

## One network, one timetable, one ticket: planning buses as a public service for Wales

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Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

**Q1:** Do you agree that change is required in how we deliver bus services to meet the needs of Wales' citizens and respond to the climate emergency? Please score from strongly agree to strongly disagree.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Comments:

It is welcomed that the vital role of bus in supporting the climate change agenda and facilitating social inclusion is recognised, with support for the aspiration to enhance provision.

It is noted that bus patronage across Wales and the UK was in decline prior to the pandemic (including London since peaking in 2013/14), with the long term impact of post-covid societal change unclear; therefore a courageous approach will be required to make buses the mode of choice rather than the mode of last resort.

Whilst legislation sets the framework for bus services and standards, delivery of change is intrinsically linked to factors outside the scope of the white paper.

The current system provides primacy for commercial determination of the network and fares, with the powers for the public sector limited to procurement where socially necessary services cannot be provided commercially. The lack of effective coordination can be a barrier to use – especially for new users, visitors and those transferring from other modes.

Whilst powers currently exist under Section 63 of the Transport Act to procure bus services that could meet many of the service level aspirations within the White Paper, these are superseded where a commercial is registered, with a risk of fragmentation and a lack of coordination.

The ambition of the plan is welcomed. It is evident that a significant increase in the level of public subsidy will be required (particularly at the start to pump prime services). There has been a historic reduction in both the level and real term value due to inflation (Local Transport Services Grant and Bus Services Operating Grant had a combined budget of £33m; however their successor scheme Bus Service Support Grant was reduced to £25m and has remained at that level since introduction in 2012/13). It is also accepted that Local Authority contributions to supported Bus services across Wales have also reduced to reflect funding pressures.

Funding horizons are a further barrier, with annual settlements that do not support long-term strategic decision making and effectively prevent development of Statutory Bus Quality Partnerships given the requirement for a 5 year funding commitment but LAs only have a 1-year funding horizon.

Delivery of the aspirations will also depend on the ability of suppliers to meet the contract specification. At present there is a limited, and indeed diminishing capacity in the market. It will be essential for any changes stimulate investment in service capability.

The ability of bus to meet transport needs is also linked to land use and planning. Whilst consolidation of health and education establishments can provide economies of scale, there is an increased requirement for travel, which is often difficult to service in an efficient and effective manner.

There is a wide range of survey data that notes users desire reliable bus services, which offer competitive journey times; therefore the delivery of attractive bus services also requires efficient highway infrastructure. Congestion increases operating costs and diminishes the value of the service to users.

It will therefore be necessary to address these issues in addition to any legislative changes.

**Q2:** Do you agree that franchising is required to deliver the depth and pace of change to the bus network that is required in the context of the climate emergency? Please score from strongly agree to strongly disagree.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Comments:

The ability to deliver bus services under a franchise arrangement offers opportunities to provide greater consistency for users by adopting common contractual obligations, such as branding, on-board information provision and vehicle specification. Depending on the contract form and risk strategy, common fares could also be delivered under a franchise arrangement.

The transfer of competition from the roadside to procurement of services can provide opportunities to maximise the efficiency of the network and wider integration (bus-to-bus and bus-to-rail). Franchising under a centrally, well planned network should reduce risks of 'wasteful competition' where there is over provision that could be utilised elsewhere, resulting in the most efficient network within the resources available.

It should be noted however, there is limited opportunity to realise such benefits in Wales, given historic market contraction and limited examples of real 'head to head' competition. In Newport we have witnessed the virtual withdrawal of services directly competing on the same whole route length (the main exception being the Newport to Cwmbran Corridor). Where there is more than one operator on a given section of highway, it is generally where routes converge to access the bus station or key destination.

Whilst franchising could theoretically enable consideration of cross subsidy between more profitable routes to maintain commercially unsustainable routes, bus services in Wales are currently provided under a Public Service Obligation to address market disruption due to changing travel habits and increasing operating costs (fuel and wages). This suggests opportunities for cross-subsidy are limited, reducing the potential benefits of franchising.

