



**TRANSPORT  
SCOTLAND**  
CÒMHDHAIL ALBA

# **Implementing Part 3 of the Transport (Scotland) Act 2019: Bus Services**

## **Analysis of consultation responses**

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## Glossary

**The 1985 Act** – Transport Act 1985

**The 2001 Act** – Transport (Scotland) Act 2001

**The 2019 Act** – Transport (Scotland) Act 2019

**ATCO** – Association of Transport Co-ordinating Officers

**BRIA** – Business and Regulatory Impact Assessments

**BSIP** – Bus Service Improvement Partnership

**BSOG** – Bus Service Operators Grants

**CMA** – Competition and Markets Authority

**DfT** – Department for Transport

**EP** – Enhanced Partnerships

**ISAE** – International Standard on Assurance Engagements

**LTA** – Local Transport Authority

**LTS** – Local Transport Strategy

**NTS** – National Transport Strategy

**PSV** – Public Service Vehicle

**QC** – Quality Contracts

**RTP** – Regional Transport Partnership

**RTS** – Regional Transport Strategy

**sQP** – Statutory Quality Partnerships

## Executive Summary

### Background

Across most of Scotland (as well as the United Kingdom), bus service patronage has been in decline since the 1960s whilst use of the private car has risen to become the dominant mode of transport. Part 3 of the Transport (Scotland) Act 2019 develops and refines the existing regulatory framework with a range of options designed to give Local Transport Authorities (LTAs) the powers and flexibility they need to improve bus services and reverse the decline in bus usage in their area.

On 14 July 2021, Transport Scotland published a consultation on *'Implementing Part 3 of the Transport (Scotland) Act 2019: Bus Services'* in order to gather stakeholder and public views. Findings from this consultation will help to create the regulations and supporting guidance for implementing the new bus provisions.

### Respondent Profile

Table 1 below shows that in total, there were 67 responses to the consultation, of which 42 were from organisations and 25 from individuals. In addition, responses to a campaign were received and findings from this have been incorporated into the report where relevant.

Respondent Group	Number
Equalities	2
Local authority/Organisation Representing Local Authorities	12
Operator	2
Political party/regional party groups	5
Regional Transport Partnership	6
Representative body	3
Third sector	5
Trade Union / campaigning	7
<b>Total organisations (37)</b>	<b>42</b>
Individuals (25)	25
<b>Total</b>	<b>67</b>

Table 1: Respondent profile

### Key Themes

A number of key themes were evident across consultation questions as well as across respondent groups. A number of these were out with the scope of the consultation and were general comments on the models being discussed. However, these themes were cited throughout the consultation and are mentioned where they were raised by respondents. These key themes are summarised below.

- Throughout consultation responses, a number of respondents – primarily trade unions / campaigning organisations, third sector organisations, political parties and individuals – noted their opposition to Bus Service Improvement Partnerships (BSIPs) and voiced their support for a return to publicly owned bus services.
- There were a number of instances where further detail or clarity was requested in relation to specific proposals being put forward.
- There were a number of suggestions of a need to refine some of the definitions included in the consultation paper.
- There were a number of requests for good practice and case studies to be included in any guidance.
- While there were some comments about a need for consistency in bus service provision across Scotland, there were also some comments about a need for flexibility to accommodate local and regional circumstances.

## Consultation Questions

The following paragraphs summarise the main findings from each of the consultation questions.

### **Local Transport Authority Bus Services**

In terms of anything which should be set out in guidance that LTAs must have regard to in exercising their new functions for running their own bus services (Q1), key areas of focus were legislative requirements, financial implications, competition impacts and bus service business models and how to assess them.

A range of additional information and resources were cited as being useful for an LTA in considering the provision of providing local bus services (Q2). These included the sharing and generation of data and information for planning public transport networks, examples of best practice and case studies and funding for LTAs.

### **Bus Service Improvement Partnerships (BSIPs) (Q3)**

A large minority of respondents generally welcomed the form and content of plans and schemes and the broad range of provisions which can be included in a BSIP, although some respondents highlighted the need for flexibility in order to accommodate local and regional circumstances. There were also requests for comprehensive consultation across the community in relation to putting together partnership plans and schemes. The suggestion that an LTA should consider all the options available before taking a decision to proceed with a BSIP was regarded as an unnecessary and costly exercise by some respondents. A significant number of respondents – particularly trade unions / campaigning organisations – viewed BSIPs in a negative light, taking the view that they would maintain the perceived failed policy of bus deregulation and will not address issues such as high fares and lack of services to underserved areas.

### **Preparation, variation and revocation of plans and schemes**

A key theme was of a need for flexibility in the procedures (Q4).

Views on whether any conditions are necessary for the variation or revocation of a scheme (where a scheme itself makes bespoke provision for this) (Q5), were relatively split, with slightly more respondents disagreeing than agreeing. Among those who considered what conditions, if any, should be specified, only small numbers of respondents made any suggestions.

### **Notices**

Very few respondents made any comments in response to this question; very small numbers approved of consistency in the process or desired guidance as to publishing formats for notices. (Q6).

### **Facilities and measures**

A majority of respondents agreed with the given definition of facilities (Q7); almost all respondents who made any comment suggested expanding the definition or suggested additional examples of facilities; these included more generic investments in infrastructure and bus station provisioning.

More respondents disagreed than agreed with the definition of measures (Q8), with some support for the broadening of the definition and suggestions made of examples of measures that could be included.

A majority of respondents felt that existing facilities should form part of a partnership plan or scheme (Q9); with the dominant viewpoint being that there should be no time restriction. A significant minority of respondents felt that it is more important that the facility is relevant and meets the scheme's aims for it to be included. There was also a perspective that it would be inappropriate to exclude facilities given the award of BPF grants.

### **Exempt Services**

A majority of respondents did not consider that any further services might or must be exempted from the service standards of the scheme (beyond services under section 22 of the 1985 Act) (Q10). However, a number of local authorities and regional transport partnerships felt that provision should remain and be at the discretion of the partnership. There were also suggestions there should be more specific reference to community transport in the guidance.

### **Voting mechanism**

More respondents disagreed than agreed with the definition of qualifying local service (Q11); the key issue being that the definition combines 'a qualifying local service' with 'an operator of a local service', and an operator is not a service and a local service cannot vote. There was a suggestion that 'an operator of' should be removed from the definition. There were also a few calls for discretion for the partners of each plan / scheme.

When considering whether any services should be excluded from voting (Q12), a majority agreed with this and offered broad agreement with the proposed exclusions. A few respondents felt interurban should be included if they operate as a registered local service stopping at all bus stops.

Views were relatively split on the definition of 'qualifying time' (Q13). Those who agreed primarily felt this would ensure that all current operators providing – or those due to provide – a registered local bus service would be included. Among those who

disagreed, the key theme was a perception of an error in the definition; these suggested the word 'objection' should be replaced by 'variation' or 'revocation'.

### **Sufficient number of persons in relation to the voting mechanism**

The highest number of respondents neither agreed nor disagreed with the proposed voting mechanism (Q14); the key reason being that while both proposed options might provide a suitable model in most situations, where a single operator has a large share of the market, it will be difficult to provide for a mechanism which protects a minority operator from always being overridden but which also ensures that the same operator cannot overrule any proposal.

### **Multi-operators travel card definition**

There was broad agreement with the proposed definition of a multi-operators travel card (Q15). Key reasons were that this is a legally recognised and accepted definition and adopting a different definition would cause confusion.

### **Reviewing and reporting**

There was broad agreement with the proposed content of reviews and reports on the operation of a plan or scheme to be outlined in guidance (Q16), although there were some comments on the need for consistency across LTAs and requests for LTAs and partnerships to have flexibility to include additional reporting requirements. There were some requests for a report template within the guidance.

### **Scrutiny of Bus Service Improvement Partnerships**

When asked what type of information should be excluded from the definition of relevant information (Q17), a significant minority of respondents felt that no information should be excluded. There was also a perception that information provision should be mandatory, although some concerns over commercial confidentiality were expressed.

When asked whether there are any circumstances in which it should not be possible for the LTA to require relevant information, most respondents felt there were none, although again the issue of commercial confidentiality was a concern for a few respondents.

Further comments on the provision of information within Bus Service Improvement Partnerships included the need for data to be shared. There were a few requests for LTAs to provide information that might impact on the provision of bus services.



### **Accessibility of services**

When asked to say what further guidance is required on how a partnership scheme and plan may consider the accessibility of bus services for disabled people and people who may have limited mobility (Q18), key themes were of a need for disability awareness training for drivers, consultation with a broad range of stakeholders, accessible information in a range of different formats and all bus stops to be accessible.

Additional comments highlighted a need to consider vehicle type allocated to particular services.

### **Guidance**

When asked to say what information, beyond the processes and considerations outlined in the consultation, any guidance on BSIPs should contain (Q19), the key theme was that the LTA roads network team and trunk road authority should be involved in a BSIP to allow for early and robust planning and consultation on roadworks and road closures that will affect services.

### **Local Services Franchises**

When asked to say what the guidance to LTAs on preparing a franchising assessment should contain (Q20), key comments were for detailed case studies or best practice. Further information and clarity were also requested on a number of different elements of franchising.

### **Provision of information for preparing and assessing proposed franchising frameworks**

Relevant information respondents felt LTAs should be able to require from bus operators for the purposes of preparing and assessing a proposed franchising network (Q21) included any information deemed relevant by the LTA, although operators and representative bodies felt information requests should be limited. Specific types of information suggested included financial data, types of vehicles used, passenger numbers, ticket sales data and fare structure.

Most respondents felt there should be no circumstances where an LTA should not be able to require relevant information, although the issue of confidentiality was raised.

### **The audit process**

A wide range of suggestions were made as to information that should be included in the guidance for auditors (Q22). Key mentions were for social, environmental and economic benefits.

### **Guidance to LTAs for making a new franchise assessment**

A wide range of suggestions were made as to what should be included in guidance to LTAs in relation to the circumstances in which the LTA must prepare a new assessment of a proposed framework (Q23), the key comment being for a clear and concise explanation of what is specifically required in a new assessment. There were some comments that this would be very onerous and require significant resources.

### **Independent panel appointed by the Traffic Commissioner**

When considering the constitution of the panel (Q24), a key comment was for members to be committed to undertaking a balanced, objective, evidence-based and transparent perspective. There were also some requests for financial expertise and

transport expertise. Suggestions were made for a wide range of specific types of individual who could be appointed to a panel. These included transport, financial and legal professionals, passenger representative organisations and bus users, and community groups,

When asked whether respondents had any views in relation to the appointing, removing or replacing of members to the panel, a key comment was of a need to ensure there is no conflict of interest.

### **Functions of the panel**

Respondents felt that all decisions made by the panel must be fully justified, transparent and accountable (Q25), with a specified process to follow, encompassing robust and detailed criteria.

When asked whether there are any matters that should be prescribed in regulations that the panel must be required to consider, a key theme was of a need to consider the LTA's general policies. Additionally, there is a need to give appropriate weight to the cost of moving to a franchising model and the impact this could have on the existing network or the local economy.

### **Information relating to services**

Opinions were split on the length of time an LTA should be given to require the provision of service information (Q26), although the most common perception was that there should be no specific timescale or time limit.

When asked how long an operator should be given to provide information (Q27), the vast majority of respondents recommended short time periods of two weeks or less. However, a large minority of respondents felt that all information should be provided either on the day or within one working day of the variation or revocation service change notice being submitted.

### **Service Information Operators Must Provide**

When asked what considerations might need to be taken into account when determining what revenue and patronage information an operator should be required to provide to an LTS under new section 6ZA(2) of the 1985 Act (Q28), a majority of respondents listed various information types purported to enable an LTA to determine appropriate actions in response to variations and cancellations of services. A wide range of suggestions were made for types of information that would enable an LTA to analyse travel patterns and conduct trend analyses.

A wide range of specific types of information that should be prescribed (Q29) was cited by respondents; including time-categorised information, route information and origin and destination data.

When considering what specific information should not be prescribed (Q30), opinions were split between all information being prescribed including commercially sensitive information, and all information being prescribed except for commercially confidential or sensitive information.

### **Extent of permissible disclosure**

When asked what other person's patronage information should be disclosed (Q31), the key comment was that patronage information should be publicly available and

accessible, although there were some suggestions that information could be made available in generic format to protect commercial sensitivities and confidentiality.

### **Further provision and consultation**

Circumstances under which the application of new section 6ZA of the 1985 Act might require to be excluded or modified (Q32) included exceptional circumstances where legal proceedings would be a factor or exceptional circumstances relating to financial or commercial considerations.

There was a general view that operators should be required to keep records of information (Q33); key types of information were all prescribed patronage and revenue information or all information required by LTAs. Suggestions for specific types of information were wide and varying.

In considering the form and content of the information operators may be required to provide under new section 6ZA of the 1985 Act (Q34), it was felt that information should be in a format agreed by bus operators and LTAs, or in a form as requested by the LTA or in a standardised and consistent format.

### **Impact Assessments**

Very few respondents commented on the contexts of the impact assessments (Q35); the key comment related to safety on buses, particularly the impact of this on women.

Very few respondents commented on the information contained in the partial BRIA.

### **Additional comments and campaign responses**

A number of additional key themes emerged, including the suggestion that Scottish Ministers and Transport Scotland should provide additional financial and practical support to local authorities. There were concerns that BSIPs are being prioritised through financial incentives more than the other two models of franchising or local authority run services, with some respondents noting a preference for public ownership through the latter. There were also some comments that the current bus system in Scotland is run for private gain and has not provided the sustainable, integrated services that communities need. While many of these respondents were critical of existing bus services across Scotland, there were a number of positive references to Lothian Buses, which is seen to be a good example of a municipal bus company offering a high quality service.

## Introduction

### Background

There has been a decline in bus patronage in Scotland (and the UK) since the 1960s with some regional variation. That said, bus travel remains the key mode of public transport for many people in Scotland, with 73% of public transport journeys being by bus.<sup>1</sup> A number of factors are thought to have impacted on the declining use of bus services. In the recent past, the COVID pandemic has also had a significant additional negative impact through real and perceived transmission risk with, for a period, public health advice advising against the use of public transport unless for essential travel. Private cars have become the main mode of transport used by people in Scotland presenting a range of policy issues which include climate, public health and accessibility and which are covered in Scotland's Climate Change Plan and the second National Transport Strategy.

Part 3 of the Transport (Scotland) Act 2019 develops and refines the regulatory framework with a range of options designed to reverse the decline in bus usage and improve bus services. It offers local transport authorities (LTAs) a new range of options for the improvement of bus services in their area.

Implementing the 2019 Act will help LTAs and bus operators to make services more available, accessible and affordable for everyone. At present, the majority of bus services in Scotland are provided by private operators on a commercial basis under a regulatory framework which includes the Public Passengers Vehicles Act 1981 and the Transport Act 1985 and which covers safety and environmental standards, operator and driver qualifications and compliance with legal obligations, as well as punctuality and reliability of services.

The Scottish Government subsidises a proportion of the overall costs of the bus network and Transport Scotland provides payments for carrying passengers under the national concessionary travel scheme for older and disabled people. Some bus services are also supported by LTAs in their area to meet local needs, under a duty to secure the provision of services to meet public transport requirements within their area that would otherwise not be provided commercially.

### The Consultation

On 14 July 2021, Transport Scotland published a consultation on '*Implementing Part 3 of the Transport (Scotland) Act 2019: Bus Services*' in order to gather stakeholder and public views. The findings from this consultation will help to create the regulations and supporting guidance for implementing the new bus provisions in Part 3 of the Transport (Scotland) Act 2019, so that these are suitable and can be used effectively by local transport authorities in creating a responsive public transport network that meets the needs of users and potential users.

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<sup>1</sup> [Summary Transport Statistics](#) from 2019-20 statistics

The consultation contained 51 questions, all of which offered respondents the opportunity to provide comments on specific issues relating to the implementation of Part 3 of the Transport (Scotland) Act 2019 in relation to bus services.

## **Respondent profile**

In total, there were 67 responses to the consultation, of which 42 were from organisations and 25 from individuals.

Respondents were assigned to respondent groupings in order to enable analysis of any differences or commonalities across or within the various different types of organisations and individuals that responded.

A list of all those organisations that submitted a response to the consultation is included in Appendix 1.

As the following table shows, the highest number of organisation responses was from local authorities (12), followed by trade union / campaigning organisations (7) and regional transport partnerships (6).

