

---

**IMPROVING PUBLIC TRANSPORT – RESPONSE TO WELSH GOVERNMENT  
WHITE PAPER CONSULTATION – MEMBER BRIEFING NOTE**

---

**Reason for the Report**

1. To provide the Committee with a Member Briefing on the Council's response to the Welsh Government's White Paper Consultation, "Improving Public Transport".

**Background**

2. Welsh Government has set out proposals to legislate for reforming the planning and delivery of local bus services and licencing of taxis / private hire vehicles. The closing date for responses is the 27<sup>th</sup> March 2019.
3. The consultation is an opportunity for Cardiff to engage in the start of a major national conversation about bus transport that it is hoped will lead to the development of an integrated transport system across Wales.

**Issues**

4. Having awarded the new Wales and Borders rail franchise, Welsh Government is turning its attention to bus services and taxi and private hire vehicle (PHV) licencing.
5. Welsh Government recognises that local scheduled bus services will continue to be the foundation of the public transport system, delivering 100 million journeys per annum (more than three times the 30 million rail journeys per annum). Welsh Government provides a significant but limited measure of financial support to bus operators in the form of Bus Service Support Grant (BSSG) and reimbursement for

concessionary fare revenue foregone, and is seeking to influence the provision of improved bus services more directly.

6. The White Paper highlights some of the challenges and issues around the current provision of bus services in Wales including:

- De-regulated industry with over 80 bus operators in Wales;
- Bus operators choosing to operate urban routes on a commercial basis supported by mandatory concessionary fare reimbursement and Bus Services Support Grant;
- Local authorities contracting for rural or non-commercial routes with top-up subsidy in addition to mandatory concessionary fare reimbursement and Bus Services Support Grant;
- Evening and weekend services often needing additional subsidy;
- Marginal services switching between commercial and non-commercial over time;
- Lack of co-ordination – between routes, ticketing, rail and active travel networks that can be confusing for passengers;
- Unreliable timetables caused by congestion;
- Routes need to respond to changing passenger needs – away from short/ retail based journeys to longer journeys;
- Declining passenger numbers;
- Variable standards – branding, vehicles, infrastructure;
- Bus drivers ageing – potential lack of skilled workforce in future;
- Real-time travel information improvements needed;
- Skills and knowledge available within local authorities to effectively discharge their transport functions successfully is diminishing;
- Lack of opportunity to realise economies of scale/purchasing power;
- Improvement of fleet to deliver air quality and decarbonisation targets;
- The nature of road use is evolving and the implications for future bus use are highly uncertain at present; and,
- The legislative framework currently governing bus services in Wales does not provide the flexibility that Welsh Government and local authorities need to help shape and influence the provision of bus services.

7. The long-term vision is to deliver a more effective integrated network of buses as part of a seamless public transport service. It should be accessible to all and delivered through a collaborative approach across government and in partnership with local authorities and the private sector. Within this vision there exists substantial alignment with the current Council transport objectives, and this is to be welcomed. The key aims of the Welsh Government in the White Paper are as follows:

- Integrated public transport network that is safe, reliable, punctual, environmentally sustainable and accessible, and that meets the needs of the travelling public;
- Public transport to operate as one seamless service that is accessible to all;
- Providing older and disabled people and more recently some veterans, universal access to free bus travel anywhere in Wales on local scheduled bus services;
- Identify how the current £220 million per year of Welsh Government support for bus services across Wales can be better used, and at the same time, improve services for passengers (Note: the new Wales and Borders rail franchise has a commitment to invest approximately £333 million per year over the next 15 years);
- Increase the number of people using public transport by encouraging travellers to switch to it from private car use, thereby reducing pollution and congestion;
- Encourage access to and from the public transport network by active travel modes such as walking and cycling;
- Focus on buses and taxis now the rail franchise is awarded, to design bus services to meet the specific needs of each locality, stimulating passenger-demand, connecting more people and reducing reliance on private cars;
- Action to address weaknesses in deregulated bus market-lack of control over services/networks/fares;
- Collaborative approach with local authorities and bus operators to deliver improved bus services;
- Influence the provision of improved bus services more directly;
- Ensure taxis and private hire are safer and contribute to a connected and sustainable society and consistency in standards across Wales;
- Ensure that all taxis in Wales have a zero carbon footprint within 10 years; and,

