

CABINET

Date of Meeting	Tuesday, 12 th July 2022
Report Subject	Welsh Government's Consultation on Proposals for New Bus Legislation
Cabinet Member	Deputy Leader of the Council and Cabinet Member for Streetscene & Regional Transport Strategy
Report Author	Chief Officer (Streetscene and Transportation)
Type of Report	Strategic

EXECUTIVE SUMMARY

Welsh Government is seeking views on the proposal to introduce new legislation to fundamentally change the way bus services are planned and operated in Wales, and has launched a 12-week public consultation on how the new bus system will be designed, which closes on 24th June 2022.

In Flintshire, we have sought an extension to the consultation to allow the new administration and ensure that newly elected members are afforded the opportunity to learn about the proposals and provide a response. Accordingly, Welsh Government have agreed to a small window beyond the consultation deadline, which will ensure that Flintshire members are given the opportunity to respond to the proposals.

The legislative proposals seek to essentially change the way that bus services are governed, coordinated and operated in Wales. Welsh Government is intent on achieving a bus system that boosts social equity and is capable of delivering the scale of modal shift required by the climate emergency, which is governed and designed to serve the public interest, with the widest possible geographic coverage, fully integrated connections between different services, the highest possible service frequencies, and simple unified easy-to-use ticketing and information under the banner: 'One Network, One Timetable, One Ticket: planning buses as a public service for Wales.'

The purpose of this report is to advise Informal Cabinet on the proposals for new bus legislation and highlight some of the benefits and risks.

RECOMMENDATIONS

1	That Cabinet welcome the proposals to introduce new legislation for bus services in Wales, but notes some of the risks and challenges highlighted in this report.
2	That Cabinet supports the proposed response put forward by Flintshire to the White Paper Consultation.

REPORT DETAILS

1.00	EXPLAINING THE BACKGROUND FOR THE PROPOSALS TO INTRODUCE NEW LEGISLATION FOR BUS SERVICES IN WALES
1.01	<p>Welsh Government is seeking views on the proposal to introduce new legislation to fundamentally change the way bus services are governed, planned, coordinated and operated in Wales, and has launched a 12-week public consultation on how the new bus system will be designed, which closes on 24th June 2022 (see Appendix 1 – Consultation document).</p> <p>Welsh Government is intent on achieving a bus system that boosts social equity and is capable of delivering the scale of modal shift required by the climate emergency, which is governed and designed to serve the public interest, with the widest possible geographic coverage, fully integrated connections between different services, the highest possible service frequencies, and simple unified easy-to-use ticketing and information under the banner: ‘One Network, One Timetable, One Ticket: planning buses as a public service for Wales.’</p> <p>https://gov.wales/one-network-one-timetable-one-ticket-planning-buses-public-service-wales</p>
1.02	<p>Current legislation under the Transport Acts 1985 and 2000 places a duty on us as a local authority to plan and administer bus services that cannot be run for profit by commercial bus operators, keep the bus network under review and intervene where appropriate. There is no statutory duty upon the Council to provide local bus services or any other form of public transport, but there is local discretion as to the level of subsidised services provided and this must be achieved within the funding available. Subsidised bus services are provided under contract to us by various bus operators. The local authority does not run services, own the buses or employ the drivers and this falls under the private bus company’s remit. Services therefore must be sustainable, benefit as many people as possible and offer reasonable value for money for the public purse, when the cost of providing them is equated with patronage they actually receive.</p>
1.03	<p>In May 2015, Cabinet approval was given for a review of the county’s subsidised bus services as part of the business planning proposals over a three-year period between 2015 and 2018. Under the proposals, it was agreed that only a core network of bus routes would be supported in the county, which would be largely made up of commercial bus services with minimal financial support, to ensure that essential regular connections were retained to key hubs along the routes. Commercially operated routes might also operate in the county, but these would not be within the control of the council and may not receive any direct subsidy. Workshops were subsequently held with elected members and town and community councils to identify the core bus network and determine the minimum standard required for the core network in terms of days/hours of operation and the frequency of services.</p>
1.04	<p>In line with the portfolio business planning proposals, the subsidies provided by the Council were reduced, with the final phase of reductions delivered in 2017/18. At the time, the situation was complicated by the failure of a large, local public transport provider in July 2016 when the level of subsidy increased as the routes provided by the supplier were supported by the Council in the immediate aftermath of the service failure.</p>