<b>Respondent Group</b>	<b>Number</b>
Equalities	2
Local authority/Organisation Representing Local Authorities	12
Operator	2
Political party/regional party group	5
Regional Transport Partnership	6
Representative body	3
Third sector	5
Trade Union / campaigning	7
<b>Total organisations</b>	<b>42</b>
Individuals	25
<b>Total</b>	<b>67</b>

Table 2: Respondent profile

## **Methodology**

Responses to the consultation were submitted using the Scottish Government consultation platform Citizen Space, or by email or hard copy. Nineteen respondents submitted a response which did not answer the specific questions; these responses have been analysed and incorporated into the report at the relevant sections.

In addition, responses to a campaign were received and findings from this have been incorporated into the report where relevant. Initially, a brief version was submitted by respondents but then the wording was extended and became more detailed. A total

of 1,107 campaign responses were received; 135 of the shorter version, and 972 of the extended version. The text of these two versions is provided in Appendix 2.

It should be borne in mind that the number responding at each question is not always the same as the number presented in the respondent group table. This is because not all respondents addressed all questions. This report indicates the number of respondents who commented at each question. When referring to respondents who made particular comments, the terms 'a small number', 'a few' and so on have been used. While the analysis was qualitative in nature, as the questionnaire only contained a small number of quantifiable questions, as a very general rule of thumb it can be assumed that: 'a very small number' indicates around 1-2 respondents, 'a small number' indicates around 3-4 respondents; 'a few' indicates around 5-7; 'a significant minority' indicates over 8 but fewer than 12; and a large minority indicates around 13-23 of those who commented at any question.

Some of the consultation questions were composed of closed tick-boxes with specific options to choose from. Where respondents did not follow the questions but mentioned clearly within their text that they supported one of the options, these have been included in the relevant counts.

The researchers examined all comments made by respondents and noted the range of issues mentioned in responses, including reasons for opinions, specific examples or explanations, alternative suggestions or other comments. Grouping these issues together into similar themes allowed the researchers to identify whether any particular theme was specific to any particular respondent group or groups. Where any specific sub-group(s) held a particular viewpoint, this is commented on at each relevant question.

When considering group differences however, it must also be recognised that where a specific opinion has been identified in relation to a particular group or groups, this does not indicate that other groups did not share this opinion, but rather that they simply did not comment on that particular point.

While the consultation gave all who wished to comment an opportunity to do so, given the self-selecting nature of this type of exercise, any figures quoted here cannot be extrapolated to a wider population out with the respondent sample.



## Local Transport Authority Bus Services

The consultation paper noted that during the passage of the Bill that became the 2019 Act, a number of LTAs indicated a desire for a clearer legal framework to afford the option to run their own buses. In order to do this, the LTA must be satisfied that the provision of such services will contribute to the implementation of their relevant general policies. The 2019 Act also provides that the Scottish Ministers may issue guidance in relation to the exercise of the new functions and that LTAs must have regard to any guidance.

This guidance would set out specific matters that LTAs must take into account when considering whether it is appropriate to establish and run local bus services. This would be in addition to the requirement in the legislation that doing so must contribute to the implementation of the LTA's relevant general policies. Before bringing into force the powers for LTAs to provide bus services, Transport Scotland sought views on what any associated guidance should contain, as well as any other resources that may support the implementation of this new function. The first consultation question asked:

**Question 1: Is there anything which should be set out in guidance that LTAs must have regard to in exercising their new functions for running their own bus services?**

A total of 47 respondents opted to provide additional commentary in support of their answer. The majority of respondents made comments specifying areas of guidance perceived as needing attention in order for Local Transport Authorities (LTAs) to successfully exercise their new functions for running bus services; however, a large minority chose to provide their views on how bus services should be run.

Four dominant themes – each discussed by a large minority of respondents – emerged amongst the guidance topics mentioned as needing attention. These were: legislative requirements, financial implications, competition impacts and bus service business models and how to assess them.

Amongst legislative requirements, the following areas were pinpointed as needing to be set out in guidance, each by a few respondents largely consisting of local authorities:

- Guidance details concerning “*Registration of a local bus service where the Local Authority is the operator and supports a short notice change and the opposite where a Local Authority would not support the short notice change of a commercial operator*” (Three Local Authority organisations). One respondent commented that this was another reason why the municipal bus company needs to be separate from the Council's Public Transport Unit.
- Governance structures (including the role of the Traffic Commissioner).
- Workers' protections.
- Statutory minimum levels of service and frequency.
- The powers of local authorities to trade.

- The potential impingement of other local authority or regional transport authority statutory duties on the ability to run services (e.g. to avoid conflicts of interest); a local authority continued by specifying that “...*should an LTA become the local bus service registration authority, in response to the current Department for Transport Consultation on ‘Review of Traffic Commissioners for Great Britain retain function, guidance should be provided on how any conflict of interest should be avoided.*”
- Clarity about rules and regulations regarding tendering and franchising.
- Details about the regulatory body overseeing legislative requirements

In addition, several local authorities wished to clarify the use of Section 19 and Section 22 permits, in particular in relation to whether there was a requirement to hold a Public Service Vehicle (PSV) licence in order to gain or hold these. Points of view were expressed as follows:

“...would like clear guidance on the current workings of LTAs which undertake school, social care and non-registered supported bus service work under Section 19 Permits – this is crucial and the guidance should make it clear if an arm’s length company would be required to hold a PSV operator’s licence should the LTA wish to hold a Section 19/22 permit.” (Local Authority)

“In some cases, use of a Section 19 or Section 22 Permit may be appropriate rather than a full PSV operator’s licence. Guidance should state that Permit operation should be limited in scale to what might be typically expected of a community transport group operating under Permits, and that legally, the same entity cannot hold both a PSV Operator’s Licence and Permits. There are implications here for school minibuses (used for excursions etc); it may be that these should remain directly under the control of the Local Authority while registered (home to school and public) buses would be operated by an arms-length company; however the operational arrangements should be for each Local Authority to decide, within the constraints of the law.” (Local Authority)

Several Regional Transport Partnerships and Local Authorities wished the guidance to flesh out or clarify the meaning of an LTA’s *‘relevant general policies’* as stated in the consultation document with regard to the provision of bus services contributing to the implementation of these. Aspects where more detail was required included who might have the final say on whether this condition has been met, transparency, guidance regarding the process, and what might be required to make the case. It was also suggested that without clarity any local authority proposals could be subject to a challenge. A Regional Transport Partnership suggested:

“...the most appropriate definition of “general policies” within this context should be the relevant statutory Regional Transport Strategy for the area in question, supported by the relevant Local Transport Strategy or Strategies and the statutory National Transport Strategy.”

Details regarding the following **financial implications** were desired to be set out in the guidance:

- Resource requirements.



- Infrastructure and maintenance costs.
- Start-up capital requirements (with suggestions to use the Scottish National Investment Bank).
- A need for transparent accounting.
- Taxation implications.
- Ring-fencing in local authority budgets.
- Meeting subsidy rules.

Respondents expressed a need for LTAs to see route maps, assessments and economic cases set out for various **municipal models for running bus services**, in order to facilitate decision-making. Case study reviews and a best value approach were recommended. Notably, many respondents wished to see such analysis broadened to models in addition to the direct LTA ownership and arms-length company ownership models cited in the consultation. These possibilities included public ownership, franchise models, private-public partnerships, joint ventures and acquisitions of existing bus operators. Two trade unions suggested incorporating a summary matrix of the performance of each option against key assessment criteria.

Within the guidance, a need was identified to **incorporate competition impacts and concerns**; various issues were raised including the following:

- Effects on existing or commercial operators.
- Anticompetitive claims from other operators (e.g. regarding state aid).
- Consideration and agreement with operators on fare structures where sharing a service or route.
- Ensuring a level playing field with other operators regarding fair competition.
- Maintaining competitive tendering processes (in particular guidance on how contracts operated in-house should be monitored to ensure consistency with contracts operated by commercial operators).
- Clarity on any requirement to have a “firewall” between a LTA’s transport unit dealing with policy/tendering etc. and any operational unit delivering bus services under a PSV operator’s licence.
- Clarity about the circumstances in which the LTA is permitted to run a service (e.g. market / operator failure, insufficient provision of services).

A significant minority of respondents wanted guidance or analysis about the **risks involved** in managing bus services to the transport body and/or local authority, in terms of finance, safety, reliability, commercial competition and whether it results in best value overall.

Small numbers of respondents also desired consideration of the following areas to be set down within guidance:

- Decision-making regarding services to be monitored with respect to Human Rights obligations.
- Personnel requirements (jobs and job roles, e.g. drivers).

- Encouragement of local authorities to collaborate, showing the benefits of coordinated networks and examples of best practice.

A large minority of respondents chose to espouse their views on how bus services should be run more generally, without reference to guidance. The largest numbers reinforced that Scotland must have **reliable bus services** (e.g. network, timetables) and must meet the needs of citizens as well as climate targets; the current system was perceived as unreliable, dysfunctional and expensive. A significant minority were in favour of taking **local needs** (e.g. demographics, rural or urban setting) into account when designing bus services, avoiding a one-size-fits-all approach. Points were also made that powers to run buses must be backed by the provision of **sufficient funding, resources and expertise**; for the latter, public transport experts and developers of road layouts were recommended, along with LTA panel members.

A significant minority of respondents, consisting almost entirely of trade union / campaign organisations and individuals, advocated the perceived **benefits of publicly-run buses as opposed to private ownership** with the latter seen as having resulted in fewer services and decreasing numbers of passengers; deregulation was viewed by these respondents as a failure. Varying examples were given of municipal operators viewed as a success (Lothian Buses, and in cities including Munich, Vienna and Zurich) but also facing challenges (the sell-offs of Thamesdown Transport and Rosso Buses). Small numbers of respondents advocated improved bus infrastructure (e.g. lanes, electric buses, ability to take bikes, passenger assistance options), with others desiring car use to be discouraged (e.g. through provision of less road space for private vehicles or through better alternative transport provisions).

The next consultation question asked:

### Question 2: What further information and resources would be useful for an LTA considering providing local bus services?

A total of 45 respondents opted to provide commentary in response to this question. Many of the answers expanded upon or reiterated the suggested contents for guidance at Question 1.

The greatest numbers of respondents – a large minority – suggested the **sharing and generation of data and information for planning public transport networks**; examples included vehicle statistics, passenger count data, ticket sales, origin and destination data, advanced knowledge of building developments (for route planning) and knowledge of the intentions of neighbouring local authorities.

**Examples of best practice for a range of bus service model scenarios** was suggested by similar numbers of respondents; these were viewed as helpful for assessing the risks, costs and economic cases for a variety of operational set-ups. **Case study provision** was also desired for detail surrounding bus operations including fleet size, costs, revenue, staff structure, driver hours, shift patterns, operating depots, maintenance arrangements, lessons learned and benefits accrued. In particular, several respondents asked for examples of municipal operations elsewhere.

In terms of resources, a large minority of respondents across most sub-groups cited that **funding** (in particular by way of working capital or start-up capital) should be made available to LTAs, without going into further detail. A variety of sources were suggested including the Scottish Government, Transport Scotland, the Scottish National Investment Bank and the Community Bus Fund (when introduced).

Other requests for information and resources were made by smaller numbers of respondents and largely reflected comments made at the previous question as follows:

- More bus infrastructure (e.g. rural provision, more provision for the elderly and disabled, cycle, pram and bag storage facilities).
- Pricing and ticket reform (e.g. one interchangeable ticket on all operators).
- Provision of expertise in how to develop proposals and set up bus services, with a suggestion for a dedicated team within Transport Scotland for this purpose.
- A 'frequently asked questions' section amongst the information provided.
- Information about financial requirements (e.g. tax implications).
- Information about legislative requirements (e.g. GDPR compliance regarding customer information, UK competition legislation).
- Information about competition effects (e.g. on how this intersects with the Transport Act).
- Information on potential risks involved for the LTAs or local authorities, together with possible mitigations.
- Information on personnel requirements (e.g. salaries, conditions, skills and training requirements, driver hours' regulations).
- Clarification of what constitutes an LTAs 'relevant general policies' to help prevent legal challenges.

In addition, small numbers of respondents brought up other operational considerations perceived as requiring attention when considering local bus services. One or two mentions were made about each of the following:

- Appropriate depot or garage premises.
- Vehicle registrations, costs, suitability and environmental and accessibility requirements.
- Public liability insurances.
- Operator licensing.
- Ticketing and fare collection methods (e.g. concession reimbursement arrangements with Transport Scotland).
- Promotion of services.
- CCTV & regulation.
- Trade union arrangements.

Small numbers of respondents also urged action in other areas to facilitate bus service operations. These included encouragement for local authorities and RTPs to collaborate on or share functions, for the benefits of economies of scale or to pool knowledge, and to take local needs into account.

Finally, a number of respondents (mainly trade union or campaign organisations) reiterated their views that publicly run buses would be better than private operations, citing discontinued services since deregulation and bemoaning subsidies received by private operators. A small number also voiced their opposition to the Business Partnership Fund model, saying this fails to solve the issues faced by buses or that proportionate funding should be made available to LTAs to support municipal services instead.

## Bus Service Improvement Partnerships (BSIPs)

The consultation paper noted that the Scottish Government recognises the importance of partnership working between LTAs and operators to help improve and expand bus services. The 2019 Act provided for a new type of statutory partnership in the form of Bus Service Improvement Partnerships (BSIPs). To commence the provisions on BSIPs set out in the 2019 Act and make these operational, regulations are required to further develop certain aspects of the model and this consultation invited views on a number of key additional features of BSIPs to be provided for in forthcoming regulations and guidance.

Before a decision is taken to proceed with a BSIP, the LTA should consider the range of options available to them to ensure they choose the best for their local circumstances. A BSIP would be underpinned by a partnership plan, which is formulated by the LTA with the operators in their area, and in consultation with relevant stakeholders. The new provisions outlined that a partnership scheme or schemes should be made alongside the plan to assist in its implementation and the plan should make reference to how this will help in achieving its objectives. The next consultation question asked:

### Question 3: Do you have any further comments in relation to the form and content of plans and schemes?

Forty-four respondents commented on this question. A large minority (consisting mainly of local authorities and RTPs) generally welcomed the form and content of plans and schemes and the broad range of provisions which can be included in a BSIP, though most of these added the caveat that there was a **need for flexibility** to accommodate local and regional circumstances. A desire for **comprehensive consultation across the community** (in particular in local areas) was expressed; it was also suggested that passengers should be involved in decision-making.

There were a significant number of remarks (mainly from local authorities) about the suggestion in the consultation document that an LTA should consider all the options available before taking a decision to proceed with a BSIP. The act of assessing other options was regarded as an unnecessary and costly exercise, particularly when considering franchising. One local authority commented:

“There appears to be nothing in the 2019 Act which requires an Authority to consider all the options available before making a BSIP. Clearly it would be common sense not to introduce a BSIP if the Authority was considering a franchising arrangement for the same area in the near future, but given that a BSIP does not preclude other tools from being used, and has less impact on the market than franchising or (potentially) introducing in-house services, there should be no need for this requirement to be formalised.”

However, a significant minority of respondents (particularly trade union or campaigning organisations) stated that they preferred franchising or local authority run bus services and that proportionate funding should be made available. Furthermore, there were suggestions that LTAs should be able to revoke a partnership scheme (e.g. due to poor performance), without bus companies having a

right of veto, if they are creating a franchising scheme or other new operating model. It should be noted that the consultation highlights that the 2019 Act includes a specific provision about the change of operating model allowing for the LTA to revoke a partnership scheme if they are making a franchising scheme without complying with the requirements in Schedule A1.

A significant minority of respondents (again, mainly trade union or campaign organisations) viewed BSIPs in a negative light, suggesting they were flawed, would maintain the policy of bus deregulation, and would keep private companies in the driving seat regarding control over routes, fares and timetables. Other perceived negatives were that BSIPs would not address high fares and lack of services to underserved areas, and would result in a wasteful, fragmented and unaccountable system.

Other comments about BSIPs, partnership plans and partnership schemes were only made by small numbers of respondents as follows:

- Requests to make BSIPs time-limited (in order that parties avoid being locked in to the initial agreement if performance objectives aren't being achieved); a trade union / campaign organisation commented that *"The final box in the flowchart says that BSIPs can end "subject to agreement from operators". This is incorrect. This is neither in the Act or the explanatory notes to the Act and must be removed from the Guidance without fail. Partnership schemes can include provision for the revocation of the partnership, setting out what will happen when the operators do not meet specified expectations (a 'prenup' agreement)"*.
- Requests for further clarification on the distinction between partnership plans and partnership schemes; although the consultation suggests a scheme is not an essential accompaniment to a plan, an operator suggested that without a scheme, service standards cannot be imposed on the plan.
- Requests for schemes to be properly costed, so that operators can make informed decisions on the feasibility and sustainability of them (Regional Transport Partnership)
- Requests for more information on the interface with existing bus partnerships or the Bus Partnership Fund, with some disquiet expressed about adoption of the BSIP as being the main criteria for accessing the Bus Partnership Fund.
- A need for BSIPs to be fully transparent, with a suggestion to include the Traffic Commissioner in the accountability framework.
- A need to measure scheme / plan performance (e.g. by benefits accrued, anti-poverty measures, climate change effect, monetary value).
- Concerns about further BSIP regulation making the content of plans and schemes restrictive.
- Concerns about perceived government preference towards BSIPs than for other types of bus schemes (e.g. questions in the current consultation being geared towards BSIPs).



