

**Report of the Group Leader - Passenger Transport**  
**Services Cabinet Advisory Committee - 9 February 2015**

**BUS QUALITY CONTRACTS AND PARTNERSHIPS**

**1. Statutory Framework**

- 1.1 The Transport Act 1985 deregulated bus services, introduced competition into the bus industry and dissolved the National Bus Company. Bus companies were then able to operate bus services wherever they thought they could make a profit provided the services were registered with the Traffic Commissioner. As a result there were some areas where there were a number of bus companies operating duplicate services on popular routes whilst other areas had no services at all. The Transport Act gave local authorities powers to subsidise bus services where they considered it socially necessary to do so. These subsidised services had to be procured through an open tendering procedure and the services provide should not compete with or detract from those bus services provided by commercial operators.
- 1.2 In 1998 the Labour government's Transport White Paper stated that bus partnerships that lacked local authority control and direction might not be sufficient to guarantee the necessary improvements needed to bus services in a deregulated environment. The Government therefore introduced legislation in sections 124-134 of the Transport Act 2000 (Part 2) to give powers to local authorities to enter into Quality Contract and Quality Partnership Schemes for bus services. This has subsequently been amended by the Local Transport Act 2008 which provides further guidance on what can be covered by both Schemes. The Quality Partnership Schemes (Wales) Regulations 2009 provide guidance for the implementation of Statutory Quality Partnerships within Wales.

**2. Quality Contract Schemes**

- 2.1 Section 124(3) of the 2000 Transport Act defines a Quality Contract Scheme as one under which the authority or authorities determine what local services should be provided in the area to which the scheme relates, the standards to which they should be provided and any additional facilities or services which should be provided in that area. They are, in effect, exclusive franchising schemes and no other operators may function in the Quality Contract area.

2.2 Under section 124(1) as originally enacted, they could only be introduced where a local authority or two or more such authorities acting jointly, were satisfied that:-

- Making a Quality Contract Scheme was “the only practicable way” of implementing the policy set out in their bus strategy or strategies in the area to which the proposed scheme related; and
- The proposed scheme would implement those policies in a way which was economic, efficient and effective.

2.3 Under a Quality Contract Scheme, the local authority determines what local services should be provided in the area concerned (including the routes, the timetable and the fares) and lets contracts with bus operators, granting them exclusive rights to provide services to the authority’s specification. The authority may make a payment to the provider of the services and either party may be required to provide additional features or services.

2.4 In developing a Quality Contract Scheme, an authority must comply with the notice and consultation requirements of the Act by giving notice of the proposed scheme in at least one newspaper circulating in the area to which it relates, outlining the details of the proposed scheme. The authority must then consult with all persons operating local services in the area, all other persons holding a PSV Operator Licence who may be affected by the scheme, the Traffic Commissioner, Police, etc. The authority must apply to the appropriate body for approval of the scheme which in Wales would be the Welsh Ministers. The maximum term of a Quality Contract Scheme is 10 years but they can be extended for up to a further 10 years subject to consultation and approval.

2.5 The Local Transport Act 2008 (sections 19-45) amended the criteria for Quality Contracts to make it easier for authorities to apply for a Scheme. The Act removed the requirement that the scheme must be “the only practicable way” of implementing the policies in a local authority’s bus strategy, and replaced it with a new set of criteria as follows:-

- The proposed scheme will result in an increase in the use of bus services.
- Will bring benefits to persons using local services, by improving the quality of those services.

- Will contribute to the implementation of the local transport policies and will contribute to the implementation of those policies in a way which is economic, efficient and effective.
- Any adverse effects of the proposed scheme on operators will be proportionate to the improvement in the wellbeing of persons living or working in the area.