1.05	<p>The core bus network structure in place currently is characterised by a number of key destinations across the County (hubs), such as main towns or public transport interchanges/railway stations with direct, high frequency bus services operating between the hubs. The core network predominantly consists of commercial bus services; however, some support has continued to be provided to ensure that connections are maintained and that regular, high quality services continue to link the key hubs along the network. The current level of revenue support provided by Flintshire for the core bus network is £513k with additional support provided through the Bus Service Support Grant (BSSG) by Welsh Government, which stands at £558k. Appendix 2 details the core bus network and Appendix 3 shows a list of all the supported bus routes as part of this core bus network and details how this network is currently funded.</p>
1.06	<p>Deregulation of the bus service industry since the 1980s meant that road service licensing was abolished and allowed for the introduction of competition on local bus services. To operate a bus service, all an accredited operator was required to do was provide 56 days' notice to the Traffic Commissioner of their intention to commence, cease or alter operation on a route.</p> <p>It has been widely recognised that deregulation has had several consequences in that the link between transport authorities and bus operators was removed and local authorities lost the power to control bus services or provide incentives to operators to improve services. In effect, local authorities lost control of the routes, the frequency of services and the setting and collection of fares, which meant that the opportunity to integrate and coordinate services was also removed.</p> <p>Over the years, the impact of deregulation has been felt most heavily in the more rural areas, where competition is poor, demand for travel by public transport is lower and the cost for subsidised services is high. For those people without access to a car, or those with special access requirements, the lack of public transport is a major barrier to accessibility. In north Wales, commercial bus services have tended to be concentrated in the more urban, populated coastal strip, which is dominated by one or two private companies.</p>
1.07	<p>In addition to this, the COVID-19 pandemic has exposed serious issues around the resilience of the bus services network in Wales and the vulnerability of the bus industry from reduction in patronage and fare-box revenue. Despite bus services being an essential part of the public transport network in Wales, they are in decline with passenger numbers falling steadily for many years on most routes in Wales. This decline reflects a similar picture across the UK as a whole.</p>
1.08	<p>As Wales recovers from the pandemic, there is an opportunity to legislate for the much-needed reform of the planning and delivery of bus services, and to enable an increase in bus services in a way which achieves a range of policy objectives. The draft Regulatory Impact Assessment (see Appendix 4) published alongside the consultation document sets out key success factors for a better bus system, including:</p> <ul style="list-style-type: none"> • area-wide networks with all significant local destinations reachable • one ticket system • easy to understand network • one brand • easy and reliable transfer • reliable travel times

	<ul style="list-style-type: none"> • accessible and comfortable • public feedback and customer care • passenger safety, security and health • network efficiency and financial affordability <p>Welsh Government intends to encourage people to make the change to more sustainable transport by making it more attractive to all parts of society (One Network), adopting innovations that make it easier to use (One Timetable) and making it more affordable (One Ticket).</p>
1.09	<p>Welsh Government is intending to introduce Primary Legislation that enables the regulation of bus services in Wales and proposes the following measures: -</p> <ul style="list-style-type: none"> • Local authorities will work with Transport for Wales (TfW) to develop area-wide network plans with all significant local destinations reachable • Corporate Joint Committees (CJCs) will discuss and agree the network plans to ensure regional connectivity. • Regional network plans will be submitted to a national group including all 4 CJCs, Welsh Ministers, Transport for Wales and operator, passenger and employee representatives to ensure national join-up and effective interchange with other transport modes, including rail and active travel routes. • Franchising of bus services across Wales: powers for franchising would sit with Welsh Ministers in order for TfW to procure and manage franchise contracts for those plans, in close cooperation with local authorities. • Lifting the ban on setting up new municipal bus companies (either as a totally new entity or the acquisition of an existing bus company with services run independently at arms-length or as an in-house department e.g. Teckal) and removing restrictions on existing municipal bus companies to enable parity (“No Advantage”) under a franchised system, to include co-ownership, acquisition, and raising funds commercially. • The need for transitional regulations. • Introducing a mechanism for an “Operator of Last Resort” for situations where a franchise operator might fail commercially • A specific legislative duty to consider the impacts on SMEs when franchising.
1.10	<p>There is general agreement amongst local authorities that improvements can be made to the way bus services are currently managed and controlled in Wales. There is also complete consensus that radical action is needed to address the challenge of climate change and reduce emissions.</p>
1.11	<p>Whilst the ambition of the White Paper is highly commendable, there is significant concern about how the changes are going to be made in practice and whether the level of funding required to realise the ambition is going to be achievable. To be effective and improve services across Wales, the franchising model proposed will require a substantial increase in the amount of funding dedicated to bus services. It is important that any such increase in investment is used as effectively as possible to ensure it makes a significant contribution to efforts to tackle the climate change emergency.</p>
1.12	<p>The White Paper outlines that, in order to ensure that public funding is used efficiently, various strategic objectives would have to be achieved. One of them is: “multi-year sustainable funding allocations for bus services and bus infrastructure that enable long-range strategic planning and investment, optimal</p>