There is recognition that cross border and long distance coach services may be operating under a different legislative system with a system of licencing required. The principle of higher Welsh specific quality standards may be beneficial; however, these may result in additional fleet complexity and costs that make bidding uncompetitive and / or reduce the potential supply market.

Whilst network stability is key in building trust with users, the events of the last 2 years highlight the need to maintain the ability to respond to evolving travel needs. The franchise system will need to balance agility and stability. Commercial pressures can provide a positive stimulus for innovation and efficiency and it is imperative franchising doesn't stifle such opportunities.

We note the proposed use of gross cost contracts to provide cost certainty for suppliers. This approach places the financial risk wholly with the public sector. This could result in services being cut and / or fares increasing if actual revenue is below forecast or operating costs increase unless additional subsidy is available. Transport for London utilise this type of contract and were left financially exposed as a result of declining bus patronage. The revenue reduction under their gross cost contract necessitated additional emergency treasury funding, with ongoing consideration of a combination of service cuts and fare increases that are counter-productive to modal shift objectives.

Gross contracts underwritten wholly by the public sector move revenue protection from operators to the contracting authority. It will be necessary to introduce robust processes and monitoring to ensure the appropriate revenue is collected on bus. Contract management functions will also need to be established to minimise the risk of fraudulent returns. These require additional staff resources and funding to protect the public purse, introducing new administration costs into the system. All public bodies will need bolstering to undertake this work effectively.

There is a lack of detail within the white paper to ascertain the wider funding implications, including the revenue for the Mandatory Concessionary Fare Scheme, to which Local Authorities collectively contribute £10.314m per annum. The current allowances in the Revenue Support Grant do not reflect the level of some authorities' contribution; therefore further details will be required to assess the impact for each Local Authority.

The length of contract will be key in attracting suitable bids. It is likely that a minimum of 5 years will be required to attract investment from bidders, with potential to extend subject to performance. We note that a period of 7 years being considered. It is likely that franchise contracts will span successive Senedd terms, with a risk that funding priorities may change over the course of the contract. It will therefore be necessary to provide funding safeguards.

The white paper notes there are circa 80 operators; however the Welsh market has become polarised, with the 6 largest operators accounting for over two-thirds of all vehicles operated on public services. Of the remaining companies, the majority of companies operate less than 20 vehicles. There is a risk that the move to a franchised system will result in the packaging of a significant number of routes to attract wider interest and achieve economies in the contracting phase. This could make it difficult for SMEs to submit competitive bids as they have limited capacity to meet a high Peak Vehicle Requirement. It will also be difficult for smaller fleet operators to achieve the economies of scale required to compete with larger groups. We are currently experiencing difficulties attracting bids for tendered services, with ATCO members reporting an increasing number of 'no bid' responses to tender invitations.

In order to provide value for the public purse and deliver the desired level of service, it is imperative there is a strong market for the supply of bus services to provide competitive tenders. There has been a decrease in the capacity of the industry, both in the number of suppliers and volume of km operated. This is illustrated in the former Gwent area, where the number of operators providing public bus services (including community transport operators) has decreased from 32 in 2004 to 13 in 2022.

Given the structure of the market, franchising could place some operators at risk of survival if they do not win sufficient work to cover overhead costs. Many SMEs provide schools services, as the economics of education transport limit the viability of exclusively providing school work; therefore contraction of the public transport supply market could have unintended consequences for schools provision, including lack of supply and increased tender costs. Home to school is a statutory duty for Local Authorities; therefore increases in this area could have unintended funding consequences for non-statutory council services.

Whilst it is likely that the first round of franchising will attract wide interest and generate competitive proposals (potentially from companies that don't currently operate in Wales), there is a concern that there will be a reduced level of competition in subsequent rounds as there will be limited – if any, opportunities for bus companies to maintain a viable business if they are unsuccessful in the first round. We note TfL tender circa one fifth of their network on an annual cycle to minimise the time period between tender exercises; however regulation of bus services in London was excluded from the 1985 Act and they did not have to develop a transition plan and could novate to this position by varying contract length. We don't have this luxury in Wales.

