Bus Policy – progress update

Committee Strategy and Programmes

Date of meeting 28 March 2014 Date of report 3 March 2014

Report by Assistant Chief Executive (Operations)

1. Object of report

To recommend the Committee note progress on and approve a refined and updated SPT position on bus policy.

2. Background

2.1 Bus services remain, by far, the main public transport mode for people and communities across Scotland. Across the country, bus accounts for 79% of all public transport journeys\(^1\), with the market in the west of Scotland split into circa 93% commercially-operated/7% fully supported by SPT. It is worth noting, however, that SPT support over 25% of bus services in the west of Scotland either in whole or in part.

2.2 Members will be aware\(^2\) that SPT has sought to stimulate debate through the development and promotion of proposals for changes to bus policy at national level - SPT’s proposals being known as the ‘10 Point Plan’ for bus. This work has been in pursuit of a desire to deliver a higher standard of bus offering from all partners while being cognisant of the current public sector funding position. It has also been a response to the impacts of recent changes in the deregulated bus market, including service cuts which have significantly affected many people, particularly those without access to a car.

2.3 Concurrent with the above, in 2012, the Minister for Transport established a national Bus Stakeholders Group (BSG), comprising a range of private and public sector partners, including SPT, the BSG was tasked with considering opportunities for changes to bus policy that would enable positive change for bus users. At an early stage of the BSG, the SPT 10 Point Plan was effectively established as the base document to deliberate the opportunity for change.

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\(^1\) Scottish Transport Statistics 2013.
\(^2\) See http://www.spt.co.uk/documents/op090312_agenda8.pdf
3. Outline of proposals

3.1 The Assistant Chief Executive (Operations) represents SPT on the BSG and, through that forum, and through direct engagement and dialogue with other stakeholders including Transport Scotland, officers have sought to deliver the changes required in the 10 Point Plan.

3.2 Attached at Appendix 1 is an update on current progress regarding the 10 Point Plan based on discussions within the BSG and with Transport Scotland and other stakeholders. Members will note the details within the original 10 Point Plan have been refined and updated in response to discussions held.

3.3 Appendix 2 is information prepared by SPT in response to a Transport Scotland proposal (through the BSG) to change the registration process for bus services. SPT is very supportive of this proposal as it would provide SPT with both the opportunity to be 'consulted' rather than 'informed' by the bus operator of any changes to bus services, and would also give SPT the opportunity to highlight whether the registration is:

- Complementary/not complementary to RTS/current network.
- Require a supported socially necessary service (after assessment against PTA's Guideline Criteria).
- Likely to raise concerns with the Public Transport Authority (PTA) in terms of whether the service is registrable, unsafe or uncompetitive practices, concerns that service may not be operated as registered, or operator has failed to consult properly.

Furthermore, this proposal would alter the time available to each stakeholder within the registration process. While maintaining the overall timescale of 70 days (as currently) for the registration process to be complete, additional time of 14 days would be made available for consultation with the PTA, with a concurrent reduction of 56 to 42 days in time available to the Traffic Commissioner to process the registration.

3.4 For ease of reference, a summary of the refined and updated 10 Point Plan is attached at Appendix 3.

3.5 Officers will, through the BSG and other forums, utilise this refined and updated position to seek positive change to national bus policy. Indeed at a recent meeting between the SPT Chair, senior SPT officers and the Minister for Transport and Veterans, an outline of the refined and updated '10 Point Plan' was discussed and received positively.

3.6 Members should note that the success or otherwise of this opportunity to vary the registration process will be critically dependent on identifying a more flexible mechanism to procure bus services. The current tendering process is often expensive, unwieldy, overly bureaucratic and likely to result in an additional cost to the public purse. A development of “best value” / de minimis solutions (with appropriate limits) must run concurrent with the work of the BSG, or it fundamentally minimises the benefit of these proposals.

4. Conclusions

4.1 The updated SPT position on bus policy attached at Appendices 1 and 2 continues to place SPT at the forefront of the debate on bus policy in Scotland. Where SPT has been guided that the proposal is currently deliverable without any change to regulations or legislation, these will be pursued as necessary. Regarding others, SPT
will continue to advocate legislative change in line with the updated proposals, in continued pursuit of the desire to deliver better bus services for people and communities across Scotland.

