Bus Regulation (Scotland) Bill

A proposal for a Bill to provide transport authorities with greater powers to set service levels for local bus services, including a power to group profitable routes with non-profitable routes before they are put out to tender with operators.

Consultation by
Iain Gray MSP
Member for East Lothian

May 2013
Introduction

Good public transport – effective, reliable, safe, and affordable – is a hallmark of a modern, forward-looking society. It liberates people who cannot drive and provides a practical alternative to those who choose not to.

How government addresses transport policy is therefore a strong statement about how seriously it takes its responsibility both for the economy and the wellbeing of its people; in other words, how easily can people get around to access goods and services?

Transport policy has sometimes, however, had the ironic effect of making many people less mobile, for example by making car ownership a necessity, rather than a luxury.

So while there is now one car for every two people in Scotland and registrations increasing every year, the reality is not an equal distribution between households: 30% of households have no access to a car, whereas almost as many, 25%, have access to two.

‘Transport poverty’ is therefore often the result for those with no car ownership or access – particularly in rural areas – in a society too often geared towards the motorcar.

Better bus transport can alleviate transport poverty, making a positive economic impact on communities and addressing mobility problems for those in areas with poor public transport links. The people I’ve spoken with on the issue – transport authorities and industry, local government, campaigners, and passengers themselves – strongly agree.

But despite being the most common form of public transport, in many areas bus services have let people down: an operator abandoning vital local services is the worst-case scenario, as happened in my own East Lothian constituency.

I believe there is a groundswell of support for change to the way the industry operates, and I want the Scottish Parliament to follow this through by looking again at how bus services could be better run, including through regulation.

This consultation paper seeks views from a wide range of stakeholders, in order to best understand what changes people would like to see in bus services, and how this might be possible. This will inform a Members’ Bill proposal I will put before Parliament later this year.

I would like to thank all the stakeholders who have already informed some of the thinking behind this Bill, and also to Alan MacKenzie and Simon MacFadyen in my parliamentary office for their hard work in developing this document.

I am sure that there is a better way to serve the 700,000 households in Scotland without a car, and those choosing to take some of the 400 million-plus bus journeys every year. Please consider the points in this consultation and share your thoughts with me on how this might be achieved.

I look forward to hearing from you.

Iain Gray MSP
This consultation is being launched in connection with a draft proposal which I have lodged as the first stage in the process of introducing a Members’ Bill in the Scottish Parliament. The process is governed by Chapter 9, Rule 9.14, of the Parliament’s Standing Orders which can be found on the Parliament’s website at:

http://www.scottish.parliament.uk/parliamentarybusiness/17797.aspx

A minimum 12 week consultation period is required, following which responses will be analysed. Thereafter, I would expect to lodge a final proposal in the Parliament along with a summary of the consultation responses. If that final proposal secures the support of at least 18 other MSPs from three or more political parties, and the Scottish Government does not indicate that it intends to legislate in the area in question, I will then have the right to introduce a Members’ Bill. A Members’ Bill follows a 3-stage scrutiny process, during which it may be amended or rejected outright. If it is passed at the end of the process, it becomes an Act.

At this stage, therefore, there is no Bill, only a draft proposal for the legislation.

The purpose of this consultation is to provide a range of views on the subject matter of the proposed Bill, highlighting potential problems, identifying equalities issues, suggesting improvements, considering financial implications and, in general, assisting in ensuring that the resulting legislation is fit for purpose.

The consultation process is being supported by the Scottish Parliament’s Non-Government Bills Unit (NGBU) and will therefore comply with the Unit’s good practice criteria. NGBU will also analyse and provide an impartial summary of the responses received.

Details on how to respond to this consultation are provided at the end of the document.

Additional copies of this paper can be requested by contacting me at:

Iain Gray MSP,  
Scottish Parliament,  
Edinburgh  
EH99 1SP  
Tel: 0131 348 5901  
Fax: 0131 348 6359  
E-mail: bus.bill@scottish.parliament.uk

An on-line copy is available on the Scottish Parliament’s website under Parliamentary Business/Bills/Proposals for Members’ Bills/Session 4 Proposals.

http://www.scottish.parliament.uk/parliamentarybusiness/Bills/12419.aspx
1. My proposed Bill aims to give transport authorities greater control over bus services in their area by enabling authorities to regulate how they are delivered.

