

Improving public transport: the development and outcome of the Welsh Government's White Paper

Research Briefing

March 2020



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National Assembly for Wales
Senedd Research

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Paper Overview:

This paper provides an overview of the development and content of the Welsh Government's White Paper consultation on 'improving public transport', as well as reaction to the proposals and the outcome of the consultation. The White Paper put forward proposals to reform local bus services, taxi and Private Hire Vehicle (PHV) licensing and arrangements for regional transport planning in Wales. The Welsh Government is proceeding with bus reform only. This paper also describes recent UK and Scottish legislation on bus services as a comparison ahead of the anticipated Bus Services (Wales) Bill.



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1. Introduction

On 10 December 2018 the Welsh Government launched a public consultation on its **White Paper - improving public transport**. The White Paper proposed changes to local bus services, including concessionary fares eligibility, the reform of taxis and Private Hire Vehicle (PHV) licensing and the creation of Joint Transport Authorities (JTAs). On 10 July 2019 the First Minister, Mark Drakeford AM, made a **statement on the legislative programme** for the remainder of the Fifth Assembly term. This included the introduction of a “Public Transport Bill” which would build on the White Paper proposals. The First Minister said that this Bill would be a:

...key part of wider reforms to bus services here in Wales and it will help us to achieve our ambition of creating a truly integrated public transport network.

It is expected that the Bus Services (Wales) Bill will be introduced in Spring 2020. This paper describes the story so far in the development of this legislation.

2. Current legislation

This section briefly summarises the current legal position in the areas covered by the White Paper.

2.1. Buses

In the 1980s bus services were deregulated. The **Transport Act 1985** (“the 1985 Act”) replaced road service licensing in Great Britain, except in London, with a registration system and removed the duties of local authorities to co-ordinate local public passenger transport. As a result of the 1985 Act, a bus company is able to register and operate any service that it chooses to on a commercial basis.

Since the 1985 Act came into force, a licensed bus operator simply needs to register a service by, normally, giving 56 days’ notice. The bus operator is then obliged to run the service according to the specification in the registration. Bus operators do not need to refer to public demand or existing services when registering commercial services. Most bus services in Wales operate on a commercial basis.

In order to ensure that socially necessary services are available, which may not otherwise be provided on a commercial basis, under the 1985 Act local authorities were given powers to tender for and subsidise these services.

The 1985 Act prohibited local authorities from running their own bus services except under specific circumstances. These include where the local authority was already operating the company before the 1985 Act took effect, such as Cardiff Bus and Newport Bus, or where the Welsh Ministers have given an exemption from the restriction in the case of small bus operators.

The **Transport Act 2000** (as amended) (“the 2000 Act”) introduced a range of provisions intended to support the operation of local bus services. It granted local authorities powers to implement Quality Contract Schemes (QCSs) and Quality Partnership Schemes (QPSs). A QCS is essentially a franchise arrangement which allows a local authority, or two or more local authorities acting jointly, to suspend the deregulation of the bus market in an area. The local authority (or authorities acting jointly) agrees an exclusive contract with a bus operator to run the services specified in the scheme. No QCSs have been implemented in Britain to date.

QPSs are formal agreements between a local authority and one or more bus operators to provide a service. The local authority agrees to invest in improved facilities, such as bus stops and shelters, and the bus operators agree to provide services to a certain standard.

In terms of information on bus services, under the 2000 Act local authorities can request a number of pieces of information from bus operators including: the number of passenger journeys by operators in their area; details of fare structures; and the total distance covered by vehicles in carrying out those services. The 2000 Act also requires local authorities to ensure that certain information is available to the public including: timetable information; information on fares; details of facilities for disabled people; travel concessions; and connections with other passenger transport services.

2.2. Concessionary fares scheme

The 2000 Act provided for mandatory travel concessions to be provided by local bus service operators. This applies to certain passengers including older people and those with certain classes of disability, allowing them to travel for free with a pass. Operators are required to carry these pass holders free of charge. Passes are issued by local authorities and these authorities are required to reimburse operators. Currently, in Wales, the Welsh Government’s transport delivery body, Transport for Wales (TfW), has responsibility for issuing passes under an agency agreement with Welsh local authorities.

The **Travel Concessions (Extension of Entitlement) (Wales) Order 2001** (“the 2001 Order”) extended the geographical scope of the scheme so that passes could be used nationally. It also made wider changes such as: removing time restrictions on use; extending entitlement to men aged between 60 and pensionable age and companions of certain disabled people who require assistance. Although the 2001 Order has been repealed, the policy was continued under the **Concessionary Bus Travel Act 2007**.

