

**A GREATER ROLE FOR ORR REGULATING PASSENGER FRANCHISEES IN ENGLAND & WALES
CONSULTATION**

RESPONSE FROM TRANSPORT FOR GREATER MANCHESTER

8 March 2012

(A late response was agreed with ORR)

INTRODUCTION & GENERAL COMMENTS

Transport for Greater Manchester welcomes the opportunity to contribute to the joint Office of Rail Regulation (ORR) and Department for Transport (DfT) consultation on the potential for an expanded role for the ORR in respect of new passenger rail franchises in England and Wales.

In April 2011 Greater Manchester set up the statutory Greater Manchester Combined Authority (GMCA) with a scope including spatial planning, transport and economic development. The TfGM Committee is formally a sub-Committee of GMCA – ensuring that programmes of public spend across the conurbation, including transport, are planned and delivered in a co-ordinated fashion. GMCA also works closely with the GM Local Enterprise Partnership (GMLEP). GMCA, TfGM and the GM LEP all have the same geography.

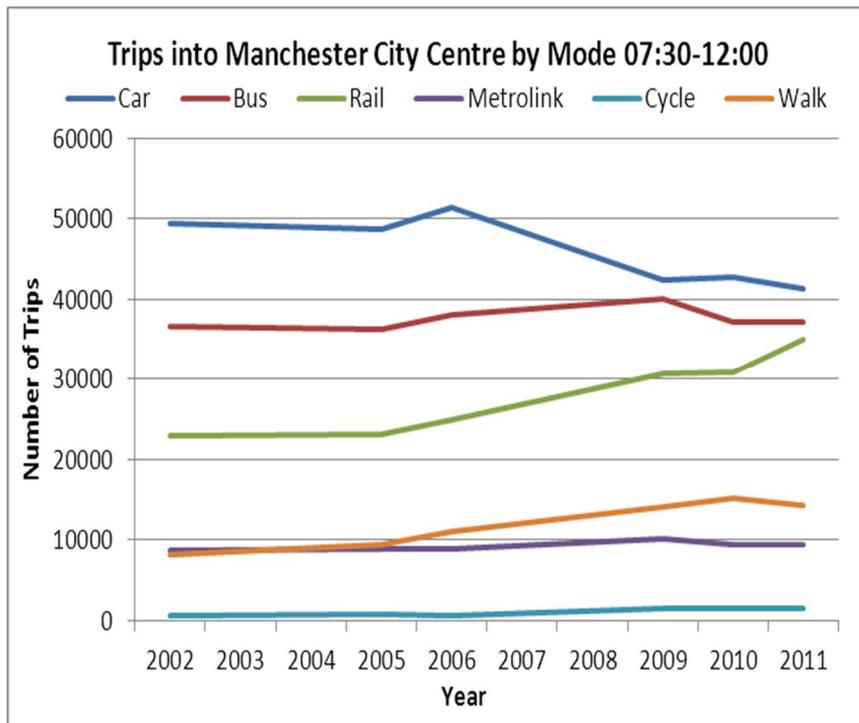
Transport for Greater Manchester (TfGM) is the body responsible for transport and travel matters across the Greater Manchester, and aims to improve the quality and availability of transport networks and services and support the economic prosperity of Greater Manchester by connecting people with employment, education, health and leisure choices in ways that are affordable, accessible and environmentally sustainable.

At present TfGM's involvement in the rail industry is split between areas of control and influence.

TfGM has a contractual role as co-signatory in the current Northern Rail franchise, which includes service performance and station quality monitoring.

We have invested £17 million in improving local station accessibility and facilities since 2007, and also directly sponsor and subsidise an increasing number of evening and weekend services. Also of significance is the programme of works funded by the Greater Manchester Transport Fund, which in the period to 2016 includes over £1bn of capital investment into Metrolink, transport interchange and bus projects. Our investment plans are focussed on the impact that better transport can have on the economic prosperity of the conurbation and neighbouring areas, as measured through GVA.

TfGM aims to influence Government, Network Rail, TOC's and other industry partners to make improvements to the rail network and to rolling stock in order meet the demands of current passengers, accommodate continuing levels of growth, and support a changing city economy. The chart below illustrates the growing importance of rail in supporting a regional economy that is increasingly driven by the city centre.



GMCA and TfGM have recently published the Greater Manchester Rail Policy. This document sets out our policy for the role of rail within Greater Manchester, in the context of other developments, to 2024. A copy of the Greater Manchester Rail Policy is attached with this submission.