- Concerns about a perceived threat of unfair competition from local authority operators on existing commercial operators (e.g. benefitting from public money, unequal playing field for tendering of services, etc.).

Finally, there were a few more general requests for bus service improvements: these included fare reductions or restrictions to fare increases; catering for poorly serviced rural areas; further integration of transport networks (e.g. buses with trains); and investing in bus infrastructure such as traffic signal priority and smart technology.

## **Preparation, variation and revocation of plans and schemes**

The consultation paper noted that a new schedule A1 outlined the procedures to be followed in relation to the preparation, making, variation and revocation of plans and schemes, including requirements for consultation and the publication of notices. Respondents were then asked:

**Question 4: Do you have any additional comments relating to the procedures for the preparation, making, postponement, variation and revocation of plans and schemes? Please include any comments on matters that may be helpful to consider for inclusion in secondary legislation.**

A total of 33 respondents chose to comment on question four. A relatively small number of respondents made specific remarks relating to parts of the procedures for plans and schemes; most made either more general comments about BSIPs or restated their preferred positions regarding bus services.

A significant minority of respondents, comprised of local authorities and regional transport partnerships, welcomed or reinforced the need for **flexibility in the procedures**, emphasising that plans and schemes need to be dynamic to meet unforeseen changes in circumstances. A local authority stated a need for sufficient flexibility within the description of consultees for LTAs to add in additional consultees if desired; and a local authority and a regional transport partnership desired to enable changes to the objectives and measures in line with due process and agreement of BSIP members. In similar vein, a few respondents were against further BSIP regulation as it was felt this would be too restrictive.

A small number of local authorities, regional transport partnerships and operators requested guidance on the appropriate duration of a BSIP, in order to ensure continuity of transport provision and minimise disruption for local communities in the event of changes to plans and schemes; almost the same respondents requested information about timescales for monitoring or reviewing a BSIP's progress.

A small number of respondents, belonging to the sub-groups detailed below, made specific comments about the **procedures for revocation of plans and schemes**. The following opinions were given by one or two respondents each:

- All partners involved in making the plans should be able to have a say on revoking them / all need to agree on revoking or making major changes. (Local Authority and Operator)
- LTAs must be able to revoke a partnership scheme if making a franchising scheme or new operating model without the agreement of operators. (Trade Union / Campaign organisation)
- Partnership schemes should set out the conditions in which revocation should be considered and place a time limit on the life of the partnership should performance expectations including public interest objectives fail to be achieved. (Trade Union / Campaign organisation)
- It may be useful to have some examples of where the revocation of a scheme could be considered. (Local Authority)

On **variation procedures**, only a couple of remarks were made, as follows:

- A concern to keep as much negotiating power as possible with local authorities to avoid locking LTAs into weak deals. (Trade Union / Campaign Organisation)
- A concern that the conditions for variation within the scheme should ensure the same level of engagement and consultation “as that required under PART 2 of SCHEDULE A1 and associated with a change promoted under section 3H”. (Regional Transport Partnership)

Additionally, a couple of respondents said that consideration should be given to any existing commitments (e.g. investment in service improvements, bus fleets) which may be unduly affected by any major changes, variation, postponement or revocation to plans or schemes.

Significant numbers (consisting of mainly trade union / campaign organisations and individual respondents) stated that they were **opposed to the BSIP statutory partnership proposals** in full, reasoning that they were representative of a perceived failed voluntary partnership approach and may become a barrier to their preferred options of franchising or direct local authority control of bus services. A few respondents also reiterated fears that BSIPs would leave control over routes, fares and timetables with private operators. These points were also raised in campaign responses.

Other remarks were made by individual respondents on a number of topics including improving bus infrastructure; making powers to enforce operators who resist changes to put on the relevant services; prioritising the benefits of bus provision (e.g. equality, health, climate change and human rights); and ensuring providers have health and safety measures in line with government requirements.

There is provision at section 3B(10) that gives LTAs the power to set out bespoke circumstances for the variation or revocation of the scheme as suited to local circumstances, and procedures set out under the scheme should be followed in this case. Scottish Ministers can make regulations about the conditions that may be specified in a scheme for its variation or revocation. Question 5 asked:



**Question 5: Do you consider any conditions which are necessary for the variation or revocation of a scheme (where the scheme itself makes bespoke provision for this)?**

As shown in table 3, opinions were split: a narrow majority overall (18 saying no vs. 14 saying yes) did not consider any conditions as being necessary for the variation or revocation of a scheme. However, Local Authorities who responded almost unanimously did not consider any conditions as being necessary (nine saying no vs. one saying yes).

Respondent Group	Number		
	Yes	No	Not answered
Equalities (2)	-	-	2
Local authority/Organisation Representing Local Authorities	1	9	2
Operator (2)	2	-	-
Political party/regional party groups (5)	-	-	5
Representative body (3)	1	-	2
Regional Transport Partnership (6)	-	3	3
Third sector (5)	2	1	2
Trade Union / campaigning organisation (7)	2	-	5
<b>Total organisations (42)</b>	<b>8</b>	<b>13</b>	<b>21</b>
Individuals (25)	6	5	14
<b>Total (67)</b>	<b>14</b>	<b>18</b>	<b>35</b>

Table 3: Do you consider any conditions are necessary for the variation or revocation of a scheme (where the scheme itself makes bespoke provision for this)?

Question 5A then asked:

**Q5a: Please provide further information, including what conditions, if any, should be specified and why.**

Twenty-three respondents elected to give further information at this question, a significant minority of whom simply reiterated their opposition to the BSIP statutory partnership proposals in favour of franchising or local authority-run bus services.

Amongst those who **considered conditions are necessary** for the variation and revocation of a scheme, the following points were made by very small numbers of respondents:

- Variation or revocation should be subject to the same requirement for consulting local groups as when the scheme was set up.
- Major change in the network (e.g. related to emergency roadworks or an unforeseen incident) should be a condition.
- *“Additional provisions should be made for a mandatory review of a scheme where external factors such as additional, relocated or removed housing provision, education, employment or health facilities have a significant effect on travel demand and/or patterns”* (Operator)
- Suggestions about placing a time limit on the life of the partnership or instigating a yearly review should performance expectations including long term and public interest objectives fail to be achieved.
- Consistent guidance on conditions for variation or revocation would be helpful.

In addition, a small number of respondents including two third sector organisations advocated that any variations that have been shown to adversely affect local communities (e.g. health, pollution, deprivation, abrogation of human rights, passenger safety, removal of lifeline bus services or a scheme failing to meet accessibility needs), must not be allowed to proceed.

However, a couple of respondents raised concerns that revocation or variation of schemes in which operators had made commitments or investments in service improvements would leave them more heavily impacted than a local authority, which would have the scope to cancel or amend its plans.

A few respondents who **did not consider conditions as necessary** for the variation or revocation of a scheme also made comments; these focused on the need for flexibility to accommodate unforeseen circumstances; and a desire (by two local authorities) for clarity on any timeframe where additional operators who were not part of the original BSIP could be barred from operating on the route.

## Notices

Procedures relating to the making, variation and revocation of partnership plans and schemes include a range of notice requirements. The 2019 Act inserts new provision into the 2001 Act which outlines the content of notices. The consultation document outlined that taking into account the wide notice requirements, Transport Scotland considered that there was adequate provision set out in the 2019 Act for LTAs to follow in relation to the form and content associated with notices and does not intend to make further detailed provision at this stage. In addition, the consultation noted that Transport Scotland considered that LTAs will be best placed to decide on the most appropriate way of publishing notices in their area taking into account the size and scope of the BSIP proposals. The next question in the consultation then asked:

**Question 6: Do you have any further comments on the content, form or publicising of the notices listed in Table 1?**

Only fifteen respondents chose to comment at this question. Two voiced their approval about consistency, saying the process was similar to that required for other processes such as LEZs, so helping to reduce the need for additional administration

resources; one respondent approved of the lack of prescription as to where notices should be displayed, but there were also a couple of requests for guidance as to how and in what format published notices should be presented.

One respondent requested that a full report on the preceding consultations should be published before the date of making, variation or revocation; another thought all meetings and minutes regarding BSIPs should be a matter of public record. An individual respondent thought that user groups may need a forum on which they can be informed or consulted.

There were also a couple of requests for consideration to be given to an emergency provision to accommodate immediate revocation, or revocation within the suggested notice periods detailed.

Again, a few respondents took the opportunity to restate their opposition to the BSIP proposals, with comments that they overlap with England's bus services Act which was regarded as inadequate.

## **Facilities and measures**

The consultation paper noted that, as part of the making of a partnership plan and scheme, the LTA must outline their commitment through investing in at least one facility or measure. Facilities will typically take the form of an investment in infrastructure, such as providing improved bus stops, while measures relate to taking actions, such as restricting the number of times in a year that local authority roadworks occur on key bus corridors. **A definition of facilities** was provided:

Facilities are associated with the investment in infrastructure, including but not limited to the provision of improved bus stops and bus priority measures such as bus lanes, gates and corridors, and guided busways.

Question 7 asked:

**Question 7: Do you agree or disagree with the above definition of facilities?**

As shown in table four, a majority of those answering agreed (22) with the given definition of facilities compared to 10 who disagreed.

Respondent Group	Number			
	Agree	Disagree	Neither agree nor disagree	Not answered
Equalities (2)	-	-	-	2
Local authority/Organisation Representing Local Authorities (12)	8	3	-	1
Operator (2)	1	1	-	-
Political party/regional party groups (5)	-	-	-	5
Representative body (3)	1	-	-	2
Regional Transport Partnership (6)	2	3	-	1
Third sector (5)	1	-	1	3
Trade Union / campaigning organisation (7)	-	1	-	6
<b>Total organisations (42)</b>	<b>13</b>	<b>8</b>	<b>1</b>	<b>20</b>
Individuals (25)	9	2	4	10
<b>Total (67)</b>	<b>22</b>	<b>10</b>	<b>5</b>	<b>30</b>

Table 4: Do you agree or disagree with the above definition of facilities?

Respondents who disagreed with the definition were then asked:

**Question 7a: If you disagree, how should this be amended / what should this contain?**

A total of eighteen respondents made comments regarding this question, including several who either agreed or did not answer the preceding question. Almost all respondents made suggestions for expanding the definition of facilities or suggested additional examples of facilities. A few expressed a desire for the definition to be flexible.

As part of a more expanded definition, several respondents wanted to include **more generic investments in infrastructure**, such as traffic management and signal equipment for priority signalling and real time passenger information. Other suggestions focused on enhanced **bus station provisions**, such as layover facilities, information booths, travel shops and improved facilities for drivers.

Other observations were made by single respondents as follows:

- There is a lack of consideration given to rural areas (e.g. no bus stops or bus priority areas).
- Facilities should include a regular, useful bus service that makes taking the bus a viable alternative to driving.
- There should be an overriding concern to quantify investments with a view to comparative cost-benefit analysis under different operating models.

Finally, a small number of respondents reiterated their opposition to the BSIP proposals.

**A definition of measures** was also provided to respondents:

Measures should be regarded as actions associated with improving bus travel times, including but not limited to, restriction of road works on key bus corridors and priority signalling.

Question 8 asked:

**Question 8: Do you agree or disagree with the above definition or measures?**

As shown in table 5, more respondents (18) disagreed with the definition of measures than agreed (11); regional transport partnerships and local authorities almost unanimously disagreed.

Respondent Group	Number			
	Agree	Disagree	Neither agree nor disagree	Not answered
Equalities (2)	-	-	-	2
Local authority/Organisation Representing Local Authorities (12)	1	10	-	1
Operator (2)	1	1	-	-
Political party/regional party groups (5)	-	-	-	5
Representative body (3)	1	-	-	2
Regional Transport Partnership (6)	-	5	-	1
Third sector (5)	1	-	1	3
Trade Union / campaigning organisation (7)	-	1	-	6
<b>Total organisations (42)</b>	<b>4</b>	<b>17</b>	<b>1</b>	<b>20</b>
Individuals (25)	7	1	5	12
<b>Total (67)</b>	<b>11</b>	<b>18</b>	<b>6</b>	<b>32</b>

Table 5: Do you agree or disagree with the above definition of measures?

As with facilities, respondents were then asked:

**Question 8a: If you disagree, how should this be amended / what should this contain?**

Twenty respondents made further comments. The vast majority of remarks encompassed suggestions for either broadening the definition of measures or adding examples of measures.

Several respondents each suggested **broadening the definition of measures** by the following means:

- Changing the text to *“improving bus services generally”* to help ensure all potential measures could be included.
- Changing the text to *“any actions, other than infrastructure investments, which the Authority can take to incentivise or improve the attractiveness of bus services”*.
- The definition should not be restricted to improving bus travel times only but also encompass a need to ensure consistent, punctual and reliable bus journey times (e.g. by reducing congestion).
- Focusing on any measures which improve the attractiveness of bus travel.

Single respondents suggested the following other alterations:

- Changing the text to *“actions that improve the operation of the bus network”*.
- Including measures for multi-modal integration in the definition.
- The definition should include investment in other infrastructure which benefits bus services (e.g. traffic management system upgrades).

Respondents suggested including a **variety of examples of measures** in addition to those given in the definition, as follows:

- Changes to parking policy (e.g. car free streets that are only for buses).
- Enforcement activities relating to parking and to bus priority measures.
- Increased parking charges and controls.
- Improved ticketing arrangements.
- Bus stop information.
- Joint (partnership) investments in ticketing / marketing / training / vehicles.
- Investments in EV charging infrastructure.
- Intelligence gathering.
- Improved customer service training for drivers.

Additionally, a few respondents noted that Transport Scotland’s existing guidance [note](#) on BSIPs states that a measure can be classed “as another improvement, such as parking policy to incentivise bus use”. Two respondents saw a need for more clarification between definitions of measures and facilities, perceiving an overlap in

terms of priority signalling, for instance; a regional transport partnership maintained that this should be a facility, given that it is infrastructure even if technology-based. Single respondents made a point stating that the reference to roadworks should relate to planned roadworks as opposed to emergency roadworks; and a suggestion to remove the word 'including', as this suggests at least one example must be included in the scheme.

The consultation paper then went onto explain the Existing Facilities in Quality Partnership Schemes (Scotland) Regulations 2001 that make provision for existing facilities to form part of a quality partnership scheme, which specifies that existing facilities may form part of a quality partnership scheme where they were provided for no more than five years before the scheme is proposed. Additionally, existing facilities which were provided between 5-10 years before the date the scheme is proposed may form part of a quality partnership scheme, but only where the consent of all bus operators using those facilities has been obtained. Question nine went onto ask:

**Question 9: Should existing facilities form a part of a partnership plan / scheme?**

As shown in table six, a majority (22) agreed than disagreed (12) that existing facilities should form part of a partnership plan or scheme. Most of those who disagreed were individual respondents (9).



Respondent Group	Number		
	Yes	No	Not answered
Equalities (2)	-	-	2
Local authority / Organisation Representing Local Authorities (12)	11	-	1
Operator (2)	1	1	-
Political party/regional party groups (5)	-	-	5
Representative body (3)	-	1	2
Regional Transport Partnership (6)	5	-	1
Third sector (5)	1	-	4
Trade Union / campaigning organisation (7)	1	1	5
<b>Total organisations (42)</b>	<b>19</b>	<b>3</b>	<b>20</b>
Individuals (25)	3	9	13
<b>Total (67)</b>	<b>22</b>	<b>12</b>	<b>33</b>

Table 6: Question 9: Should existing facilities form a part of a partnership plan/ scheme?

Respondents who answered 'yes' at this question, were then asked:

### Question 9a: If yes, should there be a time restriction and why?

Twenty-nine respondents responded to the second part of the question. The main viewpoint was that there should be **no time restriction**, albeit with the caveats that facilities need to be fit for purpose and meet a standard agreeable by all parties; furthermore that facility conditions are reviewed and maintained regularly. A small number of respondents (consisting of local authorities, regional transport partnerships and an operator), however said that five years prior to the scheme's proposal seemed a reasonable amount of time, but that this should only include facilities of direct relevance to the scheme.