The **Mandatory Travel Concessions (Reimbursement Arrangements) (Wales) Regulations 2001** established the objective that bus operators should be no better or worse off financially as a result of carrying concessionary passengers.

2.3. Taxis and PHVs

A taxi, traditionally known as a hackney carriage, can ply for hire (pick up passengers from ranks and be hailed from the street) and can also carry out pre-booked work. A PHV can only carry out pre-booked work.

Under current legislation, for a taxi to operate, both the vehicle and the driver must be licensed by a local authority under the **Town Police Clauses Act 1847**. PHV operators, vehicles and drivers must be licensed under the **Local Government (Miscellaneous Provisions) Act 1976** (“the 1976 Act”).

Taxis may only ply for hire in their own licensing area but can generally undertake pre-booked work anywhere. Similarly, whilst a PHV operator, driver and vehicle must all be licensed by the same local authority (the so-called ‘triple lock’), the booking may take place anywhere. The **Deregulation Act 2015** also permitted PHV bookings to be sub-contracted to operators licensed elsewhere.

Working outside a home area is known as ‘cross-border’ working or ‘cross-bordering’. While current legislation permits ‘cross-bordering’, the legislative framework for taxis and PHVs is framed as a localised system. There are common requirements, including the fact that in granting a PHV licence a local authority must be satisfied that the vehicle is suitable for use, in suitable mechanical order, and safe and comfortable. However, local authorities have discretion in the conditions attached to licences which has led to variations in licensing standards between authorities.

When granting a licence to a taxi or PHV driver or operator, the 1976 Acts says that the local authority must not do so unless it is satisfied that the applicant is a “fit and proper person to hold a driver’s licence” and that the applicant is not disqualified. There is no legal definition of what is meant by a “fit and proper person”.

The statutory framework also provides for enforcement at a local authority level. Local authorities have powers under the 1976 Act to suspend, revoke or refuse to renew a licence they have issued, subject to an appeal to a Magistrates Court. However, they are unable to act against drivers, vehicles or operators licensed by another authority.

2.4. Joint Transport Authorities

The **Transport (Wales) Act 2006** (“the 2006 Act”) gave the Welsh Ministers powers to establish JTAs to discharge specified transport functions for an area made up of two or more local authorities. The 2006 Act says that the JTA “must be established as a corporate body” and an order to establish them may include provisions including the composition, proceedings and financing of the JTA.

This approach differs from the Regional Transport Consortium approach to regional transport planning previously supported by the Welsh Government.

The 2000 Act requires Welsh local authorities to develop Local Transport Plans. The **Regional Transport Planning (Wales) Order 2006** (“the 2006 Order”) permitted local authorities in Wales to make Local Transport Plans jointly as a region. The Order set out four Local Authority Transport Groups: south east Wales; south west Wales; mid Wales and north Wales. These became the four Regional Transport Consortia of SEWTA, SWWITCH, TraCC and Taith, respectively for the four regions.

The Welsh Government funded delivery of the Regional Transport Plans through grant funding. However, in January 2014 the then Minister for Economy, Science and Transport, Edwina Hart AM, **issued a written statement** to say that funding previously administered regionally would be allocated directly to local authorities, albeit that these would be able to work collaboratively. The 2006 Order has been repealed, but the **Regional Transport Planning (Wales) Order 2014** still allows a local authority the option of preparing joint Local Transport Plans with one or more other local authorities.

3. Developing the White Paper: Welsh Government consultations

The **Wales Act 2017** amended the **Government of Wales Act 2006** to devolve primary legislative competence for taxi and PHV licensing and the registration of local bus services to the Assembly. This devolution formed the backdrop to a series of Welsh Government consultations considering options for legal changes for bus, taxi and PHV services.

3.1. Local bus services

In 2017 the Welsh Government consulted on proposals “**to improve local bus services in Wales**”. This included 12 proposals, not all of which were subsequently included in the 2018 White Paper. Examples of proposals which **did not go forward** include:

- a requirement that bus operators consult with local authorities before registering, varying or removing a service;
- a requirement that as part of Local Transport Plans, local authorities set out the arrangements they must put in place to ensure their communities have the services they need, and how these interface with the **TrawsCymru network** and passenger rail services; and
- powers to enable the Welsh Government to establish a national ticketing scheme for bus and rail, or a combination of modes, in Wales.

Other proposals such as those related to provision of bus information, bus franchising, local authority bus services and bus partnerships were subsequently developed and included in the White Paper.

