

**FLINTSHIRE COUNTY COUNCIL'S RESPONSE TO
WELSH GOVERNMENT'S WHITE PAPER FOR TRANSPORT**

Q1. Do you agree it is important for local authorities to work together with regard to local bus services? Yes/No? Please explain your answer

Yes

Transport services are not influenced by County boundaries but by end destinations. A joined up and integrated service is therefore critical, if a sustainable and affordable public transport is to be provided.

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

Within the options provided in the consultation document, the preferred option would be a national JTA setting policy and clear and consistent standards across Wales, with regional/sub regional delivery boards. However there is a lack of certainty over the makeup of the regional delivery boards. The Council would support a devolved sub-regional/regional partnership of local authorities to deliver the transport function. The regional delivery boards in this arrangement should also comprise of Council's with similar demographic/geographic characteristics or a wider area based delivery arrangement possibly based on the Growth Deal Area.

We consider it is essential that there is local authority representation on the national JTA.

It is unclear what governance arrangements would be in place for the proposed National or regional JTA's.

There are concerns that a regional JTA would cover too large an area to allow full integration of all of the transport functions across such wide and diverse demographic and or geographic delivery area.

A lack of understanding of the role of the national JTA and the local JTA in option 2.

Will the proposed organisational structure take account of current regional transport committees?

What role will TfW have in delivering public transport – is there duplication in this respect?

Delivery boards need to include cross border working relationships with existing English JTA's.

Clarity is required on the full scope of the JTA powers and regional boards. Would it include adult, social care transport and school transport and non-emergency medical patient transport.

Lack of clarity on funding for the JTA. It should not be at the expense of existing Council funding streams for other transport related functions.

Q3. Is there another organisational structure for JTA's that we should consider? Please describe.

Yes.

Option 1. National JTA with local sub regional collaboration partnerships with local authorities (see Q2)

Option 2. Devolved regional delivery based on Growth Deal areas and delivered within the constituted powers of the Growth Deal Programme

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?

We support Welsh Ministers being on the National Board or Committee of the JTA in order to set strategic direction policy and set budgets. However, there would be a conflict of interest, if Welsh Ministers were represented on the local JTA's or delivery boards.

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?

The powers should sit at JTA Committee/Board level to set guidance and direction however, it is appropriate for Welsh Ministers to intervene where a JTA is failing

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

Yes with the following exception.

Responsibility for certain back office functions such as concessionary fare reimbursements, grant payments, Traveline and customer surveys and inspectors could remain national functions however other back office functions such as ticketing and fares back office systems, integrated demand responsive travel system implementation and management should remain as a regional functions.

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

Yes. Non-emergency medical patient transport and co-ordination of community transport schemes. A national JTA should also set standards for community transport schemes across Wales.

See the Council's response to Question 33 in respect of taxi and PHV licensing

Q8. Do you think that legislation is required to secure the benefits of enhanced partnership working? Yes/No? Please explain your answer to this question.

Yes. This is welcomed in order to encourage operators to enter into partnership working arrangements.

Q9. Do you agree with our proposals for EQPs, in particular the proposed process for developing and making EQPs? Yes/No? Please explain our answer to this question.

Yes.

Q10. Do you think that the proposed scheme provides a more workable option for the franchising of local bus services? Yes/No? Please explain your answer.

Yes however, we see franchising very much as the least favourable option, due to financial implications and the likely impact on the bus industry in terms of restricting supplier access to the market.

Q11. Do you think there should be a requirement for the assessment to be subject to an independent audit? Yes/No? Please explain your answer.

Yes. This will avoid a future challenge against the decision by non successful operator.

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

No. Other than franchising would further restrict the transport supplier market.

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

We do not feel this is practicable in North Wales where franchising (if appropriate) should operate on defined routes/corridors and not by area.

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.

Yes otherwise we will be restricting the limited market even further

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

Further subsidy of existing services – this will require defined and long term budget planning. A commitment by WG and local authorities to commit to current spending levels would provide assurances on this matter.

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

Yes.

In what circumstances do you think this would be appropriate?

Where there are concerns that suppliers are not providing value for money - this process will provide some level of control against increased costs and help, support and regulate the market and would be particularly useful where we have high contract prices due to a lack of competition.

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

Open and transparent procurement process with an award only in circumstances where the in-house option provides overall best value.

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

Yes

In what circumstances do you think this would be appropriate?

For wider scale bus service provision.

Forming the arms-length company would remove the opportunity to integrate the transport provision with existing internal transport services.

