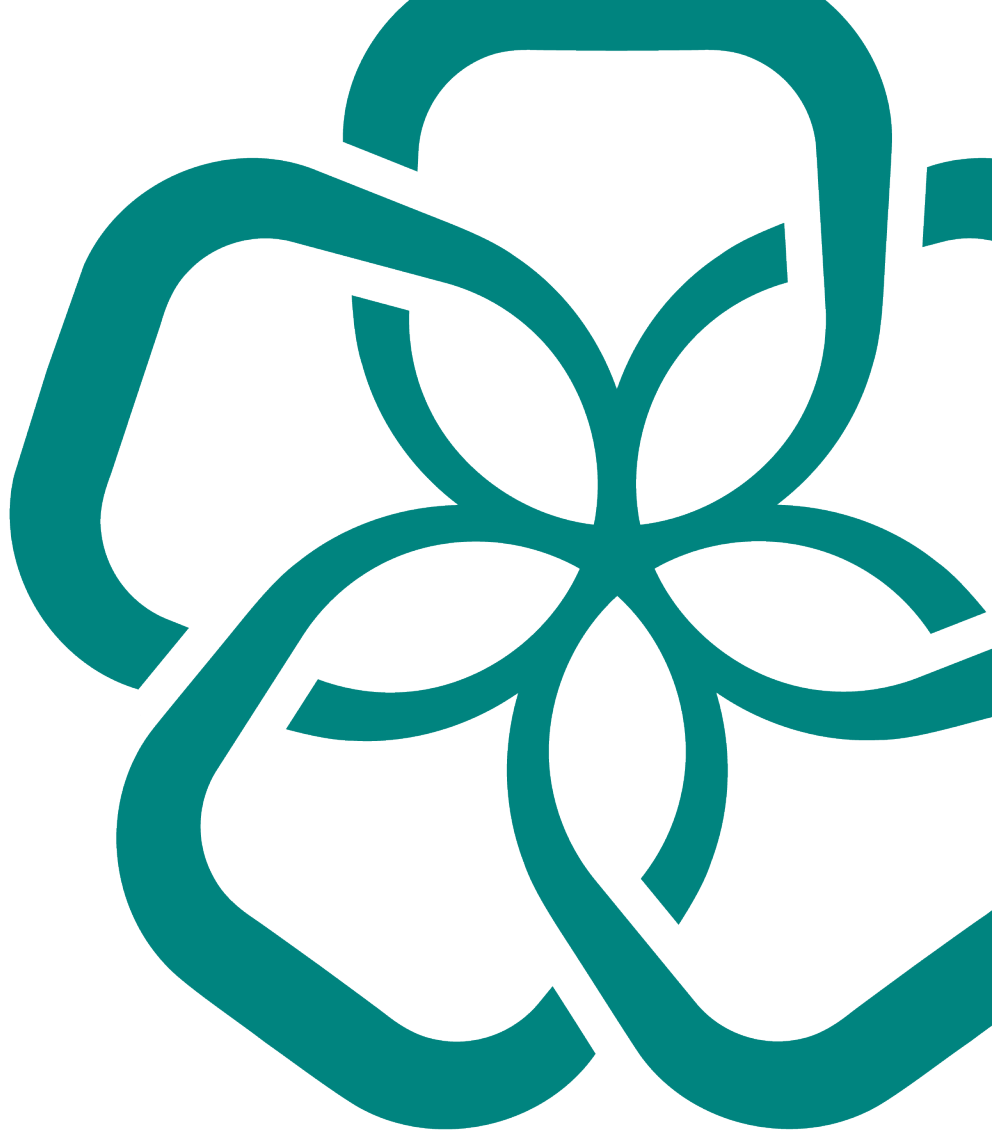




West
Yorkshire
Combined
Authority

Tracy
Brabin
Mayor of
West Yorkshire



Bus Reform

Facilitating the Involvement of
Small and Medium Sized
Operators

06 March. 24

Facilitating Involvement

Commercial Success Factors

As part of assessing the commercial case for bus reform, the Combined Authority highlighted the need to facilitate involvement of small and medium operators (SMOs) as part of the commercial success factors. The Authority has been clear that any model must facilitate the participation of small and medium sized operators and new entrants to the market by removing unnecessary barriers to entry, encouraging competition to enable quality and value for the Authority. A plan has been developed to ensure that this can be achieved.