The biggest risk to successful delivery of a franchised network is the transition from the commercial led to a publically planned and funded network. Although the timescale for the Bills introduction has not been confirmed, it is anticipated that this would not occur before mid to late 2023 pending Royal Assent. It will also be necessary to prepare subordinate legislation and guidance. Once these have been agreed, the scope and network specification can be determined. It will be necessary to undertake a competitive procurement exercise, which, given the scale of bus services is greater than the number of services in the Rail Franchise is likely to take a considerable period. In view of these elements, there will be a considerable period where providers and most importantly, the public will undergo a period of instability.

The passing of the legislation itself could trigger unintended consequences as incumbent operators focus their businesses to compete for future franchise contracts (potentially focussing on the most profitable routes at the expense of others) or withdrawing from the Welsh Market. There was a significant period of disruption when the 1985 Act was implemented and there is a risk this level of disruption will be repeated with robust mitigation, including increased public funding to support withdrawn services until the franchise comes into force.

The market uncertainty will also influence investment decisions, as operators are less likely to renew vehicles given there isn't the opportunity to make a return on investment in the shortened period prior to franchise introduction. This could have an unintended consequence in delaying the achievement of the challenging transition to a Zero Emission Bus and Taxi fleet.

The experience of Manchester indicates the timescales necessary to develop franchising and the reliance on an increased level of public funding (£135m). The proposals have also been subject to ongoing legal challenge, with Rotala granted leave to appeal the original judgement that quashed their request for judicial review. Whilst the outcome cannot be predicted, it demonstrates there risks to the implementation timescales, with associated legal costs to the procuring body that need to be factored in.

In view of these considerations, the opportunity to franchise bus services should an option available to the public sector; however its application will be dependent on a number of factors and implementation carries significant risks.

**Q3:** Do you agree with the Welsh Government's preferred franchising model as described above? Please score from strongly agree to strongly disagree.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Comments:

The Benefits of franchising are understood and supported, particularly the opportunities for greater coordination of schedules and ticketing; however there are a considerable number of risks (outlined in our response to Q2) that could result in unintended consequences for the travelling public and the viability of indigenous SMEs.

Wales has significant variation in population density, demographics and land use; therefore a 'one size fits all' approach is unlikely to address all needs efficiently. Local knowledge is key in assessing all of the requirements of a given area.

There are circumstances where franchising is the most appropriate method of providing public bus services, indeed some rural authorities are in effect franchised already as the level of demand cannot (and is unlikely) to support commercial provision. In these cases, the Local Authority plans and procures services, defining the network and setting fares.

There is limited genuine head-to-head to competition in Wales where franchising could be a mechanism to introduce greater coordination along corridors. Where there are examples of uneven headways or lack of joint ticketing, quality partnerships could be developed if longer term funding horizons could be provided in the same way as envisaged for franchising.

Whilst there are elements of the current legislation that could be improved, the benefits of collaborative working are recognised and supported. These were demonstrated through the maintenance of a core bus network despite disruption resulting from the initial covid pandemic and later market disruption due to changes in travel patterns and increased operating costs. This was only achieved due to close partnership working between the Welsh Government, local Authorities and bus operators. The universal implementation of franchising will introduce a contractual working arrangement, where innovation and partnership will be more difficult to achieve due to competition considerations and risk of challenge if the contract terms are fundamentally changed from the bidding process.

We would be supportive of enhancing current partnership provisions, which the consultation itself notes has benefits if supported with longer term funding horizons.

Whilst franchising can deliver user benefits in the fullness of time, there are considerable risks that must be mitigated during the transition from commercial determined to centrally contracted networks.

Franchising is therefore should be considered a useful measure, where suitability is dependent on circumstance rather than the default position.

**Q4:** Do you agree that this model provides sufficient local input for designing local bus networks? Please score from strongly agree to strongly disagree.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Comments:

The franchising model provides the opportunity for local identification of need and the determination of an appropriate network, with the RIA predicated on local delivery. Local input will depend on the procurement model / structure,

It is noted the White paper proposes future potential powers for Ministers to delegate bus planning and procurement functions to statutory bodies. In the event

TfW is put on a statutory footing it could dilute local input and accountability depending on the form of delegation.

