Bus Franchising in English and Scottish regions – viable solution or unfeasible instrument?

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Abstract

Much research surrounds the move from publicly owned and operated bus markets to publicly controlled and privately operated markets, or in the case of Great Britain, a fully deregulated market. Little research however exists concerning the counter move and the issues that this may raise. Such a step would be consistent with Gwilliam's regulatory cycle, which suggests that a combination of self seeking behaviour of suppliers and unrealistic aspirations of politicians leads to instability in the regulatory arrangements for the provision of bus services. Consequently, the associated structural and institutional arrangements go through a cycle of private/public ownership and competitive/regulated markets.

The paper discusses some of the practicalities at the regional level of introducing the measures provided by the Bus Services Act 2017 in England and the Transport Act 2019 in Scotland, both of which offer the option of a partial or full economic reregulation of bus services. Theories of radical policy change are examined and applied in the context of the issue through interviews with key informants in regional authorities in Scotland and England. The overriding conclusion from this analysis is that whilst deregulating the market does not actually break Gwilliam's regulatory cycle, it makes it very difficult to 're-connect', and thus a further long term consequence of bus deregulation in Britain in the mid 1980s is that future policy options may have been severely restricted in the very long term.

Keywords: bus re-regulation; incremental and radical policy change; regulatory cycle; bus economics.

Research Highlights:

Identifying the key factors required to bring about radical transport policy change and thus the main barriers to achieving such objectives.

Bus de-regulation represented a clear break in the regulatory cycle and as such has compromised longer term policy actions.

The importance of real transport governance and the financial ability to carry through policy actions.

A major divergence between policy in the form of what actions policy makers think is required, and the realities of the situation to which those actions are targeted.

1.0 Introduction

Over the last number of years, there have been several attempts in Great Britain[1] to detune the provisions of the Transport Act 1985. This act introduced the deregulated local bus market into Britain (outside of London) and remains the main legislative instrument governing bus service provision. Counter measures have been in the form of further legislation such as the Transport Act 2000 (Scotland, 2001) and the Bus Services Act 2017, both of which provide for the re-introduction of some form of economic regulation on an optional basis. Whilst the powers contained in these acts have been notably employed in a number of isolated cases, by and large they remain unused. This is particularly relevant given the current government's recently stated policy of introducing greater formal partnership working and potentially economic regulation into the sector, as evidenced in Bus Back Better (DfT, 2021), but nevertheless it proposes to use the existing primary legislation in order to introduce such changes.

Given such a backdrop, it seems a timely moment to examine more fully the whole issue of re-regulating the bus industry from a deregulated market, in order to uncover some of the potential problems and issues such a process may encounter. This paper uses primary research data through the application of the analytical lens of policy change theory to understand how and why change might take place and the barriers to it. The backdrop is a context where such a move towards economic regulation constitutes a radical rather than an incremental policy change and one that regional or local authorities *choose* to pursue, rather than being required to do so by a higher level of government. The paper begins with an overview of recent policy developments in England and Scotland, before outlining the theoretical framework to be used in the current research. Results are then presented and conclusions drawn.

2.0 Policy background

As noted, the Transport Act 1985 is still the main legislative instrument that governs the bus industry throughout the whole of Great Britain outside London. The Act removed all economic regulation, specifically authority control over fares, market entry and bus frequency. Subsequent legislation followed with the Transport Act (2000) (Scotland, 2001) which introduced the possibility of putting what had been voluntary agreements between local authorities and bus operators on (usually) whole route upgrades, i.e. buses and infrastructure, on a statutory basis. As a consequence, enforcement of quality standards above the statutory minimum could be legally imposed. The Acts also introduced the possibility of introducing bus quality contracts, which could be used to effectively reregulate whole areas where all other possibilities had been exhausted and 'market failure' could be established. Whilst some authorities did introduce statutory bus quality agreements, four in Scotland and around ten in England (Rye and Wretstrand, 2014; DfT 2019b), no authority introduced a bus quality contract. Exact reasons are unclear, but the two most likely barriers were firstly that establishing 'market failure' (a legal requirement) was very difficult to do, and secondly the cost of bringing the planning function into public administration, along with significant transaction costs in the form of tendering processes and contract costs, were prohibitive.

Transport powers for buses were fully devolved to the Scottish Parliament in 1997 (and partially to the Welsh Assembly in 2006 and fully in 2017), hence legally 'dividing' Great Britain into three separate jurisdictions, but unless otherwise amended, the 1985 Act remains the main legislative instrument governing the whole industry.

[1]To clarify, 'Great Britain', as opposed to the United Kingdom, refers to England, Scotland and Wales, hence does not include Northern Ireland, where the bus regulatory regime is subject to different legislation and has largely remained a publicly controlled and operated monopoly

2.1 Policy developments in England

After devolution of powers, the Local Transport Act 2008 in England (and Wales) followed, which further reduced the constraints on introducing a bus quality contract by lessening the need to show market failure and exempting bus operators from the provisions of the Competition Act 1998. This was possible where local authorities recognised that co-ordinated bus timings and joint services between competing operations were in the public interest. This could be in the form of voluntary agreements to co-ordinate service timetables and (to a limited degree) fares. The other main provision of the act was in the form of 'quality bus contracts', which had far stronger provisions regarding public control over routes, frequencies and fares. Once again however, other than a few notable instances such as in Oxford, there has been very little uptake in these optional powers; only one firm proposal to wholly or partially re-regulate the industry appeared, in Tyne and Wear in north east England in 2015. It failed however to gain approval within the statutory process and was subsequently dropped as a viable policy measure (see McTigue, Monios and Rye, 2020).

The Bus Services Act followed in 2017 and allows for elected mayoral combined authorities in England to partially re-regulate bus services, either by way of statutory Enhanced Partnerships (EP), or through Franchising Schemes (in the latter case, without the previous requirement to show market failure). As regards EPs, the powers in the act provide the local authority with the potential to specify requirements with regards to a wide range of service options, including timetabling requirements, bus frequencies, ticketing and marketing arrangements, appearance of vehicles and public transport information provision. As regards Franchising Schemes, this would be done by creating schemes along similar lines to those found in London, with the planning and revenue raising functions put back under local authority control. One such authority, Transport for Greater Manchester, has shown a strong interest in introducing such powers.