A significant minority of respondents, comprising local authorities, regional transport partnerships and an operator, considered it more important that the facility is relevant and meets the scheme's aims over the scheme's lifetime for it to be included; thus, a time restriction would be irrelevant.

Similar numbers thought it inappropriate to exclude facilities given the award of BPF grants to introduce them prior to the finalisation of BSIP regulations (i.e. that facilities may potentially be delivered with BPF funding before BSIPs are entered into).

A very few respondents also cited the following points supporting the inclusion of existing facilities:

- Facilities' inclusion will help ensure that there is an increased scope for their maintenance and improvement through the plan and / or scheme.
- It is difficult to see what benefit there would be in excluding existing facilities, in areas with almost no competition between operators, from a plan and / or scheme.
- Inclusion will help maximise the value of the investment (of either partner) in existing infrastructure.

A few respondents who did not think existing facilities should form part of the partnership plan or scheme also responded to the question; these were largely concerned that operators' prior investments (e.g. fleet services) are included on a parity basis with those of the LTA; otherwise facilities should only be included from the beginning of a BSIP.

Several respondents again reiterated their opposition to the proposals (including Quality Partnership Schemes) with the aim of protecting local authorities' investments in bus services and reinforcing the perceived merits of public control.

## Exempt services

The consultation paper explained that the new BSIP provisions outline the service standards which may be imposed as part of a partnership scheme. Service standards are effective in relation to all operators of local services that have one or more stopping places in that area, and are not exempted from the scheme.

Section 3C(4) provides that a scheme may not impose a standard in relation to the use of vehicles under permits granted under section 22 of the 1985 Act. Section 3B(4) provides that a partnership scheme may provide for the exemption of certain descriptions of local services and can include conditions as to when such exemptions apply. Section 3M(2)(b) gives a power to Scottish Ministers to make regulations about the descriptions of local services that may or must be exempted from a scheme. Question 10 asked:

**Question 10: Do you consider any further services may or must be exempted from the service standard of the scheme (beyond services under section 22 of the 1985 Act as detailed above?)**

As shown in table seven, of those respondents who answered this question, a greater number (20) felt that no further services may or must be exempted from the service standards of the scheme than those who felt they should (11). The highest level of support came from local authorities with seven responding 'yes'.

Respondent Group	Number		
	Yes	No	Not answered
Equalities (2)	-	-	2
Local authority / Organisation Representing Local Authorities (12)	7	3	2
Operator (2)	1	1	-
Political party/regional party groups (5)	-	-	5
Representative body (3)	1	-	2
Regional Transport Partnership (6)	1	3	2
Third sector (5)	1	1	3
Trade Union / campaigning organisation (7)	-	1	6
<b>Total organisations (42)</b>	<b>11</b>	<b>9</b>	<b>22</b>
Individuals (25)	-	11	14
<b>Total (67)</b>	<b>11</b>	<b>20</b>	<b>36</b>

Table 7: Whether any further services may or must be exempted from the service standards of the scheme (beyond services under section 22 of the 1985 Act).

The next question then went onto ask:

**Question 10a: If yes, please comment on what services should be exempt?**

A total of twenty-one respondents provided further comment, six of whom had answered 'no' at question 10.

The key theme emerging in response to this question came from local authorities and regional transport partnerships who noted that **further service types should not be exempted from service standards but that provision should remain and be at the discretion of the partnership**. One local authority noted:

“We do not consider that any further service types must be exempted from the service standards. However, the provision, already enacted, that some services may be exempted is important, and this should be at the discretion of the Partnership. Guidance should state that the Partnership should explain the reasons for any exemptions, and that these should not discriminate between operators of similar types of service. A robust process should be agreed in regard to exemptions so this is not to the detriment of the travelling public and merely for the commercial convenience of any operator.”

A third sector organisation felt it is important to recognise the specifics of each situation and service.

A few respondents offered qualifying statements alongside their initial response, with regional transport partnerships and local authorities noting that there should be more specific reference to community transport in the guidance. Other issues raised by single respondents included:

- There is a need to future-proof public transport systems, and guidance should allow flexibility over other types of public transport operators that may form part of the overall public transport in the future.
- The Partnership should have a fair way of dealing with service levels in different areas of the BSIP, with more weight given to operators or LTAs with a higher level of involvement in the scheme.
- The flexibility given to LTAs should be sufficient to deal with any other matters that arise.
- There is a need for flexibility for services that cross local authorities or scheme boundaries.
- Guidance should ensure that once a BSIP is established, bus operators are not able to veto any decision to transition towards local services franchises and that LTAs must be able to revoke a partnership scheme if making a franchising scheme.

**Services which should be exempted** from the service standards of the scheme were mentioned by a small number of respondents; these included services passing through the BSIP where a majority of the journey takes place out with the area. A representative body queried *“if a BSIP is targeting investment in a particular area of a local authority or region should there be exemptions for operators within the region who do not serve the particular area receiving investment?”* A small number of respondents commented that LTAs should have the ability to exempt services such as home to school transport services.

## Voting mechanism

Paragraph 26 of schedule A1 provides a power for Scottish Ministers to define descriptions of qualifying local services for the purposes of the schedule and what constitutes a sufficient number of persons for the purpose of the voting mechanism and how the qualifying time is to be determined.

## Qualifying local services and qualifying time

There is a power to define the descriptions of qualifying local services for the purposes of the voting procedure, which will determine which operators of local services can take part in the voting mechanism. Transport Scotland proposed that *‘qualifying local services’* should be defined as:

A qualifying local service is an operator of a local service which has one or more stopping places in the relevant areas and is not an excluded service.

In general, this means that if an operator runs a local service in the area, they should be permitted to take part in the voting mechanism. The proposed approach in the consultation paper distinguishes the scheme exemptions from the voting mechanism and ensures that all operators of local services would retain the entitlement to vote, even if exempted from the scheme requirements. The only services that are proposed to be excluded from the vote are those which are excursions or tours as well as interurban or long-distance services not used for local journeys.

Question 11 asked:

**Question 11: Do you agree or disagree with the above definition of qualifying local service?**

As shown in table eight, more respondents disagreed (16) than agreed (11); the sub-groups with the highest numbers of respondents who disagreed with this definition were local authorities (8) and regional transport partnerships (3).

Respondent Group	Number			
	Agree	Disagree	Neither agree nor disagree	Not answered
Equalities (2)	-	-	-	2
Local authority / Organisation Representing Local Authorities (12)	2	8	-	2
Operator (2)	1	1	-	-
Political party/regional party groups (5)	-	-	-	5
Representative body (3)	-	-	1	2
Regional Transport Partnership (6)	1	3	-	2
Third sector (5)	1	-	1	3
Trade Union / campaigning organisation (7)	-	-	1	6
<b>Total organisations (42)</b>	<b>5</b>	<b>12</b>	<b>3</b>	<b>22</b>
Individuals (25)	6	4	4	11
<b>Total (67)</b>	<b>11</b>	<b>16</b>	<b>7</b>	<b>33</b>

Table 8: Agreement with the definition of 'qualifying local service'

Respondents who disagreed with the definition were then asked:

**Question 11a: If you disagree, how should this be amended / what should this contain?**

A total of twenty-eight respondents commented in response to this question, seven of whom agreed with the definition but also provided additional commentary.

Those who agreed with the definition made general comments such as agreement that excursions and tours and long distance journeys should be excluded if no more than 10% of their mileage is within a scheme area. Two respondents - a local authority and a regional transport partnership – noted that there could be circumstances where there could be very few operators in a LTA area which could result in one large operator effectively dictating service standards and imposing these on others but that the voting mechanism set out broadly encompasses this situation and helps to mitigate this risk.

A problem identified by a number of local authorities and regional transport partnerships who disagreed with this definition, was that the **definition combines 'a qualifying local service' with 'an operator of a local service'**, and pointed out

that an operator is not a service and a local service cannot vote. These respondents suggested that 'an operator of' should be removed from the definition of a qualifying service.

**The need for discretion for the partners of each plan / scheme** was identified by a few respondents, again local authorities and regional transport partnerships. As noted by a regional transport partnership:

"[We] agree that excursions and tours should be excluded. Other exemptions may apply to some other services and perhaps long-distance services where they may have only a single or set number of stops within the scheme area. There should be discretion available for the partners of each plan / scheme to exempt other services beyond those referenced subject to the agreement of the partnership board."

A small number of local authorities commented that operators of gross / minimum cost local bus service contracts should be excluded from gaining voting rights as they will bear no financial consequence of complying with the specified scheme standards.

A dislike of voting partnerships was outlined by a small number of individuals who felt that services should be controlled by local authorities and the communities they serve; and a similar number of trade union / campaigning organisations noted their opposition to BSIP statutory partnership proposals. One of these also noted that community and voluntary services provided by the voluntary sector currently fill a need that should be part of a statutory right to transport provided by the local authority and that cross-subsidies should be used to bring about these services rather than having a reliance on community and voluntary services.

Other issues raised by single respondents included:

- The definition should include the term 'registered' to show it only applies to local bus services that are regulated as such.
- The proposal to provide a vote for operators who are not affected by BSIP proposals is not appropriate and it is not logical that this will protect smaller operators; the operators affected by the BSIP should be the ones who can influence the BSIP.
- A request for clarification that private hire will be out with the scope of the BSIP.

Question 12 then went onto ask:

**Question 12: Do you consider any services should be excluded from voting (for example, excursions or interurban services)?**

As shown in table nine, a large majority of those who commented considered there were service(s) that should be excluded from voting (21 compared to seven). Of those who answered this question, only one organisation – a trade union / campaigning organisation – considered that any services should not be excluded from voting.

Respondent Group	Number		
	Yes	No	Not answered
Equalities (2)	-	-	2
Local authority / Organisation Representing Local Authorities (12)	7	-	5
Operator (2)	2	-	-
Political party/regional party groups (5)	-	-	5
Representative body (3)	1	-	2
Regional Transport Partnership (6)	4	-	2
Third sector (5)	1	-	4
Trade Union / campaigning organisation (7)	-	1	6
<b>Total organisations (42)</b>	<b>15</b>	<b>1</b>	<b>26</b>
Individuals (25)	6	6	13
<b>Total (67)</b>	<b>21</b>	<b>7</b>	<b>39</b>

Table 9: Whether any services should be excluded from voting (for example excursions or interurban services)

Twenty-seven respondents then went onto answer question 12A which asked respondents to explain their initial answer.

There was **broad agreement** from a number of respondents **with the proposed exclusions**, for example, that excursions and interurban services should be excluded or that those eligible to vote should be core services operating frequently within the region and not just passing through or that a set up similar to English Enhanced Partnerships would be sensible. A few local authorities and regional transport partnerships noted that excursions and visitors coaches should be excluded as they do not fall under the definition of a local service; if they were included, it would result in an unfair distribution of voting rights.

However, there were a few comments that **interurban should be included if they operate as registered local services stopping at all bus stops**, and that interurban services are a key link from rural to city mobility and will interconnect with other forms of transport and help to reduce the number of cars on the road. That said, a small number of local authorities and regional transport partnerships also noted that excursions and interurban services may need to be excluded if they do not fall within the definition of a local bus service.

Other issues raised by single respondents included:



- Commercial services should have a higher weighting in the voting process, compared to tendered services that do not carry any commercial risk.
- Local authorities need flexibility in agreeing which services should be excluded from voting or that local authorities – rather than profit-driven bus service operators – should vote as they serve local communities.
- Any service that does not actively support the transport of passengers within a local community should be excluded from voting.
- Operators of gross / minimum costs local bus contracts should be excluded as they bear no direct financial consequence of complying with a specific scheme standards.
- It is important to include all providers and ensure they adhere to the same guidelines, terms and conditions.
- Dislike of BSIPs.

The consultation paper noted that the power to determine the qualifying time allows flexibility via regulations to set the time period over which certain procedures should apply; the procedures are those relating to which local services should be notified about certain aspects of the process. In the consultation paper, Transport Scotland proposed that for the purposes of the regulations, the qualifying time is defined as:

The working day immediately before the day on which a notice of objection is given.

This is similar to the definition set out in relation to Enhanced Partnerships in England. Question 13 asked:

**Question 13: Do you agree or disagree with the definition of 'qualifying time' as set out above?**

As shown in table 10, of those who answered this question and either agreed or disagreed, views were relatively split, with 15 noting their agreement with this definition, and 12 noting their disagreement. Among organisations in particular, highest levels of disagreement came from local authorities (7) and highest levels of agreement came from regional transport partnerships (4).

Respondent Group	Number			
	Agree	Disagree	Neither agree nor disagree	Not answered
Equalities (2)	-	-	-	2
Local authority / Organisation Representing Local Authorities (12)	3	7	-	2
Operator (2)	2	-	-	-
Political party/regional party groups (5)	-	-	-	5
Representative body (3)	1	-	-	2
Regional Transport Partnership (6)	4	1	-	1
Third sector (5)	-	-	2	3
Trade Union / campaigning organisation (7)	-	-	1	6
<b>Total organisations (42)</b>	<b>10</b>	<b>8</b>	<b>3</b>	<b>21</b>
Individuals (25)	5	4	4	12
<b>Total (67)</b>	<b>15</b>	<b>12</b>	<b>7</b>	<b>33</b>

Table 10: Agreement with the definition of ‘qualifying time’

Regardless of whether they agreed or disagreed, respondents were then asked to explain their answer, with twenty three doing so.

A few respondents who agreed with this definition made general comments about this being a fair approach, or is consistent with existing systems in England. The key theme emerging was that this would ensure that all current operators providing, or those due to provide a registered local bus service, would be included or that no operator currently providing an eligible service should be excluded; this comment came from local authorities and regional transport partnerships.

Among respondents who disagreed with this definition, the key theme (mostly from local authorities), was a perception of an error in the proposed definition and that the word ‘objection’ should be replaced by ‘variation’ or ‘revocation’; if this change is made, the qualifying date is the relevant one. A few local authorities also noted:

*“While the definition should ensure relevant operators are invited to take part, we believe the definition should be expanded to include operators who at that date have a bus service registration accepted by the Traffic Commissioner,*

*irrespective of whether the service operation has commenced, to ensure fully relevant inclusion.”*

Other comments made by single respondents included:

- The consultation refers to ‘no evidence as to how partnerships might operate’ in respect of qualifying time, so there is a need to gather evidence in order to justify the definition.
- Passengers affected by revocation should be provided with sufficient information in an accessible format and an alternative means of transport provided.
- One year should be the qualifying time, to make companies more keen to work together.
- The time period is not long enough.

### **Sufficient number of persons in relation to the voting mechanism**

The consultation paper noted that various options for accommodating the voting rights of operators in each LTA have been considered, in order to help inform the development of a suitable voting mechanism and ensure that no single operator has a disproportionate voting power and that the metric chosen is indicative of an operator’s presence in an area. The consultation paper then outlined a number of methods to determine the voting system, including the allocation of votes by share of patronage in each LTS, bus kilometres by operator, the number of operators and the number of services provided by LTAs. After deliberation of these alternatives, Transport Scotland is proposing a model based on register service distance to be used to determine what constitutes a ‘sufficient number of persons’. Again, this is similar to the voting system used in Enhanced Partnerships, which have similarities with BSIPs. Question 14 asked:

**Question 14: Do you agree or disagree with voting mechanism as proposed above? (either of the options within the model can be adopted by the BSIP)**

As shown in table 11, of those who answered this question, the highest numbers of organisations and individuals neither agreed nor disagreed with the proposed voting mechanism. Across organisation sub-groups, the highest level of disagreement came from local authorities (5).

Respondent Group	Number			
	Agree	Disagree	Neither agree nor disagree	Not answered
Equalities (2)	-	-	-	2
Local authority / Organisation Representing Local Authorities (12)	2	5	3	2
Operator (2)	1	-	1	-
Political party/regional party groups (5)	-	-	-	5
Representative body (3)	-	-	1	2
Regional Transport Partnership (6)	1	-	4	1
Third sector (5)	-	-	2	3
Trade Union / campaigning organisation (7)	-	1	-	6
<b>Total organisations (42)</b>	<b>4</b>	<b>6</b>	<b>11</b>	<b>21</b>
Individuals (25)	3	3	8	11
<b>Total (67)</b>	<b>7</b>	<b>9</b>	<b>19</b>	<b>32</b>

Table 11: Agreement with the voting mechanism as proposed.

A total of twenty seven respondents then provided additional commentary in support of their initial response.