	<p>use of available monies and development of sustained improvement packages targeted to grow patronage.”</p>
1.13	<p><u>Considerations / Implications & Risks</u></p> <p>a) Undoubtedly, a significant increase in funding will be required for a franchising model and, as plans are developed, this will need to be costed and assessed for affordability. The additional costs of a franchise model have been estimated to be around £61m per year with no guarantees that improvements in bus services will be delivered any more quickly than through local authorities and operators working in partnership to improve services.</p> <p>b) Local authorities contribute significant amounts of funding from a variety of sources to bus services already. However, these contributions vary significantly across Wales and it is not a level playing field. The local authorities that contribute the highest amounts currently have concerns about the impact locally of effectively pooling resources with regional partners that have either provided lower amounts of funding or none at all. Similarly, councils in areas with strong commercial networks at present are wary that franchising could see a redistribution of resources to improve services in areas poorly served at the moment. However, equally, if improvements in some areas have to be funded by a redistribution of resources, as opposed to from additional funding, that could mean some local residents seeing a reduction in services.</p> <p>c) Local authority bus service budgets are currently discretionary and un-hypothecated, and there is no statutory duty upon the Council to provide local bus services or any other form of public transport. Although it has not been raised yet, there is concern that local authorities may be mandated to provide or increase funding for local bus services. Funding in place at present is complex and comes from numerous sources, and is not limited to Welsh Government e.g. cross-boundary and cross-border services receive subsidies from neighbouring local authorities.</p> <p>d) Concerns have been raised around the local input to service design. Welsh Government believes that the best way to achieve the kind of national level coordination and network design needed to maximise the public good across Wales is to bring regional leads together through the CJsCs with Welsh Government and expert input at a national supervisory board which can offer a guiding mind, bringing all levels of the bus system together to achieve that objective. It is important to note that the proposals will allow Welsh Ministers to change the entire Supervisory Board and decide on a reallocation of funding between regions without any local input.</p> <p>e) CJsCs will be required to develop regional transport plans and ensure a coordinated approach across the region for bus and rail services, and situations should be avoided, in so far as possible, where bus and rail are competing for the same passengers. CJsCs also have a statutory responsibility to produce Strategic Development Plans. These need to be developed in harmony with transport plans, ensuring that land use plans correspond with transport plans.</p> <p>f) WG is proposing to centralise the letting and management of contracts for the franchise through Transport for Wales (TfW) at a national level. All councils have raised significant concerns around this proposal and feel that the current knowledge and experience sits within local authorities. There are also TUPE issues to consider. Clearly, TfW will have a role to play, but</p>

