

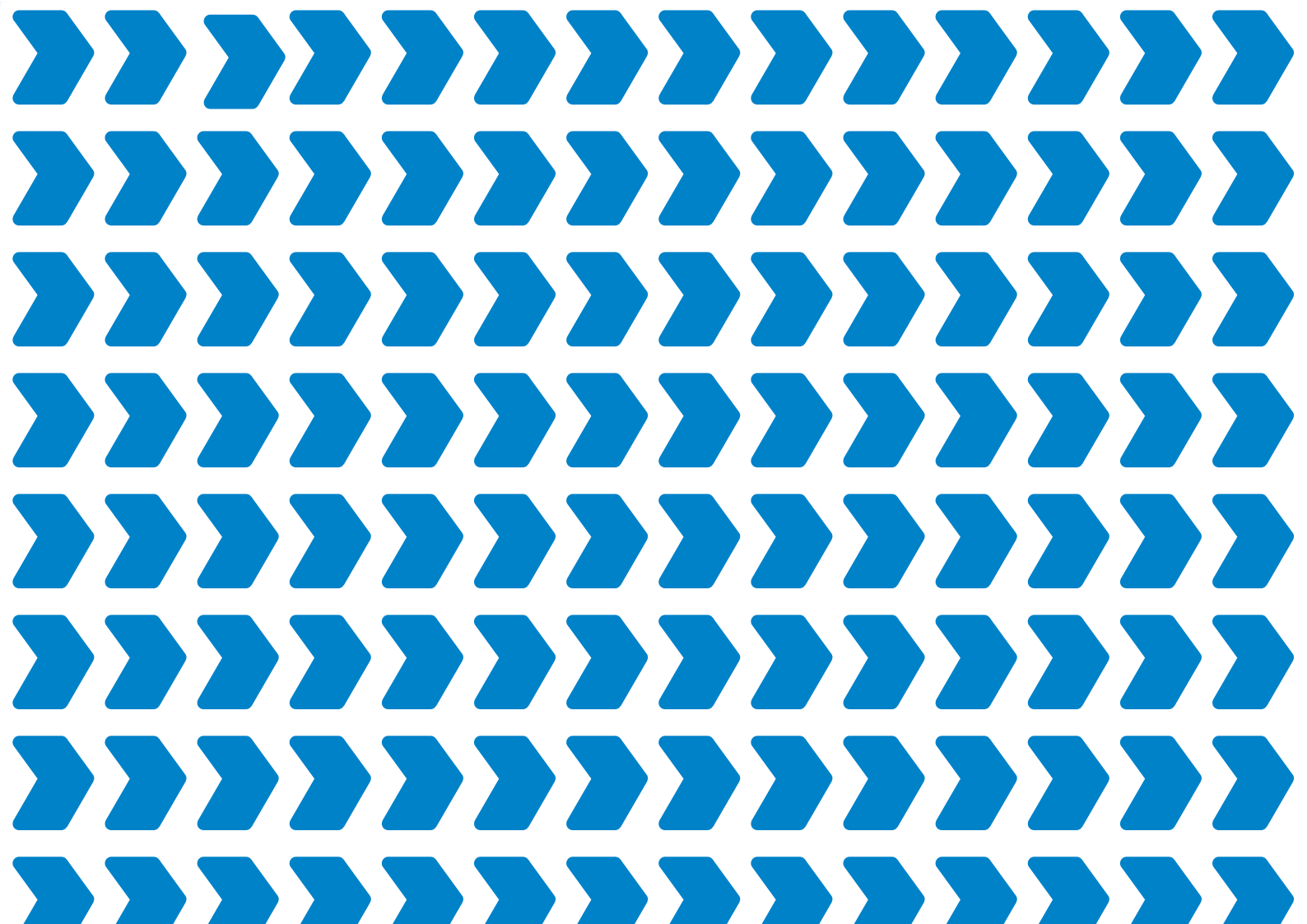


Department
for Transport

The Bus Services Act 2017

Delivering Bus Service Improvement Plans using a Franchising Scheme

Guidance



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Franchising Guidance

Introduction

1.1 Franchising is an established model for providing bus services used in London and in many cities and regions across Europe. In a franchising scheme, local authorities will determine the details of the services to be provided – where they run, when they run and the standards of the services. Typically bus operators provide their services under contract to the local authority who can let whatever sort of contract they feel is appropriate. No other services can operate in the franchised area without the agreement of the franchising authority.

1.2 Franchising can be an effective way of correcting a market failure and we support its use where it is in the best interests of passengers. Used well, franchising can harness the knowledge and expertise of the private sector and improve service levels, customer satisfaction and overall patronage.

1.3 Franchising does not always require the scale of Local Transport Authority (LTA) resource and planning seen in London. There are also strong models of franchising in the Channel Islands and other countries which capitalise on the strengths of private sector route planning, marketing and investment as part of the tendering process whilst ensuring stronger local accountability and financial incentives to prioritise bus services for the local authority.

1.4 The bus franchising powers inserted into the Transport Act 2000 by the Bus Services Act 2017 ('the 2017 Act') are deliberately flexible. They do not have to be used across the whole of a local authority's area or require all bus services to be operated exclusively under contract – it does not have to be an 'all or nothing' proposition. For example, franchising could be introduced to maximise the benefits of a bus rapid transit scheme and cover that corridor only. Or in a rural area or market town it could be used to deliver a fully integrated network, with good "branch" connections to key corridors, through a combination of franchised services and commercial services operating under "service permits" awarded by the authority. Franchising and an Enhanced Partnership (EP) cannot both cover the same geographical area but there is no reason why they can't be used alongside each other to deliver Bus Service Improvement Plans (BSIPs) and achieve the best overall outcomes for passengers and communities. Further information about potential types of franchise is at Annex [D](#).

1.5 The franchising powers within the 2017 Act can currently be used by Mayoral Combined Authorities (MCAs) at any time, but only by other LTAs with the Secretary of State's consent and new secondary legislation. We support the use of franchising and will allow any LTA which has the capability to do so to pursue franchising where it would not needlessly delay the provision of better services.

The National Bus Strategy

2.1 The National Bus Strategy ('the Strategy') sets out an ambitious vision to dramatically improve bus services in England outside London. The COVID-19 pandemic caused a significant shift from public transport to the private car and to avoid the worst effects of a car-led recovery, buses must build back better – working at pace to deliver a fully integrated service, simple, multi-modal tickets, increases in bus priority measures, high-quality information for passengers and in larger places, turn-up-and-go frequencies that keep running into the evenings and at weekends. The Strategy can be found here:

<https://www.gov.uk/government/publications/bus-back-better>

Bus Service Improvement Plans (BSIPs)

2.2. BSIPs are how LTAs, working closely with their local bus operators, set out their vision for delivering the step-change in bus services that are required by the Strategy. The Government has published guidance on developing BSIPs, which can be found here:

<https://www.gov.uk/government/publications/bus-service-improvement-plan>

The Statutory Process

2.3 The Transport Act 2000 ("the Act"), as amended¹, sets out the process that any authority must follow before it can introduce bus franchising in its area. Two franchising authorities acting together may also make a franchising scheme covering the whole or any part of their area or combined area.²

2.4 At a high-level, the process to introduce franchising can be broken down into 5 key stages. These are:

- **STAGE 1** - Accessing the statutory powers and committing to prepare a franchising proposal
- **STAGE 2** - Developing the franchising proposal and assessing it against (an)other option(s)
- **STAGE 3** - Consulting on the proposal
- **STAGE 4** - Decision to proceed with franchising
- **STAGE 5** - Implementation

2.5 Guidance on each stage is provided below and includes two different types of guidance:

- Guidance which seeks to explain how the franchising legislation works in practice and how the Government will approach giving non-Mayoral Combined Authorities access to franchising powers. This guidance is in normal type; there is no statutory requirement for a local authority or auditor to have regard to it. It may however reference requirements which are themselves set out in statute (such as requirements to follow a particular process or to consult); and

¹ By the Bus Services Act 2017

² From this point on the guidance only refers to 'authority', although it is accepted that there may be more than one LTA involved in developing a franchising assessment and scheme.

- Statutory guidance to which a franchising authority or auditor must have regard to in exercising relevant functions. This statutory guidance is underlined³.

2.6 Any authority which published a statutory notice of intent to develop a franchising assessment⁴ on or after 30 June 2021 should have regard to the statutory guidance provided in this document.

2.7 Any authority which had published a statutory notice of intent to develop a franchising assessment before 30 June 2021 should have regard to the previous statutory guidance issued by the department, published in November 2017, and (as far as possible given the stage of the process the authority has reached) to the following sections of this guidance - unless it indicates in its franchising assessment that it has instead chosen to have regard to the statutory guidance in this document in its entirety:

- **Section 1** – Introduction
- **Section 2** – National Bus Strategy
- **Section 3** – Franchising and BSIPs
- **Section 5 - STAGE 2** - Developing the franchising proposal and assessing it against (an)other option(s)
- **Section 9 - The STRATEGIC CASE** - Whether the scheme would contribute to the implementation of the authority's and neighbouring authorities' local transport plans and other policies affecting local services.
- **Section 18** – Implementation
- **Sections 19-23** - Implementation and operation of a franchising scheme

Whilst there is no statutory requirement to do so, such an authority should seek to follow the guidance in this document as far as is reasonably practicable to do so without re-doing steps which they have already completed or needlessly delaying benefits for passengers.

2.8 The '*Bus Services Act 2017: New Powers and Opportunities*'⁵ contains further non-statutory guidance on how both enhanced partnership and franchising schemes can be implemented effectively – for example on meeting the needs of rural communities, providing an inclusive service, improving the safety of bus services and maximising social value.

Franchising and Bus Service Improvement Plans (BSIPs)

3.1 As the Strategy explains, there can be no return to a situation where services are planned on a purely commercial basis with little or no engagement with, or support from, LTAs. BSIPs are how LTAs, working closely with their local bus operators, address this - setting out their vision for delivering the step-change in bus services

³ It is issued under the following sections of the Act: 123B(5) in relation to the preparation of a franchising scheme assessment by a franchising authority; 123D(3) in relation to the matters to be taken into account by a franchising authority when selecting a person to act as an auditor of a franchising scheme assessment; 123D(5) in relation to the matters to be taken into account by an auditor when forming an opinion as to whether the information relied on in a franchising assessment, and the analysis of that information, by an authority is of sufficient quality; and 123W(1) in relation to the exercise by franchising authorities of their functions with regards to franchising schemes.

⁴ Under section 123C(4) of the Transport Act 2000

⁵ Available on the .GOV website at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918498/bus-services-act-2017-new-powers-and-opportunities.pdf

that are required by the Strategy. The Government has published guidance on developing BSIPs, which can be found at:

<https://www.gov.uk/government/publications/bus-service-improvement-plan>

3.2 BSIPs are expected to outline how LTAs and operators propose to make services:

- *more frequent*, with turn-up-and-go services on major routes and feeder or demand-responsive services to lower-density places.
- *faster and more reliable*, with bus priority wherever necessary and where there is room.
- *cheaper*, with more low, flat fares in towns and cities, lower point-to-point fares elsewhere, and more daily price capping everywhere.
- *more comprehensive*, with overprovision on a few corridors reduced to boost provision elsewhere and better services in the evenings and weekends, not necessarily with conventional buses.
- *easier to understand*, with simpler routes, common numbering, co-ordinated timetable change dates, good publicity, and comprehensive information online.
- *easier to use*, with common tickets, passes and daily capping across all operators, simpler fares, contactless payment and protection of bus stations.
- *better integrated with other modes and each other*, including more bus-rail interchange and integration and inter-bus transfers.

3.3 Achieving these BSIP outcomes requires improvements in both bus services themselves and the infrastructure on which they operate, and this must be reflected in the overall bus franchising 'offer' to passengers.

3.4 Franchising concerns the provision of services. Many BSIP outcomes related to services will be delivered through the detail of the franchise contracts subsequently awarded to operators (including fare structures and ticketing arrangements, vehicle standards, branding, networks, service levels and the inclusion of demand responsive services).

3.5 However, the cost and effectiveness of franchising in delivering BSIP outcomes is also likely to be materially influenced by infrastructure investment, particularly the provision of bus priority. Infrastructure investment plans and their impact on service costs, passenger numbers and revenue will therefore need to be fully integrated into franchising proposals and bus priority measures taken by the authority included in the franchising scheme.

3.6 The table at **Annex A** summarises how the different BSIP outcomes, as discussed in paragraphs 67-108 of our BISP guidance, should be reflected in the development and implementation of franchising⁶.

3.7 In summary, a franchising authority should exercise its functions with regard to franchising so as to achieve the outputs, outcomes and overall transformation of local bus services set in its BSIP (and, where relevant, the BSIPs of neighbouring

⁶ Some of these elements for franchising proposals that are comparatively limited in scope, covering only some of the services within an LT, but all will apply in most cases.