### Agreement with the proposed voting mechanism

Of the respondents who agreed with the proposed voting mechanism, comments included that this approach was reasonable and reflective of the bus market in Scotland, or that it is fair and equitable. That said, a small number of these respondents highlighted issues. These included that there are risks in having such low total operator thresholds under the first criterion as two operators could prevent a BSIP from proceeding. An operator felt that the first definition was confusing in that under bullet two (is less than three, all of those operators are objectors), if all operators object then the qualifying distance must be 100%, so bullet three (the registered distance of all qualifying local services operated by the objectors in the relevant area is at least 20% of the registered distance of all such services operated by all operators in that area) is not needed.

## Disagreement with the proposed voting mechanism

In terms of those respondents who disagreed with the proposed voting mechanism, local authorities highlighted two themes. The first related to the **first model proposed**. The concern was that regardless of the total number of operators, objections of one of them are overridden, regardless of size. In contrast, it was noted that where there is a large number of operators, two of them with a relatively small market share could obstruct the proposal. These respondents also felt it was not clear in the wording if the threshold of 20% of the registered distance applies to a situation where there are three or more operators.

The second theme related to the **second model proposed** which was felt to be a better approach but does not take account of a situation where one relatively large operator has significant objections to a proposal. Additionally, they felt there is an overlap between 'exempt' and 'excluded'; with a possibility that an operator in a scheme area may only operate exempt services and these operators should not have a vote, particularly as under some scenarios this could amount to a power of veto.

There were also a few comments, mostly from individuals, that private operators should not be dictating the terms of a bus service; there were a small number of comments of the need for public control of bus services.

## Views of respondents who neither agreed nor disagreed with the voting mechanism

The most comments came from respondents who neither agreed nor disagreed with the proposed voting mechanism, although each comment was made by very small numbers of respondents.

A key comment was that while both of the proposed options might provide a suitable model in most situations, where a single operator has a large share of the market, it will be difficult to provide for a mechanism that protects a minority operator from always being overridden but that also ensures that that same operator cannot overrule any proposal (local authority and regional transport partnership).

The need for clarification was raised by a small number of respondents, for example, how voting would be weighted and the area to be covered; or whether there will be subsets of groups voting on different areas within a region; or how data can be checked or challenged and the process for making a final decision (a local authority).

The need to ensure that **bus services across all areas are inclusive** and meet community needs was highlighted by a small number of respondents.

A small number of respondents felt the second option was more appropriate to most scenarios (regional transport partnerships and a local authority).

Other comments included:

- LTAs should have flexibility to define measurement to allow them to reflect local circumstances; or discretion to reject an objector if they have reasonable grounds to believe the vehicle kilometres have been increased to meet the threshold and obtain a vote.

- There is a need for guidance as to what good practice in governance terms should be.
- There is usually one major operator in each area who will have too much power.

## Multi-operator travel card definition

The consultation paper noted that the 2019 Act gives Scottish Ministers a power to define the term ‘multi-operator travel cards’ by regulations. In order to ensure multi-operator travel cards are competition law compliant in the context of BSIP, it is proposed to simply adopt the definition set out in the Block Exemption Order.

Question 15 asked:

### Question 15: Do you agree or disagree with the proposed definition of a multi-operator travel card?

As shown in table 12, of those who answered this question, a large majority (21) of respondents agreed with the proposed definition of a multi-operator travel card. Six respondents – mostly individuals – disagreed with the definition.

Respondent Group	Number			
	Agree	Disagree	Neither agree nor disagree	Not answered
Equalities (2)	-	-	-	2
Local authority / Organisation Representing Local Authorities (12)	9	-	1	2
Operator (2)	1	-	1	-
Political party/regional party groups (5)	-	-	-	5
Representative body (3)	1	-	-	2
Regional Transport Partnership (6)	4	-	1	1
Third sector (5)	1	-	2	2
Trade Union / campaigning organisation (7)	-	1	-	6
<b>Total organisations (42)</b>	<b>16</b>	<b>1</b>	<b>5</b>	<b>20</b>
Individuals (25)	5	5	3	12
<b>Total (67)</b>	<b>21</b>	<b>6</b>	<b>8</b>	<b>32</b>

Table 12: Agreement with the proposed definition of a multi-operator travel card.

A total of 29 respondents then provided further comments in support of their initial response.



### **Agreement with the definition of a multi-operator travel card**

Of those who agreed with the definition of a multi-operator travel card, two key themes were cited, primarily by local authorities and regional transport partnerships. It was noted by a significant minority of respondents that it is logical to match the definition in the Block Exemption Order as this is a legally recognised and accepted definition and would be consistent not only with existing legislation but all industry understanding. The second key theme was that to adopt a different definition would cause confusion, although a few local authorities noted reservations about the restrictions imposed by the definition on use as a through ticket.

A few individuals noted this would make it more straightforward, easier or cheaper to travel.

Clarification was requested by two organisations. A representative body noted that the Government must also accept the Competitions and Market Authority (CMA) guidelines that accompany the exemption; an operator requested clarification that this definition covers multi-modal ticketing.

### **Disagreement with the definition of a multi-operator travel card**

Few respondents who disagreed offered further comment. However, there were comments from individuals that cards need to be valid across the network, with one suggesting that fares should be time-based as in London. There was some criticism of the zone card in Glasgow which was seen to be too complicated and expensive. A local authority who had neither agreed nor disagreed with the definition also noted that there needs to be maximum flexibility in the use of multi-operator travel cards and as few restrictions as possible within the context of competition law. A trade union / campaigning organisation commented:

“Under BSIPs, there will be no chance to achieve the integrated multi-operator ticketing we see in London. The Competition Act 1998 (Public Transport Ticketing Schemes Block Exemption) Order 2001 relies on voluntary agreements between the bus operators themselves, and can impose only ‘indispensable’ restrictions on the timing and frequency of services; subject to operator agreement. The multi-operator ticket cannot in any way prevent competition on the variety or number of routes, nor competition on single-operator pricing and zonal structures (which must be promoted alongside the multi-operator product). The pricing of the multi-operator travel card is subject to ongoing operator approval while only the ‘indispensable’ sharing of information is permitted. Powers for LTAs to set prices, cross-subsidise, or provide any general subsidy to lower fares are also explicitly banned by competition law.”

Other comments, each noted by single respondents who neither agreed nor disagreed with the definition, included:

- The definition is confusing and needs to be read in conjunction with CMA guidelines.

- Tickets should not be digital by default as this would not be inclusive to individuals who do not use smart technology.
- The benefits of multi-operator travel cards need to be promoted across a range of formats.

## Reviewing and reporting

The consultation paper noted that a BSIP scheme must specify how its operation is to be reviewed and the dates by which such reviews will be completed under section 3B(9). Section 3J sets a requirement for the LTA to publish a report in each 12 month period of the effectiveness of the operation of a scheme. It is not considered necessary to introduce a reporting format through regulations so as to ensure flexibility to accommodate varying bus market contexts. Question 16 asked:

**Question 16: Do you agree or disagree with the proposed content of reviews and reports on the operation of a plan or scheme to be outlined in guidance?**

As shown in table 13, of those who answered this question, a higher number of organisations (18) and individuals (5) agreed than disagreed with the proposed content of reviews and reports on the operation of a plan or scheme to be outlined in guidance. Five respondents – mostly individuals – disagreed with the definition.

Respondent Group	Number			
	Agree	Disagree	Neither agree nor disagree	Not answered
Equalities (2)	-	-	-	2
Local authority / Organisation Representing Local Authorities (12)	11	-	-	1
Operator (2)	2	-	-	-
Political party/regional party groups (5)	-	-	-	5
Representative body (3)	-	-	1	2
Regional Transport Partnership (6)	5	-	-	1
Third sector (5)	-	-	2	3
Trade Union / campaigning organisation (7)	-	1	-	6
<b>Total organisations (42)</b>	<b>18</b>	<b>1</b>	<b>3</b>	<b>20</b>
Individuals (25)	5	4	4	12
<b>Total (67)</b>	<b>23</b>	<b>5</b>	<b>7</b>	<b>32</b>

Table 13: Agreement with the proposed content of reviews and reports on the operation of a plan or scheme to be outlined in guidance.

A total of twenty-six respondents then provided further comments in support of their initial response.

### **Agreement with the proposed content of reviews and reports**

Key themes emerging at this question primarily related to this approach being reasonable with an appropriate level of reporting. However, there were also comments on the need for some consistency across LTAs and requests for LTAs and partnerships to have flexibility to include additional reporting requirements they may wish to see. These included indicators of increases in passenger numbers, details of any modal shifts, satisfaction levels, accessibility standards, indications of wider community and societal benefits; and the need to capture high quality data to support any evaluation. Alongside this, there were some requests for guidance to include a report template so as to ensure consistency and a capacity to measure any accumulated benefits across Scotland.

A few local authorities commented that the provision of an annual report for a BSIP could be too burdensome and there were suggestions for a full report every two or three years, with annual summary reports or interim reports every year. A regional transport partnership also requested a clear definition of what constitutes 'general policies' in reporting as these should reflect wider local, regional and national policies.

### **Disagreement with the proposed content of reviews and reports**

Of the small number of respondents who disagreed with this proposal, it was felt that it would be necessary to have a reporting format as the flexibility being suggested would benefit operators but not necessarily the wider general public; alongside this, there was a request for increased accountability on the part of BSIPs. A trade union / campaigning organisation suggested that the yearly review should be the point at which it is mandatory for local authorities to assess arrangements in line with their longer term plans for bus services.

## **Scrutiny of Bus Service Improvement Partnerships**

The consultation paper explained that the 2019 Act inserts a new section 6N into the 1985 Act which sets out powers for the Traffic Commissioner to intervene where a BSIP scheme is in operation and it appears that the LTA may not be complying with their obligations under a partnership scheme. They can carry out investigations and request the provision of specific information; and then publish a report on the investigation.

### **Provision of information**

Section 3K of the 2001 Act as inserted by the 2019 Act outlines the provision of information requirements in BSIPs where LTAs can request relevant information from operators for the purposes of the preparation and making of a partnership plan or scheme. It may also be requested for the purposes of reviewing the effectiveness of a plan or scheme or determining whether and how to vary or revoke a plan or scheme. The consultation paper set out what constitutes 'relevant information' for these purposes. Question 17 went onto ask:

### Question 17: What type of information should be excluded from the definition of relevant information and why?

A total of thirty-two respondents answered this question, with some respondents simply noting that the list is comprehensive and should be adopted.

A significant minority of respondents across most sub-groups, with the exception of those within the equalities sector and political parties noted that **no information should be excluded** from the definition of relevant information, with key reasoning being that LTAs have a right to see all information and use it in their planning and strategy development, or that all information held by bus companies is of public interest and should be fully transparent as this is essential to the formation of transport policy. One regional transport partnership commented:

“No information should be excluded. BSIPs will only function as true partnerships if the issues they are designed to resolve are based on full and unfiltered datasets. Any restrictions on such data will potentially undermine success. The categories listed are relevant but perhaps unhelpful as any list can be taken as ‘the list’ no matter how well caveated. The level of data required will vary across each BSIP but LTAs should have the power to mandate the appropriate release of data at a granularity that suits the BSIP circumstance.”

A local authority also commented:

“No information should be excluded. To make a BSIP, LTAs will be required to invest in facilities and/or measures. It is essential that this investment is focused on specific problems with an identifiable solution, and that the benefits of the investment can be measured and monitored. This requires sufficiently comprehensive data to ensure problems are understood at network and route levels and that the objectives and outcomes of the BSIP can be measured and monitored at both operational (e.g. journey times) and strategic levels (e.g. modal shift).”

Alongside the perception that no information should be excluded, some respondents also noted that **information provision should be mandatory** rather than optional.

A number of respondents offered caveats as part of their response. There was recognition – primarily from local authorities - that **commercial confidentiality concerns need to be addressed**, with some noting that confidentiality should be restricted to information which is commercially sensitive, although others also felt that any issues should be able to be overcome with appropriate confidentiality caveats.

There were a small number of suggestions for a **central repository of data** to allow for accessible and consistent information on bus services. Allied to this, there were also a small number of comments that the **provision of high quality information will lead to more effective partnerships**.

The need for clear guidance was referred to by a small number of respondents, with one example being given as to what is meant by *‘how and when a local service*

*operated by an operator is used by passengers*'. One of these respondents noted that guidance should not be vague or open to interpretation.

Other comments made by one or two respondents included:

- There is a need to be able to use information from bus operators on the performance of bus services for other purposes than just the BSIP, for example, for strategy development, scheme appraisal, monitoring of progress and so on; and that this should be considered in regulations.
- The information requested should include some measure of social impact.
- More information should be requested.
- BSIPs should only be established under conditions of full transparency.
- This approach is in line with information provision in England; in England, LTAs have the power to require comprehensive information to be provided.
- Responsibility should also be placed on public partners at local, regional and national levels to provide information and datasets for which they are responsible.
- There should not be a requirement to provide information that is already in the public domain.

Only a few respondents identified **types of information that should be excluded**, and these were:

- Information which is commercially sensitive.
- Information which has GDPR implications.
- Types of tickets (as these are commercially sensitive and / or not relevant).
- Types of passengers (as these are commercially sensitive and / or not relevant).
- Provision of revenue, operating costs and other financial information, pertaining to commercial bus services that operate within and to / from the area of the plan or scheme.

Question 17A then went onto ask:

**Question 17a: Are there any circumstance in which it should not be possible for the Local Transport Authority to require relevant information?**

Thirty respondents provided comments, although many of these – across most sub-groups – simply answered 'no' or 'none'

A key theme cited by a few respondents was that it should not be possible for the LTA to require relevant information where this would breach commercial confidentiality. That said, most of these respondents also commented that concerns over commercial confidentiality can be overcome, for example, by non-disclosure agreements or other appropriate mechanisms.

One area where it was felt to be inappropriate to require information was in instances where LTAs are asking for commercially sensitive data when setting up a service which may compete with an existing commercial service.

A few respondents simply echoed themes from the previous question. These included the need for all information to be provided, information should be stipulated as mandatory, and guidance needs to be clear.

Question 17B then asked:

**Question 17b: Do you have any further comments on the provision of information within Bus Service Improvement Partnerships?**

A total of twenty respondents provided comments, some of which reiterated points made at the two previous questions. New themes which emerged included the **need for data to be shared** with user groups or others considering franchising or the public provision of bus services.

There were also a small number of requests from operators or representative bodies **for LTAs to provide information** that might impact on the provision of bus services, in order to assist them in planning. Other support identified that would be useful to operators was the provision of a template Data Sharing Agreement. There was also one mention that information requests from LTAs to operators should reflect their systems for record keeping rather than impose specific LTA formats on operators; and another that guidance should specify a maximum time period for which data are required.

A few local authorities noted that guidance should indicate that within any annual review and report, a section might include analysis of datasets being collected.

Other issues raised by single respondents included:

- A need to consult with the public on all planned changes that may impact on them.
- Consideration of emissions and global warming should be prioritised.
- The need for arrangements to be put in place to support the verification of data and ensure it is of good quality.
- References to the need to improve services, such as investment in new infrastructure or timetables at bus stops; the need to provide adequate services at times when they are needed to meet the needs of communities.

## **Accessibility of services**

The consultation paper explained that the current operational services standard at section 3C(3) provides that requirements can be imposed about 'the vehicles that are to be used to provide services' in a BSIP. This is a very general power for LTAs to propose operational service standards that would include a range of accessibility requirements. There are also existing duties under the Equality Act 2010 and the Public Service Vehicle Accessibility Regulations 2000. Question 18 asked:



**Question 18: What further guidance is required on how a partnership scheme and plan may consider the accessibility of bus services for disabled people and people who have limited mobility?**

A total of 28 respondents answered this question and a number of key themes emerged.

The need for **disability awareness training for drivers** was highlighted by a significant number of local authorities and regional transport partnerships, with some of these referring to Driver CPC (Certificate of Professional Competence) or existing training schemes such as MiDAS (Minibus Driver Awareness Scheme), PATS (Passenger Assistant Training Scheme) or the Thistle Assistance Card.

**Consultation** was also highlighted by a number of respondents, across most sub-groups, with references to building relationships with local disability organisations, local access forums and representative groups, as well as consulting with disabled people themselves. Allied to this, there were a small number of suggestions for any **partnership to include representatives of disability groups**. One third sector organisation suggested that there should be a formalised process of consultation integrated into any guidance; another suggested that there is a need to consider the requirements of the 2010 Equality Act.

There were also a small number of calls to ensure that the full range of disabilities is considered, including physical and learning disabilities.