5. Committee action

The Committee is recommended to:

- Note the contents of this report; and
- Approve the refined and updated position on bus policy contained in Appendices 1, 2 and 3.

6. Consequences

Policy consequences
In line with the Regional Transport Strategy, specifically the Strategic Priority of ‘Plan and provide a ‘step change’ for bus services, standards and infrastructure’.

Legal consequences
If adopted at national level, some proposals may require changes to legislation.

Financial consequences
Not quantified at present.

Personnel consequences
None at present

Social Inclusion consequences
Proposals would deliver significant and far-reaching social inclusion benefits for many deprived areas across the west of Scotland.

Risk consequences
Potential to be significant financial, legal, human resources, network design/monitoring implications and challenges which are unquantifiable at this stage.

Name       Eric Stewart          Name       Gordon Maclennan
Title      Assistant Chief Executive (Operations)  Title       Chief Executive

For further information, please contact Bruce Kiloh, Head of Policy and Planning on 0141 333 3740.
# SPT ’10 POINT PLAN’ FOR BUS – PROGRESS UPDATE

Note: Whilst some of the proposals within this appendix have been confirmed as acceptable in terms of their legality and applicability, custom and practice has until now prevented them from being enacted. However, those proposals will now be taken forward as appropriate in partnership with the national Bus Stakeholders Group whose members include the Minister, CPT, operators, RTPs, councils, the Traffic Commissioner, and others.

<table>
<thead>
<tr>
<th>Original Proposal</th>
<th>Updated Proposal</th>
<th>Benefits</th>
<th>Progress</th>
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| 1. To allow Public Transport Authorities (PTAs) – like SPT - to secure (or provide) bus services where there is clearly a need, even if it may be in conflict with the perceived commercial view of the operator. | Retain original proposal.    | • PTAs able to design and secure ‘whole’ routes that better reflect the travel patterns of their communities.  
• Commercial operators more likely to consider the consequences of their operations if, when maximising profit, they may precipitate the introduction of a subsidised competitor thereby reducing their income.  
• Operators likely to more closely align commercial services to the network aspirations of PTAs.  
• In addition, when bidding for any subsidised transport element additional to a commercial service, the possibility of competition over the whole route would moderate bids by the incumbent. | Discussions have guided that SPT has the powers to do this without any further legislative changes required. |
| 2. The payment of Bus Service Operators Grant (BSOG) for new or varied registered mileage should only be made where that registration has been confirmed as not operating to the detriment of overall provision in that area. | Remove proposal.  
See comments in ‘Progress’ column for reasons why. | N/A | Discussions have guided that this proposal should not be taken forward at current time due to recently implemented changes in BSOG payments to operators. |
| 3. Public Transport Authorities should be given powers to require | Retain original proposal.    | • Attractive integrated ticketing for the passenger stimulating growth.  
• This action would address the anti-competitive aspects of dominant operators. | Current legislation (Transport (Scotland) Act 2001) allows for the PTA to take steps to... |
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<tr>
<th>Proposal</th>
<th>Description</th>
<th>Notes</th>
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<td>Compulsory participation in ticketing schemes that are introduced in their areas</td>
<td>• It would reduce the perceived fragmentation of bus services in some communities, providing more seamless, attractive, convenient ticketing arrangements.</td>
<td>Create a ‘scheme’ where a current multi-operator ticketing ‘arrangement’ is failing (i.e. operators not participating or not fully participating).</td>
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<td>4. The modifications to provisions on Statutory Quality Partnerships introduced in England and Wales in the Local Transport Act 2008 should also be introduced in Scotland.</td>
<td>Retain original proposal. • A higher quality bus offering for passengers across communities where SQPs are implemented • SQPs would become easier to implement • PTAs would be encouraged to introduce SQPs as outcomes are more assured.</td>
<td>Discussions ongoing through Bus Stakeholder Group</td>
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<td>5. The minimum period a service should operate as registered should be increased to 180 days. In addition, regulations should be made in accordance with S.46 of the Transport (Scotland) Act 2001 restricting dates on which local services may be varied in local areas.</td>
<td>Remove proposal. See comments in ‘Progress’ column for reasons why. N/A</td>
<td>Discussions have guided that this proposal would no longer be necessary should registration process be varied in line with TS proposal (See Appendix 2).</td>
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<td>6. Consideration should be given to compliance inspectors/vehicle inspection engineers employed by PTAs who would be trained and certified to VOSA</td>
<td>Retain original proposal. • The primary benefits of this action would be safer vehicles on the roads for use by the travelling public, and a more effective reporting regime. • Empowering inspectors employed by PTAs such as SPT would significantly increase the resources currently deployed on ensuring the safety and legality of bus operations in Scotland thereby maximising the effectiveness of the work of the Traffic Commissioner, who only has a small number of staff dedicated to this task at the current time.</td>
<td>Discussions have guided that this is a reserved matter and would require consultation with the UK Department for Transport and VOSA. In discussions, SPT have</td>
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standards, being given relevant powers equivalent to VOSA officers.