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

Open and transparent procurement process with an award only in circumstances where the in-house option provides best value. When the scale of the operation justifies a support team to deliver the service.

Q18. Do you agree with the Welsh Minister's proposal to align entitlement to a mandatory concessionary fare pass with a woman's pensionable age? Please give reasons for your answer.

No.

Reduction in the number of potential users will further reduce demand and the number of bus journeys made.

More people would use their own cars for journey's - which would have a further detrimental impact of the environment

The availability of free bus passes encourages bus use amongst this age group.

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

Yes.

This would be appropriate if the date were to be changed – which the Council does not support.

Q20. Do you agree with our proposal to require the release of open data on routes, timetables, fares and tickets? Yes/No? Please explain your answer.

Yes. Information should be made available to help network planning but given the commercial sensitivity access to this information should be restricted.

Q21. Do you agree with our proposal to enable local authorities to have the power to obtain information on services which are to be cancelled or varied, and where appropriate, disclose this information as part of the tendering process? Yes/No? Please explain your answer.

Yes. This information will aid service continuity on core routes.

Q22. Do you agree with our proposal to introduce national standards which will apply to all taxis and PHVs in Wales? Yes/No? Please explain your answer.

Yes, this is consistent with the previous consultation work undertaken between the Licensing Expert Panel, which Flintshire are represented at, and the Welsh Government lead on taxi reform in Wales. It is also consistent with recommendation 2 made by the “Ministerial Working Party into hackney carriage and private hire licensing in England [2018]” and the Law Commission review “reforming the law of taxi and private hire services” [2012]”.

National standards would ensure that taxi services are delivered consistently across Wales and deal with any perceptions of any unnecessary inconsistency across Council’s.

This may cause issues with those counties who border England.

Q23. Are there any matters which you would like to see contained in any National Standards?

Flintshire County Council’s view is that separate National Standards should be defined for vehicles, drivers and operators. Our belief is that following matters should be included, although this is not an exhaustive list:

- Enhanced DBS and Barring List checks (certificate of good conduct for overseas applicants) for drivers, operators, proprietors and dispatchers. The Panel believe that anyone taking or holding an individual’s personal information should have to be vetted to ensure that that person is safe and suitable (“fit and proper”).
- Medical fitness and specifically the requirement of Group 2 Medical Standards and the need for the applicant’s full medical history to be noted by the completing GP. Standards should also consider consistency of the issue of exemption certificates in terms of Equality Act duties.
- Immigration checks specifically the Right to Work in the UK
- Suitability of applicants and licence holders. The Institute of Licensing has published guidance on determining the suitability of applicants and licence holders in the hackney carriage and private hire trades. The criteria used in this guidance should be incorporated into any National Standards
[https://www.instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_\(16_May_2018\).pdf](https://www.instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(16_May_2018).pdf)
- Nationally-recognised vocational qualifications to include disability quality and awareness training, safeguarding awareness training (Child Sexual abuse / Exploitation, County Lines), practical driving standards test, communication skills and literacy, customer care, handling of emergencies, managing conflict etc.
- Knowledge and suitability test (literacy, numeracy, highway-code, conditions, local area knowledge).
- Overseas driving licenses.

In addition, we recommend the following matters be included in relation to vehicles:

- National Inspection Standards and frequency of inspections and testing including the criteria for testing. Consideration should also be given to suitability,

independency and availability of testing stations and how they are approved e.g. consider if use of Trade owned testing stations are appropriate.

- Accessibility standards including the carrying of assistance dogs.
- Design and appearance and internal spatial requirements of vehicles including the approach to identify taxis and private hire vehicles.
- The information which should be contained on any vehicle identification source (plates, door signs)
- Standards for specialist and novelty vehicles, such as stretched limousines, wedding and funeral cars, omnibuses and pedicabs
- Taxi Meter standards including the criteria for Pulse and GPS meters.
- The use and standards for CCTV within vehicles, both audible and video as outlined in recommendation 17 & 18 “Ministerial Working Party into hackney carriage and private hire licensing in England [2018]”. The Information Commissioner’s Office has produced advice for Council’s and other organisations in using surveillance and CCTV systems in licensed taxis. A National Standard should take account of this advice.
<https://ico.org.uk/about-the-ico/news-and-events/blog-continuous-cctv-in-taxis-where-do-Council's-stand> The LGA Guidance has also now been published. (The cost of fitting CCTV within licensed vehicles particularly for small businesses may require subsidy from Welsh Government)
- Record Keeping including the retention period required. The Panel believe that ideally records should be kept for every journey undertaken, however, there are obvious practical difficulties with taking this approach. A better option would be to use technology to better the safeguarding processes. The use of CCTV, trackers and GPS systems would not only provide a more robust system for record keeping, but would also not place an administrative burden on taxi drivers.
- Environmental considerations such as vehicle emission standards