Calls for **accessible information in a range of different formats** were made by a significant number of respondents within local authorities, third sector organisations, regional transport partnerships and individuals. Suggestions included verbal or speaker-based information / acoustic announcements and visual displays; as well as information for those with hidden disabilities or for parents / carers with pushchairs. There were also requests from a few local authorities for information on the accessibility of services in order to help individuals plan for their journeys.

A third sector organisation suggested that targets should be developed around accessibility to ensure there are equitable services for everyone; that this could also link to the vision and ambitions of the Accessible Transport Framework.

A large number of respondents also referred to the need for **all bus stops to be accessible**; suggested measures included the enforcement of parking restrictions at bus stops and accessible kerb heights. There were a few comments that this might not be possible in all areas, with specific reference to rural areas. Allied to this, a small number of respondents felt there is a need for funding mechanisms in place to enable improvement of these aspects.

Other comments made by only one or two respondents included:

- Accessibility on all vehicles has been met in Scotland.
- There is no need to expand on existing duties unless there is something area-specific to be included in a scheme.

- Guidance should consider integration with other modes of travel.
- There is a need for further information or clarity, for example, specifying the steepness of a ramp.
- A new Public Sector Value Test in line with Equality and Human Rights Commission (EHRC) & Public Sector Equality Duty (PSED) should be introduced.
- There is a need to ensure that infrastructure changes that benefit sustainable and active travel are introduced in a way that considers and safeguards access for all.
- A suggestion for user testing of transport apps with disabled individuals, using a range of assisted technology.
- Bus services need to be affordable and meet the needs of communities in both rural and urban areas.

Question 18A then asked:

**Question 18a: Do you have any further comments in relation to accessibility of bus services in the context of the Bus Service Improvement Partnerships?**

A total of eleven respondents responded to this question. Only two comments were made by more than a single respondent. The first, provided by local authorities, was of a need to **consider vehicle type allocated to particular services**, with an example provided of a need to ensure that any services serving hospitals need to ensure disability access such as wheelchair boarding, to all users.

The other key comment – made by an operator and a representative body – was that the **BSIP process is not the correct tool to introduce duties above and beyond those already set out in existing legislation**.

## Guidance

The consultation paper noted that Scottish Ministers have general powers to issue guidance relating to any of the options within the toolkit, including BSIPs, to LTAs. Question 19 asked:

**Question 19: What information, beyond the processes and consideration outlines in this chapter, should any guidance on Bus Service Improvement Partnerships contain?**

A total of twenty-seven respondents answered this question; and a wide range of comments were made.

The key theme, mentioned by a few local authorities, was that the **LTA roads network team and trunk road authority should be involved in a BSIP** to allow for early and robust planning and consultation on roadworks and road closures that will affect services. A regional transport partnership also noted that the government should mandate authorities and operators responsible for the road network to

engage and prioritise active and sustainable travel provision during any planned network disruption.

A small number of local authorities and regional transport partnerships also requested clear advice on how multiple schemes with different timescales can be incorporated within the overall plan for the area, particularly as they can encompass more than one LTA.

Reference to the need for integration across all modes of travel was made by a small number of local authorities, with suggestions for a greater emphasis on the need to promote the bus network that integrates with other transport modes. This would help to identify funding requirements to provide services that meet the needs of communities as a whole, rather than simply focusing on individual routes. Linked to this, there were also a small number of calls for more obligations on operators to work alongside each other, and with other travel modes to provide a more integrated network. An operator and a representative body highlighted improvements that can be made through good partnership working and provided some examples of these.

Other elements outlined by respondents that should be included in guidance, but only cited by single respondents, included:

- How Transport Scotland will participate and or engage with any partnership in relation to bus service operations on a trunk network where there is any impact on a BSIP.
- The range of options available to LTAs to improve local bus services, including BSIPs, and the formation of municipal bus companies; this will help support informed decision making by LTAs based on local circumstances.
- Reference to anti-social behaviour, overcrowding, cleanliness and timekeeping.
- Simplified bus timetables in different languages.
- Consider the infrastructure needed for any new residential / industrial developments so they are BSIP compliant at the design stage.
- Best practice for improving bus service efficiency and attractiveness.
- The sharing of facilities between operators where more than one service serves an area.
- The need to work with passenger groups to understand what factors are holding back bus patronage and growth.

Other comments included:

- Reference to research undertaken in Glasgow and Bristol.
- Transport Scotland should set up a Bus Centre of Excellence.
- There is a need to consider shared identity or branding in relation to bus / transport services to promote cohesiveness and simplify information for passengers.

## Local Services Franchises

The consultation paper explained that franchising is a system that allows an LTA to award exclusive rights to run certain bus services to the most competitive bidder for a set period; during this period, no other operator can run those services. Part 3 of the 2019 Act makes provision which enables LTAs to create and operate local bus services under a new franchising model.

A number of different franchise models have been adopted in the UK and across Europe, the most widespread one being one in which all of the services are franchised to a number of different operators.

The franchising model provided by the 2019 Act involves an LTA putting in place an overarching franchising framework beneath which it can enter into franchise agreements with bus operators. The consultation paper provided details of the franchising framework, along with the steps that an LTA needs to complete before it can implement a franchising framework. Question 20 asked:

### Question 20: What should the guidance to LTAs on preparing a franchising assessment contain?

A total of thirty-eight respondents answered this question; and a wide range of comments were made.

A few local authorities requested the **provision of detailed case studies or best practice**, along with examples of franchises that have been successful and unsuccessful, what a franchise should include and detail each step in the process of developing and preparing a robust assessment and the risks associated with this option. That said, there were a small number of suggestions from a trade union / campaigning organisation and an equalities organisation of the need to avoid the barriers to franchising that exist in England. An operator and a representative body also noted that London is not a good example to use, given differences with Scotland in terms of geography, population size, car ownership and so on.

**Further information and clarity** was requested on a number of different elements of franchising. These included the need for clarity on:

- The context of the franchising model.
- The process to follow, and expectations on each element of the Five Case Model, and the interface with STAG (Scottish Transport Analysis Guide).
- The criteria an auditor will expect from an LTA in a franchising assessment.
- Factors that should be taken into account by an LTA when selecting an auditor.
- The broad expectations for engaging with bus passengers and / or the general public in preparation of a franchising network.
- The need to compare the proposed franchising framework with other options is only needed while making strategic and economic cases; also to set out the anticipated role of statutory assessment processes in preparation of a franchising assessment.

There were a few requests for **reference to employment conditions** such as employment rights or worker protection.

While not directly answering the question posed, some respondents commented on a need for **external funding and support for local authorities**. There was also a suggestion that the **Scottish Government should set up a team with the expertise and resources to support LTAs**, for example, to address legal challenges from commercial vested interests or to achieve economies of scale.

Pre-empting a later question, a small number of individuals and a trade union / campaigning organisation referred to the **need for panel members to bring a wide range of perspectives and knowledge**, with a suggestion of a need for a background that will allow them to assess potential schemes against wider public interests on which national and regional transport policy is based. One trade union / campaigning organisation noted that the panel system in England has been discredited and replaced. They also noted a concern that the Traffic Commissioner will have too narrow a base of professional knowledge and experience to be able to select a suitable panel.

A small number of respondents in the operator and representative body sectors noted their **dislike of a franchising approach** and noted their support for BSIPs instead. They also noted concerns that LTAs do not necessarily have the necessary knowledge, expertise or funding to set up franchises and, that if an LTA wishes to consider introducing franchising it should have to demonstrate it can meet a specific set of criteria. They also queried what would happen to depots, staff, vehicles and so on if changes to operators occur.

There were also a small number of comments that it is unlikely that the new measures proposed will result in any franchised networks and that there are more fundamental challenges to encouraging the bus transport sector regardless of whether there is a deregulated or franchised local bus network.

Other comments made by two or less respondents, including trade unions, third sector organisations, local authorities and individuals included:

- LTAs should have the powers to take decisions in the best interests of the communities it represents.
- An assessment business case template should be provided for mandatory elements of the franchise assessment.
- All market information should be complete, for example, accurate data on passenger numbers.
- Any franchising network should consider all provision in an area to achieve a more integrated local network and achieve better alignment and collaboration between providers of different transport modes.
- There should not be a reliance solely on the most competitive bidder; financial measures of efficiency and service delivery are only one element of consideration; there is also a need to consider customer care and accessibility issues.

- Bus operators should share all data for an LTA to be able to properly plan and co-ordinate a fully integrated transport network.
- Local authorities have to be clear about the potential benefits of franchising.
- There should be provision for an LTA to revoke a franchise if the operator fails to meet agreed service levels.
- Any payment of subsidies should be linked to the reliability and punctuality of services.
- Guidance should have a long term vision for bus services.
- There is a need to include clear outcomes to be achieved for example, increase passenger numbers, modal shift, societal benefits and so on.
- Access to new powers should be enabled by expanding and facilitating the 'options assessment stage'.
- Targets need to be set to enable LTAs to measure progress in improving bus services; this should be accompanied by a plan of actions designed to drive up overall performance.
- Guidance should provide an overview of the resource, time and legal implications for local authorities in preparing a franchising assessment.

### ***Provision of information for preparing and assessing proposed franchising frameworks***

The consultation paper noted that at present, LTAs can gather some information from bus operators under section 43 of the 2001 Act in connection with the formulation of their relevant policies. The 2019 Act gives LTAs more powers to require further relevant information from operators of local services in their area when the LTA is exercising certain functions in connection with local franchising. Question 21 asked:

**Question 21: What relevant information do you think LTAs should be able to require from bus operators for the purposes of preparing and assessing a proposed franchising framework?**

A total of thirty-one respondents answered this question; and references were made to a wide range of different types of relevant information.

There were a number of responses across most sub-groups, with the exception of operators and representative bodies, noting that **any information deemed relevant by the local authority should be provided** or all financial and operational data needed to compile a business case in line with the Five Case Model. There was also a comment from a local authority that all information should be mandatory, rather than optional. A couple of respondents noted LTAs should be able to require the same information as they would be entitled to request in considering a bus partnership or what is required to properly plan and co-ordinate a fully integrated public transport network that meets the needs of the communities they serve.



Conversely, operators and representative bodies wanted to see a **limit on the information LTAs should be able to require**; that this should be kept to a minimum and exclude any commercially sensitive information; and only be provided if an existing operator or partnership model is failing.

There were a number of references, from local authorities and regional transport partnerships, to the **provision of financial data**; these included information on revenue, revenue generated by passenger and ticketing usage, operational data related to performance, an operator's financial position, staff wages / operational and management staff employed, and past and planned investment such as future financial planning in terms of vehicle investment and staff, as well as the level of investment needed to ensure an ability to continue with the service.

The quality of service was cited by some respondents, with references to the need for information on cancelled / late journeys, data on delays to services, and levels of service by time, vehicle type and route; as well as origin / destination data.

There were also a few requests for information relating to the **types of vehicles used** in terms of their age, emissions, type of fuel and so on.

In line with the consultation paper, **passenger numbers and ticket sales data** were suggested by a few respondents. Allied to this, there were also mentions of data on **fare structure** and fare policy.

Other mentions, each made by very small numbers of respondents included:

- Journey time data.
- Routes that have been cut.
- The number of depots.
- Passenger feedback and complaints.
- Numbers of drivers proposed for each route in the proposed franchise area.
- Details of any marketing activity undertaken and the impact of this.
- Impact assessments, including social impact assessments and equality impact assessments.
- How service provision will be guaranteed.

Two respondents suggested that all information should be provided for the previous three years.

Question 21A then asked:

**Question 21a: In preparing and assessing a proposed franchising framework, are there any circumstances in which you think the LTAs should not be able to require relevant information ( or types of relevant information)?**



A total of twenty-six respondents answered this question; many of whom simply answered 'no' or 'none'. Of those who provided more detail, reasons from a local authority, a third sector organisation and individuals included that **LTAs are offering a service to the public and this information is needed or that the provision of information is essential in assessment of franchising arrangements**. There were a small number of references from local authorities that there needs to be robust processes in place to ensure that any commercially sensitive data which is shared with the LTA is kept confidential, with one of these suggesting a need for a **confidentiality clause**; a trade union / campaigning organisation commented that operators should be subject to Freedom of Information.

A local authority and a regional transport partnership noted that there would not be any circumstances providing the initial case for establishing a franchising network has been satisfied.

As at the previous question, an operator noted that there are circumstances where an LTA should not be able to require information and these were instances where the information is commercially confidential or where the information will be used to set up a route in direct competition with an existing commercial route.

## The audit process

The consultation paper explained that once an LTA has produced an assessment of their proposed franchising framework and they wish to proceed with their proposals, they must obtain a report from an auditor on the financial analysis contained in their assessment.

Question 22 asked:

### Question 22: What should be included in the guidance for auditors?

A total of twenty-one respondents answered this question; and a wide range of elements were noted for inclusion in the guidance for auditors. A small number of respondents noted their support for utilising an International Standard on Assurance Engagements (ISAE) 3000 approach or noted that existing audit standards should apply, without providing further detail.

Key comments tended to focus on **social, environmental and economic benefits**. **Social benefits** referenced by a few respondents included increased social inclusion and social mobility, more access to jobs / education or healthcare, impact on human rights and so on. A trade union / campaigning organisation also commented that the Public Sector Equality Duty (PSED) should be considered in all decisions.

**Climate and environmental benefits** included information on reduced greenhouse emissions, moving towards electric or hydrogen buses and future ecological costs. Allied to this, a small number of trade unions / campaigning organisations noted the need to ensure that policies outlined in the National Transport Strategy (NTS2) are being delivered, with one of these suggestions that there should be a Public Sector Value Test that applies specific criteria to prioritise the need for a long term modal shift from cars in line with NTS2 commitments. **Economic benefits** tended to focus

on increased passenger numbers and improved integration across the public transport network.

Other elements for inclusion in guidance and cited by very small numbers of respondents included:

- Review of franchisee's financial health / robustness.
- The costs of the proposed service, its financial viability and its impact on the LTA's income.
- Timescales of the proposed service.
- Consultation among stakeholders and the general public; considering the views and data provided by stakeholders as well as having access to any analysis of data to ensure its robustness and accuracy and ratified from a recognised source.
- Ability to maintain the proposed service.
- Proof that the franchising framework will improve on existing bus services models and that no other option will achieve these improvements.
- Include good practice, with one respondent citing Transport for Greater Manchester Franchise Assessment as an example.
- An assessment on value for money.
- The role of cross-subsidy in the costing.
- The timescales for the audit, with one local authority noting that audits must be timely and stick to reporting deadlines.
- An assessment of the conclusions drawn up by the franchising authority; as well as ascertaining and confirming the benefits claimed.
- A comparison with other options, for example, partnership proposals.
- Detail in advance what information will be required from an LTA; and details of the criteria under which auditors will review proposals.
- The provision by the auditor of clear reasons for any decisions made.

A few respondents commented on the audit process specifically, with two local authorities suggesting an audit should be light touch or not too onerous. An operator and a representative body noted that any commercially sensitive data should be excluded from a publicly available report.

## ***Guidance to LTAs for making a new franchise assessment***

The consultation paper explained that if the consultation findings suggest that modifications to a proposed franchising framework are required, and these will materially affect any of the key parts of the franchising assessment previously prepared, the LTA will need to undertake a new franchise assessment. The Scottish Ministers must issue guidance in relation to circumstances in which an LTA must prepare a new assessment. Question 23 asked:

**Question 23: What should be included in guidance to LTAs in relation to the circumstances in which the LTA must prepare a new assessment of a new proposed framework?**

A total of twenty-one respondents answered this question. A wide range of comments were made, each by small numbers of respondents.

A key comment, made by a few regional transport partnerships and local authorities was that the guidance needs to contain a **clear and concise explanation of what is specifically required in a new assessment**, including information on what sections need to be revised and what the new assessment is expected to demonstrate. Linked to this, a small number of local authorities commented that the requirement to start a franchising assessment would be **very onerous and require significant resources**, so the guidance should be specific and provide details on where a full restart is required.

As at previous questions, there were a small number of references to the need for LTAs to engage with consultees and trade unions / campaigning organisations, with one local authority requesting that guidance provides a template on the consultation process.

There were a small number of comments of a need for worker protection to be embedded as a set of minimum conditions in tendering rules and how conditions for bus service employees will be maintained and improved.

Other comments relating to what should be included in guidance made by single respondents included:

- The likely impacts on user groups.
- Highlight how the level of service will be improved and maintained, with reference to rural access, additional and upgraded routes and the reliability of services.
- Inclusion of case studies and directing LTAs to best practice franchising arrangements.
- Guidance should be based on addressing errors, unreasonable assumptions or unsupported hypotheses that cast doubt on forecast benefits.