A potential future change for TfGM, along with Northern PTEs, is the potential for TfGM and Northern PTEs to take greater responsibility for managing local rail services, specifically devolution of responsibility for specifying and managing franchises. Discussions regarding devolution are underway with DfT in this regard. Naturally any such changes would lead to us having a much more direct interest in the work of the ORR in the management of railway franchises.

Devolution carries both risks and opportunities for Greater Manchester. Potentially, devolving power offers TfGM and the Northern PTEs the opportunity to deliver improvements to the network and create a level of service quality that more closely meet the demands of Greater Manchester's passengers, specifically in the context of integration in planning with tram and bus developments.

Consultation Questions

1. May we publish your response?

Yes

General principles

2. Please comment on the general principles against which changes in responsibility for regulation of passenger franchises should be assessed.

TfGM is concerned that proposals fail to take into account the current role of local bodies such as TfGM and the other Northern PTEs. We feel that both the ORR and DfT can gain better insight into the outputs of the railway through closer working with TfGM (and the Northern PTEs).

When GMCA and TfGM were formed in 2011 DfT and TfGM agreed to set up a rail protocol that has led to a considerably better understanding of each other's objectives and plans, and which has led to much mutually beneficial joint work. We would welcome the development of a stronger relationship with the ORR.

Whilst TfGM understands the proposals that are made in the consultation, we would like to see more evidence presented around the failings of the current systems in place, and therefore the priority that should be afforded to addressing these failings. This is particularly the case in performance and service quality where the changes proposed are very significant. Without clear evidence it is difficult to assess whether the benefits of change would outweigh the costs. It is not clear that making improvements to existing systems would not yield equal or greater benefits.

TfGM feels that in areas where standards are clearly defined, such as in service quality and performance, monitoring and enforcement of standards should include the input of TfGM (and Northern PTEs).

TfGM does support a changed role for the ORR in respect of complaints handling, and regulations in respect of the Disabled Persons Protection Policies (DPPP), where there does seem to be a good case for simplifying current arrangements.

3. Do you see any potential benefits or drawbacks in moving towards giving ORR an enhanced role in respect of franchise change?

We welcome the ORR's exploration of an enhanced role in franchise change so long as that approach can be integrated with the existing franchise arrangements that exist through mechanisms such as franchise models. As the North West of England faces a significant amount of infrastructure change in the next control period we would like to understand, and discuss with ORR, how such mechanisms might reduce long-term franchising costs.

4. Are there any representations you would like to make concerning ORR's role in holding Network Rail to account?

It is essential that Network Rail continue to be held to account and regulated, in order to reduce the current cost base as recommended by McNulty, and to continue to deliver passenger benefits. Any future role for the ORR must ensure current levels of Network Rail regulation are maintained. As we have discussed in meetings with ORR we would like to understand whether over time a more devolved structure could be developed for Network Rail in the north of England that coincides more clearly with local and inter-regional franchise boundaries – this is especially the case if such a structure can facilitate greater industry efficiency.

5. Should ORR consider any revisions to its enforcement and penalties policies if it takes on a wider role? In particular, should ORR consider how and whether it could accept commitments to make improvements for passengers as an alternative to levying a penalty?

We feel it is essential that where any penalty is imposed it should, by default, be “paid” in terms of improvements for passengers.

6. Are there any specific points on which DfT and ORR should set out their proposed approach during the transition period?

Consistency of regulatory arrangements is paramount, and TOCs must be fully aware of any new regulatory and licence conditions that they will be working under, particularly when bidding for new franchises. It is vital that any changes that are implemented are done so in a way that provides clarity for franchise bidders in order that bid prices do not factor in provision for the uncertainty associated with the structure and operation of the new arrangements.

There are a large number of franchises due to be let over the next few years. The DfT and ORR therefore need to ensure that any regulatory changes take into account the possible devolution of franchise management, and changes must be agreed with all relevant bodies in order to enable a consistent regulatory basis to be achieved.

7. Should ORR review its funding arrangements in the light of the changes proposed in this consultation?

The ORR must be adequately resourced to deal with any expanded role. As such a review of funding arrangements is considered necessary. The additional costs must be weighed against the benefits of the change. ORR would also need to review the competence and skills of its staff if new responsibilities in service quality and performance were to be taken on.

Specific proposals

8. Do you have any comments on the proposals for regulating complaints handling procedures?

TfGM feel the current system for handling passenger complaints that reach ORR and DfT is both complex and unclear. The proposals appear to address these deficiencies.

