

Quality contracts schemes: Consultation on draft regulations and guidance

~ Response from Campaign for Better Transport

We support the Department for Transport's intention to make Quality Contract Schemes a realistic option for transport authorities. Our overriding concern is that the regulations and guidance should be quickly approved, and that the Department should play an active role in encouraging and supporting local transport authorities who want to use these new powers. We have already written to Minister Sadiq Khan, explaining our views on this (copy attached). Our comments on the draft regulations and guidance are as follows:

Guidance should enable transport authorities to make the best decisions for their area

The guidance should be changed to make it clear that bus fare reductions are good for passengers and constitute an improvement in quality, and therefore, that they are in the public interest (55).

The guidance should recognise that QCSs could be good for the bus industry, for example a QCS is likely to increase patronage and provide a stable business environment (64-67). It is not helpful to assume that QCSs will be bad for bus companies, especially as franchising is the default approach in many other European countries and many companies flourish within this framework.

It may be unhelpful to suggest that transport authorities refer to the Department's transport appraisal guidance when assessing schemes. It's not clear that webtag will capture the costs and benefits being assessed, and so it may be of limited use (67).

The guidance should not be prescriptive about how many contracts should be set up but should leave it to the transport authority in the local area to decide on the best approach. A single contract option might be the best approach if it is more efficient or effective than a multi contract approach – this depends on local conditions (72).

QCS Boards must make decisions that are in the public interest

We agree that QCS Board members must be able to act impartially and should not be biased in their approach. The Department for Transport should review QCS boards to ensure that consistent decisions are made and that individual panel members are impartial in their approach.

We suggest that the 'appropriate range of expertise' for the Board should be understood as including the following:

- A passenger perspective to provide an understanding of the importance of buses. We suggest the panel should include passenger representatives, people who actually use the bus regularly
- An understanding of the policy and legal frameworks for bus provision – this could be provided through training

- An understanding of environmental issues, social policy and urban regeneration
- An ability to make qualitative judgements about the public interest from a broad perspective rather than a narrow transport economics/bus industry perspective

Appeals should only be made to the Upper Tribunal

We support the suggestion that appeals should be heard by the Upper Tribunal only. We believe this system would offer good protection to operators who are affected by a QCS. A scheme that reaches the Upper Tribunal will already have been scrutinized by the QCS Board, and its judgement and the transport authority's response to that judgement will have been published. The Upper Tribunal would have a role in ensuring due process has been followed and providing additional independent scrutiny of decision making. Once the matter has been dealt with by the Tribunal, there would still be a right of appeal to the Court of Appeal.

Offering two opportunities to appeal within the Tribunal system would lead to unnecessary delay, cost and complexity which could damage the interests of passengers and ratepayers. A long appeals process means more uncertainty and is likely to discourage transport authorities from considering introducing a QCS. Providing two rights of appeal within the Tribunal system would risk tipping the balance away from locally accountable transport authorities and towards non-accountable bodies. It is vital that the local transport authority can decide what is best for the local area.

Risks must be reduced during the transition to a QCS

The transition to a QCS involves a period of uncertainty and it is important that passengers' interests are protected during this period. It is also important that transport authorities are not discouraged by the potential difficulties involved. Therefore we think the following:

- We support the extension of the cancellation period for current services to 112 days, as this will allow the transport authority time to provide alternative services
- We support the 112 day period for variation of registration of services. We think that transport authorities should have the final say as to whether this extra time is needed, rather than the Traffic Commissioners
- We think that the Traffic Commissioners should be able to increase the time period to over 112 days, when additional time is needed
- We support transport authorities having the ability to tender services to fill gaps in service provision – maintaining existing services, securing a service when one has been cancelled, providing an emergency service – and we think that a relaxation of the tendering rules is appropriate during the transitional period.

We think a code of conduct for the transitional period could be helpful but it would need to be binding. This code could protect passengers' interests during this difficult time by setting out appropriate behaviour for both sides in terms of communication, registrations and cancellations, TUPE and so on. However, this idea should be looked at by a working group, without delaying the regulations and guidance.

Regulations on TUPE should facilitate a smooth transition

We suggest Regulation 3 should be changed so that employees who are 'principally connected' are those spending half of their working time on the provision of local bus services, rather than two thirds.

Regulation 8 (2) (b) should be changed to reflect the fact that some employees may need to be allocated to one contract and some to another, rather than all of them being assigned to a specific contract.

We support the regulations on requesting information about employees; this would allow the transport authority and potential bidders to understand the implications of TUPE.

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Campaign for Better Transport

Campaign for Better Transport is the leading transport NGO. Our compelling arguments and ideas have won us the support of national decision-makers and local activists, enabling us to secure transport policies and programmes that improve people's lives and reduce environmental impact.

16 Waterside, 44-48 Wharf Road, London N1 7UX

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