Some respondents (from the equalities sector, a representative body, a trade union and an operator) made comments about the process of assessment, rather than the guidance, with a small number noting that LTAs should be provided with sufficient stable and long-term funding for the provision of public bus services that meet the social and economic needs of users.

Again, there were a small number of references to the need for the Scottish Government or Transport Scotland to set up a team with expertise and resources to support LTAs, along with providing financial and political backing to those wishing to exercise any franchising powers.

An appropriate timescale for the new assessment was requested by a small number of respondents, with an operator and a representative body suggesting that LTAs should not have unlimited attempts at modifying a proposal as this could stall or

delay any planned improvements on the part of existing service providers. There were also a small number of comments that there might be specific occasions when a new assessment would be needed; these would include when there is a change in the bus market, if a major employer moves in or out of an area or if there is a change to the number of operators available.

## **Independent panel appointed by the Traffic Commissioner**

The consultation paper explained that once the process for developing the proposed franchising framework, carrying out the assessment and obtaining the report from an auditor as well as publicising and consulting on the proposals has been completed and the LTA decides to proceed with making the framework, they must request that the Traffic Commissioner appoints three people to form a panel to decide whether or not to approve the making of a proposed franchising framework. Question 24 asked:

**Question 24: Do you have any views on the constitution of the panel, including any criteria for potential panel members?**

A total of thirty-four respondents answered this question and a wide range of criteria were cited as being necessary for potential panel members.

Some respondents – primarily local authorities and regional transport partnerships – made general comments about panels and the need for them to be committed to **undertaking a balanced, objective, evidence-based and transparent perspective**; that panels should not create an undue barrier in exercising franchising powers and they should not be allowed to refuse a franchise because they object to the principle of franchising. There were also a small number of comments of the need for the make-up of the panel to take the Equality Act (2010) into account or for at least one panel member to have an expert knowledge of equality impact assessment and groups at risk. A small number of respondents within a local authority and a regional transport partnership also noted that panel members must be protected from any potential repercussions or litigation. A trade union / campaigning organisation suggested that any panel should not be dominated by individuals from the bus sector.

There were some comments on the skills needed by panel members; the key one mentioned was **financial expertise** and a capacity to scrutinise an auditor's assessment and documentation or the business case for any proposed franchise, although there were also references to a need for **transport expertise**, or an appropriate professional / public background. There were also a small number of references to the need for a range of skills to be represented on any panel, including legal, financial and industry experience; or for representation from all key organisations affected by the transport framework.

There were a small number of references to the structure of any panel, with a small number of suggestions for a pool of panel members who could be appointed on a case-by-case basis. A local authority noted that the panel should have a strong understanding of the local context.

A number of respondents cited specific types of individual who should be on a panel and these included:

- Transport professionals with experience within the transport sector or the economics of bus operations.
- Bus users and those who are familiar with the routes within a proposal.
- Passenger representative organisations.
- Trade unions / campaigning organisations.
- Members of the general public / local community / community groups such as Community Councils.
- An LTA member with experience at a senior level and the knowledge to consider any proposals and the benefits to passengers; or a panel member from an LTA which has a franchising operation in place.
- A professional with a background in economics.
- A bus operator representative who can understand and explain operational requirements.
- The Traffic Commissioner.
- A professional with a legal background.
- Councillors / elected members.

While most respondents focused on the structure of a panel, there were some comments on the **types of individual or organisation who should be excluded from panel membership**. A key issue highlighted concerned personnel currently working for a bus operator, and the potential for a conflict of interest. However, there were also references that anyone with an interest in any company that could be part of the franchising structure should also be excluded.

While not relevant to the specific question, a few respondents referred to the guidance, with requests that this should include information on the selection of panel members, taking into account any issues of bias and the experience that would be required. A small number of trade unions / campaigning organisations focused on the need for any panel membership to gather a breadth of perspectives and knowledge so that a range of policy aims and human rights duties inform any decisions made.

Question 24A then went onto ask:

**Question 24a: Do you have any views in relation to the appointing, removing or replacing members to the panel and why?**

A total of eighteen respondents within the local authority, operator, trade union, regional transport partnership sectors and some individuals, answered this question, some of whom reiterated answers they had given at the previous question. The key theme was of a need to **ensure there are no conflicts of interest** such as financial

ties to a private bus company, and if a conflict of interest is discovered, this should lead to immediate removal from the panel.

As at the previous question, there were some comments on the **structure of the panel**, including the need to ensure the selection process is transparent and the panel should consist of members who are accountable and independent. Other comments referred to the types of individual who would be suitable as panel members, for example, passenger groups or transport stakeholders. There were a small number of suggestions that LTAs should be considered on the constitution of the panel.

A few respondents referred to **guidance**; for example, the need for guidance to provide information on the selection of panel members who have an appropriate level of understanding of the bus industry or a proven track record of experience and involvement in similar processes. One local authority also asked for inclusion of examples of good practice taken from similar panels elsewhere, and including information on lessons learned.

There were a small number of suggestions for regular reviews of panel membership to ensure duties are being conducted properly or for the position of panel member to be restricted to a period of four years, with a maximum of two periods of election.

## Functions of the panel

The consultation paper went on to explain that the panel appointed by the Traffic Commissioner will consider all the documents and any representations provided and will decide whether the proposal should be approved and whether the panel has satisfied itself that the LTA has fulfilled a number of criteria.

Question 25 asked:

**Question 25: Do you have any views about the process that the panel should follow in making their decision?**

A total of twenty-two respondents across most sub-groups answered this question. A key theme emerging was that all **decisions made by the panel must be fully justified, transparent and accountable**, with a small number of references to making this information publicly available. There were also a small number of references that to ensure all decision making is open and transparent, there should be **public hearings**, similar to public enquiries, although one local authority felt these should be brief in order to avoid delays and additional costs. An operator noted that representatives of all parties should be able to attend a formal public hearing, interview or enquiry and be allowed to provide written or oral submissions.

Allied to these points, there were a few comments that the **process to be followed must be specified and have robust and detailed criteria to follow**. There was also a lack of support noted over the term *'the panel must satisfy itself ....that it has reached a reasonable conclusion on the proposal'*, as this was felt to lack transparency. A small number of respondents within local authorities and regional transport partnerships noted concerns that panels may be risk averse in their



decisions unless they are protected from litigation as they would be open to legal challenge.

Once again, there were some references of the need for panel members to consult with stakeholders via a consultation process.

An operator and a representative body suggested that a panel should seek clear evidence that franchising will deliver improvements not offered by any other model.

Other comments made by very small numbers of respondents included:

- A need to establish the relevance of each panel member according to their experience and expertise.
- The panel should appoint a professional competent operator.
- The panel should focus on value for money in providing a service that meets government targets in the desired modal shift away from using private vehicles, and meet climate targets.
- Comparisons should be made with other countries and cities.
- A panel needs to understand about the operation of local bus services, relevant legislation and socio-economic objectives.
- There is a need to consider adverse and unintended negative consequences for other businesses in the area.
- The panel needs to take a holistic approach when considering the cost / benefit analysis.

Question 25A then asked:

**Question 25a: Are there any matters which you think should be prescribed in regulations that the panel must be required to consider (in relation to whether the LTA has given appropriate weight to such matters)?**

A total of twenty-two respondents answered this question. A key theme mentioned by a few respondents, was of a need to **consider the LTA's general policies**, including the Local Transport Strategy, Regional Transport Strategy and National Transport Strategy.

Another issue, cited by a few respondents within the local authority, operator and representative body sub-groups was of a need for the panel to **give appropriate weight to the cost of moving to a franchising model** and the impact this could have on the existing network; for example, a loss of operators or disruptions to public transport. One operator noted the need to consider the long term deliverability, sustainability and affordability of any proposals. There were also a few concerns that there could be an **impact on the local economy**.

A small number of respondents within the trade union, equalities and individual sub-groups commented on the need to take into account the full range of benefits to be offered by any proposal, rather than just focusing on a cost benefit analysis, with a

couple of comments from other respondents of a need for any decisions to take into account the sociological, human rights, environmental and financial impacts.

There were a small number of references for a need to carry out consultation with the general public and bus users.

Other comments made by single respondents included:

- The rules around procurement of services should be included; these include community needs, accessible services and bus provision.
- Decisions should be based on the fit with the long term and aspirational plan for bus services.
- The Public Sector Equality Duty and long term need for modal shift should be central to decisions.
- The panel should not be expected to require a similar level of assessment for all franchise proposals.
- Levels of car use in an area and whether an area suffers from high levels of pollution.

## Information relating to services

The consultation paper noted that as well as making new provision for local authority-run services, bus service improvement partnerships and franchising, section 39 of the 2019 Act inserts new provision into the Transport Act 1985 to allow LTAs to obtain certain specific information from an operator when the operator proposes to vary or cancel the registration of a local service. Any information requests must relate to the authority's obligation to ensure that there is a sufficient bus service provision in their area.

At present, regulations require operators to notify the LTA 28 days before they submit an application to the Office of the Traffic Commissioner to amend, vary or cancel a service and a voluntary arrangement is in place whereby operators provide service information to the relevant LTA.

Question 26 asked:

### Question 26: How long should an LTA be given to require provision of service information and why?

Twenty-seven respondents commented at this question. Opinions were split on the length of time an LTA should be given to require the provision of service information, somewhat exacerbated by a number of respondents either appearing to misinterpret the question or preferring to discuss the length of time an operator should be given to provide the requested information (Question 27).

The most common perception (by a large minority of respondents, consisting entirely of local authorities or regional transport partnerships) was that there should be **no specific timescale or time limit**. Reasons for this tended to coalesce around the differing nature of requests, summed up by a local authority as follows:



“In some cases it will quickly be clear to the LTA what information is required, and this will be actioned. In dealing with more complex registrations, it may take some time to analyse the changes and the impact of them. Other work pressures, staff absence, etc. will also impact on the time taken to analyse the changes. Information requested may be used to discuss possible changes to the proposed registration with the existing operator, to negotiate a replacement with another operator, or to prepare a tender specification. It may be that concerns over an apparently innocuous service change only come to light when the change becomes public knowledge. Therefore, there should be no prescribed limit to the time period when the LTA requests the information.”

Amongst those respondents who did specify a length of time, similar small numbers vouched for each of the following:

- Two days / three days / four days / one week, with the reasoning being that the requests should be a form letter in response to the operator.
- Two weeks (so that issues can be addressed promptly).
- Twenty eight days / four weeks (as it is the existing process already agreed by operators and LTAs which works well and does not cause major delays).
- Three months / six months (as LTAs should retain the ability to request information for longer periods after the date of the service revision).

In addition, three local authorities thought it would be more effective if the process and format was similar to the registration notice period, whereby the operator had to give set agreed information as a minimum, and further information could then be requested as necessary.

A couple of respondents suggested that transfers of data and requests should be in electronic format to speed up the timescales and improve the quality of information provision.

Question 27 then asked:

### Question 27: How long should an operator be given to provide that information?

A total of twenty-eight respondents gave a response at this question. The vast majority of respondents **recommended short time periods (two weeks or less)** for operators to provide the necessary information.

The largest numbers of respondents, comprising local authorities, individuals and operators, cited periods of between four working days and two weeks. Reasons given included the following:

- Avoiding delays.
- The data should be easily compiled or readily to hand.
- The data should have formed part of the decision-making for the operator’s service change.

- Operators should know all aspects of their business requirements and what does and does not affect their services.

However, a large minority of respondents desired that all information should be provided quicker: either on the day or within one working day of the variation or revocation service change notice being submitted, as it was thought the operator will have already assembled all the information necessary to make a commercial judgement.

Two individual respondents suggested longer time periods of either four weeks or three months, without stating reasons.

A few respondents thought there should be no specific timescale or time limit, or that the timescale should depend on the nature of the request.

A few respondents focused on specified information types which would enable an LTA to analyse travel patterns: these included passenger type (per week, Mondays to Fridays, Saturdays and Sundays), boarding and alighting points, revenue information and all data necessary for an LTA to plan to meet community needs. Two respondents suggested that the development of a consistent information format would help expedite information provision, both within an LTA and across the country.

## Service Information Operators Must Provide

The consultation paper explained that the 2019 Act provides that Scottish Ministers are to prescribe in regulations the service information that operators are to provide to LTAs. Question 28 asked:

**Question 28: What considerations might need to be taken into account when determining what revenue and patronage information an operator should be required to provide to an LTA under new section 6ZA(2) of the 1985 Act?**

Twenty-nine respondents answered this question. A majority opted to list various **information types purported to enable an LTA to determine appropriate actions** in response to variations and cancellations of services; almost all other comments took the form of more general observations about information provision.

The following information types, which would enable an LTA to analyse travel patterns and do trend analyses, were put forward:

- Operating costs.
- Profitability breakdowns.
- Revenue (but with occasional references to patronage being more useful than revenue).
- Fares data.
- Ticket types.
- Passenger types.
- Boarding and alighting points / origin and destination data (broken down by Monday-Friday, Saturday and Sunday figures).
- Patronage figures.
- Capacity figures.
- Continual improvement initiatives (not specified).
- Nature of routes and timetables.
- Reliability of services.
- Seasonal variations.

A large minority of respondents urged operators to provide **all data necessary for planning**, and anything an LTA needs to know to make a sustainable, integrated transport system; others desired a broad range of information that should be subject to Freedom of Information requests and requirements to avoid operators hiding information through confidentiality issues. However, a few respondents cited that reasonable and proportionate information requests should be adhered to, but that confidentiality clauses can be inserted regarding sensitive information. A representative body and an operator requested that the level of detail should not be too onerous.

Finally, a few respondents thought the only data required should be that relating to the section of route, day or time(s) of day when the service in question is proposed to be modified or withdrawn.

Question 29 then went onto ask:

**Question 29: Do you have any views on what specific information should be prescribed?**

Twenty-one respondents replied to this question. Respondents in general made more references to patronage-related information than revenue-related information.

A large minority of respondents gave examples of **patronage information** with the most commonly quoted elements being **time-categorised information** (i.e. broken down by daily patterns, Monday-Fridays, Saturdays, Sundays, per week, yearly per month, and seasonally) and **route information** (e.g. local geography, distances covered by vehicles and unusual operating conditions such as extra road gritting for hilly routes in winter). **Origin and destination data** in terms of boarding and alighting points was also highlighted by several respondents.

Other patronage-related information was suggested by smaller numbers of respondents and incorporated ticket usage data (e.g. types of tickets or use of multiple services with the same ticket) and consistency of timetable keeping.

A significant minority of respondents gave reasons for prescribing these types of patronage-related information as follows:

- To determine actions to be taken in response to bus service variation / withdrawal.
- To determine the tendering of replacement services.
- “...to identify the potential net cost of a replacement” (Operator).
- To determine on-vehicle passenger counts, passenger types and demographic information.

Fewer respondents gave examples of **revenue-related information**; small numbers suggested each of the following:

- Bus fare revenues.
- Off-bus ticket sales revenue.
- The portion of revenue derived from taking part in multi-operator ticketing arrangements.
- Concessionary travel arrangements.
- Revenue per passenger type.
- Profits (from any private bus service provision and / or overall corporate profits).
- Subsidy amounts through the contract period (e.g. subsidy per passenger mile).

Reasons given for prescribing these types of revenue-related information revolved around helping to achieve best value procurement for replacement services.

Other sundry types of information to be prescribed were specified including vehicle-related information (in terms of types of vehicle used, age and emissions), by an equalities respondent and a trade union / campaigns respondent; and investments or improvements carried out by the bus operator. A small number of respondents said the prescribed information should be that covered by the 2019 Act or the categories described in the new section 6ZA(3) of the Transport Act 1985.

A few respondents commented more generally that operators need to provide all data necessary and that LTAs should have discretion to request anything seen as relevant for analysis or planning purposes, or the same information they would be entitled to in considering a bus partnership; however, two local authorities and a regional transport partnership reflected that commercial confidentiality grounds should be allowable to protect sensitive information (but this could be subject to independent review if challenged by the LTA).

Question 30 then asked:

### Question 30: Do you have any views on what specific information should not be prescribed?

Eighteen respondents commented at this question; most of these made generalisations rather than citing any specific types of data that should not be prescribed.

The majority of respondents felt that **all data should be prescribed**, including commercially sensitive information. However, only slightly fewer respondents thought **all data except commercially confidential or sensitive information** (e.g. operating cost data, operator's revenue, specific ticket and passenger types) should be prescribed.