- Improve the legislative framework to give local authorities the tools and flexibility to tailor their approach, and target limited resources more effectively to meet those local needs and circumstances.
8. To support this vision, new legislative tools need to be put in place to provide the opportunity to respond to local needs. It should be noted that a promised Regulatory Impact Assessment (RIA) by the Welsh Government that is intended to inform this process in terms of likely costs, impacts and benefits of proposed legislative changes had not been published at the time of writing this report. It is understood that the delay is due to the complexities of the proposed legislation and that there will be an opportunity to comment on the draft RIA when it is published.
9. The consultation document identifies the key methods to achieve the vision that are summarised below, these include:
- Establishing a Joint Transport Authority (JTA);
  - Enhanced Quality Partnerships (EQP);
  - Bus Service Franchising;
  - Taxi Licencing.

### **Establishing Joint Transport Authorities (JTA)**

10. A JTA would be a legally constituted body using powers under the Transport (Wales) Act 2006, with minor changes to the existing provisions through a Bill, which would have local authority powers over buses, and would include Welsh Government representation. The functions would be discharged by way of Order(s). Two options are presented. Either scenario would be likely to involve pooling of some existing Local Authority staff resources. Such an arrangement could enable bus services to be more integrated over a wider area and make integrated ticketing easier to implement. Although integrated ticketing features prominently in Transport for Wales' (TfW) remit, it is largely absent from this consultation. The JTA options given in the White paper are as follows:
- ***Option 1: A single JTA for the whole of Wales with regional delivery boards (i.e. committees of the national JTA). The JTA would be responsible for discharging all functions specified in the Establishing Order, and would be enabled/required***

*to make arrangements for the discharge of certain functions, such as regional or locally specific functions, by committees of the authority (i.e. regional delivery boards): or;*

- **Option 2:** *A national JTA that would be required to discharge specified national/strategic functions, and three separate regional JTAs that would be required to discharge specified regional/implementation functions (i.e. 4 JTAs in total).*

11. The White Paper proposes options 1 and 2 to reflect the Welsh Ministers' substantial commitment to the delivery of bus services in Wales, both in terms of annual spend and their ambition to secure the delivery of an integrated public transport system across Wales. It is also proposed that the Welsh Ministers be provided with powers to issue guidance and directions to JTAs in relation to the exercise of the functions in the Order(s), and intervene should a JTA fail to discharge its functions effectively.
12. It is unclear whether a JTA would have highway authority powers to enable them to provide public transport infrastructure on the highway, or whether local authorities in a JTA would lose their public transport powers. JTAs would be established by secondary legislation that requires a dedicated formal consultation that may be issued in autumn 2019.

### **Enhanced Quality Partnerships (EQP)**

13. Local authorities in Wales can establish voluntary and statutory Quality Partnership Schemes QPSs. The statutory schemes are provided for within the Transport Act 2000.
14. They are a formal voluntary or statutory agreement between a local authority and one or more bus operators, where the local authority provides infrastructure and facilities and operators agree to provide services of a particular standard. The limiting factor for local authorities is funding and organisational capacity to provide the infrastructure and facilities. They have been effective in Nottingham, Birmingham and Liverpool as they are well supported financially.

15. A local authority seeking to make a Statutory QPS must follow the consultation process set out in the 2000 Act, and compliance with the quality standards in a statutory scheme is enforced through the bus registration system, which is overseen by the Traffic Commissioner who has powers to impose financial penalties and restrictions on an operator's licence.
16. Building on existing Quality Partnership legislation EQPs would be agreements between local authorities and bus companies on routes, frequencies, timing, ticketing, emission standards and quality of vehicles. The latter category would be particularly useful in addressing urban air quality concerns.
17. Traffic Commissioners would have powers to refuse or revoke registrations of non-compliant operators. This power could be important for managing city centre clean air zones if required in the future.
18. There would be no requirement for local authorities to provide improved infrastructure. Therefore, there would be little incentive for operators to enter into an EQP.