2. Using these powers, transport authorities would be able to:
   - ‘Bundle’ profitable and non-profitable routes and franchise them as a package
   - Set a minimum level of service within the franchise, agreed with the operator
   - Use local authority fleets to provide socially useful services where there are gaps in provision

3. The Bill will also include new powers for the Traffic Commissioner to impose financial penalties on operators who do not meet the terms of franchises, and transport authorities will also be able to seek redress for the cost of retendering routes where operators have walked away from franchise agreements.

4. The Bill would not be limited to the powers in paragraph 2 above, but would provide scope for transport authorities to run services how they see fit. This flexibility is important as each authority will have different public transport needs.

5. I want to hear from as broad a spectrum of stakeholders as possible, and to better understand how transport authorities might use greater power in delivering bus services in their area.

6. Franchising profitable and non-profitable routes
   - Used at the discretion of the transport authority, this would allow profitable and non-profitable routes to be franchised together, committing bus operators to providing socially useful as well as profitable services. Given the varying quality of bus services across Scotland, different areas will exercise these powers in different ways.

7. Minimum level of service
   - These powers could also be used to secure a minimum level of service from an operator, for example, requiring that certain services run during the day must also have an equivalent, less-frequent evening or night service.

8. Financial penalties
   - The Traffic Commissioner in Scotland has limited power to impose financial penalties, and this involves relatively small amounts. I believe penalties that at least cover the costs to transport authorities to re-tender services where necessary should be considered part of the remit of the Traffic Commissioner. Penalties should also be imposed where terms of the franchise are broken by operators.

9. Removing the need to prove ‘market failure’
   - At present, communities must wait for and prove ‘market failure’ to Scottish Ministers before operators can be compelled to enter into agreements that define services beyond the most basic terms. It is unclear what constitutes ‘market failure’ having never been proven, and I believe it is unacceptable to wait for the decimation of services before they can begin to be significantly improved.

10. Recent bus service cuts in Scotland
    - There is a need for change in how buses services are run, and recent events in Scotland support this.

11. In 2012 First Bus withdrew 20 routes from East Lothian and Midlothian, and amended a further eight, leaving its services in Midlothian altogether. This risked not only 200 associated jobs, including the closure of a depot in the area, but jeopardised the livelihoods of those depending on services to get to and from work.

12. Moray Council also recently agreed that its 2013/14 budget would not include funding for subsidised bus routes.

---

1 £550 per registered vehicle (Section 39. 3(a)) http://www.legislation.gov.uk/asp/2001/2/pdfs/asp_20010002_en.pdf
2 http://www.heraldscotland.com/mobile/news/home-news/bus-services-cut-puts-200-posts-at-risk.17208621?_=dd01903921ea24941c26a48f2ccce246bb0e8cc7
3 http://www.guardian.co.uk/culture/2013/feb/13/moray-council-cut-arts-funding
13. In Falkirk, six routes were also withdrawn, which left the Council facing a difficult financial decision and the prospect of communities left without access to goods and services in the area. In the interest of these communities and the local economy, it decided in the short-term to provide substitute services.4

14. The impact of even partial service withdrawal from communities, particularly rural areas, can be devastating for jobs and the local economy. The necessity of these cuts has been blamed on anyone with an interest in bus transport: local and national government; bus companies; and passengers themselves.

15. In the examples above, the operator pulled out of Midlothian and East Lothian citing a lack of government support and rising fuel costs; in Moray the local authority has withdrawn its support for local services, choosing other priorities for its budget. In all cases it is the people who rely on these services that suffer.

Why the current system should change

16. From events in Falkirk, Moray, Midlothian and East Lothian, it is clear this is evidence of where the current set up has let down communities. The unregulated market has failed to protect those that depend on local services.

17. There is therefore a justifiable appetite for change in the industry and better bus services, not only exhibited by existing passengers, but also by many keen to see resurgence in services and encourage people out of their cars and on to public transport.

18. In London – which arguably enjoys the best bus service in the UK – buses were privatised as in the rest of the UK, but not deregulated. London Transport therefore controls fares and services.5 The result is a very high level of service, albeit supported by a high level of public subsidy.

19. At present, authorities hand over cash to operators to run unprofitable services but with little say in how they are run. I believe that services should be run with more consideration for the operator’s duty to the communities that pay them for vital services.