- These additional monitoring resources will encourage bus operators to be more aware of, and adhere to, the legal and safety requirements of bus operation in Scotland.
- Currently, when operators are called to public inquiry by the Traffic Commissioner, the Commissioner may call on evidence provided by SPT staff. Much time and effort is taken up at enquiries proving the competence and jurisdiction of inspectors or engineers employed by SPT, whilst such issues are seldom raised with regard to VOSA inspectors. By certifying and empowering the PTA inspectors the business of any public enquiry can be expedited more efficiently.

7. The Traffic Commissioner should consider not accepting local service registrations submitted by Community Transport groups (S. 22 permit holders) unless the registration is supported by the PTA and the group is registered on the Community Transport database. Additionally, a date should be set for the revocation of all existing Community Bus permits which may then be re-issued subject to application and compliance with minimum quality standards.

Retain original proposal.

- The principal benefit in this proposal is in raising the quality and safety of community transport provision through the establishment of minimum acceptable standards for community transport, and regular review and monitoring of the proficiency of groups seeking to provide such services.
- PTAs, like SPT, see community transport providers as an essential part of the future of public transport provision, especially in times of financial constraint, and improved standards will encourage PTAs to partner these providers in improving services in their areas, further stimulating the community transport market.
- The requirement for the Traffic Commissioner to maintain a database of permits issued will assist in the monitoring of the sector, and the revocation of existing permits would necessitate their renewal providing a complete database of all groups.
- The increasing likelihood of community transport registering local services does, however, raise concerns that they may in some circumstances compete with mainstream provision. Thus, requiring all S. 22 permit holders to have applications to register services endorsed by the PTA, should reduce such conflicts.

Discussions have guided that the proposal would be achievable provided it was done through a framework such as the West of Scotland Community Transport Network.

Furthermore, discussions have guided that it was acceptable for SPT to provide training in relation to the D1 License issue. SPT Operations Committee on 31 January 2014 approved a proposal for SPT to provide and support training for D1 licences. See http://www.spt.co.uk/documents/op310114_minute.pdf for more information.

8. Where a bus operator enjoys an effective monopoly and may be seeking subsidy from the

Retain original proposal.

- PTAs would be better informed about operation, income and therefore subsidy requirements of services in their communities, assisting the assessment of potential remedial measures.
- Operators would be less inclined to seek higher subsidy for providing a

Discussions have guided that this proposal could be advanced through introduction of a ‘mandatory’
PTA, the PTA should be given access to service cost and revenue figures to satisfy themselves that the operator is not seeking excessive subsidy costs or acting in an anti-competitive manner.

PTA-secured service enabling better use of PTA’s limited financial resources to provide further vital services for communities across its area.

PTA Industry Code of Conduct incorporating procedures for the sharing of revenue, patronage and cost information on a commercially confidential basis.