### **Bus Service Franchising**

19. It is the intention of the Welsh Government that local authorities should determine the most appropriate model for delivering bus services in their area. This is likely to depend on the nature of the bus market in the area, the priorities for the authority and their approach to the management of risk. The Welsh Government believes that a viable form of franchising should be one of the delivery options available. Therefore, the Welsh Government will consider a Bill to introduce an improved franchising option, which is suitable for Welsh circumstances.
20. Services would be designed and specified by local authorities (or JTAs) to meet local needs and allocated to operators, presumably through a tender mechanism. Other operators would not be permitted to operate these routes. However, it is proposed that legislation would allow a franchising authority to issue permits to allow commercial services to operate in a franchised area. It is anticipated that these are most likely to be issued in connection with bus services that need to enter a

franchising area but which are not 'local services' and which do not form part of any franchise contract, for example cross-boundary routes.

21. It is unclear whether this power would apply to non-commercial routes or extend to routes currently operating on a commercial basis, such as is overwhelmingly the case in Cardiff. It will be for the franchising authority to determine how they contract for the franchised services bearing in mind the funding available to them, and their objectives.
22. Other bus proposals suggested in the white paper consultation include:
  - Local authorities could operate bus services;
  - Local authorities could set up new, arm's length bus companies (for example, similar arrangements to Cardiff Bus, Newport Transport);
  - Concessionary pass eligibility to be linked to women's pensionable age to maintain gender equality of entitlement;
  - Bus companies to be required to provide information on services and fares.

### **Taxi Licencing**

23. National standards for taxi / private hire vehicles and licencing local authorities to be able to enforce against any licenced driver operating in its area, not just those that it has licenced. Possible options include a National Licencing Authority (possibly the All Wales JTA referred to above).

### **Summary of Proposed Response**

24. The draft Council response to the Welsh Government White Paper Consultation is attached to this report as **Appendix 1**. It contains details of the Council response to a range of questions raised in the consultation about the provision of taxi / private hire and bus services. This draft response will be considered by Cabinet on the 21<sup>st</sup> March 2019 where it is hoped that, subject to any necessary changes, it will be approved prior to submission to Welsh Government.

### **Joint Transport Authorities Summary of Response**

25. The Council agrees that local authorities should work together where necessary to improve local bus services. The current legal regime results in fragmented,

uncoordinated services with little integrated ticketing. The principal of establishing a JTA structure is supported.

26. Assessing all the information Cardiff Council proposes to support the JTA model presented in **Option 1**.
27. **Advantages of Option 1:** National JTA/Regional Delivery Bodies - There are clear benefits of Option 1 being supported, these are:
- There is potential for better integrated multi modal public transport. A national JTA structure with responsibility for standardised and improved bus quality standards for infrastructure, services, vehicles, branding, ticketing and partnership working to be introduced and consistently applied across Wales. Working in partnership in this way would improve the consistency of offer for users;
  - It would allow economies of scale and planning that are essential to maximise wider benefits, network integration and cost effectiveness;
  - This approach could potentially link better with Metro/TfW proposals to provide an integrated multi modal public transport offer across Wales including Cardiff – the key delivery agency;
  - It would allow more national integration/planning and reduce fragmentation;
  - Supports Great Western City - major Welsh conurbation integration;
  - It would also be an opportunity to rationalise standing orders, supplier frameworks, administrative efficiencies and economies of scale to achieve better value from the funding available;
  - A national JTA structure also provides the opportunity for a centralised regime for taxi and private hire vehicle licencing.
28. **Option 2:** A regional JTA for south east Wales is not supported for the reasons given below:
- There is risk that it could merely create an extra level of administration and business support needing a higher level of scrutiny to ensure local democratic accountability leading to duplication of effort at National, Regional and Local levels;