20. My proposed Members’ Bill would give powers to transport authorities to allow them to secure a minimum level of service with operators for the money that they currently give them to run services.

21. Its aim will be to reform the regulatory regime for the bus industry in Scotland, providing transport authorities with greater power to compel operators to provide a minimum service level.

22. Agreements could cover routes and fares, and also ensure that companies tendering for profitable routes can only do so by taking on unprofitable routes too.

23. This action could not only deliver significant improvement in those areas currently poorly served by bus transport, but also encourage more to travel by bus. Figures from the Scottish Household Survey show that of the people who said it would be possible to travel to work by public transport but didn’t (43%), 35% said it was because there was no direct route and 54% because it would take too long. A further 9% felt that services were too unreliable.6

24. These are not insurmountable challenges and could be tackled by better regulated services, where authorities paying operators for a service could ask for specific terms as part of franchises.

25. This consultation therefore aims to test support for significant and positive change in the planning and delivery of local bus services.

26. The responses to this consultation will inform a final proposal for a Bill which I intend to introduce to the Scottish Parliament later this year.

---

4 http://www.bbc.co.uk/news/uk-scotland-tayside-central-19888279
6 Table 20 - http://www.transportscotland.gov.uk/files/BusCoach2011_12_0.pdf
Deregulation and privatisation

27. Arguably the most significant policy changes for bus transport in the UK occurred following the Transport Act 1985, and in Scotland, the Transport Act (Scotland) 1989. The then Conservative Government sought to change the way the industry worked, thereby reducing the need for public subsidy.7

28. The key points of the 1985 Act were:

a. **Deregulation**: Bus operators would register routes and timing of each service with Traffic Commissioners, instead of applying for a road-service licence specifying services

b. **Reduced subsidies**: Companies registered only for commercially viable routes without subsidy. Local authorities would award subsidies for the provision of commercially poor but socially necessary bus services, following the invitation of tenders from different bus operators

c. **Privatisation**: Local authority bus operations would be formed into separate passenger transport companies operating at arm’s-length from the local authorities/SPT, with a view to privatisation7

29. Some in the industry argued that there should be an alternative approach, disallowing competition on roads but permitting local authorities to tender routes. Competition would therefore be for the route, rather than on it, and this would be the system that was later adopted in London.9

30. The 1989 Act restructured the Scottish Bus Group into ten separate independent bus companies which were then privatised. This was completed in 1991 and earned £90m for the Exchequer.10

31. By 1997, fewer than 10% of bus services were in public hands, compared to three-quarters of services at the time of the 1985 Act.11

Current system

32. Operators now must register bus services with one of seven Traffic Commissioners in the UK covering eight geographical areas. Priorities for Traffic Commissioners include:12

- Encouraging operators to adopt robust systems, ensuring fair competition and operation of goods and public service vehicles is safe
- Considering and imposing traffic regulation conditions to prevent danger to road users and/or reduce traffic congestion and/or pollution
- Engaging with stakeholders - listening to industry, meeting with local authorities, trade organisations, passenger groups and operators

33. The Vehicle and Operator Standards Agency (VOSA) work with, but independently of, Traffic Commissioners, to assist with their functions in licensing, road safety and the environment.13

34. Part of VOSA’s function also included monitoring the punctuality of services, however this is no longer the case. In Scotland, with the exception of the Strathclyde Partnership for Transport region (SPT), there is yet to be a replacement of this function.

35. In their evidence to the UK Parliament’s Transport Select Committee, Bus Users UK, a passenger lobby group, highlighted the importance of monitoring:

Service reliability is likely either to encourage or discourage first-time users to use the service again, and it is apparent that the meteoric rise in rail passenger numbers really began when attention was paid to making timetables robust. ... If Government is serious about getting more people on to public transport, then putting resource into ensuring reliability of bus services has to be a higher priority.14

---

9 p26 - Glaister, S. et al. (2006)
10 http://www.parliament.uk/briefing-papers/SN01534
12 https://www.gov.uk/government/organisations/traffic-commissioners/about
13 http://www.dft.gov.uk/vosa/abouvtosa/workingwiththetrafficcommissioners/workingwiththetrafficcommissioners.htm
14 http://www.publications.parliament.uk/pa/cm201213/cmselect/cmtran/writevosa/m04.htm
36. The Traffic Commissioner in Scotland also has the power to impose sanctions on failing operators - which can include a condition on licences forbidding running some or all services - and also has responsibility for the current regulation of local bus services.