LTA) as far as is possible with the funding provided by the Government and otherwise available to the authority. In doing so it should:

- aim to achieve the improvements set out in the Government’s guidance for BSIPs;
- seek to ensure that franchising plans are complemented by bus lanes, that are as full-time and continuous as possible, and other bus priority measures on any roads where there is a frequent bus service, evidence of unreliability or long journey times on buses⁷ caused by the effects of congestion or poor road layout, and physical space to install them;
- How other LTA policies and action will indirectly support bus services (including park and ride) and make them a more attractive alternative to car users. For example, the decision whether to use a car or the bus is greatly influenced by parking policy⁸:
 - (a) The availability of parking – i.e. the number and location of spaces and how easy it is perceived by the motorist to find a vacant space close to popular destinations;
 - (b) The cost of parking – how expensive car parking is compared to using the bus;
 - (c) Terms and conditions – if ‘all day’ parking is available, a revision to limit the time available (e.g. two hours only, no return within four hours) can make the bus appear more attractive;
 - (d) Effectiveness of enforcement – how likely it is perceived by motorists that they will be fined for breaching the terms and conditions (including illegal on-street parking) can influence how, where and whether they park.
 - (e) Whether other pro-bus measures should be introduced such as a Workplace Parking Levy.
- set out clearly in its franchising assessment (and where they are implemented by the authority and already exist or have funding in place in the franchising scheme) the bus priority measures implemented or planned;
- reflect the costs, benefits and impacts of relevant bus priority measures (including bus lanes) in its franchising assessment.
- How success will be measured. How the data informing progress towards the headline targets set out in the BSIP will be collected and appropriate action on them taken forward.

Chapter 4 of the ‘*Bus Services Act 2017: New Powers and Opportunities*’⁹ contains further advice on tackling congestion.

⁷ Ideally, taken from vehicle GPS or other real-time data.

⁸ For parking provision provided by the LTA. It is accepted that parking provision is also provided in some areas by private companies on private land.

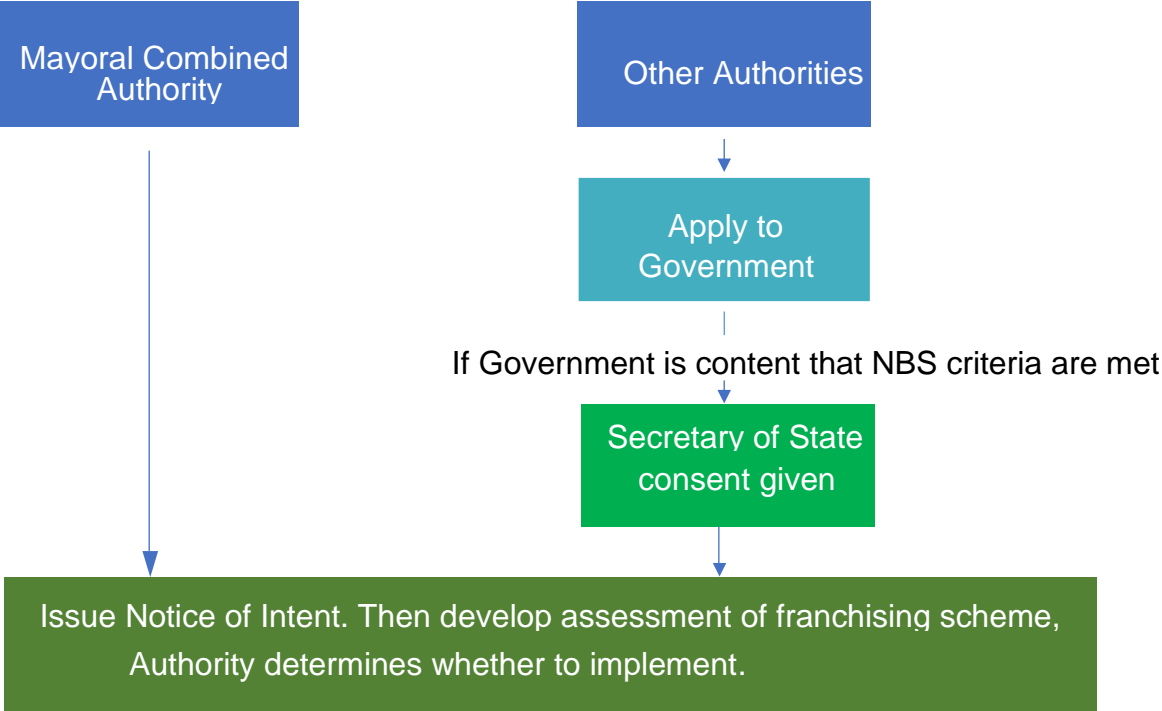
⁹ Available on the .GOV website at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918498/bus-services-act-2017-new-powers-and-opportunities.pdf

STAGE 1 - Accessing the statutory powers and committing to prepare a franchising proposal

- 4.1 The Act provides automatic access to franchising powers to MCAs. Other LTAs can also apply to Government for access to the same powers to deliver their BSIPs and decisions will be taken on a case-by-case basis.
- 4.2 The Strategy commits to support any LTA (whether an MCA or not) that wishes to access franchising powers, and which has the capability and intention to use them at pace to deliver improvements to passengers. There is a two-step process that needs to be followed before non-MCAs can access the powers:
 - 1) Regulations must be made which 'unlock' access to franchising powers for all LTAs. This will provide for other categories of authority, such as combined authorities without an elected mayor, county councils or the different types of unitary authority, to become a "franchising authority".
 - 2) Any individual authority within those "unlocked" categories then requires consent from the Secretary of State before they can initiate the franchising process.

The process is summarised below



Once it has access to franchising powers and, regardless of whether it is an MCA or not, those authorities do not need to seek any approval or authority from

the Secretary of State on any part of the franchising process or on the decision whether to franchise.

How the process will work in practice

- 5.1 All LTAs in England that are not MCAs have now issued a statutory notice of intention to prepare an EP Scheme. If any such authority wishes to access franchising powers, it should continue to develop and implement its proposed EP¹⁰ alongside applying to the Secretary of State for access to franchising powers. To pursue franchising they must, as set out in the Strategy, satisfy the Secretary of State that:
- franchising will better deliver, at pace, service improvements to passengers and will not needlessly delay delivering BSIP outcomes; and
 - they have the capability and resources to do so (including demonstrating the capability to deliver BSIP outcomes – particularly in traffic management to ensure buses are prioritised appropriately).
- 5.2 We will lay the necessary Regulations and (if/once they are approved) the Secretary of State will give their consent to start the franchising process for any LTA which can demonstrate that the tests above are met. The Secretary of State will reserve the right to refuse an application for franchising if they believe that these tests are not met.
- 5.3 Below are some examples of material that an LTA may choose to provide to evidence the tests set out in the Strategy. These are illustrative and are neither an exhaustive list of evidence nor minimum evidence requirements.
- The steps it has taken to develop and where relevant implement an EP, and a clear explanation of **why franchising better delivers BSIP outcomes for passengers** than either the existing EP scheme or an improved EP scheme. This would ideally include specific outcomes for passengers that an EP either cannot deliver, or which are realistic to achieve with the funding and wider resources available, but it is not proving possible to implement through an EP.
 - Its proposed **timetable** for implementing franchising and how the authority will ensure that this will not unduly delay the delivery of BSIP outcomes.
 - A high-level view of the **franchise model** it is minded to prefer (subject to the development of the assessment) and why, in particular:
 - the geographical area it is likely to cover has been chosen and how that relates to work and leisure patterns and takes into account BSIP outcomes (in their own and other potentially affected local authority areas).
 - whether the authority envisages route-level contracts (as in London), area-based contracts (as planned for Manchester) or a single area-wide contract (as in Jersey).
 - the role envisaged for the private sector operators – including in route planning, commercial marketing and revenue arrangements.
 - How it has demonstrated and can give confidence in its **capability to deliver** the franchise model chosen – in particular:

¹⁰ Separate guidance on Enhanced Partnerships can be found here:

<https://www.gov.uk/government/publications/bus-services-act-2017-enhanced-partnership-creation>

- how it plans to finance and resource the development and implementation of franchising. This can also take into account any new funding allocated to deliver the BSIP or for capacity and capability by the Department for Transport.
- its previous delivery track record – e.g. through successful delivery of complex projects and/or previous commitments to improve public transport and outcomes for passengers.
- how it plans to work with other local authorities where bus services could be affected by a franchising scheme or which have an important part to play in ensuring that BSIP outcomes are delivered.
- its traffic management capability and track record, including through implementing and maintaining bus priority measures.
- the wider powers that are in place and which will help ensure franchising is a success, particularly how it will use highways and transport powers to deliver BSIP outcomes.

5.4 If the authority is successful, the Secretary of State will publish a notice that consent has been given. The authority must then publish a notice that they intend to prepare a franchising assessment.

STAGE 2 - Developing the franchising proposal and assessing it against (an)other option(s)

5.5 Once an authority has issued a statutory notice, the next stage is to develop the detail of their franchising proposal. The authority's **published BSIP** will already sets out its ambition for local buses and other types of non-registered¹¹ local transport (such as community transport). The authority now needs to set out how franchising will deliver this – in whole or in part.

5.6 The authority's overall plan is set out in a **franchising assessment**. This is effectively a business case which:

- describes what franchising is intended to deliver, how it will be set up, structured, funded, managed and complemented by other measures (especially bus priority measures where needed). This includes setting out details of the initial **local service contracts** which will translate the authority's franchising plans into bus services and other outcomes (such as a new fares structure or integrated ticketing) 'on the ground'; and
- compares franchising to the best EP alternative;
- The franchising assessment is subject to independent assurance.

5.7 Alongside this the authority needs to develop its proposed franchising scheme. This is the formal legal document that establishes franchising in an area. It sets out:

¹¹ Not services defined legally as 'local bus services' and required to be registered with the traffic commissioner under the Transport Act 1985.

- the area to which franchising applies¹²;
- the scope of the franchised local bus services intended to be provided under contract to the LTA;
- the time interval between franchising contracts being signed and the franchised service starting to operate 'on the ground';
- how the authority will consult users on how well franchising is working; and
- the facilities (such as bus priority measures, ticketing sales or websites or depots) that the authority will put in place to complement franchised services.

The Franchising Assessment

Overview

- 6.1 Section 123B of the 2000 Act requires franchising authorities to conduct an assessment of the proposed franchising scheme. The purpose of the assessment is to set out what sort of franchise the authority will deliver, explain how far it will deliver BSIP outcomes, confirm that it is affordable and deliverable and allow an informed decision to be taken (by comparison with the best EP option) on whether or not it is the best way to proceed.
- 6.2 The legislation sets out a number of factors that must be considered as part of an authority's assessment of its proposed franchising scheme. An authority can take other factors into account, provided that these are clearly set out and explained as part of the assessment itself.
- 6.3 In conducting a franchising assessment, authorities should draw heavily on their published BSIP, including;
- Using the BSIP to identify the objectives which it will use to assess the different options. These objectives should be specific, measurable, realistic and time-bound and apply to bus services in the relevant geographical area. It is for the authority to determine how many objectives are appropriate; and
 - considering how the targets set in it will be delivered by the franchising scheme. In particular, paragraphs 67-107 of the BSIP guidance set out the areas that the franchised bus network should focus on to improve bus services.

Assessment process

- 7.1 This assessment is the equivalent of a business case. It should:
- draw heavily upon the LTA's BSIP to explain what changes are needed and why;
 - include a high-level comparison of the options to deliver that change;
 - include a detailed explanation of how the preferred option will be delivered.
- 7.2 The assessment of the proposed scheme needs to contain sufficient detail to enable an informed decision on whether or not to proceed with franchising or an EP to be taken by local decision-makers. The level of detail provided should be broadly equivalent to other significant decisions taken by the LTA or Mayor, for example, approval of a strategic document such as a Local Plan or a decision to award a large contract.

¹² Bearing in mind that these franchised areas may be divided into 'sub-scheme' areas that may have different implementation dates See Section 123H(3) of the 2000 Act.

- 7.3 So, in the light of the Strategy and BSIP guidance, boiled down, a franchising assessment considers how the outcomes in the authority's published BSIP would be delivered under, as a minimum, the franchised and best possible EP model (see paragraph 5.6 above). The LTA then decides if the franchised model is better, or whether BSIP outcomes and the targets it sets are best delivered via the EP route (see following section).
- 7.4 Any decision to change the model of bus service delivery is significant and will impact the authority proposing the scheme, neighbouring local authorities, bus operators (both incumbent and aspiring to enter the market) and, most importantly, new and existing passengers. Franchising in urban and rural areas may need to be developed and implemented in different ways. Chapter 4 of the '*Bus Services Act 2017: New Powers and Opportunities*'¹³ contains further advice on meeting the needs of rural communities.

