

**Open Report on behalf of Richard Wills  
Executive Director for Environment and Economy**

Report to:	<b>Highways and Transport Scrutiny Committee</b>
Date:	<b>11 June 2018</b>
Subject:	<b>Update on Local Bus Matters</b>

**Summary:**

This report provides an update on the implementation of the Bus Services Act 2017, along with an update on the following strands of activity:

- The state of the local transport market
- Teckal company update
- Community Transport
- Local Government Association's Special Interest Group on Public Transport Consortium
- Total Transport
- Health – Non-Emergency Transport Services
- Passenger Transport Strategy Review
- Review of Lincolnshire's Bus Strategy

**Actions Required:**

Members of the Highways and Transport Scrutiny Committee are invited to consider and comment on the proposal for new bus legislation and the other local bus matters covered within this report, and highlight any recommendations or future actions required.

## **1. BACKGROUND**

### **TOPIC – Bus Services Act 2017**

The Bus Services Act received Royal Assent on 27 April 2017. The aim of the Act is to improve bus services for passengers by providing local authorities, the Secretary of State and bus operators with a new toolkit to enable improvements to be made to bus services in their areas.

1.1 In particular, the 2017 Act:

- Introduced bus franchising powers to replace previous Quality Contract Schemes

- Strengthened arrangements for partnership working between bus operators and local authorities by introducing new Advanced Quality Partnership Schemes (AQPS) and Enhanced Partnerships (EP)
  - Modernised previous ticketing legislation and
  - Provided the powers necessary for a step change in the information available to passengers through audio and visual on-board information and through the provisions of open data on timetable, fares and bus service arrival times
- 1.2 Officers have attended a DfT briefing session however Draft Regulations and Guidance on some aspects of the Act are only now being consulted upon by the DfT.
- 1.3 The Guidance makes references to a number of measures that could be considered including:
- **Providing an inclusive service by encouraging more use by people with disabilities** – through improved accessibility, engaging with disability groups, second wheelchair space or additional flexible spaces on vehicles, assistance cards, audible and visible information, acceptance of mobility scooters, accessible ticketing systems, driver disability awareness and information for passengers.
  - **Improving environmental outcomes** – Green buses and improving air quality.
  - **Partnership** – where the operators and council agree to standards which will mean activity on both sides.
  - **Maximising social value** – Councils to consider the provisions in the Social Value Act and the steps we could take to secure wider social, economic and environmental benefits in the area.
  - **Improving the safety of bus services** – Introduce bus safety measures such as an Independent confidential reporting system (ICRS) and the release of bus safety information data.
  - **Tackling congestion** – There is reference in this section to having the right data in order to analyse congestion. The section lists a raft of measures that could be considered
  - **Meeting the needs of rural communities** – The DfT recommend that Local Authorities undertake rural proofing when reviewing transport, using new powers under the Act with rurality benefits in mind, benefits of encouraging community transport and applying total transport principles. The Guidance mentions using demand responsive transport in rural areas to support commercial bus services.
- 1.4 It should be noted that Lincolnshire already adopts and/or promotes a number of these measures.
- 1.5 Of the four key strands introduced under the Act, no benefit is perceived for Lincolnshire to pursue a franchise model and it is likely to carry an extremely high and unaffordable price tag.

