

Appendix A

Consultation response form

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Responses to consultations are likely to be made public, on the internet or in a report.

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Please ensure you are satisfied with the answers you have provided before sending.

Improving public transport

A Welsh Government White Paper on proposals to legislate for reforming the planning and delivery of local bus services and licensing of taxis and private hire vehicles

Part 1 – Bus services

Joint Transport Authorities (JTAs)

Q1. Do you agree that it is important for local authorities to work together with regard to local bus services?

Yes	n/a
No	n/a

Please explain your answer.

It would not be appropriate to provide a binary answer to this question. The key issue is to ensure that an effective governance and implementation structure is put in place with full local authority representation.

Once in place there are potential benefits of local authorities sharing best practice. However, matters related to local services are best dealt with by the local authority that will have local knowledge about the complexities of the issues that need to be addressed and detailed awareness of the priorities for local investment and competing demands on resources. A local authority without the local knowledge would add little if any value to the decisions that need to be made. If local authorities are given appropriate powers, they will be best placed to work effectively with local bus operators, key stakeholders and developers to deliver and improve local bus services.

It is important that local authorities work together where they need to improve local bus services. However, local authorities working together should be a means to achieve outcomes, not an end in itself. In this respect, there are questions regarding whether or not Joint Transport Authorities, comprising multiple local authorities and covering contrasting geographies would represent the most effective and economical use of scarce local authority officer capacity and skills.

Q2. Please provide comments on the proposed organisational structures. Which is your preferred option and why?

Overall we strongly support Option 1 in which a national JTA is established with local or regional implementation for the following reasons;

- i. 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
- ii. It would allow a clear and positive dialogue between local and national organisations – that occurs at present – and avoid duplication of structures and levels – at a regional basis.
- iii. It would allow economies of scale and planning that are essential to maximise wider benefits, network integration and cost effectiveness.
- iv. This approach could potentially link better with national Metro/TfW structure and proposals to provide an integrated multi-modal public transport offer across Wales including Cardiff – the key delivery agency
- v. It would allow more national strategic integration/planning – reduces fragmentation
- vi. It would support Great Western City (inter-regional planning) - major Welsh conurbation integration
- vii. 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.
- viii. A national JTA structure also provides the opportunity for a centralised regime for taxi and PHV licencing

Overall, the transport needs of Cardiff differ from the surrounding region because of Cardiff's position as the major regional employment centre and its continuing growth. It is estimated that Cardiff provides 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). It is essential that Cardiff is effectively represented on a proposed national JTA.

The local input is also essential to this model to tailor bus services to the socio-demographic needs of the local population.

In practical terms, a high quality integrated public transport system needs to be well resourced in order to be successful. It also needs to be responsive in order to take effective action in often fast changing circumstances.

The ability of public transport to grow the economy has been undervalued particularly with regards to sustainability and equality of opportunity. Trends and changes in culture and socio-demographics indicate that public transport will be increasingly important in the future whereas private car travel is likely to continue to decline. Courage is needed by decision makers to apportion funding where it will provide greatest benefit long-term in the interests of future generations and grow the economy of Wales. It is more important that sustainable funding models are identified and explored rather than organisational structures.

Q3. Is there another organisational structure for JTAs that we should consider?
Please explain your answer.

NA

Q4. Do you have any comments on the proposal that the Welsh Ministers should be represented on a JTA or any committees of a JTA?

This is a positive proposal and supported. The inclusion of WG representation will ensure an effective strategic perspective and will integrate planning, implementation and funding programmes.

Q5. Do you have any comments on the proposals that the Welsh Ministers should have powers to issue guidance and directions, and to intervene where a JTA is failing to exercise its functions effectively?

See responses to Q4. This should be supported where the core strategic priorities are not being addressed.

Proposed JTA Functions in relation to buses

Q6. Is the proposed division of national and regional functions appropriate?

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.

The local JTA functions could create conflict with the highway authority and the decision-making associated with prioritising investment. Establishing JTAs would make local preferences for how the highway is used difficult to resolve. For example, the local preference may be to provide active travel improvements, which could require reallocating road space to provide improved facilities for walking, and cycling based on a local understanding of needs.

