

## **BSWB 10 - Evidence from: Confederation of Passenger Transport Cymru**

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Senedd Cymru | Welsh Parliament

Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee

Bil Gwasanaethau Bysiau (Cymru) | Bus Services (Wales) Bill

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### **1. What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?**

Buses are an essential part of the social and economic fabric of Wales. As the most popular and accessible form of public transport in Wales, they support more than 200,000 people a day to make journeys to work, education, shopping, and to see family and friends. For the one in five people in Wales who do not have access to a car, they are a lifeline.

Each year, local bus services in Wales generate huge benefits to the economy of Wales, including:

- £305m of direct economic benefits, supporting more than 3,500 jobs in the Welsh economy;
- £400m of benefits to society through increased connectivity, reduced congestion and improvements to health, wellbeing and the environment; and
- £705m of spending in the local economies of the places that buses travel to.

However, buses can do much more. Every additional £1 of investment in buses can generate a further £4.50 of economic benefits across Wales.

We welcome the priority Welsh Government is giving to improving bus services across Wales, and the objective of this Bill to provide “reliable, affordable, and easy-to-use services” is one that is shared by bus operators. However, we believe the Bill will fall well short of delivering the outcomes that have been promised. The long-term decline of bus patronage in Wales has many contributing factors, and government control of the network will not guarantee success.

The recent Your Bus Journey survey carried out by Transport Focus, shows that customer satisfaction with bus services in Wales is 84%. This compares favourably with England overall (83%), and even more favourably with Greater Manchester (79%) which has been operating as a franchised network since 2023.

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If we are to genuinely transform bus services for the 21st Century in Wales – driving modal shift from cars to public transport – we will need a co-ordinated package of policies that increase the attractiveness, affordability and accessibility of the bus network.

The most significant barrier to increasing passenger numbers is tackling congestion – customers regularly rate reliability and punctuality as the key factor in whether they catch the bus or not – and bus journey times have increased by more than 50% on the busiest urban routes over the last 50 years.

Research has shown that if bus passengers had been protected from increased congestion, there would be between 48% and 72% more fare-paying bus passengers today.

Tackling congestion requires bold policies to give buses greater priority on our roads, and greater policy alignment with land use planning to ensure places are developed to prioritise public transport from the outset.

In addition to the concerns around congestion, bus operators have raised significant concerns over the affordability and deliverability of the desired outcomes of this Bill.

Both other franchised bus networks across the UK – in London and Greater Manchester – have significant gaps between the costs of running services and the revenue raised by fares.

In London, the gap was more than £700m in 2019, and recent figures have revealed that the Bee Network in Greater Manchester is costing £226m more than the revenue raised through fares each year.

Our ambitions for a better bus network in Wales should not be constrained by the ebb and flow of difficult annual financial settlements from Westminster, but those figures raise serious questions about the affordability of these proposals within the constraints of Welsh Government's budget.

The inflexibility of the Bill will mean that if costs increase or revenue drops in a franchised network, Welsh Government will face the same conundrum that faces operators now: to increase fares, to reduce service provision, or to request further subsidy to ensure the network is sustainable.

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In short, the Bill will not change the economics of running bus services in Wales, and risks a gap between the expectations Ministers are raising in relation to improved services, and the reality of what will be delivered.

## **2. What are your views on the Bill's provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?**

### **▪ Part 1 - Key concepts and general objectives (sections 1 to 4)**

Our main comments in this section relate to the Objectives section of Part 1 of the Bill.

Each of the five objectives that it is proposed Ministers should consider are broadly welcome. However, the Bill does not necessarily follow in creating the conditions for Ministers to successfully deliver on those objectives and creates some significant tensions for Ministers in balancing each of these objectives against a wider set of Government priorities.

The duty for Ministers to promote the use of local bus services will require a renewed focus on promoting bus as a positive first choice for many journeys, not simply as an alternative. This will require a step change in investment and the prioritisation of buses in Welsh Government budgets.