Overview of range of options

- 8.1 Section 123B provides that an authority's assessment of their proposed franchising scheme must describe the likely effects of the scheme and compare making that proposed scheme to at least one other course of action.
- 8.2 The Strategy requires all LTAs to commit either to develop an EP or a franchising assessment to access new Government funding. Therefore, the assessment should compare the authority's preferred franchising model to at least the implementation of an existing or planned EP for the same geographical area (a "best EP" option). A 'do nothing' scenario does not need to be considered as it would be inconsistent with the Strategy.
- 8.3 The best EP option used in the assessment should be the most ambitious EP that the authority believes is realistically achievable during the development of the assessment. The EP option should set out how effectively it could deliver BSIP outcomes that the authority would put in place regardless of the proposed scheme, such as continuing to subsidise certain services. The EP should also include any improvements or changes that operators in the area have planned, using appropriate forecasts where feasible – such as to fares or changes to services that are likely to increase or decrease passenger journeys and LTA financial risk. The possibility of market entry or exit should also be considered.
- 8.4 The authority does not need to revisit work on its assessment or change the best EP option if the likelihood of achieving a particular type of EP changes at a late stage in the development of an assessment or following consultation and incorporating it would delay significantly a franchising decision (for example if operators indicate they would not now object to an EP proposal which they had previously not supported).
- 8.5 Before considering the specific requirements set in the Act, the assessment should explain at a high level:
- the range of franchising options (e.g. in level of contract and role for the private sector) the authority considered;
 - which one (or more) of these options is preferred and is considered in detail in the remainder of the assessment any why; and

¹³ Available on the .GOV website at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918498/bus-services-act-2017-new-powers-and-opportunities.pdf

- why the EP option used has been selected and the evidence on which that decision is based.

8.6 An authority may include more than two options in the franchising assessment (including different types of franchise or EP) if it wishes to do so – for example if it considers that a detailed assessment is required to determine between different types of franchise. Further information about different types of franchise, and ways of constructing a franchising scheme, is in **Annex C**).

Detailed assessment of at least two options

9.1 Section 123B of the 2000 Act sets out the factors which an authority must consider as part of its assessment of its proposed franchising scheme. These reflect, broadly, the Treasury five-case business case model. The section below and **Annex D** set out guidance, presented under headings that correspond to the legislation and the five-case model. The five cases are closely related, with the commercial case setting out in detail how franchising will operate and having a particular impact on all other aspects of the assessment.

The STRATEGIC CASE - Whether the scheme would contribute to the implementation of the authority's and neighbouring authorities' local transport plans and other policies affecting local services

9.2 Section 123B(3) (a) and (b) say that the assessment must include consideration of:

- *Whether the proposed scheme would contribute to the implementation of:*
 - a. *the authority's or authorities' local transport plan policies made under section 108(1)(a) of the Act, and*
 - b. *other policies affecting local services that the authority have adopted and published.*
- *Whether the proposed scheme would contribute to the implementation by relevant neighbouring local authorities¹⁴ of:*
 - a *those authorities' policies under section 108(1)(a), and*
 - b *other policies affecting local services such as commitments and development of a franchising or EP proposal that those authorities are considering or have adopted.*

This is the strategic case for franchising. In this section the focus should be on the outputs and outcomes achieved under the different options.

9.3 The authority should set out whether – and if so how, the extent to which and how quickly - each option would contribute to the implementation of their local transport plan policies and any other of their published and adopted policies that affect local bus services. This includes their BSIP and other relevant policies, for example if they have declared a climate emergency. In doing so, the authority should also explain how the options contribute to the overall 'transport offer' to local people - including how local bus services integrate with other types of transport such as light or heavy rail, demand responsive transport (DRT) and services provided, for example, under Section 19 and 22 of the Transport Act 1985 and community car services.

9.4 In particular, the authority should explain how each option will, with the funding expected to be available, help achieve their BSIP objectives and targets. This should include for each option:

- whether, when or to what extent each quantified BSIP target is expected to be met;
- the overall service levels expected to be provided on key corridors including weekday, evening and weekend frequencies;
- the extent to which services will be integrated with other modes and timetables co-ordinated where appropriate;
- what bus priority measures are already in place or the authority (or relevant local highway authority) will implement (with implementation dates) and how they are expected to impact journey times;
- the approach to and level of fares (including whether low flat fares, a zonal fares system, maximum fares and/or daily price caps and any local concessionary fares that will be offered);
- whether multi-modal fares will be available and, if so by when and how widely;
- the technologies expected to be used to sell tickets (e.g. smart card, contactless, mobile etc) and whether cash will be accepted on-bus;
- whether any DRT or other road transport services will be provided and if so the service levels, locations served, nature of integration with traditional bus services and whether or not concessionary bus passes will be accepted on them;
- the nature, quality and consistency of network identify and branding;
- the nature, quality and consistency of information (such as network diagrams) to be provided at bus stops and on bus and real time data;
- how often timetable changes will be made;
- customer service standards (including redress arrangements and delivery of the passengers' charter set out in the BSIP);
- the levels of accessibility at bus stops and bus stations;
- the emission standards expected to be achieved over time (including the percentage of the fleet expected to be zero emission on an annual basis and when a fully zero emission fleet will be achieved); and
- the extent to which audio and visual information and next stop announcements, free wifi, device charging, an additional wheelchair space and enhancements to the carriage of bicycles will be available across the network.

9.5 In this section of the assessment the authority should also list its relevant local neighbouring authorities¹⁵ and consider at a high level the extent to which each option would help in (or otherwise impact upon) the delivery of relevant parts of their BSIPs. To do so, authorities should proactively engage with neighbouring authorities to ensure they fully understand those policy objectives and the impacts that each option could have on bus services and transport in their areas.

¹⁵ A local transport authority, a London transport authority or a council in Scotland

Gathering information

10.1 An authority will need to gather robust information and data to inform the preparation of the above assessments. In developing the assessment, an authority should draw on information about the current and predicted future performance of local bus services in delivering BSIP outcomes and the targets it sets. The BSIP guidance sets out the minimum data required to deliver those outcomes. These are available operator and LTA data on:

- Passenger numbers by route, time of day and ticket type.
- Bus vehicle speed and congestion data by route and time of day – using ‘hard data’ – e.g. GPS vehicle data from operators.
- Bus average journey times.
- Granular data on single operator fare volumes for single fares, flat fares such as youth or hopper fares, period passes (daily/weekly/monthly), flexible/carnet tickets, annual season tickets and concessionary passes – including the average price. Also, the use of any multi-operator or through ticketing and the split between cash and electronic payment including concessionary fares.
- The current bus market share compared to other modes, particularly the private car. This should be split between urban and rural where possible.
- Bus service frequency (including days of operation).
- Bus stop network density.

10.2 As explained in the BSIP guidance, where particular datasets are not available, action should be taken by the LTA so that it has, as far as possible, all the data it needs to complete the assessment. This can be, for example, by:

- The LTA compiling the data itself;
- Where possible requesting it from operators, including;
- Using the statutory powers to request information (see below).

10.3 The Analyse Bus Open Data Service, part of the Bus Open Data programme, is a new service available to local authorities and operators providing bus service performance information. This may provide a more direct source when compiling bus data. For further information please see the Bus Open Data Service Implementation Guide - <https://www.gov.uk/government/publications/bus-open-data-implementation-guide/bus-open-data-implementation-guide#abods>

10.4 The Act also enables an authority to request certain data from operators of local services in the area in which the franchising scheme is proposed in order to help develop their assessment – the specific categories of information that can be requested are set out in section 143A(3) of the Act and in regulations¹⁶. An authority is able to request the information in any form that it is reasonable to expect operators to provide it, bearing in mind the ways in which operators currently hold the information, and within such a reasonable timescale as the authority may set out. Examples of data that can and cannot be requested are set out in **Annex B**.

¹⁶ The Franchising Schemes and Enhanced Partnership Plans and Schemes (Provision of Information) Regulations 2017 (2017/1091)

However, this is for information only. The precise information that can be requested will, of course, depend on all the applicable circumstances.

- 10.5 An authority should engage proactively with local operators before and throughout the information request process to understand the ways in which operators hold the relevant information and how long it may take them to collate and provide it.
- 10.6 In addition, an authority should look to supplement the information gathered from operators with other information to ensure they have a strong evidence base on which to take decisions regarding the most suitable model to deliver BSIP outcomes. This should include information gathered from passenger surveys or information about local travel patterns, other research and evidence about the likely benefits or impacts of particular changes to bus services.

The Franchising Scheme

Overview

- 11.1 The franchising scheme is the legal document through which franchising is implemented. The contents of the scheme itself are comparatively limited.
- 11.2 The scheme needs to specify:
- **the geographical area(s) that franchising will cover**¹⁷. The Act provides flexibility for an authority to phase-in their franchising scheme in stages through the use of ‘sub-areas’. An authority is able to split their franchising scheme area into a number of sub-areas, with the services in each sub-area transitioning to franchised services at different times; and
 - **the local services to be provided under franchised local bus service contracts**¹⁸.
 - **the date when initial franchising contracts are intended to be signed and the time interval to those services starting to operate ‘on the ground’**¹⁹. This is so that all, particularly local people and existing and potential local bus operators, can be aware of when a franchised bus network will begin to operate. The Act provides that the interval cannot be less than 6 months;
 - **how the authority will consult users on how well franchising is working**²⁰. This should set out the frequency of consultation and the initial groups to be consulted (recognising that these may change over time). As a minimum this should include Transport Focus or any successor body. It should not be a generic statement such as that the authority will consult “such groups as it sees fit” at “periods of its choosing”;
 - **the facilities that the authority will put in place to complement franchised services**²¹. The authority should set out in the scheme any facilities that it is providing which are central to the success of franchising. This might include depots, ticketing systems, equipment or other types of facility. The authority

¹⁷ See sections 123H(2)(a) and 123H(3) of the Act

¹⁸ See sections 123A(3)(a) and 123H(2)(b) of the Act

¹⁹ See sections 123H(2)(c) and (d) and 123H(4) of the Act

²⁰ See section 123A(9) of the Act

²¹ See section 123A(3)(d) of the Act

should also include in the scheme all existing and funded bus priority measures (including but not limited to bus lanes) that it provides or intends to provide, including for future measures their expected operational dates.

- 11.3 Franchising authorities can exempt certain services from regulation arising because of their franchising scheme (and so allow to continue to operate as now). For example, school services provided by local authorities which will be covered by the franchising scheme unless the authority exempts them from it in the scheme itself²². An exemption should also generally be made for a service that has 10% or less of its overall distance (not just the distance within the franchised area) registered as a local bus service. This might include interurban or other long-distance scheduled services that are not generally used for local journeys within the franchised area, but may use bus stops within it and would not compete with a franchised service.
- 11.4 In addition, all services operated under section 22 Transport Act 1985 permits are automatically exempted. However, as explained in the BSIP guidance, community bus services can provide an important contribution to meeting overall bus transport needs and delivering BSIP outcomes, especially in rural areas. We would encourage LTAs and community transport operators to co-operate together to deliver BSIP outcomes in franchised areas.
- 11.5 These services (or relevant parts of them) should continue to be registered with the Traffic Commissioner, as now.
- 11.6 The geographical area of a statutory partnership scheme cannot overlap a franchised scheme area. If the geographical area of a proposed franchising scheme would overlap the geographical area of an existing Advanced Quality Partnership Scheme (AQPS) or EP (in whole or in part), the franchising scheme must make provisions to revoke the AQPS or EP in the overlapping area when it is made²³.
- 11.7 However, LTAs should discuss with operators the effect of any revocation of a statutory partnership scheme on services within or crossing into the proposed franchised area. This is particularly important where a franchised area would replace, be surrounded by, or abut against a revised EP area. This might happen, for example, where a franchising scheme only covers the geographical area of a large market town, with the remainder of the LTA area surrounding it covered by a pre-existing EP. It may also abut against an EP in another LTA area. In this case, the LTA should discuss with the other LTA(s) and its operators the effects of introducing an abutting franchising scheme and how to avoid adverse effects to passengers, particularly on cross-boundary services.

Additional Business Cases

²² Only school services that fall within the definition of a 'local service' need to be considered for an exemption.

²³ Section 123H(6)-(9) of the Transport Act 2000

- 12 In addition to the Strategic Case, the legislation²⁴ also requires the authority to produce four additional business cases that cover different elements of the assessment. Further guidance on these is at **Annex C**.