The chosen structure must ensure local input and accountability are maintained.

**Q5:** Do you agree that there is a need for regional consideration and coordination of bus network plans by Corporate Joint Committees, before combining them at a national level? Please score from strongly agree to strongly disagree.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Comments:

The bus network in Newport comprises a mix of local and regional services. These provide links to wider facilities and increases bus travel options. Many Authorities in South East Wales (including Newport) have a relatively compact geographic footprint, with many bus services crossing more than one LA boundary.

Therefore it is imperative that the regional dimension is considered as part of network planning process. Previous consultant led work to develop a centrally planned bus network had fundamental flaws that demonstrated the importance of local and regional input.

CJC legislation includes the requirement to develop regional transport plans, bus services will be a key element within these. Co-ordination of networks at a regional level is vitally important, with opportunities for integration of bus and rail services and, where possible, minimise duplication.

Bus Networks should be planned initially with LA's and stakeholders and feed into a Regional Network Plan, which incorporates national and long distance bus/coach services in the Region.

CJCs also have a statutory responsibility to produce Strategic Development Plans that need to dovetail with Regional Transport Plans to reflect the relationship between land use and transport. Co-development of plans is critical to facilitate an efficient and attractive public transport network that reduces unnecessary travel.

CJC's are in the early stages of development and the functions undertaken would be expected to evolve. These would be determined by each region.



**Q6:** Do you agree that letting and managing contracts at the national level by the Welsh Government through Transport for Wales offers the best opportunity to pool franchising expertise, deliver economies of scale? Please score from strongly agree to strongly disagree.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Comments:

On the surface, there may be opportunities to achieve economies of scale if bus procurement functions are undertaken on a national, centralised basis; however the white paper does not consider the wider consequences for procurement of transport services that are outside the scope of the White Papers – particularly Home-to-School transport, social services and any other bus services the local authority may deem necessary if they are not within the agreed franchise scope.

LAs have considerable experience of procuring public bus services. Centralising bus procurement into TfW would trigger a TUPE situation as there is a clear transfer of functions. This situation would reduce the capacity and experience within local authorities. It is also noted TfW has limited bus service procurement experience given their current lack of statutory powers.

Where possible, Newport City Council utilises the public bus network to meet its statutory obligations for mainstream home to school transport. Transferring public bus procurement from the council would reduce the efficiency of the current arrangement.

It is recognised that the delivery of franchising will require a step change in the capacity of the public sector to procure and manage services; however regional provision would provide opportunities to achieve economies of scale while maintaining mechanisms for local input and accountability.

It will be difficult to remotely manage contracts under a centralised procurement regime, in particular compliance and revenue protection. LAs are the relevant Highway Authority for the majority of bus services (with the exception of the Trunk Road Network). Contract centralisation will require establishment of robust consultation and communication process to deal with planned and emergency road closures that could affect remote management of contracts.

When considering these wider factors, perceived economies of centralising some functions may be outweighed by a decline in the efficiency of the whole system.

**Q7:** Do you agree with the need for a duty to ensure plans are designed to be affordable? Please score from strongly agree to strongly disagree.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Comments:

Affordability is a very subjective measure, as the level of subsidy required to realise the ambition of the plan will require a significant increase in current funding levels – especially given the aspirations to provide more services, to more places more often. Whilst there would be an expectation of overall patronage growth, aspirations to make fares more affordable for users whilst underwriting the contract costs will place a greater pressure on public funding.

The events of the last two years have also exposed the levels of risk should an unforeseen event occur. Plans that are affordable at the outset can quickly become unaffordable. The long term impacts of covid on travel habits including increased work from home, online shopping and the Wales Transport Strategy objective of reducing the need to travel, will make modal shift targets more challenging. The RIA assumption that franchising alone will generate a threefold increase in patronage are without significant infrastructure investment are considered very optimistic. The financial tension between TfL and the Treasury following reductions in patronage revenue clearly demonstrate the difficult decisions that could be required, including requirements to reduce services and increase fares in return for an emergency funding settlement.