3.2. Concessionary fares scheme

In early 2018 the Welsh Government consulted on the **mandatory concessionary fares scheme in Wales**. The consultation stated the Welsh Government’s commitment to free bus travel for older people, disabled people and veterans. However, it noted that demographic changes require “that careful consideration ... [be] ... given to whether continuation of the scheme is financially viable and sustainable into the future”.

The consultation considered a number of options and issues, including whether:

- the Welsh Government should administer the scheme;
- the eligibility age for older people who are new applicants should be increased to match the UK state retirement age;
- the Welsh Government should maintain entitlement for disabled people and veterans;
- the ability to travel should be limited to off-peak travel only; and
- an “application fee” should be charged to cover administration costs.

Only the proposal to increase the eligibility age for older people was developed in the White Paper.

3.3. Taxi and PHV licensing

Between 2011 and 2014 the **Law Commission undertook a consultation into taxi and private hire services in England and Wales**. The majority of the Commission’s recommendations, with some exceptions like the PHV sub-contracting provisions referenced above, have not yet been implemented. The Welsh Government completed **its own consultation on taxi and PHV licensing** in 2017, which gave further consideration to a number of recommendations made by the Law Commission. The consultation proposed a range of changes including:

- the introduction of national standards, with local authorities able to add additional standards “where appropriate”;
- that local authorities would retain responsibility for licensing and enforcement;
- to make it easier for taxis and PHVs to work across local authority boundaries, while permitting local authorities to enforce against vehicles and drivers licensed elsewhere and introducing tougher penalties for “touting”; and
- retaining the ability of local authorities to limit the number of taxis in their area.

Not all of the issues addressed in the consultation led to proposals in the White Paper. However, the consultation informed the White Paper proposals around national standards, enforcement and information sharing for safeguarding purposes.

4. The White Paper proposals

In December 2018 the Welsh Government published its **White Paper – Improving Public Transport** for consultation. Ken Skates AM, the then Cabinet Secretary for Economy and Infrastructure, said in the foreword to the consultation document that:

We need to put in place the right legislative tools to provide the opportunity to respond flexibly to local community needs...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.

4.1. Buses

The White Paper highlighted that:

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.

Although the Welsh Government suggested that “legislation alone will not reverse long term trends in bus usage” it said it can give local authorities the tools needed to tailor its approach and use limited resources more effectively.

The following sections outline the proposed changes for bus services.

4.1.a Enhanced Quality Partnerships

The White Paper proposed giving local authorities powers to develop Enhanced Quality Partnerships (EQPs). EQPs are described as collaborative partnerships between local authorities and bus operators to develop agreed plans and schemes for the delivery and improvement of local bus services.

Only a limited number of Quality Partnership Schemes (QPSs) have been established in Wales. While the Welsh Government said it “recognises that much can still be achieved within the QPS regime” and that it intended to retain QPSs, it said it proposed to give local authorities and bus operators the opportunity to work more collaboratively through an EQP.

The White Paper proposed that EQPs would be based on a joint review of local bus services carried out by local authorities and bus operators in their area. The bus network would be analysed to establish whether it is delivering and meeting local needs. An EQP Plan would sit alongside one or more EQP Schemes. The Plan would set out the requirements to be met by bus operators and any actions to be carried out by the local authority in order to deliver the objectives in the Plan. The Welsh Ministers would prepare guidance for bus operators and local authorities to develop EQPs.

The White Paper said it would be “essential that the elements of the EQP Plan and Scheme are formally agreed” by both the local authority and the majority of bus operators so neither side could impose the requirements on the other. To ensure collaborative working, it proposed that:

- once the Plan and Scheme have been drafted the bus operators within the area of the proposed EQP would be given the opportunity to express a view on them. This would be done through a voting mechanism requiring a “sufficient number of operators to vote in favour of the proposal”;
- only with sufficient support would the local authority be able to begin a public consultation on the proposed EQP. The White Paper intended that the consultation would “ensure that passengers’ views are at the heart of the partnership”; and
- following this consultation, the final EQP Plan and Scheme would need to be ‘made’ by the local authority.

The White Paper proposed that when the EQP is formally in place all bus operators in the area would be required to comply with its service standards. This would be enforced by the bus registration system and operators who fail to meet the standards could have their registration revoked or renewal refused.

The Welsh Government said that it had taken into account legislative changes in England and Scotland and had proposed a similar model for Wales as “this [would] be beneficial to the operators who [would] be integral to the development of any schemes, and many of whom operate across the UK”.

4.1.b Franchising

The White Paper proposals included giving local authorities the powers to award franchises. Franchising gives a bus operator the exclusive right to run a bus route or routes following a competitive tender process.