- Without knowledge of the governance structure of a regional JTA, it is not possible to know whether Cardiff could obtain the level of funding proportionate to its position as the main engine of growth in the region under this model. It is estimated that Cardiff provides for at approximately 20% of the bus passengers in Wales and just under 40% of the bus passengers in the Cardiff City Region (estimated from the Department for Transport, National Trip End Model). Almost all of the bus services in Cardiff are commercial;
- The objectives of the current informal Regional Transport Authority, which has been suggested as the basis for a JTA, do not currently have Cardiff Council endorsement. For this reason, it would not be appropriate for the JTA to be based on this model.

29. The full extent of JTA powers or their governance structure is not detailed in the consultation document and the Regulatory Impact Assessment has not yet been published. It is therefore not clear which or whether local authority powers on buses would be taken by JTAs or retained with JTAs also having powers. The Council awaits the provision of this information.

### **Enhanced Quality Partnerships Summary of Response**

30. The proposal to give the Traffic Commissioner powers to revoke or refuse bus service registrations of non-compliant operators is welcomed.
31. The lack of obligation on local authorities to provide infrastructure improvements, which in effect places the entire onus for improvement on the bus operators is a weakness. It is unlikely that operators would be willing to enter into such agreements on this basis.
32. Existing Quality Partnership regimes are in place in some UK cities, such as Nottingham, Birmingham and Liverpool. The substantial level of investment in these schemes has delivered improved bus service quality and associated infrastructure resulting in significant increases in patronage. However, it should be noted that the funding regime in England is both different and more generous than that currently in place in Wales.

## **Bus Service Franchising Summary of Response**

33. Bus Service Franchising is supported in principle. However, Cardiff could not commit to full support in the absence of any details concerning the planning, managing and funding of any franchise arrangements.
33. Franchising has the potential to create a better, more integrated network if supported by an appropriate level of funding. However, the issue is complex and there are potentially unintended impacts on the market and risks that the operators are not incentivised to increase patronage. Without sight of the Regulatory Impact Assessment, it is not possible to assess what powers Welsh Government has in mind with regard to this proposal. It is not possible, therefore, to assess what impact franchising might have on Cardiff Bus.
34. Currently London is the only region of the UK to have a franchising regime in place. Despite having on-bus revenues of £1 billion per annum, the system still requires around £500m subsidy per year. This is more than double the amount of bus funding for Wales as a whole.
35. In congested areas, the significant difference between franchising buses versus rail is that rail has a travel time advantage over general traffic because it is not impacted by congestion on the highway. This is less important for long-distance/rural services that do not experience a significant proportion of congestion on their routes. Therefore, greater investment in bus priority measures that give bus services this travel time advantage over general traffic accompanied with high quality vehicles and facilities would be needed in order to make franchising effective in Cardiff.
36. The effectiveness of franchising may be undermined or weakened by new emerging technology such as mobility as a service or app based service providers.

## **Taxi Licencing Summary of Response**

37. Proposal to standardise licencing and operating standards is broadly welcomed, as is the proposal for strengthening local authority enforcement powers over any taxi drivers operating in a local authority area. However, Cardiff has a significant cross-border operator problem, which the current proposals do not appear to address.

## **Report Recommendations**

38. The recommendations to be made within the report titled 'Improving Public Transport-Response to Welsh Government White Paper Consultation' are that:
- That the White Paper be noted;
  - The response to Welsh Government's White Paper-Improving Public Transport (attached as **Appendix 1** to this report) be approved and submitted to the Welsh Government by 27<sup>th</sup> March 2019.

## **Way Forward**

39. Members are to note the contents of the Member Briefing Note.

## **Legal Implications**

40. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. 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. Scrutiny Procedure Rules; (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**

41. The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any

modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

## **RECOMMENDATION**

The Committee is recommended to:

- i. Note the content of this Member briefing note.

**DAVINA FIORE**

**Director of Governance & Legal Services**

**13 March 2019**