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Llywodraeth Cymru
Welsh Government

Welsh Government Consultation Document

Improving public transport

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

Date of issue: 10 December 2018
Action required: Responses by 27 March 2019

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview The purpose of this consultation is to seek views on the Welsh Government 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

How to respond The document is available on the internet at:
Please respond by:

- Completing the consultation response form at Annex A; or
- Emailing or posting your response to the contact details below.

Further information and related documents Large print, Braille, audio CD and alternative language versions of this document can be made available on request.

Contact details For further information:

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The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

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The contact details for the Information Commissioner's Office are:

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0303 123 1113

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The Foreword

Our transport network underpins our daily lives, connecting people and communities to jobs, health services and education opportunities as well as leisure activities. It connects businesses to markets; facilitating trade, exchange and travel.

A modern public transport system should be accessible, affordable and integrated across the whole of Wales, providing choice and opportunity as a viable alternative to the private motor car.

I see the integration of our transport network as a key priority going forward. We all want a world-class and sustainable integrated transport system in Wales – one that can drive forward our economy and our communities to greater prosperity.

The question is how do we achieve this?

As the Welsh Government has been taking on more responsibility for rail and buses, we have started to address some of the structural problems with which transport in Wales has been faced for many years.

We have introduced the Active Travel (Wales) Act 2013 to put in place infrastructure and information-provision measures to influence and encourage the culture of walking and cycling, which is important given the role of walking and cycling in accessing public transport.

We have awarded the new Wales and Borders rail franchise and have committed to investing almost £5 billion over the next fifteen years to transform the rail network and greatly improve the quality of services to passengers.

To complement these steps, we are now turning to bus services and the licensing of taxis and private hire vehicles.

Using the new powers we acquired in the Wales Act 2017, we 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. This is a key moment for devolution.

Local scheduled bus services are, and will continue to be, the foundation of our public transport system; allowing people across Wales to get to work, to hospital appointments, to education and to leisure activities.

Although we have witnessed a downward trend in the number of passenger journeys made on local bus services over the past decade, buses continue to account for about 100 million passenger journeys each year. This is significantly more than the number of journeys undertaken on our rail network.

Our long-term commitment to deliver a more effective network of buses is clear. We want to achieve a bus network that works for the people of Wales and is sustainable in the long term. That means it must be more attractive to encourage a shift away from private cars.

Taxis and private hire vehicles also provide a vital public service, connecting people to places when alternative public transport services are not available or viable. The

contribution that the sector makes to the night-time and tourism economy in many of our communities cannot be under-estimated and the industry is a vital component in our ambitions for public transport in Wales.

Despite the importance of this sector to our public transport ambitions, the industry remains governed by laws made when horse-drawn hackneys were a common feature on our streets and before the arrival of the Internet, mobile 'phones and smartphone technology.

I am keen to introduce measures in Wales to ensure that taxis and private hire vehicles continue to contribute to our ambitions for a connected and sustainable society.

It is clear that action is needed to achieve the desired improvements and there is considerable work underway to consider how we can do this. However, one thing that is very clear is the improvements can only be achieved through collaboration – both across government and in partnership with local authorities and the private sector.

To support this collaborative approach, we need to put in place the right legislative tools to provide the opportunity to respond flexibly to local community needs, tailoring the approach to different circumstances and challenges.

We also need to put in place the right standards, to ensure a level of consistency across Wales.

The legislative proposals outlined in this paper, which form part of a larger reform programme, are intended to put in place those tools and standards to help us realise our ambition for an integrated public transport system which provides the right transport solution that best meets the needs of the travelling public.

Our proposals are grounded in our ambition to work seamlessly with our plans for rail, road, active travel and strategic park and ride in order to create a high quality, low carbon, integrated public transport system across the country.

This is not without its challenges – but I want these proposals to be the start of a major, national conversation about bus transport that we can use to develop a high quality system across Wales.

Your participation and input is very important as we work together to put in place the very best transport network that we can possibly have here in Wales. I look forward to hearing your views.

Ken Skates AC/AM
Cabinet Secretary for Economy and Infrastructure

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Introduction

Purpose

- The purpose of this White Paper is to set out the Welsh Government's proposals for improving the legislative framework in Wales for how local bus services are planned and delivered, together with reform of the licensing regime for taxis and private hire vehicles (PHVs).
- We have listened to feedback from passengers, local authorities, bus operators, taxi and PHV drivers and interest groups about the current provision of public transport and taxi and PHV services in Wales. Everyone agrees that change is needed.

Vision for integrated transport

- Our ambition is to provide an integrated public transport network that is safe, reliable, punctual, environmentally sustainable and accessible, and that meets the needs of the travelling public.
- Our aim is to increase the number of people using public transport by encouraging travellers to switch to it from private car use, thereby reducing pollution and congestion. We want to see more people using public transport to get them where they need and want to be, quickly and on time.
- To achieve this, we need public transport to operate as one seamless service that is accessible to all.
- Access to and from the public transport network often requires the use of an active travel mode, such as walking and cycling. In 2013, we introduced the Active Travel (Wales) Act 2013 to put in place infrastructure and information-provision measures to influence the culture of walking and cycling and help to promote it as a way of getting about.
- In October 2018 we awarded the new Wales and Borders rail franchise and have committed to investing almost £5 billion over the next fifteen years to transform the rail network. Our investment in the new franchise will ensure that our plans for rail and the south and north Wales metro schemes will greatly improve the quality of rail services to passengers.
- To complement these steps, we are now turning to buses, taxis and PHVs. Our aim is for our bus services to be designed to meet the specific needs of each locality, stimulating passenger-demand, connecting more people and reducing reliance on private cars. Our aim is for our taxi and PHV services to be safer and more standardised across Wales.

Consultations

- In 2017 and 2018 we undertook a number of consultations about how we could improve local bus services, options to improve access to and use of free bus travel in Wales, views on proposals to encourage younger people to take the bus and views on the framework for licensing taxis and PHVs.

- The previous consultations can be accessed through the following links:
<https://beta.gov.wales/proposals-improve-local-bus-services-wales>
<https://beta.gov.wales/mandatory-concessionary-fares-scheme-wales>
<https://beta.gov.wales/discounted-bus-travel-younger-people-wales>
<https://beta.gov.wales/taxi-and-private-hire-vehicle-licensing-wales>
- Following on from these consultations, we have been considering what measures we need to take and have developed a number of legislative proposals.
- These legislative proposals however, are only one element of a wider process of reform that we are undertaking, particularly in relation to the delivery of bus services.

Legislative Proposals

- The legislative proposals presented in this paper are aimed at providing the tools we consider are needed to facilitate better planning and solutions for delivery of integrated and coordinated public transport, with passengers and local communities at the heart of the decision-making.
- The intention of the proposals is to improve the legislative framework 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 licencing.
- This paper seeks to set out the current situation, explain why we believe change is needed and explain the legislative changes we are proposing to support our ambitions.
- The legislative proposals outlined in this paper alone will not significantly change public transport provision or the licensing of taxis and PHVs, but will provide the Welsh Government and local authorities with the tools needed to drive change.
- We want to hear your views on the proposals and invite you to respond to the consultation questions. Please do not feel that you need to respond to every question, but we would welcome your thoughts and feedback on any areas on which you wish to respond.
- We will be publishing the draft Regulatory Impact Assessment (RIA) in January, which will seek to identify the likely costs, impacts and benefits of the proposed legislative changes. Careful consideration will need to be given to 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. The RIA should be considered alongside the White Paper and through this consultation we want to hear your views on where you think the problems are around how local bus services are planned and delivered, together with reform of the licensing regime for taxis and