The 2025/26 Welsh Government budget is the first in nearly 15 years that has seen an increase in the regular revenue funding for buses in Wales. Currently, for every £2 invested by Welsh Government, rail receives £5 of investment, despite carrying roughly one third of the passengers. If Ministers are to truly promote local bus services as a part of a wider, more integrated sustainable transport system, this imbalance will need careful consideration.

Additionally, Ministers will have work across a range of portfolios to ensure that the impact of other government priorities don't reduce their ability to effectively promote buses, and to achieve the third objective - to continuously improve the reliability, safety, affordability and accessibility of local bus services.

We believe the Bill does little to address the significant barriers that exist to achieving the third objective, and the impact and costs of congestion will be an enormous blocker to the success of this objective.

The costs of congestion to the industry and to government are enormous, with every 10% decrease in operating speeds leading to an 8% increase in operating costs. Any increases in cost to the current network would ultimately be passed on to taxpayers in a franchised network, or lead to decisions to increase fares or reduce services.

To address this challenge, we believe the Bill would be improved by the creation of a duty on Ministers to create a national target for bus speeds, and to act – most likely through infrastructure investment and bus priority schemes – to improve them.

This would hold Welsh Ministers accountable for the wide range of decisions they make that affect the efficiency of the bus network, including in areas such as the planning and development of new homes, and the allocation of capital to transport infrastructure.

In addition to this, we believe the Bill would be improved by an additional objective for Ministers to consider the diversity of the market in the delivery of bus services in Wales.

Currently, Wales has around 90 bus operators ranging from small, family run businesses to multi-national public transport operators. For many of these businesses, there are concerns that franchising will lead to a significant loss of income and threaten the viability and longevity of their business.

The creation of the Bee Network in Manchester involved virtually no small and medium operators, and similar sized operators in Wales are extremely uncertain about their future delivering bus services in a franchised environment. Similarly, while later provisions in the Bill allow for the creation of new municipal bus companies, existing municipal operators face great uncertainty over their role.

While Ministers have consistently pledged to avoid the pitfalls seen elsewhere, the Bill does not provide sufficient confidence to the industry that appropriate measures are in place. An objective at this stage of the Bill would allow for greater transparency and accountability on this issue.

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### **3. What are your views on the Bill's provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?**

- **Part 2 - Functions of the Welsh Ministers relating to local bus services (sections 5 to 20)**

Part 2 of the Bill clearly establishes the process for delivering a franchised bus network in Wales, in line with the stated policy intention. However, the process being legislated for creates several risks to the overall delivery of a successful bus network in Wales.

While it is welcome that the Bill creates duties to consult with local authorities, operators and stakeholders, we believe this duty could be strengthened.

Firstly, bus operators and local authorities should be consulted before the development of the bus network plan to ensure local knowledge and understanding of the network is applied at the earliest point in the process. Additionally, this would give operators greater insight and certainty into what is a significant change to their operating environment.

To date, the experience of operators in being consulted by Transport for Wales and the CJs on the development of franchising has been mixed, and many operators are extremely frustrated at the limited clarity and information that is emerging at both a national and regional level. Legislating for early consultation and engagement would provide reassurance and ensure accountability.

Similarly, the voice of passengers will be restricted by the reliance on representative groups to provide insight. While both Bus Users UK and Transport Focus both fulfil an important role in the Welsh bus ecosystem, the voice of passengers has been historically underfunded by Welsh Government. This was no more evident than in the recent decision by Welsh Government and Transport for Wales not to fund the continuation of the Your Bus Journey survey after just one year of running the survey in Wales. In England and Scotland, Transport Focus fulfil a statutory role in collecting data on the views and experiences of passengers and the committee may wish to consider whether a similar duty would be appropriate in Wales.

In addition to concerns about representation, we are concerned that the significant risks around affordability and deliverability will manifest due to

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weaknesses in Part 2 of the Bill.

Given the widely held concerns across industry, passengers and local government over the affordability of the proposed approach to franchising, it would be sensible to include a Value for Money assessment as part of the development of the Welsh Bus Network plan. This would allow Ministers, TfW and CJsCs to gain greater insight into the level of financial risk associated with the move to franchising, and to make decisions accordingly.

We believe it would be short-sighted for Welsh Government to only consider one form of franchised bus contract.

Franchising arrangements are generally run in one of two ways: a gross cost or a net cost/minimum subsidy model.

Under both models, the Ministers would specify a network of services, set fares, decide on branding, and determine vehicle types.

Under gross cost contracts – the type proposed by Welsh Government – operators receive a set fee for delivering the service, regardless of how many passengers are on the bus.

Under a net cost model, operators would have an opportunity to use their local knowledge and commercial expertise to propose changes to the network or offer special tickets to attract more passengers, or to reduce costs through innovation and efficiency, reducing the cost to the public purse.

Following an appropriate Value for Money test, authorities could then take informed decisions on which of these models is appropriate.

In Jersey, following several years running an unsuccessful gross cost franchise, the authority moved to a net cost model, and saw a c.40% increase in patronage and c.20% increase in customer satisfaction. We believe Welsh authorities should be given flexibility to assess which model is most appropriate, and affordable, for their area.

In addition, Part 2 of the Bill should include a clear instruction for Ministers to apply a test on the ability of operators to mobilise services in line with the network plan.

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#### **4. What are your views on the Bill's provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?**

- **Part 3 - Restriction on providing local bus services (sections 21 to 24)**

Part 3 of the Bill will see the end of all commercial bus services in Wales. While this is clearly in line with the policy intentions of the Bill, we believe the legislation should seek to create some flexibility in case of a significant change in circumstances in the future.

Given the risks around affordability and deliverability, and the restrictive nature of public finances, Ministers may wish to consider a set of circumstances in which the flexibility of commercial bus services may be useful in the future.

The previous Bus Services (Wales) Bill, which fell in 2020 due to the COVID-19 pandemic, contained provisions for Welsh Partnership Schemes, which would have granted Ministers far greater influence over services than under the commercial model but with a more equal share of financial risk.

The industry recognises the well-established view of Ministers to franchise the entirety of the bus network in Wales, it may be prudent to create provisions that protect against any future failure to do so.

#### **5. What are your views on the Bill's provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?**

- **Part 4 - Information and data (sections 25 to 31)**

We welcome the Bill's focus on the provision of timely, clear and high-quality data for passengers. Bus operators work tirelessly to provide this under the current system, and while there will undoubtedly be some benefits from greater co-ordination and ownership of this data, the Bill alone will not remedy all the challenges relating to data and information.

The provisions relating to the sharing of data by bus operators will require great care, as much of this data is highly confidential commercial data. The legislation

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will need to be supported by robust non-disclosure agreements that respect operators' confidentiality, and offer protections against Freedom of Information requests.

In terms of data that is provided to the public, both local authorities and Transport for Wales have an important role in ensuring the infrastructure in place to deliver this successfully.

In our responses to the recent Regional Transport Plan consultations, CPT Cymru highlighted the need for a comprehensive programme of bus stop and station enhancement, with a commitment to survey, design and implement changes to this vital infrastructure. This should include consideration of how information is provided in these places.

While the financial commitment to this will be significant, Ministers could consider alongside the Bill how they use s.106 and Community Infrastructure Levy revenue to fund the provision of bus service information and infrastructure improvements in areas of high priority.

To ensure that any improvements delivered by the Bill in this space are effective, Ministers will have to consider the high proportion of older people who catch buses in Wales, ensure information is available flexibly and not through digital provisions alone.

## **6. What are your views on the Bill's provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?**

- **Part 5 – Local authority powers and duties (sections 32 to 34)**

Local authorities play a vital role in the co-ordination, development and delivery of the current bus network, providing local knowledge and expertise, and ensuring local accountability over decisions that are made on the bus network.

Under a franchised system, there is a risk that this role is diminished and the expertise and knowledge of experienced local authority staff is lost in the new system.

We believe that the Bill would be strengthened by reiterating this important role throughout to ensure that this risk isn't realised.

However, Part 5 creates some distinct risks in relation to municipal bus

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companies.

As it stands, the existing local authority bus operators have virtually no clarity over the role they will play in a franchised network, and the legislation has missed an opportunity to clarify this. While Ministers have continually asserted that these companies will play an important role in delivering the network, without legislative certainty and/or clear actions from Ministers, the business face significant strategic uncertainty.

The Bus Services (No. 2) Bill, currently making its way through the UK Parliament is facing significant scrutiny over the creation of new Local Authority Bus Companies (LABCOs) and the protections given to existing municipals. Welsh Ministers should monitor this carefully, and ensure that in Wales:

- Where protection is given to existing municipal bus companies, there should be transparency over the mechanism used and the implications for the wider network;
- Clear guidance should be put in place over the use of the “Teckal” provision in procurement law to clarify how this can be used to protect existing municipal bus companies;
- Protections should be put in place to prevent the creation of new municipals in unfair ways, i.e. the purchase of a small bus company which is then rebranded as municipal and awarded a significant franchise contract way beyond its existing capacity

## **7. What are your views on the Bill’s provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?**

### **▪ Part 6 - Miscellaneous and general (sections 35 to 44)**

We welcome the clarity in part 6 over the use of TUPE arrangements, which will offer clear protection to employees and employers. Ministers will need to work closely with bus operators in the event that they are required to ensure everybody has certainty over timescales and transfer arrangements.

We have no further comments on the miscellaneous and general provisions in the Bill.

## **8. What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?**

Throughout our response, we have outlined a number of barriers to implementation. In summary, we believe there are significant concerns from industry around:

- The affordability and deliverability of a franchised bus network due to the financial and capacity constraints on Welsh Government, and the cost of franchising in other areas of the UK
- The inflexibility of the Bill and the wider policy framework being applied by Welsh Government to opt for gross cost franchising, which we believe presents the biggest risk to the public purse and passengers
- The absence of policies within the Bill, and Welsh Government's wider policy framework, to effectively address congestion and ensure the efficient transit of buses through traffic – leading to higher operational costs and a less attractive network to passengers
- The risk of a significant gap in the expectations Ministers are raising from the reforms delivered by the Bill and the services improvements that are possible as a result
- The lack of policy alignment and integration with other areas of Government business, particularly relating to the planning of new commercial and residential developments, and their suitability to public transport
- A significant risk to the longevity of some businesses currently delivering bus services, risking job losses and slower economic growth
- The loss of key personnel from bus operators and local authorities due to the challenging environment and lack of certainty caused by poorly executed reform

We do not believe that the Bill effectively takes account of these risks currently, and have suggested a number of areas in which it could be improved. We will continue to work constructively with Ministers and the Senedd to improve the Bill's outcomes and manage these risks.

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## **9. How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)**

We believe these powers are appropriate and aligned with the purpose of the Bill. However, given the level of detail that will become apparent through secondary legislation, we would urge Ministers to ensure thorough and genuine consultation with operators and other stakeholders as subordinate legislation is developed.

## **10. Are any unintended consequences likely to arise from the Bill?**

If the risks we have identified in Q.8 manifest as we have suggested, the most significant unintended consequence of the Bill would be the undermining of the bus network through poor delivery, financial constraints and the loss of key expertise. We will continue to work constructively with Ministers and the Senedd to mitigate risks and avoid unintended consequences to the best of our ability.

## **11. What are your views on the Welsh Government's assessment of the financial implications of the Bill as set out in Part 2 of the Explanatory Memorandum?**

The industry has raised significant concerns about the assessment of the financial implications of the Bill in the Explanatory Memorandum.

As we have highlighted throughout our response, there are widely held concerns about the affordability and deliverability of the Bill, noting the significant gap between costs and revenue in other franchised bus networks. The Explanatory Memorandum does not acknowledge this, and assumes that farebox revenue will cover costs and support cross-subsidy between commercial services and those that aren't currently commercial, with no recognition of the low proportion of existing bus services in Wales that are commercial.

In addition to this, the narrative around the benefits of the legislation relies heavily on journey time savings and public behaviour changes without any increase in the mileage delivered on the current network to attract new passengers. This is inconsistent with the narrative of more regular, more efficient buses from Ministers in relation to this Bill, and highlights the huge risk around expectations management that we have noted elsewhere.

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In the comparison of the three options (p.72 – 102), the Explanatory Memorandum makes a number of assumptions about bus reform that cannot be credibly demonstrated, including:

- That improvements to travel times, accessibility and passenger safety and security can only be delivered through bus reform
- That infrastructure improvements, both to fleet and depots, and through investment in bus priority, can only be delivered through bus reform; and
- That the transition to zero emissions vehicles under bus reform would not face the same barriers e.g, cost, grid capacity, connection issues, as under other scenarios

Taking these three examples alone, these are all areas that could be improved under the current system, and under alternative scenarios such as Statutory Partnerships. Many of the areas identified above are within the gift of Ministers and local authorities now and could be improved without legislation, delivering significant benefits to passengers and improving the attractiveness of the network.

While the Bill will grant greater control to the regulation and co-ordination of the network, it is an incorrect assumption that the legislation itself will bring improvements to those areas.

In addition to this, a number of operators have highlighted that the operational cost assumptions (e.g. driver wages) are underestimated and not reflective of the current economic reality. For example, the estimated driver pay rates are below what many operators are already paying drivers, and the additional £3m+ cost of additional annual National Insurance Contributions haven't been factored in. We believe these two issues alone could see a c.£200m increase in costs over 30 years.

Overall, we are concerned that the assessment of the financial implications are overly optimistic and based on weak assumptions and unrealistic forecasts, only serving to highlight the risk over the affordability and deliverability of the proposed reforms.

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## **12. Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?**

We have received a number of queries and detailed points from operators raised in relation to specific clauses in the Bill from industry, noted below:

Section 2 does not take account of Hail & Ride services which are a fixed route. This should be amended to reflect that.

Section 5 (1) sets no grounds upon which Ministers will define social necessity within the network. This should be provided for through either an amendment to this legislation, or regulation making powers.

Section 8 (1) (a) needs to define what it considers to be “minor” changes.

Section 8 (3) is inconsistent with the provisions elsewhere in this part of the Bill, as the only element that doesn't require the views of CJsCs. This should be clarified.

Section 13 (5) and Section 15 (4) create significant potential challenges for operators by allowing any permit to be cancelled “on the date on which notice is given”. This is unreasonable for operators, employees and passengers, and could be addressed through insertion of a notice clause.

Section 16 does not allow for further recourse after the decision of the First Tier Tribunal. We believe this should be amended to reflect Section 24 which allows for appeal to an Upper Tribunal.

Section 17 needs significant safeguards and much greater clarity on what would satisfy Ministers that direct operation would be a more effective way of delivering. This creates a significant risk that Ministers can award contracts to an Operation Company of their own creation without fair competition.

Section 19 (5) could create some confusion around cross-border services into England. Further clarity is needed on the definition between tendered services and commercial services here.

Section 20 (3) could be strengthened by requiring an annual reporting cycle to improve accountability and transparency.

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Section 20 (4) would benefit from an explanation of the purpose.

The drafting of Sections 21 (1) and (2) appears to be inconsistent with Section 18, Clarity is needed on the penalties in Section 23, who they apply to (i.e. is all PSV O licenses held in Wales or the UK?) and what the total penalty available to the Traffic Commissioner is.

Section 25 (4) (l) should be directed at local authorities rather than operators, as it is ultimately local authorities who are responsible for, and hold information on, the amenities referenced.

Similarly, Section 25 (4) (n) and Section 28 (3) (j) should be a requirement on Welsh Ministers as the franchised network will represent a new regulatory regime and previous forecasts by operators will likely be redundant.

Section 28 (3) (g) is likely to be an onerous undertaking for operators, and will add to the costs of administering and operating contracted services.

Section 36 (2) (b) (1J) could artificially split cross-boundary journeys at the English border in terms of registrations, which would cause significant challenges in the provision of data and timetabling arrangements for the public. Clarity is required over the intent of this clause and how Welsh Ministers will seek to address the inconsistencies in public information that may occur.

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