

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT ENHANCED PARTNERSHIP PLANS AND
SCHEMES (OBJECTIONS) REGULATIONS 2018

Wednesday 7 March 2018

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The Committee consisted of the following Members:

Chair: ANDREW ROSINDELL

† Churchill, Jo (<i>Bury St Edmunds</i>) (Con)	McGovern, Alison (<i>Wirral South</i>) (Lab)
† Foxcroft, Vicky (<i>Lewisham, Deptford</i>) (Lab)	† Penning, Sir Mike (<i>Hemel Hempstead</i>) (Con)
† Frith, James (<i>Bury North</i>) (Lab)	† Rodda, Matt (<i>Reading East</i>) (Lab)
† Ghani, Ms Nusrat (<i>Parliamentary Under-Secretary of State for Transport</i>)	† Ross, Douglas (<i>Moray</i>) (Con)
† Green, Chris (<i>Bolton West</i>) (Con)	Spellar, John (<i>Warley</i>) (Lab)
† Grogan, John (<i>Keighley</i>) (Lab)	† Thomas, Gareth (<i>Harrow West</i>) (Lab/Co-op)
† Herbert, Nick (<i>Arundel and South Downs</i>) (Con)	† Tracey, Craig (<i>North Warwickshire</i>) (Con)
Jarvis, Dan (<i>Barnsley Central</i>) (Lab)	Gail Bartlett, Lucinda Maer, <i>Committee Clerks</i>
† Lopresti, Jack (<i>Filton and Bradley Stoke</i>) (Con)	
† Mackinlay, Craig (<i>South Thanet</i>) (Con)	† attended the Committee

The following also attended (Standing Order No. 118(2)):

Soames, Sir Nicholas (*Mid Sussex*) (Con)

Third Delegated Legislation Committee

Wednesday 7 March 2018

[ANDREW ROSINDELL *in the Chair*]

Draft Enhanced Partnership Plans and Schemes (Objections) Regulations 2018

2.30 pm

The Parliamentary Under-Secretary of State for Transport (Ms Nusrat Ghani): I beg to move,

That the Committee has considered the draft Enhanced Partnership Plans and Schemes (Objections) Regulations 2018.

It is a pleasure to serve under your chairmanship, Mr Rosindell. The Bus Services Act 2017 contains a range of options to improve local bus services in England. In addition to franchising, new and improved options allow local transport authorities to enter into partnerships with their local bus operators to improve services for passengers. One of those, the enhanced partnership regime, allows local authorities to define a geographical area in which it provides new facilities such as bus priority measures, or take other measures that would make bus services more attractive, such as reducing car parking provision or increasing its cost.

In return, local bus operators are required to meet service standards specified as part of the scheme. That can include a multi-operator smart ticketing scheme, a requirement to operate cleaner vehicles, or provision of comprehensive timetable and fares information. The partnership can also limit the number of vehicles that operate along specific corridors to reduce congestion or improve air quality, or require the buses to co-ordinate their timetables with other modes of transport, such as rail services.

The draft regulations, which were laid before the House on 17 January, set out the mechanism by which the bus operators may formally object to the package of proposals during the development of an enhanced partnership scheme. A key element of enhanced partnerships is that only the majority of bus operators need to agree to the proposal in order for it to go ahead. That means that improvements to bus services that are supported by the local authority and the majority of bus operators cannot be prevented from being introduced by a blocking minority of operators who, for whatever reason, do not wish the partnership to be introduced.

The 2017 Act provides a mechanism to allow individual operators an opportunity to object to the proposal to make an enhanced partnership plan or scheme at two key stages: the first opportunity to object arises when the proposal for an enhanced partnership scheme is subjected to a formal public consultation; and the second opportunity arises if the plan or scheme is modified following the consultation.

The draft regulations set out the process for determining whether the number of operators objecting to the enhanced partnership plan or scheme, as proposed or modified, is sufficient to stop it from proceeding any further. If that happens, the partnership would need to renegotiate the

package until the objections fall below the statutory threshold. The regulations provide two criteria that need to be satisfied to determine whether there are sufficient objecting operators to stop the partnership proposal. Both criteria need to be considered and either one of them, if met, would be enough on its own to stop further progress.