Lotting Strategy

The lotting strategy has been drafted to include smaller lots that are specifically designed for small and medium sized operators. The smaller lots will typically have a peak vehicle requirement of between 1 and 45. The contract length of these smaller lots will be determined on a contract-by-contract basis and may be shorter in length, with the option to extend to 7 years.

The Combined Authority may take the decision to disqualify any of these smaller lots from being run from the same depot as the larger lots, which would remove a tendering advantage from the larger operators.

Ticketing

In the current deregulated market SMOs can have difficulty growing their businesses because larger Operators encourage customer loyalty through discounted, single operator tickets. Therefore, it can be uneconomic for customers to occasionally use a smaller operator, and this can make it difficult for them to grow and compete.

Under Franchising all operators under franchised agreements would be providing services for WYCA and therefore the ticketing structure would not affect the ability for operators to compete for the franchise contracts, thereby removing this barrier to growth for SMOs or entrants of new SMOs.

Growth of SMOs

The above proposals allow SMOs to consolidate and enter the market but WYCA also intends to put in place additional measures to help SMOs to grow.

Part of this could be by offering larger packages under B lots which would allow a paced level of growth. This could be by combining lots or moving certain services from A lots into B lots over time.

Procurement

WYCA intend to use the procurement process to maximise the value for money of the services procured under the franchising scheme and ensure that: the involvement of small and medium sized operators is facilitated; competition is driven for franchises; a continuing viable market is developed; the risk allocation described in this Assessment is reflected in the contracts; and WYCA and operators can successfully adapt to the reality of implementation of Franchising across West Yorkshire with risks of transition mitigated so far as possible for all parties.

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.

WYCA is mindful that this will become a continuing process, with new franchise contracts let on a rolling basis once franchising is fully implemented. Therefore, the approach taken must not only allow for effective procurement of the initial local service contracts, but also allow for efficient procurement on an ongoing basis, enabling the creation and retention of a competitive franchising market to ensure value for money can continued to be delivered. In particular, the strategy should support effective bidding by small and medium sized operators in the franchising process.

For the Lot B and Lot C contracts, WYCA is mindful of the need to ensure that the process does not accidentally exclude SMOs through placing an onerous burden on them in terms of bid costs and time. Therefore, whilst WYCA may use a simplified version of the competitive flexible procedure for larger Lot B contracts it expects that for most Lot B and Lot C contracts it will make use of the open procedure, with very specific minimum requirements for compliant tenders, similar to those currently required for secured service contracts of a similar scale. This will allow the Combined Authority to draw on best practice from its current secured services and schools procurements in procuring these lots, but also ensure that there are limited process changes for SMOs bidding for these franchise contracts, compared to the tenders they currently make for secured services, lowering the barrier to entry, and ensuring that they can focus on putting forward good tenders, rather than adapting to a new procurement process. For similar reasons the intent is that the contract structure for these contracts will be similar to those which operators are used to in the existing secured service market, again allowing them to focus on quality bids rather than having to adapt to a wholly new contract model.

This approach would not give SMOs an advantage in bidding, as all operators will be tendering on the same level playing field, but it does ensure that they are not disadvantaged by being unable to access larger bidding teams with experience of responses to wider public tenders, which could otherwise have been a disadvantage for such smaller operators without access to experienced bid teams.

Learning Lessons

It is important that the procurement process does not remain static and adapts to ensure that it continues to deliver value for money. This will include responding to the way that bidders (including SMOs, large incumbent operators, and any new entrants) react to the tendering process; engaging with the market to understand what factors impact the value of their tenders; carrying out lessons learnt sessions both during and after each procurement; and re-visiting this in the context of contractual performance, to ensure that procurements are driving best value and reflecting the outcomes aspired to by the procurement process.

Once the first round of franchises has been let and there has been a full transition to the franchised bus market, WYCA will be able to consider changes to the procurement approach based on its contracted market, drawing on practical experience of franchised services in practice, allowing testing of elements of the contract and procurement strategy that have driven value for money, and identifying areas where improvements could be made either for WYCA or bidders. This will also allow continued analysis as to whether the procurement strategy continues to provide opportunities for SMOs, and to ensure that it continues to drive a vibrant market for bus operators, by responding to market inputs. This information will be brought to the Combined Authority as part of the performance monitoring of the roll-out of a franchising scheme.

Response from Consultees

The proposals for bus reform were published for public consultation. There were several responses regarding the proposals and their potential impacts, highlighting both opportunities and concerns, on the participation of SMOs. The full response to these queries can be found in the consultation report.

General comments on the impact on SMOs included the importance of smaller operators within the market which give the current market diversity. It was noted that if the PFS was pursued, it would be important to fully ensure appropriate market opportunities for SMOs and community transport.

Concerns Raised

During consultation, points were raised about the security of the future of small and medium sized operators if they were to be unsuccessful in tendering. Similarly concerns that if smaller operators are unable to compete for enough lots there is a risk that SMOs might exit the market. The Combined Authority recognises the importance of SMOs within a healthy bus market and remains of the view that the Proposed Franchising Scheme provides opportunities through a lotting strategy that supports smaller lots. It is important to note that we will continue to review lessons learnt which can be incorporated into contract design if the decision to proceed with the Proposed Franchising Scheme is made.

Concerns were raised about EV infrastructure and the potential impact on SMOs. Many SMOs lease their depots, and this restricts their ability to install high voltage charging equipment due to fire risk and it could be that SMO depots can't support electric vehicles. If this is a common issue for SMOs, then this will need to be addressed if ZEBs are to be rolled out across all West Yorkshire services under any of the options, as is considered in the objectives set out in the Strategic Case. Introduction of franchising potentially offers the opportunity to explore solutions regarding provision of infrastructure and vehicles to operators in a way which is less likely to distort competition than where this was provided in the current deregulated market. The staged process of letting and reletting franchise agreements will also allow the Combined Authority to consider when is the best time to seek to roll out ZEBs on Lot B and C contracts, so that this can take into account the extent to which some of these risks become more manageable as technology and its use matures.

The Combined Authority received responses asking for assurance that the SMOs were not financially disadvantaged through the Proposed Franchising Scheme, particularly through the loss of depots should an SMO not win a particular lot. As many SMOs lease their premises, providing a flexible availability of depots to the SMO market in West Yorkshire, SMOs should not be disadvantaged as part of franchising, nor should the absence of a depot prevent them for bidding for the lot B and lot C contracts. .

Concerns on the ability of operators, but particularly SMOs, to compete were raised by several incumbent operators, citing specific concerns on the barrier of the scale and process of bidding. J&B raised a concern that further larger operators may enter the market, with the loss of SMOs.

Several SMOs raised concerns around their ability to manage particular working practices and negotiations with unions and bus groups. TUPE issues were raised as a particular concern from SMOs. The issue on recruitment could also limit SMOs ability to improve the network without significant additional resources. . A more detailed plan for the application of TUPE will need to be developed in due course, including a communication and engagement strategy with employers and employees throughout the procurement and mobilisation of franchised contracts.

Opportunities Identified

Several respondents noted that the Proposed Franchising Scheme presents flexibility to operators and would be beneficial to competition, particularly for new operators or SMOs. It was noted that SMO participation helps to moderate competition through the bidding process. In addition, several responses noted that opportunities for SMOs were included in the lotting strategy.

Support was given to the approach taken on lot size, with consultees believing that the lotting strategy would facilitate competition and allow SMOs to participate.

Some smaller operators gave positive comments on the possibility of negotiation on contract length contained within the Commercial Case allowing SMOs to extend B and C lot contracts to 7 years and this will allow greater investment in services.

Conclusion

The Combined Authority has produced a plan for including small and medium operators in its proposed franchising system. Consideration has been given to the points raised during consultation and the Combined Authority is comfortable that the proposals in the assessment have already mitigated many of the concerns raised, and understanding these issues will allow the Combined Authority to mitigate many of these risks through its contract and procurement strategy as the detail is developed. The commercial levers that will be used to help facilitate and continue SMO participation in the market including how contracts and lotting will be managed were set out earlier in this report and as such, the Combined Authority believes that its plans for franchising will provide a solid basis for small and medium operators to be involved.



Find out more
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All information correct at time of writing