A few respondents envisioned that information provision should be GDPR-compliant, meaning that no information that could identify individuals or passengers should be released, as exemplified by a local authority:

“For example if a fare stage was a farm road end and therefore the travel patterns from that fare stage may identify the passenger.”

Finally, a small number of respondents thought it important that flexibility is maintained on what can be requested (appropriate to the circumstances).

## Extent of Permissible Disclosure

The consultation paper noted that Section 39 of the 2019 Act inserts a new section 6ZB into the 1985 Act which sets out the limited circumstances in which information obtained by an affected authority may be disclosed.

Question 31 asked:

### Question 31: What other persons do you think patronage information should be disclosed and why?

A total of twenty-four respondents commented on this question. The most widely cited view – by a large minority of respondents – was that **patronage information should be publicly available and accessible**; reasons given coalesced around the public being entitled to know the details for services being cancelled or altered since they are the customers, and operators gain from having public subsidies.

There were a few mentions that some **information could be made available in a generic format to protect commercial sensitivities and confidentiality**. To this end several respondents suggested that LTAs should have an agreed format for information-sharing. Specific content recommended included restricting information to subsidy per passenger or a percentage-based format, or total passenger journeys over a significant period of time (e.g. a calendar year).

Aside from the above, the groups recommended for information disclosure which elicited most mentions from respondents were regional transport partnerships and local authorities (in addition to LTAs, to assist in strategy development and carbon monitoring); prospective tenderers or bidders (assuming they have signed non-disclosure agreements) or those marketing the service; community groups (e.g. community councils, bus user groups); and other governmental bodies (e.g. health boards, Transport Scotland).

Single mentions were also made about making information available to adjacent or neighbouring LTAs (for integrated transport policy) or for research and policy-making purposes.

Caveats to information disclosure were made in the form of single mentions of this being in agreement with relevant partners, and operators remaining fully in control of their own information, who it is disclosed to, and why.

## Further Provision and Consultation

The consultation paper explained that the 2019 Act inserts new section 6ZA into the 1985 Act to allow the Scottish Ministers to make regulations to provide further detail about the duties and processes. The consultation questions went onto ask:

### Question 32: Under what circumstances might the application of new section 6ZA of the 1985 Act be excluded or modified?

Fifteen respondents replied to the question. A few of these could not envisage any circumstances under which the application of the new section might require to be excluded or modified.

Several local authority and regional transport partnerships however did foresee two situations under which the new section might require to be excluded or modified: firstly, **exceptional circumstances where legal proceedings would be a factor**, and secondly, **exceptional circumstances relating to financial or commercial considerations** in order to avoid negative impacts.

A small number of respondents felt that required information should never be excluded or modified in cancellation situations, but believed that in situations involving only minor variations which didn't require assessment by local authorities (e.g. retiming a bus journey by five minutes, where the variation would result in no

significant loss to the public), there could be the facility that information could be excluded or modified.

Single mentions were also made regarding possible exclusion or modification under the following two circumstances:

- Changes in operating conditions brought about by changes in legislation regarding disabilities, emissions, etc.
- Where the LTA is considering running a service in direct competition with a commercial operator, then the application of the new section may need to be excluded or modified.

Question 33 then asked:

**Question 33: Should operators be required to keep records of information and if so, what information should they keep?**

Twenty-two respondents made comments regarding this question. All these respondents indicated that they thought operators should be required to keep at least some records of information; a large minority cited **all prescribed patronage and revenue information** or **all information that they are required to send to LTAs** (i.e. any information specified through application of the proposed measures), albeit with a few respondents noting that confidentiality concerns should be addressed. An operator noted that they are already required to keep data on patronage under their obligations to complete STATS100 returns annually to the Department for Transport; and two respondents were concerned that operators should not be obliged to change record-keeping methods on the off-chance that an information request may follow.

A wide variety of specific types of information were put forward as needing recorded, each by very small numbers of respondents as follows:

- Ticket information (date, type, fare paid) / concession card use.
- Boarding / alighting points.
- Complaints and compliment information.
- Route and mileage information (where services are partially or completely cut).
- Locations where there are regular delays, or delays due to council road closures, breakdowns or accidents.
- Journey reliability and punctuality and details of prevailing mitigating circumstances.
- Time keeping records to monitor improvements in services.
- Employee-related information (working conditions, etc.).
- Vehicle information (availability, reliability, investment in vehicles, etc.).
- Reasons for decision-making regarding changes to services.



A few respondents went on to consider suitable time periods for keeping records; there was no consensus about this as shown below:

- Six months minimum (after the date of the service revision or after the change takes effect).
- Twelve months minimum after the date of the service revision (in case of further service provisions, or to support implementation of bus provisions in the 2019 Act).
- Three years minimum.
- Five years minimum (for obtaining robust travel patterns).

Finally, in this section of the consultation, Question 34 asked:

**Question 34: Do you have any views as to the form and content of the information operators may be required to provide under new section 6ZA of the 1985 Act including how it should be delivered?**

Fifteen respondents commented about the form and content of information provision. Most respondents made general remarks about information formats as follows:

- Information should be in a format agreed by bus operators and LTAs.
- Information should be in a form as requested by the LTA which is reasonable, practical, affordable and efficient.
- Information should be in a standardised or consistent format (so that operators with services in multiple local authorities do not have to provide information in a different format to each local authority).

A few respondents recommended that information should be provided via a standard spreadsheet format (e.g. MS Excel) as this was best for detailed interrogation. Suggestions were also made that information should be provided in the operator's standard electronic reporting format to avoid additional costs; however compatible electronic formats generally between the operator and LTA were also mooted. Other remarks maintained it was best not to be too prescriptive on the issue as there are a variety of IT systems in use in both operators and LTAs.

Finally, two respondents reinforced that no information should be unreasonably withheld in order for there to be sufficient records to enable interpretation of the data.

## Impact Assessments

The consultation paper noted that the public sector equality duties require the Scottish Government to pay due regard to eliminating discrimination, victimisation, harassment or other unlawful conduct that is prohibited under the Equality Act 2010; to advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a relevant protected characteristic.

Question 35 asked:

**Question 35: Do you have any views on the context of the impact assessments published in association with the consultation paper?**

A total of ten respondents commented in response to this question. The key comment related to **safety on buses**, with most comments referring to the impact of this on **women specifically**. Some local authorities noted that on-bus safety has not been mentioned in any impact assessments, and an equalities organisation noted a number of issues that need to be considered, including greater regard to safety on buses, better accessibility and improved services for women.

Two references were made to **disabled people**, with reference to the need to ensure that the requirements of the Equality Act 2010 are met at all times. There was also a comment that all bus stops should be accessible and all buses to have ramps.

A single reference was made to **elderly people**; this respondent commented that the elderly are often excluded by demand-responsive transport (DRT) systems that require a smartphone or that they cannot necessarily access websites.

**Young people** were cited by one respondent who noted that they form a large part of the service / hospitality sector workforce but that many are not served well by bus services and / or routes, particularly away from urban areas.

A local authority and a regional transport partnership referred to a paper on Rural Bus Funding which they felt should be used to inform the development and conclusion of an Island Communities Impact Assessment.

A trade union / campaigning organisation noted that these impact assessments had been written in the expectation that local authorities would have a choice between three new operating models but that this approach has been prevented by the Bus Partnership Fund, so there is a need for further equality impact assessments to be undertaken. A regional transport partnership noted that impact assessments will need to be undertaken when the provisions in the Act are being taken forward, and will need to be considered at that stage.

Question 36 then asked:

**Question 36: Do you have any comments on the information contained in the partial BRIA, including the options, costs and benefits discussed?**

Only seven respondents answered this question. Two local authorities noted that the example uses pre-COVID costings and wondered if COVID and / or Brexit have had an impact on these and whether the costings should be revised in the light of any impacts.

A trade union noted that any new powers for public control and ownership must be backed up by sufficient funding to make them accessible for local authorities.

An operator noted that the impact of introducing any or all of the measures contained in Transport Scotland Act 2019 will have different effects on operators, and it is not appropriate to assume the impact of a given intervention in a particular local market will have same impact in another market.

A local authority noted that:

“On page 6 of the partial BRIA it states under Option 3 “In this option QPs and QCs under 2001 Act remain in place but additional legislation is introduced to improve information and clarify the circumstances in which local authorities can run their own buses”. Throughout the remainder of the document, it is indicated that under this Option, like that of Option 2, QPs and QCs will be replaced by the BSIP and Franchising models, as set out in the Act.”

An individual noted that any discussion of costs must include costs of BSIPs in terms of climate change, the mental and physical health of communities and individuals and the effects on working conditions of bus drivers and employees of bus operators.

## Additional comments and Campaign Responses

A number of respondents provided additional comments, some of which reiterated points made at earlier questions. In addition, responses to a campaign were received; initially, a brief version was submitted by respondents but then the wording was extended and became more detailed. A total of 1,107 campaign responses were received; 135 of the shorter version, and 972 of the extended version. The text of the campaign responses is provided in Appendix 2. Some of these respondents also referred to their personal experience of using bus services to illustrate the issues they raised.

Some of the consultation respondents welcomed the opportunity to respond to the consultation and provided background information on their organisation so as to provide context for their response. Some also noted their keenness to be involved in further discussions in this area and work with Transport Scotland.

A key theme emerging across the consultation responses, from political parties, trade unions, a regional transport partnership and individuals, was of a need for Scottish Ministers and Transport Scotland to provide **financial and practical support to local authorities**. The need for financial support was also noted by individuals who responded via the campaign.

Linked to this point, a number of consultation respondents highlighted concerns that **BSIPs are being prioritised and financially incentivised** more than the other two models of franchising or public control. Some respondents noted that **public ownership through LTA bus services would be feasible and affordable** and noted a preference to **abandon the BSIP approach** which is seen as a continuation of the existing system. These respondents felt that public control and ownership of the bus service offers an opportunity to integrate transport networks, bring down the cost of fares, set environmental standards and increase service levels. Individuals who responded via the campaign also noted the need to have public ownership of bus services, rather than subsidising private operators so that local authorities can establish publicly owned bus companies and control the bus networks.

Individuals who responded via the campaign noted that the new powers for public ownership (LTA Bus Services) and for public control (Local Services Franchises) offer an opportunity to secure a high quality bus network that would help to tackle climate change and social inequalities. Key advantages of these two options were integration of transport networks, reduced fares, environmental standards and increased service levels through cross-subsidy. As with some consultation respondents there were requests not to prioritise and incentivise the BSIP model.

A consultation respondent commented that while financial incentives are being offered to BSIPs, they are not being offered to LTA Bus Services or franchised services.

A few consultation respondents commented that the **current bus system** is run for private gain and **has not provided the sustainable, integrated services that communities need**. They also referred to this year's [report by Philip Alston of the Centre of Human Rights and Global Justice](#) which outlined the impact of poor bus

services and which concluded that BSIPs are a failure and breach human rights obligations. This report was also referred to in the campaign responses.

The need to pay cognisance to **climate change** was highlighted by a few consultation respondents, who commented that in order to meet the commitment of net zero by 2045, Scotland needs a public transport system that is integrated, affordable and accessible to all. The issue of climate change was also referred to by individuals in both campaigns.

While a number of consultation respondents were critical of the existing bus services across many parts of Scotland, there were a number of **references to Lothian Buses** which is seen to be a good example of a municipal bus company offering a high quality service; while other bus operators have seen decreases in passenger numbers, Lothian Buses has seen an increase. Participants in both campaigns also referred to Lothian Buses as an example of a successfully run publicly-owned bus company. A small number of consultation respondents also referred to the Bus Passenger Charter developed between East Lothian Council, bus companies and passengers and suggested this approach could be adopted across Scotland.

Other points raised by very small numbers of consultation respondents included:

- LTAs should be able to transition flexibly to franchising without bus operators having a veto.
- The Transport (Scotland) Act 2019 places a duty on Ministers to consider the wider public interest in determining national transport strategy and that this should be central to Guidance for taking forward any of the bus powers in the Act.
- The flowcharts used to illustrate the process for implementing BSIPs or franchising must be updated to show the STAG (Scottish Transport Appraisal Guidance) process for developing local or regional transport strategies; additionally, there should be an equivalent flowchart for LTA Bus Services; and there is a need for information on how these flowcharts link together.
- A possible route for funding for LTA Bus Services and franchises could be via the Scottish National Investment Bank's climate change provision.
- Regulations and guidance should support and promote the development of DDRT (Digital Demand Responsive Transport).
- There is a need for a higher quality supportive infrastructure with the creation of mobility hubs as a way of encouraging more sustainable travel choices.
- There should be an additional Case to the Five Case Model, which is the Moral / Equity Case.
- The consultation was too long; lacking in clarity and used opaque language.

A number of other issues were raised by small numbers of individuals across both campaigns and these included:

- Buses are too expensive.
- Buses are not frequent enough.
- There is a need for bus services to provide better geographical coverage.

- Bus services are too unreliable.
- A well run bus system offering cheaper fares would help to reduce inequalities.
- A well run bus system would help to reduce car usage and improve the environment.
- London's transport system is better than Scotland.

## Appendix I: Respondent Organisations

Aberdeen City Council  
Aberdeenshire Council  
Association of British Commuters  
ATCO (Scotland)  
Center for Human Rights and Global Justice, NYU School of Law  
Community Transport Association  
CoMoUK  
Confederation of Passenger Transport (Scotland)  
COSLA  
East Dunbartonshire Labour Group  
Falkirk Council  
Fife Council  
First Bus Scotland  
Friends of the Earth Scotland  
Get Glasgow Moving  
Glasgow City Council  
Glasgow City UNISON (12,500+ members)  
Glasgow Trades Union Council  
Go Upstream; Paths for All; and Age Scotland's About Dementia project  
HITRANS  
Inverclyde Council Labour Group  
Mobility and Access Committee Scotland  
Moray Council  
NESTRANS  
North Ayrshire Council  
Perth & Kinross Council  
RNIB Scotland  
Scottish Labour  
Scottish Women's Convention  
SETrans  
South Lanarkshire Council  
South Lanarkshire Labour Group  
Strathclyde Partnership for Transport  
STUC



SWestrans

The Highland Council

Transport Focus

UNISON

Unite Scotland

West Lothian Council Labour Group

Xplore Dundee

ZetTrans and Shetland Islands Council

## Appendix 2: Campaign text

### Shorter version

Transport is Scotland's largest single source of GHG emissions and in order to tackle climate change we need to take back control of our buses.

Yet currently, private bus companies are able to cut routes and raise fares, with no regard for the communities that rely on them.

Lothian Buses, the largest publicly owned bus company in the UK, shows a different model is possible.

We need to re-regulate our buses and support public ownership.

Rather than subsidise private operators, the Scottish Government must provide financial support to Local Authorities to establish publicly owned bus companies and take back control of their bus networks.

### Extended version

Two of the new powers in the Transport Act 2019 offer communities across Scotland the once-in-a-lifetime opportunity to secure the world-class bus networks we need to tackle climate change and address chronic social inequalities.

As a result of this consultation, you must ensure that these two new powers – for public ownership (Local Transport Authority Bus Services) and for public control (Local Services Franchises) of bus services are both feasible and affordable for local authorities/RTPs to fully-utilise.

The Scottish Government must stop prioritising and incentivising the deeply-flawed 'Bus Service Improvement Partnership' model, which will do nothing but maintain the 35-year failed policy of bus deregulation and keep private companies in the driving seat.

Public control and ownership offer so much more. The chance to integrate transport networks, bring down fares, set environmental standards and increase service levels through cross-subsidy. With road transport the largest source of emissions in Scotland, a comprehensive and publicly-controlled transport network is the only way to ensure the modal shift from cars.

The success of Lothian Buses, the largest publicly-owned bus company in the UK, shows a different future is possible. These new powers mean every part of Scotland could reap the benefits of this model – but Scottish Ministers and Transport Scotland must act now and give financial and practical support to local authorities/RTPs so we can set up a new publicly-owned bus company for each region.

There can be no justification for going forward with deregulated ‘Bus Service Improvement Partnerships’, especially after former UN Special Rapporteur for Extreme Poverty & Human Rights, Philip Alston, concluded in his recent report that “partnerships are... a tried-and-failed approach that should be retired in favour of actual regulation of public transport.”

‘Bus Service Improvement Partnerships’ would just lock us into a wasteful, fragmented and unaccountable system for the long-term; with huge levels of public subsidy continuing to go into shareholders’ pockets, instead of growing and improving the public transport networks we so urgently need.

Public control and ownership are our only chance to secure social, economic and climate justice for the long-term.



**TRANSPORT  
SCOTLAND**

CÒMHDHAIL ALBA

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