

WLGA CONSULTATION RESPONSE:

Senedd consultation: Bus Services (Wales) Bill

30th April 2025

INTRODUCTION

1. The Welsh Local Government Association (WLGA) is a politically-led cross party organisation that seeks to give local government a strong voice at a national level. The Association represent the interests of local government and promotes local democracy in Wales. The 22 councils in Wales are all members of the WLGA and the 3 fire and rescue authorities and 3 national park authorities are associate members.
2. WLGA believes that the ideas that change people's lives, happen locally. Communities are at their best when they feel connected to their council through local democracy. By championing, facilitating, and achieving these connections, we can build a vibrant local democracy that allows communities to thrive.
3. The main aim of the Association is to promote, protect, support and develop democratic local government and the interests of councils in Wales. This means:
 - Promoting the role and prominence of councillors and council leaders
 - Ensuring maximum local discretion in legislation or statutory guidance
 - Championing and securing long-term and sustainable funding for councils
 - Promoting sector-led improvement
 - Encouraging a vibrant local democracy, promoting greater diversity
 - Supporting councils to effectively manage their workforce.

General Points and comments

4. WLGA welcomes the opportunity to respond to this consultation on the Bus Services (Wales) Bill. WLGA is supportive of the proposals in general but believes councils must continue to have a central role in their development and implementation. In particular, it will be vitally important to take full account of links between public bus services and home to school transport provision by councils. Potential impacts on smaller bus operators and existing arms-length municipal companies also need to be carefully considered. Full benefits of the move to franchising will require additional funding to be invested into bus services.
5. Each of the areas on which views are sought is considered below.

Issue 1: The general principles of the Bill and the need for legislation to deliver the stated policy intention

6. The overall purpose of the Bill is to enable a *“joined up public transport network that is safe, integrated, environmentally sustainable, efficient, economic and responds to meet the transport needs of the public. Local bus services need to meet the specific needs of each locality and, by stimulating patronage, connect more people and reduce reliance on private car”* (para 3.4 of the Explanatory Memorandum).
7. Welsh Government has taken the decision to legislate to place a duty on itself (and Transport for Wales) to secure local bus services that meet those goals, implemented in line with a Welsh Bus Network Plan that it will have to prepare and publish.
8. At present there is a combination of bus services operated on a commercial¹ basis and ‘Section 63’ services subsidised by local authorities to meet needs that would not otherwise be met.
9. Improvements in service provision (e.g. more routes, better frequency) will come at a financial cost. If such improvements could be introduced on a commercial basis, in most cases they would already be doing so. If more public money could be provided to enable additional services to be subsidised by councils, there could be enhancements to the current situation without the need for legislation. However, Welsh Government has taken the view that it will be able to make greater progress towards its goals, and do so more efficiently, if it/TfW have overall strategic control than if it is left to councils and operators alone.
10. Legislation is needed to give necessary powers to Welsh Government/TfW and remove the current s.63 duty on councils.

Issue 2: The Bill’s provisions, including whether they are workable and will deliver the stated policy intention.

11. There undoubtedly are economies from moving some functions to a national and regional level but it is important to remember that the vast majority of bus journeys are local. Local knowledge/intelligence will remain vital in meeting local demands effectively. Therefore, a partnership approach, in which councils are fully involved, will be essential in delivering the stated policy intention.
12. There are a number of complex issues that will need to be addressed for this to be successful in the longer term. The procurement and managing of franchising itself by Welsh Ministers / TfW will not improve bus services without improvements being made to bus priority, infrastructure and information provision, all of which will remain council functions. Funding for these elements needs to be considered as part of the overall franchising package to achieve a joined-up and integrated public transport network.

¹ On ‘commercial’ services there is fare-box revenue from passengers but this is supplemented by Concessionary Fare income paid to operators via councils and other grant income such as via the Bus Services Support Grant.

13. The question of funding ultimately remains the fundamental one, though. Without additional funding, changing the legislation will not, by itself, deliver on the policy intention and objectives. By introducing gross cost contracts, Welsh Government will have to meet any additional service costs not covered by increased fare box revenue. The more it seeks to expand the network to meet identified needs across Wales, the greater the exposure to this risk becomes.
14. The proposal is that franchising will roll out in phases across the regions of Wales. This will create challenges in terms of services that operate across regional boundaries. It will mean that changes to the s63 duty and concessionary fare reimbursement have to be phased in too. All of these issues can be overcome, but it will require close joint working and good communications to avoid disruption and confusion for all stakeholders concerned.
15. The phased approach may cause operator shortages in regions that follow later in the franchising roll out. Operators may be successful in franchising contracts in a region they do not currently operate, reducing operator availability elsewhere and, in turn, leaving service gaps in other networks. Additionally, operators that operate in more than one region may lose services as a result of an earlier franchise, resulting in some s63 and commercially operated services no longer being financially viable for them.

