

EXECUTIVE BUSINESS MEETING:

22 JULY 2004

DRAFT TRANSPORT (WALES) BILL

AGENDA ITEM: 12

Reason for this Report

1. To seek the Executive's views on the Council's response to the proposals contained in the Transport (Wales) Bill.

Background

2. The Welsh Assembly Government (WAG) and the Wales Office have jointly written a letter to the Council, signed by Andrew Davies A.M. and Peter Hain M.P. The letter notifies the Council that the Transport (Wales) Bill has been published in draft form for consultation, with comments on the draft Bill invited by 5 August.

Issues

3. The Welsh Assembly Government considers that the Transport (Wales) Bill would provide them with a range of powers and duties as follows:-
 - WAG would have a duty to publish a Wales Transport Strategy
 - WAG would modify the local transport plan system, so that Welsh Assembly Government approval would be required for all Local Transport Plans in Wales.
 - WAG would have the power to direct one or more local authorities to form a Joint Transport Authority to discharge their transport functions on a wider / regional basis.
 - WAG would be empowered to secure public transport services
 - WAG would acquire an enhanced role in relation to rail services, including a power to give evidence and advice to the Strategic Rail Authority
 - WAG would have a specific power to give financial assistance in respect of air services and airport facilities.

4. Some of the above powers the Assembly wishes to assume over rail and air services in Wales are welcome. However, it is considered that the powers of direction over local authorities contained in the Bill are unnecessary and contrary to the spirit of the relationship that exists currently between the Assembly and local government. The Bill, if enacted, would provide for a top – down system of delivery of transport functions, with the Assembly able to establish joint authorities of two or more local authorities, give directions to local transport authorities and effectively dictate the content of what should be “local” Transport Plans.
5. Cardiff Council is one of the ten local authorities in South East Wales that have combined to form the South East Wales Transport Alliance (SEWTA). SEWTA is constituted as a joint committee of the member local authorities and has a member and officer structure. The Alliance is responsible for producing regional public transport / cycling and walking strategies and Transport Grant bids to the Assembly. Delivery of the individual schemes is managed by the local authority in whose area the scheme is located.
6. A detailed response to this Draft Bill, setting out such concerns, has already been prepared by the Welsh Local Government Association, who has given evidence to the Welsh Affairs Committee and the Economic Development Committee of the National Assembly for Wales. The Welsh Local Government Association’s overall view is that “the whole premise upon which the Bill is currently drafted is fundamentally flawed”
7. A copy of their evidence is attached as Appendix 1.
8. SEWTA has also provided evidence and a copy is attached as Appendix 2.

Reasons for Recommendations

9. To provide the Council’s views on the Transport (Wales) Bill to the Welsh Assembly Government and the Wales Office.

Legal Implications

10. The response to the proposed Bill is an executive matter but the Local Transport Plan is a function shared between executive and Council. It may be that the executive would wish to consult Council before responding. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

11. There are no financial implications arising directly from this report.

RECOMMENDATIONS

The Council supports the view expressed by the WLGA and SEWTA on the proposals contained in the Transport (Wales) Bill.

JOHN DACEY
Corporate Director
16 July 2004

The following Appendices are attached

Appendix 1: Evidence to the Welsh Affairs Committee and Economic
Development and Transport Committee, National Assembly for
Wales

Appendix 2: The new Transport Alliance across South-East Wales

APPENDIX 1



Draft Transport (Wales) Bill:

**Evidence to the Welsh Affairs
Committee and
Economic Development and
Transport Committee, National
Assembly for Wales**



**WELSH LOCAL
GOVERNMENT
ASSOCIATION**

**CYMDEITHAS
LLYWODRAETH
LEOL CYMRU**

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EXECUTIVE SUMMARY

1. Whilst the Association has publicly welcomed elements of the Bill (for example, powers for the Welsh Assembly Government to guide and direct the Strategic Rail Authority (SRA))¹, we have grave misgivings about the measures that relate to the role of local authorities which we believe are ill-considered and will have damaging consequences.
2. We believe that the whole premise upon which the Bill is currently drafted is fundamentally flawed. The Explanatory Notes argue that the Assembly Government is handicapped in taking forward its strategy by its lack of statutory powers yet in reality the Assembly has considerable influence over the transport functions of local authorities through its provision of funding, guidance, research and advice. The idea that centralised powers of direction will lead to a more effective transport system is one that the Association fundamentally rejects.
3. The aim of a truly integrated and efficient transport system is one which the Association fully endorses. We want to work with the Assembly to ensure that this vision is delivered in order that businesses in Wales can thrive, communities can flourish and inclusion for all, via transport, becomes a reality. However, the mechanism through which the Assembly plans to deliver this vision radically alters current processes without a thorough analysis that what is proposed will actually deliver the necessary improvements. The WLGA's main concerns are:
 - **Removal of democratic accountability** – the overall thrust of the proposals, as they relate to local authority transport functions, is to weaken local democracy. The establishment of joint transport authorities would result in transport being stripped from the local council chamber and placed in the hands of a body reporting to the Assembly rather than the local electorate. The Association does not support the introduction of a new organisation, possibly a Quango, to deliver transport. We believe that this would be inappropriate when local government is willing and able to deliver local, regional and national transport aims.
 - **Lack of an evidence base and reasoned justification** – neither the explanatory notes nor the Bill itself provide a reasoned justification as to why radical change is required. The justification advanced (particularly for clauses 3, 4 and 5) would suggest that local authorities are too small to attract specialist staff, not committed to collaborating and fail to take account of regional issues. Yet all 22 unitary authorities in Wales are actively engaged in collaborative work through the four transport consortias. Furthermore, there was general support and encouragement for these consortia and the role of local authorities when the Assembly discussed the previous Minister's statement in response to the Environment, Planning and Transport

¹ WLGA Press Release "New Transport Bill May See More Quangos in Wales" 27th May 2004, Appendix A

Committee's Policy Review on Public Transport (2nd July 2002). Indeed, the then Minister, Sue Essex AM, stated that "They will have my full support, which will be provided through the new unit that we are establishing" (p.29). Local authorities in Wales accept the need for effective collaboration and joint working but believe that it would be better to focus attention on making the existing system work more effectively rather than a potentially expensive and time consuming exercise of administrative reform. For example, the 'new national public transport alliance' referenced to in the Minister's statement of July 2002 to support the Assembly's public transport unit and keep an overview of public transport in Wales has yet to be established.

- **'Dictate and deliver'** – the Bill if enacted will provide for a more top-down system of delivery with the Assembly able to establish joint authorities, give directions to local transport authorities and effectively dictate the content of 'Local' Transport Plans. The Bill does not provide clear reasons for such centralised involvement. Furthermore, we believe that this is contrary to the spirit of partnership working and could be counter-productive to the establishment of an efficient and integrated transport system. In the words of the Assembly Government "there is a risk that too many central requirements for specific partnerships with prescribed membership will lead to partnership fatigue and hamper the efforts of local leaders to develop a clear sense of common purpose"². The current arrangements facilitate the integration of transport with wider policy agendas: for example SWWITCH has a seat on the South West Wales Economic Forum.
- **'Financial naivety'** – the Assembly is being very optimistic in assessing the financial implications of the Bill. A figure of £1million is being quoted as the start up costs of a Joint Transport Authority and they have estimated £100,000 as the costs of employing four officers working on rail. The Regulatory Impact Assessment has not looked at the implications of a Joint Transport Authority on local authorities, has not examined the costs of the 'dictate and deliver' approach, and more crucially has not assessed the amount of finance needed to deliver the vision of an integrated system.
- **A limited remit** – for an organisation that has a legal duty to promote sustainable development (section 121, Government of Wales Act 1998) the proposed general transport duty is narrow – it excludes specific reference to environmental issues yet this is a central challenge: how to deliver an integrated transport system that is safe and facilitates sustainable development. There is also no discussion of the spatial dimensions of different transport issues (i.e. what is best dealt with at a local/regional/national level). This is a fundamental issue: whilst accepting the need for a clear strategic direction the Bill provides for the spectre of Assembly Government effectively dictating local priorities.

² Welsh Assembly Government (2002) Freedom and Responsibility in Local Government: A policy statement from the Welsh Assembly Government, National Assembly for Wales, Cardiff. (p.32)

4. Throughout this paper we will argue that the current voluntary, “bottom-up” arrangements are beginning to deliver improvements for the travelling public. By solely focusing attention on structures at a regional level this Bill fails to address the many local transport issues authorities have to deal with on a day-to-day basis. The Association recognises that transport is an issue of local, regional and national importance but feels that this Bill “travels” in the wrong direction for successful service delivery.

INTRODUCTION

1. The Association represents the 22 unitary local authorities in Wales, with the three national park authorities, the combined fire authorities, and the four police authorities as associate members. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
2. The Association welcomes the opportunity to submit evidence to the Welsh Affairs Committee and the National Assembly for Wales' Economic Development and Transport Committee. It should be noted that the Association has already raised issues of concern with the Assembly at both a political level (at the Partnership Council in February 2004) and through a joint officer working group (see appendix 1).
3. Our response has been prepared in consultation with the local authorities and the four transport consortia in Wales and the Local Government Association. Consultation with authorities and the four consortias was undertaken in establishing the Association's response. We have to express concern however, at the timetable by which comments had to be formulated and submitted. The Bill was released during the local government purdah period and responses submitted to the Committee on the 15th June, five days after the Local Government elections.

TRANSPORT – THE ROLE OF LOCAL GOVERNMENT

4. Local authorities manage a myriad of transport/highway services e.g. highways maintenance, traffic management, street works, road safety, school transport, community transport, travel information and public transport. This is by no means an exhaustive list, but illustrates the "birds eye" view local authorities have of transport in their area. To ensure policies and services are joined-up at the appropriate level, local authorities produce Local Transport Plans and have also voluntarily arranged themselves into "consortia" where regional transport issues are discussed and resolved. This approach ensures that very local issues, such as pot holes and street works are dealt with, in parallel with more strategic regional issues (such as the co-ordination of public transport timetables).
5. Central to an understanding of the Draft Transport (Wales) Bill (particularly clauses 3 – 6) is the definition of "transport functions". We are concerned that neither the Bill nor the Explanatory Notes provides a definition.
6. The current consortia arrangements mainly focus on public transport issues, but have the ability to co-ordinate these functions with the highways and planning policies/services of the respective authorities. One of the many benefits of local government re-organisation in 1996 was the bringing together of all transport/highways related issues in recognition that the services, though different, cannot be delivered in isolation. The true benefits of this

integration cannot be under-estimated. The potential splitting of these relationships between bodies can only add confusion and disruption, rather than improve service delivery.

7. Whilst the Draft Bill provides for administrative reform the key challenge is one of financial resources. There is a general consensus that the integrated transport system which we all desire requires significant investment (from maintaining existing infrastructure to developing and promoting new facilities). In her initial response to the Assembly's review into Public Transport, Sue Essex (then Minister for the Environment, Planning and Transport) committed the Assembly to "analyse the investment needed – capital and revenue – to being about the required changes"³. To date, the WLGA has not seen this analysis and has found no evidence in subsequent reports to plenary that this work has been completed. This work is critical to assess how much finance is needed to deliver an integrated transport system. Without this analysis the debate about structures for delivery seems premature.