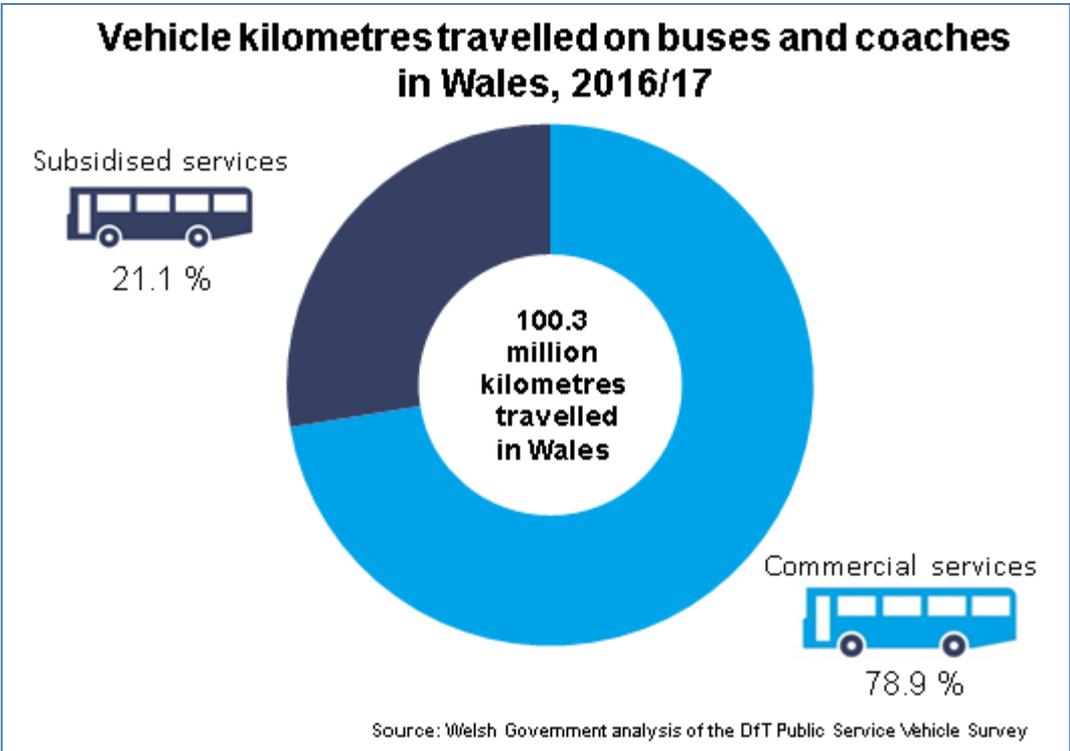
private hire vehicles (PHVs) and what impacts you think our proposals for addressing those problems would have. It is important that we have reliable data to inform decisions.

- We will also be holding stakeholder events during this consultation period to welcome views.

Part 1 – Bus services

Introduction

- Bus services across Wales provide important access to education, training, work, healthcare and the opportunity to simply enjoy a day out and about. They provide that vital link between our communities and are an important supporting tool in ensuring a vibrant economy.
- Local bus services account for 3 out of 4 journeys made by public transport. In 2016/17, 100 million 'in service' vehicle kilometres were travelled, of which 79% were on routes determined by bus operators' commercial imperatives. The remaining 21% were operated on routes contracted or otherwise subsidised by local authorities to meet social needs.



What are the issues?

Declining services

- 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 is consistent with what we are seeing across the UK.
- The table below highlights the decline in passenger journeys over the last five recorded years:

Year	Wales		England		Great Britain	
	Journeys	% change	Journeys	% change	Journeys	% change
2011-12	115.7m	-	4,640.1m	-	5,191.5m	-
2012-13	108.8m	↓ 6.0	4,570.2m	↓ 1.5	5,099.4m	↓ 1.8
2013-14	107.2m	↓ 1.5	4,672.4m	↑ 2.2	5,201.0m	↑ 2.0
2014-15	101.1m	↓ 5.6	4,627.4m	↓ 1.0	5,142.9m	↓ 1.1
2015-16	101.3m	↑ 0.2	4,507.8m	↓ 2.6	5,016.5m	↓ 2.5
2016-17	99.6m	↓ 1.7	4,438.2m	↓ 1.5	4931.0m	↓ 1.7

Source: WG analysis of DfT Public Service Vehicle Survey, TfL

- Falling passenger numbers means that there is greater pressure on fare paying passengers and the public purse to sustain the network which, despite significant investment from public and private sources, has seen a reduction in the number of services operated, with a consequential further reduction in patronage. This in turn exacerbates the pressure on local authorities as they identify and subsidise socially necessary services for local communities.
- If we don't take action, services and passenger numbers will continue to decline, which will prevent us from realising our ambitions for an integrated transport system. That is not to say that these long-standing trends will be easy to resolve, even with the legislative measures we are proposing.

Need for better integration and collaboration

- Wales' bus network accounts for about 100 million passenger journeys each year compared with approximately 30 million annual rail journeys. To deliver a truly integrated transport system in Wales, we need to ensure that bus services in Wales meet the needs of passengers and are integrated with rail and other transport services.
- The delivery of local bus services and infrastructure is the responsibility of a number of stakeholders including bus operators, local authorities and Welsh Government. This highlights the complexity of the bus delivery structure and the need for the stakeholders to work together more consistently to achieve a more integrated and sustainable local bus service for communities in Wales.
- There are transport planning, administrative and procurement based tasks that are inefficient for each local authority to perform individually. Operating in this way contributes to the fragmentation of the Welsh bus service, and we believe there is a need for organisational and structural change. Such change would help provide greater efficiencies, common standards, opportunities for working in partnership, economies of scale and consistency of offer. We also believe that providing some

central support could help local authorities free up resource to perform more planning and coordination for bus services.

- Public funding for bus services is considerable, with over £220 million of Welsh Government support provided each year, covering non-emergency health transport, school transport, the TrawsCymru bus service, bus grants and reimbursement for the Mandatory Concessionary Fares scheme. Despite this considerable funding, we are not achieving the service we want to see and communities do not have the public transport connectivity that they need.
- Better integration between local bus services and services such as learner transport, social care, community, health and demand responsive services has the potential to deliver a more comprehensive bus service for local communities.
- The following table summarises the challenges and issues around the current provision of bus services in Wales:

All Wales	
<ul style="list-style-type: none"> • De-regulated industry with over 80 bus operators in Wales. • Lack of co-ordination – between routes, ticketing, rail and active travel networks. This can be confusing for passengers. • Routes need to respond to changing passenger needs – away from short/ retail based journeys to longer journeys. • Declining passenger numbers. • Variable standards – branding, vehicles, infrastructure. • Bus drivers ageing – potential lack of skilled workforce in future. • Real-time travel information improvements needed. • Improvement of fleet to deliver air quality and decarbonisation targets 	
Urban / Commercial Services	Rural / Non-commercial Services
<p>Bus operators choosing routes on commercial basis supported by mandatory concessionary fare reimbursement and Bus Services Support Grant.</p>	<p>Local authorities contracting for routes with top-up subsidy in addition to mandatory concessionary fare reimbursement and Bus Services Support Grant.</p>
<ul style="list-style-type: none"> • Need for more network planning to optimize local bus provision and integration with other public transport. • Poor air quality. • Unreliable timetables caused by congestion. • Multiple operators and non-interoperable tickets can be confusing for passengers. • Evening and weekend services often needing additional subsidy. 	<ul style="list-style-type: none"> • Variable quality with subsidized services. • Reducing commercial services resulting in increased pressure on local authority to support “socially necessary” services. • Marginal services switching between commercial and non-commercial over time.

- However, the **TrawsCymru services** provide a useful example of how bus operators, local authorities and Welsh Government can work together to deliver a strategic coordinated bus service that meets the needs of local communities. TrawsCymru has a number of commercially provided services (including the X2, X3 and X4 in South Wales). In addition, the Welsh Government funds a network of long distance services across Wales under the TrawsCymru® brand. These typically serve key strategic corridors which do not have a rail service. Whilst there may be opportunities for more efficient management of this service, our ambition is that this coordinated approach can be applied across the bus network in Wales. The following map shows the TrawsCymru Network across Wales in 2017:



- We need to put in place new arrangements that will enable greater integration of the local bus market.

Need for improved passenger experience

- Clear, high quality and up-to-date information is essential for members of the public (both bus users and non-users) who seek to understand the services available to them. People have far greater expectations about the kind of information that should be open to them than even a few years ago, and consumers expect to be able to make informed choices based on easily available data

- We believe that in order to increase bus patronage it is essential that we work towards improving the passenger experience. An area we are interested in exploring is making improvements not only to the information available to passengers, to include ticketing information, but also to ticketing systems. Currently, tickets are often not transferable across operators or modes of transport, and we believe this limits the attractiveness of bus as a means of travel.

Concessionary Pass Holders

- The Welsh Government was the first Government in the United Kingdom to introduce universal free bus travel for older and disabled people, with the aim of radically improving access to key services and facilities. We remain committed to the principles that have underpinned the scheme in Wales for more than a decade.
- As part of our consideration of how the scheme is operating and how we can make improvements to ensure that it continues to deliver sustainable benefits to the people of Wales, a consultation was undertaken between October 2017 and January 2018. This consultation asked about a number of different aspects of the scheme, including whether the age for entitlement for elderly persons should be changed. It is this element of the scheme to which we are giving further consideration in this White Paper, whilst retaining the following fundamental principles:
 - Universal entitlement – pass holders can catch any bus any time in Wales;
 - No current pass holder to have their eligibility removed; and
 - All people of state pensionable age will be eligible for free bus travel.
- Alongside the older and disabled person bus pass, the Welsh Government has a one-third discounted offer for young people that began in 2015 for all 16, 17 and 18 year-olds. This scheme has recently been increased up to the age of 21 (for the 2018/19 financial year) and will not only help young people in training or apprenticeships and during the transition into work, but will hopefully also encourage more to use the bus for more of their journeys. This way, they will be helping to tackle congestion and air quality in our towns and cities.
- This is an example of collaborative working between bus operators, who have agreed to this voluntary scheme and the Welsh Government who pay.

