



### The opportunity of the bus...

- The bus is by far the main form of public transport in the city regions
- The bus has a critical role in supporting the growth of urban economies. In PTE areas alone bus networks are estimated to generate over £2.5 billion in economic benefits by providing access to opportunities; reducing pollution and accidents; and improving productivity.
- The urban bus offers excellent value for public money. Every pound spent gets traffic off the road and reduces congestion for other road users. However, it's a transport measure that also meets multiple social policy goals. It gives the jobless access to jobs, gives young people access to education and training and gets older and disabled people out of isolation. It also contributes to public health through the associated exercise as well as getting people to healthcare appointments.
- Investment in buses can also be quickly translated into lower fares, more services or better vehicles (unlike some other forms of transport investment). Plus the benefits can be spread across a wide urban area (again unlike some other forms of transport investment).

### The obstacles to be overcome...

- The very local nature of bus services means that the extent and quality of the service varies by area however the overall picture in recent years outside London has been one of declining service levels, fares rising above the rate of inflation and patronage decline
- Bus services are deregulated outside London which means that subject to basic licencing conditions anyone can run a bus service. However in practice most bus services are now provided by five large corporations who rarely compete directly. Local Transport Authorities can only negotiate voluntary agreements with bus operators on the way services are provided (although see section on Quality Contracts below) and can only ensure that services are provided where no commercial services operate (these are known as

tendered or supported services and make up around 20% of bus services nationally)

- Under bus deregulation some cooperation on fares is allowed though operators are not allowed to fix single fares at the same price (that would be illegal price fixing in what is a free market). Multi-operator period tickets can also be provided. However often these are priced un-competitively, and with operators preferring to promote their own tickets which can only be used on their own services
- The Local Transport Act 2008 allows local transport authorities to bring in Quality Contracts (franchising). This would reproduce the structure that exists for buses in London and for national rail services. The free market would be suspended and a local transport authority would specify the service to be provided with the private sector competing for the contract to provide it. Quality Contracts would also allow for simple integrated ticketing, fares capping and enforceable standards for performance and quality. However only one Local Transport Authority (Nexus) has triggered the legislation so far as the process is convoluted and untried; operators have threatened to obstruct and legally challenge the process at every turn; and both this and the previous Government have been agnostic rather than supportive about the use of the legislation.
- The way in which bus services are funded does not reflect the cross-departmental and cross-sectoral benefits that buses bring. Indeed revenue for supported bus services comes via wider CLG funding for local government. What's more all the main sources of support for bus services are under severe pressure which is leading to widespread cuts in bus services which will only get worse if the current funding system carries on as it is
- Basic information about fares, how their local bus route is performing and who to complain to can be very hard for passengers to find. Indeed performance data from publicly funded automatic vehicle location systems is largely kept secret - not just from passengers but also from the statutory watchdog for bus passengers (Passenger Focus) and from the statutory body responsible for ensuring bus services perform (the Traffic Commissioners).

### Overcoming the obstacles to better bus services

1. Simplification of the Quality Contract regime and a more supportive approach from DfT to those Local Transport Authorities who decide to use it. This would require primary legislation and is summarised in **annex one**
2. Simplification of the regulations around multi-operator ticketing in areas where buses remain deregulated in order to ensure that the premia for multi-operator tickets is reasonable and that multi-operator tickets are better promoted and easier to buy. This is summarised in **annex two**

3. A dedicated and devolved funding stream for bus services (a 'connectivity fund') which would build on the existing BSOG (fuel subsidy rebate) funding stream but be topped up to reflect the cross-sectoral and cross-departmental benefits of supporting bus services
4. A new deal for passengers so that they can find out what the fares are on their local routes, how their local routes are performing, and a clearer structure for complaints and feedback. This can be done through a package of reforms to route licencing, funding conditions and regulatory change

### What it would mean for passengers...

Bus services are very local so it's not possible to define in detail for every locality but...

- More powers for all local authorities to limit the extra charge for period tickets that can be used on all buses in an area when compared with period tickets that can only be used on one operator's services
- Strengthened powers for local authorities to enable them to take full responsibility for local bus networks so that services can be protected, fares capped and service quality guaranteed
- Dedicated funding stream for local government to protect lifeline bus services
- New deal for passengers – with the right of access to fares information, details of how their local bus routes are performing and a clearer process for complaints and feedback

### What it would mean for government...

- Better bus services
- Realising more of the potential of the bus to get the jobless into jobs; put new developments on the public transport map; improve public health; get young people into education and training; reduce traffic congestion; and reduce isolation among older and disabled people. All of which more than pays for itself.
- Better value for taxpayer support for the bus industry and clearer outcomes
- An ability to set a national framework for how they wish to see the bus sector grow but with responsibility for how that is carried out devolved

## ANNEX ONE

### SIMPLIFYING THE LEGAL PROCESS FOR QUALITY CONTRACTS

#### What is a Quality Contract?

The Local Transport Act 2008 allows local transport authorities to bring in Quality Contracts (franchising). This would reproduce the structure that exists for buses in London and for national rail services. The free market would be suspended and a local transport authority would specify the service to be provided with the private sector competing for the contract to provide it. Quality Contracts would also allow for simple integrated ticketing, fares capping and enforceable standards for performance and quality

#### The current legal process for a Quality Contract

The broad outline of the Quality Contract process in the Local Transport Act 2008 is as follows:

- A Local Transport Authority (LTA) formally consults upon a QCS
- The LTA must satisfy itself that five public interest tests are met by the proposal which are: a) the proposed scheme will result in an increase in the use of bus services in the area to which the proposed scheme relates; b) the proposed scheme will bring benefits to persons using local services in the area to which the proposed scheme relates, by improving the quality of those services; c) the proposed scheme will contribute to the implementation of the local transport policies of the LTA; d) the proposed scheme will contribute to the implementation of those policies in a way which is economic, efficient and effective; and e) any adverse effects of the proposed scheme on operators will be proportionate to the improvement in the well-being of persons living or working in the area to which the proposed scheme relates and to the achievement of the objectives in (a) to (e).
- At the end of the consultation, the LTA sends copies of responses to a QCS Board (made up of three people one of which is a Traffic Commissioner).
- The LTA considers consultation responses and decides whether, and if so how, it intends to proceed.
- The LTA submits scheme to the QCS Board with a request to prepare an opinion
- The Board gives its opinion and recommendations
- The LTA considers the opinion and recommendations and finalises its proposals
- The LTA publishes its response to the QCS Board and makes the QCS

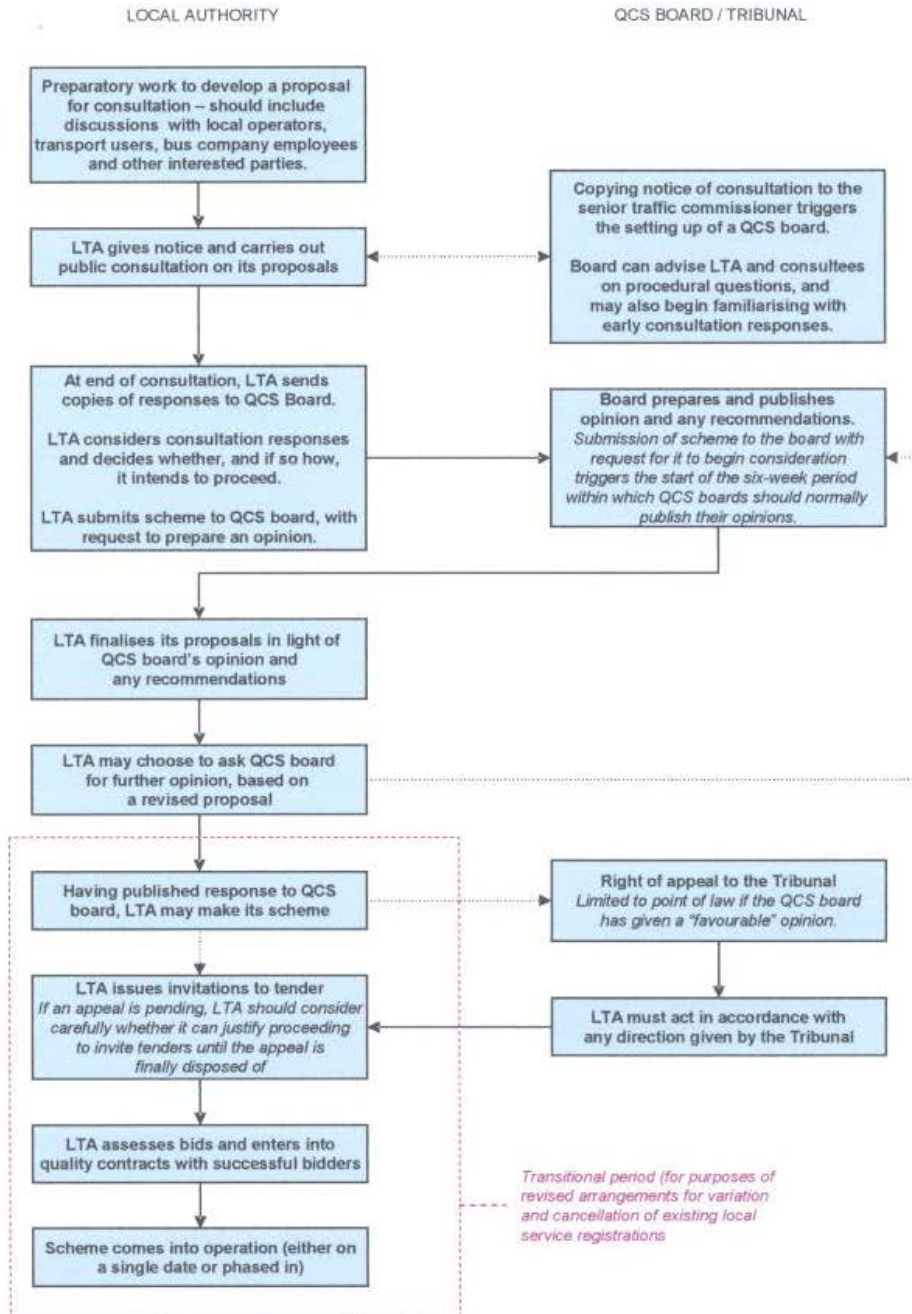
- There is a right of appeal to a Tribunal (restricted to a point of law if the QCS Board has given a 'favourable' opinion on the (a) to (e) criteria above and on the consultation process)
- The LTA must act in accordance with any direction given by the Tribunal
- The LTA issues invitation to tender
- The LTA assesses bids and enters into Quality Contracts ("QCs") with successful bidders
- The Scheme comes into operation

The formal DfT guidance on QCSs sets out the process in detail and can be found here:

<http://webarchive.nationalarchives.gov.uk/20111005181506/http://www.dft.gov.uk/publications/quality-contracts-schemes-statutory-guidance>.

The process is set out in diagrammatic form below:

**ANNEX A – SUMMARY OF PROCESS FOR IMPLEMENTING A QUALITY CONTRACTS SCHEME**





Although the process is workable the downsides are:

- The public interest tests (particularly the adverse effects on operators) are challenging and open to different interpretations including by the QCS Board and the Tribunal
- The QCS Board and Tribunal are 'wild cards' in how they might respond
- It's a long, relatively complex and untried process which increases the potential for challenge over procedural and other points
- As a practical process it has weaknesses regarding the transition to a first QC and from a first QC to a second and subsequent QCs

The uncertainties around the process when combined with other significant challenges have all deterred LTAs from using the legislation. These uncertainties include:

- Threat of legal challenge and obstructive behaviour from incumbent monopoly operators
- The advantages the incumbents enjoy in having the buses, the drivers, the garages and the market knowledge
- Managing the transition period from a deregulated to a franchised environment
- Agnostic attitude of Government and lack of funding stream to fully realise the benefits that a QC structure can deliver
- Transfer of risk from operators to a local transport authority

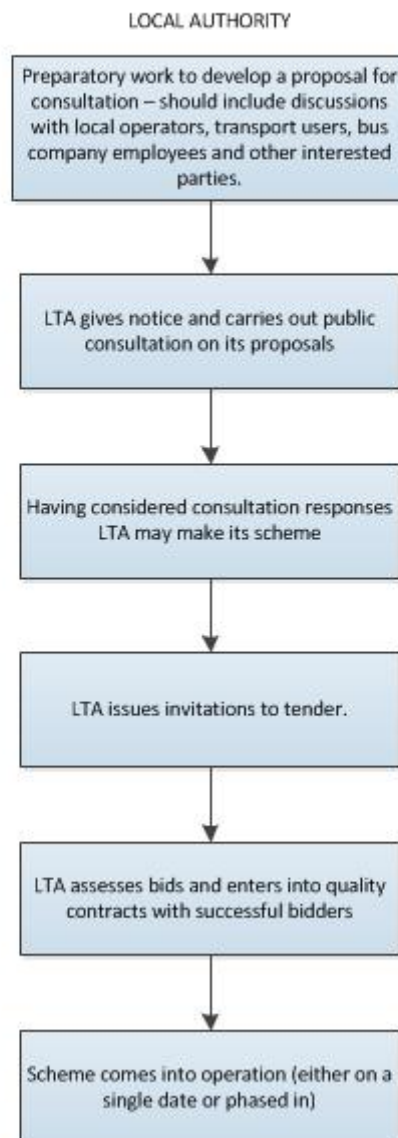
### **A simplified legal process for Quality Contracts**

We have had legal advice to confirm that this process would be compliant with wider UK and European law)

- Removing the QCS Board from the process
- Removing the right of appeal to the Transport Tribunal (meaning that the introduction of a QCS by a transport authority is treated in the same way as any other act of a transport authority under the law i.e. reviewable under the inherent jurisdiction of the High Court in judicial review). There is consequently no need for an (unusual) right of substantive appeal to the Transport Tribunal and this additional stage causes further uncertainty and reluctance in the minds of transport authorities. The ordinary principles of judicial review are more than sufficient to ensure compliance with the principles of the protection of human rights.
- Simplifying but retaining the Public Interest Test. The test should be that a transport authority must believe that the introduction of a QCS would "assist in the realisation of policies set out in the transport authority's local transport plan".

This revised process is set out in a flow chart below

**PROPOSED SIMPLIFIED PROCESS FOR IMPLEMENTING A  
QUALITY CONTRACTS SCHEME**



In addition we propose a series of supplementary measures to ease the transition period to a first QCS and from a first QCS to a second QCS. This includes measures to safeguard services during the transition to a first QCS and removing the maximum period for a QCS (this would not affect the length of individually quality contracts let under a QCS which would remain set at a maximum of 10 years, to ensure compliance with European law requirements).

We also propose a parallel power for the Secretary of State to deliver a QCS. The Transport Act 2000 would be changed to allow the Secretary of State to introduce



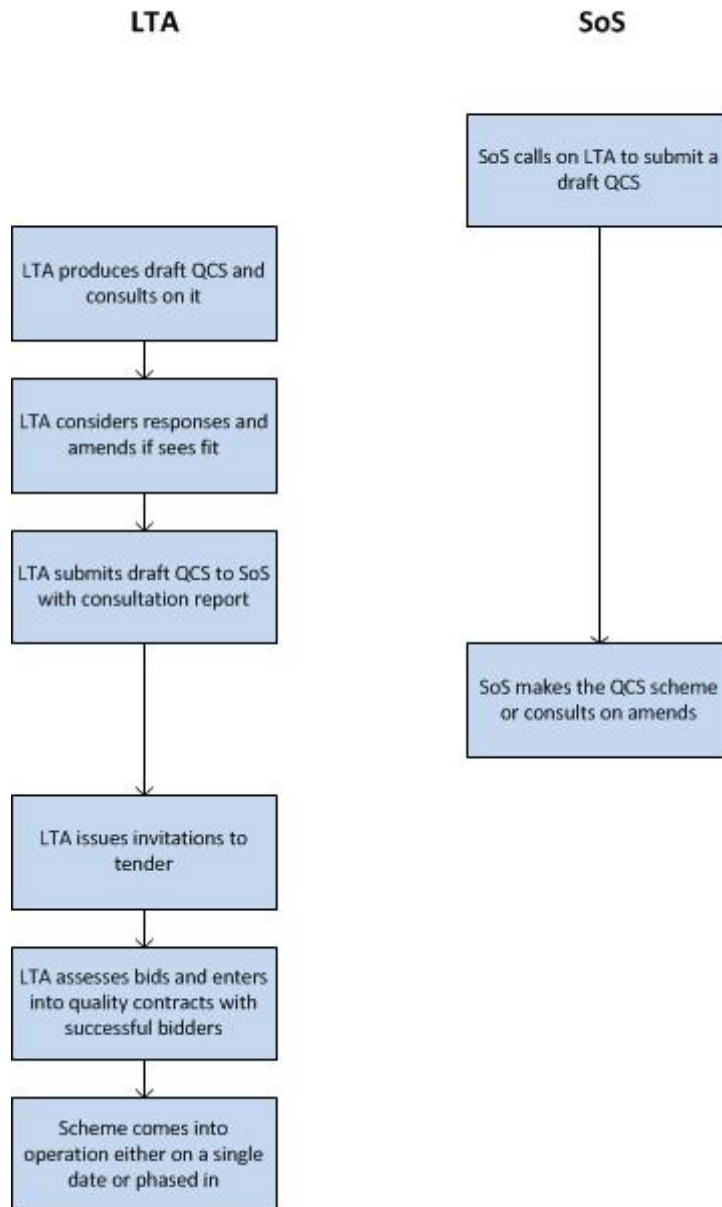
QCSs on the same (modified) process as transport authorities. The SoS could describe the areas where he or she triggers the QC process as 'Deregulation Exemption Zones'

The process would work like this...

- the SoS has a power to call on a LTA to submit to the SoS a draft QCS for such part(s) of the LTA's area as the LTA thinks appropriate;
- the LTA produces a draft QCS which is in accordance with its local transport plan and consults on it;
- the LTA considers the results of the consultation and amends the QCS if and how it sees fit in light of it;
- the LTA submits the draft QCS together with a report of the consultation to the SoS;
- the SoS considers the draft QCS and consultation report and can make the QCS as it is or can make it with amendments;
- if the SoS is to make the scheme with amendments it first consults on those amendments with the LTA and such other parties as it thinks fit;
- the decision of the SoS is amenable to judicial review in the normal manner; and
- the LTA lets the separate QCs under the QCS.

This would mean it would be harder for bus operators to seek to use the threat of expensive legal challenges to deter an LTA from bringing forward a QCS as they would know the SoS would have the power to bring forward the QCS her or himself.

### Parallel powers for SoS to initiate QCS process



## ANNEX TWO

### SIMPLER TICKETING

#### 1. Background

Ticketing is going smart in the city regions, and the city regions already have multi-operator and multi-modal ticketing products. **pteg** is working with DfT and the operators as part of the smart cities programme which seeks to facilitate the faster and more cost-effective introduction of smart ticketing in the nine largest urban areas.

Outside of the city regions smart ticketing is also being progressed.

However, there is still frustration around the:

- the uncompetitive pricing of multi-operator products;
- operators promoting and selling operator-only tickets rather than multi-operator tickets

Bus deregulation is by definition a free market. And in a free market it is not possible to require all providers to charge the same fares. If full smart, simple and integrated ticketing is sought then a Quality Contract is the way to achieve this (indeed this is one of the key benefits of the Nexus QC proposition).

However, within a deregulated framework an enhanced legislative framework could still facilitate a simpler and more integrated ticketing offer to passengers than is currently the case.

As part of its 2011 bus market inquiry, the Competition Commission recognised the barriers to greater availability of attractive multi-operator products. One of its key recommendations was that the Secretary of State for Transport should introduce a more robust legal framework in this area. Although the DfT has left the option of new legislation open, nothing has been done so far to set out what it might contain.

#### 2. What powers do LTAs have now on ticketing?

Existing legislation allows LTAs to introduce tickets which can be used on all operators in an area. However they do not have the powers to set the price of those tickets. The pricing of these tickets in many areas is uncompetitive as operators concentrate on promoting their own fares.

LTAs can also introduce concessionary fares for eligible groups as long as they ensure that operators are reimbursed in a way that leaves them no better or no worse off.

### 3. What powers are we seeking?

In line with the Competition Commission's 2011 recommendations, we propose that LTAs are given the powers to set the premia on multi-operator tickets at a reasonable level. This would be done within the framework of national guidance and following consultation with operators.

LTAs would also have the powers to ensure that multi-operator tickets were properly promoted and widely available to passengers.