- 2.6 The 2008 Act also amended the publication and consultation provisions, now requiring an authority to publish, in such a manner as they think fit, a consultation document containing prescribed information.
- 2.7 In its December 2011 report, the Competition Commission put the cost of implementing a Quality Contract Scheme at up to £1million with annual running costs of approximately the same amount.
- 2.8 Some of the expected benefits of a Quality Contract Scheme include stability of the network and services, local authority control over fares, the ability to specify the quality and quantity of services, and connections with other buses / modes of transport. There is also an argument that passengers would benefit if operators used revenue on the busier routes to subsidise the less busy ones.
- 2.9 Potential disadvantages of such a Scheme are that decision-making would be largely removed from the bus operators, with a risk that there would be less responsiveness to customer needs, reduced flexibility, and less incentive to innovate. There are likely to be significant set up, running and monitoring costs for local authorities together with the costs of network planning and design. Smaller operators could find themselves squeezed out by the larger groups. Whether any savings are achievable under a Quality Contract Scheme would be dependant on the extent to which the authority can achieve competitive bids and optimise the specification of the network.
- 2.10 As a result of the significant set up and ongoing running costs coupled with the complex legal process and likelihood of legal challenge from commercial transport providers there are currently no Quality Contract Schemes in the UK.

### 3. Statutory Quality Partnership Schemes

- 3.1 By the late 1990s, the Labour Government considered that partnerships were the key to improvements in bus use but accepted arguments advanced by both operators and by local authorities, that partnerships would be more effective, and more widely adopted, if they had statutory force. They therefore included the necessary legislation in sections 114-123 of the Transport Act 2000.
- 3.2 Statutory backing allows local authorities to set up Quality Partnership Schemes (QPS) under which the authorities provide particular facilities at specific locations along the routes used by local bus services and operators of local services who wish to use those facilities, agree to provide services of a particular standard. Buses that do not meet the standards can be excluded.
- 3.3 An example of a Quality Partnership would be whereby bus operators are required to invest in high quality services, including new vehicles (often environmentally friendly ones) and staff training. Local authorities would invest in traffic management schemes that give buses priority, bus shelters and other facilities for passengers, such as real time passenger information.
- 3.4 The 1999 Bus Consultation Paper set out the key legislative provisions of a statutory partnership as follows:-
  - Fair and open access: all operators would be entitled to be a QP Partner so long as they meet the necessary standard. There will be no room for local discrimination in favour of particular operators.
  - QPS will be about quality standards: typical vehicle standards; easy access low floors, features to assist the mobility or visually impaired, emission standards or other aspects like driver training/customer care qualifications. If a local authority wants extra routes or more frequent services, it can buy them through tendering.
  - The power of a local authority to exclude operators would apply only to facilities it was providing or improving as part of the QP Agreement. It could not be used to ban non QP operators from whole routes or areas.

- Before implementing a QPS, a local authority will be obliged to consult all operators in their area who use, or might use, the QPS facilities, to make clear what those facilities would be and what standards it would be imposing on bus operators in return for using them. There should also be consultation with the local community.

3.5 The 2000 Act specifies that an authority may only make a QPS if it is satisfied that the scheme will to any extent implement the policies set out in their bus strategy or strategies. The authority must be satisfied that the proposed scheme will improve the quality of local services, by bringing benefits to persons using those services or reduce or limit traffic congestion, noise or air pollution. The authority must comply with notice and consultation requirements, similar to those for Quality Contracts. As originally enacted, the 2000 Act did not allow schemes to include requirements relating to the frequency or timing of services or the control of fares.

3.6 Regulations were made in 2002 for Wales which state that facilities may not be incorporated if they pre-date the Partnership Scheme by more than 10 years; and may only be incorporated if they pre-date it by more than 5 years provided that no person who relies on that facility in providing a local service objects. Compliance with the quality standards in the Partnership Scheme are enforced through the Bus Registration System, overseen by the Traffic Commissioners who have powers to impose financial penalties and restrictions on an operator's licence.

3.7 Further changes were made to Quality Partnerships through sections 13-18 of the Local Transport Act 2008 as follows:-

- Schemes will be able to include service frequency, timings and maximum fares providing there are no "admissible objections" from relevant bus operators;
- Both facilities and service standards may be phased in on predetermined dates over a period of time, rather than the previous procedure under which all facilities and standards must be available when the Scheme takes effect.
- Where a scheme is in operation, local transport authorities will be able to impose restrictions on the registration of certain local services where the authority considers the provision of additional local services in the area of a scheme may be detrimental to the provision of services under that scheme.

3.8 The Regulations also prescribe the procedure under which requirements as to frequencies; timings and maximum fares may be reviewed. Where a scheme sets out requirements as to maximum fares, these must be reviewed at least every 12 months. No maximum period between reviews is prescribed for requirements as to frequencies and timings as it is for authority to decide when they should take place.