As discussed above, powers currently exist to implement Quality Contract Schemes (QCS), which are a form of franchising, although the relevant provisions of the 2000 Act have not yet commenced in Wales. The White Paper described the process as “overly complex and resource intensive”. It highlighted that no QCS have been developed to date in Wales, and **only one has been, unsuccessfully, attempted** in Britain.

The Welsh Government proposed that when considering a franchise scheme, local authorities must take the following principles into account:

- how franchising will improve the service for passengers;
- how the franchise would respond to the local transport needs as well as giving consideration to the wider bus network on a regional and national scale;
- whether the franchise is affordable and will be financially sustainable in the long-term; and
- that decisions must be transparent and scrutinised so that operators, passengers and others are able to influence the proposals.

The White Paper proposed that the local authority should carry out an assessment on the franchise proposals to demonstrate that it has considered:

- the likely effects of the proposed franchise scheme;
- whether it would contribute to the implementation of the local authority’s transport plans;
- whether it represents value for money, including the costs and benefits (socially and environmentally) of the scheme;
- how the local authority would make and operate the scheme and whether it is affordable; and
- the extent to which the local authority would be able to secure contracts to operate the services under the scheme.

The Welsh Government proposed that it would be essential that local authorities publicly consult on franchise plans to allow for public scrutiny. The assessment carried out by the local authority would be published.

The White Paper outlined that when a franchise proposal has been implemented, and the deregulated market replaced by the franchise area, all local bus services would have to operate under the franchise contract or under a permit issued by the local authority.

The White Paper highlighted that permits could be issued to allow certain commercial services to operate within a franchised area, such as the long distance TrawsCymru service which operates across a number of local authority borders. It also proposed that the issuing of permits would not be limited to just those situations and a bus operator could apply for a permit to provide a local service that the franchise does not cover. The Welsh Government also proposed that local authorities could attach conditions to permits, such as the standard of services.

4.1.c Local authority bus services

The White Paper said that there are times when local authorities receive no, or very few, tenders for subsidised services which they consider necessary. As a result there is little to no competition so local authorities can end up considerably overpaying for these services.

The Welsh Government proposed that local authorities should be able to run their own bus services, either directly or through an arms-length company which would manage day-to-day operations. The Welsh Government said it believed that this proposal could reduce the level of public funding required to run these necessary services, or introduce a bus service which the local authority was unable to secure with a subsidy.

4.1.d Information monitoring and sharing

The White Paper stressed the importance of the availability of information on bus services, fares and punctuality. Referring to current legislation it said that the expectations of passengers had changed. It highlighted that local authorities and others, such as smartphone app developers, also want to access information which, currently, is not always easily accessible.

The Welsh Government proposed creating new statutory powers for the Welsh Ministers to make regulations requiring bus operators and other bodies to provide information about local bus service routes, timetables, fares and tickets. The White Paper stated that by making the disclosure of this information through regulations, the Welsh Ministers would be able to adapt what it is asking for in the future.

It also proposed that the Welsh Ministers would have powers to allow local authorities to require bus operators to provide them with service information if the operator proposes to change or cancel a service. Local authorities would be able to disclose this information as part of a tendering process to replace the service.

4.1.e Mandatory concessionary fares

The Welsh Government proposed that the age of entitlement to a concessionary bus pass should be increased to align with a woman's pensionable age. The White Paper suggested that "the success of the mandatory concessionary fares scheme in Wales had resulted in a number of unforeseen consequences". In particular, while overall bus passenger numbers had declined, the number of concessionary passengers had increased to about 47% of total bus journeys. The White Paper concluded that:

... the cost to the public purse of the mandatory concessionary fares scheme is rising and [the] Welsh Government needs to consider ways of managing the rising costs without affecting the eligibility of those persons currently entitled to a concessionary pass.

In proposing an increase in the age of entitlement, the White Paper said this would be incremental rather than a one-off change and anybody who held a concessionary pass at the time the law was changed would not lose it.

4.2. Taxis and PHVs

The second part of the Welsh Government's consultation document outlined its proposals to reform the taxi and PHV industry. The White Paper noted that the current legislative framework is based on a localised system where services are being granted licences to work within a local authority's border. It said advances in technology have led to a mismatch between the older legislation and what happens in practice today. For example, it suggested the legislation did not anticipate, and does not provide for, customer bookings and dispatch of drivers via smartphone apps which increase the extent to which vehicles are able to work outside their local authority boundaries.

The White Paper noted specific issues, and proposed solutions, in the following three areas.