CURRENT REGIONAL ARRANGEMENTS

8. The four current transport consortia (SWWITCH, SEWTA, Taith, and TRaCC)⁴ were created as a consequence of local government reorganisation. Professional transport officers and local councillors came together to create voluntary regional transport arrangements, mainly focusing on the public transport agenda.
9. In recent years, with encouragement from the Assembly, these groups have begun to have more of an active role in setting policy agendas. For example, Transport Grant is now focussed at a regional level, but still contains elements which are very local in nature (such as road safety schemes). Both Taith and SEWTA have adopted formal constitutions, and created themselves under the Local Government Act 1972 which allows groups of authorities to work together. SWWITCH we understand is currently going through the development process of a constitution, and TRaCC have an agreed Memorandum of Understanding.
10. The WLGA has fully supported the work of Members and Officers in their endeavours to ensure regional needs are reflected in their local area, sometimes sacrificing local priorities to meet wider policy. Public statements from the Sue Essex AM, former Minister for Environment, Planning and Transport indicate a strong degree of support for the transport consortia and making this structure work effectively:

³ Sue Essex AM, Plenary Debate, The Environment, Planning and Transport Committee's Policy Review on Public Transport, 11th December 2001

⁴ SWWITCH (South West Wales Integrated Transport Consortium) covers Pembrokeshire, Swansea, Carmarthenshire and Neath Port Talbot; SEWTA (Suth East wales Transport Alliance) covers Cardiff, Bridgend, Vale of Glamorgan, Rhondda Cynon Taf, Torfaen, Monmouthshire, Merthyr Tydfil, Blaenau Gwent, Caerphilly and Newport; Taith covers Ynys Mon, Gwynedd (excluding Merioneth), Conwy, Denbighshire, Flintshire and Wrexham; Tracc covers Powys, Ceredigion and Merioneth (part of Gwynedd)

- *“the case for a public transport authority/public transport executive for the whole of Wales has not been made”;*

- *“we must congratulate the consortia that are working in South East Wales..”*

- about Tiger and SWIFT and the transition to SEWTA *“they are taking an innovative approach which they must all work together to deliver. They have my full support....”*

- *“we must encourage regional groups to provide the necessary support to their communities and set that within the all-Wales framework of expert knowledge, support and monitoring and so on. That is an encouraging way forward”⁵.*

11. The Draft Bill would seem to signal a change in approach without any evaluation of whether the current arrangements are working effectively or discussion of any concerns with the individual consortia. For example, we understand that SEWTA has invited the Welsh Assembly Government to participate in the Alliance but this has not been formally acted upon.

DETAILED COMMENTS ON THE DRAFT BILL

Clause 1 General Transport Functions

12. The Draft Bill proposes a duty on the Assembly to produce and implement a strategy, which will provide for the “promotion and encouragement of safe, integrated, efficient and economic transport facilities and services to and from Wales”. We believe that this is a narrow remit that ignores the environment and the Assembly’s statutory requirement under the Government of Wales Act 1998 (section 121) to promote sustainable development in the exercise of its functions.
13. We would propose that Clause 1 is re-drafted to include reference to the environment and the facilitation of sustainable development, thus:

Proposed Amendment to Clause 1 General Transport Duty:

The Assembly must –

(a) develop policies for the promotion and encouragement of a sustainable transport system that facilitates safe, integrated, efficient, environmentally friendly and economic transport services to, from and within Wales, and

14. We would like clarification that clause 1 provides for all modes of transport. Clause 1(3) a makes specific reference to “...facilities and services for pedestrians” this could be usefully amended to read “...facilities and services for pedestrians and cyclists”.

⁵ Sue Essex AM, Plenary Debate, Statement on the Response to the Environment, Planning and Transport Committee’s Policy review on Public Transport, 2nd July 2002

Clause 2 Wales Transport Strategy

15. As per our comments in paragraphs 13 and 14, the Wales Transport Strategy should set out policies 'for the promotion and encouragement of a sustainable transport system that facilitates safe, integrated, efficient, environmentally friendly and economic transport services to, from and within Wales'.

16. Clause 2(5) should be re-drafted to include specific reference to local authorities thus:

(5) The Assembly must consult local authorities and any other persons it considers appropriate in preparing or revising the Strategy.

17. The Bill outlines a hierarchy of transport provision in Wales with the Welsh Assembly's strategy at the summit. The formation and content of the new strategy will therefore be critical for setting the direction which all parties, including local government, have to follow. It seems reasonable therefore, at this point to comment on the current Transport Framework for Wales. The Framework attempted to "reach a consensus between local and other transport authorities and transport operators"⁶, but unfortunately did not include these bodies when the document was being created, just consulted them as part of the national consultation exercise. We are seeking a more participatory approach whereby local government and other key stakeholders are fully involved in the preparation of the proposed Wales Transport Strategy and not merely consulted on a draft. Such an approach should help to ensure that the resulting Strategy is 'jointly owned'.

18. The Framework was successful in detailing the current challenges facing the successful delivery of an integrated transport policy, but weak on how the Assembly saw its role in tackling these challenges. It comprehensively identified what was happening in the different areas such as walking and cycling, but then did not follow this through with an outline of the role of the respective agencies and what measures would be used to monitor successful service delivery. Of the four areas highlighted for review and monitoring, only two had specific targets. Each of the areas is summarised below with a report on the current status of that measure:

- Travel time variability and journey times for all journeys

The Framework stated that a technique was being developed which could measure journey time information for the M4 and number of other strategic routes tied with information on rail journey time so that a baseline could be established for long distance road and rail journeys.

In the 2003 update on the Framework to the Welsh Transport Forum⁷ little information was provided on whether improvements had been made for journey times, either by road or rail. This is despite a commitment in the Framework for measures and indicators to be developed by the end of 2002.

⁶ Transport Framework for Wales, 2001, p.1

⁷ The Transport Framework – Progress Report, report to Welsh Transport forum 23rd October 2003

- How people travel to work or school

The Framework wanted to reduce dependency on cars with a target by 2010 of enabling about a quarter of those commuting to travel by other means other than the car, compared to about a fifth in the late 1990s.

In his report to the Economic Development and Transport Committee, the Minister, Andrew Davies AM, reported that “for the UK, traffic growth is forecast to grow by 22% by 2010, urban traffic by 15% and inter-urban trunk road traffic by 28%. Traffic growth in Wales has outstripped that in the rest of the UK in recent years and the success of the Assembly Government’s economic policies means that this trend is likely to continue”⁸.

- Road casualties

By 2010 WAG aimed to a 40% reduction in number of people killed or seriously injured, 50% reduction in children killed or seriously injured, a 10% reduction in slight casualty rate.

In the Progress Report to the Welsh Transport forum referred to above current figures show that there had been a 14% reduction on people killed or seriously injured, a 29% reduction in children killed or seriously injured, and a 11% reduction in slight casualty rate.

- Accessibility to bus services or essential services

The Framework committed the Assembly, by 2002, to choose an indicator and targets to represent accessibility issues highlighted throughout the document.

The 2003 Report to the Welsh Transport Forum failed to report on progress with this measure and did not outline when the Assembly would report on the accessibility of transport provision within Wales.

19. The examples above illustrate the importance of an effective performance measurement mechanism to underpin the proposed Wales Transport Strategy. The current Framework is now into its third year yet little information has been published on its effectiveness to date. It is important that a comprehensive monitoring/performance management system is in-bedded into the strategy to ensure that the Assembly can report progress and adapt policy as appropriate. The lack of sufficient information causes concern, as quite often it is perceived Assembly decisions are based on judgements rather than actual evidence. The Bill proposes a fundamental change in the powers the Assembly has to influence transport policy. It is imperative therefore that change is undertaken because it is needed - it must be based on evidence which indicates that it will lead to improved service for the public.
20. The Assembly is currently reviewing the Transport Framework with this legislation in mind. It is unfortunate that this has remained an internal operation, and no involvement has been sought from delivering bodies such as local authorities. If this legislation is taken forward as currently drafted, local authorities have to “implement” the strategy at a local/regional level so their involvement, it is argued, is critical in ensuring that what is produced by the Assembly is actually deliverable on the ground.

⁸ Transport Review: Progress Report, Economic Development & Transport Committee, 1 April 2004.

21. As noted, the Draft Bill proposes a top-down approach of policy development. We are concerned that these proposals contradict statements made in “Freedom and Responsibility” (the Assembly’s policy for local government) which outlines the roles of the Assembly and local government as:

“the Welsh Assembly Government has responsibility for framing secondary legislation and guidance; disseminating best practice; setting minimum standards where necessary, as well as national targets; encouraging innovation and monitoring overall progress...The role of County Councils is to provide leadership at local level; to define local priorities with their partners and with local communities, taking account of local needs but also the wider context; to represent their communities, making sure their views inform the regional and national picture; to help deliver local objectives....”⁹

The proposals in this Bill change the relationship outlined above. The proposed Wales Transport Strategy would set the national context, but because the local/regional plan has to “implement” the national strategy there appears to be little room for the role of local government as described above. There is a real risk that this will conflict with the community leadership role attributed to local authorities by the Local Government Act 2000.

22. Any Wales Transport Strategy should contain a funded programme for delivery. A key issue is the need for programme funding and flexibility between financial years. The present financial regime with its focus on financial years and the plethora of special grants mitigates against effective service and infrastructure delivery. Financial issues are not discussed in the Draft Bill nor the Explanatory Notes (save for the potential costs of establishing a joint authority and employing four specialist rail staff in the Assembly Government), yet this is one area where reform would be welcomed.
23. Whilst the Draft Bill proposes a time-scale for the production of Local transport Plans it does not specify a time-scale by which the Wales Transport Strategy has to be produced. This is, at best, paradoxical as Local Transport Plans (under the Transport (Wales) Bill) would have to contain policies for the implementation of the Wales Transport Strategy. Clause 2 should be amended to include a timetable for the production of the Wales Transport Strategy and Local Transport Plans produced within a given period of time (at least 12 months) after the publication of the Wales Transport Strategy.

Clause 3 Local Transport Plans and Schedule 1

24. The Draft Bill (Clause 3 and Schedule 1) provides for a new system of Local Transport Plans in Wales which will be top-down (they will, in effect, be implementation plans for the Wales Transport Strategy) and subject to Welsh Assembly Government approval. We are potentially moving to a system of ‘dictate and deliver’ – the Assembly Government will be

⁹ Freedom and Responsibility 2001, p26

able to dictate the content of Local Transport Plans and local authorities will have to deliver a national strategy that may be contrary to local needs.