Further policy developments have followed (in March 2021) with the publication of the UK government's long-term strategy for buses in England, under the title 'Bus Back Better' (DfT, 2021). This requires all Mayoral Combined Authorities (MCAs) and Local Transport Authorities (LTAs) in England to have implemented at least an Enhanced Partnership by April 2022, in order to continue to receive both Covid-19 Bus Services Support Grant and promised new sources of funding from future government budgets.

2.2 Policy developments in Scotland

In Scotland bus re-regulation first appeared on the political agenda by way of proposals put forward under two private member's bills. The first (Gordon, 2008) was proposed by Charlie Gordon, then a Labour Member of the Scottish Parliament (MSP) and former Chair of the Strathclyde Passenger Transport Executive; the second was published in May 2013 by Iain Gray (Gray, 2013), then MSP for East Lothian and former leader of the Scottish Labour Party. Both however failed to progress to the next parliamentary stage due to insufficient cross party support. The Transport Act 2019 however (government rather than private members' legislation) introduced the possibility of some form of re-regulation. This can be through either 'Bus Service Improvement Partnerships' or 'Local Service Franchises', the former where the local authority specifies one or more service standards, whilst the latter represents a range of options including full economic re-regulation (i.e. local authority specification of routes, frequencies, fares and standards). As a very recent piece of legislation, no local authority has yet indicated an interest in taking up these powers.

2.3 Policy Implications

What all of the above strongly suggests is that in the English and Scottish areas of the British deregulated market there has been a strong feeling amongst public authorities for many years that some form of change, in the direction of more public control, is generally perceived to be desirable[2].

[2] There is also strong evidence the same is true in Wales, but that lies out with the scope of this paper.

There has however never been the political consensus to mandate such a change at a national level in the way that the 1985 Act mandated deregulation. As a consequence since first appearing in 2000, the powers to re-regulate have always been, and remain, optional, for application at the local or regional level. It is a highly valid research question, therefore, to explore whether and in what circumstances public authorities might actually act on their perception of an undesirable current situation in the bus market and use this optional legislative power to change it.

It is also worth noting that the background to all of the above policy initiatives is a bus industry where the underlying economics of operation have increasingly tightened over the last decade or so. Costs have increased partly as a result of a need to improve vehicle disability accessibility standards to meet legislative requirements, and partly as a result of the need to provide higher quality services in order to retain patronage levels; costs do however remain in real terms at under pre privatisation levels when assessed per bus kilometre. Nevertheless, the more recent cost increases have resulted in annual fare increases in real terms in the order of 1% per annum. Whilst the Competition Commission's 2011 inquiry of the bus industry found excessive profiteering (Competition Commission, 2011), since the inquiry profit levels and margins have significantly declined, with Cowie (2018) highlighting that most bus companies in Great Britain can now be considered to be making near to normal economic profits. What this ultimately suggests is that the current fare, frequency and service levels represent an economically efficient market position, and hence any reduction in fare levels (imposed for example by a regulatory authority) will either require increased levels of subsidy or result in operators leaving the market. This has subsequently been compounded by the Covid-19 pandemic, which at its height saw bus usage figures fall to as low as 10% of pre-pandemic levels (DfT, 2022). Patronage levels only began to gradually recover from June 2020 onwards, achieving around 85% of pre pandemic levels sixteen months later. Patronage however began to fall again in the run up to Christmas 2021. These trends have brought into question the viability of many of the existing commercial bus networks.

2.4. Research into implementation of enhanced authority bus powers

As regards research on the move from a deregulated market in bus services to one that is primarily authority led, or more specifically on the practicalities of implementing the policy changes outlined earlier in this section, very little research has been undertaken. In what does exist, it has been found that successful policy implementation is dependent on the co-existence of a more general favourable public transport policy that places limits on automobile use by means of parking charges, pedestrian-only zones, and extensive park-and-ride facilities (Van de Velde and Wallis, 2013). The same authors also found that in a number of cases the powers contained in the Local Transport Act 2008 had been used in markets served by more than one operator to address the issue of over-bussing and to introduce a common interoperable smartcard. Cowie (2014) on the other hand, concluded that whilst deregulating the bus market in Great Britain did not actually break Gwilliam's regulatory cycle, it did make any move back towards a more authority led model far more difficult. White (2018), in an overview of the provisions of the Bus Services Act 2017, highlighted that whilst the legislation did open up the possibility of the British model moving more towards one based on public-private partnerships and contracting/franchising, the impact of the legislation may be limited due to a lack of supporting finance (to local authorities). The author further highlighted that the legislation did not address other urgent issues affecting the bus industry, in particular traffic congestion impacts on bus service speeds, overall service quality and operating costs. Finally McTigue et al (2020) identified that successful policy implementation based on the (then) existing legislation was largely dependent upon strong policy champions working in close and supportive relationships with key stakeholders.

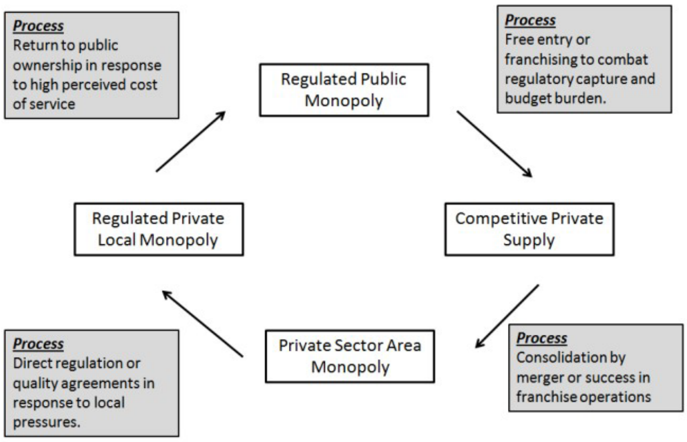
3.0 Policy Change Theory

In the context of this paper, two theoretical overviews are useful in outlining the process of policy change, Gwilliam's Regulatory Cycle and the theory of policymaking dynamics.

