



Transport (Scotland) Act 2019 – Local authority-run bus services – Commencement Regulations and Information Note

Date of meeting 30 September 2022

Date of report 20 September 2022

Report by Chief Executive

1. Object of report

To inform the Partnership of the coming into force of the Transport (Scotland) Act 2019 (Commencement no.5) Regulations in relation to local authority-run bus services, and the publication by Transport Scotland of an Information Note in regard to those provisions.

2. Background

Further to previous reports to the Partnership and Committees¹, members will be aware that the Transport (Scotland) Act 2019 (“the Act”) made provision for local authorities to run their own bus services. On 24 June 2022, the Transport (Scotland) Act 2019 (Commencement no.5) Regulations² came into force, giving local authorities the power to run bus services provided they had a Public Service Vehicle (PSV) Operator Licence and they are satisfied that the provision of such services will contribute to the implementation of their relevant general policies.

It is worth highlighting that, due to the inheriting of various powers from its previous incarnation as a Passenger Transport Authority and Executive, and prior to the 2019 Act, SPT already possessed the power to operate its own bus services. The coming into force of the Regulations for these provisions from the Act extends that power to local authorities.

In publishing the regulations, Transport Scotland stated that the relevant provisions of the Act do not restrict how authorities could run their local services, but highlighted that there are a number of existing duties which an authority should consider when looking to utilise the powers. In seeking to assist any authority who may wish to do so, Transport Scotland published an Information Note which summarised an authority’s obligations in utilising the Act’s powers in that regard.

3. Outline of proposals

The Information Note³ is available on Transport Scotland’s website. In summary, the Note:

- Provides more detail on the legislative background for an authority to run its own bus services;

¹ For example - https://www.spt.co.uk/media/af5f4rsg/sptp060320_agenda8.pdf

² <https://www.legislation.gov.uk/ssi/2022/204/contents/made>

³ <https://www.transport.gov.scot/public-transport/buses/bus-policy-and-guidance/information-note-the-local-authority-run-services-provision-in-the-transport-scotland-act-2019/>

- Provides information on the consultation undertaken by Transport Scotland in relation to the relevant provisions of the Act;
- Clarifies that the Note is intended to be a useful source of information for authorities, and should not be considered a step-by-step guide;
- Clarifies the meaning of “relevant general policies” as referenced in the Act;
- Provides information on non-commercial alternatives to PSV licences e.g. “Section 19” or “Section 22” permits which allow not-for-profit operations; Community Transport; and the provision of services through subsidy (as SPT does at present);
- Explains how to register for and the types of PSV licences available;
- Provides information on examples of publicly-owned bus companies in the UK; and
- Provides information on other resources available including in relation to public finance, subsidy control, and competition.

The coming into force of the Regulations and the publication of the Information Note generated significant interest across the country. The Minister for Transport made the following statement⁴ at the launch: “I would encourage all local transport authorities to consider using this power, and the full range of tools available to them under the Act”. At the time of writing however, no authority in Scotland has formally taken any steps in seeking to utilise the powers. The Scottish Government was intending to launch a Community Bus Fund (CBF), the intention being that it would “help support local transport authorities to explore the full range of options set out in the 2019 Act, including local authority run bus services”⁵, with a 2022/23 budget of £1million for development funding. However, SPT has recently been advised by Transport Scotland that the launch of the CBF has been paused for the time being.

Members will be aware⁶ that the bus provisions of the 2019 Act were reviewed as part of a joint study by SPT and Glasgow City Council (GCC) as part of the development of the new Regional Transport Strategy (RTS). The study found that a local authority-run concern could be established in the short term to compete for tendered services and could be achieved in circa 12-18 months. This approach could increase competition for contracts and potentially reduce deregistration of commercial services. However, all risks and costs would rest with the authority and would not necessarily bring about improved integration or cheaper fares. In the longer term, a local authority-run bus operator could be achieved via franchising or acquisition of commercial operator businesses and could be achieved by circa 2030 at a cost of around £200m.

Following the conclusion of the joint SPT-GCC study, SPT commissioned further work to ascertain how, potentially, the conclusions of the study could be taken forward in line with due process. Officers are currently reviewing the outcomes of that work, with a view to presenting a proposed approach to a “Regional Bus Strategy” to the Strategy and Programmes Committee in November, subject to the outcome of the current public consultation⁷ on the Draft RTS. It is worth emphasising that this workstream will not only take into account the potential offered by the municipal bus provisions of the 2019 Act, but also other options and other 2019 Act provisions including, for example, Bus Service Improvement Partnerships (BSIPs) and franchising. However, it should be highlighted that the pausing of funding from the CBF for development of any potential opportunities arising from the municipal and/or other provisions of the 2019 Act will naturally need to be considered in the development of any timeline for a regional bus approach. Moreover, and in the longer term, capital and revenue funding – potentially of significant scale - for the actual implementation of any initiatives arising from the provisions of the 2019 Act, will need to be

⁴ <https://www.transport.gov.scot/news/local-authorities-have-power-to-run-bus-services/>

⁵ <https://www.gov.scot/publications/foi-202200309725/>

⁶ Section 3.3 and Appendix 2 - https://www.spt.co.uk/media/vh5prl5y/sp180222_agenda11.pdf

⁷ Further information on the Draft RTS and the consultation - <https://www.spt.co.uk/spt-across-the-region/what-we-are-doing/regional-transport-strategy/vision/>

addressed.

4. Conclusions

The coming into force of the Regulations and publication of the Information Note on local authority-run bus services creates a potential tool for local transport authorities in seeking to improve local bus services. Members will recall that the Draft RTS highlights the utilisation of the 2019 Act's powers as a key potential mechanism for improving the region's bus services and as noted above, officers are currently in the process of considering next steps in relation to a future regional bus approach.

4. Partnership action

The Partnership is recommended to note the content of this report.

5. Consequences

Policy consequences	<i>The principle of ensuring bus governance models are able to deliver the objectives of the new RTS is established in draft RTS policies, currently subject to public consultation.</i>
Legal consequences	<i>None at present.</i>
Financial consequences	<i>None at present.</i>
Personnel consequences	<i>None at present.</i>
Equalities consequences	<i>None at present.</i>
Risk consequences	<i>None at present.</i>
Climate Change, Adaptation & Carbon consequences	<i>None at present.</i>

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