The standards for some of the points recommended above are included in guidance already and should be taken into account when developing any National Standards, such as the Department of Transport Taxi and Private Hire Vehicle Licensing: Best Practice Guidance (March 2010), although this is in need of updating.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf

In addition we recommend mandating training for all individuals involved in the licensing decision-making process. Consistent and appropriate training of officers and councillors is essential to ensure those applying standards are competent to do so. The content of the training should form part of National Standards.

Finally, any National Standards developed should be consistent with criteria implemented in England to reduce variations in driver, vehicle and operator requirements especially around the border areas.

Q24. Are there any matters which you think should be excluded from any National Standards?

There are no matters that should be excluded, although National Standards should not duplicate other legislation.

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

The main obstacle will be incorporating the National Standards into the 10,000 vehicles and 12,000 drivers currently licensed in Wales and the provisions that will need to be in place for transitional arrangements and grandfather rights. Consideration will also need to be given to finding suitable consistent standards which work for both urban and rural areas, and those which have thriving town / city centres.

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

There are already a number of national policies in place which have been adopted by a number of Welsh Local Authorities in order to provide a level of consistency between areas, such examples include:

- National Inspection Standards for Hackney Carriage and Private Hire Vehicles, and
- Institute of Licensing Guidance on determining the suitability of applicants and licences in the hackney carriage private hire trade

There are also some excellent examples of local taxi licensing policies and standards in place which have been developed and applied at a local level.

Welsh Government will first need to establish what policies and standards are already in place in Wales and then draw on the knowledge of licensing practitioners who have expert practical experience of undertaking taxi licensing work on a daily basis.

It would be remiss of Welsh Government to disregard any policies, standards or procedures which have been developed by licensing professionals and which actually serve to provide a robust service against a backdrop of legislation which is woefully inadequate and outdated.

The All Wales Licensing Expert Panel, at which Flintshire are represented, consists of managers and team leaders who have extensive knowledge and experience in the taxi licensing field and would without question need to be heavily involved in the development of National Standards.

It is suggested that Welsh Government would also need to engage with passenger safety groups and operator representatives by way of meetings, seminars and workshops.

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

The previous Welsh Government consultation on Taxi and Private Hire Vehicle Licensing in Wales [WG31865] referred to “National Standards for all taxis and private hire vehicles, set by Welsh Ministers, with the power for local licensing authorities to set additional conditions where it is appropriate to do so”

Although the White Paper makes no reference to minimum national standards, it is worth noting that we would not recommend that local licensing authorities be permitted to set additional local conditions above the national standard.

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? Please explain your answer.

Flintshire County Council believe that the revocation of a vehicle licence should be the responsibility of the home Licensing Authority. Where it is proposed that action is taken to revoke a licence, it is imperative that the licence holder is afforded the opportunity to be heard i.e. the opportunity of a fair hearing; this is a requirement of Article 6 Human Rights Act which protects your right to a fair trial. The Licensing Authority that has issued the licence will also have invaluable local knowledge about the licence holder, have immediate access to the history of the vehicle and any complaints received and should be responsible for recovering any fees associated with taking the enforcement action (It is noted that proposals in relation to fee setting are not included in the White Paper).

We also believe that it is appropriate for any authorised officer from any Licensing Authority area to have the power to suspend immediately (Section 68 LG (MP) 1976) 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. The authority that issues the suspension, would then report the matter to the home Licensing Authority for them to consider whether to lift the suspension or take further action.

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/No? Please explain your answer.

This would be considered to be of benefit to aid the home authority in order to determine whether any further action is required e.g. improvement notice / advisory / warning. For example introducing a system of issuing a Fixed Penalty Notices would bring taxi and private hire enforcement in line with other areas of local government. Some method of

referral scheme would need to be developed to notify the issuing local authority, however the practical implications of this would need further consideration.

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

Discussions have previously taken place with Welsh Government about introducing the power to stop and direct taxi and PHVs. This would be a useful and beneficial addition to the enforcement options currently available to local authorities.