Conclusion

- The pressures placed on local authorities to make financial savings have resulted in difficult decisions having to be made as to what service areas resources should be targeted at. This challenge over a number of years, compiled with a reduction in passenger numbers, has placed bus services in a vulnerable position. The efforts to safeguard the present service provision is a credit to the way local authorities have attempted to manage their budgets and demonstrates their acknowledgement of the important role public transport plays in connecting communities and people to services.

- In view of the challenges faced by local authorities, it is vital that Welsh Government, local government and transport operators take stock of how services are planned and delivered. The proposals detailed in this White Paper provide an opportunity to work collaboratively to refocus on how we can better use current funding and at the same time, improve services for passengers.
- Most people travelling by road use private car or van (over 95%), and, with road traffic continuing to increase over time in most places, this is the major cause of congestion. The nature of road use is evolving: delivery vans delivering packages ordered online are a significant part of urban and rural traffic and ride sharing/on-demand private hire services have experienced a rapid increase in popularity. The implications for future bus use are highly uncertain at present.
- We believe that the legislative framework currently governing bus services in Wales does not provide the flexibility that Welsh Government and local authorities need to help shape and influence the provision of bus services in order to ensure that they meet the needs of individuals and communities, or to address the core areas for change that have been identified.
- We recognise that, due to the complexity and diversity of the factors which influence whether people travel by bus,, legislation alone will not reverse long term trends in bus usage. However, we believe that by improving the legislative framework, we can give local authorities the tools and flexibility to tailor their approach and target limited resources more effectively to meet those local needs and circumstances.

Proposals

Joint Transport Authorities

The Welsh Government's is proposing establishing 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).

Background

- This section of the White Paper sets out our initial proposals for establishing Joint Transport Authorities (JTAs). We have carried out early stakeholder engagement with the Welsh Local Government Association on these proposals, and further consultation with key stakeholders will be undertaken during the White Paper consultation period.

Current Legislative position

- Section 5 of the Transport (Wales) Act 2006 (the 2006 Act) enables the Welsh Ministers to make an Order establishing JTAs. That Order can make provision about, amongst other things, the membership of the authority.
- The purpose of a JTA is to discharge specified transport functions for the area it relates to, and the Order establishing a JTA can make provision for the discharge of those functions by committees of the authority.

Case for change and desired outcomes

- Local authorities are responsible for local transport planning and for ensuring that the public receive the local bus services that they need. However, in the face of budget pressures, local government has decreased its discretionary spending on local bus services considerably, and has significantly reduced the teams responsible for bus planning and coordination. There is also evidence that skills and knowledge available within local authorities to effectively discharge their transport functions successfully is diminishing.
- This pressure on skilled transport management workforce is exacerbated by the multiple tasks which each local authority must perform individually. There are many support tasks, often administrative or procurement-based, which are inefficient for each local authority to perform individually and contribute to fragmentation of the Welsh bus service.

- For example, bus stops are often the first interface with the bus network for existing and potential users. Therefore, bus stop quality is a key influence on the perception of the level of service that can be expected. Bus infrastructure is generally procured by each local authority under its relevant standing orders and supplier frameworks. Current funding horizons, with annual budgets allied with requirements to demonstrate the most economically advantageous tender price have led to considerable variation in terms of bus stop provision, both within and between local authorities. As a result, there is a lack of consistency in the bus stop infrastructure provided, which raises the following issues:
 - A lack of coherent offer / brand to existing and potential users;
 - Reduced opportunities to realise economies of scale / purchasing power; and
 - A requirement to carry greater range of spare stock (e.g. glazing panels), with risk of taking wrong part to site.
- The development of an all Wales approach to bus stop procurement, delivered through a JTA structure, could provide an opportunity to address these issues in the long run, through, for example, the phasing in of standard modular designs (reflecting urban, semi-urban and rural variations). A similar approach was utilised to renew over 500 Electronic Ticket Machines, required to administer the concessionary fare scheme. In that instance, the use of a pan Wales order enabled the placement of a significant order that qualified for a discounted unit price, with dedicated, prioritised service management.
- Letting the current inefficiencies and pressures on local authorities continue would be detrimental to achieving the Welsh Government's ambitions for public transport provision.
- A JTA structure could also provide an opportunity for standardised and improved bus quality standards to be introduced and consistently applied across Wales.
- A JTA structure also provides the opportunity for a centralised regime for taxi and PHV licencing. Our detailed proposals on that are covered in pages 47 - 48 of this document.

Establishing Joint Transport Authorities

- In order to address the challenges faced by local authorities it is proposed that Welsh Ministers use their existing powers in the 2006 Act to form JTAs.
- The purpose of a JTA is to pool the existing transport functions and powers of two or more local authorities. The Order(s) establishing the JTAs would specify the functions that are to be exercised by the JTA.
- JTAs would be established by secondary legislation which requires a dedicated formal consultation which, depending on the outcome of this consultation, we intend to issue in autumn 2019. However, given the importance of the JTA proposals, particularly in connection with the delivery of the wider bus reform work, initial views are sought on the proposal to establish JTAs through this consultation process. The

Welsh Government's initial proposals for the possible structure of JTAs are set out below.

- Whilst any JTA would be established by secondary legislation it is proposed that a Bill would be needed to make some minor changes to the existing provisions within the 2006 Act. In order to ensure consistency in terms of bus services delivery across Wales, it is proposed that the Welsh Ministers should have guidance and direction making powers in connection with the discharge of functions by the JTAs. The Welsh Ministers could use these powers to, for example, issue guidance in relation to bus quality standards, including emissions, and branding, and to provide standardised/consistent contractual terms to be issued for the provision of socially necessary services that are contracted and delivered in accordance with section 63 of the Transport Act 1985.
- Given the level of financial support the Welsh Government provides in connection with bus services, and its ambition to achieve a fully integrated public transport system for Wales, it will be important that the Welsh Ministers are able to intervene should a JTA fail to discharge its functions effectively. Therefore, it is also proposed that the Welsh Ministers be provided with intervention powers.

Proposed Structure of JTAs

- It is proposed that the functions to be transferred to the JTA should be exercised on either a national/strategic basis or on a regional/implementation basis, based on the nature of the function being discharged. It is intended that the Order(s) establishing the JTAs will facilitate this.
- To enable functions to be exercised on this basis, it is considered that there are 2 potential options for the organisational structure of JTAs:
 1. A single JTA for the whole of Wales with regional delivery boards (i.e. committees of the national JTA). The JTA would be responsible for discharging all functions specified in the establishing Order, and would be enabled/required to make arrangements for the discharge of certain functions, such as regional or locally specific functions, by committees of the authority (i.e. regional delivery boards); or
 2. A national JTA that would be required to discharge specified national/ strategic functions, and three separate regional JTAs that would be required to discharge specified regional/implementation functions (i.e. 4 JTAs in total).
- Depending on the preferred structure for the JTAs, the establishing Order(s) may need to make specific provision requiring the formation of committees for the discharge of functions. It may also be necessary to, for example, prevent the delegation of certain functions to committees of a JTA.
- In terms of membership of the JTAs, it is proposed that under either of the structural options the Welsh Ministers will be represented on the authority and any committee of the authority. This reflects the Welsh Ministers' substantial commitment to the delivery of bus services in Wales, both in terms of annual spend and their ambition to secure the delivery of an integrated public transport system across Wales.

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

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

Q3. Is there another organisational structure for JTAs that we should consider? Please describe.

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?

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?

Proposed JTA Functions in relation to buses

- We have listed below the types of functions in relation to buses that we would propose are discharged by JTAs, and indicated whether we consider those functions should be discharged at a national or regional level. The following 5 sections of the White Paper set out the legislative changes that are proposed to the powers that local authorities currently have in connection with the delivery of bus services in Wales. It is anticipated that should the proposal for JTAs proceed, these powers will be exercisable by the JTAs.
- National / Strategic functions:
 - Oversight and support for bus network planning;
 - The setting of national quality standards for infrastructure, services, vehicles, branding and ticketing where services are delivered via contractual arrangements, partnership working and franchising;
 - Keeping any national quality standards under review and overseeing compliance with such standards;
 - Standardising contractual arrangements used in connection with tendered services (under section 63 of the Transport Act 1985); franchising contracts (if applicable) and integrated demand responsive travel services;
 - Standardising the approach to partnership working with bus operators, thereby ensuring consistent quality standards;
 - Procurement of physical infrastructure such as bus stops and interchanges; and software solutions such as a ticketing platform and information systems;
 - Procuring and managing the long distance bus routes, i.e., TrawsCymru.
 - Responsibility for back office functions, such as concessionary fares reimbursement, grant payments, Traveline and customer surveys, inspectors,

integrated demand responsive travel system implementation and management;
and

- Establishing common branding guidelines.
- **Regional / Implementation Functions:**
 - Local and regional network planning;
 - Entering into contracts with bus operators for the provision of section 63 Transport Act 1985 services, franchising (if applicable) and integrated demand responsive travel services;
 - Implementation and management of partnership arrangements with bus operators under Quality Partnerships and Enhanced Quality Partnerships;
 - Procurement and maintenance of regional/local infrastructure in accordance with national standards; and
 - Creation and oversight/operation of local authority bus companies.

