



Bus Franchising: Facilitating the involvement of small and medium-sized operators

1 Introduction

In 2019, the Cambridgeshire and Peterborough Combined Authority (CPCA) published a notice of its intention to assess the case for franchising as a potential way of delivering the bus network.

The Bus Services Act 2017 provides Mayoral Combined Authorities (MCAs) with the powers to change the way that bus services are delivered through Franchising or an Enhanced Partnership (EP). The National Bus Strategy – Bus Back Better (July 2021) requires local transport authorities to commit to either an EP, or to pursue franchising.

The Department for Transport (DfT)'s 'Setting up a bus franchising scheme guidance' (updated 27 March 2024) sets out requirements for involving small and medium sized operators (SMEs). MCAs are required to describe their plans to facilitate involvement of SMEs through the procurement process.

The CPCA is committed to sustainable economic growth and the roles of SMEs across the regional economy. CPCA is therefore committed to ensuring that this matter is considered seriously as part of bus reform considerations.

2 The Bus Franchising Consultation

The Consultation Document¹ set out eight options to enable the participation of SMEs.

- Contracts procured in mixed-sized packages to drive competition and to help SMEs compete for contracts (para 5.3)
- Procure services through multiple area packages, split into groups of services procured under separate contracts of differing sizes to aid competition and allow SMEs to bid (para 6.28)
- Services would be procured competitively, and procurement process would support the involvement of small and medium sized operators (para 7.9)
- Extended compliance dates in the transition to zero emission buses for SMEs (para 7.99)

¹ [Consultation Document](#)



- A commercially viable delivery model encouraging competition on a 'level playing field', and enabling the participation of SMEs, and new entrants (para 7.146)
- A bus network provided by several bus operators including SMEs by introducing contracts in a staggered programme of introduction and end (para 7.161).
- To open the market to more competition and encourage SMEs to bid, utilise geographically based packages with requirements ranging from 1 to 60 buses (para 7.163).
- Larger operators will be able to tender for smaller packages, but with restrictions on the number of smaller contracts awarded to single large operators (para 7.167)

The consultation asked operators and stakeholders to comment on the proposed way of introducing franchising, including considering the needs of SMEs in providing suitable contract opportunities.



3 Responses from consultees and CPCA response

Five SME bus operators responded to the consultation questions regarding SME bus operators. The concerns raised, along with CPCA's responses and opportunities identified, are in the table below

No.	Concerns raised	CPCA response and opportunities identified
1	Long-term financial risks and business continuity of SME operators in a tendering environment	A tendering environment (in the form of contracted work) has been the situation for many years now for the SME operators, many of which secure work that is financially-supported from CPCA. Under the bus franchising proposals, tenders will be awarded for a longer period than most current bus operating contracts, meaning longer-term funding stability and investment opportunity for franchising contracts awarded to SME operators.
2	Loss of SME bus operations may jeopardise the continuation of school services and/or private coach hire	<p>For clarity, bus services that fall outside the criteria for the Bus Service Operator's Grant, including services that are exclusively for the use of pupils, students or employees of a school or college (not open to the general public) and private coach hire, are outside of the CPCA franchising scheme. The CPCA franchising scheme contains an appendix which identifies those service types which are not included within its coverage.</p> <p>The withdrawing of a SME operator at short notice from their operations is something CPCA has seen and dealt with previously under the current service management provisions. As at present, if a SME bus operator withdrew from the market, then CPCA would work urgently to replace its home to school transport services (for pupils not able to make journeys on the local bus network) from alternative providers or through community transport or if necessary through a shared taxi service.</p>



3	Concerns over staff retention for unsuccessful bidders, including job security of non-driving staff working in SMEs (e.g. accountants, cleaners, office staff)	<p>Through the planned lotting arrangements there will be opportunities for SMEs to win new route tenders to replace any routes missed in a previous tender round, as well as negotiate sub-contracting agreements with large operators to provide services which form part of the overall service requirement within large lots. Lots are planned to be awarded for 7-year periods with quality incentive extensions possible, substantially longer than under the current supported bus service contract length.</p> <p>In either the franchised or an enhanced partnership option, there will be commercial risk involved in local bus operations and it is possible that if a bus operator loses contracts and decides to reduce operations or close then its staff will be lost. This is the same as at the present situation.</p> <p>However, CPCA is determined to retain a strong SME local bus presence under the CPCA franchising scheme. The CPCA Growth Hub will be further involved in this specific area in any implementation planning to best use their expertise to support local SMEs.</p> <p>For operators that do not pursue or do not win a franchised service, CPCA notes substantial bus and coach operations exist throughout the UK based solely on income from private school charters, private coach hires and other private commissions, separate from local bus services, and believe that a substantial market will continue to exist in this area, aside from the local bus service market. As noted above, such other services are not covered by the CPCA franchising scheme</p>
4	Concerns over staff redundancy costs	
5	Request for assurance that the size of contracts, cost of bidding and tendering requirements would not prohibit SMEs. Franchises for only one bus were not seen as sustainable for any operator.	The variety of contract lots (large to small, single route lots and the ability for routes to be sub-contracted) is to enable fair competition between all operators including SMEs already established in the area. A reasonable number of other services will be included in smaller packages, including