How would the Traffic Regulation order process be affected? This could conflict with the JTA preference to provide bus lanes based on a regional or national need. These conflicting preferences and priorities are likely to be difficult if not impossible to resolve ensuring that the JTAs fail in delivering their obligations.

Without sight of the Regulatory Impact Assessment (RIA) it is difficult to understand potential conflicts of powers and interests that may arise.

Q7. Should any other transport functions be transferred to a JTA? Please describe.

Any additional powers needed would be replicating the existing powers of local authorities at the expense of diminishing the ability of providing transport infrastructure and services that are appropriately tailored to local needs.

Without sight of the Regulatory Impact Assessment (RIA) it is difficult to understand potential conflicts of powers and interests that may arise

Enhanced Quality Partnerships (EQP)

Q8. Do you think that legislation is required to secure the benefits of enhanced partnership working?

Yes	X
No	

Please explain your answer.

Without legislation there can be no enforceable sanctions on operators who fail to comply with the provisions of a Quality Partnership. To give the Traffic Commissioner powers to refuse or revoke registrations of non-compliant operators would be a major step forward.

Whilst it is noted that there would be no obligation under the present proposals for local authorities to provide any enhanced facilities, the Council considers that operators would be far less likely to agree to an EQP if no enhancements were forthcoming and all the improvements were required from them.

Q9. Do you agree with our proposals for EQPs, in particular the proposed process for developing and making EQPs?

Yes	X
No	

Please explain your answer.

Broadly speaking yes, although there is a danger that the process could become somewhat unwieldy and over bureaucratic, with successive rounds of consultation, voting by operators followed (if sufficient operators are in favour) by public consultation again involving operators.

Any changes resulting from the consultation then has to be put to operators again, who could effectively walk away from the scheme.

Franchising

Q10. Do you think that the proposed scheme provides a more workable option for the franchising of local bus services?

Yes	n/a
No	n/a

Please explain your answer.

Bus Service Franchising is supported in principle. However, Cardiff could not commit full support in the absence of details concerning the planning, managing and funding of these arrangements.

Franchising has the potential to create a better, more integrated network if it is supported by an appropriate level of funding particularly in large conurbations. Less funding may be needed where there is a growing market. However, there are potentially unintended impacts on the market and there are risks that the operators are not incentivised to increase patronage. The issues are complex.

There is the potential that interventions could destabilise commercial services. For example, a franchise based on a subsidised revenue cap could counter-intuitively lead to fares being raised thereby reducing patronage leading to a vicious circle and an unsustainable position for the operator.

There is also the possibility of unintended local political pressure on any franchise to cap the fares that users are charged which would increase the level of subsidy that would be required.

There could also be local political pressure to provide bus services that are not commercially viable. If subsidy is not increased, the only option would be to remove services from commercial areas of the network which would have the compounded impact of reduced patronage, less revenue and a requirement for more subsidy with the added risk of potentially undermining commercial routes.

As discussed in the House of Commons Library briefing paper, "Buses: franchising" dated 19th April 2012, there are two key points of view to consider:

1. Deregulation has not necessarily meant healthy competition in the bus market. Larger operators dominate the market effectively running monopolies in many areas of the UK. Where there is competition, it has not always led to streamlined services and cheaper fares. For example, without integrated

ticketing, two competing operators providing 4 buses per hour on a route does not provide a usable service frequency of 8 buses per hour for the users. This engenders frustration for users as they may often see a bus arrive that their ticket does not allow them to use meaning they have to wait longer for their bus to arrive. In the vast majority of Urban Areas in the UK a substantial proportion of services do not face effective head-to-head competition (source: “Local bus services market investigation”, Competition Commission, 20th Dec 2011). The bus operating companies have little option but to avoid competing directly with other operators, particularly in a shrinking market, in the knowledge that one operator will lose out over the other resulting in business failure. This typically results in geographic market segregation. The idea that healthy competition grows a local market is an admirable aim but in reality appears to be impossible to achieve, without other interventions such as congestion charging.

2. The level of subsidy required to support bus services varies significantly between urban and rural areas. Remote areas of low population density are more likely to require close to 100 percent subsidy.

It is worth noting that London commits significant funding on its franchising system. Transport for London has a strategic transport role, including highways powers on “red routes” which enable it to make other interventions such as extensive bus priority measures and congestion charging.