3.9 The success of a Quality Partnership can be judged on the basis of four criteria:-

- Higher bus ridership.
- A good rate of return on bus operator investment.
- A modal shift from car to bus.
- A consequent reduction in vehicle emissions and accidents.

3.10 Concern has been expressed that partnerships can be anticompetitive. However in December 2011 the Competition Commission published its final report on its inquiry into the local bus market in England. It found many examples of Quality Partnerships improving the passenger experience and did not conclude that they posed any threat to competition. It highlighted many positives:-

- Putting in place transparent and fair methods of managing scarce road capacity in busy city centres while facilitating competition to operate bus services within these cities.
- Identifying a limited number of specific dates on which service changes take place each year.
- Precluding behaviour that would constitute “cheap exclusion” (actions that damage the service of a rival and do not provide direct benefits to passengers).
- Developing agreements between operators to accept each others multi journey tickets on particular corridors.
- Developing qualifying agreements between contractors to run even headways on particular corridors, while continuing to compete on other aspects (e.g. fares and quality of service).

3.11 Some examples of Statutory Quality Partnership Schemes in the UK are included in Appendix A.

#### **4. Current Partnership working with bus operators in Swansea**

4.1 In addition to the statutory Partnerships detailed above, agreements between partners can be made on a Voluntary basis. These are usually associated with a specific project or facility where there needs to be a formal commitment by parties to significant financial or resource investment. In 2009, this Council entered into a Voluntary Partnership agreement with First Cymru buses for the provision of the ftrMetro service.

5.2 The Council and First Cymru had been working together since 2003 to develop a bus rapid transit system for Swansea. The service operates between Morriston Hospital and Singleton Hospital also serving Morriston, the Liberty Stadium, City Centre, Civic Centre and the University. First Cymru provides the vehicles, drivers, passenger hosts and marketing for the scheme whilst the Council undertook the infrastructure works to provide a track providing priority measures for the Metro and other bus and taxi services together with high quality passenger waiting facilities.

5.3 The Partnership Agreement sets out the rights and obligations of the Council and First Cymru in respect of the implementation of the Metro project and also includes the mechanism for amendment, termination and resolution of disputes. Also included are shared obligations in respect of information sharing of patronage and reliability data, monitoring of performance, promoting the service, provision of real time information at key stops and liaison over traffic regulation orders and traffic arrangements along the route. The agreement was initially for for 5 years but has been extended until September 2015.

5.4 Voluntary Partnership schemes do not usually require the high level, longer term financial commitment associated with Quality Contracts and Partnerships and implementation timescales are much shorter.

5.5 Partnership working with First Cymru has improved over the past year in response to the recommendations of the Scrutiny Enquiry Panel into Public Transport and Social Inclusion and also as a result of meetings and correspondence between Senior Members, Chief Officers and the Managing Director of First Cymru Buses.

5.6 Particular areas of concern raised with the Company included access to employment and essential services particularly those

in poorer communities, the high cost of fares particularly for young people, integration of ticketing between travel modes and the wider provision of real time information.

5.7 Transport Officers from the Council have been working with First Cymru to address these issues and notable improvements to date include:

- Fares – reductions in the price of daily and weekly tickets for young people and the upper age range extended from 16 to 18 years.
- Integration between bus and rail services. Where possible, timings of services are being reviewed to allow better connections with rail services at Gowerton and Swansea. This includes commercially operated and subsidised routes.
- Gaps in current service provision – details of requests received by the Council for bus services have been passed on to First Cymru for consideration. Some Sunday services have already been introduced by the company on a commercial basis such as between Gowerton, Waunarlwydd and Swansea, and between Pontarddulais, Pontlliw, Penllergaer and Swansea.
- Simplification of bus route destination descriptions to make bus routes easier for passengers to understand. This will also simplify information provided on the electronic screens in Swansea Bus Station.
- Real time Passenger Information – this is currently only available on the ftr Metro route. The Council submitted a bid to Welsh Government for funding in 2014/15 to expand the coverage onto other key corridors. These included Carmarthen Road (linking into the system proposed by Carmarthenshire Council) and Fabian Way (linked into the enhanced bus services proposed to the new University campus). The 2014 bid was unsuccessful but it is likely that further bids will be made in future as part of bus corridor improvement schemes included in the Local Transport Plan. First Cymru would be a key partner in these projects as the main bus operator.
- North Gower evening bus service. The Council launched a flexibly routed community bus service between Gowerton and Llanrhidian in the evenings in February 2014. The buses used are from the Social Services Transport fleet and have been adapted for public transport use. The drivers and the coordination of the