25. The strength of the current arrangements lies in the close relationship between Local Transport Plans and the Unitary Development Plan, the Community Strategy for the County, and other cross-cutting strategies such as Health and Well-Being. As illustrated previously there is an emphasis from the Assembly that a “bottom-up” approach is favoured for policy formulation and implementation. Health is a good example as the 22 Local Health Boards have been created ensuring that all local services are represented to promote good health and prevent poor health in its community. It is important that transport policy also retains a strong local dimension and that it is not centralised.
26. The Association is concerned that the proposals in this Bill do not take account of the important relationships identified above. The Draft Transport (Wales) Bill could result in the lack of local ownership and undermine the community leadership role of local authorities. Local Transport Plans should be drafted within the context of Community Strategies and with reference to the Wales Transport Strategy and not the other way round.
27. Also, it is not clear how the duty to produce a Local Transport Plan (which rests with local authorities) relates to Clauses 4 and 5. There is the potential spectre of the Bill resulting in a myriad of ‘Local Transport Plans’ prepared by local authorities and joint transport authorities. Currently local authorities have to produce over 50 plans and strategies and submit them to the Assembly, either for information or approval. Within the transport field the Local Transport Plan is a statutory document, containing information on highways maintenance, traffic management, future development and transport implications etc. But since Local Transport Plans were introduced the Assembly has issued further information and highlighted that strategies in the following areas would be beneficial: road safety, walking and cycling, local bus strategies, regional public transport strategies, safe routes to school, rights of way improvement plans (this is a statutory plan), etc. A strategic Local Transport Plan should contain chapters on all of the above identifying objectives and priorities for action to meet both local and national outcomes.
28. The Association seeks the removal of the proposed requirement for the Assembly to approve Local Transport Plans. As currently drafted this gives absolute power to the Assembly for the approval or rejection of a Transport Plan. Given that a Transport Plan, produced by one Authority or a consortia, would involve a great deal of stakeholder and partner involvement, it is questionable how the Assembly could justifiably reject a plan. The Draft Bill creates the potential for conflict. At present the transport policies of local authorities and the Welsh Assembly Government are broadly consistent, but in the future these powers would allow the Assembly Government to effectively dictate policy to another democratic tier of government. A more effective approach would be to consider making the Assembly Government a ‘statutory consultee’ during the preparation of a Local Transport Plan and to require local authorities to ‘have regard to the Wales Transport Strategy/views of the Welsh Assembly Government’.

29. The proposed timetable for the production of Local Transport Plans is unrealistic. As noted in paragraph 26, if Local Transport Plans are to 'implement' the Wales Transport Strategy then the timetable for their production should not officially commence until the Strategy has been published. A recent letter from the WLGA to Assembly officials highlighted that comprehensive Transport Plans could not be in place until 31st March 2007. Our argument is as follows:

"if we presume that the Bill will receive Royal Assent by summer 2005 and the Assembly publishes its new Transport Strategy shortly after, Transport Plans could be available in draft for the year 06-07 with full implementation from April 2007."¹⁰

30. The powers sought in Schedule 1 for the Assembly Government to instruct authorities on how they should arrange the production of their Plan¹¹ are inappropriate. It should be up to locally elected Members to determine how they intend a plan to be produced and managed within a framework of general guidance issued by the Assembly Government. As we have illustrated previously the formation of a one size fits all cannot work in delivering transport in Wales, and any moves by the Assembly to legislate on how arrangements for the production of plans should be administered would be met with opposition by the WLGA and its members.
31. Further to the point made above, given that all the consortia have, or are working towards, legal status, we do not see the relevance of the Assembly being able to specify, through this Bill, how the current consortia are to be arranged¹². To reiterate, locally elected Members who understand their local needs and priorities, advised by professional officers, are quite able to specify how a service needs to be delivered in the best interest of the community.

Clause 4 Arrangements for the Discharge of Transport Functions

32. Clause 4 provides the Assembly with sweeping powers of direction over two or more local authorities. The case for such powers is, at best, unmade. The Assembly already has substantial powers over the way in which local authorities discharge their transport responsibilities. The current grant system gives them major powers over capital projects. They also have significant powers over revenue budgets and the ability to influence local policy through guidance, research and advice. We are not aware of any evidence that would suggest that local authorities are not currently working collaboratively or assisting in the implementation of Assembly policies such as free concessionary travel.
33. This clause should be deleted. It ignores the practical problems posed by such arrangements: how is it to be funded? Does it necessarily remove entirely all powers

¹⁰ WLGA Letter to Denzil Jones 17th May 2004 Appendix C

¹¹ Draft Transport (Wales) Bill 2004, Schedule 1, 6(2(b)) and 113B

¹² Draft Transport (Wales) Bill 2004, 4(2)

related to the function from one of the partner authorities? How can such a power be squared with democratic accountability? It would be fundamentally unsound for the Assembly to impose a transport policy on local people that is contrary to the views of a locally elected council or to require one authority to deliver the transport functions of another.

34. If this power is retained in the Bill, the grounds for such a direction must be detailed; the Assembly required to provide evidence in support of their use of the power in every case and the relevant authorities consulted.

Clause 5 Joint Transport Authorities

35. As already stated, the Association fully accepts the need for joint working on transport. However, the powers that Clause 4 and Clause 5 would confer on the Assembly effectively allow it to remove transport from local decision-making. There is a significant difference between the current regional partnerships and a joint transport authority. The regional transport consortia are essentially locally owned and are developing to reflect both local priorities and national objectives. They represent a ‘made in Wales’ approach. A joint transport authority would be imposed on a set of local authorities and any such imposition would, we suggest, mark a breakdown between the two levels of government.
36. The Draft Bill makes it clear that the Assembly will have ultimate powers to create a Joint Transport Authority in Wales. If the Assembly intends to use the powers in Clause 5 it should be required to set out its reasons and to demonstrate that the joint transport authority will improve the delivery of transport functions. Furthermore, the local authorities that would be affected should be provided with an opportunity to comment on such an analysis and examine potential alternatives.
37. The concept of a ‘Joint Transport Authority’ is new and should be explored in more detail. Both the Assembly’s former Economic, Planning and Transport Committee and the House of Commons Welsh Affairs Committee have examined the concept of a Passenger Transport Authority and Executive for Wales (or parts of Wales). We interpret the concept of a ‘Joint Transport Authority as being broader than a Passenger Transport Authority/Executive but the Explanatory Notes lack clarity. The key differences between a Joint Transport Authority and a Passenger Transport Authority would appear to be:
 - A Joint Transport Authority would have a wider focus than public transport (dependent on the definition of ‘transport functions’)
 - The Assembly would have powers to appoint members to a Joint Transport Authority (we understand that PTEs are only made up of Members of the Constituent Authorities) – thus creating a ‘Quasi Quango’
 - Passenger Transport Executives and Authorities in England are only focused on large, urban conurbations. They have never been tried and tested in rural areas. As all the consortias, even SEWTA, cover large rural areas, we ask whether the

Assembly would change the boundaries of the existing arrangements to establish a Joint Transport Authority. Further to this, what would be the implications on any 'excluded' authorities if this did take place?

38. We believe that the current consortia are more than capable of delivering a safe integrated, economic, environmentally friendly and effective transport system for the people of Wales, for those who visit Wales and for the movement of freight. The current consortia are constituted bodies. Indeed, SEWTA meets, we understand, all the requirements under Clause 5(4(a-i)). Furthermore, the SEWTA constitution is a rarity in the UK in that it specifies transport operators as equal partners. Clauses 4 and 5 would completely undo and undermine the work of Members and Officers in creating the consortias we have today and thus threaten the partnership approach that has characterised the Welsh approach to transport policy.
39. The provisions by which the Assembly can make orders relating to a Joint Transport Authority illustrates the extent to which the Assembly wishes to control transport service delivery. The orders would allow for very little flexibility of that body. If it so chose, the Assembly, would be able to specify which officers worked for the Authority (Clause 5 (4)e).
40. The Association opposes the proposal that a Joint Transport Authority would be funded in same way as a Police Authority. This in essence means a new tax on local communities. Members need to be aware that a recent consultation by the Home Office asked for views on how accountability for Police Authority resources might be strengthened¹³. This points to a mood in Government to move away from this form of funding mechanism.
41. There is the potential in this Bill, for the Joint Transport Authority to be appointed by the Assembly, for the Assembly to effectively dictate the role of the Authority and elected members to be effectively sidelined, yet such Authorities would be funded by the local tax payer. This is unacceptable.

Clause 7 Provision of Public Passenger Transport Services

42. The Association is uncertain why the Assembly are seeking these powers. Currently public transport provision is provided either by the private sector, or "socially necessary" transport can be subsidised by a local authority. We understand the Assembly is trying to model accessibility and perhaps they are seeking to fill gaps in provision. We have mentioned Freedom and Responsibility previously, and the relationship between local and central government. Once again, this clause seems to suggest that the Assembly wish to take over the services traditionally delivered by local government. We question why the Assembly feel they need these powers when the Local Transport Plans will identify what is needed where and will enable local authorities, subject to appropriate funding, to subsidise additional services as appropriate.

¹³ Home Office Green Paper, "Policing: Building safer communities together" 2004, p.24

43. If the Assembly want to subsidise a service, the reason for this action should be “in accordance with the Local Transport Plan of that local authority”. Clause 7(2) does not make this provision, so the Assembly could, if it so wished, subsidise a service at odds with local/regional services and objectives.
44. The legislation is not clear on who would pick up the cost of the Assembly subsidising public transport services. Clause 7(4) indicates that the Assembly may only enter into an agreement for a service if that service could not be operated without a subsidy. It should be clearly specified in the legislation that if the Assembly want to have a service subsidised it must pay for it itself without jeopardising the funds available to local authorities.
45. There is a risk that the Draft Bill will increase complexity and work against integrated service delivery. For example, it raises the spectre of different bus services in a local authority being subsidised by three separate bodies: the authority itself, a Joint Transport Authority and the Assembly.
46. Any reference to school transport¹⁴ would seem premature. Given the amount of research currently being undertaken at the moment¹⁵ any change to school transport legislation should await the full publication, consideration and consultation of any recommendations given.

Rail Transport

47. The Association supports the move towards the Assembly appointing the Chair for the Rail Passenger Committee for Wales. This would allow the Assembly to have a closer interaction with those who represent rail users and will assist in their decisions over any funding provided to rail operators discussed below.
48. The WLGA has endorsed the proposals for the Assembly to have a Board Member on the Strategic Rail Authority. We note however, the Welsh Affairs Select Committee recommendation for “one or more member of the SRA” in its recent report¹⁶.
49. However, we are very conscious that all the news surrounding the launch of the Bill consultation was how rail services were going to improve with a transfer of powers. The Assembly needs to be cautious about raising expectations as the Bill is cleverly worded in that the SRA does not have to comply with any direction unless the appropriate finance is forthcoming from the Assembly, and the proposal would not affect other services. It may be a valid role for the Committees to explore whether a transfer of funding from the Department for Transport needs to take place for the Assembly to meet the aims of this part of the Bill.

¹⁴ Draft Transport (Wales) Bill 2004, Clause 7(5)

¹⁵ Annex D – matrix outlining current school transport work

¹⁶ House of Commons Welsh Affairs Committee, Provision of Rail Services in Wales 2003-04, p.35

50. We specifically welcome Clause 9(1(2(a))) in that before the Assembly gives a direction to the SRA it consults with the appropriate local authority through which the service passes or stops. This level of inclusivity is welcome in light of other less inclusive areas of the Bill.

Air Transport

51. The Association understands fully why the Assembly would seek to have the powers to pay transport operators. We do have concerns however that powers are being sought to subsidise the proposed Intra Wales Scheduled Air Service which was released for consultation earlier this year.¹⁷
52. Whilst we appreciate the attempts to create a fully transport integrated Wales the Association is not convinced that a scheduled air service offers the right solution. Our response to this consultation is enclosed at Appendix B.

