greener communities and delivering economic growth.

We do this by representing around 800 members from across the industry be they large or small, bus or coach, operator or supplier. We use our influence to campaign for a supportive policy environment, give our members practical advice and support to run their businesses safely, compliantly and efficiently and bring the industry together to share ideas and best practice. We're ambitious to make things better for passengers, inclusive in seeking out different perspectives and we're always there when our members need us.

Buses and coaches are at the heart of the nation's economic and social life. 10.2 million¹ journeys a day are made by bus to get passengers to work, education and to access essential services, and the coach sector offers great value inter-city travel, with over 20 million journeys on the scheduled coach network in 2022 and rapid growth since.²

The sector is ideally placed to help the Government deliver on key priorities including growing the economy, breaking down barriers to opportunity, supporting people into work, bringing down carbon emissions, accelerating net zero, and building a modern transport system.

Consultation response

Do you agree or disagree with the proposal to lower the consent threshold that LTAs are required to meet to prepare a bus franchising scheme assessment and why?

The consent threshold set out in the amended guidance is sensible, and prevents an LTA that does not meet those criteria pursuing a franchising assessment that is not fit for purpose and thus a waste of taxpayers money, officer time and resource. It should protect passengers and bus operators from associated disruption and uncertainty from such an unsound assessment process being pursued.

¹ [bus01.ods \(live.com\)](https://bus01.ods.live.com)

² Press statements from Flixbus, Megabus, Mobico



We do not however agree with using the forthcoming *Better Buses Bill* to remove the requirement for LTAs to meet this consent threshold. It is imperative that LTAs have to set out a clear and cohesive case for franchising before an assessment is undertaken to ensure that tax payer money, time and resource is not wasted on an unsound process.

Do you have any other comments on the consent threshold that LTAs are required to meet to prepare a franchising scheme assessment?

If an area carries out a franchising assessment but decides not to pursue franchising, there should be a period of at least 5 years before it can be revisited to prevent continued market instability and an investment blight in new services, skills development, infrastructure and fleet by operators.

The consent mechanism and associated thresholds provides an opportunity to enforce this, either by including it as a specific threshold or through an understanding that the Secretary of State will not grant consent to an Authority that has carried out a franchising assessment in the five years prior.

If no safeguard such as described above is in place, operators will be working under constant uncertainty – investment in depots, vehicles and services will cease (or be very curtailed), and the huge progress made in the sector towards the switch to zero emission vehicles may be under threat; zero emission buses cannot always switch between depots so even larger operators may not be able to simply cascade these vehicles if they are unsuccessful in a franchise bid – making investing in them more challenging, higher risk and therefore less likely to happen.

Finally, we request that an additional threshold is incorporated into the guidance to ensure that the impact on SME operators is considered and any such operators are able to meaningfully participate:

that the LTA has reviewed the potential impact of franchising on SME operators and has a plan to secure their effective participation in the franchising process.

Do you agree or disagree with the proposal to revise the approach to the option identification and why?

We agree with the proposal to revise the option identification approach such that the counterfactual to franchising is the “best offer” Enhanced Partnership (EP), but the guidance would benefit from clarifying a number of points.



LTAs should also have to set out at the commencement of the 3 month negotiation process what concerns (if any) they have around the current EP, and what they would specifically seek like to improve, what the goals of bus service provision should be and how they intend to support achieving those goals either in partnership or through pursuit of franchising powers. This will provide a tangible starting point for discussions of the “best offer EP” objectives.

The guidance needs to be clear that LTAs must meaningfully engage with operators throughout the three month negotiation period and should consider any measures proposed by them to improve services and journey times as deliverable in the franchising proposal and under the “best offer EP” unless there is specific, valid and disclosed reasons that prevent doing so.

Section 6.3 of the draft revised guidance is worded such that it potentially allows an LTA to decide to not consider anything beyond the existing EP - whilst a period of three months is set aside to determine what improvements could be considered, and to take account of the offers made by operators, it remains at the sole discretion of the LTA whether any EP enhancements are *worthy* of consideration against the franchise option. That seems inherently unfair against operators willing to offer improvements but where the LTA elects not to offer anything in return. We urge that stronger wording be adopted, compelling the LTA to work in good faith with operator(s) who are offering such improvements, to enhance all elements of the EP – including those to be delivered by the LTA - during this three month period.

The guidance should include a clear steer to LTAs on committee/ full council approval for committing to spend (and any other committee approval that may be required), and be clear that the committee cycle cannot be use as an excuse to not present their “best case” offer.