37. Sanctions can also be financial penalties. According to the Scottish Government, in the last two years there have only been two financial penalties imposed: in 2011-12 for £750; and in 2012-13 (to December 2012) for £2250.

38. As further clarified by the Scottish Government in a response to a Parliamentary Question, the formula by which fines imposed by the Traffic Commissioner are calculated can be changed by the Scottish Parliament.

39. The role of the Traffic Commissioner could therefore be strengthened by my proposed Bill. For example, transport authorities should be able to seek redress from the Traffic Commissioner to cover the costs of refranchising routes where they have been abandoned by operators. Question 5 on page 12 asks for specific comment on the role of the Traffic Commissioner.

Quality Partnerships and Quality Contracts

40. The Transport (Scotland) Act 2001 provided a framework to allow local transport authorities to enhance the provision of local bus services via statutory Quality Partnerships, Quality Contracts, provision of information about local bus services and joint ticketing schemes.

41. Statutory Quality Partnerships (sQPs) allow local authorities to make agreements with operators to improve services which each are responsible for. For example, authorities can specify the frequency of services or quality of vehicles, while in return, improving infrastructure such as bus stops.

42. Quality Contracts (QCs) give transport authorities more power than a sQP, similar to a franchise. Routes, service quality and fares can be decided by an authority if it can demonstrate that a QC is necessary for the success of local transport policies.

Market failure

43. My proposed Bill would remove the need to prove market failure by giving transport authorities greater power over how services are run from the outset.

44. Current legislation requires proof of ‘market failure’ before a QC can be established. However, it is very unclear what is meant by ‘market failure’ and as no QCs have been set up in over ten years of them being available, there is no example of it being successfully proven.

45. Scottish Ministers ultimately have the final say in deciding whether there has been an occurrence of market failure.

46. As asserted in research commissioned by Strathclyde Partnership for Transport (SPT), while there are some examples of what might be taken to indicate market failure – such as ‘inadequate frequencies, inadequate quality and lack of network stability’ – it is also the case that these might still not be enough to undertake a QC.
47. Considering the potential costs of trying to prove that ‘market failure’ has occurred – and doing so before the process of the QC can be initiated – it is clear that the current system presents authorities with a difficult and largely unknown task. The Scottish Executive guidance document says:

For example, a description of trends in local bus market conditions might provide valuable monitoring information to the authority, but does not in itself provide a strong rationale for intervention and is very unlikely in itself to suggest the best policy response.24

48. In other words, evidence of worsening services does not in itself prove market failure, and the possibility for improvement does not guarantee that transport authorities can have a greater say in the standards of the bus services of their communities.

49. To date, there has been no use of Quality Contracts in Scotland and only four statutory Quality Partnership agreements. Local authorities have stated that they are too expensive to organise and implement, and bus companies have little incentive to agree to enter into a voluntary agreement.

50. The Transport (Scotland) Act 2005 (asp12) required the establishment of a series of Regional Transport Partnerships (RTPs) covering the whole of Scotland. Seven RTPs were established on 1 December 2005:

- Shetland Transport Partnership (ZetTrans)
- Highlands and Islands Transport Partnership (HITRANS)
- North-East of Scotland Transport Partnership (NESTRANS)
- Tayside and Central Scotland Transport Partnership (TACTRAN)
- South-East of Scotland Transport Partnership (SESTRAN)
- Strathclyde Partnership for Transport (SPT)
- South-West of Scotland Transport Partnership (SWESTRANS)25

51. All local authorities in Scotland are members of a RPT, allowing a strategic approach to transport throughout the region. Councillors make up approximately two-thirds of RTP membership, and around a third of members of RTPs are non-councillor members who fulfil a role similar to that of non-Executive Directors. RTPs can also appoint advisers or observers.26

52. The 2005 Act also gave RTPs concurrent powers to implement statutory Quality Partnerships and Quality Contracts.

53. Strathclyde Partnership for Transport (SPT) is the only RTP constituted as a Passenger Transport Executive (PTE) with powers to run services.27

54. Also uniquely in the east of Scotland, Lothian Buses operate the largest publicly-owned bus company in Britain, with profits returned paid to the council as dividends.