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

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

Proposed Legislative Change

- Whilst JTAs would be established by way of secondary legislation using existing powers (i.e. section 5 of the 2006 Act), it is proposed that a Bill would be required to make minor amendments to those enabling powers. In particular it is proposed that the provisions on membership of the authorities be amended to ensure the Welsh Ministers can be represented on the JTAs and any committees of the JTAs. In addition, amendments are proposed to enable any establishing Orders to require the JTAs to set up committees for the discharge of functions, and to address the delegation of functions to those committees.
- Given the importance of the discharge of functions by the JTAs to the Welsh Government's ambitions, in particular our vision for the future delivery of an integrated public transport network in Wales, together with the level of Welsh Government funding of bus services, it is proposed that the Welsh Ministers be given new powers to issue guidance and directions to JTAs in relation to the exercise by them of their functions, and have intervention powers in respect of all functions discharged by the JTAs.

Enhanced Quality Partnerships

The Welsh Government is proposing to introduce 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.

Current legislative position – Quality Partnership Schemes

- A Quality Partnership Scheme (QPS) is essentially a formal agreement between a local authority and one or more bus operators whereby the authority provides particular facilities along bus routes such as bus lanes, or access to high-quality shelters with real-time passenger information, and operators who wish to use those facilities agree to provide services of a particular standard, for example, new green vehicles.
- Local authorities in Wales are currently enabled to establish voluntary and statutory QPSs. The statutory schemes are provided for within sections 114 to 123 of the Transport Act 2000 (the 2000 Act). QPSs give local authorities the scope for influencing bus quality and provide operators with the confidence to invest and decide about service provision and innovation.
- The service standards that can be covered as part of a statutory QPS include vehicle standards, timetabling and fares. Local authorities may also set restrictions on the registration of further local services once a scheme is in place.
- A local authority seeking to make a statutory QPS must follow the consultation process set out in the 2000 Act, and compliance with the quality standards in a statutory scheme is enforced through the bus registration system, which is overseen by the Traffic Commissioner who has powers to impose financial penalties and restrictions on an operator's licence.

Case for Change and desired outcomes

- To date, only limited QPSs have been established in Wales, for example, on some sections of the TrawsCymru routes and on a section of the A55 in Conwy. The schemes that have been established have been set up on a voluntary basis only.
- In discussion with local authorities it would appear that the requirement for local authorities to provide facilities as part of a statutory scheme has been a limiting factor, alongside wider organisational capacity (resources and/or skills), financial restrictions or structural realignment of strategic objectives.
- It is recognised that much can still be achieved within the current statutory QPS regime, and we therefore intend to retain that regime. However, we also wish to

provide local authorities and operators with the opportunity to work more collaboratively to develop enhanced partnership arrangements for the delivery of services. As such we propose to take the opportunity to consider a Bill to introduce Enhanced Quality Partnerships (EQPs). These EQPs would provide local authorities with a further potential model for the delivery of bus services in their area.

- In developing proposals to provide for enhanced partnership working we have taken account of the provision that has been made for England in this regard in the Bus Services Act 2017, and the similar provision that has been proposed for Scotland in the Transport (Scotland) Bill. We propose that the model for enhanced partnership working that should be adopted in Wales should be similar in nature as this will be beneficial to the operators who will be integral to the development of any schemes, and many of whom operate across the UK.
- EQPs will be an agreement between a local authority and bus operators to work together to improve local bus services.

Proposed Legislative change

- It is proposed that a Bill would include new provisions designed to facilitate collaborative working arrangements between local authorities and bus operators with the aim of delivering improved bus services. The proposals for those provisions are set out below.

What will be the main differences between EQPs and the current system of QPSs?

- EQPs will require stronger partnership working between local authorities and bus operators, by requiring the authorities and operators to work together to develop a plan for the delivery of improved bus services, and determine how the improvements identified in that plan will be delivered in practice. This will include bus operators sharing information with the local authorities on matters such as the routes they operate in an area.
- There will however, be no requirement for local authorities to invest in infrastructure, which is considered a limiting factor for the scope of statutory QPSs, though they would be able to do so as part of any partnership plan if they considered that appropriate.
- Because an EQP is to be developed in collaboration between the local authorities and operators, the range of service standards that could be placed on operators via an EQP would be much broader than is currently possible under statutory QPSs. It is proposed that the services standards could cover matters such as:
 - The frequency and timing of services;
 - The vehicles being used to provide services, for example, requirements about emissions;
 - The ticketing arrangements that are to be in place;

- The provision of information about local services;
- The publicising of local services, fares or ticketing arrangements;
- The appearance of tickets and the vehicles to be used to provide services; and
- The dates upon which operators may change the timing of services.

How would EQPs be developed?

- It is proposed that EQPs would be based on a joint review of the local bus service network, undertaken by the local authorities and those operators whose bus services run through the area. The review would require the local authority and operators to analyse the network with a view to establishing whether it is delivering and meeting local needs.
- Based on this review, the local authority will develop a clear vision for the improvements in service delivery that are desired, which will be set out in an EQP Plan. The EQP Plan will be accompanied by one or more EQP Schemes which will detail the actions that are to be taken, by both the operators and the local authorities, to achieve those improvements. This will include any commitments that will be made by the local authority or service standards to be met by bus operators
- We have set out below the matters which we consider should be addressed within the EQP Plan and Schemes. It is also proposed that the Welsh Ministers will prepare detailed guidance to assist bus operators and local authorities in the development of EQPs.

EQP plans

- It is proposed that new legislation would be required, making provision for the EQP Plan to address the following matters:
 - The geographical area covered by the plan;
 - The period to which the plan relates;
 - Whether the plan is to be reviewed and, if so, how and when that is to happen;
 - An analysis of local bus services in the area to which the plan relates;
 - The objectives of the plan, in terms of how it will improve the quality and effectiveness of local bus services in the EQP area;
 - What policies regarding local bus services will be pursued in the EQP area;
 - How the related EQP scheme(s) are intended to assist in implementing the policies and achieving the objectives set out in the plan;
 - The intended effect of the EQP scheme(s) on neighbouring areas that are outside the plan area; and

- The authority's plans for consulting passenger groups on how well the plan and scheme(s) are working.
- These are all high-level requirements and can be interpreted in the plan as widely as the partnership (i.e. the local authority and operators) considers necessary. For example, it could include:
 - Targets for bus usage, journey times, or connectivity;
 - The strategic issues that, in the opinion of the EQP stakeholders, are relevant to the future provision of local bus services (such as the retail, business and housing developments that are likely to change the flow of people and their transport demands over the life of the plan, local economic growth objectives or air quality challenges);
 - The local and central government investment that is likely, or has the potential to be, available. This can include funding which is specifically available to improve or support bus services, as well as wider funding such as that for new housing (including developer contributions) or transport infrastructure; and
 - The aspirations of local transport providers – how they would wish to see the local bus market develop over time and how an EQP can contribute to that.

EQP schemes

- Whilst the EQP Plan will set out the vision, it is proposed that an EQP scheme will set out the requirements to be met by the bus operators, and any actions to be taken by the local authority, to deliver all or part of the objectives in the Plan.
- It is proposed that an EQP Scheme would be required to include the following matters:
 - The area to which it relates;
 - The requirements imposed on local bus services under it;
 - Whether the local authority is to provide any facilities or take any particular measures under it;
 - Whether the operation of a scheme is to be reviewed and if so how and by which dates;
 - The date on which it is to come into operation; and
 - The period for which it is to remain in operation.
- It is also proposed that new legislation would be required to make it a condition that an EQP scheme can only be made if the local authority is satisfied that it will:
 - Contribute to the implementation of the policies set out in the EQP plan;

- Bring benefits to persons using the services in the area by improving quality and effectiveness of services; or
- Reduce or limit traffic congestion, noise or air pollution.