9. Do you have any comments on any of the proposals for regulating DPPPs?

TfGM has no view on this issue, other than to observe that the proposals appear to resolve an overly complex overlap of DfT and ORR roles.

10. Do you agree that the regulation of punctuality and reliability performance should be brought together in one place? Could this proposal work and what refinements could be made? Are there any alternative ways of doing this?

As noted above we are concerned that little evidence is presented around the failings of the current systems. Without a better evidence base it is difficult to assess whether the benefits of change would outweigh the costs. Furthermore it is not clear that making improvements to existing systems will not yield equal or greater benefits – this option seems not to have been explored.

It is feasible that the regulation of punctuality and reliability performance could be brought together in one place; however this must include a local input.

The proposals appear to suggest a one-size-fits-all approach, and careful consideration needs to be given to their application to railways with relatively higher levels of subsidy, where the influence of the fare-box on train operator behaviour is less than it might be on a franchise paying premia to government.

11. What are the key areas that should be covered by service quality measures and commitments? How should Government decide what to include in each franchise? Is there merit in having a core set of requirements that apply to all?

TfGM believe that there should be a set of core service quality measures across the industry to set a standard for passengers; however certain service quality measures and commitments should be franchise specific.

Franchise specific service quality measures and commitments should reflect the view of TfGM (and Northern PTEs). This would allow alignment with local transport policies and deliver improvements for passengers to ensure a consistent level of quality across all modes.

12. Please comment on the specific benefits and disbenefits of the requirements on service quality measurement and commitments being enforced by licence rather than by contract.

As noted above we are concerned that little evidence is presented around the failings of the current systems. Without a better evidence base it is difficult to assess whether the benefits of change would outweigh the costs. Furthermore it is not clear that making improvements to existing systems will not yield equal or greater benefits – this option seems not to have been explored.

The proposals appear to suggest a one-size-fits-all approach, and careful consideration needs to be given to their application to railways with relatively higher levels of subsidy, where the influence of the fare-box on train operator behaviour is less than it might be on a franchise paying premia to government. It is most important that consideration is given to this factor especially in the case of service quality.

13. Do you believe that the proposed licence condition would provide effective and proportionate accountability for delivery of service quality standards? Would a transparency obligation, relying on reputational incentives, be adequate? Or should it be supplemented by a compliance obligation? Should the compliance obligation be subject to doing what is reasonably practicable to deliver it, for instance through a purposive approach similar to that being considered for performance?

TfGM strongly stresses the need for a compliance framework in regard to service quality standards. It is felt that relying on reputational incentives, particularly with the move towards longer franchises, and on franchises with relatively high levels of subsidy, will not be enough to ensure TOCs meet quality standards.

14. What would need to be set out in guidelines to ensure credibility and consistency of reporting against service quality measures and transparency for passengers? How do we ensure that we give sufficient clarity and flexibility for franchisees in guidelines?

TfGM agrees that there should be guidelines in place to ensure consistency of service quality reporting. TOCs should be obliged to report service quality performance both at stations and on their website, to ensure transparency for passengers.

TfGM Committee regularly reviews train operators' performance in its public meetings – this includes both service performance and quality. These meetings provide a route for public and transparent accountability that is arguably unrivalled in Great Britain. The meetings focus on both failings and areas of commendable improvement. The meetings afford a considerable amount of transparency to local politicians and the public. Whilst operator behaviours differ, many are very responsive to the impact that these meetings can have on company reputation. It is important to recognise however that there are limits on how far train operators will go to resolve issues solely on the basis of reputational impact. We would be glad to discuss with ORR (and with train operators) any learning that could be had by reviewing these transparent and local processes.

15. Do you agree with the approach set out on monitoring of compliance with the service quality commitments? In particular do you think that an adapted safety management maturity model could be applied in this context?

Service quality is extremely important to passengers and the outputs of any service quality systems therefore require monitoring against agreed standards.

For future franchises it is important to ensure that a service quality matrix that a bidder promises is aligned with any licence obligations, and that any outputs are deliverable, but a bespoke method of service quality monitoring is needed, to ensure the agreed standards for passengers are maintained.

16. Do you agree with ORR's proposed approach for service quality commitments of requiring improvement plans as a prelude to formal enforcement action?

Under any scenario TfGM would expect operators to put forward remedial plans for improving service quality before any formal action is taken.

It is however day to day monitoring that ensures delivery for passengers, and compliance to service quality standards needs to be enforced appropriately in order to ensure this is maintained.