

From: Neil Baker, Cabinet Member for Highways and Transport
Phil Lightowler, Head of Public Transport

To: **Environment and Transport Cabinet Committee – 14 November 2024**

Subject: **Better Buses Bill – Bus Franchising**

For Information

Classification: **Unrestricted**

Past Pathway of Paper: None

Future Pathway of Paper: N/A

Electoral Division: Countywide

Summary:

Under the Buses Act 2017, the ability of (Transport Co-ordinating local Authorities) TCAs to take back control of their local bus networks, closing down the commercial bus network, was provided through bus franchising. However, due to complexity and cost, this ability in the first place was only provided to (Mayal Combined Authorities) MCAs. However, the new government plan to widen this ability to franchise, to all TCA. The new government, taking account of the time and cost to produce franchising assessments, is to streamline the process and in its guidance provide TCAs with more franchising models, in the hope this reduces time taken and cost.

However, moving to a bus franchise does require careful consideration by a TCA, as the expectation will be in the wider public domain that such a franchise will deliver an improved network, compared to current and that significant investment will flow into it. Therefore before embarking on such a process, the benefits have to be clear and the long term funding to support such a network needs to be in place.

It should also be noted that even with a streamlined process and funding in place, a franchising assessment . implementation of a franchise is a project that could take 2-5 years to fully deliver.

Officers will monitor the Better Buses Bill and the 26-29 Spending Review to see if conditions exist for a franchise case, which would deliver an improved network compared to the present EP scheme. Currently there are no defined plans for franchising in Kent, however, should the conditions exist for a franchise network, then officers will bring forward proposals.

Recommendation: Members are asked to note and make comment on the content of the report.

1. Introduction

- 1.1 This paper has been produced for information only and outlines plans by the new government, to change aspects of the 2017 Buses Bill, with the aim to improve the access to bus franchising for all transport co-ordinating (TCA) local authorities.
- 1.2 This short paper outlines what bus franchising is, how it was applied in the Buses Bill 2017, the revisions to process planned in the forthcoming Better Buses Bill and the current position in respect to KCC.

2. Bus Franchising - Background

- 2.1 The Buses Act of 2017, alongside a number of changes to the de-regulated bus market, introduced the ability of designated authorities, having due regard to a set out process, to franchise all or part of their local bus network.
- 2.2 Bus franchising is where a local bus network, defined geographically, sees the de-regulated bus network switched off. This means that commercial bus operators are not allowed to provide buses services commercially. Only the designated local authority can provide such services, and it may choose to do this by contracting operations to a commercial bus provider i.e. to franchise.
- 2.3 The bus network in London, operates on this principle, with Transport for London planning, promoting, and delivering the bus network, through a range of contractors.
- 2.4 In a franchised bus network, the local authority is the controller of the network, so is able to define routes, frequencies, vehicle types, brand, stops, customer service policy, vehicle standards and fares. It has overall control of the network.
- 2.5 Depending on the approach to franchising, an element of risk can be apportioned to the contracted providers of the franchised network, or the local authority can take the full financial risk of providing the network. In the case of London (and now Manchester), the financial risk remains with Transport for London. Operational/Service risk is apportioned to the contracted providers, through a service performance delivery regime.
- 2.6 A franchised network, even where an element of financial risk is apportioned to the contract providers, is one where the expectation of the users/community is that the local authority contracting will deliver significant improvements to the local bus network, above and beyond what could be achieved through a bus enhanced partnership. Therefore, the body undertaking the franchise must have a funding/revenue regime, where it can be sure that it can finance its network plans, otherwise the cost will fall on the local taxpayer.
- 2.7 To gain approval to move to a franchised network, it must demonstrate that it will deliver a better network than the de-regulated market and that it has tried all avenues to get operators to improve outcomes.
- 2.8 Therefore in the Buses Act 2017, the power to franchise was only made available to mayoral combined authorities (MCA), on the basis that they would

have the financial resources to deliver such a network, and that by being mayoral led this would link to local mayoral priorities (as voted upon) and would cover large geographical areas.

- 2.9 To date, only Transport for Greater Manchester has progressed to implementation of the powers and are currently delivering this new network. It should be noted that in delivering this new network, they were supported by large settlements from national government, for example BSIP and sustainable cities.
- 2.10 Other authorities looking to franchise are Merseyside, South Yorkshire, West Yorkshire, Peterborough & Cambridge and the Northeast. At this moment in time, none of these are at implementation stage.
- 2.11 To date, outside of London, delivery of franchising has been slow, with Manchester the only authority now delivering its own franchise network. The assessment process has been cumbersome, complex and has required significant investment, running into multi-millions, with many consultants required to deliver a franchise proposal and so that it can meet approval. It has then required significant national funding to deliver the planned improvements.