25 http://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/Factsheets/SB_11-34.pdf
26 http://www.transportscotland.gov.uk/strategy/Regional-Transport-Partnerships/What-is-a-RTP
27 http://www.pteg.net/Aboutpteg/WhatarePTEs
Why we need change in the bus industry

55. It is clear there is a need for change in bus services and in the industry itself. The examples from Falkirk, Midlothian and Moray, as well as in my own East Lothian constituency, are testament to this.

56. While much of the system can serve people well, from speaking with constituents, council colleagues across Scotland, and with the bus industry, there is still too much poor bus service provision across Scotland – or sometimes no provision at all.

57. My Scottish Parliament colleague Patrick Harvie, Green Party MSP for the West of Scotland, runs a longstanding campaign for better bus services in Glasgow and published a paper on the responses he received from local people concerned with bus provision in their area. A great deal of this feedback mirrored what I have heard and included concerns about fares, vehicles and the need for better regulation.28

Decline in public subsidy and bus use

58. But central government subsidy to buses is reducing along with passenger journeys over the long-term. This is clearly a bad spiral for passengers and operators alike.

59. In the last five years passenger journeys on local bus services have gone down 8%, rising very slightly in 2011/12 from a 10-year low in 2010/11.29

60. Whereas passenger journeys on trains over the longer-term are increasing, so too are its subsidy levels; comparing the two modes of transport many more still use buses and travel more miles by bus.

61. In 2011 there were 81 million rail journeys taken in Scotland, compared with 439 million bus journeys.30

62. According to the Confederation of Passenger Transport UK, the current subsidy per rail passenger is 21-times greater than the subsidy per bus passenger, though 86% of journeys are made by bus.31

63. Scottish Government spend on rail between 2010/11 and 2012/13 is planned to rise by 11% to £741.1m, but spending on bus services is due to fall by 15% over the same period to £53.8m.32

64. Significantly, subsidised bus service kilometres – the services paid for by local transport authorities – have gone down 25% in the last five years, compared to a 9% reduction in commercial bus service kilometres – run for profit without local government support – in the same period.33 This might suggest that operators are less willing, and local transport authorities are less able, to support services unable to survive commercially. It also suggests that many more people are now doing without adequate or any bus service.

Public satisfaction with services

65. It is also true to say there is evidence to support a high satisfaction rate with public transport services, and I do not expect all of the responses to this consultation will reflect badly on bus services and the industry. 76% of adults are very or fairly satisfied with public transport, according to Transport and Travel in Scotland 2011.34 However, some statistics on public transport will include rail travel, and there are different perspectives which underlie how satisfied or dissatisfied people are with bus services. For example, whether they live or work in an urban or rural area, or are young or old.

More accessible services

66. The elderly can be particularly vulnerable to the fortunes of the bus industry and can feel isolated by a lack of good available bus transport. As the recent WRVS report, Going Nowhere Fast, asserts, concessionary travel is only useful insofar as there are services available to take advantage of.35

33 Table 4 - http://www.transportscotland.gov.uk/files/BusCoach2011_12_0.pdf
67. Given that only 22% of people have both a regular bus service that is within a six minute walk from their home, it is easy to understand how this kind of isolation could occur.36

68. Rural populations are also likely to find difficulty in accessing public transport. Those in large urban areas are obviously most likely to travel by bus almost or every day (17%), compared to those living in remote rural areas (3%).37

69. Very few of those living in remote rural (2%) and accessible rural (9%) areas consider themselves as having access to good public transport, compared with the rest of Scotland (26%).38

70. 12% of respondents to the Scottish Household Survey living in remote rural areas said they have no access to a bus service.39

71. There are almost one million people living in rural Scotland. The map left shows how much of Scotland is measured as rural40 and gives some idea of the potential scale of the problem of providing public transport to a large but dispersed population.