3.1 Gwilliam's Regulatory Cycle

With regard to public transport provision, Gwilliam (2008) put forward the idea of a regulatory cycle, primarily relating to bus provision in industrialised countries. This arose as a consequence of the work of Needham (1983), who argued that the outcomes of any moves towards regulatory measures were not always consistent with the original intentions of those reforms. This would inevitably lead to reform back towards market-based solutions, thus producing an inevitable constant flux between regulation and the market, i.e. a regulatory cycle. As the author highlighted, this pre-dated the distinction between competition in the market and competition for the market, the latter of course potentially providing a balance between the two contrasting perspectives. Gwilliam therefore posed the question, is there a regulatory cycle in the bus transport sector? What the author suggested was that such a cycle was broken down into four identifiable phases as shown in Figure 1.

Figure 1: The industrialised country regulatory cycle (in bus transport)



Source: Gwilliam (2008)

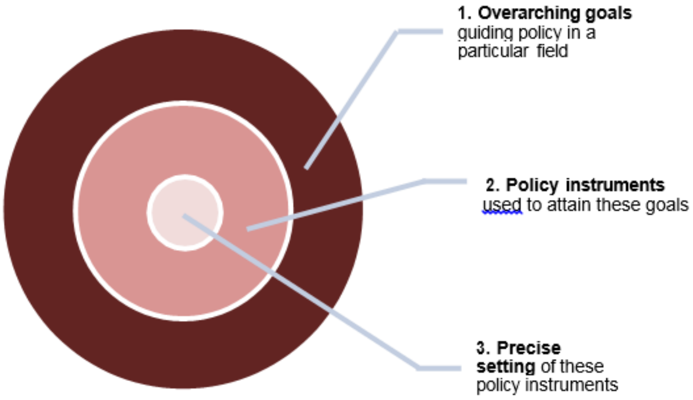
In the context of the British bus market, costs and subsidies increased substantially in the late 1970s and early 1980s (as it did in most other industrialised countries), and the prevailing macroeconomic climate (recession) and political ideology hastened reforms towards private sector provision, with examples of both free entry and franchising being present. Whilst the issues with deregulation are well documented elsewhere (e.g. Simpson 1996, White 2018), one clear outcome was that it led to considerable merger and company acquisition, particularly during the mid 1990s (Cowie, 2002). This resulted in a return to stage 1 of the regulatory cycle, private sector area(s) monopoly. With a few exceptions, this is roughly where the British market stands today, i.e. it is made up of a large number of local bus markets, each of which is dominated by a single operator, with some limited competition from another of the major operators. In the City of Glasgow for example, Firstbus has around 80% of the market, with Stagecoach and other smaller operators the other 20%. Outside of Glasgow itself, there exist several independent operators, most notably McGills, who operate a fleet of 520 buses mainly based to the west of the city in Ayrshire, with many routes running into Glasgow city centre.

3.2 The theory of (radical) policy change

Whilst useful as an overall framework and identifying the key factors that lead to change, Gwilliam's regulatory cycle does not actually outline how that change (in policy) comes about. For that, the theoretical issues of policymaking dynamics need to be examined. These evolved substantially during the second half of the 20th century, with Lindblom (1959) setting its theoretical foundations based on a model of incremental progression. He viewed policymaking as a smooth, leap-free and endless succession of incremental changes undertaken by administrators of a state partly bound by societal pressures, who choose simultaneously a policy (a means) to attain certain objectives as well as the objectives (the ends) themselves.

Moreover, policy decisions are made at the margin, comparing a restricted set of policies that differ only by a small degree from those currently in force, and always in meaningful reaction to previous policy performance. Hall (1993) broke with the orthodoxy of incrementalism after academia acknowledged its explanatory power had weakened given more contemporaneous cases of policy change. In his view, the main driver of policymaking was social learning shaped by policy legacies, carried out by a state acting somewhat autonomously from societal pressures. Furthermore, he disaggregated social learning into three central, concentric levels:

Figure 2: Hall's Disaggregation of Policy Development



Source: Hall (1993)

From the inside out, variations taking place at the inner and intermediate layers are known as first and second order changes, respectively. These are "normal policymaking": broadly continuous, built upon social learning (i.e. in response to dissatisfaction with past policy), pushed forward by specialist civil servants/bureaucrats rather than politicians, and as such fit in well with the incremental model described by Lindblom (1959). In contrast, variations at the outer layer (a third order change) are very different processes, marked by radical changes in the policy discourse, a "paradigm shift", and in the current context, this would be consistent with shifts within Gwilliam's regulatory cycle. Such variations are disjunctive, periodic discontinuities in policy, led by actors who are more political than technical. They occur due to an accumulation of anomalies, forced extensions of the hitherto prevailing paradigm leading to repeated policy failures, up until the prevailing paradigm accrues a level of discredit that the matter eventually becomes a broader affair of society. Following Hall (1993), when that happens the focus of authority over policy shifts from the dominant agency during the crumbling paradigm to the new agency that pushes reform forward.

Policymaking is thus currently regarded as following a pattern of punctuated equilibrium: a long period of stable, marginal adaptation, eventually paired with a revolutionary transformation, only to go back to the stability of incremental change (Howlett & Cashore, 2009). Applying this as the theoretical framework for bus services policy, a paradigm shift can clearly be identified as occurring in the mid-80s. A key question arises however as to whether the decades since have seen a further third order or "paradigm" shift in policy, or whether this has been a period where changes in policy have been first or second order "normal" policy making.