	<p>there is also concern that this would create significant issues for councils as the officers who manage contracts are generally also involved in other transport functions, including home to school transport. Other questions around compliance monitoring, H&S, and safeguarding have yet to be addressed.</p> <p>g) No mention has been given to the maintenance and management of bus stop or bus station infrastructure in the proposals and whether this responsibility would be retained by local authorities. Funding for maintenance is currently very limited and has been significantly reduced at a local authority level over the years, which has meant that it tends to involve reactive repairs only. Any improvements to infrastructure would need to be accurately costed and funded with consideration given to ongoing maintenance revenue funding.</p> <p>h) Concerns have been raised around potential distortion of the market and competition through franchising, particularly where one large commercial operator currently dominates. The impact on SMEs of new arrangements certainly needs to be a major consideration. This is of particular importance for rural areas where these SMEs are often an important source of local employment and provide other local transport services (e.g. home to school transport, rail replacement). If SMEs fail to win franchises in competition with larger operators it is likely to put their future at serious risk – with a range of potential unintended consequences locally.</p> <p>i) Home to school transport plays an integral part of the local bus network and is often used to cross-subsidise public transport services (and vice versa), as it is often more cost effective i.e. cheaper to purchase seats on public transport services than provide a dedicated school transport contract. Under the franchising model, local authorities would lose the flexibility to do this, resulting in missed opportunities and higher overall costs.</p> <p>j) Flintshire’s location as a border authority with England – it is still unclear how cross border services will be impacted and whether the franchise would extend beyond the border e.g. Service 5 to Ellesmere Port. Consideration also need to be given to the fact that the costs for subsidising cross-border services are shared with neighbouring cross-border local authorities.</p> <p>k) Potential impact on community transport providers, which operate under Section 19 and Section 22 of the Transport Act 1985 as “not-for-profit” transport and allow the provider to operate transport services for hire or reward without the need for a full public service vehicle operator’s (PSV ‘O’) licence. Welsh Government have already indicated that they are unlikely to include provisions for these regulations, as they are unlikely to fall within the competence of the Senedd. However, up to 10% of the Bus Service Support Grant, which equates to £615k in north Wales, is currently used to fund these essential community transport services. There has been no indication whether this funding will continue to be provided in the future under the new regime.</p>
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2.00	RESOURCE IMPLICATIONS
2.01	Staff resources may be impacted if specific duties transfer to the proposed CJsCs and/or TfW; however, without full details, the full impact of this cannot be evaluated at this stage.

2.02	The revenue support funding provided by Flintshire for the local bus core network could be impacted in the future, but again, without further details, the full impact of this cannot be assessed at this stage. Similarly, the impact on school transport services and budgets is not known, but there may be unintended risks and consequences attached to the proposals as a result of the franchising model.
2.03	The proposals around allowing local authorities to create new municipal bus companies would require significant funding and investment, and carries with it its own operational and strategic risks.

3.00	IMPACT ASSESSMENT AND RISK MANAGEMENT
3.01	A Regulatory Impact Assessment has been produced by Welsh Government, which is shown in Appendix 4 .
3.02	An Integrated Impact Assessment has also been completed.

4.00	CONSULTATIONS REQUIRED/CARRIED OUT
4.01	Cabinet Member for Streetscene & Transportation

5.00	APPENDICES
5.01	Appendix 1 – Consultation document Appendix 2 – Flintshire’s core bus network Appendix 3 - List of current supported bus routes and funding Appendix 4 – Welsh Government’s Regulatory Impact Assessment

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	One network, one timetable, one ticket: planning buses as a public service for Wales: https://gov.wales/one-network-one-timetable-one-ticket-planning-buses-public-service-wales

7.00	CONTACT OFFICER DETAILS
7.01	Contact Officer: Katie Wilby, Chief Officer, Streetscene & Transportation Telephone: 01352 704530 E-mail: katie.wilby@flintshire.gov.uk

8.00	GLOSSARY OF TERMS
8.01	<p>CJCs = Corporate Joint Committees. The power to pass regulations creating CJCs was included in the Local Government and Elections (Wales) Bill that was passed in the Senedd in 2020. There will be four CJCs corresponding to the growth deal areas within Wales with the initial membership comprising of all the Leaders of Councils within the area covered. The CJCs will exercise functions which WG believe are best exercised regionally. At present the proposal is for them to undertake functions within economic development, transport and strategic planning.</p>