Currently Licensing authorities are unable to attach conditions to hackney carriage driver licences, some local authorities, including Flintshire, have byelaws in place and we would recommend incorporating any relevant component of these into National Standards

Other enforcement provisions are recommended for introduction by Welsh Government, such as where a driver refuses a fare due to the short distance involved or for cases of overcharging.

We would recommend mandating training for all individuals involved in the licensing decision-making process (as mentioned above). Consistent and appropriate training of officers and councillors is essential to ensure those applying standards are competent to do so. The content of the training should form part of National Standards.

Q31. Do you agree with our proposal to create a database or make other arrangements for relevant safeguarding information to be shared? Yes/No? Please explain your answer.

The establishment of a mandatory national database of all licensed drivers is critical, however this database should be expanded to include vehicle and operators, proprietors and dispatchers to support stronger enforcement. This must be established quickly.

In the interim, 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. The Welsh Government must introduce legislation to mandate its use as a priority. It was agreed in principle at Licensing Expert Panel that Welsh Authorities would use this database and at the time of this consultation response all local authorities were progressing this.

In addition any national database must be able to accommodate or link in with an equivalent database in England to avoid duplication of data entry and ensure public safety particularly around the border areas.

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

The Common Law Police Disclosure provisions have been highlighted as a significant concern previously. These proposals do not cover this issue. It's suggested that the current Disclosure provisions be reviewed to ensure that all relevant information of crimes and conduct by taxi and private hire drivers, including arrest, charge and conviction information, is shared with licensing authority immediately.

Welsh Government may be limited in influencing this suggestion but it is essential to ensure all drivers, operators, proprietors and dispatchers are safe and suitable. Any influence Welsh Government could have on this to improve information-sharing on public safety grounds would be welcomed.

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? Please explain your answer.

We do **not** support the proposal on the information provided, as there is no evidence to support the need to redirect the existing taxi and PHV licensing function away from Local Authorities. At this stage there is no detail contained within this white paper as to how the JTA would undertake the licensing function and therefore it is very difficult to be able to answer this question. The Panel feel that insufficient research has been undertaken in respect of this proposal and that Welsh Government must produce a far more detailed explanation on how the JTA would work. We feel that they would then be in a better position to comment on the proposal. Our overriding concern is the protection of the public, and there is nothing contained within this proposal which suggests that public safety is at the forefront of this proposal.

There are of course many advantages of retaining the function at a local level, with local knowledge, needs and issues.

We would be happy to consider the evidence for Welsh Government's proposals and to work with them further to ensure any reform of taxi and private hire vehicle legislation is robust, enforceable and improves public safety.

Q34. Do you think that local authorities should continue to have responsibility for taxi and PHV licensing (Option B)? Yes/No? Please explain your answer.

Yes, local authorities should continue to have responsibility for taxi and PHV licensing. The Licensing function requires strengthening as mentioned in option B of the consultation, but it is recognised that licensing at the local level works well. Additional evidence is requested from Welsh Government to justify the contrary to continuing with local authority responsibility.

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

Flintshire County Council believe that the current proposals contained within the White Paper fall far short of the reform that taxi and private hire licensing so desperately requires. The previous set of proposals contained within the Taxi and Private Hire Vehicle Licensing in Wales [WG31865] would have introduced a robust taxi licensing regime which was fit for the 21st century and afforded local authorities the necessary tools to protect the public, tackle cross border working and introduce more powers for better enforcement. Instead what is now being proposed is a quick fix and offers nothing more than a temporary solution. The existing legislation is archaic, not fit for purpose and requires fundamental reform with new primary legislation.

The radical, ambitious and exciting plans previously proposed by Welsh Government have effectively been overlooked, and are unlikely to be revisited. A viable alternative however is readily available by considering in more details adopting the recommendations of the “Ministerial Working Party into Hackney Carriage and Private Hire Licensing in England [2018]” which builds on the work undertaken by the Law Commission “Reforming the Law of Taxi and Private Hire Services [2012]”.

These recommendations offer far more in terms of a workable solution, and would modernise the legislative framework, introducing appropriate regulation and giving licensing authorities the necessary enforcement tools to better protect the public. The recommendations if implemented, would ensure that inconsistencies between Welsh and English authorities, particularly along the border, are negated.

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

The Welsh Language Act specifies that anyone should be able to conduct business through the medium of either Welsh or English.

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.

The Welsh Language Act is in place to ensure the Welsh language is treated no less favourably than English.

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: Please enter here:

No further comments.