

Citizen Participation and Public Petitions Committee
Wednesday 27 November 2024
18th Meeting, 2024 (Session 6)

PE2116: Accelerate the implementation of bus franchising powers

Introduction

Petitioner Ellie Harrison on behalf of Better Buses for Strathclyde

Petition summary Calling on the Scottish Parliament to urge the Scottish Government to improve the process for implementing the bus franchising powers contained in the Transport (Scotland) Act 2019 by:

- introducing, without delay, the regulations and statutory guidance required to give bus franchising powers full effect
- amending the 2019 Act to remove the requirement for proposed franchising frameworks to be approved by a panel appointed by the traffic commissioner, instead empowering Regional Transport Partnerships (RTPs) to have the final say on approving proposals
- providing additional funding to help support RTPs in preparing franchising frameworks and assisting them with initial set-up costs once frameworks are approved.

Webpage <https://petitions.parliament.scot/petitions/PE2116>

1. This is a new petition that was lodged on 15 August 2024.
2. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe B**.
4. Every petition can collect signatures while it remains under consideration. At the time of writing, 2,660 signatures have been received on this petition.
5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered.
6. The Committee has received submissions from the Scottish Government, the Petitioner, and Paul Sweeney MSP, which are set out in **Annexe C** of this paper.
7. Members may wish to note that [Mark Ruskell MSP asked a parliamentary question on bus service franchising](#) on 31 October 2024. The Minister responded to a supplementary question about revisiting and amending the legislation, in line with the ask of this petition, by stating “[w]e are now in a position in which the

panel will be put in place, there will be full scrutiny and we will put in place guidance, which the Net Zero, Energy and Transport Committee will have a chance to look at. If we delay that process, we will have to go back to primary legislation, which, as I have said in a number of debates, will stall it even further.”

Action

8. The Committee is invited to consider what action it wishes to take on this petition.

Clerks to the Committee
November 2024

Annexe A: Summary of petition

PE2116: Accelerate the implementation of bus franchising powers

Petitioner

Ellie Harrison on behalf of Better Buses for Strathclyde

Date Lodged

15 August 2024

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to improve the process for implementing the bus franchising powers contained in the Transport (Scotland) Act 2019 by:

- introducing, without delay, the regulations and statutory guidance required to give bus franchising powers full effect
- amending the 2019 Act to remove the requirement for proposed franchising frameworks to be approved by a panel appointed by the traffic commissioner, instead empowering Regional Transport Partnerships (RTPs) to have the final say on approving proposals
- providing additional funding to help support RTPs in preparing franchising frameworks and assisting them with initial set-up costs once frameworks are approved.

Background information

There is widespread consensus across the UK that the policy of bus deregulation (implemented in 1986) has failed to deliver the integrated and affordable public transport urgently required to meet climate targets and reduce inequalities.

[The new UK Government has announced plans for a Better Buses Bill, to “support every community \[in England\] to take back control of buses through franchising or public ownership”.](#)

Due to severe delays enacting the franchising powers in the Transport (Scotland) Act 2019, Transport Scotland’s failure to support RTPs to use these powers, as well as cuts to RTPs budgets, Scotland now lags far behind England and [Wales in the process of re-regulation](#).

We believe the requirement of an independent panel to approve proposals in Scotland is an unnecessary step, which risks wasting many more years and approx. £15million per RTP, if proposals are rejected. The legislation must be simplified to give the democratically-accountable RTP Boards the final say.

Annexe B: SPICe briefing on petition PE2116



Background

Section 38 of the Transport (Scotland) Act 2019, which came into effect in December 2023, provides the legislative basis for Scottish local transport authorities to introduce local bus service franchising. This is a system allowing an authority to specify bus routes, timetables, and services standards within a designated area. A similar system has operated in Greater London since the mid-1980's and has recently been introduced in Greater Manchester.

The full suite of secondary legislation and guidance necessary for the introduction of local service franchising in Scotland is not yet in place.

Local service franchising can only come into effect once a local transport authority has developed an overarching franchising framework and then entered into franchise agreements with bus operators.

A franchising framework must specify:

- The area that it covers.
- The bus services to be provided.
- The period it will be in operation.
- Service standards to be provided under franchise agreements.

The franchising framework is implemented through franchise agreements, which are agreements between the local transport authority and local bus service operators under which:

- the local transport authority grants an operator the exclusive right to provide the services to which the agreement relates, which can include payment by the authority to the operator.
- that operator undertakes to provide those services on such terms as may be specified in the agreement.