Issue 3: Key concepts and general objectives (Part 1 sections 1 to 4)

16. The only comment on these sections is that the objectives in Part 1 para 4, whilst all laudable, need to be considered in terms of their financial implications. That is not a matter for the legislation itself but for the RIA. The RIA contains an estimate that the cost of bus reform over 30 years will be £426.8m – or £14.2m p.a. if spread equally over that period. The RIA is based on there being no increase in mileage covered by services, but a redistribution. That, it suggests, will be possible by rationalising existing services to address ‘over-bussing’ that currently exists in some cases where there is competition between different operators. This assumption is questionable as there are few duplicate services currently in place. The costs seem extremely low given that current costs to run services are c£75m and this is with a network where around 30% of the routes are commercial. The figures used are from 2023 and there were significant increases in the cost of running services in 2024/25.
17. Whilst the RIA also identifies substantial estimated benefits from bus reform, these are non-cash and ‘non-recoverable’ in a financial sense (e.g. they relate to improved journey times). Therefore, ‘upfront’ additional costs will need to be met without the prospect of direct or immediate reimbursement. Over time, of course, if additional and better services generate increased passenger numbers there could be an increase in fare-box revenue.
18. In Section 4, the Bill places the duty for ‘having regard to’ a range of objectives on Welsh Ministers (which are then covered in more detail in other Parts of the Bill). This represents a transfer of responsibility from local government, although councils will still need to play a central role. This has implications in terms of local Member accountability and arguably:
 - introduces an additional layer of administration and costs
 - removes direct, local accountability in terms of passenger engagement with locally elected Members

- will risk there being a lack local knowledge if a national approach is taken ('one size' is unlikely to be suitable for all councils and CJs)
- by removing the councils' s.63 duty for bus service provision, may reduce the ability of Transport Cabinet members to secure internal funding against the backdrop of other statutory services which are under increasing cost pressures.
- creates the possibility of a transfer of functions, triggering a TUPE situation which could lead to a shortage of staff to carry out other council functions.

Issue 4: Functions of the Welsh Ministers relating to local bus services (Part 2 sections 5 to 20)

19. The Bill gives considerable powers to Ministers. Whilst there are clauses which require consultation with local authorities (and others), ultimately Part 2 Para 8(6) states that: *"Having consulted those persons on the proposed revisions, the Welsh Ministers may revise the Welsh Bus Network Plan either in terms of the revised draft Plan or, if they consider it appropriate having regard to any views expressed in the course of the consultation, in other terms"*. In other words, whilst councils will have to be consulted, Ministers will have the final say on whether to take councils' views into account.
20. WLGA believes that networks and decisions regarding local bus service contracts, permits and cross-border services should be discussed and agreed in partnership with the councils concerned. As a democratically elected tier of government, with substantial interest and stake in local bus services, agreement with councils should be the goal. That has been the approach taken in preparatory work in South West Wales to date, which will be the first region to move to a franchised network, but there have been instances where this has not been the case.
21. The requirement to produce a Bus Network Plan in itself could provide a foundation to develop services. The delivery of the plan will be wholly dependent on the level of funding available. Amendments to the Plan will be required only if changes last longer than 14 days, to allow for short-term disruption. However, many roadworks and diversions last a lot longer than this. The Plan consultation and requirements for changes appear very onerous and would cause severe operational issues, so are not felt to be workable. Any plan should be dynamic and subject to changes in circumstances.
22. The references to permits are ambiguous. It is not clear whether the desire is for a permit to operate public services (e.g. those under section 19 and 22 of the Transport Act 1985) or a permit to provide services in those areas that are operating under a franchising system. Additional criteria clarifying the circumstances under which a permit will be issued would be welcomed.
23. The provisions within the Bill under section 17 effectively allow Welsh Ministers to provide a local bus service directly if they consider that doing so would be a more effective way than by entering into a contract. This raises a number of concerns:
- Under what circumstances would this clause be used, as there is no reference to efficiency or to the potential increase in subsidy requirement that this could generate?

- Should a council set up a new local bus company, this investment could be at risk if Welsh Ministers decide to operate services directly.
- Would there be a conflict of interest if Welsh Government /TfW is both commissioning and operating services and who will monitor and scrutinise the effectiveness of this provision?
- This section effectively allows Ministers to bypass many of the provisions in the Bill and increases the risk to operators seeking to secure their future as an operator of the franchises, and is likely to reduce their confidence in the Bill's provisions.

Issue 5: Restriction on providing local bus services (Part 3 sections 21 to 24)

24. The restrictions and proposed penalties in the Bill will be needed if franchising is to work effectively. Local bus services will need to operate under one of the 'approved' mechanisms (local bus service contract, permit or s.17). If operators were free to set up and operate services that do not fall into one of these categories it could compromise the integrity of the overall planned network. Inevitably operators would want to target the most lucrative routes, which would reduce revenue for franchised services, undermining the plan for the wider network.
25. However, further clarity is required on 21(2) regarding who will decide on community bus services and how the provision of section 46(1) of the 1981 Act will work with franchising where these services are part of the network.