Similarly, this ‘mandatory’ code of conduct should specify the procedures for the use of best value contracting procedures including Service Concession, Competitive Dialogue and De-Minimis, in line with the DfT’s published Guidance on Best Practice in Bus Service Tendering.

| 9. Electronic Bus Service Registration (EBSR) to become the mandatory format for submitting bus registration particulars by 2014, and that such submissions are not accepted without the PTA acknowledging receipt of such information as prescribed in regulations. | Retain original proposal. | By requiring that all registrations, variations and cancellations are submitted through EBSR, significant savings could be made in resources required to process and record the information.
Furthermore, this will create a more robust, resilient, auditable system of service registrations with a clear, electronic information record.
This would result in an immediately accessible, comprehensive database of services to assist planning and emergency services.
Lastly, but most importantly, there would be huge benefits for the travelling public through the provision of up-to-date information, including real time information (RTPI), where applicable. | Discussions have guided that Electronic Bus Service Registration will become a mandatory requirement. |

| 10. The Public Service | Retain original | A statutory two-way dialogue in the period before a registration is | Transport Scotland, through |
Vehicles (Registration of Local Services)(Scotland) Regulations 2001 should be amended such that the duty to inform the relevant authority(ies) of an application to register, vary or withdraw a bus service is replaced by a duty to consult.

| Proposal | Submission will enable the PTA to advise the operator of the likely result of the proposed service changes, the response, if any, of the PTA and, as at present, any technical faults within the document.  
• Significant two-way benefit in a more comprehensive, meaningful and outcome orientated ‘discussion’, including consideration of the use of de minimis.  
• The operator’s knowledge of the response of the PTA may influence the final proposals avoiding the requirement to tender services, the submission of successive registration documents and excessive disruption to the passenger.  
• Overall, this proposal will ensure that a more co-ordinated approach to network planning and development is place, which is to the significant benefit of passengers and communities. | the BSG, has proposed changes to the registration processes – SPT’s views on this attached at Appendix 2. |

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- **NEW PROPOSAL***  
 A Scotland-specific version of the Department for Transport’s emerging Guidance on Best Practice in Bus Service Tendering should be published, and include provisions to allow a more streamlined, effective and quicker procurement process, and use of best value, de minimis tendering (with appropriate subsidy limits), service concessions, and utilisation of provisions within the forthcoming Procurement Reform Bill.

| Increases the procurement options available to contracting authorities to minimise public expenditure, and maximise the benefits to the travelling public.  
• Has the potential to improve the integration of local bus services  
• Will significantly improve passenger continuity & confidence in services. | DFT guidance on Best Practice on tendered services includes guidance on the use of Best Value / De Minimis and also includes best practice examples from across the UK.  
Discussions have guided that improved Scotland-specific guidance required regarding provisions to allow a more streamlined, effective and quicker procurement process, and use of de minimis tendering (with appropriate limits), service concessions, and utilisation of provisions within the forthcoming Procurement Reform Bill.  
SPT internal officer group currently undertaking review of bus procurement |
| - | ***NEW PROPOSAL*** | Processes / procedures to identify opportunities for improvement. |
| - | The law in Scotland to be amended to provide the Traffic Commissioner with powers to reject a local service registration in cases where the applicant fails to consult with the Public Transport Authority, and / or provided the PTA evidences legitimate concerns regarding safety, network coverage, road network capacity, compliance issues, improper conduct, service deliverability, and / or that the service is not in the public interest. | SPT has suggested a ‘Tick Box’ for PTA on forms 350/A to advise TC if registration requires “additional information” as part of consideration, e.g. this may simply be predatory operation, no public benefit, known special events, infrastructure activities or registration non-compliances. Further suggestions that Short Notices adopt the same supporting rationale, e.g. infrastructure, contractual problem, maintenance concerns, with Short Notice fee increased, all intended to minimise use of Short Notice. More information available in Appendix 2. |
| - | • Ensures compliance with the revised registration process. • Ensures appropriate and meaningful consultation with the relevant authorities is undertaken. • Allows authorities to highlight health and safety concerns through the registration process. • Allows authorities to raise bus stop and layover capacity concerns through the registration process. • Provides a check that services are genuine, and not tours, prior to registration and the receipt of related government subsidies including BSOG, Concessions etc. | |
# APPENDIX 2