service are provided by the DANSA community transport organisation. The service is timetabled to connect at Gowerton with First Cymru bus services and rail services to and from Swansea. Following discussions with First Cymru, the company have agreed to accept tickets issued by DANSA on their services to and from Swansea which means that fare paying customers will not have to pay twice. There has not been such an agreement in place between operators for many years. First Cymru have also agreed to include the timetable for the DANSA evening service in their timetable booklets for the Swansea area.

- Multi operator ticketing agreement. In August 2014 the contractor for the Gower bus service network changed from First Cymru to New Adventure Travel ( NAT) following a retender of the Council's subsidised local bus service contracts. As First Cymru operate the vast majority of the bus network in Swansea without funding from the Council they are not obliged to accept bus tickets issued by other bus companies. As a result there were some passengers who had purchased tickets on NAT services who wanted to travel on other services in Swansea but were unable to do so without purchasing a further ticket from First Cymru. This was both expensive and inconvenient for passengers. The Council therefore acted as an intermediary between the two companies and a day travel ticket ( Go Gower ticket) which is sold and accepted by both companies has been implemented which covers the Swansea Bay area. To comply with the requirements of the Competition Commission, the Council administers this scheme and redistributes the revenue from ticket sales between the 2 operators.

## **5. The Current Financial Position**

5.1 Members will be aware of the significant changes that have taken place in Welsh Government funding for bus services in recent years. In 2013 the Council had to reduce expenditure on subsidised bus services to the value of £235,000 in response to reductions in funding from the Welsh Government and to meet increased local bus service contract prices following a reduction in the level of Bus Service Operators' Grant (fuel rebate) paid to bus companies. In 2014/15 funding from the Welsh Government for subsidised bus services remained at the same level as 2013/14 but as part of the Council's agreed budget proposals there was a reduction of £70k in the budget for subsidised bus services leading to the withdrawal of one bus route.

5.2 However there have been changes to the concessionary fares scheme to reflect a reduction in Welsh Government funding for

the All Wales Scheme from just over £73 million to £67.75 million in 2014/15. As a result the amount of reimbursement paid to bus operators for each bus pass holder they carry has been reduced and is likely to be further reduced in future years. Operators have already indicated to the Minister for Economy, Science and Transport the impact that this will have on the viability of their commercial services and also the inevitable increase in the costs to Councils for subsidised routes. There are likely to be cut backs in the commercial bus network as a result, with an expectation from the public that the Council will provide a replacement facility.

- 5.3 There are also likely to be significant changes in the next few years as a result of the proposals of the Williams Commission in respect of potential Local Government reorganisation and also the development of the Swansea Bay City Region which will be making decisions on strategic priorities for transport investment.
- 5.4 Quality Contracts require significant long term financial commitment. The statutory consultation process means that there is a long lead in time prior to the Council applying to the Welsh Government for approval to implement a scheme as there are likely to be objections and claims for compensation from bus companies who would lose their right to offer a service to the public. If the Quality Bus Contract option is to be pursued, more detailed financial costing would be required. In 2011, the Competition Commission put the costs of implementing a Quality contract Scheme at up to £1million with annual running costs of approximately the same amount. The Councils current expenditure on subsidised local bus services is £1.042 million of which £464,000 is Welsh Government Grant.

## **6. Conclusion**

- 6.1 Given the uncertainty over funding in the short term it is unlikely that the Council would be in a position to commit to the long term funding of a Quality Contract or Statutory Quality Partnership scheme. There is however scope for developing Voluntary Partnership schemes to achieve the Councils Policy Commitments as these can be implemented more quickly and do not require the longer term financial commitment associated with a Quality Contract. These could be linked for example to Council provision of specific infrastructure, regeneration schemes or highways improvements.