Consultation and ensuring Partnership Working

- In order to ensure that an EQP is developed collaboratively it is considered essential that the elements of the EQP Plan and Schemes are formally agreed by both the authority (who decide whether to 'make' the scheme) and the majority of bus operators. This way, neither side can impose the requirements unilaterally.
- To facilitate this it is proposed that once the Plan and the Scheme(s) are drafted the bus operators within the proposed EQP area are to be given the opportunity to formally express a view on them. This will take the form of a voting mechanism which will require a sufficient number of operators to vote in favour of the proposal. Only if there is sufficient support from the operators will a local authority be permitted to initiate a public consultation exercise on the proposed EQP.
- Any subsequent consultation would be the responsibility of the local authority and would ensure that passengers' views are at the heart of the partnership. Consultees could include all affected operators, bus passengers and passenger representatives, the Competition and Markets Authority and other local authorities.
- Following consultation, the final version of the EQP Plan and Scheme would need to be formally 'made' by the transport authority. Before that happens, if the local authority proposes any modifications to the EQP Plan and Scheme initially proposed and consulted upon, the affected operators would be given a further chance to express a view. Again, in the absence of sufficient support from operators the modified plan or scheme could not be made.

Effect of making an EQP

- Unlike QPSs, once an EQP is in place all operators providing services in the area covered by it will be required to comply with the service standards set out in it. To ensure that EQPs are implemented it is proposed that, like QPSs, they will be enforced through the bus registration system, and operators who fail to comply with the requirements of an EQP could have their registration refused or revoked.

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.

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

Franchising

The Welsh Government is proposing to revise 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 or routes to the most competitive bidder.

Current Legislative Position – Quality Contracts

- Under franchising arrangements a local authority specifies what bus services are to be provided including routes, vehicle standards, timetables (including hours of operation), fares, branding, passenger information and ticketing. The services themselves are operated under contract by private companies through a competitive tendering process, and other operators are prevented from registering other routes within the franchised area, providing exclusivity for the winning bidder.
- Subject to the Welsh Ministers commencing the relevant legislative provisions, local authorities in Wales could enter into Quality Contracts Schemes (“QCSs”) (sections 124 to 134B of the Transport Act 2000). QCSs are a form of franchising which enable local authorities to dictate what bus services are to be provided in an area and to let contracts for the provision of those services via competitive tendering. The tendering process is competition *for* the market rather than competition *in* the market.
- Making a QCS is subject to the local authority satisfying itself that the statutory criteria are met. These criteria are:
 - That the proposed scheme will result in an increase in the use of bus services in the area to which it relates;
 - That the proposed scheme will bring benefits to the persons using local services in the area to which it relates, by improving the quality of those services;
 - That the proposed scheme will contribute to the implementation of the local transport policies of the authority;
 - The proposed scheme will contribute to the implementation of those policies in a way which is economic, efficient and effective; and
 - Any adverse effect of the proposed scheme on operators will be proportionate to the improvement in the well-being of persons living or working in the area to which the proposed scheme relates.
- A QCS also needs the approval of the Welsh Ministers who must be satisfied that the scheme would be in the public interest.

Case for change and desired outcomes

- Our intention is that local authorities should determine the most appropriate model for delivering bus services in their area. This is likely to depend on the nature of the bus market in the area, the priorities for the authority and their approach to the management of risk. We believe that a viable form of franchising should be one of the delivery options available.
- The feedback is that the current QCS process is overly complex and resource intensive. No QCS has ever been developed in Wales and only one QCS scheme has been attempted in England using the provisions in the 2000 Act (Nexus Tyne and Wear). The Nexus scheme failed to obtain approval from the relevant QCS board, led by the Traffic Commissioner, and the process was costly, taking around two years.
- We therefore wish to take the opportunity to consider a Bill to introduce an improved franchising option which is suitable for Welsh circumstances.

Proposed Legislative change

- When considering a new legislative approach to franchising we have taken account of the market conditions in Wales, the franchising arrangements that have been made available in England, and those proposed for Scotland. The changes that we are proposing would bring about a rebalancing of the decision-making process in order that franchising becomes more practically achievable.
- All franchising proposals must take account of the following core principles:
 - They must be passenger focussed – how will franchising improve the service for passengers?;
 - They must respond to local transport needs and give due consideration to the wider bus network – regionally and nationally;
 - Those taking the decision to franchise should be responsible and accountable for ensuring that the franchising proposal is affordable and achievable, and that it will be financially sustainable in the longer-term; and
 - Decisions must be transparent with sufficient public scrutiny of any franchising plans so that operators, passenger representatives and other affected people are able to discuss and influence the proposals with the local authority.

Proposed Decision-making process for franchising

- We want to ensure that these key principles are considered as part of any new franchising process. We also wish to ensure that the process is open and transparent and that it is clear where the decision-making authority lies, whilst allowing the authority the freedom to pursue franchising where it is in the wider interests of passengers and local people.
- We have noted that the franchising process that has been introduced in relation to England via the Bus Services Act 2017, and which is proposed for Scotland in the

Transport (Scotland) Bill, is based on HMT's guidance for public sector bodies (HMT green book and 5 case business model guidance)¹. This sets out the principles by which government policies should be assessed to promote the public interest.

- The 5 Case Business Model guidance emphasises the need to take account of the wider social costs and benefits of proposals, and the need to ensure the proper use of public resources. This is achieved through:
 - Identifying other possible approaches which may achieve similar results;
 - Wherever feasible, attributing monetary values to all impacts of any proposed policy, project and programme; and
 - Performing an assessment of the costs and benefits for relevant options.
- We consider that this approach forms a suitable framework for the making of franchising decisions by local authorities in Wales.
- It is therefore proposed that the new franchising process will require the local authority to undertake an assessment of any proposal to franchise local services in its area. This assessment will need to demonstrate that the authority has thought through the impacts, risks and practical implications of its proposal, to include consideration of the effects of the proposal and a comparison of other options for the delivery of bus services in the area.
- It is proposed that new legislation would set out the matters that an authority must take into consideration when preparing its assessment of the proposed scheme, and to record these considerations as part of the assessment document. The matters will include:
 - The likely effects of the proposed scheme;
 - A comparison of the proposed scheme with other delivery options;
 - Whether, and the extent to which, the proposed scheme would contribute to the implementation of the authority's local transport plans;
 - Whether the scheme represents value for money. (This would focus not only on the transport impacts of the proposed scheme but would also assess the economic, social and environmental costs and benefits of the proposed scheme);
 - How the authority would make and operate the proposed scheme;
 - Whether the authority would be able to afford to make and operate the proposed scheme; and

¹ The guidance can be accessed through the following link: <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

- The extent to which the authority is likely to be able to secure contracts to operate the services under the proposed scheme.
- It is considered essential that the local authority consults on any proposal to franchise local services to allow for public scrutiny of the proposal. The requirement to consult, which will include a requirement to publish the assessment of the proposed scheme, would therefore be a formal requirement set out in legislation. Once the authority has publicly consulted it will need to weigh up the views given on the proposal before deciding whether to exercise the power to franchise.
- We consider that this proposed franchising process, although less prescriptive than the current QCS process, would provide clarity around the basis upon which a decision to franchise services will be taken, and will give operators and other stakeholders a chance to scrutinise the proposals.
- It is intended that legislation would provide the Welsh Ministers with the power to issue guidance on the franchising process. Guidance could, for example, provide more detail on the analysis and development of the assessment by the authorities.

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?

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.

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

Franchising in practice and Permits

- As with a QCS, where franchising is in place, it is proposed that the deregulated market will be replaced in the franchised area and all 'local services'² will either have to be operated as part of a franchise contract or operated under a permit issued by the authority. It will be for the franchising authority to determine how they contract for the franchised services bearing in mind the funding available to them, and their objectives.
- It is proposed that legislation would allow a franchising authority to issue permits to allow commercial services to operate in a franchised area. It is anticipated that these are most likely to be issued in connection with bus services that need to enter a franchising area but which are not 'local services' and which do not form part of any franchise contract, for example, TrawsCymru routes. The issuing of permits would not however, be limited to such situations, and an operator could also apply for a permit to provide services which a franchised network does not cover. It would be up to the franchising authority to determine whether the permit should be issued.
- In order for the permit system to operate fairly and effectively it is proposed that legislation would require a franchising authority to issue a permit where the application demonstrates that the proposed service would benefit passengers and not adversely impact on any services operated under the franchise contracts.

² As defined in section 2 of the Transport Act 1985

Legislation would enable the franchising authority to determine the application process for a permit, including the information that an applicant has to provide, and to charge a fee. Legislation would also allow a franchising authority to attach conditions to permits, and it is proposed that the conditions could relate to matters such as ticketing and the standard of service.