**SPT views on utilisation of ‘new 28 days’ from Bus Stakeholders Group Bus Registration Proposals**

<table>
<thead>
<tr>
<th>14</th>
<th>“New” 14 day consultation with PTA</th>
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<tr>
<td>1.</td>
<td>On Day 1, operator provides PTA with pre-specified* information regarding their new, varied or withdrawn service.</td>
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<tr>
<td>2.</td>
<td>PTA then assess the implications of the registration –</td>
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<tr>
<td>i.</td>
<td>Is it complementary/not complementary to RTS/current network.</td>
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<tr>
<td>ii.</td>
<td>Will a supported socially necessary service be required (after assessment against PTA’s Guideline Criteria).</td>
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<tr>
<td>iii.</td>
<td>Does the PTA have concerns about registrability, unsafe or uncompetitive practices, concerns that service may not be operated as registered, or operator has failed to consult properly.</td>
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<td>3.</td>
<td>Operator and PTA enter dialogue to address any issues arising from the above. Options include the use of ‘De Minimis’ – Patronage / concession reimbursement / fares / revenue / profit or loss information may be requested by PTA and supplied by operator at their discretion on a public or confidential basis</td>
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*The contents of this information to be confirmed.

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<thead>
<tr>
<th>14</th>
<th>Registration period with PTA</th>
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</thead>
<tbody>
<tr>
<td>1.</td>
<td>Dependent on the outcome of above, operator provides final registration documentation.</td>
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<tr>
<td>2.</td>
<td>PTA, as currently, processes registration documentation.</td>
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<td>3.</td>
<td>On issue of receipt to Operator, PTA “ticks box” or “doesn’t tick box” which highlights to the Traffic Commissioner (TC) that the PTA have issues with the registration, dependent on outcome of ‘first’ 14 day period.</td>
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<tr>
<th>42</th>
<th>TC consideration</th>
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</thead>
<tbody>
<tr>
<td>1.</td>
<td>TC contacts PTA for further information if</td>
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<td>of registration</td>
<td>PTA has “ticked box”. TC decides, based on the information provided by PTA, whether to:</td>
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<td>-----------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
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<tr>
<td></td>
<td>i. accept the registration.</td>
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<tr>
<td></td>
<td>ii. require further discussion / re-consultation to address issues.</td>
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<tr>
<td></td>
<td>iii. not accept the registration because TC believes that based on PTA’s information, issues cannot be resolved</td>
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</table>
1. To allow Public Transport Authorities (PTAs) – like SPT - to secure (or provide) bus services where there is clearly a need, even if it may be in conflict with the perceived commercial view of the operator.

2. Public Transport Authorities should be given powers to require compulsory participation in ticketing schemes that are introduced in their areas.

3. The modifications to provisions on Statutory Quality Partnerships introduced in England and Wales in the Local Transport Act 2008 should also be introduced in Scotland.

4. Consideration should be given to compliance inspectors/ vehicle inspection engineers employed by PTAs who would be trained and certified to VOSA standards, being given relevant powers equivalent to VOSA officers.

5. The Traffic Commissioner should consider not accepting local service registrations submitted by Community Transport groups (S. 22 permit holders) unless the registration is supported by the PTA and the group is registered on the Community Transport database. Additionally, a date should be set for the revocation of all existing Community Bus permits which may then be re-issued subject to application and compliance with minimum quality standards.

6. Where a bus operator enjoys an effective monopoly and may be seeking subsidy from the PTA, the PTA should be given access to service cost and revenue figures to satisfy themselves that the operator is not seeking excessive subsidy costs or acting in an anti-competitive manner.

7. Electronic Bus Service Registration (EBSR) to become the mandatory format for submitting bus registration particulars by 2014, and that such submissions are not accepted without the PTA acknowledging receipt of such information as prescribed in regulations.

8. The Public Service Vehicles (Registration of Local Services)(Scotland) Regulations 2001 should be amended such that the duty to inform the relevant authority(ies) of an application to register, vary or withdraw a bus service is replaced by a duty to consult.

9. A Scotland-specific version of the Department for Transport’s emerging Guidance on Best Practice in Bus Service Tendering should be published, and include provisions to allow a more streamlined, effective and quicker procurement process, and use of best value, de minimis tendering (with appropriate subsidy limits), service concessions, and utilisation of provisions within the forthcoming Procurement Reform Bill.

10. The law in Scotland to be amended to provide the Traffic Commissioner with powers to reject a local service registration in cases where the applicant fails to consult with the Public Transport Authority, and / or provided the PTA evidences legitimate concerns regarding safety, network coverage, road network capacity, compliance issues, improper conduct, service deliverability, and / or that the service is not in the public interest.