If this is not the case, an LTA can elect to make the EP as poor a comparator as it wishes, and make the case for franchise as good as possible.

Do you have any other comments on the proposal to revise the approach to option identification?

The guidance could be clearer in places that “*current EP*” is the “*best EP*” that all parties can offer, using the three month period to negotiate what that looks like; the current wording can be confusing and misleading in places, suggesting that “current EP” must be the EP that is already in operation. The Government should also define what a “best in class” EP should or could look like, and highlight examples – the EPs review that is currently underway should assist in this process.



It should be clear at what point the “best case” EP will be judged at – the point of commencement, or 2/3 years into operation, or the proposed franchise start date? This is particularly important when considering infrastructure projects that may be part of the proposal, as the growth associated with these will not be apparent immediately, and it is only fair that this is able to be reflected.

Do you have any other comments on the proposed changes to the franchise assessment?

We are content with the BSIP references being removed from the guidance, and the other minor changes referred to.

Do you agree or disagree with the addition of the section entitled ‘putting people at the heart of franchising’ and why?

We agree that passengers should be at the heart of the bus network, and we support any initiatives that make buses feel safer for women and girls, or drivers, and indeed all bus users.

Any initiatives must be fully funded by Government to ensure that passengers do not face a post code lottery in whether these are progressed or not. Further, any safety initiatives must be enforced by properly trained and funded enforcement officers, not by creating any onerous requirements on drivers.

We would suggest that any discussions about or with staff, start with employers. They are best placed to understand the issues of those they employ and are willing and able to engage on these issues. In addition, operators schedule and plan bus services and so are best placed to advise where the most optimal locations are for crew mess facilities, and again would be pleased to engage in this process . to provide advice and input.

What, if any, suggestions do you have on how the franchising guidance could better:

- **support the delivery of the government’s missions**
- **promote the government’s objectives?**

CPT’s position on extending the right to franchise bus services to all LTAs has always been that it should be clear to LTAs that it is not expected or necessary that they will all go down this route. It will not be the right solution everywhere, and alternative options should be made clear to LTAs.



For those that do opt for franchising, there is more than one model, and that should also be made clear to LTAs. Section 17 of the draft franchising guidance should be further expanded to demonstrate the much broader range of options available to LTAs. For example, there are a whole suite of options for how an authority might deal with network planning, tenders, depots, vehicles, retailing and support systems, all with different options for ownership, revenue risk and incentives. We would be happy to talk through this in more detail with officials if helpful – but it is critical that S17 clearly reflects all available options for LTAs to pursue.

By making this clearer, it is more likely that the decisions taken by LTAs will better suit local circumstances and thus meet the objectives and deliver better bus services for passengers and support the delivery of the government's missions and objectives.

Do you have comments on any other parts of the guidance?

Residual Value Mechanism

Having a residual value mechanism written into a franchise agreement provides operators with a starting point that is not predicated on being left with vehicles they have nowhere to run, and have to sell (most likely at a loss). A residual value mechanism being available to operators will also to some extent alleviate some of the concerns around investment in fleet going forward – if operators are guaranteed a value for their vehicles should a franchise model be taken forward, they will still be able to make a case for investment internally. If there is no investment in vehicles, the network will at best stop growing and at worst the higher costs of maintaining an ageing fleet will lead to network size reduction.

Even large national operators can have difficulty with redeployment of vehicles, especially with zero emissions vehicles that might not have suitable infrastructure or operating conditions elsewhere, and if we are to prevent investment “blight” in the run up to franchising such an investment safeguard is essential.

The Government should ensure that the benefits of including an appropriate residual value mechanism are clearly set out in the guidance and when defining the different models of franchising available to LTAs.

Partnership Working

Finally, it should be clear in the guidance that the interim period prior to franchising being implemented should be one of partnership. There is a risk that LTAs will cease engaging with operators at the point a decision to franchise is taken, and instead focus on the starting point of the franchise commencing. This could result in them



taking over a weakened network. By working to continually improve, enhance and strengthen the bus network, an LTA will be taking over the bus network in its best possible place.

We look forward to working closely with the Government and officials on the guidance in the following weeks to ensure that the country's most affordable, accessible and popular form of public transport continues to deliver against the Government's ambitions to grow the economy, break down barriers to opportunity, support people into work, bring down carbon emissions, accelerate net zero, and build a modern transport system.

We would of course be happy to meet with officials to discuss or expand on any aspect of our submission.

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