4.2.a National standards

The White Paper highlighted that local authorities have different licensing standards, leading to different costs for operators and different quality and safety standards for passengers. It noted that applicants for licences may apply in local authorities with lower standards, and operate in other local authorities where standards might be higher, facilitated by the technological developments discussed above.

The Welsh Government proposed to give the Welsh Ministers powers to create a national licensing standard through regulations which the licensing authority would have to have regard to when granting licences.

4.2.b Enforcement

The White Paper noted that currently local authorities cannot take enforcement action against operators licensed in another area. It proposed to amend the law to allow a licensing authority to suspend or revoke the licence of any vehicle operating in its area.

4.2.c Information sharing

The White Paper highlighted that local authorities don't have the means to share information regarding licensing, presenting a safeguarding risk when licences can be obtained in one local authority but used in another. It proposed the creation of a database, or other arrangements, to ensure that relevant information can be shared.

4.3. Joint Transport Authorities

The Welsh Government proposed to use powers under the *Transport (Wales) Act 2006* ("the 2006 Act") to establish JTAs, developing a regional approach to transport planning and delivery. The White Paper envisaged a number of benefits, such as efficient procurement, standardisation and an improved quality of services.

The White Paper outlined two possible options for the organisational structure of JTAs:

1. A single JTA to cover the whole of Wales with committees of the national JTA operating as regional delivery boards; or
2. A national JTA with three separate regional JTAs, creating four in total.

Although JTAs would be established through the 2006 Act, the Welsh Government proposed that a “Bill would be required to make minor amendments to those enabling powers”. In particular it proposed that the Welsh Ministers would be represented on the JTAs, have powers to issue guidance and direction, and intervene where a JTA was failing.

Alongside a range of powers in relation to bus services, the White Paper considered a potential role for JTAs in taxi and PHV licensing. It suggested that, rather than address the need for standards, cross-authority enforcement and information sharing at a local authority level, these functions could be passed to a national JTA. This would “create a standardised licensing area encompassing all of Wales...[and]...streamline enforcement and information sharing”.

5. Reaction to the white paper

5.1. Responses to the consultation

The **consultation on the Welsh Government’s proposals** ran until March 2019, with a total of 564 responses received. Out of these, 278 responses were from the Cardiff Hackney Alliance in the form of a standardised response addressing the questions in relation to taxis and PHVs only. The Assembly’s Economy, Infrastructure and Skills (EIS) Committee also carried out an **inquiry into the White Paper** where it received evidence from a range of stakeholders. **Its report was published in June 2019** as the Committee’s response to the White Paper.

This section gives a flavour of responses to the White Paper proposals. The Welsh Government published a **consultation outcome report as well as the consultation responses themselves**. This section draws on both, along with wider sources.

5.1.a Buses

EQPs

Three quarters of respondents supported the EQP proposals. Some had concerns that the proposals lacked detail and respondents also wanted clarity regarding how EQPs would be developed if the Welsh Government established the proposed JTAs. Powys County Council’s consultation response said “we already effectively enter into quality partnerships” and Arriva Bus Wales said that the proposals “do not offer any enhancements over and above what can be achieved by the current framework”. In its consultation response, First Cymru said that:

The concept of the Enhanced Partnership...is a cumbersome one which has serious potential adverse outcomes for bus operators. In our opinion, it is unnecessary.

Other respondents raised concerns around the complexity and bureaucracy of the proposals. **Dr Tim Peppin from the Welsh Local Government Association (WLGA)** told the EIS Committee that:

...the process as set out in the White Paper still looks quite complicated. You’ve actually got to get an agreement with all operators, then you’ve got to go out and consult with the general public, and then, if there’s any further changes as a result of that consultation, you’ve got to go back to the operators and discuss those changes. So, it’s quite an involved and complex process, which is quite resource intensive as well. So, there are capacity issues for local authorities.

Franchising

Some respondents questioned whether the proposed franchise approach provided a workable option and highlighted practical challenges and implementation issues **Roger Waters, Service Director at Rhondda Cynon Taf Council, said** to the EIS Committee in May 2019 that:

...we'd anticipated seeing some sort of costing around the implications of franchising...we know [in London] that the subsidised cost, the investment that's been made in public transport, is around £76 per head of population. For Wales, it's more like £10 I think.

The Councils of south west Wales (Carmarthenshire, Neath Port Talbot, Pembrokeshire and the City and County of Swansea) responded to the consultation saying that there would need to be “a radical change to funding to support such a move” to franchising. Wrexham County Borough Council noted that “a fully franchised network would be beyond the capabilities of current budget availability”.

Some bus operators were concerned that franchising would bring a risk for small and medium sized bus operators who would be significantly impacted. The **EIS Committee heard from Justin Davies**, Chair of the Confederation of Passenger Transport Cymru, during its earlier January 2018 inquiry into the devolution of bus registration that:

...if you take the small and medium-sized enterprises, which form many of the operators in Wales, particularly in parts of west Wales and parts of north Wales, would mean that, potentially, some family businesses would disappear.

Both Newport Bus and Cardiff Bus commented in their responses to the White Paper consultation that franchising local bus services would not deliver the improvement to bus services that the Welsh Government was aiming for.

Local authority bus services

A majority of respondents to the consultation were in favour of local authorities being able to run bus services directly or via an arms-length body. There was a theme throughout that this should only be done where there are few or no alternatives. Newport Bus, itself a local authority owned bus company, said in its consultation response that:

Where the local market has failed to satisfy the local needs then the authority should be allowed to examine the possibility of running bus services, but we do believe that this should also be subject to a local external audit to ensure best use of public funds.

Some respondents were concerned that local authorities have limited resources, staffing and funding to run local bus services. The four councils of south west Wales voiced this concern due to “insufficient resource within local government to practically take on the responsibilities” along with Powys County Council which noted “how cash intensive it is to set up a bus company”.

Information monitoring and sharing

98% of consultation respondents agreed that the Welsh Government should be able to require the release of information about local bus service routes, timetables, fares and tickets. The view was generally that high quality, accurate data should be freely available. The Association of Local Bus Company Managers (ALBUM) said in its consultation response that “any initiative which promotes and provides better information for bus users is welcomed as a way to promote greater bus usage”.

The vast majority of respondents agreed that local authorities should be able to obtain information from bus operators regarding services as it would help them to react to changes. First Cymru also noted that “it is easier for an operator to take an informed decision as to whether to bid for a tendered service, and on what basis, if more data is available on service patronage”.

5.1.b Mandatory concessionary fares

The consultation questions did not explicitly ask whether people agreed with the proposal to increase the age of entitlement. Rather, it asked whether respondents agreed with the Welsh Ministers' proposal to align entitlement to the pensionable age for women (68), and whether an incremental increase was best.

Despite this, the Welsh Government still received a significant number of responses disagreeing with the principle of the increase in the entitlement age.

However, the majority of respondents commented that a woman's pensionable age would ensure equality and reflected changes made in England. A majority of respondents agreed with the proposed incremental increase in the age of eligibility as it would be fairer. Age Cymru said in its consultation response that:

Whereas Age Cymru would not generally be in favour of the diminishing of entitlements for older people, in this instance we feel that if an increase in the age of entitlement means that the scheme is retained and is sustainable for the future, then increasing the age of eligibility to align with a woman's pensionable age may be a reasonable compromise.

Respondents who disagreed with the increase in eligibility were concerned the change would result in fewer bus journeys being made, that it was discriminatory against older people and would increase loneliness. Concern about a possible increase in the use of cars and the impact on the environment was also raised.

In contrast to Age Cymru, the **response from the Older People's Commissioner for Wales** opposed the change, commenting:

...that many older people between the ages of 60 and 66, especially those who are in poor health or are unpaid carers, would be negatively affected by this proposed change. I am therefore not supportive of this proposal.

The need to get out and about to access banking, shops and health services, to provide care for loved ones, to volunteer, to socialise or to keep active, means that many older people rely on public transport.

The lack of access to public transport can lead to older people feeling lonely and isolated, which can have a negative impact on an individual's physical and psychological health.

5.1.c Taxis and PHVs

National standards

99% of respondents agreed with the proposal for national licensing standards. Many commented that it would ensure consistency across Wales, although some highlighted that the potential for cross-border differences with England should be considered. The response from the All Wales Licensing Expert Panel (AWLEP) said that:

...national standards would ensure that taxi services are delivered consistently across Wales and deal with any perceptions of any unnecessary inconsistency across Councils.

A number of County Councils who responded, including Bridgend and Blaenau Gwent, supported this view. Both Uber and Veezu, PHV operators, also agreed with national standards.

Enforcement

A vast majority of respondents also agreed that a licensing authority should be able to suspend or revoke a licence relating to any vehicle operating in its area, even if it didn't issue the original licence. Uber said that it "strongly agrees that an enforcement officer should be able to enforce against non-compliance regardless of where a vehicle is licensed". Veezu commented that it would ensure "that no vehicle can be considered to be in a 'safe area' away from its own licensing district".

Abergavenny Taxis Ltd responded saying that while it agreed with a temporary suspension to a licence, it did not agree that another authority should be able to revoke it. The AWLEP also believed "that the revocation of a vehicle licence should be the responsibility of the home licensing authority". This was also voiced by some local authorities consultation responses including Powys County Council and Flintshire County Council.

Information sharing

99% of respondents agreed that there should be information sharing arrangements. Some commented that a database would help protect vulnerable people and the wider public. Others noted the need for sharing information with English authorities. The AWLEP, along with Blaenau Gwent County Borough Council and Wrexham County Borough Council, said in their consultation responses that "the establishment of a mandatory national database of all licensed drivers is critical, however this database should be expanded to include vehicles and operators". Uber also welcomed the proposal as it would "assist in identifying the suitability of drivers – especially in the case of drivers who have previously been revoked or refused a licence".

Good but not good enough?

While there was support for the specific taxi and PHV proposals, the EIS Committee heard evidence indicating that the proposals for taxi and PHVs did not go far enough.

In May 2019, during the **EIS inquiry into the White Paper, Dave Holland**, Head of Shared Regulatory Services for Bridgend, Cardiff and the Vale of Glamorgan Councils, said that:

...the White Paper as written is probably a step back from some conversations we were having two years ago with Welsh Government officials on the 2017 consultation document...this White Paper is something of a disappointment.

Additionally, concerns have been raised, particularly by sections of the taxi and PHV industry, that the proposals did not address issues of "cross-bordering", where appropriately licensed drivers, vehicles and operators can work in other local authorities outside their home licensing district. Some are concerned that, aside from concerns about safety (which might be addressed by national standards and enforcement) cross-bordering encourages oversupply in some urban areas, affecting driver income. The **EIS Committee report on the White Paper** highlighted that:

Paul O'Hara of the Cardiff Taxi Co-operative and GMB Union said that while he agreed with many of the proposals, the White Paper was a missed opportunity to address issues around cross-border hiring...The All Wales Licensing Expert Panel agreed that cross-border working has not been effectively addressed, and the current proposals fall "far short of the reform that taxi and private hire licensing so desperately requires".

It is worth noting that cross-bordering is not a concern to all parts of the industry. Some have highlighted the importance of this flexibility to rural areas, where driver numbers are limited, and others have suggested that passengers benefit from the increase in supply.

5.1.d Joint Transport Authorities

With regard to the JTA proposals, Powys County Council's response to the consultation noted that "it is perhaps unfortunate that there is not enough detail in the proposal to outline the really important aspects of creating such bodies".

In response to the Welsh Government's two possible options for the organisational structure of JTAs, a similar number of respondents favoured option 1 (a single national JTA with sub-committees to cover the regions) and option 2 (a national JTA and three separate regional JTAs so creating four in total).

Some respondents felt that existing regional structures should be used and that Transport for Wales (TfW) could play a role at the national level. This included the Cardiff Capital Regional Transport Authority (CCRTA), which said in its consultation response:

The case for, and the role of, a national JTA is unclear beyond the current arrangements where Welsh Government effectively sets Transport Policy and commits to funding its transport priorities with its wholly owned delivery body, Transport for Wales.

The majority of respondents supported the proposal that the Welsh Ministers should be represented on JTAs. Respondents in support also felt that the Welsh Ministers should only be represented at a national level. Flintshire County Council supported the Welsh Ministers being on the national JTA but felt "there would be a conflict of interest" if they were represented on the regional JTAs. Other respondents felt the Welsh Ministers should have an observer role and asked for clarity around voting rights and representation of other stakeholders.

With regards to the role of a JTA as a national licensing authority for taxis and PHVs, the majority of respondents disagreed with the transfer of this function from local authorities, including a number of local authorities themselves. Blaenau Gwent County Borough Council said:

There is no detail contained within this white paper as to how the JTA would undertake the licensing function and therefore it is very difficult to be able to answer this question.

Many local authorities were also concerned that there would be a loss of local knowledge, a view also held by Veezu.

5.2. The Welsh Government's response

The **Minister for Economy and Transport's statement in July 2019** on the way forward following the consultation, said that the planned Bill would include bus services and concessionary fares provisions, but not the other proposals. However, the scope of the Bill has changed further since this statement.

On 12 February 2020 the **Minister was questioned by the EIS Committee** on elements of the White Paper and the future Bill. The Minister called the White Paper consultation "one of the most effective consultations...that we've ever undertaken" due to the number of responses and the feedback received.

5.2.a Taxi and PHV licensing and regulation

On taxi and PHV regulation, the Minister's July 2019 statement said that while "addressing the outdated taxi and private hire vehicle legislation remains a key priority", it was clear that there is "a considerable amount of work still required before [the Welsh Government] can bring forward legislation".