The process to be followed by a local transport authority wishing to make a franchising framework can be summarised as follows:

- prepare a proposed framework.

- prepare an assessment of the proposed framework.
- obtain a report from an independent auditor on the financial implications of the proposed framework.
- consult on the proposed framework.
- if necessary, modify the proposed framework and, where the modifications materially affect an aspect of the assessment, go through the process of assessment and audit again; and
- obtain approval to make the proposed framework from a panel convened by the traffic commissioner [a UK Government appointed official responsible for bus operator licensing] for that purpose.

Scottish Government Action

The Cabinet Secretary for Transport was asked about the introduction of local service franchising at the [Net Zero, Energy and Transport Committee meeting on 4 June 2024](#), to which she replied “The regulations that prescribe the process for transitioning from a deregulated system to a franchise are expected to be laid in early autumn 2024 and to come into force before the end of the year.”

The Scottish Government provides financial support to local transport authorities wishing to use the bus related powers introduced by the Transport (Scotland) Act 2019, including local service franchising, through the [Community Bus Fund](#). The Scottish Government allocated £5 million capital funding and £1 million of resource funding for such work in [financial year 2024-25](#).

Scottish Parliament Action

The Net Zero, Energy and Transport Committee continues to scrutinise progress in implementing local bus service franchising in Scotland. Most recently [questioning the Cabinet Secretary for transport in this issue at its Committee meeting on 4 June 2024](#).

Alan Rehfisch
Senior Researcher
24 September 2024

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Annexe C: Written submissions

Scottish Government written submission, 10 September 2024

PE2116/A: Accelerate the implementation of bus franchising powers

I refer to the email of 15 August on behalf of the Citizen Participation and Public Petitions Committee, regarding a new petition PE2116, submitted by Ellie Harrison, on behalf of 'Better Buses for Strathclyde', which urges the Scottish Government to improve the process for implementing the bus franchising powers contained in the Transport (Scotland) Act 2019.

The petition calls for:

- introducing, without delay, the regulations and statutory guidance required to give bus franchising powers full effect.
- amending the 2019 Act to remove the requirement for proposed franchising frameworks to be approved by a panel appointed by the traffic commissioner, instead empowering Regional Transport Partnerships (RTPs) to have the final say on approving proposals.
- providing additional funding to help support RTPs in preparing franchising frameworks and assisting them with initial set-up costs once frameworks are approved.

I have considered the issues raised by the petition with the response to the various issues set out below.

Implementation of the regulations and statutory guidance

The Scottish Government has delivered all the bus provisions within the Transport (Scotland) Act 2019 ("the 2019 Act") to enable local transport authorities to start considering all the powers available to them, including partnership working, franchising and local authority run services which sit alongside their ability to subsidise services.

The bus provisions empower local transport authorities with the flexible tools they need to improve services in their own areas. Since commencing all the bus provisions, local transport authorities across Scotland have begun exploring the powers available to them, including in the Strathclyde area.

It is important to note that bus franchising is complex and requires a suite of secondary legislation and statutory guidance to enable local transport authorities to use the provisions effectively. We have laid several substantive regulations since commencing the franchising provisions in December 2023, including the Local Services Franchise (Traffic Commissioner Notices and Panels) (Scotland) Regulations 2024 which were laid on Tuesday, 5 September 2024. The remaining regulations and statutory guidance to bring the franchising provisions into effect will be provided before the end of this year.

Removing the requirement for proposed franchising frameworks to be approved by a panel

Turning to the call to amend the 2019 Act to remove the requirement for local transport authorities to seek approval from panels convened by the Traffic Commissioner for their franchising proposals.

The approval process for franchising requires the Traffic Commissioner for Scotland to convene an independent panel to approve or reject a local transport authority's franchising proposals. This process was approved by the Scottish Parliament as part of the passage of the 2019 Act. We have no plans to revisit this legislation.

The local services franchises model puts in place a clearly structured approval procedure with the intention of making the process transparent and ensuring that franchising proposals are subject to a high level of scrutiny. The role of the independent panel is to provide an additional safeguard to ensure that the local transport authority's franchising proposals have been carefully considered, based on evidence, and follow the guidance issued by Scottish Ministers.

Providing additional funding

While the 2019 Act provides local transport authorities with a range of tools to improve bus services, it is for each authority to decide what, if any, bus provisions they want to use to improve services in their area. Regardless of which option they choose to progress, it is important, that the local transport authorities' business case for improving bus services is robust and well evidenced to support decision-making on funding.

Given the already challenging fiscal environment any future funding availability to local transport authorities will be considered as part of the annual budget setting processes and prioritisation exercises.

I hope the Committee finds the contents of this letter helpful.

Yours sincerely

**Bus, Accessibility and Active Travel
Transport Scotland**

Petitioner written submission, 11 October 2024

PE2116/B: Accelerate the implementation of bus franchising powers

Our petition aims to support [SPT's work on its Regional Bus Strategy](#) through three key demands:

- 1) Fully-enact the bus franchising powers in the Transport Act 2019
- 2) Simplify the legislation to accelerate the process
- 3) Fund the implementation of franchising in Scottish regions

Urgent Action is Necessary

Our international obligations under the 2015 Paris Agreement make the Scottish Government's **five-year delay** in fully-enacting the 2019 Act bus powers inexcusable. England's Bus Services Act 2017 took **just two months** to enact, allowing some regional transport authorities to begin developing franchising proposals immediately. The pandemic, previously blamed for slow progress in Scotland, only delayed Greater Manchester by one year – and [they will have fully-implemented franchising across their ten local authorities by January 2025](#).

Meanwhile other regional transport authorities in England used the pandemic as an opportunity to do the detailed work required to develop franchising proposals. [Liverpool City Region](#), [West Yorkshire](#), [Cambridgeshire & Peterborough](#) and [South Yorkshire](#) will be the next to roll it out. Newly elected Mayors in [North East England](#) and [West Midlands](#) have also committed to beginning work on franchising. At this rate, all these regions (home to nearly 14 million people) will have implemented franchising before any in Scotland.

We now need the Scottish Government to make up for lost time by accelerating the deployment of bus franchising in Scotland's regions. Otherwise, more climate targets will need to be abandoned and Scotland will fall even further behind.

Simplify the Legislation

This is the key issue. Even when Scotland's bus franchising powers are finally enacted, they will be **the most complex and time-consuming in the UK to implement**, placing unnecessary risks on transport authorities wishing to use them.

This is because [they contain the additional step](#) (already removed from English legislation) which requires franchising proposals to receive final approval from an 'independent panel' convened by the Traffic Commissioner.

The Traffic Commissioner is neither democratically-accountable nor impartial. Their role in maintaining the running of the deregulated system means they are an integral part of the bus industry. As an illustration, the [former Traffic Commissioner is a vocal critic of bus franchising](#), and has publicly sought to undermine SPT's proposals by siding with the [bus companies that have declared "war" with SPT](#).

The panel model has already been tried and failed in England with the rejection of NECA's proposal (developed under the Local Transport Act 2008) in 2015¹. This is why the panel was removed from England's Bus Services Act 2017, with elected Mayors given the final say on franchising proposals (after the independent financial audit and 12-week statutory public consultation). Despite this simplification, elected Mayors have complained that the 2017 Act is still "really cumbersome... and impenetrable" to get through². This is why the new [UK Government is now consulting on further simplifying the franchising process](#) in England, through its [Better Buses](#)

¹ 'Board throws out north east bus franchise plan' (2015). <https://www.lgcplus.com/politics/board-throws-out-north-east-bus-franchise-plan-03-11-2015/>

² 'Urban Transport Next: Ticket to ride' (2024). <https://urbantransportgroup.podbean.com/e/urban-transport-next-ticket-to-ride/>

[Bill](#). Meanwhile, [Wales is developing the simplest legislation](#), enabling nation-wide franchising by 2028.

[SPT estimates it could cost £15 million to develop franchising proposals](#) in line with the 2019 Act. So far [they have received just £155,000 \(1%\) towards these costs from the Community Bus Fund](#). SPT has been forced to [reclassify £12 million of its reserves as a 'Future Transport Investment Fund'](#) in order to even contemplate progressing franchising. The risks inherent in the panel model for approving franchising mean **all this public money could be wasted** if proposals are rejected. Regional Transport Partnerships (RTPs) and campaigners repeatedly raised concerns about the panel model during the development of the 2019 Act and in [the 2021 public consultation on implementing the bus powers](#). We were not listened to. Five years on, the Government's "challenging fiscal environment" has intensified these risks and made the case for reform ever more urgent.

Amending the 2019 Act to replace the panel with a democratically-accountable model could be achieved relatively quickly and easily during 2025 *in parallel* with SPT's work developing franchising. For example, [Bills introduced to make minor amendments to other Acts](#) have taken just 8-10 months to be enacted. This process **should begin immediately** as the Net Zero, Energy and Transport Committee is currently taking evidence on the subordinate legislation in the 2019 Act. For the Government to maintain that it has "no plans to revisit this legislation" shows complete disregard for the challenges facing SPT and its other RTPs and appears oblivious to developments in bus policy elsewhere in the UK.

Support the roll-out of the powers

[The Government currently invests £470 million per year](#) in the deregulated bus system; more than half through the Concessionary Card Scheme. Delivering this through a deregulated system is **a completely inefficient use of public money**. A recent [statement by Ember coach company](#) outlines the extent to which the "system is fundamentally flawed" as private operators "optimise [their] pricing to exploit" Government subsidies by keeping their single fares inflated, thereby deterring fare-paying passengers from using public transport. Ember is clear that the current funding system is "a win for the operator but a loss for the taxpayer".

Former Transport Minister Jenny Gilruth appeared aware of this when she announced "a full review of all funding streams... to bus operators" in March 2023³. Nothing has materialised from this. The Government must understand that the complex work of developing franchising proposals (done by each regional transport authority) **is** the full review of funding streams that we urgently need. The ultimate aim in implementing bus franchising (as in Greater Manchester) is to re-route all funding for bus (subsidies and passenger fares) through the democratically-accountable regional transport authority, which then becomes fully responsible for delivering all services in its area. This is [how transport governance works in London](#)

³ Bus fares may have to become 'more affordable' and services reliable to win future Scottish Government funding as prices rise. (2023) <https://www.scotsman.com/news/transport/bus-fares-may-have-to-become-more-affordable-and-services-reliable-to-win-future-scottish-government-funding-as-prices-rise-4088496>

(where buses were never deregulated) and in most other parts of Europe, where fully-integrated and affordable public transport is the norm.

The key to delivering change in Scotland, is for the Government to get on with funding and supporting its RTPs to be able to do this important work.

Petitioner written submission, 12 November 2024

PE2116/C: Accelerate the implementation of bus franchising powers

Since our [last written evidence was submitted on 11 October 2024](#), there have been two significant debates relating to the franchising powers in the Transport Act 2019.

On 29 October 2024 [the Net Zero, Energy & Transport \(NZET\) Committee discussed the much-delayed Scottish Statutory Instrument \(SSI\)](#) relating to the Traffic Commissioner's role in appointing an 'independent panel' to approve franchising proposals – a time-consuming and unnecessary step which our petition demands is removed from the Act. Prior to the meeting, the Committee requested evidence from three organisations/individuals with expertise in this field. In their responses, [Jonathan Bray](#) and [Transport for Quality of Life \(TfQL\)](#) – who have both advised the [Welsh Government on their 'Roadmap to bus reform'](#) (which will deliver nationwide bus franchising by 2030) – raised “significant concerns” about the panel model.

Reflecting on his experience of the failed NEXUS franchising proposal in 2015⁴, Bray writes that “the decision to use panels to determine the future of bus services in Scotland is anachronistic and undemocratic. It **leaves Scotland as a backwards facing outlier** on public control of franchised bus services in the UK.” TfQL highlights the impartiality of the Traffic Commissioner, writing that “they are effectively part of the existing system, and whose strategic objectives are to **minimise regulatory burden** on operators rather than to provide the best possible passenger service.” Whilst [Get Glasgow Moving points to the absurdity](#) of “any devolved government with power over nearly all aspects of its bus network actively choos[ing] to give away power over something as fundamental as the basic regulation of bus services ... to an unelected official appointed by the UK Government”.

Many of these points were raised during [the NZET Committee Meeting](#) which took oral evidence from Jim Fairlie MSP, Minister for Agriculture & Connectivity and Transport Scotland officials. Although defending the SSI, the Minister stated that he was “now acutely aware of some of the concerns that have been raised” and that the Government's position is that “we want to get franchising done, and we want it to work.” Towards the end of the debate Graham Simpson MSP was clear to put on the record that “every **committee member who has spoken today is in favour of franchising**... The message to SPT from the Parliament would be that the Parliament is in favour of franchising.” As a result of MSPs' concerns that the panel would delay the implementation of franchising, and potentially sabotage it altogether, the motion to annul the SSI was passed by 4 votes to 3.

⁴ 'Board throws out north east bus franchise plan' (2015). <https://www.lgcplus.com/politics/board-throws-out-north-east-bus-franchise-plan-03-11-2015/>

This vote triggered [a second debate on the motion in the Chamber the following day on 30 October 2024](#), where Douglas Lumsden MSP stated that:

“Annulling the SSI is... about the committee process and the Parliament working as it should do, by providing the **post-legislative scrutiny** that it is meant to. The franchising process was put into legislation in good faith, but the Parliament should have the courage to accept that such a process has been tried in other parts of the country and has failed. It would be completely wrong of us to plough on regardless when we have taken evidence from people who have studied the franchising process and told us that we should simplify it.”

The [vote on the motion was tied 62-62](#) with the Presiding Officer voting in favour of the status quo.

Urgent Action is Now Necessary

[Transport Scotland has previously stated](#) that all the outstanding regulations and statutory guidance necessary for SPT to begin developing its franchising proposals will be delivered by the end of 2024 (*a five year delay* since the Act was passed). However, at the NZET Committee Meeting on 29 October, we heard that these would now be delayed even further, into the “new year”.

This shows a total lack of urgency from the Scottish Government in enabling bus franchising, which completely undermines of [their target to reduce car miles by 20% by 2030](#). At this rate there will not be a single franchised bus on Scottish soil by that date, let alone allowing time for the behaviour change that an integrated, affordable, and reliable public transport system will enable. This is what we hope our petition will turn around. We therefore propose the following course of action:

- 1. Publish all the remaining regulations and statutory guidance ASAP** so that SPT can begin the processes set out in the Act (see [Section 13C\(1\)\(a\) to \(g\)](#)). What is clear from the evidence and debates of last month is that it will take SPT *at least two years* before it even reaches the panel approval process (stage (f)). This gives a sufficient window of opportunity to make minor – but absolutely essential – amendments to the Act.
- 2. Introduce a short ‘Transport (Scotland) (Amendment) Bill’ to remove the panel process** and simplify the Scottish legislation in line with England’s Bus Services Act 2017, which is currently being used to rollout franchising in several city regions ([see details in our previous written evidence](#)). This must be done *before the end of the Parliament in 2026* ([we have drafted the necessary amendments here](#)).
- 3. Support SPT to develop its bus franchising proposals** as the “trailblazer for future possibilities” in Scotland (as it was described by the Minister on 30 October 2024). [SPT estimates it needs £15 million to complete the processes set out in the Act](#), and has currently only [received 1% of this through the Community Bus Fund](#).
- 4. Finally, work should begin to develop new legislation to further simplify the bus franchising powers** as is currently happening in England with the new [Better](#)

[Buses Bill](#), which aims to get the process down from the 7.5 years it took Greater Manchester to fully implement, to as little as two years.

We accept that this larger piece of legislation may need to go into the next Parliament, but at least SPT will be able to make progress in the meantime, paving the way for other RTPs to follow.

Paul Sweeney MSP written submission, 14 November 2024

PE2116/D: Accelerate the implementation of bus franchising powers

I was pleased to raise the importance of this petition in a meeting of the Parliament on Thursday October 31 in which I highlighted the warning from Jonathan Bray, one of the leading experts on bus franchising, who suggests that giving the Traffic Commissioner for Scotland the unilateral power to veto Strathclyde Partnership for Transport's plans to introduce a bus franchise would be a grave mistake.

At present, the Transport (Scotland) Act 2019 requires the proposed framework for bus franchising to be approved by a panel that is appointed by the Traffic Commissioner.

However, I believe that this should be removed from the process so that Strathclyde Partnership for Transport (SPT) has the confidence and ability to implement, democratically, the scheme which they have spent so much time devising.

Bus privatisation has been a total and complete failure, and we can now rectify it so that, once again, public control of bus networks is in place, via operating regulations and control of the fare box. The approval panel outlined in the Transport (Scotland) Act 2019 only serves those that would prefer the deregulated status quo remains.

The Scottish Government should instead be providing greater support for regional transport partnerships to prepare their franchising frameworks instead of giving the panel the ability to unilaterally and undemocratically veto any bus franchising plan.

I would encourage the Committee to keep this petition open and call interested parties in to give evidence. This should include representatives from SPT and representatives from regional transport authorities from other parts of the UK with established experience of introducing bus franchising, such as West Yorkshire and Greater Manchester.