FINANCIAL EFFECTS

53. The financial effects of the Bill need more detailed examination. The claim that four posts relating to the new powers in relation to railways can be funded for £100,000 per annum is questionable. No other administrative costs are envisaged yet the Bill as currently drafted effectively proposes a much more rigorous examination of Local Transport Plans than hitherto as they will have to be formally approved by the Assembly. We are aware that some organisations have suggested that the new regime will need as many as 20 new posts to administer it.
54. The Explanatory Notes assume that no extra costs will arise from the proposed collective arrangements and even hints at potential savings. This assumption contradicts current experience. The Passenger Transport Authorities in England have a staffing ratio of approximately 1.5 staff per 10,000 population. In Wales that would translate to 440 staff compared to 150 staff in local authorities across Wales currently working on public transport (including support staff).
55. The experience of the current consortia is that they can deliver a locally responsive approach, led by local authorities, which meets the objectives of the Assembly Government at a much lower staffing overhead. The experience of SEWTA, SWWITCH and Taith suggests that they can deliver services at least as cost effectively as a PTA.

CONCLUSION & RECOMMENDATIONS

¹⁷ Welsh Assembly Government, 2004, Intra Wales Scheduled Air Services Consultation

56. Whilst the Association welcomes the Clauses in the Bill that relate to strengthening of the Assembly's role in interfacing with the Strategic Rail Authority we believe that much of the remainder of the Bill is fundamentally flawed and would not assist in the delivery of an integrated transport system for Wales. The Bill is based on the premise that the lack of current statutory mechanisms handicaps the Assembly Government in taking forward its strategy. The belief is that a top-down approach reinforced by what can only be described as draconian powers of direction will deliver the Assembly Government's policies. We believe that the reality will be different – imposed solutions rarely work.
57. There is no reasoned justification for the Clauses that relate to Local Transport Plans, the discharge of transport functions and establishment of joint transport authorities. The analysis that is presented does not reflect current reality. The emphasis should be on working together to make current arrangements more effective rather than on legislating for what might happen if they fail. The Assembly already has extensive influence over the details of local government actions on transport. Thus, much of the Bill is unnecessary and would move us from a system of improvement through consensus to one of potential political and professional stagnation.
58. It is important that both Committees probe further the reasoned justification for the Bill (focusing on Clauses 3, 4 and 5). We believe that Parliamentary time would be better focused on providing an improved legal framework for the delivery of integrated transport systems rather than amending administrative arrangements.

Appendix 1: Explanatory note on working arrangements with WAG concerning the Draft Transport (Wales) Bill

The broad principles of this Bill were discussed at the Partnership Council in February 2004. As a result an officer-working group was established between the Assembly Government and WLGA officers and advisers. After the first meeting the WLGA sought the attendance of the Chair of the Welsh Association of Technical Officers at the meetings to ensure that the transport profession of local government was fully represented. This group has discussed many of the issues associated with this legislation, regional transport plans, joint authorities, funding etc. However, it must be borne in mind that participation in this working group did not and does not constitute WLGA endorsement of these proposals. It was believed that should this legislation proceed local government needed to ensure that what was proposed was achievable. Our response is influenced by discussions at these meetings whilst not divulging what has been a confidential exchange of views.

Appendix A:

NEWS RELEASE (1 page)

Kate Griffiths, PR Officer – (029) 2046 8673

27 May 2004

NEW TRANSPORT BILL MAY SEE MORE QUANGOS IN WALES



The WLGA recognises and welcomes the proposed role for the Welsh Assembly Government with new powers to make payments to operators and a seat on the Board of the Strategic Rail Authority. However, it is concerned that the proposals for joint working between local authorities merely duplicate what is already happening in practice and will do nothing to improve frontline service delivery.

Sandy Blair, Director of the WLGA, said:

“Local authorities are already working in partnership to deliver integrated transport solutions and councils support transport schemes which fall outside of their own geographic area to benefit the needs of the traveller. The Caerphilly Interchange for example provides seamless services between rail and bus and is promoted by all authorities in the new South East Wales Transport Alliance partnership, providing integrated transport to half of Wales’ population. In North Wales, all six authorities in the Taith partnership have sought funds to implement an integrated electronic smartcard system on buses operating throughout the area.”

“The WLGA is concerned that the Welsh Assembly Government is seeking powers which could remove transport from the heart of local democracy. We want to work with the Assembly Government to deliver an integrated transport system that meets the needs of the people of Wales. This Bill raises the spectre of administrative reform which may divert attention and resources away from frontline services.”

-ends-

For further information, please contact:
Kate Griffiths, PR Officer - 029 2046 8673

Appendix B:

Intra-Wales Scheduled Air Services - WLGA Response to Consultation

The Association represents the 22 unitary local authorities in Wales, with the three national park authorities, the combined fire authorities, and the four police authorities as associate members. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities we serve.

The WLGA has welcomed being involved in the steering group behind this project (a WLGA adviser sat on the group) and hope to continue our input in the development of a firmer national policy in respect of this issue.

The Association realises that an Intra-Wales scheduled air service is looking to do more than provide commercial flights between North and South Wales. However, we need to be realistic about what can be achieved and more importantly understand what is the best use of the limited public purse.

In terms of a socially cohesive Wales, in which transport barriers are no longer seen as a reason for disparities between the North and the South, what would the impact of this air service be? As it is estimated that there would be approximately 40,000 passengers per year, the impact, the report recognises, would be small. We can appreciate that transport is seen as a panacea for improved communication and a tool by which to reconcile differences, but we question to what extent air transport is likely to impact on the social fabric of Welsh communities. We fully support closer working with all areas in Wales and recognise why transport is seen as the key, but are cautious about the extent to which this proposal can meet expectations.

Financial, economic and environmental impacts

The development of an Intra-Wales scheduled air service is said to be closely linked to the development and support of a strong knowledge based economy. Further, comprehensive research and analysis would have to be undertaken to strengthen this link, which at present is slightly tenuous. All the analysis undertaken as part of the Wales Spatial Plan emphasised that in Wales links are East-West (in both North and South Wales) and not North-South. This does not mean to say that such a link should not be encouraged, far from it, but that a realistic view needs to be taken of how markets, business and industry operate and to what extent they would use such as service. Currently the economic drivers for the UK are based outside of Wales, something we are keen to see changed. But like the Spatial Plan analysis, we cannot see Wales in isolation and need to make the links with the North West of England and Bristol, London and Dublin and beyond to ensure that Wales continues to benefit from their economic growth.

The consultation refers to the creation of approximately 200 jobs of which 80 would be directly related. Job creation is one of the priorities outlined in Wales: A Better Country, but the consultation paper is not clear where the majority of these jobs would be based.

We do have concerns also on the environmental assessment which has currently been undertaken, recognising however, that this is a very broad brush assessment and that further work would be undertaken on any specific route etc. It is a well-known fact that one of the biggest challenges facing climate change is the impact of the aviation industry. Current estimates that 97% of the UK's aviation climate change impact comes from flights leaving the UK – these currently fall outside the Kyoto protocol, and that domestic flights alone account for 0.5% of all UK's carbon dioxide emissions. We would appreciate clarification on how these proposals sit with the Assembly's sustainable development duty, and in particular on the emphasis for reducing carbon dioxide emissions which Carwyn Jones AM, outlined last year as a SD priority. We recognise that is a very small-scale operation proposed but feel that further work should be undertaken should be undertaken in this area.

The success of such a service would depend on the subsidy per passenger trip and the amount of public money needed to support the scheme. Current estimate is that the scheme would cost approximately £1.5 million a year. The Assembly Government may consider this to be acceptable once they have weighed up other benefits, but problems may arise if patronage is low, thus putting up operational costs which would increase the per passenger subsidy – would this be publicly acceptable? An analysis of this subsidy as opposed to subsidy for other transport modes would be helpful in putting these costs into context.

The report suggests that running costs would be offset by a £1.4m per annum saving on travelling time between North and South Wales on other transport modes. We question this time-saving element. For instance, travelling from Cardiff to anywhere in the North:

Travel to Cardiff Airport (minimum 30 minutes)
Arrive at airport an hour before check-in (recommended practice)
Flight last for 30-60 minutes
Check out of airport – 30 minutes
Travel to destination – if Conwy or further east for example – more than 60 minutes drive.
Total maximum time: 4 hours

Of course the ease of travelling by air cannot be underestimated but some realistic assessment of timings is needed. It would be appreciated if the Assembly Government could undertake some analysis of where most of the current trips North-South end, to determine actual journey times.

Network Options

The Association has not taken a view on which route or airports would be most suitable for the development of an Intra-Wales scheduled air service. A lot more work needs to be taken, particularly environmental/sustainability (plus health) and economic impact assessments before routes and frequency etc can be determined. We trust that our member authorities have submitted responses which will comment on routes and airport which would reflect local needs and priorities.

The Association is mindful to support a trial exercise before a full-scale commitment of public money to such a scheme. A trial would enable the Assembly Government to fully assess the financial and political viability of the proposals.

Conclusions

The report itself recognises that Intra-Wales Scheduled Air Services would have a small impact on the transport landscape of Wales. Whilst recognising the need for a truly integrated transport system in Wales, of which aviation may play a part the Association has serious concerns about the proposed Intra-Wales Air services. There needs to a further consideration of;

The environmental impact and how this relates to the national Assembly's legal duty to promote sustainable development;

The profile of use and assumptions about travel time savings; and

Current travel patterns.

Appendix C

Wedi'i argraffu ar bapur eildro

Our Ref/Ein Cyf: RJ/RJ/
Your Ref/Eich Cyf:
Date/Dyddiad: 17th May 2004
Please ask for/Gofynnwch am: Rachel Jowitt
Direct line/Llinell uniongyrchol: (029) 2046 8626
Email/Ebost: rachel.jowitt@wlg.gov.uk

Mr Denzil Jones
Head of Transport Policy Division
Welsh Assembly Government
Cathays Park
Cardiff
CF10 3NQ

Dear Denzil

WLG/WAG Working Group

To date our working group has worked very effectively, with good debate and ideas coming forward about how to take integrated transport planning onto the next stage. However we both recognise that what is discussed and debated has no political clearance from our politicians. With this in mind I thought it would be useful to clarify our initial position on a number of issues, and also seek your views on a few policy areas, which we believe to be critical.

As you are well aware the WLG is fully committed to reducing the number of plans and strategies local authorities have to produce and submit to the Assembly. This is in recognition that a great deal of officer time is spent drafting plans which only sit on shelves and have little to do with the quality of the service the public receive. Your support in the agenda has been appreciated as you and your team fully recognise that plan production within transport has blossomed. We appreciated your confirmation at the last meeting of the group that with the new round of Local Transport Plans, all the various strategies and plans will be subsumed within these documents. We have concerns however, that the Regional Transport Plan (yet still called Local) will be of such a strategic and high level, the Assembly will want information on how each local authority intends to deliver its contribution to the plan. Our view is that as long as outcomes are achieved and an authority's performance is measured within the Performance Measurement Review no further information from authorities will be needed. Obviously an authority may draw up



**WELSH LOCAL
GOVERNMENT
ASSOCIATION**

**CYMDEITHAS
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action/service plans which will be their delivery tool for their component within the Regional Transport Plan but these would be operational and service delivery focussed rather than used by the Assembly for monitoring performance. As part of the debate at the Performance Measurement Review meetings, regional outcomes/potential measures have been discussed. Whilst I recognise that the timings are not complimentary it is imperative that the Assembly considers, at the earliest opportunity, what they would want measured at the local and regional level to feed into this process. This will ensure that as much data as possible is captured through this process, thus saving the Assembly and local authorities from introducing a further process within the new Transport Plans.