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

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

- We are mindful that small and medium sized bus operators make up a significant element of bus operators in Wales. As part of any franchising arrangements we believe that the franchising authority should be required to consider how these SMEs can be involved in the process of tendering for franchise contracts so that they are able to compete effectively to run services under a franchised system. This could be achieved by including a specific requirement to this effect within legislation,, or it could be addressed in guidance issued in relation to franchising.

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.

Transition Arrangements

- In order that bus services are not compromised whilst authorities are preparing to franchise, it is recognised that there may need to be transitional arrangements put in place.

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

Local authority bus services

The Welsh Government is proposing to revise current legislation so that local authorities can run their own bus services.

Current legislative position

- The Transport Act 1985 made substantial changes to the model for bus service delivery across the UK by deregulating bus service provision. The market was opened up to commercial operators and existing local authority bus services were transferred into bus companies owned by the local authority. Currently, the Transport Act 1985 prohibits local authorities from running their own bus companies, except where:
 - A local authority was already operating a bus company when the prohibition came into force³;
 - A local authority only runs a small operation and has applied to the Welsh Ministers for an exemption from the general restriction⁴; and
 - A bus operator has failed to run a service as contracted under a Quality Contracts Scheme or a franchising scheme and the local authority has had to step in.⁵
- The Transport Act 1985 provides local authorities with power to enter into contractual arrangements with bus operators to operate local bus services where such services would not otherwise be provided. These services attract public subsidy.

Case for Change and desired outcomes

- There are instances where local authorities receive no tenders for these subsidised services, or for other community transport, that the local authority either deem to be socially necessary or which they are required to provide under a statutory duty⁶. There are other instances in which very few tenders are received. In both these cases, as there is little or no competition, there is less constraint on the tender cost. This potentially results in local authorities paying considerably more for these services than they would otherwise have done.
- The exceptions to the general prohibition on local authorities running bus services (listed above), do not provide for situations where local authorities receive few or no

³ Cardiff Bus and Newport Bus operate under this exception.

⁴ The number of vehicles permitted under this exception is currently 10.

⁵ The law permitting quality contract schemes is not yet in force in Wales.

⁶ For example, learner travel (other than contracted learner transport).

tenders for local bus services in their area. In order to address this situation, it is the Welsh Government's view that local authorities ought to be given the power to run local services.

- We are considering the options of local authorities running buses directly and also via an arms length company established for this purpose. An arms-length bus company would manage bus services as an independent commercial organisation with its own management board. The main shareholder of the company would be the local authority but that authority would not be involved in the day-to-day running of the bus services
- Giving local authorities power to run local bus services has the potential to reduce the level of public funding required for a service or to reinstate a service that the local authority has been otherwise unable to secure, even with the offer of subsidy.

Proposed legislative change

- The changes that we are proposing would provide local authorities with the legislative tools to ensure that bus services within their area will meet the needs of the people they serve.
- It is proposed that local authorities have the broadest scope to determine the best business model for running bus services that meets the needs of people in their area. Therefore this could be via in-house services where the local authority owns and operates its own fleet, or via an arms length company. Over time, the local authority may decide to move from one model to the other for reasons of commercial expediency.
- With regards to setting up an arms length company, the local authority would be expected to ensure that checks are in place regarding affordability, appropriateness and an identifiable decision making process. A 5 case business model which takes account of the wider social costs and benefits of proposals (see HMT green book and 5 case business model guidance)⁷ should form part of any process before any decision on pursuing establishment of a bus company. Local authorities would also be expected to comply with competition law requirements as regards operating within a commercial market, taking steps to ensure that they do not have an unfair operating advantage over other operators.

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

In what circumstances do you think this would be appropriate?

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?

⁷ The guidance can be accessed through the following link: <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

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

In what circumstances do you think this would be appropriate?

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?

Eligibility age for the mandatory concessionary fares

The Welsh Government is proposing to increase the eligibility age of the mandatory concessionary fares scheme to bring it in line with a woman's pensionable age.

Current legislative position

- The law governing the mandatory concessionary fares scheme⁸ currently states that an “elderly person” who is entitled to a pass is “someone who has attained the age of sixty years.”
- Details of the pensionable ages of men and women are set out in law. A person's “pensionable age” will depend upon their date of birth. Equality of “pensionable age” between men and women will not be achieved until 2020.

Case for change and desired outcomes

- The Welsh Government was the first Government in the United Kingdom to introduce universal free bus travel for older and disabled people, with the aim of radically improving access to key services and facilities. The Welsh Government remains committed to the principles that have underpinned the scheme in Wales for more than a decade - providing older and disabled people, and more recently some veterans, universal access to free bus travel anywhere in Wales on local scheduled bus services.
- The success of the mandatory concessionary fares scheme in Wales has resulted in a number of unforeseen consequences, however. Whilst the overall number of bus passengers carried in Wales is in decline, the number of mandatory concessionary passengers has increased since the introduction of the scheme in 2002. Currently, mandatory concessionary fares passholders represent around 47% of total bus journeys. There are currently around 730,000 passes in circulation. It is expected the number of older people eligible for free travel by 2021 will be 880,000 and over a million by 2030. Operators are reimbursed on a “no better, no worse off” basis, and as such payments are characterised as compensation rather than subsidy.
- In practice, any service can be registered by an operator, who will then receive compensation from the scheme, regardless of whether the service registered adequately serves the needs of the wider travelling public.
- Furthermore, the reimbursement formula is currently predicated on the adult single fare, which does not incentivise operators to keep these fares low. As a result, bus travel is relatively expensive for ad-hoc users or those unable to financially commit to the purchase of cheaper period tickets.

⁸ Section 146 Transport Act 2000.

- All these factors, taken together, mean that the cost to the public purse of the mandatory concessionary fares scheme is rising and Welsh Government needs to consider ways of managing the rising costs without affecting the eligibility of those persons currently entitled to a concessionary pass.

Proposed legislative change

- It is proposed to increase the age of entitlement to a concessionary pass so as to align with a woman's pensionable age. Alignment with a woman's pensionable age aims to maintain equality between the sexes in terms of entitlement, as equality of pensionable age between men and women will not be achieved until 2020.
- It is proposed to introduce this change using incremental increases, rather than introduce a one-off change to eligibility. Welsh Ministers consider this to be a more equitable approach, allowing the public to benefit from a more gradual adjustment to eligibility.
- It is also proposed to use the power to amend entitlement in the same way for any discretionary schemes operated by local authorities within their area.
- In making these amendments, Welsh Ministers will ensure that the following fundamental principles will be protected:
 - Universal entitlement to be retained – pass holders can catch any bus at any time in Wales with no charge; and
 - Any person who holds a concessionary pass at the time the changes to the law are made will not lose their entitlement to that pass.

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

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

Public transport information and monitoring

The Welsh Government is proposing to put in place new information monitoring and sharing arrangements.

Current legislative position

- Local authorities currently have a limited power to require bus operators to provide information in relation to local services (section 143 of the Transport Act 2000). Using this power, local authorities can request information about the total number of journeys undertaken by any passengers on the local services; the structure of fares for the journeys; and the total distance covered by the vehicles used by the operator in operating those services (i.e. total bus mileage).
- In addition, local authorities themselves are under a duty to ensure that certain information is made available to the public (sections 139 to 141 of the 2000 Act). The type of information to be made available includes information about the routes and timetabling of local services to, from and within an authority's area, and information about fares and journeys on such services. It is for the local authorities to determine what information is to be made available, and how, and to seek to arrange with operators for its provision.

Case for Change and desired outcomes

- Clear, high quality and up-to-date information is essential for the smooth running of bus services. Today people have far greater expectations about the kind of information that should be available to them than even a few years ago, and consumers expect to be able to make informed choices based on easily available data.
- Alongside members of the public (both bus users and non-users) who seek to understand the services available to them, accurate information is important to inform bodies such as local authorities in supporting their local bus services.
- Access to clear and accurate information about bus services is also important for software developers seeking to create services such as smartphone apps and journey planning systems. Whilst bus journey planning websites such as Traveline Cymru are already available, unlike some other public transport modes, the information on fares and punctuality is not always easily accessible. For example, the National Rail Enquiries website provides journey planning and fares information on rail journeys, with punctuality data on the Office of Rail and Road and Network Rail websites.
- We want to ensure that people using, or looking to use, bus services in Wales have access to the same levels of information as passengers on other modes of transport. This will make bus services more accessible and a more attractive travel option. To do this we propose establishing a comprehensive open data set for the

bus industry. We will achieve this by requiring bus operators, local authorities and the Traffic Commissioner to provide information on routes (to include proposals for changes to routes), timetables, fares and tickets for public access.

- In 2011 the Competition Commission's Local Bus Services Market investigation recommended that local authorities should be enabled to obtain, and where appropriate disclose, information about the revenue and patronage of bus services that are being registered⁹. The intention behind this proposal was to enable local authorities to better manage tenders for supported services. We propose to take the opportunity to consider a Bill to implement this recommendation.