		single route contracts, with requirements of between 1 and 10 vehicles. These will be in area-based packages, based on the main focal point of their operating area. Areas in close proximity might be packaged together, to achieve economies of scale.
6	Fear that too much resource will be needed (both time and financial) to qualify for bidding in the first place	CPCA will work with our Growth Hub in the implementation phase to help it develop knowledge and expertise in prequalification and bidding support and strategic skills so that it can provide support to SMEs in their selecting of which bus franchising contracts to bid for. While remaining compliant with the relevant procurement regulations the requirements for each lot will take account of the scale of the service requested in the lot.
7	Fear that bidding for franchises can be overly onerous and expensive for SME operators.	
8	Potential mergers and acquisitions of SME operators open to generous offers from larger companies/groups, removing them from future bidding rounds	CPCA envisages having a bus network that is provided by multiple bus operators. It considers there should be opportunities for operators of all sizes, including small and medium companies. The intention is to encourage competition for contracts by maintaining a vibrant marketplace with contract opportunities set in a staggered programme of introduction and end. However, a decision on whether to accept an offer of a merger or acquisition is and will remain up to the board and shareholders of each individual company.
9	Consultees were also concerned that procurement would commence without an appeal or challenge process	CPCA intends to undertake the procurement of bus franchises in accordance with the applicable provisions contained within the Procurement Act 2023 and the Procurement Regulations 2024. This legislation provides for the use of standstill periods and the rights of parties to challenge the award of a contract on legitimate grounds. In addition, the CPCA has an existing contract management process which it will look to involve to ensure that the concerns of SMEs are properly represented in the procurement process.
10	Concerns that procurement would commence without restrictions on the number of smaller contracts awarded to a single operator	As well as larger operators being able to tender for the bigger packages of services, they will also be able to tender for smaller packages, as the services might interwork or dovetail with wider operations and provide



		economies of scale. To the extent possible under the Procurement Act 2023 and the Procurement Regulations 2024, the CPCA will look to include relevant restrictions on the number of smaller contracts that may be awarded to a single operator and the number of smaller contracts that may be awarded to large operators, to ensure that opportunities continue to exist for smaller operators.
11	Scepticism about the operability of shared depots	Shared depots will not be a compulsory practice, it will be an option subject to agreement of operators involved. However, CPCA notes that operators elsewhere in the UK permit vehicles from another operator's bus fleet to park up overnight and for drivers to use depot facilities. During the implementation phase, if deemed useful, lines of provisions could be put into the franchise contracts of large operators to provide certain levels of depot access available to SMEs.
12	Concern about mobilisation payments available to operators	As with present tendering of CPCA contracted bus routes, which usually are offered in small lots (thus suiting SMEs), CPCA shall not be offering mobilisation payments up front to operators. The cost of mobilisation should be considered in the tender price.
13	Concern about long-term funding availability for bus franchising	<p>Improving the bus network was a key manifesto pledge of the current elected Mayor. Commitment to this by the Combined Authority's Board is evident through the initiation of the Mayoral Council Tax precept in 2023-24, and ongoing consultation to increase the precept for 2024-25 to further support existing bus services. The Board will make annual budget decisions in line with the constitution and regulatory framework and its statutory commitments to its long-term transport plans.</p> <p>CPCA's finance team and S73 Officer have guided work to explore potential options for funding/financing the forecast capital and revenue requirements of bus franchising, and will continue to do so to consider future opportunities and further funding options.</p>



14	Concern about future fleet requirements especially electrification and electric vehicle charging points in rural areas	CPCA wishes to see significant progress towards a zero-emission fleet. Therefore, it is likely that the move to such vehicles will be included in the contract specifications. However, on smaller lots aimed at SMEs, the timeframe for progress towards a fully electrified fleet may be different to that for larger lots. CPCA will keep this under review as new technologies including HVO and Hydrogen also develop as other solutions to power zero emission vehicles.
15	Concern over standardisation of the network (including uniforms and ticketing)	These issues and the timing of their implementation will form part of the tendering and contractual requirements of the franchises.
16	Questions over annual pricing adjustment formulas	Performance reviews of bus route operation would focus on whether a route was meeting its contract target and on the issues that had affected its operation. Detailed development of the pricing adjustment formulas, including accounting for inflation and other issues, is for further refinement in the implementation phase.
17	Impact if CPCA was to exit the franchising model	<p>If CPCA was to exit the franchising model (which it can only do in certain circumstances specified in the Transport Act 2000), then a scheme for revoking franchising would need to be proposed by the CPCA, audited and consulted on prior to it taking effect. Services would return to private sector provision within a timeline set out in the revocation scheme. It is anticipated that franchised operator contract lengths would be taken to a point when exit would be possible and route operation would be surrendered to the applicable operational model for non-franchised services. Any exit has to follow the appropriate legal and revocation procedures.</p> <p>It is estimated that it would take a minimum of 6 months to provide a revocation scheme. The total time to end franchising would be dependent on the time to exit franchising which would be built into the revocation scheme. There would need to be an overall positive benefit to CPCA</p>



