

CARDIFF CAPITAL REGION TRANSPORT AUTHORITY MEETING 5th MARCH 2019

TITLE: WHITE PAPER – IMPROVING PUBLIC TRANSPORT – CCRTA CONSULTATION RESPONSE

REPORT OF CARDIFF CAPITAL REGION CHAIR OF REGIONAL TRANSPORT AUTHORITY COUNCILLOR HUW DAVID

AGENDA ITEM:

Reason for this Report

1. To update Members on the White Paper –‘Improving Public Transport’, issued by Welsh Government (WG) for consultation.
2. To offer Members a draft response to the consultation (included at Appendix A), in respect of the questions that WG have asked in relation to legislative proposals identified within the White Paper.
3. To ask Members to approve the draft response submitted at Appendix A and permit its submission to WG within the deadline.
4. To give delegated powers to the Chair of the CCRTA in consultation with the Vice Chair of the CCRTA to revise and finalise the draft response should further information become available during the remainder of the consultation period, scheduled to end on 27th March 2019. (Further engagement events are scheduled and publication of the Regulatory Impact Assessment is anticipated within the consultation period.)

Background

5. On 10th December 2018, WG issued a consultation document in relation to a White Paper titled; Improving Public Transport. The White Paper is available to view on line at;
https://beta.gov.wales/sites/default/files/consultations/2018-12/improving-public-transport_0.pdf

6. The stated purpose of the consultation is to seek views on the WG legislative proposals for reforming the planning and delivery of local bus services in Wales, together with the licensing of taxis and other private hire vehicles. The closing date for consultation responses is 27th March 2019.
7. Using new powers acquired in the Wales Act 2017, WG want to take action that will begin to address the fundamental weaknesses in the deregulated bus market that has been in place since the 1980s. They recognise the importance of bus and the significant number of passengers being carried (100 million passenger journeys each year), and have a long term commitment to deliver a more effective network of buses that works for the people of Wales and to encourage a shift away from private cars.
8. WG also recognise the important contribution that taxis and private hire vehicles make to the public transport network, but accept that the industry is governed by outdated laws made when horse-drawn hackneys were in operation, before the Internet, mobile phones and smartphone technology, and are very keen to bring the legislation into the 21st Century.
9. In order to achieve the desired improvements for the public transport network, WG recognises the need for a collaborative approach, both across government, and in partnership with local authorities and the private sector. They wish to support this approach by putting in place the legislative tools to provide the opportunity to respond flexibly to local community needs, enabling a tailored approach to different circumstances and challenges. This will include setting standards that ensure a level of consistency across Wales.
10. The legislative proposals outlined in the White Paper, form part of a larger reform programme intended to put in place the tools and standards to enable an integrated public transport system that provides the appropriate transport solution that best meets the needs of the travelling public. The proposals build on WG plans for rail, road, active travel and strategic park and ride in order to create a high quality, low carbon, integrated public transport network across Wales.
11. The WG intended to publish a draft Regulatory Impact Assessment (RIA) in January 2019 to be considered alongside the White Paper. However, this RIA has not been published to date and therefore officers have not had the opportunity to do so. The RIA will seek to identify the likely costs, impacts and benefits of the proposed legislative changes. The RTA will need to consider the affordability and value for money of the proposals to inform decisions, particularly in light of the current financial climate and challenges that local authorities face. Therefore, the responses to date do not address the full considerations. Should the RIA be published within the timescale, it may be necessary to amend the draft responses at Appendix A.

Legislative Proposals

12. The legislative proposals presented in the White Paper are aimed at providing the tools required to facilitate better planning and solutions for delivery of an integrated and coordinated public transport network, with passengers and communities at the heart of decision making. WG intend the proposals to:
 - Provide the flexibility to better respond to local public transport needs; and
 - Ensure consistency and coordination of bus services delivery and a more modern approach to taxi /PHV licensing.

13. The proposals include:
 - The establishment of a Joint Transport Authority – A Joint Transport Authority would be able to develop a distinctive regional approach in a broader national context towards transport planning and implementation. It could have responsibility for the full range of public transport functions, as well as certain traffic management functions (for example, the ability to make Traffic Regulation Orders for bus priority measures).
 - New Powers to enable local authorities to make Enhanced Quality Partnerships – An Enhanced Quality Partnership is collaborative partnership working between local authorities and bus operators to develop agreed plans and schemes for the delivery of improved bus services in an area.
 - Revising current legislation to make franchising a useable tool for Welsh local authorities – Franchising is a system where the local authority awards the exclusive right to run a bus route to the most competitive bidder.
 - Revising current legislation to allow local authorities to run their own bus services.
 - Increasing the eligibility age if the mandatory concessionary fares scheme to bring it in line with a women's pensionable age.
 - Putting in place new information monitoring and sharing arrangements.
 - Setting national standards for taxi and private hire vehicle licensing – All taxis and PHVs in Wales would have to meet these standards in order to obtain a licence. These standards would subsequently be set by regulations and there will be further consultation on their content.
 - Allowing a licensing authority to take enforcement action against any vehicle operating in its area.
 - Allowing the creation of a mechanism by which relevant information can be shared, for the purpose of safeguarding.
 - Redirecting all of the existing taxi and PHV licensing functions away from local authorities and into a national licensing authority, a JTA – This would include licensing, fee and fare-setting, enforcement, hearing appeals arising from licensing decisions, precautions and deciding matters such as whether to apply quantity controls to taxis.

14. The Cardiff Capital Region has already established a non-statutory Regional Transport Authority to co-ordinate transport planning and investment, in partnership with the Welsh Government to support the Cardiff Capital Region City Deal.