The Regional Transport Plans will address Welsh Assembly Government's priorities only if the Assembly's strategy itself is clear about what it wants to occur and when. It is also important that the Transport Plans have flexibility to determine what is needed to deliver strategic outcomes at a local level. For instance, even though Cardiff and Blaenau Gwent work together in SEWTA, their strategy may outline different solutions to tackle the same problem in their respective areas.

Whilst recognising that the papers that appear at these meetings are for discussion purposes only, and do not constitute Assembly Government policy, we are concerned that officers were of the view that "judgements" could form the basis of future decision-making, rather than evidence. Bearing in mind the emphasis on "Joint Authorities" it is imperative that if the Assembly decides change is needed, this decision is based on evidence and not judgements. We would hope that a decision for a Joint Authority would not happen overnight and that you will consider creating a protocol with us on how the process to create a Joint Authority would follow. If the Assembly Minister and officials have particular concerns about the efficiency of the current consortia we would appreciate discussing these at the earliest possible opportunity.

We have previously talked about time-scales for the new system. If we presume that the Bill will receive Royal Assent by summer 2005 and the Assembly publishes its new Transport Strategy shortly after, Transport Plans could be available in draft for the year 06-07 with full implementation from April 2007. Any discussions etc. about Joint Authorities, should be postponed until the new Plans have had time to deliver against their outcomes and objectives; this would constitute a few years at the earliest. Only if a voluntary arrangement is proven not to be delivering effectively, should consideration be given to the establishment of a statutory Joint Authority. It is important that the Assembly recognise that a change in structure may not actually see an improvement in service delivery. We have often stressed the importance of services remaining within local authorities as a way of insuring ownership and accountability for the service people receive. There is always the danger that transport services within a Joint Authority, even though within the Local Government family, would not be given the same priority it once enjoyed within the Council chamber.

There is obviously a relationship between the proposed Wales Transport Bill and the Traffic Management Bill currently going through Parliament. Part two of the Traffic Management Bill, if commenced by the Assembly, gives powers to create Joint Authorities with traffic management powers. The Association and the Minister have had discussions about this Part of the Bill, as it is

felt that this is a very “English/Urban” issue and one that is not really relevant to Wales. We are of the understanding that this Part of the bill would not be commenced in Wales and your comments on whether this view still remains would be appreciated.

We discussed at the last meeting the Transport Appraisal tool being developed by the Assembly. The new plans also fall under the remit of the Strategic Environmental Assessment directive. It would be beneficial if arrangements were put in place to amalgamate the assessment requirements, including sustainability and health impact assessments. We would be happy to work with your team to establish how this could be done.

The most important element of delivering a strategy is the accompanying funding. Whilst appreciating the financial system within which the Assembly operates it has to be recognised that annual budgeting with limited flexibility does not sit well with major infrastructure projects. Long-term guaranteed programme funding is necessary, both for the Assembly and local government, to deliver an integrated transport strategy.

These issues should by no means be new to you, but we thought it would be beneficial to highlight those areas which need further work within the partnership over the next few months.

Yours sincerely

Rachel Jowitt
Policy Officer
Swyddog Polisi

Cc. WLGA Transport Advisers
Rhodri Gwynne Jones, WATO Chair

Appendix D

ISSUES RELATING TO SCHOOL TRANSPORT CURRENTLY BEING CONSIDERED (APRIL 2004)

<u>Issue</u>	Organisation					
	Assembly Government	CPT/ATCO*	WLGA (NFER research)	BUSK/ Stuart's Campaign	Vale of Glamorgan Consultative Group	Individual Local Authorities
<i>Escorts</i>		3			3	<ul style="list-style-type: none"> ▪ Monmouthshire
CCTV		3		3		<ul style="list-style-type: none"> ▪ Merthyr Tydfil ▪ Carmarthenshire ▪ Pembrokeshire
Improved pupil behaviour		3		3	3	<ul style="list-style-type: none"> ▪ Bridgend (video with 11 other authorities) ▪ Rhondda Cynon Taff (working with police and bus companies) ▪ Swansea/Neath Port Talbot/Vale of Glamorgan/'Gwent' authorities – Crucial Crew programme for primary pupils ▪ Neath Port Talbot – pupil guidelines
Seatbelts				3	3	
Removal of '3 for 2' concession				3	3	<ul style="list-style-type: none"> ▪
American style 'Yellow buses'	3			3		<ul style="list-style-type: none"> ▪ Wrexham ▪ Denbighshire
Improved specification of vehicles in contracts, e.g. age, single decker		3		3	3	<ul style="list-style-type: none"> ▪ Newport ▪ Pembrokeshire

More comprehensive transport provision (School Transport Bill)	3					
Criminal Record Bureau checks		3				
ID cards		3				<ul style="list-style-type: none"> ▪ Neath Port Talbot
Review of transport policy and procedures					3	<ul style="list-style-type: none"> • Vale of Glamorgan
Revised guidance to local authorities	3					
Identification of good practice			3		3	
Complaints procedures				3	3	
Collection of data on LEA provision of school transport	3					
Changes to school start and finish times		3				
Safe routes to school	3			3		

*CPT = Confederation of Passenger Transport
ATCO = Association of Transport Co-ordinators

\APPENDIX 2

The new Transport Alliance across South-East Wales Y Gynghrair Newydd sydd ar draws De-Ddwyrain Cymru

Welsh Affairs Committee Economic Development and
House of Commons Transport Committee
7 Millbank National Assembly for Wales
London SW1A 0AA Cardiff Bay
 Cardiff CF99 1NA

Dear Sirs

Tuesday 15th June 2004

**Welsh Affairs Committee of the House of Commons
The Economic Development and Transport Committee of the National Assembly for Wales
Consideration of the draft Transport (Wales) Bill**

We are pleased to submit our evidence on the Transport (Wales) Bill. Our evidence offers assistance to the Committees in their contribution to the further drafting of the Bill.

We do not wish our evidence to be taken as implying a poor current relationship between local authorities and the Welsh Assembly. In practice the relationships are very good - liaison on a whole range of issues takes place on a daily basis and we believe that good progress is being made across a spectrum of transport improvements. The Transport Bill (as currently drafted and if used) would completely change that relationship. Our comments relate to the powers within the Bill and the consequences of them being applied. They do not reflect the current reality. One must ask, however, about the need for legislation that would only be used if current working arrangements, which work well, break down. Further, the exercise of the powers in the Bill might produce a breakdown in the delivery of services, which currently have a high public profile.

There are sections of the Bill relating to strengthening the Assembly's role in interfacing with the Strategic Rail Authority, which we very much welcome. With regard to much of the remainder however, we have to say that we feel the Parliamentary time associated with this Bill would be better spent on providing an improved legal framework for implementing integrated transport policy rather than tinkering with the political delivery mechanisms. This could include securing quality bus services, assuring more continuous funding streams and providing more enforceable links between transport and the provision of other services.

The Welsh Assembly already has extensive influence over the details of local government actions on transport. There is a strong existing legislative framework and the grant system offers major powers of censure against any council that strays too far from Welsh Assembly policy. We therefore see much of the Bill as being unnecessary and most of the rest as changing the current climate of improvement by consensus to one driven by Welsh Assembly dictat.

The evidence has been drafted in a very short time and we would therefore be pleased to meet with the Committees to discuss our contribution further. We anticipate our partners will be presenting their own evidence and this is therefore submitted on behalf of the 10 local authorities in the SEWTA partnership.

South East Wales Transport Alliance (SEWTA)

Senders contact details: Mr. Justin Cooper, Directorate of Environment,
Caerphilly County Borough Council, Council Offices, Pontllanfraith, Blackwood NP12 2YW

e-mail coopejsl@caerphilly.gov.uk Telephone 01495 235339 fax 01495 235045

DRAFT TRANSPORT (WALES) BILL

WELSH AFFAIRS COMMITTEE AND THE ECONOMIC DEVELOPMENT AND TRANSPORT COMMITTEE OF THE NATIONAL ASSEMBLY FOR WALES

EVIDENCE FROM SOUTH EAST WALES TRANSPORT ALLIANCE

SUMMARY

- A This evidence is from SEWTA, a consortium of local authorities and partners, set up to improve transport in the south east for half the population of Wales. We anticipate that our partners will submit their own evidences. This is therefore submitted on behalf of the 10 local authorities in the partnership.
- B We welcome the powers the Welsh Assembly wishes to assume over rail and air services in Wales. We believe however the powers of direction over local authorities contained in the Bill are unnecessary and contrary to the spirit of the concordat that exists between the Welsh Assembly and local government. The general direction of the Bill, while well intentioned, is misdirected. The way forward is to pursue the demonstrably successful forms of partnership that are already in place. The SEWTA joint committee is a good example of such an arrangement. A joint authority cannot be successfully imposed on a set of local authorities.
- C The primary problems that must be tackled to improve transport in Wales are lack of funding and the absence of appropriate regulations to implement integrated transport. Changing organisational structures will make no difference.
- D If the Bill is enacted, the powers it offers the Assembly Government must be circumscribed by procedures that prevent the powers from being improperly exercised.
- E The Bill makes local transport plans statutory documents. It proposes that plans should be documents that show how the Wales Transport Strategy is to be implemented. That is the wrong approach. LTPs, whether for one authority or for several, should be plans drawn up by the local authorities to meet the transport needs of local people and businesses. They should be drafted within the context of community strategies and with reference to the Wales Transport Strategy and not the other way round.
- F The scale of costs associated with the Welsh Assembly proposals have been significantly underestimated.
- G We make a number of detailed drafting comments on the Bill that will improve it, irrespective of its final strategic direction. Many of these relate to the incorporation within the Bill of comments that presently lie in the accompanying texts.