The EP and other alternatives to franchising

- 13.1 As explained above, the Strategy requires LTAs to introduce an EP or pursue a franchising assessment if they wish to access new Government funding. As of the end of June 2021, all English LTAs have issued a Notice of Intent to develop either a franchising assessment or an EP (or both).
- 13.2 Whilst individual LTAs may consider other options, **they would be unlikely to attract new Government funding**. If Government funding is envisaged, the assessment of any proposed franchising scheme must compare how the BSIP outcomes will be delivered against the best possible EP that the LTA believes is achievable in the same geographical area. This does not mean that the geographical area of the EP needs to be identical, just that it needs to include the geographical area of the proposed franchising scheme. This will involve LTAs engaging with bus operators in the area and exploring what might be delivered through an EP, what the benefits would be in terms of delivering BSIP outcomes and the targets in the BSIP and how certain those benefits would be.
- 13.3 Where an LTA is developing, or has implemented an EP, but is conducting a franchising assessment in order to consider whether franchising would better deliver BSIP outcomes, it should also include the best possible improved EP as an alternative to franchising in the franchising assessment.

Conclusion

- 14.1 The authority should clearly set out its conclusions having completed the detailed assessment of the options, drawing clear distinctions between the performance of each option with respect to achieving BSIP outcomes.
- 14.2 The authority should then identify its preferred option, clearly setting out the rationale for this decision.
- 14.3 The assessment should conclude with an executive summary setting out the recommended option and the key reasons for it from each of the other sections.

Independent assurance report

- 15.1 Once a franchising authority has prepared its assessment it must obtain an independent assurance report on its assessment. The assurance report must outline whether:
- the information relied on by the authority in producing the economic (value for money) and financial (affordability) cases of their assessment is generally of sufficient quality;
 - the analysis of that information is of sufficient quality; and

²⁴ Section 123B(3) (c)–(f)

- that the authority has had due regard to guidance issued by the Secretary of State under section 123B of the Act in preparing its assessment.
- 15.2 Although the Act requires the report to be prepared by an “auditor” this is not intended or required by the Act to be a formal audit report in accordance with Financial Reporting Council guidelines. The policy intent of the legislation is that the report provides a high level independent assurance that the assessment prepared by the authority has been produced in good faith and professionally and does not contain obvious material or arithmetic errors which could cast doubt on its overall conclusions. In particular, the aim of the report is to provide assurance:
- in the accuracy of the data used;
 - that the affordability and value for money analyses have been developed with appropriate care by suitably qualified experts; and
 - that the process followed was robust.
- 15.3 Together the assessment and report should allow a decision on whether or not to proceed with franchising to be taken with confidence and reduce the risks of an authority’s decision being challenged in the courts on the grounds of reasonableness.
- 15.4 The report is not designed as a test to be passed or failed. Authorities are encouraged to invite the auditor to review a small number of drafts of the assessment before a formal report is provided. This will allow any significant weaknesses to be identified and addressed before a formal report is produced. The auditor should work collaboratively with the authority to strengthen the quality of the business case, assumptions used and/or approach adopted. Whilst the auditor must remain independent, the aim should be to improve the documentation, so an informed and robust decision can be reached as quickly as possible.
- 15.5 Any reviews of the draft assessment should be documented by the authority, including the views and recommendations of the auditor and any actions taken as a result.
- 15.6 The Act requires the Secretary of State to issue guidance in relation to two issues in connection with the assurance process. The first is guidance for franchising authorities as to the matters to be taken into account by a franchising authority when selecting a person to act as an auditor. The second guidance is for appointed auditors, concerning matters to be taken into account by auditors when forming an opinion as to whether the information relied on by the authority, and the analysis of that information by the authority, is of sufficient quality.

Matters to be taken into account by a franchising authority when selecting a person to act as an auditor

- 15.7 The Act specifies that the auditor must be a person or body with a recognised professional accountancy qualification offered by a qualifying body. The Act also explains that the auditor must be able to act as the auditor of the franchising authority’s or authorities’ accounts in order to perform the franchising audit function. This means that the auditor needs to be a qualified accountant with no conflicts of interest that would lead to difficulties in acting as the auditor of the local authority’s or authorities’ account.
- 15.8 The independent auditor could be the authority’s or authorities’ usual external auditor, or could be engaged specifically for the purposes of conducting the franchising audit function. In either case, the auditor must at least be a statutory

auditor, as defined by s.123D(8) of the Act. The auditor should act with independence and ensure that the authority is in the best position to take a well-informed decision in the interests of passengers.

- 15.9 The authority should ensure that the auditor has, or has access to, appropriate transport experience to inform their report. This experience could be provided by another individual or body who offers advice on the assessment and/or contributes to the auditor's report, provided that the final report also represents the auditor's own view on the assessment having considered the advice available to them.
- 15.10 A franchising authority should not appoint an independent auditor or audit company for the purposes of section 123D of the Act if that auditor or company (or any adviser to them with transport experience) was also engaged by the authority in relation to the assessment of its proposed franchising scheme, unless the authority is confident that appropriate arrangements are in place to ensure that the report is not influenced by work undertaken on the assessment. Any such arrangements should be set out clearly in the audit report.

Matters to be taken into account by the auditor when forming an opinion

- 15.11 Appointed auditors must have regard to the statutory guidance in this section when forming an opinion for the purposes of section 123D of the Act.
- 15.12 The independent assurance report must state whether, in the opinion of the auditor:
- the information, considered collectively, relied on by the authority in considering the matters referred to in section 123B(3)(d) or (e) of the Act is of sufficient quality;
 - the analysis of that information in the assessment is, considered collectively, of sufficient quality; and
 - the authority had due regard to guidance issued under section 123B of the Act in preparing the assessment.
- 15.13 When forming their opinion as to whether the information relied upon and the analysis of the information by the authority is of sufficient quality, auditors should look at the assessment in the round. The auditor does not need to review in detail every data source or assumption, but should consider whether there are significant areas of weakness, omission or error which individually or collectively could have a material impact on the assessment's conclusions on the costs, benefits, risks or value for money of any of the options. In doing so they should consider:
- whether there are any significant and material gaps in the information used;
 - whether the information used generally comes from recognised sources;
 - whether the information used appears to have been selected objectively, rather than to support the arguments in favour, or against, any particular option;
 - whether the assessment takes into account any effects or potential effects from the COVID-19 pandemic;
 - whether the information used, collectively, is relevant and not significantly out of date;

- whether the assumptions used in the assessment are recorded and, where reasonably possible, supported by recognised sources;
- whether, where information and evidence is less well defined, but would otherwise lead to an absence of data from the assessment, the authority's approach is not unreasonable and potential risks associated with the assumptions made are identified;
- whether appropriate ranges have been used for forecasts and associated uncertainties identified in the assessment;
- the mathematical and modelling accuracy of the analytical methods used to calculate the impacts of the options;
- whether the authority's assumptions on the costs and benefits of the best EP reflect the evidence available of what could realistically be delivered through an EP at the point at which the assessment was developed; and
- the availability, quality and – where relevant - timeliness of receipt from bus operators of the information available to the authority.

- 15.14 Where information and evidence is less well defined, but would otherwise lead to an absence of data, the authority should flag where an auditor has questioned the basis of the assumption and include the potential consequence to the business case of the assumption being removed. This allows the potential risk identified by the auditor to be clearly included within the business case and addressed via a sensitivity. The auditor should not expect the authority to update the assessment for information that becomes available or is updated at a late stage unless they consider it would have a material impact on the conclusions of the assessment and the choice between options.
- 15.15 Should the auditor consider that there are material issues with the quality of the information or its analysis they should advise the franchising authority accordingly and identify, where relevant, what different approach or data source they would recommend.
- 15.16 The auditor should not report or pass judgement on the decisions taken by the authority or the outcomes of the assessment – their role is purely to consider the process that has been followed, the accuracy and robustness of the information that has been used in the analysis, and that the mechanics of the process have been carried out correctly.
- 15.17 As explained at paragraph 15.2 above, the auditor is not expected to produce a formal audit opinion within the scope of Financial Reporting Council guidelines.

STAGE 3 - Consulting on the proposal

- 16.1 Following the preparation of the assessment, and the report prepared by the auditor, the authority should then consult widely on their proposals. This should ensure that local passengers, businesses and transport providers are able to comment on the proposals before the authority takes the decision as to whether to implement the franchising scheme.
- 16.2 The Act requires an authority to publish, as part of the consultation process, the following documents:

- a consultation document relating to the proposed scheme;
- the assessment of the proposed scheme; and
- the report prepared by the auditor.

16.3 The Act also explains what the authority should include as part of its consultation document. In summary, the consultation document should include:

- a summary of the assessment of the proposed franchising scheme;
- the area within which the franchising scheme would operate, and any sub-areas within it;
- a description of the franchised services that the authority proposes to provide;
- a description of any services, or types of service, that the authority proposes to exempt from regulation arising because of the franchising scheme – including any routes or services that will continue to be provided by the commercial sector under service permits;
- the date on which the authority proposes to make the franchising scheme, together with the first date or dates by which the authority proposes to enter into contracts with operators to provide franchised services;
- the periods that must expire between the authority entering into a contract, and services starting to be operated under that contract;
- a description of the authority's or authorities' plans for ongoing engagement throughout the life of the franchising scheme to seek views on how well the scheme is working;
- a description of how the authority's or authorities' plans to facilitate involvement of small and medium sized operators through the procurement process; and
- the date by which responses to the consultation must be received.

16.4 An authority should aim to make their consultation materials as accessible as possible to all interested parties and ensure that local passengers in particular are aware of, and able to input to, proposals relating to their local bus services.

16.5 The Act also specifies a number of key stakeholders that an authority must consult on their proposals, including:

- Local bus operators
- Representatives of employees of such operators
- Organisations representing local passengers
- Local authorities who would be affected by the proposed scheme, including National Parks Authorities where relevant
- A Traffic Commissioner, Chief Officers of Police for areas to which the proposed scheme relates, Transport Focus (the Passengers' Council), and the Competition and Markets Authority.

16.6 An authority must consult these bodies, but they have the freedom and flexibility to consult any other individuals or bodies they consider appropriate. Following any initial consultation, consideration of the responses or subsequent events may lead an

authority to decide that some further consultation is required as a matter of fairness or would be desirable before any decision is taken.

Stage 4 - Decision, Consultation Response & Making the Scheme

- 17.1 Following the consultation process, an authority must prepare and publish a report setting out their response to the consultation together with their decision as to whether or not to proceed with the proposed franchising scheme.
- 17.2 An authority should summarise and address key issues raised by respondents to the consultation as part of their response, including setting out any changes to the franchising assessment and scheme that they intend to make as a result.
Depending on the significance of any changes, an authority may choose to consult again.
- 17.3 The decision whether to franchise should be reached by reviewing the overall conclusions of the assessment, alongside the auditor's report and the consultation response - the governance process should allow sign off with a full understanding of the potential risks identified by the auditor and mitigations proposed by the authority. This is a balanced judgment to be taken across all of the available evidence: particular weight does not need to be given to individual elements of the assessment. Where the authority is an MCA, the Act provides that it must be the Mayor that takes the decision as to whether or not to proceed with a franchising scheme.
- 17.4 If the authority decides to proceed with the franchising scheme, they must include within their response to the consultation, how they will facilitate the involvement of small and medium sized operators in the provision of services through their procurement processes.
- 17.5 At the same time as the authority publishes its response to the consultation, It must also make and publish the final version of the franchising scheme.
- 17.6 It is important to note that the legislation does not require the authority to pass a particular test to introduce franchising. Nor does the Secretary of State need to be consulted or give any kind of approval. It is for the Mayor or authority to decide, using the assessment of the proposed franchising scheme, the results of the consultation and any other relevant factors, whether franchising is the right course of action to deliver BSIP outcomes, the targets it sets, and other outcomes that individual LTAs consider necessary to improve bus services. That decision can be subject to legal challenge through judicial review, as is the case for any local authority decision.

STAGE 5 - Implementation

- 18.1 Where an authority has decided to implement a franchising scheme the market will need to transition to the new system. The Act and supplementary Regulations²⁵ set out a number of measures to help smooth the transition and ensure that passengers are provided with reliable services during the transition period.

Transitional notice – extending the cancellation or variation notice period

²⁵ The Public Service Vehicles (Registration of Local Services) (Franchising Schemes Transitional Provisions and Amendments) (England) Regulations 2018

- 18.2 An authority should be provided with notice of upcoming changes to services during the transition phase, to enable them to take action where necessary to ensure that services are maintained or replaced.
- 18.3 Regulations made under the Act provide franchising authorities with the option to extend the cancellation and variation notice period that operators must observe from the current 56 days to a maximum of 112 days²⁶. Should an authority wish to increase the notice period they must publish a 'transitional notice' at the same time as they make and publish their franchising scheme setting out the new notice periods.
- 18.4 An authority is able to set different notice periods for different circumstances or different types of services. For example, an authority may want to consider leaving the current cancellation and variation notice periods for services which only have a few stopping places in the franchising scheme area, whilst increasing it for services that operate exclusively within it.

Ability to register services at short notice

- 18.5 The relevant Regulations also enable certain services to be registered at short notice, where the authority has entered into an agreement with an operator to provide a service in the transition period. Where this is the case, the service can start to be provided from the point at which the Traffic Commissioner accepts the application to register the service, without the need for the current notice period.
- 18.6 Where an authority decide to reduce the area to which a franchising scheme relates, or to revoke a franchising scheme, the market will need to transition from a system whereby the majority of services are operated under local service contracts to the deregulated system where operators operate services registered with a Traffic Commissioner. Regulations under the Act provide that a Traffic Commissioner must not accept an application to register a service, or vary or cancel such a service, if the application is made later than 70 days before the reduction or revocation of the franchising scheme in which it has a stopping place. This does not apply to a service that is to be provided under an agreement between an authority and an operator.

Staff Transfers

- 18.7 The Act recognises that where franchising is introduced staff may need to transfer to new operators who win local service contracts and provides that in those circumstances the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) would apply. This should protect existing staff working on the affected bus services, help reduce the burden of redundancy payments for operators who have to cease trading or downsize because of franchising while ensuring that there is a workforce ready to provide the new franchised services.
- 18.8 Regulations made to support the Act set out further detail regarding the processes to be followed when applying TUPE²⁷. The franchising authority should in the first instance look to reach agreement with the existing local operators who are affected by franchising, and local employee representatives about the criteria to be applied when determining which staff are 'principally connected' with the affected local

²⁶ In addition to the 28-day pre-notification period required under The Public Service Vehicles (Registration of Local Services) (Amendment) Regulations 2018

²⁷ The Franchising Schemes and Enhanced Partnership Schemes (Application of TUPE) (England) Regulations 2017

services and therefore in scope for TUPE and potential transfer to a new operator. This determination of whether employment is 'principally connected' could be made on the basis of the amount of time an employee spends working on services that will be affected by franchising, or on whether the staff member forms part of a particular groups of employees that work on certain services. At the start of the process towards reaching any agreement, Regulations require the franchising authority to publish a notice setting out:

- the criteria by which they propose to determine whether a member of staff is 'principally connected' with the provision of particular services and should therefore transfer under TUPE;
- the consultation process and agreement sought;
- the time period over which the consultation process will take place; and
- what constitutes agreement between the parties.

18.9 The franchising authority should then consult with the relevant local employers and employee representatives, with the aim of reaching agreement and publishing a final notice setting out the agreed criteria by which to determine whether staff members are in scope for TUPE and should transfer. The authority should engage with affected local operators and employee representatives as early as possible in the process and ensure that sufficient time is given to the consultation, bearing in mind the complexity of the proposed franchising scheme and potential for staff to be transferred.

18.10 In practice it may be difficult to reach agreement locally. The Regulations provide that where there is no agreement, the determination as to whether employees are principally connected is to be based on whether such employees spend at least half their working time assigned to affected services. This provision should only be used if the authority is content that agreement cannot be reached between the three parties.

18.11 Once the authority, operators and employee representatives are in agreement about the staff who should transfer, a process should be undertaken to determine where they should transfer to i.e. which employees should transfer to each individual local service contract. The Regulations require authorities to consult affected operators and employee representatives about the proposed 'allocation arrangements' – the plan which sets out which employees should transfer to which local service contract.

18.12 All affected employees who transfer when franchising is introduced should be provided with access to a broadly comparable pension scheme. The Regulations set out the requirement placed on the new employer of transferred employees to obtain a pension statement. The statement is to be provided in writing from a Fellow of the Institute and Faculty of Actuaries who is to certify that the new employer's pension scheme offers the transferred employees rights to the same or broadly comparable pension benefits as they had with the former employer. It is the responsibility of the authority to ensure this is achieved. Therefore, the franchising authority should ensure that local service contracts are made on the basis that bidders commit to providing broadly comparable pension schemes.

Employee related information

18.13 To aid with this and later processes, the Regulations enable the authority to request information from operators about employees at any point after they have made their franchising scheme. The Regulations provide details about what relevant employee information that can be requested. When requesting employee information the authority must:

- specify the date by which the operator should respond to the request, which must not be earlier than 21 days after the request is issued;
- ensure the request contains sufficient information about the franchising scheme to enable operators to respond effectively;
- only request the information that they need to carry out their functions in connection to TUPE;
- refrain from requesting personal data, unless in connection with employee representatives.

18.14 Should an operator, on receipt of such a request, be of the opinion that the authority has not included sufficient information about the franchising scheme to enable them to respond effectively, they should inform the authority within 14 days of receiving the request, and provide a description of the further information they require. On receipt of such a request for clarification from an operator, the authority should consider the extra information that the operator may require, and provide that information to the operator, together with specifying a revised time period within which the operator should provide their response, which must not be less than a 21 day period.

18.15 The Regulations provide further detail regarding the obligations on operators when they receive such a request for information from an authority, including the process to be followed should an operator consider that they are unable to provide any of the information requested. Operators should ensure that the information they provide is complete and accurate, and should provide revised information at later stages, should it change.

Implementation and operation of a franchising scheme

Public Service Equality Duty

19.1 In developing and implementing their BSIP and franchising proposals, authorities must be mindful of their duties under the Equality Act 2010. The Public Sector Equality Duty (PSED) requires authorities to pay regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and understanding between people with and without particular protected characteristics. Consideration of equality impacts should be based on evidence, and authorities should consider how they will maintain an accurate understanding of the needs, expectations, and the impact of policies on people in the nine protected characteristic groups., and use it to make policy inclusively. The duty is a proactive one and authorities should ensure the impacts and opportunities of different options are explored early in their development in order that equality impact consideration can inform and not simply reflect the final approach selected.

19.2 Some questions that may be relevant to decisions on bus service provision include:

- Are bus networks designed inclusively?
Do they include or exclude areas which are more or less relevant to older or disabled people, or from a Black, Asian or Minority Ethnic background?;
- How do bus priority measures affect people with different protected characteristics?
What about people who rely more on taxis, PHVs or private vehicles?
- What opportunities are there to provide an inclusive service?
Will drivers receive consistent training in disability awareness, equalities and customer service? How will they ensure everyone can benefit from improved bus services?
- How inclusive are ticketing and fares plans?
Are some groups more likely to be “digitally disconnected” than others and how will the plans affect them? How can you ensure digital ticketing is accessible to all?

19.3 Chapter 4 of the ‘*Bus Services Act 2017: New Powers and Opportunities*’²⁸ contains further advice on providing and designing an inclusive bus network, driver disability awareness and providing inclusive information. It also provides advice on maximising social value and improving safety.

Service Permits

- 20.1 Where a franchising scheme is introduced, an authority will also need to operate a ‘service permit scheme’. Further to **Annex D** (on potential models of bus service operation), there are a number of ways that a service permit scheme could operate to support the franchised network – e.g. so that services which the LTA has determined will complement (and encourage commercial operators to provide) the services operated under local service contracts can be viably operated, e.g. to deliver BSIP outcomes. This should also ensure that other services, which are not exempt from franchising and do not form part of the network of services operated under local service contracts, are still able to operate. This should include services which operate cross-boundary, i.e. in both the franchising area and the area outside.
- 20.2 Before an authority can start to operate its service permit system, it must first consult on its proposed service permit system. An authority may want to combine the consultation on the service permit system with the consultation on the proposed franchising scheme, but the precise timing of this is at the authority’s or authorities’ discretion. However, if an LTA decides that overall service provision should be provided by a mix of a franchised and encouraged service permit network, it should consult on both at the same time.
- 20.3 As part of the consultation on the service permit scheme, the authority should set out:
- the procedure that must be followed by a person applying for a service permit;

²⁸ Available on the .GOV website at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918498/bus-services-act-2017-new-powers-and-opportunities.pdf

- the information that a person applying for a service permit must submit with the application;
- the fee, if any, that must accompany the application;
- the period or periods of time within which the franchising authority must take a decision on an application for a service permit;
- the period or periods of time that must expire before the service permit is effective;
- the period or periods of time which must expire before the variation or withdrawal of a service by an operator is to take effect, which must not exceed the statutory notice period for doing so and;
- the time period or periods for which permits will be valid.

20.4 One aspect that an authority can set out in the service permit scheme is the time for which the permit is valid, for example a 3-year or longer period. This gives operators more certainty over the length of the commitment they will need to make to the services, and gives an authority the ability to review the services after a period of time.

20.5 The authority should ensure that operators of local services are consulted on the proposed service permit scheme, together with any other local authorities that will be affected by the granting of the service permit, and any other people or organisations that the franchising authority thinks fit. Services operating under service permits will have a key role in facilitating bus travel across the boundary into other local authority areas. A franchising authority should engage closely with neighbouring local authorities about the operation of their service permit scheme to ensure that services are sustainable and meet the needs of both the franchising authority and neighbouring authorities.

20.6 Following the consultation, the franchising authority should then consider the response and update its service permit scheme accordingly. The authority should then publish a consultation response setting out a summary of the consultation responses received and the authority's proposed actions in light of the responses, together with publishing a notice setting out the final details of the service permit scheme (but no earlier than the date the franchising scheme is published), covering the aspects set out in paragraph 20.2 above.

20.7 In addition to the notice mentioned above, the Act also allows an authority to publish a notice setting out the conditions that they may decide to attach to service permits. Before they publish a notice, franchising authorities should also consult on the sorts of conditions they may decide to attach to service permits as part of their wider consultation on the service permit scheme. This will ensure that neighbouring authorities and operators in the area are able to feed back about the potential impacts of proposed conditions on services. The sorts of conditions that an authority is able to attach to service permits are set out in Regulations²⁹ which supplement the Act. No other conditions may be attached to a grant of a service permit.

20.8 Franchising authorities are able to attach different conditions in different circumstances, or for different sorts of services. For example, the authority may apply a 'lighter-touch' set of conditions to services which have a limited number of

²⁹ The Franchising Schemes (Service Permits) (England) Regulations 2018

stopping places in the franchising area, but may require services which operate wholly within the franchising area to comply with more stringent conditions, to ensure they integrate effectively with the network of franchised service, e.g. to deliver BSIP outcomes. They might also offer permits for tourist services that are registered as local bus services that confer a right, but not an obligation, to operate. In addition, franchising authorities are able to specify different periods of time in which they can take their decision regarding whether or not to award a service permit with respect to different sorts of services, or in different circumstances, and likewise for the period of time that must expire before the service permit is effective and the period of time which must expire before a variation or withdrawal is effective. This should provide franchising authorities with the flexibility to cater for the range of scenarios that they foresee, for example to award permits at short notice should there be an urgent transport need.

20.9 Once the franchising authority has issued its notice setting out the details of the service permit scheme and the notice of conditions they may decide to attach to permits, they can start to accept applications from operators. The 2000 Act requires the authority to grant service permits where the service in question will benefit local passengers (e.g. by delivering BSIP outcomes), and where it will not adversely impact on any of the services in the franchised network. It will be down to each franchising authority to take these decisions on a case-by-case basis, and they should think carefully about the information that they require operators to provide when making their applications to ensure that the authority's decisions are well-evidenced. Where a franchising authority rejects an application for a service permit it should clearly set out its reasons in writing to the operator concerned. They must give the applicant notice of their reasons within ten days.

20.10 The Act and supplementary regulations set out the details regarding how permits can be suspended or revoked. The Act sets out the grounds on which a franchising authority can revoke or suspend a permit. These grounds are:

- that the service no longer benefits local passengers;
- that the service is having an adverse impact on any of the services in the franchised network;
- that the holder of the permit has failed to comply with a condition attached to the permit; or
- that the public would be endangered by the service continuing to run.

20.11 A franchising authority may not suspend or revoke a service permit unless at least one of these grounds is satisfied.

20.12 Where a franchising authority decides to revoke or suspend a service permit, they must issue a notice to the relevant operator, in writing, setting out:

- the grounds on which the service permit is being suspended or revoked;
- the date on which the suspension or revocation will take effect; and
- the effect of the revocation or suspension.

20.13 If a service permit is suspended, the authority must also include, as part of the notice, the measures that the operator must take to have the suspension lifted, the date on which the suspension will be lifted, should the operator take the relevant

steps, and any arrangements the authority plans to put in place to review the suspension.

- 20.14 Franchising authorities are able to suspend or revoke service permits with immediate effect where there is a danger to the public if the service continued to run. In all other cases, suspensions and revocations are not to take effect earlier than the statutory notice period for registration changes after the authority issues the notice.
- 20.15 Where an operator is unhappy with the decision of a franchising authority in either refusing to grant a service permit, attaching any or certain conditions to a permit, or in suspending or revoking a service permit, they are able to appeal to the Traffic Commissioner and from there to the Upper Tribunal. Further details of the process to be followed by operators when appealing is set out in supplementary regulations³⁰.

Role of the Traffic Commissioner

- 21.1 Traffic Commissioners are responsible for the licensing of bus operators and the registration of local bus services³¹. They also have powers to take action against bus operators where they consider that they are not running punctual or reliable services, or where operators pose a risk to road safety.
- 21.2 The introduction of a franchising scheme will change the role that the Traffic Commissioners play to an extent. The paragraphs below explain the changes in roles and responsibilities.
- 21.3 Where franchising is introduced, services no longer need to be registered with the Traffic Commissioner if, for example, they are operated as part of a local service contract, or through a service permit. However, enforcement is still the responsibility of the Traffic Commissioner as they remain the body responsible for licensing and regulation of the industry. Traffic Commissioners are able to take action against operators, including attaching conditions to licenses and issuing fines, where operators are running services in the franchising scheme area, for example, when prohibited from doing so or where they fail to provide information when requested by an authority under the Act.
- 21.4 However, enforcement of local service contracts themselves, and the standards imposed by those contracts, is a matter for the franchising authority. Franchising authorities should ensure they build in the necessary contractual mechanisms to local service contracts to ensure that relevant BSIP outcomes are being delivered (where applicable) and to deal with poor performance. An authority is able to take action against operators that are not complying with the conditions of their service permit, by revoking or suspending such a permit. However, the Traffic Commissioner will act as the appeal body. Any issues in relation to safety or which could impact on the good repute of an operator should be reported to the relevant Traffic Commissioner.
- 21.5 Franchising authorities can exempt certain services from regulation arising because of their franchising scheme. In addition, all services operated under section 22

³⁰ The Franchising Schemes (Service Permits) (England) Regulations 2018

³¹ Except in EP areas where the registration function has been delegated to the LTA.

Transport Act 1985 permits are automatically exempted by the 2000 Act. These services should continue to be registered with the Traffic Commissioner as now.

Varying a franchising scheme

- 22.1 At any point after a franchising scheme has been made, the authority that made the scheme can vary it. Franchising authorities will need to follow the formal process of varying their scheme when they are seeking to amend what has been specified in the scheme such as the area to which the scheme relates or the description of the local services intended to be provided under local service contracts. However, changes which do not involve a change to what has been specified in the scheme, such as the introduction of new or amended fares or ways to pay, changes to passenger information or new marketing initiatives, changes to day-to-day service requirements (e.g. timetabling of individual services) can, in principle, be made without recourse to the formal processes set out in the Act.
- 22.2 Should an authority decide to vary what is specified in the scheme, it must publish a notice stating the date on which the variations are to have effect, and give notice of its decision to a Traffic Commissioner within 14 days of publishing the notice. The variation cannot take effect until six months after the date on which the variation notice was published. Should the franchising authority be a MCA, then the Mayor is required to take the decision as to whether or not to vary the scheme.
- 22.3 The process that an authority must follow before they can vary what is specified in the scheme is substantially similar to that which must be followed before first making the franchising scheme. An authority must consult on their proposals, and ensure that local stakeholders, including those set out in section 123E(4) of the Act, are consulted. The authority must prepare a consultation document in line with section 123F(1) of the Act, and as part of that document, an authority should clearly highlight the changes that they plan to make to what is specified in the scheme, including setting out the potential benefits and impacts of such changes and how, for example and if applicable, better they will deliver BSIP outcomes. In any case, where variations are proposed, the authority should seek to engage closely with local communities to ensure that the impacts of the proposed changes are thoroughly debated and explored.
- 22.4 Once the authority has consulted on their proposed variation, when required, they must publish a response to the consultation, and must set out the decision on whether or not the variation will be made.
- 22.5 Where the authority plans to vary what is specified in the scheme so as to add a new area to the scheme – for example bringing a town within the franchising scheme area – they must follow the same process as followed when making the scheme. This includes preparing an assessment, which is particularly relevant to this sort of a variation as it would require incumbent operators to cease operating their registered services, and obtaining a report from an auditor on that assessment.

Revoking a franchising scheme

- 23.1 The intention is that franchising will be a long-term model that delivers BSIP outcomes. However, we recognise that there may be good reasons which mean that it may be better for passengers for a franchising scheme to be revoked.
- 23.2 The Act sets out the circumstances in which an authority can revoke a franchising scheme. An authority may only revoke such a scheme if they are satisfied that:

- local services and/or BSIP outcomes in the area to which the scheme relates are likely to be better if the scheme did not apply;
- the continued operation of the scheme is likely to cause financial difficulties for the authority; or
- the burdens of continuing with the scheme are likely to outweigh the benefits of doing so.

23.3 The revocation of a franchising scheme is subject to the same procedure as the making of a franchising scheme except that section 123G(3) does not apply. Should an authority satisfy itself that at least one of the situations above applies, then they must publish a notice of their decision to revoke the scheme, setting out the date on which the revocation is to take effect, and give notice of their decision to the Traffic Commissioner, within 14 days of taking the decision. The franchising scheme cannot be revoked until at least six months after the authority publishes the notice setting out its decision.

23.4 Where the authority is a Mayoral Combined Authority, the Mayor must take the decision to revoke the scheme.

Summary of how to implement a BSIP through franchising

Section of BSIP guidance	Reflected in the development and implementation of franchising through:
<p>Intensive services and investment on key corridors, with routes that are easier to understand <i>and</i> service patterns must be integrated with other modes <i>and</i> demand – responsive services and ‘socially necessary’ transport (paras 68-73, 88-90 and 102-106)</p>	<p><i>Franchising assessment and consultation document set out:</i></p> <ul style="list-style-type: none"> • the nature of the initial franchised services to be provided on key corridors including intended weekday, evening and weekend frequencies; • the approach to providing feeder routes or branch services to be adopted in initial franchised services; • whether or not any demand-responsive (DRT) services will be included in the franchise, which areas it is intended they will cover, what locations/employment sites (including out of town industrial estates and factories where relevant) they would service, whether it is expected that they would integrate with other services (eg as feeder services to services on key corridors) and the hours they are planned to operate; • how services will be integrated with other modes and timetables co-ordinated where appropriate; • the costs and benefits of providing these initial services (as part of wider analysis); and • what further improvements (if any) would be made to services on each key corridor, DRT services and/or to modal integration if further funding was available. <p><i>Franchising scheme specifies:</i></p> <ul style="list-style-type: none"> • the key corridors on which it is intended frequent “turn up and go” services will be provided; • the key locations (eg railway stations and park and ride sites) to be served; and • the initial area and/or locations that it is intended any demand-responsive services will serve. <p><i>Local service contract(s) procure:</i></p> <ul style="list-style-type: none"> • services that meet the approach set out in the franchising assessment.
<p>Significant increases in bus priority <i>and</i> longer term transformation of networks (paras 74-81 and 107)</p>	<p><i>Franchising assessment and consultation document set out:</i></p> <ul style="list-style-type: none"> • what bus priority measures are already in place or the authority (or relevant local highway authority) is committed to implementing (with implementation dates); • (as part of wider analysis) the expected impacts of these measures on franchising - including costs and benefits; • what further improvements in bus priority (if any and including any plans for bus rapid transit) would be made on each corridor if further funding was available and, at a high level, how these could impact on franchising; and • where relevant, how the authority is working, and will work, with relevant highway authorities to ensure

	<p>that bus priority measures are implemented and – where appropriate - are continuous across local authority boundaries (including through the development of the Key Route Network in MCAs).</p> <p><i>Franchising scheme specifies:</i></p> <ul style="list-style-type: none"> • bus priority measures (including bus lanes) provided by the authority that will support franchised services (whether existing measures or planned and funded)
<p>Fares must be lower and simpler and ... seamless integrated ticketing... (paras 82-87)</p>	<p><i>Franchising assessment and consultation document set out:</i></p> <ul style="list-style-type: none"> • the initial fare structure intended (including whether low flat fares, a zonal fares system, maximum fares and/or daily price caps will be used and any local concessionary fares planned); • the technologies expected to be used to sell tickets (eg smart card, contactless, mobile etc) and whether cash will be accepted on bus; • whether any multi-modal fares are proposed at the start of franchising; • the anticipated initial fare levels and how future fare levels will be set; • the costs and benefits of implementing this approach to fares and ticketing (as part of wider analysis); and • what further improvements in fares and ticketing (if any) would be made if further funding was available and, in broad terms, how these could affect the costs and benefits of franchising. <p><i>Local service contract(s):</i></p> <ul style="list-style-type: none"> • require the service provider to take the steps necessary to implement the approach to ticketing and fares set out in the franchising assessment and consultation document (eg by using specific ticketing systems, selling specific tickets or charging fares at specified levels).
<p>The local bus network is presented as a single system... with clear passenger information and giving bus passengers a voice and a say (paras 91-96 and 99-101)</p>	<p><i>Franchising assessment and consultation document set out:</i></p> <ul style="list-style-type: none"> • the planned network identify for franchised services; • how information will be provided to passengers – including the quality of information (such as network diagrams) to be provided at bus stops and on bus and what real time information is planned to be provided and how – and explaining the respective roles of operator(s) and the authority; • how often it is intended timetable changes will be made; • how the passengers' charter set out in the BSIP - including in relation to punctuality, vehicle cleanliness, proportion of services operated, information and redress – would be delivered in a franchised context; • what training bus drivers would be expected to complete including in relation to safety and disability awareness; • how customer service would be provided under franchising and what standards (including redress arrangements) would be set – explaining the respective roles of operator(s) and the authority;

	<ul style="list-style-type: none"> • the costs and benefits of implementing this approach to network identity, customer service and information (as part of wider analysis); • what improvements to the accessibility of bus stops and bus stations are already planned and how the authority will work to make all stops and stations fully accessible; and • what further improvements in passenger information, customer service, information and accessibility (if any) would be made if further funding was available. <p><i>Local service contract(s) specify:</i></p> <ul style="list-style-type: none"> • any actions that operators need to take to deliver the approach set out in the franchising assessment and consultation document (such as training drivers, complying with branding standards, providing vehicles with audio visual information, having active vehicle location systems or displaying certain information correctly).
<p>Modern buses and decarbonisation (paras 97-98)</p>	<p><i>Franchising assessment and consultation document set out:</i></p> <ul style="list-style-type: none"> • what emission standards vehicles used on franchised services will be expected to meet both initially and over time (including the percentage of the fleet expected to be zero emission on an annual basis and when a fully zero emission fleet will be achieved); • the extent to which audio and visual information and next stop announcements, free wifi, device charging and an additional wheelchair space are expected to be provided on the vehicles operating initial franchised services and (where relevant) by when it is expected all of the fleet will offer each of these; • any enhancements to carrying bicycles on board vehicles planned (especially in rural areas) including what they are, which locations would be expected to be served by these vehicles and when they would be delivered; and • the costs and benefits of achieving these expectations in the timeframes proposed. <p><i>Local service contract(s) specify:</i></p> <ul style="list-style-type: none"> • the arrangements for providing vehicles required to achieve the approach set out in the franchising assessment and consultation document, including whether they are the responsibility of the operator, how much freedom the operator has in choosing the vehicles to be used and (where the operator has influence) what specifications or standards have to be met (for some or all of the fleet or on particular routes) by when.

Further detail of where and how these factors should be included in the franchising assessment, consultation document and scheme is provided in the relevant sections of this guidance.

Information provision

Passengers - Information about the total number of journeys undertaken by passengers on the local services operated by the operator in the area

- A breakdown of total journeys into individual routes or services, to periods (monthly, weekly, daily and also by peak and off peak periods), or to ticket types etc. This would not include passenger survey data on all individual journeys undertaken at a transactional level.

Fares - Information about the structure of fares for journeys on local services

- A description of all period tickets (validity one day or longer), including prices, validity rules and geographical areas and/ or service list within which specific ticketing products are valid (e.g. zones or corridors). It would not include, for example, all HOPS data on all individual journeys undertaken to a transactional level.
- Rules governing the eligibility of groups of passengers to purchase and use ticket types other than the standard adult fare.
- Point to point fares by ticket type (such as adult and child ticket) single and return tickets, based on fare stages (not individual bus stops), usually presented in a fare table.
- If return fares are calculated by a set formula (e.g. 190% of single fare rounded to nearest 5p), a statement of the formula and parameters used, and the dates the formula and parameters were applicable.
- Reference information linking fare stages in fare tables to the geographical location of specific bus stops

Revenue – information about revenue received from those local services, including information about revenue attributable to particular types of fares or derived from journeys undertaken on particular parts of those local services.

- Revenue collected by the operator for the sale of period tickets (i.e. tickets which are valid for one day or longer) through any channel including (but not limited to) on-on bus, off-bus, travelshops, online or through mobile ticket apps.
- The number of 'Standard Fares' or 'Penalty Fares' issued by the operator to passengers detected travelling with no ticket or an incorrect or invalid ticket.
- The amount of fare revenue estimated to be lost to the operator due to fare evasion, where operators make such estimates. This could be a money amount (£) or a percentage of fare revenue (%).
- Aggregated revenue derived from services including fares (on-bus and off-bus sales), advertising and other sources by category. Some suggested categories are:
 - On-bus fares
 - Off-bus fares
 - Concessionary support
 - Tender subsidy
 - Advertising

- Distribution of free newspapers

Costs – information about the fixed and variable costs incurred by the operator in operating the local services in the franchising authority’s area

- Costs incurred (money) and time allocations for driver training.
- Peak vehicle requirement (PVR) to operate each service/ route or service/route group, disregarding engineering spares. For some services/ routes this may be zero – e.g. where service/route is interworked with another.
- Totals of scheduled hours and actual hours operated by vehicles on local services (and which therefore relate to variable costs), both live (in service) and dead (positioning trips, start and end of shift etc.), reported at the service level (or for groups of services where they are interworked), not for individual vehicles. Operated hours may be lower than scheduled hours (e.g. trips lost due to mechanical failure) and may be higher than scheduled hours (e.g. due to traffic congestion).
- Where operators run services crossing the area and already hold records for operated hours split into within the area and outside the area.
- Information about the cost of maintaining, overhauling and replacing operators’ fleets through their normal life cycle. This may include for each vehicle the average maintenance cost per vehicle per year by vehicle type.
- Information about the costs of participating in pension schemes, including any fixed and variable costs of participating in a pension scheme, in so far as that related to staff employed by the operator.

Vehicle fleet information – information about the vehicles used by the operator in operating those local services, including about the age of those vehicles, emissions and types of fuel or power.

- Information for each vehicle used by operators to deliver or support local services in the area. This may include information about the age of those vehicles, emissions and types of fuel or power used and may also for each vehicle a mean miles per breakdown by depot and by vehicle type.
- Information about the frequency of maintaining, overhauling and replacing operators’ fleets through their normal life cycle.
- The ratio of engineering spare vehicles to in-service vehicles by depot.

Vehicle distance – information about the total distance covered by vehicles used by the operator in operating those local services

- The scheduled and operated mileage for each service, both live (in service) and dead (positioning trips, start and end of shift etc.), reported at the service level, not for individual vehicles
- Operated mileage is likely to be lower than scheduled mileage on some services, where trips have not run or have been turned back short for various reasons (mechanical, traffic etc.).
- This can include data from operators running cross-boundary services if they already hold mileage records that split mileage into within the area and outside the area.

Staff – information about persons employed by the operator in the provision of those local services

- Headcount and full-time equivalent (FTE) count of staff employed or contracted to deliver the operator's bus services within the franchised area, including staff directly and indirectly delivering and supporting the delivery of those services, including front line, back office, management and head office staff (or as otherwise grouped by the operator). Separate categories/ counts for drivers, customer service and revenue protection staff.
- Wage structures and salary bands and scales used to pay staff involved in the delivery of local bus services in the franchised area, including hourly rates (standard, overtime etc) and annual salaries as appropriate to each relevant staff group.
- Information about grade progression rules, including progression within or to different grades or information about closed grades, for drivers and engineering staff.
- Details of any future wage structures agreed with the employees or their representatives.
- Information about pension schemes which staff involved in the delivery of local bus services in the area. This includes pension schemes which are only for employees of the operator and multi-operator/ multi-company pension schemes, but does not include information about deferred members or pensioners.
- Employment terms and conditions covering issues such as standard working week, minimum/ maximum rostered hours, holiday entitlement, overtime arrangements, sick pay, maximum unpaid breaks, minimum guaranteed paid week.

Forecasts – information about journeys that the operator has forecast will be undertaken by passengers on those services and revenue that the operator has forecast will be received from those services

Forecasts regarding expected or anticipated patronage and revenue including historic forecasts.

ANNEX C

The four additional business cases

The FINANCIAL CASE - Whether the authority would be able to afford to make and operate the scheme

- 1.1 This is required under section 123B(3)(d) of the Act and is the equivalent of the financial case.
- 1.2 An authority should consider the financial implications of franchising against the EP option, not only with respect to the initial introduction of the arrangements, but also factoring in the ongoing management and operation.
- 1.3 It is important to confirm that the preferred option is affordable, so authorities should set out the capital and revenue requirements for the options over their lifespan, together with an assessment of how the options would impact upon the balance sheet, income and expenditure account of the franchising authority.

- 1.4 In developing the financial case for the assessment in delivering BSIP outcomes, an authority should ensure they have considered the impacts of the options on both:
- capital spending - such as for the purchase of depots, zero emission buses, introduction of new ticketing systems or other infrastructure – including bus priority measures; and
 - revenue spending – including any revenue received (including fare box income, contractual payments and devolved BSOG), any additional costs incurred (such as for implementation of the option, service enhancements and fares reductions) and – where relevant - the impacts on tender/contract prices of:
 - staff costs, in particular considering the costs associated with the TUPE transfer of staff and their pension protection;
 - other operating costs - such as savings from reduced journey times achieved through bus priority, fuel costs, costs for leasing or purchasing assets, marketing and branding;
 - bidding and administration costs – to bid for, award and manage contracts and operate EP arrangements.
- 1.5 Particular consideration should be given to considering the longer-term financial sustainability of the options – with a move to a system of franchising in particular being a long-term change that will need to be sustainable for the authority.
- 1.6 Specifically, the financial case element of the assessment should set out:
- a year by year cost analysis, broken down by capital and resource expenditure, for the authority with an explanation of how these totals have been built up;
 - assumptions on funding which will need to be identified from within the authority in each of the relevant years and what funding will come from central Government, for example, any assumptions about ongoing funding to support BSIP delivery, devolved BSOG and other existing and future Government funding schemes. Consideration should also be given to how on-bus revenue can be increased by encouraging greater bus use by fare-paying passengers;
 - a year by year income forecast for the authority if relevant (for example if a gross cost franchise is proposed);
 - whether the option requires additional borrowing by the authority and if so what interest assumptions and repayment arrangements have been used;
 - a summary of the key financial risks, particularly to any forecast income to the authority and including any quantified impacts and high-level mitigation plans.

The ECONOMIC CASE - Whether the proposed scheme would represent value for money

- 2.1 This is required under section 123B(3)(e) of the Act and is the equivalent of the economic case.
- 2.2 The authority should consider the options in terms of impacts on wider society. Authorities should assess the economic, social and environmental costs and benefits, rather than solely focussing on the transport impacts of the different options.
- 2.3 This section of the authority's assessment should explain the impacts of the options on different groups in society. This should include new and existing passengers, the authority, wider society and bus operators – with both the potential impacts on

incumbent operators and the potential benefits to new entrants considered. Particular consideration should be given to small and medium sized operators, and the potential impacts of the options on that group. Similarly, particular consideration should be given to the impacts of the options on passengers in neighbouring areas that could be affected by the changes.

2.4 An authority should include in this section an assessment of local operators that they consider to be small and medium sized. An authority should also take account of the overall nature of their market, the operator's fleet size and consider the turnover of the operators – where necessary including its parent structures - as a whole.

2.5 In addition, the authority should also assess the likely impacts of the transition period of both options, particularly on the speed at which BSIP outcomes can be delivered for passengers.

2.6 In considering the impacts of the options, the authority should think about the distribution of benefits, costs and risks between different groups in using a franchising model to deliver their BSIP. With respect to franchising proposals, the authority should ensure they have considered:

- impact on bus users – and the speed at which they will receive benefits from the measure set out the BSIP;
- fare-box revenue – whether a gross cost or net cost franchising model is being proposed. This would need to take into account as far as possible any impacts of the COVID-19 pandemic on farebox revenue;
- Bus Service Operators Grant (BSOG) payments – these will be devolved to any authority that adopts franchising and, as a consequence, the funding to bus operators will decrease.
- operating costs – such as costs for leasing assets, staff, training, marketing and branding;
- capital costs – such as investments in depots or buses;
- bidding and administration costs – cost to operators to bid for contracts, and authorities to manage the franchise bidding process, and any costs that the operation of partnership arrangements would incur for all parties;
- implementation costs – including additional staff required, for authorities, operators and elsewhere in the system, or expert advice to put the scheme into practice;
- operator margins – based on evidence from existing franchising and contractual arrangements. This would need to take into account any effects from the COVID-19 pandemic (e.g. on the farebox) and whether margins are likely to change for other reasons e.g. between the first and subsequent franchise periods; and
- environmental impacts – such as changes in air quality due to changes in congestion, service levels or zero emission buses.

2.7 With respect to EP proposals in particular, the authority should ensure that it has considered:

- the costs of administering bus registrations – under an EP with “route” level requirements, LTAs are required to take on responsibility for registering bus

services. LTAs can, even without route requirements, choose to take on the registration function if they wish; and

- ongoing management costs for the authority and for local bus operators.

- 2.8 This aspect of the assessment should include sufficient detail so that the scale of the benefits and impacts on different groups can be understood. Much of this will require the authority to make assumptions about the likelihood of certain events occurring based on the nature of their proposed options. For example, bus operators currently running services in the area will incur certain costs if they are unsuccessful in winning future contracts under a franchising model. The likelihood of this happening however will be dependent on the nature of the franchising scheme put forward by the authority.
- 2.9 All significant assumptions used in the economic and financial cases should be documented as the assessment is developed – identifying the evidence on which they are based where possible.
- 2.10 Since franchising is intended to be a long-term intervention, the authority should think carefully about the most suitable appraisal period for assessing the impacts of the options, and should explain its decision in the assessment documentation. The assessment should focus on a chosen appraisal period, but should also indicate clearly whether there is anticipated to be any substantive change in outcomes in the years immediately following the end of that chosen appraisal period.
- 2.11 The authority should then look to present the net present value of each option, derived from the present value of the costs and benefits of each option in delivering BSIP outcomes. The authority should also perform appropriate sensitivity tests, to provide a range of results around the options, to account for uncertainty and optimism.
- 2.12 The cross-government guidance on appraisal and evaluation – the Green Book³² – is a useful reference point for authorities when preparing the economic case of their assessment in particular. It sets out advice and techniques to help assess which course of action is likely to achieve the desired outcomes and provide the best use of resources. However, the Green Book should only be used where it covers an issue that is relevant to the topics covered by the assessment. It does not need to be used or referenced where that is not the case.
- 2.13 Similarly, cross-government guidance on producing robust analysis – the Aqua Book³³ - provides useful advice for an authority to help ensure that the outputs from any analysis, as well as the supporting models, data and assumptions used, are fit-for-purpose. To reiterate, an authority should consider the relevance of the Green and Aqua Books to their particular circumstances and use them, as far as the LTA considers appropriate, as a reference source.

The COMMERCIAL CASE - The extent to which the authority is likely to be able to secure that local services are operated under local service contracts

- 2.14 This is required under Section 123B(3)(f) of the Act and is the commercial case. The purpose of this section is to demonstrate that the authority has a commercially viable

³² <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

³³ <https://www.gov.uk/government/publications/the-aqua-book-guidance-on-producing-quality-analysis-for-government>

approach to franchising will be able to secure the franchised services in an affordable and cost-effective manner.

2.15 This section of the assessment only needs to cover the franchising option(s) being considered. In it the authority should describe:

- how the local service contracts will be structured commercially and work in practice to deliver the BSIP outcomes and outputs that the strategic case says that the franchising option(s) will achieve;
- the approach planned to procuring the local service contracts;
- market appetite to provide the franchised services, including what market testing the authority has undertaken and why they are confident that local service contracts can be procured on the commercial and financial terms assumed in the assessment; and
- the key commercial risks, their potential impacts and how they would be mitigated and managed.

2.16 In particular, the authority should explain in this section of the assessment:

- the geographical area or areas the franchise will cover including whether sub-areas are proposed and how they will be phased in over time and whether the franchising scheme will exist alongside an EP or cover all of the authority's geographical area;
- whether any services or types of service will be exempted from the scheme (see paragraph 21.5 above);
- how local service contracts and service permits will be implemented including:
 - how the authority will harness private sector expertise through the structure of its franchise;
 - how the authority will facilitate the involvement of small and medium sized operators, bearing in mind the need to ensure competition for the first and subsequent rounds of procurement. This could be achieved through the structure of local service contracts or other routes, such as requiring the sub-contracting or a certain percentage of services to SMEs by a lead operator;
 - the number and scale of local service contracts planned (including whether they will be route by route, by sub-areas or one contract for all the services);
 - the intended length of local service contracts;
 - the approach to providing feeder routes or branch services to be adopted in initial local service contracts and how they will be integrated;
 - how any demand-responsive (DRT) services will be included in the local service contracts and if so which areas it is intended they will cover, what key locations/employment sites (including out of town industrial estates and factories where relevant) they would service, whether it is expected that they would integrate with other services (e.g. as feeder services to services on key corridors) and the hours they are planned to operate;
 - how the authority will facilitate cross-boundary services to deliver relevant BSIP outcomes and targets in both authority's areas;

- how the service permit system will be used to enable cross-boundary (and if relevant other) services to operate, including the conditions expected to be attached to permits;
- how services will be integrated with other modes and timetables coordinated where appropriate, and whether the franchise will also cover other modes such as light rail or cycle hire.
- the financial and staffing provisions of local service contracts including:
 - how any operational cost savings from increased bus priority are reflected in the contract and reinvested in the network;
 - how revenue risk will be handled in local service contracts;
 - what standards, outputs and outcomes (if any) will be incentivised through penalties or additional payments in local service contracts. Authorities should consider any approach to incentivisation across a wide range of BSIP outcomes including customer service, vehicle cleanliness, proportion of services operated, information, redress and punctuality. They should also consider the potential for their approach to create perverse incentives if they decide to focus heavily on one specific issue;
 - how staff transfer arrangements and the provision of a broadly comparable pension scheme³⁴ will be addressed, and any other significant staff-related provisions intended to be included;
 - how contractual mechanisms will allow for enhancement of services and other improvements for passengers over time in a cost effective manner;
- how vehicle provision will work including:
 - the commercial arrangements for the provision of vehicles and respective roles or the authority and service provider, including any arrangements for transfer of vehicles at the end of local service contracts;
 - any vehicle standards that will be set in local service contracts for some or all services both initially and over time (including for type and size of vehicle, emissions and on-board facilities – such as audio visual information, free wifi, device charging, carriage of bicycles and an additional wheelchair spaces);
- any other key contractual arrangements that the authority envisages including in local service contracts;
- any commercial or other considerations relevant to the transition period (including arrangements planned under an EP and before franchising is introduced) will seek to ensure that services to passengers are protected during that period;
- a summary of the extent to which existing local operators and/or new entrants are expected to bid for local services contracts;
- any actions (such as the provisions of permanent or temporary depot facilities) that the authority is taking or intends to take to increase market appetite;
- the approach to procuring the initial service contracts, including the procurement route to be used and timescales involved and whether, and if so how, the involvement of SMEs will be facilitated;

³⁴ See paragraph X of this guidance for more information on broadly comparable pension schemes.

- what market testing has been undertaken and the conclusions drawn from it - particularly in relation to the competitiveness of the procurement process;
- the overall confidence the authority has in being able to secure initial local service contracts which deliver the outcomes and outputs intended within the financial and commercial terms envisaged in the assessment and why it has reached this conclusion; and
- how the authority will ensure that there is strong competition for the second and subsequent procurement of local service contracts

The MANAGEMENT CASE - How the authority would make and operate the proposed scheme

2.17 This is required under Section 123B(3)(c) of the Act and is the management case.

2.18 If, following the production of the other elements of a business case, franchising is still a credible option, the authority should now consider how it would successfully deliver franchising and manage and mitigate risk. This exercise does not need to be done for the EP option, but does of course need to happen before a franchising decision is taken.

2.19 Firstly, this case focusses on the practicalities of moving from a deregulated to a franchised network and how the LTA will deliver on the responsibilities that come with being a franchising authority with full control of the bus 'offer to passengers. These include:

- how fares and ticketing will operate including:
 - the anticipated initial fare levels and how future fare levels will be set and reflected in contracts;
 - what ticketing or fares systems are required and whether they will be procured or delivered through local service contracts and if not how they will be secured and provided;
 - whether, when and how multi-modal fares will be incorporated into contractual arrangements;
- how other BSIP outcomes will be achieved commercially including:
 - how network identity and branding requirements will be delivered consistently;
 - the respective roles of operator(s) and the authority in information provision including the requirements (on and off-bus) to be included in local service contracts;
 - the respective roles of operator(s) and the authority in customer service (including redress arrangements);
 - any facilities that the holders of local service contracts are expected to provide or operate (such as depots or bus stations) and the terms;
 - how timetables will be set and changed;
 - what data operators of local service contracts will be expected to provide to the authority, including to monitor progress against BSIP outcomes;
 - what training bus drivers would be expected to complete including in relation to safety and disability awareness and how this will be implemented through local service contracts;

2.20 The authority should also set out how it intends to manage the transition process from the current system to a franchised one. The authority should ensure they develop any contingency plans for providing replacement services should operators stop running their services before the introduction of the franchising scheme and any other plans they may have put in place to manage those risks.

2.21 In developing the management case of the assessment, an authority should ensure they have considered for franchising:

- **Whether LTA staff possess, or will possess, the necessary skills to implement and then manage the franchised network** – this is separate to the resources needed to deliver the transition, as set out below. It would include how LTA's will secure, for example, network planners with the necessary scheduling skills to build and maintain a franchised network.
- **The resources needed for transition** – this includes whether additional specialist staff or advice will be required. If additional staff are required, this should include the numbers and costs. The cost of procurement and contract management processes, if any, that are required for the successfully introduction and ongoing management of franchising.
- **How the franchised network will be managed** – this should include how the network will be reviewed and the strategy for implementing the outcomes set out in the LTA's BSIP – with particular emphasis on traffic management and delivering bus priority. This is separate to the skillset question raised in the first bullet above.
- **How success will be measured** – mostly covered in the franchising scheme, but here should also include bus passenger surveys either commissioned by the LTA or by other bodies such as Transport Focus.

2.22 The above bullets also closely link the management case with the commercial case and the delivery of BSIP outcomes 'on the ground'.

2.23 Moving to an LTA controlled franchised network will also have impacts on LTA resources. This part of the assessment will also need to set out what administrative (e.g. in FTE terms – whether from LTA staff or through outside help such as consultants) it will need to deliver and maintain a successful franchised bus network – e.g. letting and managing contracts, performance monitoring, network planning. This should include, but is not limited to delivering:

- The deliverables of the 'made' franchising scheme;
- The transition arrangements, including consideration and issuing of service permits;
- Other measures that contribute to a successful franchised bus network. For example, developing and delivering packages of bus priorities on specific corridors;
- Developing and delivering multi-operator ticketing and how fare structures and levels will be determined and reviewed;
- That bus services are perceived by local people in a positive way. This includes, for example, how the LTA will resource marketing strategies to encourage bus use (particularly modal shift from cars). This might include ensuring that comprehensive information is available, in one place, that gives motorists wishing to use the bus for the first time all the information they need – for example, the nearest stop to them to catch it, what the route is and how long it will take, the nearest stop to their final destination, what the fare will be and how to pay it etc – backed up with real-time

information that tells them how far away their bus is when they are at the stop. This is a key requirement of a successful franchised bus network;

- What other factors affect whether people opt for the bus. For example, as stated previously, the decision whether to use a car or the bus is greatly influenced by the LTA's parking policy:
 - availability of parking – i.e. the number and location of spaces and how easy it is perceived by the motorist to find a vacant space close to popular destinations;
 - The cost of parking – how expensive car parking is compared to using the bus;
 - Terms and conditions – if 'all day' parking is available, a revision to limit the time available (e.g. two hours only, no return within four hours) can make the bus appear more attractive;
 - Effectiveness of enforcement – how likely it is perceived by motorists that they will be fined for breaching the terms and conditions (including illegal on-street parking) can influence how and where they park.
- How all the above bullets will be informed by other ongoing Strategy, BSIP and LTA objectives, such as wider action on modal shift from car and collection and analysis of monitoring data set out in the BSIP.

Annex D

Potential types of franchise

1. The franchising powers in the Act are very flexible. A franchising scheme does need to identify the local bus services that the franchising authority believes should be provided under local service contracts (and all such services must then be provided under local service contracts). However, franchised bus services do not have to be used exclusively across the whole of an authority's geography. Commercial services can continue to operate alongside franchised services³⁵ if the authority wishes and operators are prepared to provide them. Such services can stop in the area covered by the franchising scheme through the use of the Act's provisions for service permits.

2. This annex sets out some of the different ways in which franchising powers could be used, beyond the usual approach of a contract covering all services within an authority's area.

Franchising for tendered services

3. An authority might find it desirable to franchise only their existing tendered network, to prevent any profitable ones that emerge later on (e.g. as a result of new bus priorities, improved marketing or other LTA investment) from being 'cherry picked' by bus operators who then operate them on a commercial basis in a way that may not contribute to published BSIP outcomes. This protection would also allow, for example, cross-subsidy from any future profitable tendered routes to the non-profitable ones to deliver overall published BSIP outcomes for the tendered bus network as a whole.

4. To achieve this, the authority could propose a franchising scheme which covers some or all of its geography only but which specifies, as the services to be provided under it, only those services which the authority would otherwise expect to tender. Alongside this, the authority could establish a service permit regime which awards individual permits to commercial services that the authority believes will not have an adverse effect on the local services in its franchised network³⁶. The terms of those permits could be used to help achieve BSIP outcomes³⁷ – specifying service frequencies, vehicle standards, ticketing or branding requirements for example – ensuring that the services concerned remained commercially viable/attractive with them in place (with any services no longer viable coming into scope of the franchised local service contracts). Alternatively, it could exempt from the scope of the scheme any service which does not compete directly with the franchised network.

5. The franchised area or areas (there can be two or more, separately defined) could complement an Enhanced Partnership (EP) that covered the rest of the LTA's geographical area (although a franchised geographical area and an EP geographical area cannot overlap – see paragraphs 11.6-11.7 in the main guidance).

³⁵ Provided these are not local services which are part of the franchising scheme.

³⁶ Service permits could not be issued in respect of local services to which the franchising scheme applies. See as well s123Q of the Transport Act 2000 for the conditions that apply to the issuing of service permits.

³⁷ The Franchising Schemes (Service Permits) (England) Regulations 2018 set out what conditions can be imposed in relation to service permits.

Franchising to introduce demand responsive services

6. The same principles used for tendered services in the example above could be applied for any new demand responsive services to be operated. A franchising scheme could cover a part of the authority's area and only its franchised DRT services would be able to operate within that area unless a service permit were granted. Bringing the few commercially viable routes (and associated revenue) within such an area within the scope of DRT could, in some circumstances, make a significant difference to the affordability and value for money of the authority's DRT plans. It may also allow more frequent and tailored services to be provided to passengers.

Complementary franchising – working alongside an Enhanced Partnership

7. In a similar manner to the above examples, franchising could be used over one or more smaller areas of an authority to address gaps in commercial provision – where new standard tendered services might otherwise be introduced. If a key market town or other location was poorly served by buses and it was not commercially viable to introduce them under a planned EP, a franchising scheme could cover that area only – allowing the authority to introduce new services with certainty that they would be delivered in line with the BSIP and with a reduced level of revenue risk. Any existing services that crossed the boundary of the franchised area which the authority wanted to see continue could be provided under a service permit.

8. The rest of the authority's area would still be subject to the planned EP if it was capable of delivering other BSIP outcomes. Under this approach, franchising may be a more deliverable and less resource intensive option for the authority than if it were introduced across the whole of their area.

Micro-franchising to tackle over-bussing or maximise bus priority/mass transit benefits

9. Although an EP can include provisions to set maximum frequencies on corridors it may not always be the most effective way to tackle this issue. Franchising could be used across a very tightly defined area (such as a specific corridor or a key route network) to manage the flow of buses through an area. Whilst we would expect some services to be provided under franchised local service contracts (perhaps at less commercially attractive times of day – such as evenings or weekends) these do not have to be all or the majority of services. Service permits could then be used to manage the flow of other buses through that network.

10. Similarly, franchising could be a mechanism to capture the operating cost savings that are available from the delivery of bus priority if it is proving difficult to do so through an EP. Local service contracts do not have to involve payments by the authority to an operator. They could have no financial aspect or involve payments by an operator to the authority. So the corridor on which bus priority is introduced could be included in a tightly defined franchising area where all services either have to operate under a local service contract or a service permit.

11. The same principle could be applied to a new guided busway corridor or other bus mass transit scheme (such as a Glider-style scheme) – bringing that network (and

potentially parallel routes which the authority considered no longer needed to be served to the same extent) within the scope of a micro franchise. This would give the authority control over who used the infrastructure and for what services, either through local service contracts or service permits.

12. A micro-franchise would sit alongside the existing EP, which may require amending as a result of changes to operator profitability and ability to invest (with the franchised area excluded from the EP).