### Examples of Quality Bus Partnership Schemes

#### 1. Bus and Highways Facilities in Birmingham City Centre

Birmingham established a QPS with the objectives of providing a high standard of service for bus passengers in Birmingham city centre. The services are required to meet certain criteria, in order to be granted permission to use the city centre bus stops. These criteria require that:-

- § Buses operating in the city centre will be low floor, easy access and comply with all Equality Legislation requirements.
- § Operators will have to assist to address air quality issues for the city centre by having to comply with emission standards for their vehicles.
- § Drivers shall drive in a safe, courteous and professional manner, wear a uniform and that a driver training programme be in place including diversity/disability awareness training.
- § Drivers will be required to assist passengers in wheelchairs by lifting or deploying ramps.
- § All operators offering ticketing product(s) must permit passengers to interchange between services without the payment of a separate fare.

NB: Birmingham did not utilise the powers under the 2008 Act to regulate fares and frequencies.

Centro is working with Birmingham city centre to invest around £15M on highway improvements to benefit the bus, better enforcement of bus priority facilities, parking and loading controls and the upgrading of all 90 bus stopping locations in the QPS area to provide better quality waiting facilities and information for passengers.

The QPS will improve liaison and the co-ordination between operators, Birmingham City Council and Centro in tackling obstacles to improving journey times, reliability and punctuality.

All registered local bus services using bus stops within the scheme area will be required to participate. It does not apply to

school services, ring and ride services, scheduled long distance coach services or tours etc. Excluded operators include National Express Coaches, Mega Bus Coach Services, West Midlands Special Needs Transport and Birmingham and Midland Motor Omnibus Trust. Coaches are still allowed within the scheme area. However, as the scheme restricts the use of all bus stops and bus stands to local services only, coaches will not be permitted to use them. Boarding and alighting of passengers can still be carried out on both single or double yellow lines, providing the driver is not causing an obstruction, however once the passengers are off the coach it must then drive off.

In accordance with the Regulations, facilities have only been included that are less than 10 years old. Facilities included are considered to provide a benefit to passengers and operators, or to limit the impact of traffic congestion for bus operators.

Birmingham City Centre are responsible for the enforcement of parking contraventions in the scheme area and the enforcement of certain moving traffic offences such as bus lane contraventions. Enforcement will be carried out by Birmingham City Council Civil Enforcement Officers. All operators are required to make a written declaration that they will comply with the scheme and then any contraventions of the service standards contained in the scheme will be enforced by the West Midlands Traffic Commissioner.

It is proposed that the scheme will last initially for 10 years. This was considered the most appropriate period because it is not envisaged that any significant alterations to the level of bus priority provided will be required over this period.

## **2. Transport for Greater Manchester**

A proposal to make a Quality Partnership Scheme for the A6 Corridor between Manchester and Hazel Grove. This will:-

- Contribute to the implementation of the policy set out in the Greater Manchester Local Transport Plan.
- Improve the quality of local bus services by bringing benefits to persons using those services.
- Reduce or limit traffic congestion, noise or air pollution and hence satisfy the requirements of the making of a scheme under the Transport Act 2000.

The statutory Quality Partnership Scheme will be supplemented by a voluntary partnership agreement which is a legal agreement dealing with ancillary matters to the QPS, such as arrangements for monitoring the service standards, data sharing, maintenance of the facilities and enforcement of the bus priority measures and traffic management facilities.

Transport for Greater Manchester (TfGM) issued a statutory notice and launched the consultation for the QPS on the 27<sup>th</sup> January 2011. The consultation concluded on the 23<sup>rd</sup> March 2011. One admissible objection was received from Stage Coach Manchester.

To remove the admissible objection the QPS has been amended to:-

- A reduced scheme for a period of 5 years. The scheme could then be extended beyond this period, subject to a formal review.
- Include the city centre portion of the corridor in the scheme area. This is to reflect the importance of city centre facilities to enable operators to maintain adherence to the punctuality and reliability of standards.
- Removal of restrictions on the making of service changes. This will avoid potential unintended consequences of preventing an operator's ability to respond appropriately to new competition.

### **3. Merseyside Quality Partnership Scheme**

A similar scheme has been implemented in Merseyside, again with the focus of improving facilities and standards provided by operators. Requirements regarding ticketing and fares have centred on ensuring that operators accept tickets of other operators valid for travel on local services and that all operators use vehicles fitted with electronic ticket machines and Smart card reading capabilities.