SEWTA - DETAILED EVIDENCE

- 1 This evidence is submitted by the local authorities which form part of the South East Wales Transport Alliance (SEWTA). SEWTA takes over the responsibilities previously assumed by the SWIFT and TIGER public transport consortia and by the South East Wales Transport Forum. SEWTA understands the complexities of delivering regional transport strategies better than most and has the record to prove it.
- 2 The Bill refers to "transport functions". These might be interpreted as relating only to public transport as defined in the Transport Act 2000. We have assumed the Bill intends to assume a much wider definition of "transport functions" to cover all matters related to travel that might be included in a local transport plan.
- 3 SEWTA is a body constituted under the Local Government Acts 1972 and 2000. It comprises the 10 local authorities in south east Wales from Bridgend eastward. Its constitution incorporates as partners the Confederation of Passenger Transport, the National Bus Users Federation, Network Rail, Arriva Trains (the incumbent train operating company) and the Rail Passenger Committee (Wales). SEWTA is the first statutorily based regional body with transport responsibilities in Wales and the only such body with such a wide membership in the UK. SEWTA represents the regional transport interests of half the population of Wales and rather more than half of its economic activity. Appendix A comprises the agreement to set up SEWTA that has been subscribed to by all the local authorities.
- 4 The Welsh Assembly already has substantial powers over the way local authorities discharge their transport responsibilities. The present grant system gives them major powers over capital projects. They also have substantial powers over revenue budgets through a wide range of statutes and specific grants. Finally, the wider framework of planning powers and the entitlement to direct some policies, such as free concessionary travel, constrains the opportunity any local authority has to adopt transport policies that are different from national policy. Those powers are sufficient with respect to the Welsh Assembly's legitimate desires to force a single national transport policy on local authorities. The additional powers offered in the Bill are not needed.
- 5 We have no argument with the policy aims the Welsh Assembly sets itself in the Bill. We are happy with the overview of the Bill in the letter dated 27 May 2004 with the exception that the word "committee" be substituted for the word "authority" in the third bullet point. SEWTA fully supports the aims of the integrated transport strategy and we are content with the principles contained in the Welsh Assembly Transport Framework. Our concerns relate to the detailed content of the Bill and the mechanisms the Welsh Assembly wishes to put in place to deliver its objectives. We see some of those mechanisms as being unnecessary and/or unworkable.
- 6 The Bill affords the Welsh Assembly very significant powers to intervene in matters that are primarily the remit of local government. SEWTA accepts that the Welsh Assembly should set policies that will ensure fairness across Wales and aim at comparable levels of service between different areas having broadly similar characteristics. The counterpoint to that acceptance must be recognition that circumstances differ one place from another and that consequently the local authority is best placed to determine the details of local service provision. The Welsh Assembly should not therefore use its powers of intervention merely because it disapproves of how a local authority is handling its responsibilities. Within any geographic area, the Welsh Assembly acts on a strategic plain but it is no more or less important in respect of its responsibilities for providing services than the local authority. It is certainly in a poorer position than the local authority to ensure that service provision is responsive to local circumstances. One interpretation of the Bill, as drafted, is that local

authorities should not themselves have transport policies unless the Welsh Assembly approves them. That clearly is a position that is untenable with respect to the democratic legitimacy of local authorities.

- 7 One of our main contributions to the debate on the Bill centres therefore on the checks needed (but currently absent from the Bill) on the way the Welsh Assembly would use its powers. The Bill requires that the Welsh Assembly approves a local authority's local transport plan. If it is not approved, then the plan must be resubmitted until the Welsh Assembly finds it is satisfactory. SEWTA finds that position unacceptable; we feel it contradicts the concept of local accountability, and the joint working arrangements agreed between the Assembly and local government in Wales. The Wales Transport Strategy may be a broad ranging document that advocates transport improvements in a particular direction - for instance better accessibility for people without a car, and safety improvements for pedestrians at the expense of the mobility of car drivers. SEWTA accepts the value of such proposals; but it does not accept that the Wales Transport Strategy could dictate that, for instance, every settlement with at least 500 people must have a two hourly bus service, provided if necessary at the local authority's expense, to the nearest town having a general hospital and a supermarket of 20,000 sq ft (say).
- 8 The Welsh Assembly may say it does not intend to be so detailed in its directions; but it has that power if the Bill goes through in its present form and no one can say the power would not be used at some time in the future.
- 9 The Bill should be modified to protect the democratic legitimacy of local authorities, and remove the extraordinary powers the Bill confers on the Welsh Assembly. Further debate is therefore essential on the drafting of those parts of the Bill related to the powers of direction the Welsh Assembly will obtain. We propose the debate covers:
 - * Definition of the scope of the Wales Transport Strategy, in advance of the Bill being enacted. The WTS needs legal constraints on its extent.
 - * Issuing of guidance on the content of LTPs and effective consultation with local government on the content of that guidance. This already happens and should continue.
 - * Consideration of the inappropriateness of direction powers on matters that are the direct responsibility of the local government. SEWTA believes the premise on which parts of the Bill are based is unsound.
 - * Discussion on making the Welsh Assembly a statutory consultee during the preparation of the LTP with a requirement that the local authority must be able to demonstrate that it has properly considered all representations and whether there is a need for modifications to the plan, before its formal approval.
 - * The consequences of a substantial change in Welsh Assembly transport policy on local authorities. The policies of local authorities and the Welsh Assembly are broadly consistent at present, but is it desirable for the Welsh Assembly to be able to say "our policies are now completely different and so must yours be"?
- 10 The requirement for transport movements arises from a host of decisions taken at a local level by businesses, households, local authorities and so on. The local authorities, through their community strategies, land use plans, and many service specific strategies and plans, are in a position to properly co-ordinate decisions on these strategies and plans with those on Local Transport Plans. The Welsh Assembly cannot be so well placed to merit the power of direction on such issues of primarily local significance.
- 11 The explanatory notes contain one crumb of comfort. Note 40 says "Any proposal to establish one or more joint transport authorities would itself have to be the subject of consultation and regulatory impact assessment before it could be implemented by order of the Assembly." We would like to see that statement contained within the Bill itself rather than left as an adjunct in the notes.

- 12 We have a number of detailed comments on the Bill. Extracts from the Bill are in italics and our suggested additions and comments are in plain text.
- 13 *1(3) "Those facilities and services include facilities and services for pedestrians and cyclists.*
- 14 *2 Wales Transport Strategy* (1) The Assembly must prepare and publish a document to be known as the Wales Transport Strategy. The Strategy must be compiled following consultation with the local authorities and their representative bodies.
- 15 *4 Arrangements for discharge of transport functions.* We have more to say about the proposal for joint transport authorities but a power to direct local authorities to enter into arrangements for the joint exercise of unspecified transport functions is unwarranted. It ignores the practical problems posed by such arrangements. How is such an arrangement to be funded? Does the arrangement remove entirely all powers related to the function from one of the partner authorities? How is the arrangement supposed to be compatible with the concept of joined up local government thinking? The explanatory note 20 gives no proper indication as to why the Welsh Assembly seeks these powers which should consequently be refused. If this power remains in the Bill, the Welsh Assembly must be required to provide evidence in support of their use of the power in every case.
- 16 There is a second point here that is equally important. A unitary council in Wales is assumed to represent the expressed views of its residents. Those councils will not necessarily be of the same political hue as the Welsh Assembly. It would be fundamentally unsound for either the Assembly or a regional body to impose a transport policy on local people that is at direct odds with the wishes of the unitary council. That position might reduce the likelihood of Assembly policies being implemented fully across the whole of Wales in a manner approved by the Assembly. But local authorities must, in extremis, maintain control over the implementation of national policy, otherwise local democracy means nothing.
- 17 *5 Joint transport authorities* This section seeks powers to establish joint transport authorities. SEWTA has been set up as a joint committee; we do not therefore have any problem with the principle of establishing joint working relationships. We have however major concerns about the way the Welsh Assembly might use the powers it confers. We see a significant difference between a joint committee (a partnership of several local authorities with support from those authorities, with in our case close liaison with other bodies) and a joint authority (having a structure and constitution entirely separate from its component parts). Our support for joint working is without prejudice to the creation of joint committees or authorities elsewhere in Wales where there is less need for their existence on a formal basis.
- 18 If the Welsh Assembly intends to use the powers in section 5, it must demonstrate that the joint working will improve matters. There are two reasons that the Welsh Assembly should not attempt to use in support of creating joint bodies:
- i) Lack of funding. This is not an organisational problem and creating a joint body will, by itself, do nothing to solve it.
 - ii) For the convenience of the Welsh Assembly. Understandably, the Assembly might find it easier to deal with four bodies rather than 22. That is not however a good reason for setting up joint bodies.
- 19 SEWTA is constituted as a joint committee under the Local Government Act 1972 and 2000. The agreement (our appendix A attached hereto) to set SEWTA up covers all of the points set down in section 5(4) of the draft Bill. We have however set SEWTA up so as to avoid some of the pitfalls that might arise from other parts of section 5 - we come back to these soon. South east Wales has half the population of Wales in 14% of its land area. It therefore

faces transport problems that are not mirrored elsewhere in Wales. That disparity reflects the need for different levels of cooperation between local authorities across Wales to deal with regional problems.

- 20 We do not believe that a joint authority can be imposed on a set of local authorities; it must be done with agreement and under those circumstances a joint committee is a more appropriate body. Any imposition would mark a total breakdown between the two levels of government. SEWTA believes the tone of the draft Bill, as regards the power to direct local authorities to work together, is draconian and not supported by any evidence as to its need. We ask that the Welsh Assembly be required, within the Bill, to provide evidence on the failure of local authorities to meet their commitments to deliver a regional transport strategy.
- 21 SEWTA recognises the scale of the problems with the transport system in Wales and the south east in particular. Those problems are not being fully tackled primarily because of lack of funding and not because of lack of cooperation between local authorities. The Bill suggests a solution to that criticism : section 5(8) offers section 74 of the Local Government Finance Act 1988 as an answer. In practice that would not work, as it presupposes the levying body (comprising local members) would precept to an extent needed to provide the extra funding. That would not happen. The problem with transport in Wales, and the rest of the UK for that matter, lies with a collective inability to fund improvements. The Bill offers very little hope in that respect. In fact the Explanatory Note 37 offers derisory amounts as the cost of the Bill. We return to this later but the Bill will not produce the substantial improvement sought in the transport system merely by changing the organisational arrangements of those responsible for delivery.
- 22 In addition to lack of finance, the present statutory basis within which the transport system is to be "integrated" is inadequate. It is extremely difficult to make quality bus partnerships work effectively and the relationship between planning for better transport and the planning of other public services is almost non-existent. Addressing these problems through new legislation is much more important than tinkering with the management arrangements of the public sector.
- 23 Section 5.4(a) would allow the Welsh Assembly to place its members on a joint transport authority. A joint committee set up by a set of local authorities might invite Assembly Members to sit on the committee but that should be its choice. (Indeed, SEWTA made such an offer to the Welsh Assembly but it was declined.) The proposal in the Bill to allow an enforced Assembly membership is totally unacceptable.
- 24 *7 Provision of public passenger transport services* We are unclear how the Welsh Assembly would exercise its powers under section 7(1). Who would finish up by funding the improvements secured by the Welsh Assembly? Would it be the local authority? - in which case the Welsh Assembly would in effect have powers of sequestration over local authority budgets, a situation that is completely unworkable. Would the Welsh Assembly fund the services direct themselves? - in which case a local authority might choose to effectively divest itself of responsibility for supporting local bus services on the grounds that someone else will pick up the bill. Additionally how would other impacts of the extra services be managed? If, as a consequence of the extra services, the local bus station proves to be too small, how will that be handled?
- 25 This section of the Bill has been drafted with good intentions - that is to aim at more uniform provision of bus services across Wales. We doubt very much whether it could be used effectively to address that problem.
- 26 *9 Power to give directions etc to the Strategic Rail Authority* SEWTA welcomes the principle of the Welsh Assembly assuming more power over railways in Wales. The crucial

matter that is not covered in the Bill is the budget that is transferred to Wales. Rail expenditure per head of population in Wales is lower than the UK average. If the Welsh Assembly is to assume these extra responsibilities, it should only do so on terms that ensure a satisfactory budget settlement.