		revoking the franchising scheme, otherwise the criteria for revocation would not have been met.
18	Request to make it permitted or even required for large operators to include a proportion of sub-contracted operation within their bids, to maximise the opportunities for SMEs	It is anticipated that larger operators will be encouraged to include SME sub-contractors in their bids, to operate elements of service where that would be appropriate.
19	Impact on drivers who may be reluctant to transition from an SME to a large operator through the TUPE process in the event of a takeover	TUPE regulations provide legal obligations to manage the transfer of employees in certain circumstances to ensure continuity of employment, terms and conditions. Appropriate procedures will be required to be followed by all parties including consultation with staff, staff bodies and unions. Ultimately it is decision of an employee whether to transfer across to a new employer under the protections of TUPE or to resign/retire from their existing employer.



4. Other Opportunities Identified

The following opportunities were supported in the consultation:

- Larger operators subcontracting smaller operators (or partnerships) was highlighted as an opportunity to provide additional benefit to local SMEs and to allow SME participation.
- Staggered commencement and longer mobilisation periods allowing SMEs and potential new entrants with adequate time to purchase/lease a new fleet of vehicles, acquire any contracted standardised on-bus-equipment, and to train new or transferred staff.
- Opportunities for automated monitoring and monthly reporting to reduce future administrative burdens and operational costs for CPCA and successful operators.

These can all be investigated further during the implementation phase of bus franchising.

5. Facilitating involvement

One of the CPCA's objectives is competition between bus operators, to optimise performance and passenger benefit while offering commercial viability enabling the participation of SMEs. The review of consultation responses demonstrates that there are concerns as well as opportunities regarding the involvement of SMEs. Measures to address these concerns include: -

- **Commercial Success Factors**
As part of assessing the commercial case and procurement strategy for bus reform, the CPCA highlighted the need to facilitate involvement of SMEs as part of the commercial success factors. The options set out in the consultation documents facilitate the participation of SMEs by removing unnecessary barriers to entry, encouraging competition to enable quality and value for the CPCA. The plan for the commercially viable delivery model encouraging competition on a 'level playing field', and enabling the participation of SMEs has been developed, and will be refined overtime.
- **Lotting Strategy**
CPCA has proposed to procure services under separate contracts of mixed-sized packages, multiple area packages and geographically based packages with vehicle requirements ranging from 1 to 60 buses to aid competition and allow SMEs to bid. The contract length of these smaller lots is likely be determined on a contract-by-contract basis. Larger operators will be able to tender for smaller packages, but with restrictions on the number of smaller contracts awarded to a single operator.
- **Procurement**
The approach to procurement will reflect and support the lotting strategy, mitigating risks from procurement and aiding transition from the current



deregulated environment to a franchised environment. Services would be procured competitively, and the procurement process would support the involvement of SMEs. CPCA will look to adapt, associate and/or automate (as/where appropriate) pre-qualification and tendering processes for all operators including SMEs.

- **Mobilisation**

Once the first round of franchises has been awarded, there will be a full transition and mobilisation to the franchised bus market. CPCA will seek to support a more staggered programme of commencement with compliance dates for zero-emission vehicles potentially negotiated on a case-by-case basis in the implementation phase.

6. Further work and next steps

There is no 'one size fits all' solution or definitive approach for involving SMEs in bus franchising. Further options for CPCA to undertake to facilitate SME involvement are likely to include:

- Developing the requirements and restrictions for consortia bidding and sub-contracting.
- Indicating which geographical areas and routes could be prioritised for SMEs.
- Due diligence surrounding potential mergers and acquisitions, business continuity, and the resourcing impacts on unsuccessful bidders and non-franchised bus routes.
- Continuing engagement with the Competition and Markets Authority to ensure best practice and appropriate measures.

7. Conclusion

The CPCA has set out a series of options for including SMEs in the proposed franchising system.

The concerns and opportunities raised during consultation have been considered by the CPCA. The CPCA is comfortable that the proposed options for facilitating the involvement of SMEs mitigates the concerns raised and will continue to consider these in the planning and implementation phase.