72. 64% in accessible rural areas and 76% in remote rural areas assert that they would not be able to commute to work via public transport.41

73. As can be seen from the table below,42 those living in remote and accessible rural areas are as or more likely to have one or more cars. This would support the idea that in many rural areas people have little choice but to own a car, despite the increased cost of living associated with living in a rural area.43

<table>
<thead>
<tr>
<th></th>
<th>Remote Rural</th>
<th>Accessible Rural</th>
<th>Rest of Scotland</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>14%</td>
<td>13%</td>
<td>33%</td>
</tr>
<tr>
<td>One</td>
<td>49%</td>
<td>43%</td>
<td>44%</td>
</tr>
<tr>
<td>Two or more</td>
<td>37%</td>
<td>44%</td>
<td>22%</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Source: Scottish Household Survey, 2011
(Using Scottish Government Urban Rural Classification, 2009–2010)

37 Ibid.
38 Table 5 - http://www.transportscotland.gov.uk/files/BusCoach2011_12_0.pdf
How bus services can improve

74. The aim of this Bill is to reform bus service regulation in Scotland, giving power to transport authorities to secure a minimum standard of service from operators, ensuring better value for public money.

75. I have outlined some of the ways these powers might be used, such as through franchising profitable and non-profitable routes bundled together.

76. As has been mentioned earlier in this document, there are some mechanisms already in legislation to improve services, such as statutory Quality Partnerships, but these are not being widely used, or, in the case of Quality Contracts, being used at all. Therefore the following could be happening, but for reasons of cost or lack of incentive to bus operators it is not.

77. Regulation would effectively allow their use, or a similar power, by local transport authorities without the need to establish market failure, by extending their reach over quality, fares and timetables, and by making it harder for operators to withdraw services in communities or possibly face financial penalties.

78. According to the Traffic Commissioner for Scotland, in 2011/12 there were 542 cancellations of local registered services in Scotland – up from 413 the previous year.44

79. Some of this can be attributed to the general economic climate, however this is of little consolation to a commuter who has to find another way of getting to work, or the student who has to take two or more buses to college. Part of service improvement must also be about increasing their sustainability.

80. While some surveys show a high satisfaction rate with buses, it remains the case that bus services could serve people better and provide a good alternative to those willing to leave their car at home. Improving services while reducing our impact on the environment should be the starting point in rejuvenating the bus industry.

Service improvement

81. The Government Social Research survey Understanding why some people do not use buses45 conducted focus groups which included people who would be likely to swap car journeys for more frequent bus trips. Some of the suggested improvements in service included:

- Conductors on buses to prevent anti-social behaviour and overcrowding
- General improvements to the physical condition of buses in order to improve comfort, safety and accessibility (e.g. seatbelts, rubbish bins, more regular cleaning, toilets, air conditioning, handrails, softer seats, etc.)
- Improved lighting, shelters and information, including accurate ‘Real Time’ information, at bus stops
- Action to try and improve the speed and reliability of buses, including better/longer bus lanes, more direct/express routes, more frequent services at more standardised times and driver incentives for timekeeping
- Better information about routes, timetables and fares, to be available in places other than bus stops
- Cheaper and/or more ‘standardised’ fares
- Introducing pre-pay or top-up card systems to pay for bus fares, to avoid the need for exact change or knowing how much a ticket will be in advance.

82. This source supports the view that there is room for improvement in parts of the bus transport industry. The fall in bus patronage over the long-term is perhaps the most striking of all evidence to support this.

---

45 http://www.scotland.gov.uk/Publications/2010/04/23115458/15
83. The following from Transport Scotland’s *Bus and Coach Transport Statistics* quantify some of the measures that can address the concerns of those who do and do not use buses. They also support the notion that there are still improvements to be made which may increase bus patronage:

- The percentage of buses in Scotland fitted with CCTV has more than doubled between 2005-06 and 2010-11 (28% to 58%) although this is still lower than the 2010/11 GB figure of 69%.
- 54% of buses were fitted with Automatic Vehicle Location devices in 2010-11 – up from 25% in 2006-07 but still less than the 63% across GB.
- 77% of buses in Scotland in 2010-11 had live Smart-cardreaders compared to 33% in GB (outwith London)
- Over 80% of buses in Scotland in 2010-11 were accessible or had a low floor – an increase of 57% over the 5 year period.46

84. The evidence above however only accounts for satisfaction with standard services, not community transport or dial-a-bus, for example. The importance of these services to groups easily isolated by regular transport services – such as the elderly, or those living rurally as we have seen – must also be considered when thinking about how transport can operate more effectively for everyone.

