

CONSULTATION RESPONSE

Regulation of Bus Services Bill –
Public Consultation Document
Charlie Gordon MSP



Established in Edinburgh in 1902

INTRODUCTION

Ecas is an Edinburgh-based charity, founded in 1902, which represents the interests of disabled people by providing a number of different services. Our clients are predominantly physically disabled adults. We have been heavily involved at local level in campaigning for improvements to demand responsive, and other forms of, transport for disabled people.

We welcome the initiative which has led to Mr Gordon proposing a Regulation of Bus Services Bill and are grateful for the opportunity to respond to the public consultation. We make some general comments below, before answering some of the specific questions in the consultation document.

GENERAL COMMENTS

The Bill has three primary aims, to:

- 1) Amend the procedures specified in the 2001 Transport Scotland Act, to make it easier, quicker and less expensive for Councils to respond to market failure in local bus markets by developing the statutory Quality Bus partnerships and Bus Contracts provided for in the 2001 Act.
- 2) Authorise free bus travel for anyone in receipt of the lower rate of Disability Living Allowance, and their carer or escort.
- 3) Extend the current concessionary scheme to include community transport organisations, which operate bus services in predominantly rural areas where there are no commercial services, improving public transport access for older and disabled people and encouraging increased bus travel

Ecas supports the first aim of the Bill.

We have some reservations about the second aim.

We have serious reservations about the implications of the third aim of the Bill.

The answers below, to the specific questions, detail these concerns. However, by way of general comment, we wish to emphasise that the second and third aims especially have very significant resource issues associated with them. Any commitment to extend free bus travel to those on the lower rate of Disability Living Allowance (DLA), or to extend the current scheme to

community transport and Demand Responsive Transport (DRT) would have to be additional to current services and not to detract from the access of those currently using the services. We believe these aims are unrealistic in the absence of a very substantial change to the funding regimes.

CONSULTATION QUESTIONS

1 Why have no transport authorities or bus operators yet implemented a statutory QP under the 2001 Transport (Scotland) Act?

We are not in a position to answer this question.

2 How do you think bus services in your area could be improved? Do you think that more regulation via quality partnership and quality contract schemes would improve bus services?

We agree that more regulation via quality partnership and quality contract schemes would provide an opportunity to improve bus services.

The introduction of Quality Partnerships (QPs) might constitute an opportunity to improve the use of technology, such as GPS and travel dispatch software, as well as disability-specific adaptations such as ramps and wheelchair spaces, through the transport authority being in a position to specify standards to be met by the transport provider.

Similarly, a Quality Contract (QC) scheme would provide a transport authority with strong powers to require any transport provider, who wins a competitive tendering process, to operate under certain conditions. These conditions might include levels and standards of services favourable to disabled transport users.

3 Is it the case that no QPs under the 2001 Transport (Scotland) Act have been developed to date by transport authorities and bus operators because of significant development costs and little evidence that they would offer much more than is already available through voluntary partnerships?

The interpretation of, and answer to, this question depends on what is meant by 'evidence'. As no QPs are in existence, all evidence must be predictive, rather than real evidence. There is, however, evidence that voluntary partnerships do not always place the transport authority in a sufficient position of power to specify desirable conditions and standards of service, and to hold providers accountable if they fail to meet these.

One example is the voluntary partnership which exists between City of Edinburgh Council and Lothian Buses. A recent, well-publicised, controversy has arisen concerning Lothian Buses' ban on prams on its vehicles (on grounds that this meets the requirements of disability discrimination legislation to keep wheelchair designated spaces free). Without commenting on this

debate, it is apparent that City of Edinburgh Council only has limited powers to influence Lothian Buses' policy in this matter. The argument has been made that the policy is not consistent, either with other Lothian Buses policies, or with the practises of other transport providers. If the Council had in place a QP or QC, it is reasonable to suppose that this would provide it with a better opportunity to require certain policies and standards of service are adhered to.