- 1.6 Similarly, the conditions attached to AQPS and EP are unlikely to be attractive to us at the current time particularly as the County's existing Partnership arrangements are, albeit more informal, still delivering results.
- 1.7 Under an AQPS LCC would have to commit to take steps to actively support local services through measures such as providing bus-related infrastructure, addressing parking policies to make passenger transport more attractive, bus priority measures and marketing of local bus services. In exchange Operators would be required to meet specific local standards. Standards could relate to better buses, minimum service frequencies, improved passenger information, smart ticketing and maximum fares as examples. Some standards can only be implemented, like frequency and maximum fares, if there are no outstanding objections from Operators. Given the fragility of Lincolnshire's bus market it is unlikely that all operators would agree to such standards. If it were achieved then the cost of provision would undoubtedly see operators walking away from currently marginal routes and result in much higher contract prices for supported services.
- 1.8 The range of outcomes that can be achieved through an EP is broader than can be delivered through an AQPS, particularly around fares and ticketing products.
- 1.9 Despite the Act being labelled as 'enabling', the guidance suggests that there will be mandatory requirements for bus operators and local transport authorities to be involved in open data. The Act includes a power for the Secretary of State to mandate the release of information on local bus services such as fares, routes, timetables and real time passenger information (RTPI) in a specified format. It is intended to phase the requirements in by 2020 in stages. The complexity of this is not to be underestimated.
- 1.10 In addition, anyone providing a bus service will also have to fit audio and visual equipment on buses. It may be phased in over a period of years similar to the accessibility regulations or there may be a need to retro-fit onto existing buses. It is estimated a retro-fit will cost circa £2,000 per bus. Officers have already made representations to the DfT urging them to exempt demand responsive transport from the requirement. LCC has hosted a visit from Consultants commissioned to gather data sources from local authorities as part of the discovery phase for the Open Data regulatory element.
- 1.11 New regulations also came into force on 24 April 2018 affecting operators registering services with the Traffic Commissioner. Operators must now inform the relevant Local Transport Authority of their plans to register, vary or cancel a service 28 days before submitting it to the Traffic Commissioner for approval. In turn the notice period to the Traffic Commissioner has reduced from 56 days to 42 days. This is aimed at giving Local Authorities more time to consider the potential impacts on the network and, where appropriate, to seek competitive tenders for a replacement service or persuade another operator to run a service on a commercial basis. There is also now a requirement on the Operator to provide the Local Authority with passenger data on which to make their decision regarding the way forward.

## **TOPIC – The state of the local transport market**

- 2.1 Lincolnshire has one large operator and a number of medium and smaller operators providing passenger transport services. It has previously been identified that Lincolnshire's passenger transport market is failing to meet all of the county's needs and as a result LCC has actioned a market intervention through the creation of a Teckal Company, currently operating in the south of the county. Paucity of supply has been exacerbated in recent months with the loss of:
- Skegness Travel
  - Hodsons Coaches
  - St. George's Taxis of Lincoln
- 2.2 There have been no new entrants of note to the market and contract prices continue to increase at a higher level than inflation. To date the average increase in 2018 on like for like PSV bus contracts stands at 8.7%.
- 2.3 Operators of local bus contracts have not been given an annual inflationary increase on contract prices since 2013/14. For the 2018/19 financial year it is proposed to provide operators with a 1% inflationary increase on those contracts that have been operating in excess of 12 months. The API is expected to be met from within the current budgetary provision.
- 2.4 The Council continues to receive the bus service operators' grant (BSOG) for subsidised bus services. BSOG is a rebate on fuel duty and used to be paid direct to bus operators. From January 2014 the DfT opted to passport the BSOG money previously spent on 'Supported' bus services down to the Local Transport Authority with encouragement for spend not to be restricted to using it just for top up of operator payments. BSOG money is ring-fenced but does therefore permit spend on both revenue and capital passenger transport measures. In 2018 Lincolnshire's BSOG funding (£545k) is being channelled towards a number of supported services, purchase of some CallConnect Vehicles and infrastructure improvements as part of the Go Skegness project.
- 2.5 At present the DfT are continuing to issue BSOG payments direct to Operators for 'Commercial' services. The DfT have recently reviewed these arrangements but have not yet made a decision on the preferred way forward.