Proposed legislative change

Information for the public

- We would create a new power for Welsh Ministers to make regulations requiring bus operators and other bodies, such as the Traffic Commissioner and local authorities, to provide information about local bus services. The information to be disclosed will relate to routes, timetables, fares and tickets for local services. Creating this disclosure requirement by way of regulations would offer the Welsh Ministers the ability to adapt the requirement to future advances in technology as they occur.

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.

Information about registered services

- We would also provide the Welsh Ministers with a power, by regulations, to enable a local authority to require bus operators to provide service information in circumstances where operators are proposing to vary or cancel registered services. The regulations would also enable local authorities, in appropriate circumstances, to disclose this information as part of any process to tender to replace those services.

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 tendering process? Yes/No? Please explain your answer.

⁹https://webarchive.nationalarchives.gov.uk/20140403001219/http://www.competition-commission.org.uk/assets/competitioncommission/docs/pdf/inquiry/ref2010/localbus/pdf/00_sections_1_1_5.pdf

Part 2 – Taxis and private hire vehicles (PHV)

Introduction

- Taxi and PHVs are an essential aspect of the Welsh transport network. Taxis and PHVs operate, often in rural or remote areas, where delivering rail or scheduled bus services may be problematic, either because of local geography or because there isn't enough local demand to support regular scheduled services. Their point-to-point services can facilitate social inclusion for disabled people, and be a lifeline for those who do not own their own car. Even where an area is well-served by rail or bus during the day, taxis and PHVs may be the only form of transport available to the public during the night.
- As at 25 October 2018, there were approximately 5,000 taxis and 4,900 PHVs in Wales, and 12,000 licensed taxi and PHV drivers¹⁰. In 2011, Wales had the highest proportion of people (75.2%) outside of London commuting to work by car, taxi or motorcycle¹¹.
- However, the legislative framework which governs taxis and PHVs does not reflect the industry as it is today.
- Taxi and PHV definitions:
 - **Taxis** – traditionally known as hackney carriages, can pick up passengers from ranks and be hailed from the street. They can also undertake pre-booked work (by telephone, in person or via technology); and
 - **PHVs** can only undertake pre-booked work (by telephone, in person and increasingly via technology).
- Taxis and PHVs are a regulated but decentralised industry in Wales. A taxi cannot operate unless both the vehicle and its driver are licensed by a local authority under the Town Police Clauses Act 1847 (TPCA 1847). PHV vehicles, drivers and operators cannot operate without licences granted under the Local Government (Miscellaneous Provisions) Act 1976 (LGMPA 1976). These two Acts are the main pieces of legislation in this area.
- Following on from consultations undertaken by the Law Commission from 2011-2014, and a Welsh Government consultation in 2017, work has been underway to consider how we might reform the taxi and PHV licensing system in Wales. We have listened to feedback from passengers, local authorities, taxi drivers and interest groups about the current provision of services. It is common ground that the law is outdated and that change is needed.

¹⁰ <https://www.gov.uk/government/statistical-data-sets/taxi01-taxis-private-hire-vehilces-and-their-drivers> (last visited 12 November 2018).

¹¹ http://www.ons.gov.uk/ons/dcp171766_299766.pdf (last visited 13 November 2018).

What are the issues?

- The legislative framework which governs taxis and PHVs is based on a localised system (services being licensed to be provided within local authority borders), but that is at odds with modern technology and taxi and PHV working practices. When the legislation was enacted in 1847 and 1976, taxis were horse-drawn carriages and radio signals for PHVs were unlikely to reach beyond the licensing authority borders. The legislation envisaged people going to their local PHV office, or telephoning it by landline, in order to pre-book a car. In 2018, with the internet, mobile 'phones and smartphone apps, the picture is clearly very different. In practice, taxis and PHVs undertake pre-booked work outside of their licensing area. The legislation did not envisage this; it provided for standard-setting, enforcement, and safeguarding to take place only within a local authority's borders. The mismatch between the legislation and modern practice is evident in the following problems:
 - **Inconsistent standards** – where local authorities have different licencing standards resulting in different costs for operators and variable safety and quality standards for passengers;
 - **Enforcement** – there is no statutory mechanism for enforcement against vehicles licensed in a different local authority area from where an infringement has occurred; and
 - **Safeguarding** – the ability to obtain a licence in one authority and work in another presents a risk when local authorities do not have the means to share safeguarding information.
- For these reasons, there is a need for reform to develop a licensing framework that reflects current working practices.

What we want to achieve

- We consider that there are three areas that could be improved, to align the licensing system with the technological reality. We are not proposing to alter the current position on out-of-area working. Our proposals tackle the following three areas:
 - Proposal 1: the variation in taxi and PHV standards between the twenty two local authorities in Wales;
 - Proposal 2: the inability to take enforcement action against vehicles which are operating "out-of-area"; and
 - Proposal 3: the difficulty in sharing relevant safeguarding information.
- Our view is that the best way of underpinning improvement in all three areas is to centralise the licensing regime.
- Proposal 4: that the existing taxi and PHV licensing functions of the twenty two Welsh local authorities should be redirected to a single national licensing authority. That national authority would be the joint transport authority (JTA), which we have referred to previously in the context of our proposals for bus reform in pages 16 –

20 of this paper. The purpose of the JTA in relation to taxis and PHVs would be to create a standardised licensing area encompassing all of Wales, and to streamline enforcement and information-sharing.

- Our preferred option constitutes implementation of proposals 1 to 3 alongside proposal 4 – Option A.
- We are also considering Option B: implementation of proposals 1 to 3 without proposal 4 i.e. without using a JTA as the delivery vehicle. This would involve creating national standards that the local authorities must follow; extend the existing enforcement powers of local authorities; and creating a mechanism by which local authorities can share relevant information. The sections below set out the proposals in more detail and seek your comments.

Proposals

National standards

The Welsh Government is proposing to set 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 so there will be further consultation on their content.

Current legislative position

- Taxis and PHVs are a regulated but decentralised industry in Wales. A taxi cannot operate unless both the vehicle and its driver are licensed by a local authority under the Town Police Clauses Act 1847 (TPCA 1847). PHV vehicles, drivers and operators cannot operate without licences granted under the Local Government (Miscellaneous Provisions) Act 1976 (LGMPA 1976).
- Licencing Criteria - Local authorities are allowed a wide discretion when licensing vehicles, drivers and operators which is summarised as follows:
 - **Taxis** of any kind or description can be licensed and licence conditions can be imposed by the local authority¹². The MOT is the only common vehicle requirement¹³;
 - **PHVs** – to be licensed a local authority must be satisfied that the vehicle is suitable for usage as a PHV, that its mechanical condition is suitable, that it is safe and comfortable, and that it has valid insurance¹⁴. Other than the common standard of MOT requirements, these terms are not legally defined. Local authorities are guided in relation to vehicles by Best Practice guidance issued by the Department for Transport¹⁵; and
 - **Drivers and Operators** - A “fit and proper person” test is applied to taxi drivers¹⁶, PHV drivers¹⁷ and PHV operators¹⁸. However, there is no legal definition of what is meant by a “fit and proper person”. This is left to local

¹² Section 37 TPCA 1847 and section 47 LGMPA 1976 respectively.

¹³ This is contained in the Road Traffic Act 1988.

¹⁴ Section 48 LGMPA 1976.

¹⁵

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

¹⁶ Section 51 LGMPA 1976.

¹⁷ Section 59 LGMPA 1976.

¹⁸ Section 55 LGMPA 1976.

authorities to determine, with the assistance of the Best Practice guidance¹⁹. Taxi and PHV driver licence applicants are required to disclose spent and unspent convictions²⁰, however there is variation in the way in which local authorities deal with criminal records. Some local authorities carry out an Enhanced Disclosure and Barring Service (DBS) check (which records spent and unspent convictions, cautions, reprimands, warnings and any relevant non-conviction information held on the Police National Computer) and a check of the barred list (which lists those legally prevented from working with children or vulnerable groups). In addition, the Law Commission noted that there is considerable variation in England and Wales as to how the outcome of those checks is interpreted against the “fit and proper person” criteria²¹. In Wales, sixteen local authorities conduct both checks and six conduct only an Enhanced DBS check²². Similar discrepancies arise in relation to medical fitness checks²³.