The provision of an effective and efficient bus network will require significant investment in roadside infrastructure measures to assist bus flow. These will also incur significant construction and ongoing maintenance costs. Therefore affordability must be considered for the bus system as a whole and not just the services themselves. It is noted that the London bus network received significant infrastructure investment prior to the implementation of demand restraint measures such as congestion charging and Low Emission Zones.

It will be necessary to have robust financial risk mitigation measures, which could include reduction in network coverage, increased fares, contract renegotiation risk and increased public subsidy. It may be necessary for the Welsh Government to hold a financial risk pot, which if uncalled upon could have been utilised to deliver other policies (transport and / or other portfolios). This may reduce the value for money to the public purse.

Affordability will need to reflect the likelihood that contracts will span successive Senedd terms if they are to be commercially attractive and deliver best value

(shorter contract periods with limited opportunities to repay investment usually attract higher tender costs). How will the necessary protections be given to budgets that could impact the funding priorities of different administrations?

The principles of recognising and rewarding the role of bus drivers is supported. Given drivers wages have reduced as operators sought the lowest operating costs, it is likely that wage rates would need to increase. The proposal to set wages (subject to compliance with employment and competition legislation) would require additional funding to bring all drivers up to a minimum agreed level even if the existing network was maintained.

Affordability in successive franchise rounds will be influenced by the level of competition in the market place following the first franchise procurement, with a risk there will be less competition / capacity for these contracts and a corresponding increase in tender prices.

It is not clear on who / which organisation the duty would ultimately fall. Would responsibility lie with the 'guiding mind' who would be responsible for settling the strategic direction or with the relevant Minister / finance Minister? The funding for public bus services is currently provided by a number of organisations and unpicking this to determine affordability will be challenging. The Local Authority revenue Support Grant is not hypothecated; therefore the assessment of affordability will be linked to wider budgets not just Welsh Government bus funding.

Ultimately the cost of franchising will depend on the network design and service specification; therefore affordability and coverage is impossible to determine at the present time, as these elements have not been developed. It is not clear whether the statement of funds available will dictate the network or whether the needs of the network will determine the level of funding that will be made available.

**Q8:** Do you agree that the proposed powers to make regulations and guidance are suitable to ensure franchises are let successfully and sustainably? Please score from strongly agree to strongly disagree.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Comments:

The development of robust guidance will be essential to assist development of the contract and procure it in the most effective manner. Many the functions that were wholly undertaken by Local Authorities prior to de-regulation (such as network planning and setting of fares) were transferred to the private sector.

Whilst authorities maintain some capacity in these areas (especially those who procure Section 63 services on a Gross Cost contract basis), it is recognised that guidance will need to be accompanied by increased public sector staff capacity and skills base to reflect the scale of the transfer of key functions from the commercial sector.

The guidance should include the different strategic and contractual options for procuring services under a franchising arrangement and set out the benefits and risks of each to enable the most appropriate method to be utilised.

Ultimately the success of any franchise will depend on a number of factors, not least the capabilities of the procuring body and governance arrangements.

**Q9:** Do you agree with the proposed requirement to consider the impact on SME bus operators when franchising? Please score from strongly agree to strongly disagree.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Comments:

The maintenance of healthy and varied supply market is essential to deliver the full range of bus services; therefore any unintended consequences that undermine the stability of SMEs would be detrimental. Many home to school services are provided by SMEs, many of whom rely on a degree of public bus operation to maintain business viability and provide a suitable volume of work to attract drivers (deployment on school contracts only requires the use of split shifts or short hours working).

Many SMEs (particularly those in rural areas) provide a valuable source of local employment where there may be limited alternatives without re-location or travel.

Whilst the principle is strongly supported, clarification on the legal mechanism to achieve this would be required as measures to facilitate supplier diversity could contravene competition legislation. Assuming a compliant mechanism can be provided, there are practical and commercial limitations that will influence the success of this proposal.