- 27 *14 Interpretation* The list of designations in 14(3) is incomplete. Newport titles itself "Newport City Council".
- 28 *Schedule 1 section 2(2A)* (These comments relate to section 3 of the main part of the Bill.) The additional requirement here completely changes the intention of the local transport plan. In the Transport Act 2000, the LTP is a local transport plan - that is a plan that meets the local needs of people and businesses as interpreted by the local authority. The additional clause in the Bill changes the LTP to the Welsh Assembly's plan, with the details being filled in by the local authority. We have to question either the fairness or the wisdom of that approach. It is a subversion of the whole intent of this part of the Transport Act 2000 which was to provide a framework for local authorities to implement a broadly agreed policy in their own way.
- 29 *Schedule 2 section 4* This concerns section 109 of the Transport Act 2000. The comments we have made in our paragraph 6 above relate to this section 4. We have made plain our objection to giving the Welsh Assembly a statutory power to refuse an LTP. If they insist on taking that power, the basis for allowing the Welsh Assembly to reject an LTP needs to be spelled out within the statute. Their reasons for refusal should relate only to:
- i) Inconsistency with the Wales Transport Strategy, with specific reference as to the non-conformance.
 - ii) Does not contain adequate policies to implement to the WTS.
 - iii) The plan contains policies that are incompatible with those of neighbouring authorities.
- 30 The presentation and layout of a plan not in line with the guidance or a plan with policies outside the context of the WTS that are of local importance should specifically not be grounds for refusing to accept an LTP. In any case of refusal, the grounds must be set out in detail. Requiring that reasons for refusal of a plan be recorded in detail would allow a local authority to challenge the soundness of the refusal. That would protect the local authority, to an extent, from unreasonable behaviour by the Welsh Assembly.
- 31 *Schedule 2 section 6* This concerns section 113 of the Transport Act 2000. We repeat our assertion that joint working can only be successful if it is with the willing cooperation of the parties. An enforced marriage would not work and it is therefore pointless including provision for one in the Bill. If the Welsh Assembly really wants to remove transport powers from local authorities for itself, it should be honest and say so rather than seeking to use local government as its agent rather than partner.
- 32 *Explanatory note 37, Financial effects of the Bill.* We feel this section is very misleading and contains factual errors and assertions that are demonstrably untrue.
- 33 The claim that four posts can be funded for £100,000 per annum presupposes an average cost of £25,000. In practice an average salary of £35,000 is more appropriate for posts of this kind to which must be added overheads of about 80%. That yields an annual cost of £252,000. The difference is small in overall effect but an error of this proportion in a numerical value bodes badly for the assumed effect of the legislative changes the Bill proposes. The Bill proposes much more rigorous evaluation of local transport plans than hitherto. That also requires a more bureaucratic structure within the Assembly. We estimate as many as 20 new posts would be needed to operate the new regime.

- 34 Notes 38,39,40 assume no extra costs will arise from collective arrangements; even savings are supposed under some circumstances. That assumption is contradicted by experience elsewhere. Setting up what in effect are new organisations always costs much more than at first anticipated. The new organisation needs not only its own technical staff but its own lawyers, accountants, personnel managers, administrative and IT staff. It also needs its own premises, its own committee systems and insurances. The PTAs in England have staffing levels at the rate of about 1.5 people per 10,000 population. In Wales that transcribes to 440 staff, whereas the local transport staff working on public and community transport (allowing for support staff) come to about 150. That is not a criticism of PTAs but it does highlight the increase in posts the public would perceive if the Welsh Assembly's proposals are carried out.
- 35 Finally on finance, the Bill foresees major improvements in Wales' transport system. Nowhere does the Bill recognise the scale of expenditure needed to address the problem. It falsely presupposes that the answer is organisational change; it is not.
- 36 The approach SEWTA has adopted to this problem is quite different in that it is a locally responsive approach, led by the local authorities and designed to meet the Welsh Assembly objectives. It has much lower staffing overheads. Given the level of expenditure on services and capital works, the SEWTA approach will be at least as effective as any other (including the use of PTAs) in delivering improvements, much cheaper, better integrated with other service provision and democratically more accountable. The SEWTA joint working model is vastly superior to the heavy handed approach proposed in the draft Bill.
- 37 *Impact Assessment 6 current arrangements, third bullet.* It is here perhaps that our objections to the Bill can be most clearly seen. The text claims the lack of current statutory mechanisms handicaps the Assembly Government in taking forward its strategy. SEWTA does not dispute the right of the Welsh Assembly to set a national policy and to seek to implement it. The policy must however reflect a consensus, otherwise it will fail. Any of the Assembly's partners - the local authorities, the transport industry or the public - can thwart the Assembly's aims. Obstruction may be at a cost to one or more parties and it will certainly be unproductive; but that is what will happen with imposed solutions. In that case, why does the Assembly insist on taking to itself powers of direction which are demonstrably not needed at present and which, if used, would make matters much worse?
- 38 Our comments may be construed as lacking support for proposals to improve the transport system in Wales and public transport in particular. That analysis would be incorrect. We believe the Bill, while being well intentioned, is basically misdirected. It seeks to employ force where more subtle controls already exist and it seeks to create regional bodies controlled from the top down, whereas the whole direction of the governance of Wales is one of partnership between the levels of democratic government in Wales, but within a Welsh Assembly driven strategy that aims at consistent and fair treatment of all who live in Wales.

**BLAENAU GWENT COUNTY BOROUGH COUNCIL
BRIDGEND COUNTY BOROUGH COUNCIL
CAERPHILLY COUNTY BOROUGH COUNCIL
COUNCIL OF THE CITY AND COUNTY OF CARDIFF
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MONMOUTHSHIRE COUNTY COUNCIL
NEWPORT CITY COUNCIL
RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL
TORFAEN COUNTY BOROUGH COUNCIL
VALE OF GLAMORGAN COUNCIL**

**AGREEMENT
TO ESTABLISH
THE SOUTH EAST WALES TRANSPORT ALLIANCE**

THIS AGREEMENT is made this day of 2004
BETWEEN the Councils listed in Schedule 1 to this Agreement

WHEREAS: -

- (1) Prior to this Agreement the Councils have made joint arrangements in relation to their transportation functions without establishing formal committees
- (2) The Councils have terminated the arrangements referred to above in anticipation of the new arrangements in relation to their transportation functions as described in this Agreement.

NOW IT IS HEREBY AGREED as follows: -

1. **Definitions and Interpretation**

- (a) For the purpose of this Agreement the following definitions apply:
 - "Administrative Host Authority" shall mean Newport City Council or such other Council as determined by the Alliance and with the approval of that other Council;
 - "The Alliance" shall mean the joint committee established by this Agreement;
 - "The Councils" shall mean the councils who from time to time are parties to this Agreement;
 - "external funding" means funding provided to the Alliance from any source other than the Councils; and funding from one or more Councils towards a project which does not involve all the Councils shall be deemed to be external funding ;
 - "financial year" shall mean a year beginning on 1 April;
 - "Financial Host Authority" shall mean Torfaen County Borough Council or such other Council as determined by the Alliance and with the approval of that other Council;
 - "monitoring officer" shall mean the monitoring officer of a Council designated in accordance with section 5 of the Local Government and Housing Act 1989;
 - "s151 officer" shall mean the officer appointed for the purposes of section 151 of the Local Government Act 1972;
 - "share" shall mean an equal share.
- (b) (i) Any references to a specific statute include any statutory extension or modification amendment or re-enactment of such statute and any regulations or orders made under such statute or statutes
- (ii) References to any clause, sub-clause, schedule or paragraph without

- further designation shall be construed as a reference to the clause, sub-clause, schedule or paragraph to this Agreement so numbered
- (iii) The clause, paragraph and schedule headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation
 - (iv) Person shall mean corporation, partnership, firm, unincorporated association and natural person
 - (v) The singular includes the plural and vice versa.
2. This Agreement is made under the powers conferred by Sections 101, 102 and 113 of the Local Government Act 1972 and section 20 of the Local Government Act 2000.

The Alliance and its Functions

3. The Councils agree to establish a joint committee in respect of which the Second Schedule shall have effect.
4. The functions of the Alliance are:
- (a) to prepare regional strategies comprising transportation policies, proposals and programmes;
 - (b) to apply for external funding in pursuit of those regional strategies (including formulating public transport capital and revenue programmes for that purpose);
 - (c) to the extent only that the functions are resourced through such external funding and subject to clause 5, to discharge the Councils' transportation functions in implementation of those regional strategies, and for the avoidance of doubt this includes obtaining advice and services and the appointment of staff;
 - (d) to respond to consultations which have regional transportation implications;
 - (e) to provide advice to the Councils on strategic, regional and local policy and operational transportation issues relating to the area of South East Wales; and
 - (f) to do such other things as are agreed by the Councils to be dealt with by the Alliance.
5. The Council or Councils in whose area or areas the implementation referred to in clause 4(c) is to take place shall carry out such implementation but may request the Alliance to do so.

The Alliance's Core Aim and Objectives

6. The Alliance shall exercise its functions under this Agreement so as to achieve the following core aim and objectives –

Core Aim

Working for better co-ordinated and more effective transport for people and businesses in South East Wales

Objective 1

To work in partnership with the people and with organisations with a stake in transport in South East Wales

Objective 2

To co-ordinate the delivery of an integrated transport strategy for South East Wales, seeking to influence the modal choice through an appropriate mix of transport projects and supporting policies in the transport and related fields

Objective 3

To promote the essential role of transport in economic and land use planning, and to influence land development to make the necessary provision for transport, and in particular public transport

Objective 4

To ensure that full account is taken of safety, sustainability, social inclusion and relevant environmental policies in transport plans and schemes

Objective 5

To seek to increase the resources for transport for Wales, and to maximise the share available for South East Wales

Objective 6

To pursue common standards for transport across the whole of South East Wales based on best practice; to seek cost-effective use of resources; and to identify and monitor targets to judge the success of its strategy

Objective 7

To drive the policy debate as a champion for transport, and in particular public transport; and to raise awareness of the role of local government in transport.

7. The Councils severally agree that throughout the duration of this Agreement each will comply with the terms of this Agreement and without prejudice to the generality of the foregoing will make such financial provision as may be provided under the terms of this Agreement.
8. The Administrative Host Authority shall—
 - a) provide administrative support for the Alliance;
 - b) subject to the statutory role of each Council's monitoring officer in relation to their Council, provide for the purposes of the Alliance the services of its monitoring officer; and
 - c) employ any staff appointed by the Alliance in accordance with clause 4(c).
9. Subject to the statutory role of each Council's s151 officer in relation to their Council, the Financial Host Authority shall provide for the purposes of the Alliance the services of its Chief Financial Officer as Treasurer to the Alliance.

Use of Council Staff

10. When a Council or Councils agree and with the approval of the Alliance,, designated staff of that Council or those Councils may be directly engaged on the performance of the work of the Alliance.

Indemnity of Employees

11. Each of the Councils agrees to indemnify and not make any claim against or in respect of any officers of any Council at that time or previously a constituent council of the Alliance engaged in the work of the Alliance in respect of any expenses, liability, loss, claim or proceedings whatsoever arising from their neglect, act, error or omission whilst performing such work provided that: -
 - (i) The indemnity will not extend to loss or damage directly or indirectly caused by or arising from:
 - (a) fraud, dishonesty, a criminal offence committed by the employee (except when the criminal offence is an offence under the Health and Safety at Work etc Act 1974) or wilful misconduct;
 - (b) any neglect, act, error or omission by the employee otherwise than that in the course of his or her employment;
 - (c) liability in respect of unlawful expenditure or losses certified by the auditor or under the provisions of the Local Government Finance Act 1988; and
 - (d) liability in respect of libel or slander.
 - (ii) No employee shall without the written express permission of the Alliance or relevant Council admit liability or negotiate or attempt to negotiate a settlement of any claim falling within the scope of this clause.
 - (iii) The above indemnity and undertaking shall be without prejudice to the right of the employing Council to take disciplinary action against one of its employees in respect of any neglect, act, error or omission.
 - (iv) The above indemnity and undertaking apply: -
 - (a) retrospectively to any neglect, act, error or omission which may have occurred before the date of this Agreement and
 - (b) after the retirement or resignation of the officer concerned as well

as during their employment.