Case for change and desired outcomes

- Variation in local standards can become an issue when services are provided across local authority borders (i.e. “out-of-area”). Taxis may undertake pre-booked work in any area, and PHVs may also be provided that the “triple licensing requirement”²⁴ is met.
- There are twenty two local authorities in Wales, and therefore twenty two different approaches to vehicular suitability (beyond the basic MOT requirements) and to what “fit and proper” means. That has led to, sometimes considerable, variation in standards and a number of problems flow from that.
- As a taxi or PHV can undertake pre-booked work outside of the area in which it is licensed, applicants may be incentivised to apply in an area where standards are lower and then operate in an area whose standards they do not meet (and where enforcement action cannot be taken against them). This exposes passengers in different parts of Wales to different standards and levels of risk, which is difficult to justify. It also undermines local authorities that have taken steps to ensure that their residents can enjoy higher standards, and may irritate both drivers licensed in that area who have made an effort to meet those standards, and those who are unable to obtain a licence in that area because they do not meet the higher standards. Varying standards also mean that drivers across Wales bear different costs when carrying on their trade, which again is difficult to justify.
- We believe that the people of Wales are all entitled to minimum standards, regardless of where they live. National standards would represent a minimum threshold, with higher standards permitted if desired.

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

²⁰ Regulation 4(1) of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.

²¹ Local Government Regulation, Taxi and PHV licensing criminal convictions policy (September 2010).

²² <https://www.gov.uk/government/statistical-data-sets/taxi01-taxis-private-hire-vehicles-and-their-drivers> (last accessed 13 November 2018).

²³ Local Government Regulation, Taxi and PHV licensing criminal convictions policy (September 2010).

²⁴ The requirement that the vehicle, driver and place of booking all fall within the same licensing authority area.

- The Welsh Government has committed its aim in the Prosperity for All: economic plan²⁵ that all taxis in Wales will have a zero carbon footprint within 10 years. This is because of the environmental and public health impacts of vehicular emissions, which are now well-understood²⁶. We believe that a national standard should apply which specifies requirements for the vehicular emissions of taxis and PHVs.

Proposed legislative change

- We are proposing to confer a power on the Welsh Ministers to create national standards, which the JTA or local authority will have to have regard to when issuing licences. This will mean that all taxis and PHVs in Wales would need to meet the standards in order to obtain a licence. These standards would subsequently be set by regulations and so there will need to be further consultation on their content if the proposal is agreed.

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.

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

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

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

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

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

²⁵ <https://gov.wales/topics/businessandconomy/economic-action-plan/?lang=en>

²⁶ <http://www.euro.who.int/en/health-topics/environment-and-health/Transport-and-health/data-and-statistics/air-pollution-and-climate-change2> (last visited 13 November 2018).

Enforcement

The Welsh Government is proposing to allow a licensing authority to take enforcement action against any vehicle operating in its area.

Current legislative position

- Local authorities have the power to suspend, revoke or refuse to renew a hackney carriage or PHV vehicle licence²⁷, a hackney carriage or PHV driver's licence²⁸, and a PHV operator's licence²⁹. These sections of the 1976 legislation are very broad. They allow suspension, revocation or refusal to renew on the following grounds:
 - The vehicle is unfit for use (vehicles only);
 - An offence is committed under TPCA 1847 or LGMPA 1976 (vehicles, drivers and operators);
 - Non-compliance with TPCA 1847 or LGMPA 1976 (vehicles, drivers and operators);
 - Conviction of an offence involving dishonesty, indecency or violence (drivers);
 - Conviction of an immigration offence or requirement to pay an immigration penalty (drivers and operators);
 - Conduct which appears to render a person unfit to be an operator (operators only);
 - Material changes in the operator's circumstances (operators only); or
 - Any other reasonable cause (vehicles, drivers and operators).
- The effect of suspension or revocation is not immediate. It takes effect only after twenty one days has elapsed, and that period is extended if an appeal is lodged within that time³⁰. There is one exception. A driver's licence may be immediately suspended or revoked where this is in the interests of public safety³¹.
- Where there has been a breach of licensing requirements that is not sufficiently serious to justify suspension or revocation of the licence, the local authority that issued the licence may issue a sanction. This process is not dictated by legislation.

²⁷ Section 60 LGMPA 1976.

²⁸ Section 61 LGMPA 1976.

²⁹ Section 62 LGMPA 1976.

³⁰ Section 77 LGMPA 1976 read alongside section 300 Public Health Act 1936.

³¹ Section 61(2B) LGMPA 1976.

Case for change and desired outcomes

- The law currently only allows local authorities to suspend, revoke or refuse to renew a licence that they have issued. **Licensing officers cannot undertake enforcement against vehicles, drivers or operators licensed in another area.** The local authority which finds itself in that position can only rely on its ability to bring a prosecution under section 222 of the Local Government Act 1972; but this will not be appropriate where no criminal offence has taken place. Additionally, local authorities currently have the discretion to set their own policies on lesser sanctions, and in practice only issue sanctions in relation to licences that they have issued. This limits enforcement to local authority borders, when in practice those borders have been eroded by technological advancement. There is no good reason why a local authority should not be able to take action against any taxi or PHV operating in its area.

Proposed legislative change

- We are proposing to amend sections 60-62 LGMPA 1976 to allow a local authority or a JTA to suspend or revoke a licence relating to **any** vehicle operating in its area. We propose to retain the provisions about immediacy i.e. that any decision will only take effect after twenty one days, unless an appeal has been lodged or there are grounds for immediate suspension or revocation.
- We are proposing to enable a local authority or JTA to issue a lesser sanction to **any** vehicle operating in its area.

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.

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.

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

Information-sharing

The Welsh Government is proposing to allow the creation of a mechanism by which relevant information can be shared, for the purposes of safeguarding.

Current position

- There is currently no legal requirement for local authorities to share information with one another which might assist them in their decision-making. For example, if a driver is refused a licence or has his licence suspended or revoked by one local authority, it can be difficult for the remaining twenty one local authorities to obtain that information.

Case for change and desired outcomes

- In exercising their day-to-day licensing functions, individual local authorities access and manage data which could be extremely relevant for safeguarding purposes. That there is currently no legal requirement or formal mechanism for that information to be shared with other local authorities creates a risk to the general public.
- We recognise that the vast majority of people involved in the taxi and PHV trades abide by the rules and work hard to provide a good, safe and reliable service to the public. We believe that information should be accessible to allow decision-makers to identify the small minority that do not. All people in Wales are entitled to be safe when using taxi and PHV services.

Proposed legislative change

- We are proposing to create a duty on the Welsh Ministers to create a database, or make other information-sharing arrangements, to ensure that relevant information can be shared for the purposes of safeguarding.

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.

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

Joint Transport Authority

The Welsh Government is proposing to redirect all of the existing taxi and PHV licensing functions away from local authorities and into a national licensing authority, a JTA.

This would include licencing, fee- and fare-setting, enforcement, hearing appeals arising from licensing decisions, prosecutions and deciding matters such as whether to apply quantity controls to taxis.

Current position

- Taxi and PHV licensing functions belonging to a local authority are contained in a number of pieces of primary and secondary legislation, which are too numerous to list in full here.
- The mechanism for establishing JTAs is contained in the Transport (Wales) Act 2006. For more information on our initial proposals to establish JTAs, please refer to pages 14 - 18 of this paper.

Case for change and desired outcomes

- We have highlighted above that there are problems with the existing localised approach to taxi and PHV licensing. These are: the discretion allowed to the twenty two Welsh local authorities in making licensing decisions; their inability to enforce across their borders; and the difficulty that they face in communicating information to one another. Our view is that these problems are best solved by centralising the regime. We propose to do this by creating a JTA, which would act as the national licensing authority for Wales. We propose that all of the existing taxi and PHV licensing functions of the twenty two Welsh local authorities would be redirected to the JTA. This means that rather than having twenty two local authority areas and their associated borders, there would be one licensing area encompassing all of Wales. We are calling this Option A.
- We do however recognise the scale of Option A, and acknowledge that it could produce unintended consequences. We are therefore also considering an alternative Option B: create national standards that the local authorities must follow; extend the existing enforcement powers of local authorities; and create a mechanism by which local authorities can share relevant information. We are especially keen to hear your thoughts on whether a JTA is the appropriate delivery vehicle for a standardised taxi and PHV licensing regime with streamlined enforcement and information-sharing ability (Option A), or whether the existing framework should be retained and improvements made to standardisation, enforcement and information-sharing (Option B).

Proposed legislative change

- We are proposing to redirect all of the existing taxi and PHV licensing functions which exist in law (including licencing, fee- and fare-setting, enforcement, hearing appeals arising from licensing decisions, prosecutions and deciding matters such as whether to apply quantity controls to taxis) away from local authorities and into a national licensing authority, a JTA (Option A). This will be done via the Transport (Wales) Act 2006.
- The alternative to Option A is Option B; allowing local authorities to continue to have responsibility for taxi and PHV licensing. This would be done by amending the existing legislation, and would not involve using the Transport (Wales) Act 2006.

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.

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.

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

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?

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

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

Please enter here:

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: