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Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref – MA/KSNWT/0331/25

Llyr Gruffydd MS
Chair
Climate Change, Environment, and Infrastructure Committee
Senedd Cymru
Cardiff Bay
CF99 1SN

14 April 2025

Dear Llyr,

Bus Services (Wales) Bill

Following the introduction of the Bus Services (Wales) Bill into the Senedd on 31 March 2025, please find attached a copy of the statement of policy intent. This document is provided to support the Committee's scrutiny of the Bill.

I look forward to providing evidence to the Committee in due course.

I am copying this letter to the Chair of the Legislation, Justice and Constitution Committee

Yours sincerely,

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Ysgrifennydd y Cabinet dros Drafnidiaeth a Gogledd Cymru
Cabinet Secretary for Transport and North Wales

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.



Llywodraeth Cymru
Welsh Government

Bus Services (Wales) Bill

Statement of Policy Intent for Subordinate
Legislation to be made under this Bill

March 2025

Bus Services (Wales) Bill

Statement of Policy Intent for Subordinate Legislation, direction making powers and guidance

Introduction

This document provides an indication of the current policy intention for the subordinate legislation which the Welsh Ministers would be empowered or required to make under the provisions of the Bus Services (Wales) Bill ('the Bill').

The Statement has been prepared to assist Committees during the scrutiny of the Bill. It should be read in conjunction with the Bill and the Explanatory Memorandum and Explanatory Notes which accompany it.

Details of the Senedd procedure associated with each of these powers are set out in Chapter 5 of the Explanatory Memorandum and are not repeated in this document.

In developing proposals for subordinate legislation, the Welsh Government will work closely with stakeholders.

Overview of the Bill

The Bill contributes to the reform of bus services in Wales. In summary, the Bill will:

- Require the Welsh Ministers to identify those local bus services that are required for the purpose of providing safe, integrated, sustainable, efficient and economic transport in Wales.
- Require the Welsh Ministers to consult on and publish a Welsh Bus Network Plan setting out the particulars of those services.
- Require these services to be secured, as far as reasonably practicable, via local bus service contracts (franchising), direct provision, local bus service permit, or by relying on the provisions of services of a type mentioned in section 18.
- Ensure the appropriate sharing of information both between organisations for the management of the network and with the public for effective use of services.
- Enable local authorities to create new municipal bus companies and allow existing local authority owned bus companies to continue their operation.
- Prohibit the provision of local bus services in Wales except where those services are provided by the Welsh Ministers, or by another operator under a contract, permit, or other exception specified in the Bill. The Bill will also enable sanctions to be imposed where services are operated in breach of this restriction.
- Enable regulations to be made to apply the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") to certain circumstances arising out of the Bill

Shifting local bus services in Wales to a model that will offer Government greater powers to work with local authorities to bring their local bus service ambitions to fruition and achieve a better public transport offer for their residents.

Local Bus Service Contracts

Section	Form	Proposal
10(1) and (3)	Regulations	Power to make provision about the terms that <u>must</u> be included in local bus service contracts (section 10(1)), including a power to set out a <u>standard</u> form for those terms and prescribe the circumstances in which that standard form may or must be used in local bus services contracts (section 10(3)). The Bill also sets out a non-exhaustive list of matters that may be included in regulations (section 10(2)).

Policy purpose and intent

Under the new system the Welsh Ministers need the flexibility to work with key stakeholders to set out expectations for bus operators and potential operators to encourage delivery of quality local bus services that meet the needs of the people of Wales.

The intention is to enable the Welsh Minister to work with local authorities and representatives from industry, passenger interests and third sector to make provision in relation to what must be included in local bus service contracts. The Regulations will ensure that the compulsory terms of local bus services contracts can evolve to meet future requirements.

It is likely that the list of “must-haves” included in the regulations will be supplemented by other terms as and when they are required, and/or will be expanded on in certain contracts where this is needed.

Work is already on-going with Transport for Wales to understand and test contracts for use under the new model. We intend to produce an early draft model local bus contract before the summer recess to aid engagement with key stakeholders. This will inform proposals for compulsory terms to be specified in regulations.

We envisage the regulations, in the first instance, to include terms relating to many (or all) of the matters listed in subsection (2).

Local Bus Service Permits

Section	Form	Proposal	Procedure
13(2)	Regulations	Power to make regulations about further conditions that <u>must</u> be attached to a local bus service permit. The Bill also sets out a non-exhaustive list of matters that may be included in regulations (section 13(3)).	

Policy purpose and intent

The permitting system will enable operators to apply for permits to run local bus services that are not, for any number of reasons, secured via contracts.

The Welsh Ministers will work with local authorities and representatives from industry, passenger interests and third sector to understand what conditions may need to be included in local bus service permits. The policy intention is, in the first instance, for the regulations to set out conditions in relation to some or all of the matters listed in subsection (3). It is recognised that some permits will require similar standards to contracted services, while others will need to be tailored to the specific type of local bus service being provided.

Setting “must-have” matters in regulations will mean operators applying for a permit will know, at that point, what many of their obligations will be. It may also, as far as possible, help set a level of consistency in services across Wales.

In addition to the conditions set out in the regulations, we recognise there will be other conditions that will need to be included in permits, which could vary according to each permit. These conditions might not necessarily relate to matters listed in subsection (3).

Section	Form	Proposal	Procedure
14 (1) and (2)	Regulations	Power to make regulations about applications for local bus service permits.	

Policy purpose and intent

This power may be used to set out, among other things, the form of the application, any information required from applicants (including for example: information relating to the operator, or details about the service(s) for which the permit is required, and the vehicles to be used to provide the service(s)), the process for making an application, and any fees payable.

We are of the view that the process for applying for a local bus service permit will evolve over time. It is important that there is flexibility in relation to the way in which applications must be made, e.g. by taking account of future technology and ensuring fees can stay proportionate to the cost of administering the applications, and in line with inflation.

We intend to work with key stakeholders in the development of these regulations to ensure the application process is simple and streamlined, to limit, as far as possible, burdens on applicants, whilst also ensuring that any additional bus services enhance the Network Plan, without negatively impacting contracted services.

Section	Form	Proposal	Procedure
15(5)	Regulations	Power to make regulations to modify the grounds on which a local bus service permit may be revoked or suspended and make provision about when revocation or suspension of a local bus permit takes effect.	

Policy purpose and intent

Sub-section 15(5)(a) - The grounds for the revocation or suspension of local bus service permits are set out in section 15(3). It is not intended that regulations be made to amend this list. The power to modify the grounds will only be used should it become clear that there are other circumstances, not included in section 15(3), under which local service permits could, for example, have a negative impact on other services, or where there is a need to enforce evolving standards or safety requirements.

Sub-section 15(5)(b) – it is not the intention to set out in regulations when revocations and suspensions take effect as this will be set out in each notice. However, regulations may be used to standardise provisions, for example, to take account of the need for immediate effect where the public is endangered.

Restriction on Providing Local Bus Services

Section	Form	Proposal	Procedure
21(3)	Regulations	Power to make regulations to amend section 21 (the restriction on providing local bus services) for the purposes of providing that the restriction in subsection (1) applies or does not apply to certain local bus services.	

Policy purpose and intent

Local bus services must not be provided in Wales unless it is through a local bus service contact, a local service permit or is provided directly by the Welsh Ministers. Exceptions apply for community bus services and closed school bus services which provide for paying passengers.

Section 21(3) makes provision for Welsh Ministers to effectively vary the list of excepted services in the restriction. It is not intended that regulations be made under this section. However, it is recognised that in an evolving market of public transport there may be, for example, types of bus services that are not envisaged to form part of the core scheduled network but may still be captured by the definition of local bus services.

Section	Form	Proposal	Procedure
23(2)(b)	Regulations	Power to make regulations specifying an order a traffic commissioner may make for breaches of the restriction.	

Policy purpose and intent

It is not intended to use this power unless required. Whilst it is likely that provision under section 23(2)(a) will be sufficient to deter breaches, and will be proportionate to any that do occur, we recognised that alternative provision may be required should either of these prove not be the case. Section 23(2)(b) provides the option to create a new enforcement method.

Section	Form	Proposal	Procedure
23(8)	Regulations	Power to make regulations about orders made under section 23, including the form, content and procedure for making such orders (among other things).	

Policy purpose and intent

It may be helpful to specify certain requirements that a traffic commissioner needs to adhere to when making an order (for instance, the information that the order should contain). Given that the orders will, at least in some circumstances, be imposing a financial penalty, the regulations may need to specify the form and content of the orders to ensure consistency and clarity. The intention is to work with the Traffic Commissioner's Office in the first instance to agree the form and content, as well as the relevant procedure, in relation to the orders.

Section	Form	Proposal	Procedure
23(9) (a)(i) and (b)(i)	Regulations	Power to make regulations prescribing the maximum penalty that may be imposed for breaches of the restriction.	

Policy purpose and intent

Operators breaching the restriction may face financial penalties under section 23. The power in subsection (9) enables Welsh Ministers to specify the figure of the maximum penalty that could be imposed by a traffic commissioner, as an alternative to the one specified on the face of the Bill (namely, £550). The policy intention is to enable the Welsh Ministers to specify a figure that takes account of changes in inflation and to ensure that the penalty remains proportionate.

The provision as drafted is similar to certain sanctions included in existing primary legislation (the Transport Act 1985). However, it is recognised that the amount of the penalty may need to change in the future to appropriately enforce the restriction.

It is not intended to use this power in the short term.

Information and Data

Section	Form	Proposal	Procedure
25 (3), (4) and (5)	Regulations	Power to make regulations setting out the information that can be requested from current and former operators of bus services via notice, for certain purpose (section 25(3) and (4)). Under section 25(5) the regulations must also make provision about appeals and may make provision about the disclosure of information.	

Policy purpose and intent

The Welsh Ministers require access to commercial and other information to support the design and maintenance of an effective and efficient local bus network that is financially feasible and structured in a way that best serves communities.

We recognise that some operators, in particular in the SME market, may not have access to the information and data that maybe requested so it is important that operators and former operators can appeal the notice requiring them to provide the information.

The policy intention is, in the first instance, for the regulations to set out information relating to some or all of the matters listed in subsection (3). The type of information and dataset required from operators and past operators to plan the Network may however vary from transition into full implementation and business as usual and the regulations will be able to make different provision for different purposes.

It is intended that regulations under this section will be made early in the Bill's implementation.

Section	Form	Proposal	Procedure
26(3) and (4)	Regulations	Power to make regulations setting out the information that can be requested from local authorities via notice.	

Policy purpose and intent

Information will need to be obtained from local authorities and community councils to support decision making about the practical delivery of local bus services. The types of information set out in the non-exhaustive list in section 26(4), are intended to capture matters which may affect the operation of local bus services. These include the operation of bus services other than those covered by the Bill, for example, long-distance or school transport services, which may impact the use of bus stops or the movement of traffic; or the placement of active travel infrastructure adjacent to bus stops, which need careful consideration because of more vulnerable bus users.

Local authorities will remain under the duty in section 81 of the Transport Act 1985 to look after road infrastructure, which will directly affect the operation of local bus services. The Welsh Ministers may therefore, from time to time, require information about infrastructure and certain other matters in order to perform their functions under Part 2 of the Bill.

The type of information required to plan and deliver the bus network, will change over time, therefore, including an exhaustive list on the face of the Bill would not be practical.

The policy intention is, in the first instance, for the regulations to specify information relating to the matters listed in the Bill, among others (subject to consultation with stakeholders).

Section	Form	Proposal	Procedure
27(1), (2), (4) and (5)	Regulations	Duty to make arrangements to ensure that information about bus services specified in regulations is made available to the public. Regulations made	

		under section 27 must make provision specifying how and when the information is to be provided to the public.	
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Policy purpose and intent

One of the key disadvantages of the current de-regulated system is the lack of consistent and accessible information on local bus services. The intention behind the Bill is to create a bus system dedicated to providing the best possible service to the public. Clear, high quality and up-to-date information is essential for the smooth running of bus services. Consumers should have confidence to expect easily available data to help them make informed choices about transport. Whilst there is currently a duty upon local transport authorities to determine what local bus information should be made available to the public, and the way it should be made available (section 139 of the Transport Act 2000), the Bill will result in public access to more consistent and reliable data.

Regulations will enable the Welsh Ministers to specify how and when the required information will be provided. The manner in which this information is shared is likely to change in the future with technological and other advances, therefore, including an exhaustive list of the types of information or the way in which it is to be shared on the face of the Bill would not be practical.

The Welsh Government and Transport for Wales are already working to identify the most appropriate technology for sharing information about local bus services with the public under the new model. The focus is ensuring it is inclusive and accessible. The regulations will be done in collaboration with key stakeholders, including with Transport for Wales Independent Advisory Panel.

Section	Form	Proposal	Procedure
28	Regulations	Power to make regulations requiring operators of local bus services to provide specified information for the purposes of the duty in section 27(1) (to make arrangements to secure that the specified information is made available to the public). The regulations must specify how and when the information is to be provided.	

Policy purpose and intent

The Welsh Ministers are under a duty within section 27(1) to make arrangements to ensure that information specified in those regulations is made available to the public. It is likely that in many cases, in particular where the service has been contracted, information on local bus services of interest to the public will already be held by Transport for Wales. However, if for any reason this isn't the case, or there is a temporary variation to the service, e.g. a change in the timetable to accommodate an event, there must be provision within the Bill to gather the information from operators.

It is the intention that the Welsh Ministers will specify (i) the type of bus operators who are required to provide certain types of information; (ii) the information required; and (iii) how and when the information is to be provided in regulations. The content of the information to be shared with the public may need to change over time.

We intend to work with key stakeholders in the development of these regulations.

Section	Form	Proposal	Procedure
30(2)(b)	Regulations	Power to make regulations specifying an order a traffic commissioner may make to enforce the information requirements.	

Policy purpose and intent

Whilst it is likely that provision under section 30 will be sufficient to deter breaches, and will be proportionate to any that do occur, this provision provides the flexibility to respond should either of these prove not be the case.

It is not intended to use this power unless required.

Section	Form	Proposal	Procedure
30(8)	Regulations	Power to make provision about orders under this section, including about the form and content of an order and the procedure to be followed by a traffic commissioner.	

Policy purpose and intent

It may be helpful to specify certain requirements that the Welsh Ministers may want orders made by the traffic commissioner to include and the procedure to be followed when making an order under section 30(1) in relation to failure to provide information (for instance, the information that the order should contain).

Given that the orders will be imposing a financial penalty, the regulations may need to cover the form and content of the orders, to ensure consistency and clarity. The intention is to work with the Traffic Commissioner's Office in the first instance to agree the form and content, as well as the relevant procedure, in relation to the orders.

These regulations will need to be made alongside regulations under section 25 and/or under section 28 to ensure the requirements of those provisions can be appropriately enforced.

Section	Form	Proposal	Procedure
30(9)(a)(i) and (b)(i)	Regulations	Power to make regulations prescribing the maximum penalty that may be imposed for breaches of the information requirements.	

Policy purpose and intent

Operators breaching the information requirements may face financial penalties under section 30. The power in subsection (9) enables Welsh Ministers to specify a figure for the maximum penalty that could be imposed by a traffic commissioner, as an alternative to the one specified on the face of the Bill (namely, £550). The policy intention is to enable the Welsh Ministers to specify a figure that takes account of changes in inflation and to ensure that the penalty remains proportionate.

The provision as drafted is similar to certain sanctions included in existing primary legislation (the Transport Act 2000) and will be familiar to former and existing operators of bus services.

It is not intended to use this power in the short term.

Transfer of Undertakings

Section	Form	Proposal	Procedure
35(1), (2) and (3)	Regulations	Duty to make regulations for circumstances in which a relevant transfer is to be treated as taking place, for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) and sections 257 and 258 of the Pensions Act 2004 and a power to make further provision in regulations in connection with the application of TUPE by virtue of provision made under section 35(1)	

Policy purpose and intent

Social partnership and working with trade unions has furthered our understanding of the impact the Bill may have on key employees. We intend to continue to engage on the circumstances to be specified in the regulations under which TUPE may apply when there is a transfer of services between operators, for example, during the initial roll-out of the new model and later between incumbent and new operators in the future. We intend to set out proposals in advance of the Senedd Elections (May 2026) in order to draft the provisions in readiness to publish before the next Senedd term.

The aspiration is to come to an agreed and appropriate policy with key stakeholders, in particular, local authorities, industry and unions prior to the planned tendering of the first local bus service contracts in June 2026. The implementation of the new system has the potential to bring about significant change for bus operators and for their staff. We want to offer operators and those people whose jobs may potentially be impacted by the implementation of the new model some assurance on these provisions before tendering of the contracts begins.

It is the policy intention to provide for the protection of staff in appropriate circumstances. This will be achieved by specifying, in regulations made under section 35(1), the situations which should be treated as “relevant transfers” to which TUPE applies (to the extent that it would not otherwise do so).

Those situations may, for example, include the following scenarios:

- a) where an incumbent operator ceases to provide services, and at the same time a new bus operator begins to provide sufficiently similar bus services in the same area under a franchising contract;

- b) where an incumbent operator stops providing local services before a new franchising contract commences, and the Welsh Ministers agrees with a new operator to provide those services earlier than they would otherwise have done.

It is also the intention that where there is a relevant transfer, the pensions protections provided to employees by sections 257 and 258 (and in regulations made under section 258) of the Pensions Act 2004 should apply. This will be achieved by exercising the duty to make regulations which is found in section 35(2).

It may be necessary to exercise the power in section 35(3) to ensure there is sufficient clarity about the situations which are to be treated as relevant transfers.

General

Section	Form	Proposal	Procedure
40(3)	Regulations	Power to make regulations about circumstances in which a person of a specified description is to be treated for the purposes of section 40(2) as providing or not providing a local bus service.	

Policy purpose and intent

This power gives the Welsh Ministers the flexibility to amend the definition of an operator should the term need to change in the future. This is an important definition for the sector therefore a mechanism to amend more responsively is required.

It is not intended to use this power in the short term.

Section	Form	Proposal	Procedure
42	Regulations	Power to make supplementary, incidental, consequential, transitional, transitory or saving provision for the purposes of giving full effect to any provision of the Bill.	

Policy purpose and intent

These are standard Bill provisions to enable the Welsh Ministers to make supplementary, incidental, transitional or consequential amendments to primary and secondary legislation in order to give full effect to the Bill.

Transitional and savings provisions are often utilised to ensure smooth transition between existing and new regimes

It is likely that we will need to utilise these powers we will liaise with relevant stakeholders on the need for such provisions.

Section	Form	Proposal	Procedure
43(3) and (4)	Order	Powers for the Welsh Ministers to commence certain provisions of the Bill that are not commenced automatically. Transitional or saving provisions can be made in connection with the coming into force of the provisions.	

Policy purpose and intent

This power is required to ensure that any new provision made in or by virtue of the Act will be able fit into the existing legislative framework. These regulations are required to allow the Welsh Ministers to make supplementary, incidental, consequential, transitional, or saving provisions if it is considered necessary for the purposes of giving full effect to the provisions of the Bill. It is likely that such changes would be relatively minor and making them through regulations will provide appropriate flexibility for such provisions to be made without the need to amend primary legislation on each occasion. If the regulations amend or repeal any provision of primary legislation, then they will be subject to the draft affirmative procedure. Otherwise, they will be subject to the negative procedure