We have noted our concerns in respect of the potentially detrimental impact of Franchising on SMEs given the economies of scale that larger national / international companies can bring to bear when bidding for contracts (refer Q2 response). These concerns also apply to incumbent municipal operators, as the two remaining municipal companies have relatively small fleets compared to national operators (for example Newport Bus have 100 vehicles compared to 7200 vehicles in the Stagecoach fleet<sup>1</sup>). There are circa 2000 vehicles operating on public services in Wales; therefore even a single franchise contract for all current Welsh bus services could not achieve the same economies of scale as large national companies.

Larger fleet size will attract greater discounts for bulk replacement of vehicles, whilst fuel and parts will also be subject to economies of scale. There have been historic examples of large companies hedging fuel costs to insulate them from the effects of market shocks. These require upfront funding that may not be an option for SMEs due to high dependency on regular cash flow given the 'hand to mouth' business model of some operators.

Central overhead costs such as payroll, accounts, website maintenance, training and audit are often undertaken by a single depot for SMEs. Large companies can spread these functions over a number of depots to reduce the cost to an individual depot.

The delivery of higher quality standards, including the use of Ultra Low Emission Buses will improve the perception of the bus (particularly important to attract modal shift) but there is a risk improvements will exacerbate the difference in economies of scale SMEs must overcome to compete. The availability of funds to invest will also be a factor, as the lower financial turnovers for SMEs will reduce the capital available where profit margins are the same (or even higher) than large organisations with a turnover that is multiple times higher.

The White paper notes the challenges of maintaining diversity in the sector and includes consideration of TfW providing depot facilities and zero emission vehicles. There are concerns of how this could be achieved without contravening competition legislation and state aid requirements, which are not devolved. Such an opportunity would need to be open to all interested parties; therefore there will be a practical limit of how successful such a policy would be.

Discussions with Welsh Government Officials have also included consideration of a requirement for successful organisations to deliver their bid with an element of sub-contracting to SMEs. Without pre-empting the legality of this approach, it would be a very inefficient way of managing the contract.

The success of attracting SMEs will depend on the form and scale of contract, which introduces a paradox for funders who have a duty to protect the public purse – consolidation of contracts will offer economies of scale that could reduce the required level of subsidy, but may reduce the ability of SMEs to compete.

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<sup>1</sup> [About Stagecoach | Stagecoach \(stagecoachbus.com\)](http://www.stagecoachbus.com)

**Q10:** Do you agree with the benefits of establishing a mechanism to allow a public service operator of last resort to ensure services keep running if a franchise fails? Please score from strongly agree to strongly disagree.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Comments:

Section 63 of the current legislation provides powers to procure socially necessary services; however these rely on the existence of a suitable provider.

Where there is no such provider there is limited provision to provide a service (some authorities provide services under a section 22 permit); therefore the ability to establish an operator of last resort should a franchise operator cease is supported.

The question is how this could be practically achieved. The process in the rail industry is well established in legislation and operationally is 'relatively' straightforward as the permanent way (track, depots signals, etc) are in public control, the rolling stock is usually leased and there is a clear TUPE situation. This was demonstrated by the recent transfer of the KeolisAmey franchise to Welsh Government under OLR powers.

In contrast, the assets required to operate public bus services are in the ownership of private entities and could not simply be 'requisitioned' in the event of operator withdrawal or financial collapse. In the event of the latter, any assets would subject to the appointment of an official receiver. It is likely that negotiation and purchase would be required, with competition from other interested parties as well as the public sector. The establishment of suitable depots and maintenance facilities will also be required.

The white paper includes the option for Municipally owned companies to act as an Operator of Last Resort. This approach assumes a given municipal company has maintained commercial viability following the first round of franchising.

Where a municipal operator is already established, expansion to fulfil the OLR function would, by definition, require an expansion of the fleet. It would be necessary to obtain the necessary licencing approvals from the Traffic Commissioner to increase the number of vehicles (licences are not simply transferrable from the outgoing operator).

It would not be financially viable for a municipal operator to maintain a fleet of spare vehicles in a constant state of operational readiness in case of the need to utilise OLR provisions. PSVs are subject to stringent inspection and maintenance regimes, with depreciation a considerable cost.

Depending on geographic location where the OLR function is required, there may be an increased amount of 'dead mileage' to position vehicles, as depots may not be located close to the area an OLR is required. This increases operating costs and the number of drivers required, with a detrimental impact on the Statement of Funds Available.

Transfer of drivers and other staff is not as clear cut as the rail OLR process, as drivers may transfer to other subsidiaries of the withdrawing operator or choose to leave the industry. It is likely additional driving staff will be required to address the geographical inefficiencies described above.

In view of these operational issues, there is a considerable lead time to achieve delivery of bus services through an OLR arrangement, during which time the public may have a reduced level of / no service.

It is also possible that a municipally owned company may themselves be the incumbent that withdraws or becomes financially unviable. It is noted the TfW are proposed as a potential OLR option; however they would be subject to the same constraints as outlined above and would need to have the necessary licence holders and assets to fulfil this function.

The appetite for local Authorities to establish new Municipals to undertake an OLR function is unknown. Newport City Council have maintained ownership of an arms-length company since 1985, which was already established and has the facilities and staff to operate services. Establishment of a new company from scratch is a very different proposition for an authority, with a considerable element of risk and / or lead time to undertake the OLR role.

**Q11:** Do you think further specific legislative provisions are needed for the transitional period until franchising is introduced?

Without question, the transition from commercially lead to centrally planned and procured services carries significant risks to the continuity of services (refer our response to question 2).

It may be necessary to invoke a 'network freeze' where the network is maintained until the franchise specification has been developed, tenders assessed and awarded and services commence. In such a scenario the public sector would need to underwrite the cost maintaining the network, potentially under a Public Service Obligations contract similar to the BES 2.0 scenario.

**Q12:** Do you agree that local authorities should be able to run bus services directly?  
Please score from strongly agree to strongly disagree.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Comments:

The ability to run services directly may be more efficient in circumstances where there is no commercial provision to respond to tender invitations or no expressions of interest are received.

It is noted however that an entity cannot hold and operators' licence and run services under the Section 19 and 22 Permit provisions. Many Authorities utilise the Permit system to operate social services and education services. Legal clarification would be need to determine whether direct operation of public bus services would need the establishment of a Teckal company.

The white paper doesn't provide sufficient detail to ascertain whether direct award would be possible or whether an in-house bus company would be required to compete. Direct award could trigger competition issues, whilst uncertainty regarding the risk of winning competitive contracts against organisations with larger economies of scale may reduce the appetite to establish in-house provision.

The ability to operate directly would place a theoretical upper threshold on the tender price, as there will be a limit where it will be more economic to operate directly than procure commercially. This may provide a useful mechanism to reduce the risk of inflated contract returns where there is limited or no competition.

**Q13:** Do you agree that local authorities should be able to set up arms-length companies to operate local bus services? Please score from strongly agree to strongly disagree.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Comments:



Newport City Council is the sole shareholder of Newport Bus, which is operated at arms-length under the current legislation. The company has successfully delivered services in the city and was the first company in Wales to commence regular operation of services utilising zero tailpipe emission buses, with a further expansion of the EV fleet this financial year.

The company operates a mix of services across the day, which assists delivery of wider council and Welsh Government objectives. This demonstrates the potential of this ownership model to achieve mutual aspirations.

There are concerns that the proposed franchising model could result in unintended consequences that undermine the commercial viability of this model (refer our response to Q2) without some form of mitigation. It is difficult to ascertain how such mitigation could be provided without contravention of competition legislation. As an owner of one of the last remaining major municipal operators in Wales, we are acutely aware of our responsibilities to under existing legislation to ensure compliance and maintain transparency to minimise the risk of challenge. These add a layer of complexity for an authority intending to establish a new municipal.

At this stage there is a lack of detail of the franchising strategy, which makes it difficult to determine the potential impact on existing municipals. For example it may be prudent to limit the proportion of franchised services that a single company can operate in a given geographical area to reduce the risk of total cancellation of services if they cease trading at short notice (examples include GHA and Edwards Brothers). If that procurement strategy were to be adopted, it could have a material impact on the viability of municipals that currently operate a high proportion of services. Even if successful in the franchise process, they made be required to 'surrender' some routes, increasing the operating cost per vehicle.

**Q14:** Do you agree that local authorities should be able to invest in or acquire bus companies? Please score from strongly agree to strongly disagree.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Comments:

There are examples of Municipally owned companies elsewhere in the UK acquiring companies (e.g. Reading and Nottingham) to provide greater coverage. There are a number of legal considerations that make the process more difficult for municipals given the need to ensure compliance with state aid/competition requirements.

It is noted that the white paper includes the potential for municipals to merge. At present this Newport and Cardiff bus are the only sizeable companies where this proposal is likely to apply (a number of authorities provide a limited number of public bus services where there is no commercial provision). The potential to merge will primarily depend on economics and potential efficiency gains; however they would be subject to relevant CMA considerations given the significant proportion of services operated in their respective authority's area.

**Q15:** Do you agree that municipal bus companies should be able to raise fund by borrowing or selling shares? Please score from strongly agree to strongly disagree.

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Comments:

The ability to compete for tender contracts will require investment in the vehicles and facilities. The current legislation places some restrictions on the ability of municipal companies to raise capital compared to non-municipal companies.

There a risk however that despite investment, a municipal will not be successful in winning a sufficient volume of contracts to realise a return on shareholders' investment. This could place a financial risk of the local authority.

**Q16:** Are there any additional safeguards you would like to see applying to the use of these powers?

Where franchising is appropriate, there are potential benefits to the delivery of services. In view of the risks we advocate an independent review of network plans by a suitably experienced person (legally defined). The purpose of the review would be consideration of the risks and benefits.

In the event the franchising cannot be delivered, it will be important to retain other options for coordination of services. We would welcome the consideration of partnership arrangements, including potential for enhanced partnerships.

**Q17:** Are there any further comments you would like to provide on the content of this white paper?

The White paper has stimulated considerable debate on the most appropriate mechanism to deliver bus services. Throughout discussion the recurring theme has been the need to adequately fund the aspirations and provide suitable funding

horizons. The current system of annual funding is not conducive to long term planning and delivery due to the inherent uncertainty.

The proposed model places all financial risk with public sector, with no incentive for operators themselves to grow the market. Performance standards will be defined purely through a contractual arrangement, which needs a robust monitoring and capacity. This introduces significant administration cost to the system, which may achieve mutual aspiration if invested in actual services.

We would support consideration of a 'shared risk / shared reward' model that incentivises the expected behaviours and could reduce the burden on the public purse.

The implementation of 20 mph limits has potential benefits for more vulnerable road users; however there will be an impact on bus journey times that may reduce the attractiveness to users. It is likely that increases in journey time schedules will result in the need for more resources to maintain compliance with Work Hours legislation.

The delivery of increased service levels is contingent on the ability to recruit and retain drivers. The white paper notes the importance of salary; however other factors, such as the need to work shift and unsociable hours may be a barrier to some.

The provision of infrastructure to provide the efficient movement of buses is essential to achieve our mutual ambition. There is limited consideration of infrastructure in the White Paper. Replacement of Quality Partnership arrangements that are contingent of infrastructure provision will weaken this link.

Has an Equalities Impact Assessment been undertaken for the proposals.

**Q18:** Do you have any comments on the draft Regulatory Impact Assessment published alongside this paper?

To be completed following further review

**Q19:** We would like to know your views on the effects that the proposals 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?

We have no specific comments on the propensity of people to use the Welsh Language. Any proposals would need to be consistent with Welsh language legislation.

The franchise contract would provide an opportunity to include Welsh Language requirements in the contract, e.g. opportunities for drivers to learn Welsh.

**Q20:** 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.

To be updated

**Q21:** 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:

To be updated