85. The importance of investment in community transport is highlighted perfectly by the Age Scotland report *Driving Change: The case for investing in community transport*.47 This type of service could greatly benefit through a change in legislation, allowing better planning and consideration of particular community needs and addressing its underuse and fragmentation.

86. The option of using Local Authority fleets to cover gaps in provision is one way of improving community services, and a change in legislation (as well as better planning and procurement for vehicles that would suit different purposes and users) would be necessary to allow fare-stage services to operate on commercial routes.

**Environmental impact**

87. As a proportion of total journeys, people travelling to or from work via public or ‘active transport’ (walking or cycling) has stalled over the last decade, and gone down in the last five years.48

88. Part of this may be attributed to the fall in economic output and rising unemployment during that time – the sharp fall in bus journeys has been attributed by some to poor economic conditions49 – but it is less clear why there has been a proportional fall.

89. The 2006 Scottish Executive document *Scotland’s National Transport Strategy* acknowledges, ‘the key challenge is to break the link between economic growth, increased traffic and increased emissions.’50

90. This of course should also be true for the reverse, i.e. reduced emissions should not require that the economy be shrinking, but increasing the proportion of public transport users when the economy does improve is vital to tackling emissions. Bus transport has a key role to play in this.

91. The *National Transport* document also outlined three key strategic outcomes for transport in Scotland:
- Improved journey times and connections
- Reduce emissions
- Improve quality, accessibility and affordability

---

48  [http://www.scotland.gov.uk/About/Performance/scotPerforms/indicator/transport](http://www.scotland.gov.uk/About/Performance/scotPerforms/indicator/transport)
49  [http://www.tas.uk.net/content/index.php/bus-posts/view/640-economy-slowdown-reflected-in-further-bus-patronage-fall](http://www.tas.uk.net/content/index.php/bus-posts/view/640-economy-slowdown-reflected-in-further-bus-patronage-fall)
92. It is also the view of the transport and environmental campaigning group Sustrans, Cycling Scotland and Transform Scotland, efforts to tackle emissions through better transport policy have stalled. In their recent submission to the Scottish Parliament’s Infrastructure and Capital Investment Committee, they observe that the Scottish Government has missed its first annual climate change target and go on to say:

Encouraging people to change their travel behaviour, and deliver a modal shift from car usage to walking, cycling or public transport, will require better integration of transport modes. Public transport must be better integrated across public transport modes (bus/rail) and with walking and cycling (cycle storage, cycle hire, walking/cycling networks from stations) in order for people to change their travel behaviour and make their journeys more sustainable. ... While gaps continue to exist between sustainable modes of transport, there will still be an incentive for people to travel by car.\(^5\)

93. They continue:

*If Scotland is serious about tackling emissions from transport, it must encourage people out of their cars, not make people more dependent on them. We should be encouraging people to walk or cycle for shorter journeys and to take the train or bus for longer journeys.*\(^5\)

94. As well as Sustrans’ worry that the Scottish Government’s aspirations will not adequately address concerns about emissions and the environment, it is clear from their submission that this is not only an issue about vehicle efficiency. It is also, significantly, about behaviour. Encouraging people to choose to take public transport instead of using their cars is an essential part of improving the environment and Scotland’s impact on it.

95. My proposed Bill would therefore seek to empower transport authorities to consider the environmental concerns of their areas, as part of agreements made with bus operators. This could be part of agreements made under currently available powers such as QPs and QCs, but as has been discussed, these powers are expensive and difficult for authorities to pursue.

96. As well as this, it could make integrated local transport more effective – for example, by improving coordination with other modes – thereby encouraging increased bus use and lowering emissions.


\(^5\) p4, ibid.
Questions to consider

Please consider and respond to the following.

1. Do you support the general aim of the proposed Bill? Please indicate “yes/no/undecided” and explain the reasons for your response.

2. What would be the main practical advantages of the legislation proposed? What would be the disadvantages?

3. In what ways do you envisage reregulation being used to improve bus services?

4. How can community transport be better utilised to serve local communities and particularly low passenger volume routes?

5. Do you agree that the Traffic Commissioner should be able to impose greater financial penalties on operators who a) fail to meet the terms of the franchise or b) walk away from the franchise altogether?