15. It is understood that, subject to the outcome of the consultation, the proposals related to bus and taxi and PHV licensing will translate directly into new legislation, whereas, a further dedicated White Paper focussing exclusively on matters related to formalising JTAs is required prior to legislation on this element.
16. Making regional working statutory under JTA arrangements would give regional JTAs a permanent footing which would endure beyond political cycles and avoid the pitfalls experienced by previous regional transport bodies. Therefore it would be prudent for the CCRTA to work with WG, TfW, other regions and operator representatives in developing the dedicated White Paper setting out future JTA arrangements. Such collaboration would enable clarity on how a regional JTA would operate in conjunction with LAs, TfW, WG and transport operators. It is critical that roles and responsibilities are clearly established so that:
 - There is no duplication;
 - Accountabilities are clear;
 - Roles and Responsibilities are allocated to the body best placed for delivery;
 - Governance is appropriate to the role; and
 - The transport offer is seamless from a user perspective.
17. It is imperative that a sustainable source of long term funding is identified for JTAs in order to enable the role to be effectively delivered. This needs detailed consideration.
18. Taxi licensing and operational management of taxis and private hire vehicles currently sits within the Licensing Authorities of the individual local authorities. Whilst there may be merits in national standards and a regional approach to licensing of taxis and PHVs, it is advocated that the licensing authorities are better placed to respond to the White Paper and therefore no comment is offered by the CCRTA in respect of these elements of the consultation.

Local Member consultation (where appropriate)

19. At an informal CCRTA meeting, Transport Cabinet Members received a presentation from Welsh Government on the key aspects of the White Paper and had the opportunity to question the content of the consultation documents, noting the Regulatory Impact Assessment is yet to be published. Welsh Government has also established a schedule of engagement sessions across Wales which members and officers have the opportunity to attend. In addition, a meeting of the Welsh Local Government Association for local authority Executive Members for Transport, to be held on 25th March, will also include an agenda item related to the White Paper.
20. No Local Member consultation has been undertaken at this stage as it is anticipated that a further White Paper will be issued in the Autumn 2019 with more detailed proposals. It may be appropriate to consult Local Members at that stage when the details of a JTA, roles and responsibilities that affect local authorities have been identified.

Reason for Recommendations

21. To enable a regional consensus on the proposals identified within the White Paper for Improving Public Transport.
22. To ensure that an agreed regional response is submitted to WG within the deadline of 27th March 2019.
23. To enable any amendments to be made to the draft response arising from scheduled engagement sessions and/or publication of the RIA.

Financial Implications

24. The report sets out the regional response to the consultation. Without further detail it is not possible to predict the financial implications at this stage. Any future report brought forward in respect of funding decisions relating to the Cardiff Capital Region Wider Investment Fund will need to give due regard and consideration to matters set-out in the Joint Working Agreement and its associated Schedules, in particular the Assurance Framework, as well as Welsh Government's funding terms and conditions in respect of the HM Treasury Contribution.
25. Should the proposals within the White Paper be progressed by WG, a further report will be brought to this Board with specific costs, impacts and benefits.

Legal Implications (including Equality Impact Assessment where appropriate)

26. There are no legal implications as a result of this report. However, should the proposals within this report be progressed by WG, a further report will be brought to this Board with specific costs, impacts and benefits.
27. The report seeks approval to a draft response to be submitted to WG on its White Paper –'Improving Public Transport'. It is understood that the draft response reflects, inter alia, technical transport views and at this stage legal advice has not been sought on any legal implications that may arise from the models and suggestions proposed in the draft response. As proposals in this area are developed, it is understood that a further report will be prepared to update Members, which should include any Legal Implications arising.

Wellbeing of Future Generations (Wales) Act 2015

28. Any future set up that the WG implements in relation to JTAs will need to satisfy itself that it accords with the principles of the Well Being of Future Generations (Wales) Act 2015. In order to do this, the future set up must work within the principles of improving the social, economic, environmental and cultural well-being of Wales. The Act places a 'well-being duty' on public bodies aimed at

achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language and is globally responsible. In discharging their respective duties under the Act, each public body listed in the Act (which includes the Councils comprising the CCRC) must set and published well-being objectives. These objectives will show how each public body will work to achieve the vision for Wales set out in the national well-being goals. When exercising its functions, the Regional Cabinet should consider how the proposed decision will contribute towards meeting the well-being objectives set by each Council and in so doing assist to achieve the national well-being goals.

29. The well-being duty also requires the Councils to act in accordance with a 'sustainable development principle'. This principle requires the Councils to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Regional Cabinet must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Regional Transport Authority must:

- Look to the long term
- Focus on prevention by understanding the root causes of problems
- Deliver an integrated approach to achieving the 7 national well-being goals
- Work in collaboration with others to find shared sustainable solutions
- Involve people from all sections of the community in the decisions which affect them.

30. Regional Transport Authority must be satisfied that the proposals set out in the White Paper, and the response at Appendix A accords with the principles above.

General advice

31. In considering this matter and in developing the proposals regard should be had, amongst other matters, to:

(a) the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards, (b) Public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. Protected characteristics are : a. Age; b. Gender reassignment; c. Sex; d. Race – including ethnic or national origin, colour or nationality; e. Disability; f. Pregnancy and maternity; g. Marriage and civil partnership; h. Sexual orientation; i. Religion or belief.

32. Any proposals taken forward by WG in order to achieve their aspirations would include a whole host of HR implications. However, should WG implement any of the proposals within the White Paper, a further report would be prepared for Members to consider.

RECOMMENDATIONS

The Cardiff Capital Region Cabinet is recommended to:

33. To approve the submission of the response to WG before the deadline of 27th March 2019.
34. To give delegated powers to the Chair of the CCRTA in consultation with the Vice Chair of the CCRTA to revise and finalise the draft response should further information become available during the remainder of the consultation period, scheduled to end on 27th March 2019.

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