## **TOPIC – Market Moderation – Teckal Company Update**

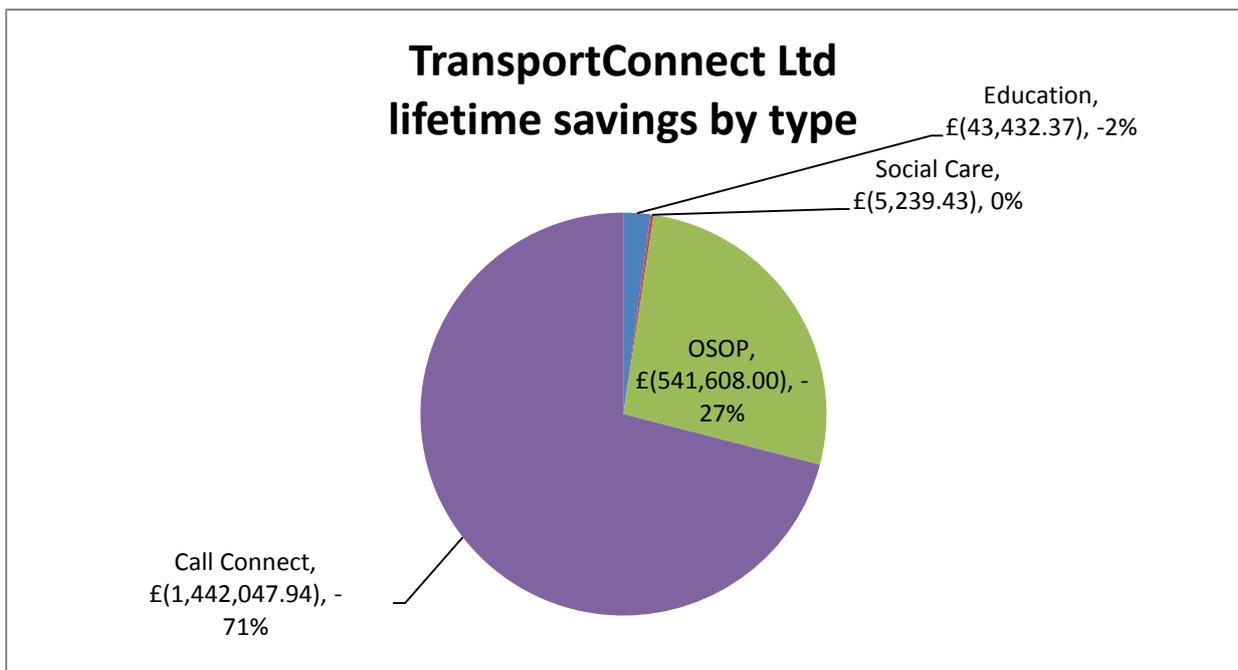
- 3.1 Loss of a significant operator from the Specialist Transport Market in 2016; lack of bids for services and failure to secure contracts at affordable prices were all drivers prompting LCC's decision to intervene in the market. As well as a need to moderate the market from spiralling costs, including in areas where there was only a single supplier, LCC faced significant risk of failing to meet its statutory duties in regard to transport provision.
- 3.2 The rationale behind the establishment of Transport Connect Ltd (TCL) was not necessarily to make money but rather cost avoidance and risk mitigation

by ensuring that there is more competition in the market and, where there is not, that it can provide a cost-effective means of delivering services.

TCL currently supplies services in the south of the county for:

- Home to School transport for children with Special Educational Needs and Disabilities;
- Adult Social Care transport and
- CallConnect operations

- 3.3 Whilst not yet in profit, the relatively small loss over the initial 18 month period compared favourably against the LCC costs avoided over the same period, which were estimated to be in the region of £1M. The Company continues to meet its principal loan and interest repayments and a rolling credit arrangement for operational contingency remains in place.
- 3.4 Since the introduction of TCL there is also evidence of some operators' bids being drastically reduced from previous submissions. In scenarios where prices are still considered unaffordable and/or not value for money, the services of the Teckal Company can and have been utilised. As a consequence the company has grown much faster than originally anticipated and ideally now needs time to stabilise its operations.
- 3.5 Transport Connect currently operates 19 contracts (including some volume contract arrangements under a One School One Provider model) from 4 depots (Barrowby, Boston, Spalding & Ketton) using 78 drivers and 30 escorts. Cost avoidance over the life of past and present TCL contracts is estimated to in the region of £2M as per the chart below



- 3.6 Operation has not been without its set-backs including a fire in 2017 which wiped out the workshop at Barrowby and several vehicles within it, along with

damage to the company's offices. Unfortunately issues are still ongoing in relation to building reinstatement and repairs.

- 3.7 The Company Board currently has 3 members with recruitment of 2 more being proposed. The Head of Transport Services also attends Board meetings as the Owners representative. Legal services are currently preparing an options appraisal for the Leader to consider from a member governance perspective, how the council best fulfils its role as owner of the Company.
- 3.8 TSG, with support from Legal and Finance, perform a wider governance role in respect of contract and performance management and the scrutiny of the company's activities. Internal Audit has been invited to audit all of the arrangements relating to TCL and external audits around specific aspects of TCL's operations (eg O'Licence compliance) have already been conducted.

### **TOPIC – Community Transport**

- 4.1 Community Transport operators provide services under a lighter touch regulatory regime than bus operators. These powers were derived from the Transport Act 1985 and are commonly known as sections 19 and 22 permits. Traditionally not for profit organisations, schools, services for the elderly and community groups have all operated minibuses under this regulatory framework. Historically many Community Transport Schemes have received grant funding from local authorities and other benefactors. As schemes have developed though some have gone on to bid for and win a number of local authority contracts.
- 4.2 This situation has been successfully challenged by the Coach and Bus industry who argued that local authorities awarding such contracts were breaching EU State Aid Regulations (1071/2009) and that the current UK regulations were flawed in their permitted use of S19/S22 as the regulations failed to recognise that a 'not for profit organisation' could be involved in commercial and 'for hire and reward' type services. Legitimately, bus operators argued that their operating, driver, licencing and maintenance costs were all higher and standards more stringent under Operators Licence requirements thus disadvantaging them in a competitive tendering exercise.
- 4.3 LCC has recently responded to DfT consultation on proposed tweaks to and new guidance for the UK regulations under which Community Transport Operators would not be able to operate contracts on a hire and reward basis without a formal O' Licence. A small number of exceptions are currently permitted and these would remain under the new versions..
- 4.4 Along with the Traffic Commissioner, LCC is able to issue S19/22 Minibus Permits. In the past 5 years there have been 321 active permits issued. Any changes whereby organisations have to comply with PSV regulations rather than section 19, could end up with these organisations not continuing to provide transport thus increasing costs or reducing the opportunity for travel.

- 4.5 In Lincolnshire a small number of schemes could be affected by the proposed changes. This includes Lincoln Area Dial a Ride (LADAR) as they currently provide services for other organisations, payment for which would be deemed to be commercial activity, making them ineligible for a S19 permit going forward. Decision around a grant request from LADAR for 2018/19 has been deferred until the outcome of the consultation and LADAR's future operating plans are established

### **TOPIC – Local Government Association (LGA) Special Interest Group Public Transport Consortium**

- 5.1 Councillors Brewis, Brookes and Davies currently represent the Council on the Public Transport Special Interest Group along with an Officer who usually attends the plenary sessions. The Consortium aims to:

- act as a forum for discussion and promotion of public transport issues affecting local authorities outside metropolitan areas;
- promote the exchange of experience and good practice between member authorities and in liaising with other bodies;
- advise appropriate committees or other executive bodies of the LGA on public transport issues;
- represent interests of member authorities to Government, the LGA, operators and other organisations involved in public transport; and
- Provide advice and guidance to member authorities concerning passenger transport policy and operation.

- 5.2 During the previous 12 months the group has considered 26 different topics including:

- Competition, co-operation and partnership in local bus markets
- School transport matters
- Rail franchise information
- Demand responsive transport

- 5.3 LCC will continue to attend and contribute to LGA lobbying on responses where it is in our interest to do so.

### **TOPIC – Total Transport - Total Connect**

- 6.1 Members may recall that Lincolnshire was selected by the DfT as a pilot authority to look at the feasibility of adopting a Total Transport approach. The pilot scheme period has ended however work continues towards the principles of total transport.

The four key project strands for Total Transport being explored are:

1. Health transport integration

2. Voluntary sector transport
  3. Information communications technology development; and
  4. Market development/moderation
- 6.2 Each strand is at a different stage of exploration or development though there have already been some achievements in improved data collection and the installation of a new RTPI system. Although data collected is not necessarily comprehensive there is sufficient detail to be able to map shared resource opportunities eg CallConnect and NEPTS and to aid scenario planning particularly on matters such as location of services under any NHS Sustainable Transformation Plan.
- 6.3 Recognising the importance and cross cutting nature of transport and mobility within the county, transport is currently being established as a new topic under the Lincolnshire Joint Strategic Needs Assessment. An 'Expert Panel' made up of a wide range of representatives with knowledge of transport from within their discipline and/or area was convened on 23<sup>rd</sup> May. Discussion notes and intelligence gained from that workshop is now being used to draft the script around issues relating to access to transport within Lincolnshire.
- 6.4 Proposed replacement of antiquated in-house and ageing scheduling packages later in the year will potentially help TSG to identify overlaps and opportunities for efficiencies within and between services.
- 6.5 The driver certificate of professional competence (CPC) training was compulsorily introduced in 2009. This is a requirement for all professional bus, coach and lorry drivers. LCC checks compliance with CPC requirements when carrying out bus and coach checks. Although the requirements are positively upskilling the transport workforce, operators are reporting the financial burden of this and the fact that some drivers do not want to invest in such training, thus depleting the size of the available workforce.
- 6.6 There is a growing shortage of vehicles, drivers and passenger assistants for home to school transport and particularly for the more specialist SEND work. The continuing total transport project will review these aspects of the market and identify potential solutions to reduce this increasing risk to service delivery.

### **TOPIC – Non Emergency Passenger Transport Services (NEPTS)**

- 7.1 Thames Ambulance Services Ltd (TASL) won the contract to provide non-emergency passenger transport services for Lincolnshire from 1 July 2017. Since the start of the contract, there have been service delivery problems reported. The nature and impact of the poor performance by the NEPTS provider has been the subject of LCC Health scrutiny.
- 7.2 TASL also provides the same service in North Lincolnshire and North East Lincolnshire. They have now been served with a year's notice to end the contract. With regards the position for Lincolnshire the picture looks a little brighter as discernible improvements are now being reported. The Company have worked hard and brought in additional resources to address areas of

concern. At the present time it is not thought that the Lincolnshire CCGs will serve notice on TASL

- 7.3 Talks around a potential small scale trial for testing out shared service scheduling and operations under a tripartite agreement have recently been resurrected. However, this is unlikely to progress as the CCGs and TASL do not wish to do anything that could jeopardise the operational performance improvements currently being achieved.

### **TOPIC – Review of Lincolnshire's bus strategy**

8.1 Members will have heard from a previous scrutiny presentation about the visioning work around Lincolnshire's future transport needs and arrangements. To complement and feed into that work it is intended to review the current mechanism for determining which passenger transport services receive financial support. The current tool is relatively crude and thus a more refined method capable of considering more factors and producing greater granulation would be potentially beneficial. Lincolnshire's 'Bus Strategy' has also not been reviewed for about 10 years, it is therefore proposed to produce an outline document for Members to consider, that sets out a revised vision and proposals to help inform an updated 'passenger transport strategy'. Ideally this piece of work will seek to look wider than just direct local bus solutions. Such an outline/vision is likely to include:

- The need for an established transport market.
- Strong partnerships.
- Fully integrated public transport.
- Lincolnshire being a centre of excellence for transport including proven efficiency and commercial innovation.
- Sustainable active travel.
- Greater network connectivity.

Separate papers will be submitted at a future meeting for consideration on a revised methodology for prioritising subsidised bus service support and for the review and update of the County's current bus strategy.

## **2. Conclusion**

Members of the Highways and Transport Scrutiny Committee are invited to consider and comment on the proposal for new bus legislation, highlight any recommendations or further actions for consideration, and continue to receive updates in relation to Transport.

### 3. Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed.
Bus Services Act 2017	<a href="http://www.legislation.gov.uk/ukpga/2017/21/pdfs/ukpga_20170021_en.pdf">http://www.legislation.gov.uk/ukpga/2017/21/pdfs/ukpga_20170021_en.pdf</a>
The Bus Services Act 2017: New Powers and Opportunities DfT Guidance.	<a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/664318/bus-services-act-2017-new-powers-and-opportunities.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/664318/bus-services-act-2017-new-powers-and-opportunities.pdf</a>

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