6. What is your assessment of the likely financial implications of the proposed Bill to you or your organisation? What other significant financial implications are likely to arise?

7. Is the proposed Bill likely to have any substantial positive or negative implications for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?

8. Do you have any other comment or suggestion that is relevant to the need for or detail of this Bill?

How to Respond to this Consultation

You are invited to respond to this consultation by answering the questions in the consultation and by adding any other comments that you consider appropriate.

Responses should be submitted by 30 August 2013 to:

Iain Gray MSP, Scottish Parliament, Edinburgh EH99 1SP

Tel: 0131 348 5901
Fax: 0131 348 6359

E-mail: bus.bill@scottish.parliament.uk

Please indicate whether you are a private individual or an organisation.

Respondents are also encouraged to begin their submission with short paragraph outlining briefly who they are, and who they represent (which may include, for example, an explanation of how the view expressed was consulted on with their members).

To help inform debate on the matters covered by this consultation and in the interests of openness, please be aware that the normal practice is to make responses public – by posting them on my website at www.iaingraymsp.co.uk and in hard copy in the Scottish Parliament’s Information Centre (SPICe).

Therefore, if you wish your response, or any part of it, to be treated as anonymous, please state this clearly along with the reasons for this. If I accept the reasons, I will publish it as “anonymous response”. If I do not accept the reasons, I will let you know and give you the option of withdrawing it or submitting it on the normal attributable basis. If your response is accepted as anonymous, it is your responsibility to ensure that the content of does not allow you to be identified.
If you wish your response, or any part of it, to be treated as confidential, please state this clearly and give reasons. If I accept the reasons, I will not publish it (or publish only the non-confidential parts). However, I am obliged to provide a (full) copy of the response to the Parliament’s Non-Government Bills Unit when lodging my final proposal. As the Parliament is subject to the Freedom of Information (Scotland) Act (FOISA), it is possible that requests may be made to see your response (or the confidential parts of it) and the Parliament may be legally obliged to release that information. Further details of the FOISA are provided below.

NGBU may be responsible for summarising and analysing the results of this consultation and will normally aim to reflect the general content of any confidential response in that summary, but in such a way as to preserve the confidentiality involved. You should also note that members of the committee which considers the proposal and subsequent Bill may have access to the full text of your response even if it has not been published in full.

There are a few situations where not all responses will be published. This may be for practical reasons: for example, where the number of submissions we receive does not make this possible or where a large number of submissions are in very similar terms. In the latter case, only a list of the names of people who have submitted such responses and one response would normally be published.

In addition, there may be a few situations where I may not choose to publish your evidence or have to edit it before publication for legal reasons. This will include any submission which contains defamatory statements or material. If I think your response potentially contains such material, usually, this will be returned to you with an invitation to substantiate the comments or remove them. In these circumstances, if the response is returned to me and it still contains material which I consider may be defamatory, it may not be considered and it may have to be destroyed.

Data Protection Act 1998

As an MSP, I must comply with the requirements of the Data Protection Act 1998 which places certain obligations on me when I process personal data. Normally I will publish all the information you provide (including your name) in line with Parliamentary practice unless you indicate otherwise. However, I will not publish your signature or personal contact information (including, for example, your home telephone number and home address details, or any other information which could identify you and be defined as personal data).

I may also edit any information which I think could identify any third parties unless that person has provided consent for me to publish it. If you specifically wish to publish information involving third parties you must obtain their consent first and this should be included in writing with your submission.

If you consider that your response may raise any other issues concerning the Data Protection Act and wish to discuss this further, please contact me before you submit your response.

Further information about the Data Protection Act can be found at:

www.ico.gov.uk

Freedom of Information (Scotland) Act 2002

As indicated above, once your response is received by NGBU or is placed in the Scottish Parliament Information Centre (SPICe) or is made available to committees, it is considered to be held by the Parliament and is subject to the requirements of the Freedom of Information (Scotland) Act 2002 (FOISA). So if the information you send me is requested by third parties the Parliament is obliged to consider the request and provide the information unless the information falls within one of the exemptions set out in the Act, even if I have agreed to treat all or part of the information in confidence or to publish it anonymously. I cannot therefore guarantee that any other information you send me will not be made public should it be requested under FOI.

Further information about Freedom of Information can be found at:

www.itsspublicknowledge.info