Without sight of the Regulatory Impact Assessment (RIA) it is difficult to understand potential conflicts of powers and interests that may arise.

Q11. Do you think there should be a requirement for the assessment to be subject of to an independent audit?

Yes	X
No	

Please explain your answer.

Yes, it is critically important that transparency and fairness is demonstrated through any franchising procurement process. This would give competing operators added confidence that their bids will be given a reasonable and fair chance on an equitable basis. Therefore, more bids are likely to be received and better value for money is possible.

Q12. Do you have any other comments on the proposed process for franchising?

The effectiveness of franchising could be undermined or weakened by new emerging technology such as mobility as a service, app based service providers and/or improved competing public transport options or investment in other modes of travel.

Depending on the working arrangements and governance, it could be advantageous if Local Authorities could potentially appoint Transport for Wales to run any franchise and/or quality partnership arrangements. This would enable consistency across Wales and ensure a sustainable resource of expertise and knowledge for planning and operating improved bus services.

Franchising in practice and Permits

Q13. Do you have any comments in relation to the proposals for the issuing of permits in circumstances where franchising arrangements are in place?

Some practical arrangements would need to be put in place to allow operators who are not part of the franchise to operate services outside the franchise remit such as inter-urban or regional services.

Impacts of franchising on small and medium sized bus operators (SMEs)

Q14. Do you agree that as part of any arrangements to let franchise contracts, specific consideration should be given to how SMEs can be enabled to be involved in the procurement process?

Yes	
No	

Please explain your answer.

It is difficult to see how this could be achieved without it being open to legal challenge by unsuccessful operators.

Franchising Transition Arrangements

Q15. What transitional arrangements should be considered in order to ensure that bus services are not compromised during the process of preparing to franchise?

It took London some years to complete their transition. There were also difficulties experienced getting a balance between revenue support and incentives for investment in improved services. London buses started with gross cost basis tendering and then introduced net cost contracting in the mid 1990's before reverting to gross cost contracts with a modification to include a direct link between quality of service (reliability) and contract payments (quality incentive contract).

Franchising through a JTA could also make it difficult to secure Section 106 contributions which are payable to the Local Planning Authority. There is a risk that existing Section 106 agreements for new or improved bus services would not be deliverable by the local authority. How would infrastructure be supported by pump-primed services under a franchise approach?

The legal implications of this matter needs further consideration.

Without sight of the Regulatory Impact Assessment (RIA) it is difficult to understand potential conflicts of powers and interests that may arise

Local authority bus services

Q16. Do you think that local authorities should be able to run bus services directly (i.e. in-house services)?

Yes

Q16a. In what circumstances do you think this would be appropriate?

Where the market has failed to provide viable services, and the normal tendering/de minimis arrangements have not proved effective.

However it should be noted that this option is unlikely to be cheaper than alternative arrangements and would involve considerable set-up costs for most local authorities, who do not currently run in-house bus fleets. A reliable revenue and capital funding programme would be needed.

Q16b. What, if any, safeguards do you feel ought to be put in place with in-house services to ensure that no operator local authority has an unfair advantage in a deregulated market, and why?

In the above situations the deregulated market would have failed so there would be no advantage to be gained.
Local authority operators should not be allowed to compete on commercial routes under the current legislation.

Q17. Do you think that local authorities should be able to set up arm's length companies to operate local bus services?

Yes, although this option allows the arm's length operator to behave commercially, but sets them financially at a disadvantage with other bus operators, as they are prevented by current legislation from using many of the financial mechanisms open to private operators.

Q17a. In what circumstances do you think this would be appropriate?

Where the market has failed to provide viable services, and the normal tendering/de minimis arrangements have not proved effective.

Q17b. What, if any, safeguards do you think should be put in place with arms length bus companies to ensure that no operator local authority has an unfair advantage in a deregulated market, and why?

The current legislation ensures transparency, although it gives private bus companies a financial advantage in that arm's length local authority companies can only borrow money from that local authority rather than other financial providers..

Eligibility age for the mandatory concessionary fares

Q18. Do you agree with the Welsh Minister's proposal to align entitlement to a mandatory concessionary fares pass with a woman's pensionable age?

Response to the previous consultation is given below.

No change should be made without an analysis of the impact. For example, it needs to be understood how many 60-65 year old are using the system, for what type of

trips do they use it (full-time work, part-time work, shopping, personal business, escort, etc), during what times (peak, off-peak), what is their socio-economic status, how additional accessibility do they get from the scheme, how does all of this differ from >65 year olds, how many 60-65 year old pass holders would otherwise be eligible for disabled passes? Without such data it is difficult to see whether there is any case for a change or whether it would cause more hardship than benefit.

A different approach might be to retain the current age qualification but consider time restrictions such as after 09.30 as is used in the English scheme.

Q19. Do you agree that an incremental change is the most appropriate method?

See above

Public transport information and monitoring

Q20. Do you agree with our proposal to require the release of open data on routes, timetables, fares and tickets?

Yes	X
No	

Please explain your answer.

In order to make bus services attractive it is vital that this information is as widely disseminated as possible. It is also vital that the information is in a form that is easily understandable for both existing and potential users.

Q21. Do you agree with our proposal to enable local authorities to have the power to obtain information on services that are to be cancelled or varied, and where appropriate, disclose this information as part of tendering process?

Yes	X
No	

Please explain your answer.

This should improve local authority decision making in this process, and enable better value for money to be obtained by local authorities.

Part 2 – Taxis and private hire vehicles (PHV)

National standards

Q22. Do you agree with our proposal to introduce national standards, which will apply to all taxis and PHVs in Wales?

Yes	X
No	

Please explain your answer.

National standards would ensure that taxi services are administered consistently across Wales and deal with any perceptions of any unnecessary variation across Councils. This is consistent with the previous work undertaken between the Local Authority Licensing Expert Panel and Welsh Government lead on taxi reform in Wales during 2017/18. Consequently, the Council would support this proposal and in particular support the introduction of a vehicle emission standard. Other areas of harmonisation might be best prioritised through consultation with stakeholders to understand what aspects of licensing policies are deemed to cause most concern.

Q23. Are there any matters, which you would like to see contained in any national standards?

The introduction of a vehicle emission standard. Other areas of harmonisation might be best prioritised through consultation with stakeholders to understand what aspects of licensing policies are deemed to cause most concern

Q24. Are there any matters, which you think should be excluded from any national standards?

Q25. What practical obstacles might there be to setting common national standards for both taxis and PHVs?

Q26. What would be the best approach for determining the content of national standards?

Q27. Please provide any other comments or proposals around national standards that were not covered in the above questions.

Enforcement

Q28. Should a local authority be able to revoke or suspend a licence relating to any vehicle operating in its area, even if it did not issue the original licence?

Yes	
No	X

Please explain your answer.

We believe that a change to the current enforcement regime is appropriate. We would advocate that revocation of a vehicle licence should be the sole responsibility of the "home" licensing authority. Having issued the licence, the authority will have invaluable local knowledge about the licence holder, the history of the vehicle and any complaints received.

Q29. Should a local authority be able to issue a lesser sanction in relation to any vehicle operating in its area, even if it did not issue the original licence?

Yes	X
No	

Please explain your answer.

it is considered appropriate that any duly authorised officer from any Licensing Authority area should have the power to suspend immediately a licence of any vehicle operating in their area (irrespective of where it was licensed) where there is an immediate public safety risk e.g. defective tyre, or potentially where the vehicle fails to meet the national standards e.g. missing door signs / back plates.

Q30. Please provide any other comments or proposals around enforcement that were not covered in the above questions.

There is scope for other enforcement provisions to be introduced such as where a driver refuses a fare due to the short distance involved, or for cases of overcharging, and a power for officers to stop and issue direction orders to a driver and his vehicle where public safety is at risk.

Finally, while enhancing enforcement capacity is undoubtedly a positive development, the Welsh Government should revisit the provisions of Section 53 of the 1976 Act and expand the fee recovery regime to include enforcement against taxi drivers (*currently this only extends to inspection of vehicles c/w Section 70*). Failure to do so will only add to the pressures on the public purse.

Information-sharing

Q31. Do you agree with our proposal to create a database or make other arrangements for relevant safeguarding information to be shared?

Yes	X
No	

Please explain your answer.

The establishment of a mandatory national database for licensed drivers would be an important addition to the current regime and should be expanded to include vehicles, operators, proprietors and dispatchers to support stronger enforcement

Q32. Please provide any other comments or proposals around information-sharing that were not covered in the above questions.

The current use of the National Anti-Fraud Network (NAFN) currently provides an online register of taxi and private hire drivers who have been refused or had their licence revoked. The database includes the reasons for any refusal or revocation, along with the relevant licensing authority details. This is not used by all councils at

present, but is a clear way forward for more effective administration and public protection.

Q33. Do you agree with our proposal to redirect all of the existing taxi and PHV licensing functions away from local authorities and into a national licensing authority (Option A)?

Yes	
No	X

Please explain your answer.

The creation of a JTA (Option A) is the most controversial of the four proposals and one that the Council cannot support for the delivery of taxi licensing. The administration of the taxi industry is without doubt in need of reform, but it is not an administration in crisis, it simply needs reform and Councils have been asking for that reform for many years.

Q34. Do you think that local authorities should continue to have responsibility for taxi and PHV licensing (Option B)?

Yes	X
No	

Please explain your answer.

The current delivery mechanism (Option B) through local authorities continues to be the best way to manage taxi licensing. Taken in conjunction with the first three proposals there will be an enhanced enforcement regime that will do away with much of the perceived inconsistency.

Q35. Please provide any other comments or proposals around responsibility for taxi/PHV licensing that were not covered in the above questions.

There is little detail contained within this white paper as to how the JTA would undertake the licensing function and therefore it is very difficult to provide a detailed response. What is clear is that the scope and complexity of the licensing system has not been understood fully by the Welsh Government. If there is a desire to reduce the number of licensing authorities, it may be possible to consider regional delivery models, such as our own Shared Regulatory Service, or a single council delivery model such as RentSmart Wales. However, a move to one of these models would take time to develop and deliver.

We would suggest the Welsh Government progress the first three proposals in this consultation document and reconsider the role of administering the system once these changes have become embedded into the taxi licensing regime.

Q36. We would like to know your views on the effects that the legislative proposals set out in this paper would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

Q36a. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Q37. Please also explain how you believe the proposals could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Q38. We have asked a number of specific questions. If you have any related issues, which we have not specifically addressed, please use this space to report them:

Cardiff Council fully supports Welsh Government's (WG) vision Option 1 JTA based on a national JTA, WG and effective Cardiff, major conurbation, representation. This will enable the city to continue to be the engine of growth for south east Wales. Cardiff's LDP is predicated on a 50:50 modal split of public transport and to achieve this bus patronage must be doubled from existing levels, and the council will be using developer contributions through s106 agreements to work towards this goal. However to achieve this ambition in Cardiff WG needs to address structural and legislative weaknesses in the current bus service regime.

The transport needs of Cardiff differ from the surrounding region because of Cardiff's position as the major regional employment centre and its continuing growth. . It is estimated that Cardiff provides 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).

It is crucial that JTA are able to prioritise investment to meet the needs of Cardiff. The Option 1 needs to ensure the strategic priorities are addressed. How would a JTA ensure that bus services support growth areas?

How would the transitional arrangements from s106 funding be managed? Current s106 funding agreements with the local Planning Authority would become obsolete.

Without sight of the Regulatory Impact Assessment (RIA) it is difficult to understand potential conflicts of powers and interests that may arise.

In terms of integrated ticketing the council believes that the model (for multi operator bus services at least) already exists in the form of the All Wales concessionary fares scheme, which should be expanded to enable daily capped contactless bank card payments to be used.

The current Traffic Commissioners six minute window (5 minutes late/1 minute early) for punctuality of 95% of services is unworkable in a congested urban

environment. Operators should be able to control headways in real time to ensure reliability as perceived by passengers is maintained, rather than strict adherence to timetables where services run more frequently than half-hourly.

In summary;

What Cardiff needs:

1. Option 1 national JTA and effective Cardiff/major conurbation representation
2. Secure funding mechanism
3. Control over the quality of bus services
4. Control over infrastructure investment
5. Ability to enforce non-compliance
6. Integrated ticketing including rail and other forms of public transport