Withdrawal

12. (a) Any of the Councils may withdraw from this Agreement by giving to the others not less than twelve months notice in writing expiring at the end of a financial year.
- (b) Any Council which withdraws from this Agreement in accordance with this Clause shall –
- (i) remain liable to pay its contributions to such running costs as are incurred by the Alliance up to the effective date of its withdrawal;
 - (ii) subject to paragraph (iii), from the effective date of its withdrawal be released from its obligation to give indemnities in relation to any liability arising after the date of its withdrawal, other than a liability which arises out of the performance of this Agreement prior to the effective date of such Council's notice of withdrawal;
 - (iii) be liable to contribute a percentage of its equal share (or what would otherwise have been its equal share) of the redundancy costs of any employee who was appointed by the Alliance in accordance with clause 4(c) before the date when the notice of withdrawal was given and whose redundancy became effective within 5 years after the effective date of the Council's withdrawal from this Agreement as follows:
- | <i>Redundancy is effective within</i> | <i>% of equal share</i> |
|---------------------------------------|-------------------------|
| 1st year after withdrawal | 100 |
| 2nd year after withdrawal | 80 |
| 3 rd year after withdrawal | 60 |
| 4 th year after withdrawal | 40 |
| 5 th year after withdrawal | 20 . |
- (c) Notwithstanding the withdrawal of one or more Councils from this Agreement it shall continue in force mutatis mutandis as between the remaining parties and the terms "the Councils" and "the share" as defined in clause 1 shall be deemed to refer to the reduced number of Councils remaining parties to the Agreement.
- (d) On termination of this Agreement the Councils shall use reasonable endeavours to reach agreement concerning the distribution of any outstanding liabilities or assets and in the event that agreement cannot be reached, any Council may refer the matter to arbitration in accordance with clause 14.
13. At any time the Alliance or one or more of the Councils may in writing to the Councils or, as the case may be, to the other Councils recommend changes to this Agreement. The Councils in receipt of the notice shall use all reasonable endeavours to consider within six weeks of such receipt whether to accept the recommendation. If all the Councils agree to the recommended changes a memorandum of variation shall be prepared for signature on behalf of all the Councils and appended to this Agreement.
14. All disputes between the Councils on the interpretation of this Agreement and all disputes or differences in any way or at any time arising hereon shall be referred to some competent arbitrator to be agreed between the parties in dispute and failing agreement to an arbitrator appointed on the nomination of the President for the time being of the Law Society and the Arbitration Act 1996 shall apply to any such arbitration.
15. This agreement may be executed in any number of counterparts, and by the parties on separate counterparts, each of which so executed and delivered will be an original, but all the counterparts will together constitute one and the same

agreement.

FIRST SCHEDULE THE COUNCILS

BLAENAU GWENT COUNTY BOROUGH COUNCIL
BRIDGEND COUNTY BOROUGH COUNCIL
CAERPHILLY COUNTY BOROUGH COUNCIL
COUNCIL OF THE CITY AND COUNTY OF CARDIFF
MERTHYR TYDFIL COUNTY BOROUGH COUNCIL
MONMOUTHSHIRE COUNTY COUNCIL
NEWPORT CITY COUNCIL
RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL
TORFAEN COUNTY BOROUGH COUNCIL
VALE OF GLAMORGAN COUNCIL

SECOND SCHEDULE

THE ALLIANCE

Establishment and Constitution of Alliance

1. (a) There shall be constituted a joint committee of the Councils
 - (i) consisting of one or two members to be appointed by each of the Councils,
 - (ii) having the functions, powers and duties described in this Agreement, and
 - (iii) upon and subject to the terms and conditions described in this Agreement.
- (b) The name of the joint committee shall be the South East Wales Transport Alliance but the Alliance may adopt or authorise the use of a brand name, logo or similar method to describe itself or its activities.
- (c) Whilst the Alliance shall endeavour to work by consensus, each Council shall be entitled to one vote at meetings of the Alliance. Prior to any formal vote taking place each Council shall indicate to the Chairperson which of their members will exercise that Council's vote at that meeting.
- (d) If the Alliance reaches a decision where less than 80% of the votes cast were in support of the decision, the Alliance shall not implement the decision.

Nomination of Deputy to attend Meetings

2. Each Council shall from time to time nominate (under the hand of their Chief Executive Officer or other authorised officer as the case may be) a deputy for any member elected by them to attend and, subject to paragraph 1(c), to vote at any meeting of the Alliance or of a sub-committee in place of the member so elected who for any reason is unable to attend that meeting.

Appointment of Representative Members and Period of Office

3. Each of the Councils shall appoint representatives as mentioned in paragraph 1 and a representative so appointed shall hold office until
 - (a) the Annual Meeting of the Council which the member represents following the ordinary election of Councillors
 - (b) the member dies
 - (c) the member resigns
 - (d) the member becomes disqualified

- (e) the member ceases to be a member of the Council he or she represents, or
 - (f) the Council which the member represents has decided that another member should act in his place,
- whichever may first happen.

Failure to Attend Meetings / Filling of Casual Vacancies

- 4. (a) The Clerk to the Alliance shall notify a Council if a representative member fails to attend three consecutive meetings of the Alliance.
- (b) If by reason of death, resignation, loss of qualification, cesser of membership of the appointing Council or in any other manner there shall be a vacancy in the representation of any of the Councils on the Alliance allowed under the terms of this Agreement for the time being, the Council in whose representation the vacancy occurs may forthwith fill such vacancy by appointment.

Election of Chairperson and Vice-Chairperson

- 5. (a) The Alliance shall elect a Chairperson and a vice-Chairperson who are members of one or more of the Councils.
- (b) The first Chairperson and vice-Chairperson of the Alliance shall be elected at the first meeting of the Alliance after the date of this Agreement. Subsequently, at the first meeting of the Alliance after 1 May in each year the Alliance shall elect a Chairperson and a vice-Chairperson whose periods of office shall be until the first meeting of the Alliance after 1 May in the following year.

Co-opted persons

- 6. (a) The Alliance may appoint to the Alliance or any of its sub-committees such number of co-opted persons as it shall determine;
- (b) Such persons may be individuals or representatives of such organisations as the Alliance shall determine;
- (c) Such co-opted members may not vote at meetings of the Alliance or its sub-committees.

Meetings

- 7. The Alliance may hold such meetings at such intervals as they shall find necessary or convenient.

Sub-Committees

- 8. The Alliance shall have the power to appoint sub-committees for any purpose which in their opinion could better be managed or considered by means of a sub-committee. The constitution and the terms of reference of the sub-committee(s) shall be such as the Alliance shall determine.

Convening of Meetings

- 9. The meetings of the Alliance and any sub-committees shall be convened by the Clerk of the Alliance or by the Chairperson and every meeting shall be convened by notice in writing by the Clerk and delivered to each member of the Alliance or sent by post to or delivered at the member's residence or place of business at least three clear working days before the day of the meeting.

Quorum of Meetings

- 10. To constitute a meeting of the Alliance not less than five Councils should be represented.

Minutes of Meetings

- 11. The minutes of the proceedings of every meeting of the Alliance or sub-committee thereof shall be drawn up by the Clerk to the Alliance. Copies of the draft minutes of the proceedings of every meeting of the

Alliance shall after each meeting be sent by the Clerk to the Chief Executive Officer of the Councils.

Special Meetings

12. The Chairperson of the Alliance shall call a special meeting of the Alliance within fourteen days of the receipt of a requisition for the purpose signed on behalf of four Councils and/or co-opted persons and setting forth the nature of the matter requiring consideration. The notice summoning any special meeting shall have noted thereon the matter to be discussed at the special meeting.

Budget

13. (a) At the first meeting of the Alliance after the date of this Agreement, the Alliance shall agree a budget for its first financial year.
(b) Subsequently, in respect of anticipated costs to be shared by the Councils, the Alliance shall, prior to 30 September each year, submit to the Councils a draft budget for the following financial year. In particular the budget shall provide for the costs of the Host Authorities in providing the services described in clauses 8 and 9 and for the cost of staff who are working for the Alliance in accordance with clause 10. The Councils shall indicate their approval or otherwise to the budget by 31 March.
(c) In respect of external funding, the Alliance shall notify the Councils in writing of the sums which have been granted to the Alliance as and when the Alliance are aware of such grants.
(d) The Alliance shall operate within any external funding and such budget as is unanimously approved by the Councils in accordance with sub-paragraph (a) (except to such extent as the Councils agree otherwise).
(e) The Councils shall contribute their share to the net costs of the Alliance in such manner and at such times as directed by the Financial Host Authority. The reference to net costs in this subparagraph includes any net costs of the Alliance incurred in the period from the date of this Agreement coming into effect to 31 March 2004 and any redundancy costs of staff employed by the Host Administrative Authority in accordance with clause 8(c).

Accounts

14. (a) The Alliance and every Officer, Clerk and Servant who is engaged in the work of the Alliance and who is by reason of his office entrusted with the custody or control of monies shall keep proper accounts of all monies received by or on behalf of the Alliance or by any such Officer, Clerk or Servant and of all expenditure thereof by the Alliance or by any such Officer, Clerk or Servant and such accounts shall be subject to audit as accounts to which section 2 of the Audit Commission Act 1998 applies.
(b) The Alliance shall as soon as may be after the conclusion of every financial year send to each of the Councils a copy of the final accounts of the Alliance for such financial year this provision being in addition to and not in substitution for any obligation to furnish to each of the Councils copies of the auditor's report on such accounts and of the financial statement thereof.
(c) The accounts of the Alliance shall at all reasonable times be open to inspection free of charge by any member of the Councils or any officer of any of those Councils duly authorised for the purpose.

Standing orders etc

15. For the avoidance of doubt the Alliance shall, where relevant and subject to the provisions of this Agreement, operate in accordance with –
(a) the Administrative Host Authority's
(i) business standing orders
(ii) equal opportunities policy
(iii) racial discrimination policy

- (iv) harassment policy
 - (v) Welsh language scheme
- and
- (b) the Financial Host Authority's
 - (i) contract standing orders
 - (ii) financial regulations
 - (iii) budgetary and audit controls.

Financial Provisions

16. If any of the Councils fail to pay the amount due under this Agreement within two months from the date of receiving an invoice for the same the same shall be a debt due to the Financial Host Authority from such Council or Councils and may bear interest till payment at the rate of one per centum per annum in excess of the base lending rate of the Bank of England during the period in respect of which the payment of the said amount is in arrear.

IN WITNESS whereof the Common Seals of the respective Councils were hereunto affixed the day and year first before written.

The Common Seal of
xxx COUNTY BOROUGH COUNCIL
was hereunto affixed in the
presence of

etc.