3. Better Buses Bill – Revisions to Franchising

- 3.1 On the 9th September 2024, the new government announced that through a Better Buses Bill, they would be making changes, so that Bus Franchising would be open to all local authorities, that they were changing guidance on franchising, providing a range of franchising models for authorities and were changing legislation, so that current funding for bus services provided by government could be delegated to local authorities more easily.
- 3.2 In respect to franchising, the major change is that franchising will not solely be available to mayoral combined authorities, but available to all authorities who are Transport Co-ordinating Authorities i.e. counties/unitaries (but not district/town councils).
- 3.3 Under the current arrangement, an MCA, before it can access its franchising powers has to apply to the SoS for approval to access these powers and then approval to undertake a franchising assessment. Under the Better Buses Bill, as well as the powers being available to all TCAs, the only requirement on an authority in respect to the SoS will be to seek approval to undertake a franchising assessment. The Bill also sets out the considerations the SoS will need to consider, in approving such a request:
 - *that the LTA has a clear vision for improving buses – and what this is.*
 - *that the LTA has identified the kind of franchising it wants to pursue.*
 - *that the LTA has a plan for how it intends to develop the franchising assessment and has identified, after discussion with DfT officials what support is required from DfT.*
 - *that a particular office holder (for example the Leader of the Council or the portfolio holder for transport) is responsible for the development of the scheme.*

- 3.4 If approval is granted under the Better Buses Bill, the assessment process is to be streamlined. Currently those undertaking a franchise assessment, are required to consider a “do nothing option,” which compares the franchise proposed against the de-regulated market. However, this will be revised, so that the do-nothing option, is now compared to the Enhanced Partnership in force in that area. This change recognises that all authorities in England, may now have an EP in force.
- 3.5 The franchise assessment process/business case will be streamlined (with further detail yet to be developed), which is aimed at reducing the cost of preparing a franchise, reducing the time taken and is designed to be easier to understand.
- 3.6 As now, bus operators will be able to bring forward proposals for enhancements to the EP, which they believe will deliver the same outcomes as the authority’s franchise proposal. However, unlike at present, the operator proposal will be time limited, and should an authority withdraw its franchise proposal based on the operator proposal, the operators must deliver their proposal.
- 3.7 Revisions are being made to franchising guidance, so that a range of franchising options are available for local authority consideration. These will range from arrangements such as London/Manchester, to a “franchising light” model such as Jersey. This reflects that the cost of franchising, based on current model, is too expensive for a significant number of authorities, when considering the resources required to prepare the franchise assessment and that national funding may not be available for forward delivery/implementation of the network improvements.
- 3.8 The Better Buses Bill will also introduce requirements on authorities, that as part of franchising proposals, they need to consider the security of passengers, particularly women and girls and that they also must take account of bus driver welfare.

4. KCC Considerations

- 4.1 Even with changes to bus franchising, the franchising of a network is a long-term commitment and should KCC wish to pursue this option in the future, it will have to assure itself that it has the financial resources to first prepare a franchising assessment and then subsequently deliver a network. The Better Buses Bill will reduce the cost of the assessment process, but it will still be a significant cost and involve significant consultant time.
- 4.2 It will need to determine the type of franchised arrangements it would be seeking, based on affordability and outcomes. The preferred arrangements may not meet the expectation of the public/members, so it will be necessary to balance user expectation compared to an affordable network.
- 4.3 In developing a franchise proposal, there will be a considerable period of time required to identify what a franchised network could deliver compared to the

current EP, what it would cost to enhance the network and how such enhancements would increase the revenue available to the franchise, so how to make it financially sustainable. Any proposal would require public consultation and key decisions, potentially a full county council decision, given its financial impact to the authority and the long-term nature.

- 4.4 Having undertaken such work and subject to approval, an application to the SoS could be made.
- 4.5 Should the SoS approve, then the operators would have a right to bring forward their own proposals to enhance the EP and KCC would have to give careful consideration to these. If these proposals were found to provide the same outcome, then the franchising proposal would need to be withdrawn.
- 4.6 This means that any franchising proposal requires significant officer/consultant/governance time, it is not something that could be delivered in a compressed/accelerated timeline. It is estimated that from deciding to move forward on a franchising assessment, through gaining SoS approval and associated governance that implementation would not commence for at least two to five years.
- 4.7 Once started, a franchise arrangement will represent a multi-year commitment, and it is not something reversed quickly. As such it should be seen as a significant and a long-term operation.

5. Current Position - Franchising

- 5.1 Officers currently have no defined plans for the franchising of Kent's local bus network.
- 5.2 However, officers will review in detail the Better Buses Bill when it is brought forward, to determine the processes/costs need to bring forward a franchise. Officers will review the outcome of the 2026-29 Spending Review and the impact on bus service funding.
- 5.3 Should there be potential for an improved bus network in Kent, which could not be delivered by the current EP and taking due regard to the considerations set out above, then officers could bring to members a franchising options proposal.

6. Conclusion

- 6.1 Under the Buses Act 2017, the ability of TCAs to take back control of their local bus networks, closing down the commercial bus network, was provided through bus franchising. However, due to complexity and cost, this ability in the first place was only provided to MCAs. However, the new government plan to widen this ability to franchise, to all TCA.
- 6.2 The new government, taking account of the time and cost to produce franchising assessments, is to streamline the process and in its guidance provide TCAs with more franchising models, in the hope this reduces time taken and cost.

- 6.3 However, moving to a bus franchise does require careful consideration by a TCA, as the expectation will be in the wider public that such a franchise will deliver an improved network, compared to current and that significant investment will flow into it. Therefore before embarking on such a process, the benefits have to be clear and the long term funding to support such a network needs to be in place.
- 6.4 It should also be noted that even with a streamlined process and funding in place, a franchising assessment and implementation of a franchise is a project that could take two to five years to fully deliver.
- 6.5 It should also be noted that once a franchise network is in place, it is not easy or quick to return to a commercial market.
- 6.6 Officers will monitor the Better Buses Bill and the 2026-29 Spending Review to see if conditions exist for a franchise case, which would deliver an improved network compared to the present EP scheme. Currently there are no defined plans for franchising in Kent, however, should the conditions exist for a franchise network, then officers will bring forward proposals.

7. Recommendation(s):

- 7.1 Members are asked to note and make comment on the content of the report.

8. Contact details.

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