This theoretical framework developed by Hall (1993) can be further developed if the concept of a "policy community" is added to it. Richardson and Jordan (1979, cited in Dudley, 2003) envisaged policy being made and implemented by a "community" of organisations whose mutual interdependence tends towards stability or at most incremental change in policy. In the case of bus policy these organisations would be local and national government and bus operators. The concept clearly relates to Hall's idea of first and second order policy change. However, Dudley and Richardson (2000) argued, in their various case studies of changes in transport policy in Britain since World War 2, that seemingly stable policy communities can in fact help to bring about radical change, where they are exposed to and take on new ideas, people (policy entrepreneurs) or organisations. Dudley (2003) takes the example of Oxford (UK)'s balanced transport policy – a demand-management approach that has endured in the city for many years – as a policy community and shows how it was in fact capable of radical change in spite of its apparent stability.

Returning to the consideration of the development of bus policy, up to the early 70s, Keynesianism was prevalent in Britain. As such, unemployment and economic growth were the primary concerns of policymakers, and fiscal policy extensively used to steer these factors as an over-reaching framework to 'manage' the economy, with inflation regarded as an inevitable by-product of expansionary policies. As the 70s progressed however, rising levels of inflation were joined by stagnating economic growth and high levels of unemployment (i.e. a breakdown of the Philips curve[3]). This was a major anomaly that could not be explained by Keynesian economics, and as such gravely undermined its validity as a policy driver.

At this point it can be strongly argued that the policy paradigm debate entered the political arena and became the object of electoral competition. The Conservative Party, under Margaret Thatcher, proposed monetarism (i.e. an overarching shift of policymakers' focus from employment and growth goals to inflation goals pursued through monetary policy) and more general free market principles, very much in line with the traditional Conservative party position to restrict public spending and the role of the state in the economy. Thatcher won the election by a landslide in 1979 and swiftly institutionalised the new policy paradigm.

The hitherto prevalent paradigm of public provision of bus services had not been free from anomalies either: operating costs were rising steadily, mainly driven by rising labour costs and rigid labour regulation (underpinned by highly influential trade unions). In consequence, subsidy levels significantly grew (see for example DoT 1990). Despite this increased public expenditure, patronage levels kept falling (McConville, 1997) because of rising income and car ownership levels, factors known to have a significant effect on bus patronage (Balcombe et al, 2004). Public bus operators made incremental service cuts in response to lost ridership (see again DoT, 1990), further accentuating the decline. It does not come as a surprise then that the Transport Act 1985 entailed such a fundamental change in the industry.

Yet today, the paradigm of neoliberalism in the bus sector is accruing an increasing number of anomalies. Consequently, policymakers from across the political spectrum (the political heirs of

[3] Which to simplify, is a stable relationship between unemployment and inflation, hence economies could experience either high levels of inflation or high levels of unemployment, but not both at the same time.

Margaret Thatcher included) have undertaken a series of second order changes in bus transport policy: a shift in the policy instruments from complete economic deregulation to enabling varying degrees of re-regulation but maintaining the overarching policy goal of arresting the decline in bus patronage.

Paradigmatic transport policy change is seen as particularly difficult. On the one hand, the lengthy planning cycle for significant transport investments makes transport policy unappealing to the standard short-sighted politician. On the other hand, transport provision embeds too many different areas (e.g. land use, economic welfare, ecological conservation…), each with their own perspective on the policy implementation process and their own agendas to push forward (Marsden & Docherty, 2013).

Whilst Hall's framework is useful for identifying the nature of "lower level" policy change, it does not provide the key requirements that lead to the successful implementation of a third order policy change. For that, it is useful to examine perhaps the most representative example of radical transport policy change in recent times; that of the introduction/implementation of a congestion charge in London in 2003. Facing widespread opposition and pressures, the then London Mayor Ken Livingstone pioneered the practical use of a power that was considerably more far reaching than had been previously contemplated. In the course of this research, a review of a collection of related short articles based on that experience (Richardson et al 2004) resulted in the development by the authors of five structural prerequisite requirements necessary to succeed in implementing radical policy change. As a consequence, these have been termed Livingstone's Five Factors for Radical Policy Change and listed in Table 1.

Table 1: Structural Pre-requisites for Radical Policy Change (Livingstone's Five Factors for Radical Policy Change)

No	Criteria	Example in Congestion Charge Implementation
1	The problem is so obvious that there is a widespread societal will for a change.	This was evident in central London in 2000. The street network was bearing the traffic equivalent of that carried by 25 motorways, average traffic speed had fallen below 10mph, vehicles spent half of their time in queues, whilst mainline trains and the underground were already operating at full capacity at peak times (Richardson, et al., 2004).
2	A strong political leadership who can connect the problem ("something needs to be done") with the solution (a radical policy change).	This was embodied by Livingstone himself, whose commitment to radical transport policy change (as an independent candidate) was so strong he was prepared to place his own political future at stake and 'the solution' was contained in his electoral manifesto.
3	A regional (neither local nor central) and powerful layer of government which is best placed to design and implement a strategic transport policy.	The local government situation in London prior to 1999, with 33 independent boroughs, was an obstacle to strategic transport policy making, overcome only with the creation of the mayoral Greater London Authority (GLA) in that same year.

4	A central government that enables the necessary legislation.	Even the strongest of political leaderships would have been incapable of pursuing such a radical policy change had there not been a likeminded central (Labour) government which bestowed such a power, i.e. the legal right to impose a congestion charge, through the GLA Act 1999.
5	A clearly motivated technical team capable of executing the political leader's vision.	Transport for London (TfL) lacked expertise in delivering a road charging scheme, but it devoted substantial human and financial resources in developing a solid business case and the consequent project delivery planning.

In the following sections, this theoretical framework is applied to the current issue of bus policy change in Britain, with the aim of establishing the extent to which the five specified key criteria are present in order to potentially produce a third level (radical) policy change.

4.0 Methodology and Research Results

In order to research the above issues regarding the viability of re-regulating the British bus industry, the methodology is centred upon qualitative key informant interviews with relevant stakeholders in the area concerned, mainly local authorities and bus operators. As such, 12 local authorities and 2 bus operators (in the relevant areas) were interviewed. Interviews took place between 12th June and 12th November 2018, primarily by telephone, although some were undertaken on a face to face basis. The sample was constructed on a self-selection basis, hence all 132 local authorities were contacted in England and Scotland, and those that agreed to take part in the research were contacted to arrange an interview. A reflexive thematic analysis framework (Boyatzis and Guest, 2006) was then applied to the responses where key issues were identified and summarised and then the implications arising from the responses detailed. This is the form in which the results are presented.