We will now drill into the detail. The first criterion for objections to be sufficient is that the objecting operators together represent 25% of operated bus mileage in the partnership area, where at least three bus operators are objecting. If fewer than three operators run bus services in the area, the draft regulations require all of them to object in order for this criterion to be satisfied. That ensures that objections are raised by operators with a significant stake in the local bus market, while at the same time preventing a single operator or a pair of dominant operators from exercising an effective veto.

The second criterion is that objections are received from 50% of local bus operators that together operate at least 4% of operated mileage in the partnership area. That prevents a large number of operators that together have only a relatively small stake in the bus market from objecting to a partnership that is supported by the local authority and the operators with the largest stake in that bus market.

I will now explain how those thresholds were arrived at. The bus market in England has been deregulated since 1986, and the number and size of bus operators in individual areas varies greatly. The objections thresholds in the draft regulations cater for that and were arrived at following detailed analysis of real-world bus markets by my officials in the Department for Transport and discussions with key stakeholders such as bus operators and local authority stakeholder groups. The objections mechanism was subject to a full consultation exercise between 8 February and 21 March last year.

Even taking that into account, however, it would not be possible for any statutory criteria adequately to cater for all the different bus markets in England where enhanced partnerships may develop. That is why the 2017 Act also allows further flexibility. The statutory objection thresholds in this instrument are required to apply only when a plan or scheme is introduced. An enhanced partnership can also include a bespoke objection mechanism for use when an existing scheme is varied or discontinued. That allows individual partnerships to adopt an objection mechanism that better suits their needs.

The draft instrument also sets out those services that are not eligible to take part in the objection mechanism, in addition to community bus services, which under the 2017 Act are not required to meet the requirements of an enhanced partnership scheme. That includes tour buses, services that operate less than 10% of their mileage in the partnership area and services paid for under subsidy by the local transport authority. Since the Act came into force in June last year, nearly 30 local authorities up and down the country have either expressed an interest or are actively pursuing an enhanced partnership with their local bus operators. However, there will inevitably be some operators that will seek to block progress, perhaps because the improvements proposed are not in their commercial interest or they prefer the freedom to operate in a fully deregulated market.

These regulations seek to strike a balance, ensuring the partnership has broad support from local operators without allowing a minority to block vital improvements that will make local bus services better for passengers. I ask the Committee to give these regulations its full support.

2.36 pm

Matt Rodda (Reading East) (Lab): It is a pleasure to see you in the Chair, Mr Rosindell. Labour is broadly supportive and welcomes these new regulations. Statutory instruments are an important part of our legislative process. It is also important that we review and discuss these concessions. As such, I will raise a few points of contention.

I would like to start by pointing out that Labour's 2017 manifesto stated a commitment to

"introduce regulations to designate and protect routes of critical community value, including those that serve local schools, hospitals and isolated settlements in rural areas."

We believe that the regulations meet that standard and the standard set by the Government in their own explanatory memorandum, which also states a commitment "to ensure that the arrangements are mutually acceptable to the parties to a scheme and to balance the right of local transport authorities to bring forward proposals for enhanced partnership plans and schemes against the right for operators to object to what is being proposed."

With over 80% of respondents to the Government's consultation on the draft regulations welcoming the proposals, including those on tours and excursions, and because no threshold was agreed upon, we have decided to go ahead with the Government's proposals as drafted. However, I would like to know what methodology was used for asking respondents about an alternative. Were they given a set of alternatives or just asked to post a number? If it was the latter, it is hardly surprising that they were unable to come to a consensus. Indeed, I worry that the threshold might have been set at the wrong level.

Is any information available on what proportion of those who disagreed thought the thresholds were too high, versus those who thought they were too low? If that ratio is not roughly equal, there might be a case for saying that the thresholds are not optimal or equitable. However, given that the regulations might be subject to post-legislative scrutiny of the 2017 Act, I am happy to concur with their introduction.

2.39 pm

Gareth Thomas (Harrow West) (Lab/Co-op): I am grateful, Mr Rosindell, for the opportunity to comment very briefly on the regulations and to ask the Minister a couple of questions.

As a Co-op Member, I have a big interest in community transport, and in the social enterprises and small community businesses that operate in most of our constituencies, often surviving only through the contracts they win from local authorities and local clinical commissioning groups. They use some of the economies of scale that they are able to deliver in order to provide, at no cost, other transport services for elderly and vulnerable people in our communities.

I am interested in how the regulations will affect community transport and, in particular, whether they provide a neat way out of the terrible situation facing

many community transport providers at the moment. It looks as though Government changes, allegedly provoked in part by EU legislation, and certainly at the behest of a small number of larger coach and bus operators, are likely to stop community transport being able to bid almost exclusively for local authority and CCG contracts.

Those changes will potentially put those community transport providers out of business, or require them to ensure that the drivers who work for them have much greater training and acquire licences that are much more costly, in both time and financial resources. I am thinking of Harrow Community Transport, which serves my constituency, which has made it clear to me that it is extremely worried by changes that the Department is currently proposing. Many of its drivers do not want the new licence, which is much more costly, with regard to training and resources.

I wonder whether the draft regulations provide a way out of that conundrum. We are at risk of losing vital local bus and transport services provided in our constituencies simply because of the greed of a few larger bus and coach operators, which appear to have successfully persuaded the Department to ignore the needs of the much smaller but crucial community transport providers.

2.42 pm

John Grogan (Keighley) (Lab): I will make a brief contribution, with one question to the Minister. Let me first put these modest draft regulations in context, because they are important in the grand scheme of things. They follow on from the Bus Services Act 2017, which amended the Transport Act 2000. Both main political parties have moved considerably on this. I was first elected to the House in 1997, and for the preceding Conservative Government, and well into the Labour Government's time in office, the idea that local authorities should have a more active role in promoting bus services, as well as a more regulatory role, was frowned upon. Buses are the most commonly used form of public transport and all our constituents depend on them. Last week, during the snow, it was often bus operators who kept the nation moving.

The draft regulations are a welcome development and are obviously mirrored by the additional powers that the Government have given to Mayors to enter into partnerships with bus companies and to regulate them. The previous Labour Government also introduced legislation for such partnerships, but not many partnerships actually came to fruition—they were very complex schemes, but the Government have tried to introduce simpler arrangements.

I think the Minister mentioned 30 partnerships. Would it be possible to publish their geographical spread? It would be interesting to know whether it is rural as well as urban councils that have been putting forward these proposals. Presumably none of those partnerships has yet been implemented prior to the draft regulations being laid. When does the Minister hope that the first bus partnerships will be signed, sealed and delivered, helping our constituents up and down the country?

2.44 pm

Ms Ghani: I welcome the comments from the hon. Member for Keighley. He is absolutely right: bus services are vital for getting people across our constituencies.

[Ms Ghani]

They are also vital for our constituents because family demographics have changed and more and more people rely on bus services; more people travel to work on a bus than on any other form of public transport.

To date, 30 providers are in negotiations with the Department for Transport, and many more have shown an interest. I have some facts and figures to hand, and if I am able to make them public, I will of course do so. We are keen to ensure that those relationships come about as soon as possible. We are keen to enable local authorities to work with local bus operators to provide a service that passengers want to take.

The hon. Member for Harrow West spoke about community transport, which is not covered under this regime because community transport is not the bus service we are trying to tackle here. This is about members of the general public getting on a bus service that stops at stops; it is not a dial-a-ride or specific kind of service.

Gareth Thomas: I am grateful to the Minister for that clarification. Nevertheless, will she recognise the depth of concern across the House about the future of community transport, given what her ministerial colleagues appear to be proposing in response to pressure from a small group of bus and coach operators?

Ms Ghani: I believe that the Minister responsible for community transport has been in communication with local authorities and people who are actively involved in that particular community bus situation. The Minister has announced a fund of £250,000 in this financial year to fund advice for operators that might be affected by any changes. We are also working with the Driver and Vehicle Standards Agency to ensure that a proportionate response is made to operators working toward urgent compliance.

Returning quickly to the hon. Member for Keighley, because I know he has a huge amount of experience in this area and I would not want to give him any inaccurate information, Nottingham City Council will probably be the first to implement that, perhaps as early as later this year.

With regard to the comments by the hon. Member for Reading East, I am pleased that Labour supports the regulations. It is vital that we encourage bus usage, and to do that we must be able to support our local authorities and they must be able to form partnerships with local bus operators to provide a service that passengers want. They can do that by having priority bus lanes, looking at ticketing and looking at the service that is being provided. The key point is that the decision is made locally.

Enhanced partnerships are a new type of partnership agreement that did not exist prior to the 2017 Act, and I am encouraged by the interest that local authorities and bus operators have already shown. The objection mechanism is a key part of the regime and it is important that the mechanism in the regulations strikes the right balance between allowing operators a fair say on what should go into these schemes and preventing a minority from stopping improvements that would benefit passengers.

The hon. Member for Reading East asked for information on the consultation process. That process was conducted fully and involved the Confederation of Passenger Transport, the Urban Transport Group, the Association of Transport Coordinating Officers and the Association of Local Bus Company Managers, which represents small bus operators. The consultation process looked at mileage, patronage and threshold, which were agreed by the majority of respondents. That is how we came up with the figure we have today.

The fact that the mechanism is in secondary rather than primary legislation gives the flexibility to amend and further debate the rules in future. My Department will not hesitate to do so if that is required to ensure the ongoing success of these schemes.

2.48 pm

Craig Mackinlay (South Thanet) (Con): It is always a pleasure to serve under your chairmanship, Mr Rosindell. I am trying to organise a new bus service in my constituency. One of the main providers, Stagecoach, a national company, has decided to reconfigure some services along the A257, which runs between Sandwich and Canterbury, leaving a lot of smaller villages entirely off its service. The benefit for Stagecoach, and for people who live on that route, is that the service will now run every 20 minutes, but the village of Staple, for example, now has no service whatsoever.

I am trying to work with a community transport provider to put on a bus that will meander through some of the villages of South Thanet. Looking at section 22 of the Transport Act 1985, I believe the type of bus I am looking at would qualify, so it would not be a relevant exclusion under the statutory instrument we are considering today. We are seeing some services across the country being taken away, obviously through lack of use, and some local transport authorities are unable to provide the support they once used to provide, and for good reason. I just want a little reassurance that such community buses, which may have a view to making some profit, because things have to be replaced over time, will not be disadvantaged as a result of this.

In the route that I am considering, I have the full support of Stagecoach, which is the provider that has decided to take the service away, but I envisage that in some areas the clear recognition of what a community bus is might not be quite what is set out in the legislation. I would not want such a bus to be crowded out by a bigger provider that wants to keep control of a route that serves a community that desperately needs it. Will the Minister assure me that, as this scheme progresses, I can work with the Department to ensure that it has the support it needs so that it fits the bill?

2.50 pm

Ms Ghani: I thank my hon. Friend for his comments. He is a strong champion for his community. The draft regulations do not cover community transport; they cover a bus service that is picked up by members of the public. They do not allow anyone to monopolise the market. If a local authority wants to set up a partnership that enhances a bus service within a community, it is able to do so without objection from one provider that tries to crowd out everybody else or lots of small providers that do not provide enough services to be able

to decide what should be provided in that community. I will take his comments to the Department and to my colleague, the Minister with responsibility for community transport. Such partnerships will enable local authorities to leverage more with bus operators to provide a service that is important for their communities.

Gareth Thomas: Will the Minister be willing to commit herself—or, more appropriately, her colleague, the Minister with responsibility for community transport—to meeting a group of Members from both sides of the House who are concerned about the future of community transport and the Government's proposals for changes to licensing?

Ms Ghani: I am nervous about committing a colleague to a meeting. The Minister with responsibility for community transport often talks about this in the Chamber and meets representatives. We all have community transport providers in our constituencies, and we want to make sure that they and local bus providers deliver a service that our constituents want. If the hon. Gentleman writes to the Minister, I do not doubt that he will receive a full response to all his questions.

Question put and agreed to.

2.53 pm

Committee rose.