Issue 6: Information and data (Part 4 sections 25 to 31)

26. Accurate and timely information is critical in planning bus services. At present, operators and councils work together closely and share information to plan local bus services and react to ever-changing circumstances. These local relationships are important and include day-to-day exchanges over matters impacting on routes.
27. There are two risks here. The first is that information provision ends up being duplicated and less efficient, with Transport for Wales (acting on behalf of Welsh Government) requiring all information to be shared with them too. The second is that, as TfW takes on a greater role, councils may reduce their own capacity in terms of local bus management. That could have an impact on the quality and speed of communications with operators – something that is currently critical to the smooth delivery of services. Local knowledge is vital here. It will be important to avoid situations whereby operators approach TfW (as the contract manager) for information, only for TfW to have to contact the council for that information, adding another 'link in the chain'. The ability of councils to respond might have been reduced if their capacity has been cut back as a result of the shift of responsibilities.
28. The details around provision of information are not clear and do not state who is responsible for ensuring it is communicated to the public and how it is communicated.

The Bill states that Welsh Ministers must make arrangements to secure the information specified and ensure it is made available to the public but does not say by whom. There will be financial implications for councils if they have to provide this information in different formats and responsibilities need to be made clear within the Bill.

Issue 7: Local authority powers and duties (Part 5 sections 32 to 34)

29. The removal of the restriction on councils running bus undertakings is welcome. However, unless a council is already operating an arm's length bus company (as is the case in Cardiff and Newport) the cost of set up is likely to be prohibitive for most, if not all, councils. Furthermore, most councils will not currently have the in-house skills and knowledge required to run such an operation.
30. The removal of the s.63 duty on councils to subsidise bus service provision (where travel needs would not otherwise be met) is a direct result of the duty effectively being transferred to Welsh Government/TfW. At present, to comply with this duty, most councils contribute funding from their own budgets, over and above the grants provided to councils for this purpose by Welsh Government. With competing demands on their budgets there is a clear risk that councils will take the opportunity to reduce the amounts they currently contribute themselves, leaving Welsh Government to cover the shortfall (or else reducing the overall amount of funding available for the network).
31. There is no reference in the Bill of councils' power under section 93 of the Transport Act 1985 regarding concessionary fares schemes and how this is going to be delivered in franchising. Under the current legislation local authorities create and manage these schemes. If there are no changes in this legislation then local authorities will need to continue to manage and promote these schemes.

Issue 8: Miscellaneous and general (Part 6 sections 35 to 44).

32. Para. 38 gives extensive powers to make regulations. These will contain much of the detail that is not contained on the face of the Bill. Full consultation, and the ability of councils to input to any such regulations made using these powers, will be important.

Issue 9: Any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them

33. There are likely to be challenges to be overcome as opposed to barriers. These will include:
- working out how to roll out franchising on a region by region basis when there are services that run between regions (and how to deal with cross border services with England via permits)

- how to phase out the s.63 duty on councils when some regions have moved to a franchised model and others haven't yet
- identifying a workable system for managing concessionary fares once franchised services are in place. This will be particularly complex during the periods whilst some regions have franchised services and others don't
- managing expectations, especially if no substantial additional funding is made available
- the prospect of challenge from bus operators under competition law if they take issue with the way lots are drawn up or where any direct awards are made
- avoiding negative consequences for home to school transport (see further comments under para. 35 below).

Issue 10: The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (set out in Chapter 5 of Part 1 of the Explanatory Memorandum)

34. See comments in paras 24-25 above.

Issue 11: Whether there are any unintended consequences arising from the Bill

35. There is a risk of lots issued for franchises being won solely by the larger operators. This could undermine small local bus and coach operators currently providing public bus services in an area. Often these small companies will also be providing home to school transport services for councils. Failure to win franchises could force them to close or, instead, they may increase the costs of home to school transport substantially to make up for the loss of income.

36. Either way, the outcomes would be negative for councils and the local area, involving the possible loss of local jobs and/or increase in school transport costs. Welsh Government and TfW are alive to this possibility and have undertaken to look at the way lots are drawn up to ensure smaller operators have a realistic opportunity of bidding for some franchises.

37. Changes in routes as part of new network plans could also have unintended consequences, especially if key communities or locations (e.g. schools, hospitals) are no longer served in an attempt to speed up journey times and make them more attractive to longer distance travellers. There have already been instances where changes to Traws Cymru routes have resulted in councils having to lay on contract services to schools that are no longer on bus routes. This underlines the importance of councils inputting to network planning and helping to identify such issues in advance.

Issue 12: The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum)

38. A range of assumptions has been made for the RIA in order to model the impact of bus reform. ATCO (the Association of Transport Co-ordinating Officers) has examined the

detail of the RIA and will be submitting its assessment of the financial implications. ATCO works closely with WLGA and its membership includes the officers in councils who deal with bus and home to school transport issues. They are best placed to comment on the RIA.

39. However, as noted above in para. 16, one of the assumptions is that there will be no initial increase in mileage, only a redistribution. If the full benefits of franchising are to be realised it is clear that additional investment in bus services will be needed to convince car drivers that there is a suitable, reliable, frequent alternative. That is likely to require substantial 'pump priming' for a considerable period of time to achieve the behaviour change needed for a modal shift to buses. Increasing passenger numbers will generate increased fare box revenue which, ultimately, will be vital if franchising is to result in self-sustained growth in services over time.

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