It should be noted that all the respondents are either Combined Authorities (CAs) in England, or Regional Transport Partnerships (RTPs) in Scotland. Although directly contacted, no "shire" or "unitary" authorities wished to take part in the research and so the findings are delimited to the CAs and RTPs – effectively, to regional bodies with a specialist public transport function. There are however, sound reasons for limiting the study to such areas. The CAs account for 30% of the English population outside London but 40% of its bus ridership (DfT 2019a) and, because the majority have specialist public transport authorities as part of the CA, they have a greater capacity to use any new regulatory instruments available than do their shire county counterparts. This may also explain why many more of them chose to respond. As to why no responses were received from shire or unitary authorities, any reasons put forward can only be speculative, but it does nevertheless indicate a clear non-response bias. The cause of the lack of response from such authorities may be due to the converse of the factors that led CAs to respond: greater unfamiliarity with the legislation and a lack of capacity, rather than it reflecting any lesser importance of bus services in these areas.

4.1 Interviews with key stakeholders.

The presentation of the outcomes of the interviews with key stakeholder is broken down into two distinct areas, firstly an examination of the extent to which existing powers have been introduced in the respondents' areas and the potential reasons behind these. The second element surrounds stakeholder views on the appropriateness of the legislation, specifically the full re-regulation option.

4.1.1: Assessment of likely use of franchising powers

Given the theoretical overview of the regulatory cycle previously described, it would be expected that bus transport policy, after the paradigmatic shift of the mid-80s, should have returned to a phase of stable and progressive change. This means that most agencies in terms of policy development would follow an incremental path towards re- regulation, always conditioned by the performance of the preceding policy change. In other words, Gwilliam's regulatory cycle in this context would be evidenced by the following hierarchy:

Voluntary Partnership Agreements (VPAs)

↓

(Advanced) Statutory Quality Partnerships (SQPs / ASQPs)

↓

Enhanced Partnerships (EPs)

↓

Quality Contract Scheme (QCs) / Bus Franchising

It could also be anticipated that a minority of agencies might make a 'significant' leap, in other words skip one or more stages, directly to the highest degree of re-regulation, when they meet the criteria established by Livingstone's Five Factors for Radical Policy Change. The policy measures implemented at the time of the research in the sampled transport authorities are presented in Table 2.

Table 2: Summary of Policy Instruments by sampled Transport Authority

Authority name	Country	VPA	SQP / ASQP	EP	QCS / Franchising
Tees Valley Combined Authority (CA) (TVCA)	England	No	No	Being considered (2018)	Being considered (2018)
West Yorkshire CA (WYCA)	England	Yes (2017)	No	No	No
South Yorkshire CA (SYCA)	England	Yes (2012)	Yes (2009)	No	No
North East CA (NECA)	England	Yes (2010)	No	No	Attempted (2014), not implemented
West Midlands CA (WMCA)	England	Yes (2015)	Yes (2012)	No	No
Cambridge & Peterborough CA (CPCA)	England	No	Being considered (2019)	No	No
West of England CA (WECA)	England	Yes (2018)	Yes (2018)	No	No
Greater Manchester CA (GMCA)	England	Yes (2010)	Yes (2012)	Being considered (2018)	Being considered (2018)
Liverpool City Region CA (LCRCA)	England	Yes (2016)	No	Being considered (2018)	Being considered (2018)
Strathclyde Partnership for Transport (SPT)	Scotland	Yes (2018)	Yes (2011)	No	Being considered (2018)
SWESTRANS (Southwest Scotland Regional Transport Partnership)	Scotland	No	No	No	No
ZETTRANS (Shetland Islands Regional Transport Partnership)	Scotland	No	No	No	No

Note 1. Abbreviations

VPA – Voluntary Partnership Agreement
(A)SQP - (Advanced) Statutory Quality Partnership
EP - Enhanced Partnership
QCS – Quality Contract Scheme

As stated, those that agreed to take part in this research are all regional authorities (now in England known as Combined Authorities (CAs)), 10 out of 12 of them with an historic responsibility for public transport coordination, and greater level of resources for that function than would be found in a typical local (city) level authority. Most city level authorities in England have access to the same legislative powers for bus re-regulation, except for franchising powers under the 2017 Bus Services Act, which as noted are only open directly to regional authorities with elected mayors (hence in Table 2 at the time of the interviews, not available to West Yorkshire and Northeast CAs). This in itself is an important finding, indicating that even consideration of the use of these powers appears to be limited to larger authorities. In Scotland, this option has subsequently become available to all local authorities with the passing of the Transport Scotland Act 2019.

From Table 2, it can be seen that only a handful of transport authorities display a lack of any action in exercising the powers available to them under current provisions; specifically three, CPCA, SWESTRANS and ZETTRANS. In the case of CPCA this was due (at the time of the research) to the very recent constitution of the combined authority: the devolution deal was only struck in 2017 and at the time of the research the transport strategy had not been finalised. For ZETTRANS, the small population and remoteness of Shetland makes the current model a de facto franchising system, since there are no commercial routes as a result of low passenger volumes. ZETTRANS keeps the fare revenue in its tendered services (all of them) and has control over route design, fares, frequencies and schedules. Much of the network in the SWESTRANS area is similarly tendered.

For most of the other transport authorities sampled, all have exercised re-regulatory powers to some extent by firstly implementing VPAs and/or (A)SQPs in an interchangeable manner (SYCA, WYCA, WMCA, WECA, GMCA, LCRCA, SPT). This is understandable as VPAs and (A)SQPs cover similar features and both are lax re-regulatory frameworks: VPAs are not implemented without the agreement of bus operators and are not legally binding contracts between the parties (the legal definition is required so that they are exempt from anti-collusion legislation). What in many senses this represents is a working partnership rather than a regulatory framework. (A)SQPs are more contractual and authorities can prescribe maximum fares and minimum service frequencies/timings but only if no admissible objections are forthcoming from affected operators, and in practice almost all the SQPs in existence do not include these elements (see Rye and Wretstrand, 2014). None of the SQPs in force have so far been contested by operators once in place. As SYPTE said:

"We previously did a lot of work around Quality Contracts, but we chose not to pursue that work for a fair number of reasons. One is the risk associated with the challenging processes required to get through the approval stage. So, we chose to work with operators through partnerships. (…) The biggest factor is the time they required. In times of austerity there was [also] uncertainty about local government finances."