The question then is whether such schemes would be beneficial through handing greater power to transport authorities, and away from bus operators. Ecas believes that there are benefits in transferring some levels of policy responsibility from bus operators to transport authorities, not least because public authorities are accountable through democratic processes.

4 What are your views on simplifying how quality partnership and quality contract schemes can be set up? How can the process be simplified?

It is important, and indeed statutorily required by the disability equality duty under GB disability discrimination legislation, that disabled people would be consulted over the setting up of QPs and QCs. Equality impact assessments would also need to be carried out. Any simplification of procedures should not be at the expense of consultation and assessment.

We have two suggestions for simplifying this process:

- 1, Build on initiatives and standards in existing, informal partnerships;
- 2, Increase the use of benchmarking and peer review to ensure that transport authorities are sharing information and best practice. (In Ecas' experience, there are many examples where one Scottish transport authority has failed to find out what another authority is doing and is developing 'in parallel'.)

5 What are the costs involved in implementing a quality partnership or quality contract?

This is likely to vary to such an extent that it is hard to answer without further details. For example, public expenditure will depend on which initiatives and standards are chosen; how large the service area is; what existing provisions are in place etc. (Building five bus shelters in a rural area will have a very different cost to introducing GPS to all buses in a heavily populated city.)

6 What are your views on abolishing the requirement for quality contract schemes to be approved by Scottish Ministers? What should the alternative be?

Abolishing the requirement for quality contract schemes to be approved by Scottish Ministers might help simplify the procedure, however it would risk removing another level accountability. Scottish Ministers have equalities duties that should be performed during the process of approval, and this

should provide a helpful check that the interests of disabled people are represented.

Section 3 (Pages 11-16)

7 The Scottish Government's "Bus policy Overview" of 2006 said "...there are areas – notably in the West of Scotland – where the quality of service in the evenings and on Sundays is restricted. In addition in parts of rural Scotland, bus services are too thin to provide the services which people seek." Has the situation described above improved, worsened or remained the same?

We are not in a position to answer this question.

8 Given the examples of voluntary partnership between transport authorities and bus operators, is there a need for further bus regulation?

(See answer to question 3, above.)

9 How effective are voluntary partnerships between local authorities and bus operators in Scotland?

(See answer to question 3, above.)

10 How could improved regulation of bus services support the work of the Traffic Commissioner in Scotland?

The Traffic Commissioner for Scotland has responsibility for the registration of local bus services in Scotland and is able to ensure that services are meeting the various legislative requirements. She is also responsible for licensing the operators of Public Services Vehicles (PSVs). However, because the Commissioner is a UK role, there are limits to the local level regulation that she is able to be involved in. Improved regulation of bus services, along the lines that the consultation paper suggests, could complement the Commissioner's role.

11 Should provision of fully accessible buses in Scotland be 100% before the 2017 deadline set by the Disability Discrimination Act 2006

Ecas has had sight of the draft response from SATA and which makes reference to the Public Service Accessibility Regulations 2000. These Regulations include a 'stepped' timetable for making accessible different categories of PSVs, from 2015 to 2020. There are therefore different deadlines already in place for different vehicles.

We also agree that factors other than the design of vehicles should be taken into account in assessing accessibility issues for disabled people – for example, the condition of pavements and rights of way, dropped kerbs and the distance to/from bus stops are all issues. It must be remembered that

achieving 100% 'accessible' buses, does not mean that 100% of buses will then be accessible to 100% of people.

There should be further clarification in the proposals of what is meant by "fully accessible". Does this mean "wheelchair accessible"? Or does it mean buggy and wheelchair accessible?

It is suggested that purchasing buses is a necessary but not sufficient solution to inaccessibility. It should not be the only priority to purchase accessible buses as early as possible. It might be better to consider other measures, such as prioritizing bus routes, which might have a positive benefit for disabled bus users.

12 What are your views on the potential of regulation of buses to lead to greater co-ordination of buses with other modes of transport in terms of through journeys and through ticketing?

Ecas fully supports greater co-ordination of buses with other modes of transport. We believe that greater regulation would provide this potential.

We have recently been campaigning for better coordination of DRT services in Edinburgh, by the use of technology such as travel dispatch software and GPS systems. If transport authorities were able to specify conditions and standards of service to a greater degree, through improved regulation, such coordination might become possible.

Section 4 (Pages 17-18)

13 Is there a case for disaggregating the Bus Service Operators Grant to Councils?

Ecas believes that there are risks associated with disaggregating grants for transport. An example of this is where the Scottish Government removed the ring-fencing for DRT in Scotland, allowing Council's to decide the amount spent on DRT services at local level. We do not believe that this promoted better services, but rather allowed other priorities to dictate DRT funding levels, and in some cases to stifle development of the services.

Following the Strategic Spending Review, announced on 14 November 2007, the Scottish Ministers decided to include DRT and community transport (CT) funding within the overall local government finance settlement. Local Authorities (LAs) have been responsible for the delivery of the new 'Enhanced DRT Initiative' since April 2008. (Previously, Local Transport Partnerships took the lead on DRT.) DRT budgets are not ring-fenced within the Local Authority settlement, neither is there a minimum spend target for DRT – this means that LAs are free to spend whatever they consider necessary on local DRT services.

Section 5 (Pages 19-23)

14 What are your views on Action Point 9 in the Scottish Government’s Bus Action Plan: “In order to support franchising where there is market failure, review the legislation on QCs to simplify the process to be followed by transport authorities”?

Ecas suggests that any simplification of the process should not remove consultation and equalities impact assessment (see above).

15 What are your views on Action Point 10 in the Scottish Government’s Bus Action Plan: “Reviews the legislation to simplify the process and increase the benefits to the passenger”?

16 Is there ambiguity and consequent uncertainty on the issue of bus regulation on Scotland?

Ecas believes that there is ambiguity and consequent uncertainty on the issue of bus regulation in Scotland. However, part of this arises through the nature of the reserved and devolved government structures in Britain, relating to transport.

Another aspect to this issue is that bus regulation falls under Scottish legislation as well as British legislation – for example, the Disability Discrimination Act 1995, and resulting subordinate legislation, helps determine the accessibility of buses. The tighter regulatory schemes which the consultation proposes might provide an opportunity to promote a more uniform approach to interpreting the sometimes competing demands of the legislation, across different transport providers.

17 Is this public consultation an opportunity to resolve ambiguity and uncertainty in bus policy in Scotland by providing evidence from interested parties?

The discussion which this consultation prompts is to be welcomed.

Section 6 (Pages 24-28)

18 What are your views on ensuring that those in receipt of the lower level of Disability Living Allowance are included in the scheme

Ecas has reservations about this proposal. We are anxious to ensure that public transport is available to those who need it most and that services are focused on those who can benefit the most from them. We do not believe that extending the scheme to those on lower levels of DLA, in the absence of significant increased funding, would be a just position.

19 What are your views on extending existing legislation to include community transport and demand responsive transport teams in the concessionary

travel scheme?

Ecas is very concerned that extending free transport to DRT and Community Transport services, in the absence of increased funding, will reduce the services available to those most in need. Those who are most in need include people whose severe mobility impairment came after the age of 65, thus preventing them from claiming DLA, due to over demand.

We would urge that full consideration is given to how feasible it will be to create additional funding for DRT and Community Transport. We would stress that additional funding must be a pre-requisite for extending the concessionary scheme. In our experience of campaigning in this area, this is not currently feasible in most areas.

There are serious risks that increased demand for these sorts of services will force service providers to make harsher choices, introducing additional rationing or otherwise making the service more exclusive than it currently is.

Any such extension would therefore have to be accompanied by a real commitment to a significant increase in funding.

20 What equal opportunities issues arise from this and all other aspects of my proposal?

(See comments above on consultation and impact assessment.)

Section 7 (Pages 29-30)

21 What are your views on bolstering the Employment Rights of Bus Workers affected by competitive tendering by a protocol covering all interested parties?

Ecas is not in a position to answer this question.

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