As regards the 'higher order' powers, i.e. full service/fare specification, three authorities (GMCA, TVCA, LCRCA) at the time of the interviews were considering a bus franchising scheme. As noted earlier, NECA in Tyne and Wear had already attempted but failed to implement a QCS under the earlier legislation, the Local Transport Act (2008) (McTigue, Monios and Rye, 2020). Of the three, GMCA committed the greatest amount of funding (£11.6 million) to develop a Full Business Case for it. TVCA and LCRCA on the other hand had committed much more modest funding (£150,000 in the case of TVCA) and at that point were only undertaking a high-level Outline Business Case. In October 2019 GMCA decided to proceed with its proposed franchising scheme and therefore conducted a public consultation as required by the Transport Act (2000), as amended by the Bus Services Act (2017). The consultation was carried out in the first half of 2020; however, due to the Covid-19 epidemic and its impact on bus services, this was delayed. Plans however were announced in July 2021 to proceed to a full franchising model to be introduced over the period 2023 to 2025.

The interviews carried out and subsequent developments bear witness to the incremental nature in the pattern of bus policy change at the aforementioned transport authorities, with the main views to arise out of the interviews summarized below followed by the implications that can be taken from these.

Summary: Respondents in all areas highlighted that re-regulatory powers should only be introduced where bus patronage is declining and that the level of such powers used should be the minimum level that is believed to be required to address the context specific situation. The following quote illustrates this well:

"If our patronage was falling, we would have a much stronger case for intervention. But against a scenario of growing bus patronage it's quite challenging to maintain that it's in the public interest to prescribe bus services. (…) If patronage starts to decline, we'd have to think about it again."
West of England Combined Authority (WECA).

Respondents also highlighted that the decision as to whether to implement (and the extent of) powers should be a local decision based on local circumstances. One final common theme was that in terms of introducing full franchising, the possibility of endangering good working relationships with existing and potential operators was highlighted as a considerable disincentive.

Implications: Two very clear implications arise from the interview responses. The first is that any statutory powers would only be used with a backdrop of falling patronage. That may suggest a structural underlying issue that any (economic) re-regulation would potentially fail to address. Given the tightening of the underlying economics of bus operation in Britain highlighted above, the current legislative provisions may only represent potentially harmful delaying/distracting measures rather than actual tackle the real underlying (structural) issues, i.e. attempt to improve the economics of bus operation. The second is that there is no one 'national' solution, and the use of such powers will always be optional. The problem with this, certainly in the early stages (and largely evidenced by the lack of implementation), is that it leads to a fragmented piecemeal approach that lacks any cohesion and/or momentum.

4.1.2: Assessment of appropriateness of bus policy legislation in Britain

Secondly, using the insights gained through interviewing officers from the relevant agencies and two bus operators, we look into why CAs and RTPs ruled out QCSs in the past and why most still do under the Bus Services Act 2017. Five main themes were identified from the interview process, and these are listed below.

Theme 1: The power is/was not appealing because the legal process is/was too convoluted.

Summary: Most CAs and RTPs coincide in saying that the Transport Act 2000, the Transport (Scotland) Act 2005, the Local Transport Act 2008, and the statutory guidance accompanying them were all badly designed as they placed many hurdles in the way of the implementation of a Quality Contract Scheme. This point was also found to be an important factor in the failure of the most advanced attempt to use the QC powers in the LTA 2008 in Tyne and Wear (McTigue, Monios and Rye, 2020). Major concerns were expressed that the provisions in the act(s) represented a challenging process that would require a significant time commitment. This was combined with a lack of definitions/clarity leading to a high level of ambiguity, hence the process of seeking approval represented a high risk strategy with no clear confidence (irrespective of the level of effort put in) that this would lead to a successful outcome. For example:

"The fact that it wasn't ultimately a local decision (it was an independent board who made the decision) was a huge off-putting factor, and all the legal bits required made the option look unrealistic." Merseytravel.

A further major issue was that due to the length of time it would take from the start to the finish of the process. This introduced the possibility of risks of bus operators offering improvements in the short term (such as new buses and/or some additional services) that would be attractive to politicians, that could then undermine the potential benefits of bus franchising. Interviewees also felt that the whole process would entail a very high level of transaction costs which would be difficult to justify given what were, in some cases, judged to be marginal benefits. Finally, the limited lifetime of a QCS (10 years specified in earlier legislation) gave no clarity as to what would happen at the end of the 10 years, with a risk that in order to extend the time period this would require the same level of effort all over again.

"In my view the biggest disadvantage (of QCS) was that they could only last for 10 years. You would go through all the effort and pain (because there was a lot of resistance from operators in the North West) and it would only last for 10 years. In the guidance for QCS there was nothing about what you would do after the 10 years." GMCA.

Implications: There was little confidence that this situation of the unclear time horizon, and other uncertainties in the legislation, would be addressed in future. One other issue discussed was the reluctance of local authorities to act in essence as a pilot for the legislation and that the legislative powers that were in place were considered to be noticeably underdeveloped and failed to recognize the realities facing bus service provision in many of the authorities interviewed. The second strong implication is that the current level of public finances is unlikely to be able to support any franchising framework, as the opportunity cost in terms of the need to make cutbacks in other areas to fund franchised bus services, combined with the limited time horizon associated with such measures, is deemed to be too high.

Theme 2: Some CAs and stakeholders are sceptical about the effectiveness of franchising.

Summary: Whilst most Transport Policy Officers in CAs and RTPs believe that a bus franchising system does indeed grant more control to the public sector over quality and other demand factors (e.g. fares and ticketing), a good number of respondents were sceptical about the actual effectiveness in increasing patronage, particularly vis-à-vis softer policy instruments. The main issue highlighted was that introduced on its own, any potential benefits from bus franchising could be undermined by existing on-going issues, with traffic congestion in particular being highlighted as highly problematic.

I think that what franchising enables is to design a bus network exactly as you want it. (…) If you have all that control over the bus network, but every bus was still stuck in traffic and the service was unreliable, then you're not delivering a good bus service anyway." Merseytravel.

Perhaps surprisingly, some respondents also expressed concerns over the high cost and real effectiveness surrounding the London franchising model.

"If partnerships work, franchising isn't necessarily going to work better. London has a franchising system and we can now see that they're struggling. It must be a local decision based on the local circumstances." TfWM.

Implications: The clear implication is that in order to be truly effective, bus franchising should only be introduced as part of a package of measures, including road space reallocation to protect buses from congestion and speed up journey times. This however may be difficult to support politically as it would in effect represent an even more significant paradigm shift.

Theme 3: There was an unacceptable risk in pursuing re-regulation.

Summary: This issue has been partly highlighted above, but in this context this relates to the tangible rather than potential risks. Some of the relevant officers in CAs, RTPs and key stakeholders believe that bus re-regulation entails some intrinsic risks that are too great to consider, regardless of whether it is effective or not in meeting the authorities' transport goals. This is due to anticipation of considerable resistance from operators and the potential threat of legal challenges to any proposed measures. Added to this is the sheer scale of the undertaking, many of the authorities (and operators) interviewed highlighted that smaller scale projects were more likely to succeed.

"Bus companies were quite upfront and frank that if anybody tried to bring in a Quality Contract, they would fight them. I think that this alone put a lot of authorities off straightaway before they even considered it, because nobody wants to get into an expensive battle with multinational operators." Tees Valley CA.

"My experience is that small well defined projects with small teams tend to be more successful than big disparate projects with lots of people involved." Stagecoach

Implications: even if ultimately successful, any resultant working relations with operators would tend to be soured by the whole process. As a consequence, rather than creating a positive working partnership – such as that which already exists in some regions already such as the West Midlands or West and South Yorkshire - it would instead create a distanced 'regulator v the regulated' type of situation, at least initially. As West Yorkshire CA said:

"At the moment we don't want to be looking necessarily into franchising because we don't want to push operators away. We want to build it up organically. Should we not get what we want from the Alliance (VPA), we would then perhaps consider franchising as an option."

Theme 4: The failed QCS project in Tyne & Wear created a discouraging precedent.

Summary: Most CAs and RTPs were put off by the failure to implement Tyne & Wear's QCS in 2014. Even if their contexts are very different from that of NECA/Nexus, they still have that political failure very present in their minds, as do the politicians that lead the authorities. In many senses, what the Tyne & Wear experience represented was 'proof' that the use of the powers provided by the legislation at that time were unrealistic/unworkable.

"A QCS was never considered because our CA was set up after it was apparent that the Quality Contract legislation was unworkable – as demonstrated by our neighbours to the north in Tyne and Wear. (…) Nobody wants to be the first area to test the new legislation for fear of ending up in a costly legal dispute with incumbent operators as happened to Nexus." Tees Valley CA.

Implications: the Nexus case set a negative precedent that provided a very strong disincentive for other authorities to follow suit.

Theme 5: Strong leadership at the regional level will drive through such proposals

Summary: In one of the CAs interviewed, GMCA, at the time of the research firm financial commitments had been made to investigate the possibilities of introducing a QCS, with a firm commitment to exhaust all possibilities. Many of the authorities interviewed highlighted that any measures of bus enhancement inevitably raises considerable local concerns, in which the key to addressing lies in strong political support.

"We need good leadership, which we can see elsewhere. There needs to be an appetite to take risks and put in bus priority where it's needed, parking policies and things that are politically challenging to do – leadership is so crucial to all of that." SPT

Implications: Under certain circumstances, past experience suggests that strong leadership and political support can overcome many of the barriers identified in Themes 1 to 4 in introducing bus enhancement measures. As regards introducing a full franchising model, at the time of writing this is still to be tested.

4.2 Scope for radical policy change

It has been shown that among the authorities interviewed, any moves to re-regulate the bus industry in their respective areas would only be undertaken with falling patronage, and as such measures are only likely to be taken as a last resort action, while the fundamental underlying issue of the poor economic viability of the industry risks being ignored. This may also lead to a piecemeal approach to 'radical policy change'. The responses also suggested in the vast majority of cases a lack of highly focused political will to drive through the use of the legislation, and some disconnection between policy aims and the reality of bus industry economics. This is further compounded by the fact that bus franchising should best be introduced as part of a package of measures, but in many ways this makes the situation even more 'radical' and hence one in which it is more difficult to bring about change. The one exception of course, is the case of Manchester.

Table 3 puts the above in the context of Livingstone's Five Critical Factors for Radical Policy change by examining the extent to which the above responses represent the structural pre-requisites required to bring about any significant change in the bus regulatory framework.

Table 3: Structural Pre-requisites for Radical Policy Change (Livingstone's Five Factors for Radical Policy Change)

No	Criteria	Bus Policy Change
1	The problem is so obvious that there's widespread societal will for a change.	There is widespread agreement that long term structural decline of bus patronage needs to be addressed, but considerable disagreement as to how that should be achieved. In addition, the unknown longer-term effects of Covid-19 on bus usage may distract focus away from the underlying problem.
2	A strong political leadership who can connect the problem ("something needs to be done") with the solution (a radical policy change).	Whilst there has been some movement at higher levels of government towards the idea of bus re-regulation, with a few notable exceptions (such as in Greater Manchester) there generally appears to be a real lack of political will to show leadership on the issue. Most if not all of these 'powers' have been devolved to the local authorities, hence the approach across the country is fragmented.
3	A regional (neither local nor central) and powerful layer of government which is best placed to design and implement a strategic transport policy.	Combined Authorities (CAs) cover the area of a region, whilst most local authorities are at the local level. CAs answer to a board of politicians from the local level except in two cases where there are elected Mayors.
4	A central government that enables the necessary legislation.	Again, mixed, legislation has been enacted, but questionable if this is the 'necessary' legislation. As stated, this has simply devolved the issue to the local authority but importantly in this context, (public) financing issues have not been addressed. Many of those interviewed were critical of earlier legislation saying that it was not "user-friendly".
5	A clearly motivated technical team capable of executing the political leader's vision.	The public sector in Britain now contains very limited expertise in the field of franchising, and almost all the 'real' expertise lies with the industry. This caused significant problems in Tyne and Wear, for example, but those authorities where there is more direct experience, such as SPT, have tended to have more 'success', albeit generally at a small scale.

The table above shows that in relation to Livingstone's conditions for policy change, the conditions in place to bring about widespread bus reregulation do not, in most cases, appear to be sufficient. In particular, there are deficiencies in relation to points 1, 2 and 5 in the framework. The one exception is found to be in the case of GMCA; although there may still be issues around point 1 (specifically how the problem should be addressed), all of the other conditions would appear to be met; the issues over point 4 being addressed by strong political leadership willing to provide the required finance, and point 5 of a technical team with a strong record in delivery of high profile public transport projects, supported by consultants. In relation to the concept of policy communities as employed by Dudley (2003), the idea of reregulation has not been taken on board in the other CAs sufficiently within the existing policy community of bus operators and public transport authorities to bring about a fundamental shift in the consensus in that policy community. As a consequence, the issue of how to deal with the industry's problems and realise bus transport policy objectives remains unresolved.

5.0 Discussion and Conclusions

In drawing conclusions from this research, it is important to re-iterate that the research was conducted with a self-selected sample of larger (regional) combined authorities in England and three regional transport partnerships in Scotland. In terms of the central issue of the viability of introducing bus franchising as a viable solution to long term bus patronage decline, the research carried out would tend to suggest that in all bar one of the areas included in the study as a policy instrument it fails to meet the five key criteria required for radical policy change. The one exception, as explained, being the case of GMCA, where the conditions for policy change are largely satisfied.

Centrally, whilst the issue to be addressed is broadly recognised, there is a clear lack of consensus as to how it should be tackled. This was no better illustrated than by the responses given to Iain Gray's 2013 private member's bill in the Scottish Parliament, where Cowie (2014) reported a complete divergence of views between operators and non-operators on the role of bus services, and hence a lack of consensus on how the problem of long term bus patronage decline should be addressed. To some extent, this may be viewed as an inevitable consequence of deregulation, as a deregulatory structure separates commercial operation from the other (loss making) roles that bus services play. As such, this polarisation of opinion represents a major barrier to re- regulation and one that, given current structures, still appears difficult to overcome.

This lack of general consensus is combined with what could arguably be termed a lack of real political will, as evidenced by a reluctance of central government to play an active initiating role at a national level in any such policy change and this being devolved instead to local and regional authorities. Within these authorities there is a wide range of views stemming from their local bus industry context and their local political context. In this situation, policy change becomes fragmented and lacks real momentum or cohesiveness; within the policy community, there is no radical shift in direction. It remains to be seen whether the recent announcements by the government in England on buses in 2021, and the promise of additional funding, mark a real change from this situation. Nevertheless, the scope to take the initiative still lies at the local authority level. From the research carried out, the one exception to this is GMCA, but the findings presented in this paper suggests that no other authorities are likely to follow this lead under current legislative and financial conditions.

One final important factor relates to the issues highlighted earlier regarding the economic viability of bus services in Great Britain and long term structural decline that may have reached a critical point (Cowie, 2014). Interviews with stakeholders in this research indicates that they were to some extent aware of this issue; certainly, several interviewees did not view bus reregulation *per se* as any kind of "silver bullet" to solve the issues of the sector if other problems such as traffic congestion or structural financial weakness were not also addressed. This is where developments in Manchester will provide some key evidence on this issue going forward.

There was also amongst the interviewees a strong perception that a paradigm shift from the deregulated structure to one that is fully regulated presented very high risks that outweighed any likely benefits. These risks included the possible (negative and litigious) reaction from incumbent bus operators; the costs of actually going through the legal process; and finally the possible high level of underwriting costs in a re-regulated bus market in their region. To that can be added the high political risk in pursuing such a course of action. For these reasons, many interviewees expressed a preference for using some of the "softer" measures in the legislation, based on partnership arrangements of one form or another. There was certainly no clear consensus that, even if partnership working did not fully deliver, then reregulation was definitely the right path to take. Since this was the conclusion from a sample of larger, better resourced authorities with specialist public transport staff, there is little reason to suppose that other less well-resourced transport authorities such as English Shire County or Unitary Councils would have a markedly different opinion about the risks of possible reregulation versus its possible benefits.

When taken together, it may be concluded that the whole issue of bus franchising is simply a diversionary (political) measure that deviates attention away from the real issue of maintaining and developing the bus as a viable and attractive mass mover of people. Recent policy, in the form of *Bus Back Better* (UK DfT, 2021), when viewed in the wider context would appear to still fail to address the underlying issues. Why such a situation should arise is as a consequence of the fifth factor identified above. That is, a lack of real expertise (or understanding) in the public sector of current bus industry economics combined with a lack of political will at the national level to provide *absolute* levels of subsidy seen for the bus industry in comparator countries such as Norway, Sweden and Denmark (Urban Transport Group, 2017)[4]. Based on the sample, we can ultimately conclude that re-regulation of buses within the Combined Authority areas in England and in the areas of Scotland that responded to this survey looks likely only to happen if central government specifically legislates for it and commitments to provide significantly increased levels of public finance. On its own however, re-regulation will not address the underlying structural weakness of the industry.

[4] This report shows that whilst in terms of percentages of operating costs, levels of public support are similar in the UK to these other countries, in absolute terms and in terms of subsidy per head of population they are much higher in the Scandinavian comparators.

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