The statement drew attention to the fact that the **UK Department for Transport (DfT) is considering** statutory guidance for local authorities on how to use their licensing powers to protect children and vulnerable adults. It also highlighted moves by the DfT to introduce national minimum standards, national enforcement powers, a national database and some restrictions on taxis working outside their own licensing district. The Minister said:

These would be England only provisions, unless the Welsh Government wanted them extended to Wales and secured the necessary legislative consent motion [(LCM)]. The steps being considered by the Department of Transport has also given us cause to reconsider the proposals.

The Minister also referred to work being undertaken by the Welsh Government and the WLGA to "to develop a package of short-term measures, using existing legislative powers" to begin to address industry and local authority concerns.

Subsequently, in December 2019 **the Minister wrote to the Chair of the EIS Committee** with further details. He said:

In addition to proposals for legislative reform, consideration is being given to non-legislative measures that can be introduced relatively quickly, to address some of the existing problems.

Regarding the work being undertaken with the WLGA and other stakeholders, he said:

Our aim is to update the taxi and PHV licensing regime to create one, consistent standard across Wales which promotes safety, contributes to a cleaner environment, improves the customer experience and is accessible by all.

In February 2020 **the Minister told the EIS Committee** that a task and finish group had been set up which “comprises representatives of the licensing authorities and they’re looking at what measures can be introduced on a voluntary basis”. A draft report is expected by the summer of 2020.

With regard to legislation from the DfT, the Minister said that:

...the DfT will be working with us to ensure that any legislation that’s taken forward by the UK Government takes account of the findings of our consultation and ensures that [any] England and Wales legislation takes account of the specific needs of Welsh taxi and [PHV] drivers.

The Minister went on to say that whether an LCM would be sought to apply legislation enacted by the UK Parliament to Wales would “be dependent on precisely what is contained in any proposed legislation by the UK Government”.

5.2.b Joint Transport Authorities

The Minister’s July 2019 statement made clear that while there is support for regional working, the Welsh Government would not proceed with the JTA proposals. Instead, he referred to proposals for statutory Corporate Joint Committees (CJCs) included in the **Local Government and Elections (Wales) Bill**. The Minister said that he had agreed with the Minister for Housing and Local Government “to explore how a Statutory Joint Committee model can be used to support effective regional working for transport”.

The Minister also highlighted that the **North Wales Economic Ambition Board** (NWEAB) had agreed to “formalise previous informal arrangements for regional collaboration on transport” by including a “formal Transport Cabinet members group within the governance arrangements for the NWEAB and North Wales Growth Deal”.

In February 2020, the **Minister told the EIS Committee** that “the proposal for JTAs was very popular” and “whether a body is called a CJC or a JTA, essentially, the benefits are going to be the same”. A Welsh Government official added that unlike JTAs, the CJCs would offer “the opportunity for issues such as transport and planning to be brought together”. The Minister also said that “there should be four regions for collaboration for the creation of [CJCs]”.

With regard to the roles of Tfw and the CJCs, the Minister made it clear that Tfw would “oversee transport planning across Wales and be able to advise on the development of projects such as the Metro”. Tfw would also look at how it “can assist in addressing some of the concerns regarding skills shortage within local government” and how it can be “utilised by the CJCs for the development and delivery of transport-related investment”. A Welsh Government official said that the “CJCs are about reorganising...the functions of local authorities” and that it would be “the powers of the local authorities that’ll be exercised through the CJCs, not the powers of Welsh Ministers”.

5.2.c Concessionary fares

The Minister’s July 2019 statement said that the concessionary fares proposal would be included in the Bill. However following the statement, the proposal was criticised including by the **Older People’s Commissioner for Wales**.

On **8 October 2019 the Minister made a Plenary statement** defending the decision, again highlighting the impact of an ageing population. On **24 October the Minister wrote to all Assembly Members** with further detail on the phased approach to implementation.

However, the Welsh Government is no longer proceeding with the proposal. The Welsh Government has not made a formal announcement on this, the Older People’s Commissioner **issued a press statement on 18 December 2019** which “welcomed confirmation from the Welsh Government that the eligibility age for the concessionary bus pass will remain at 60”.

On **12 February 2020**, the Minister told the EIS Committee that the decision to remove the concessionary fares proposal from the Bill “was made by Cabinet in December about 10 days before the [UK] general election”. This was made in light of the Minister “watching very closely what the main parties were promising” and that “it became clear that each of the political parties would unleash something of a spending spree in terms of transport”. The Minister also said that “the decision was made on the basis of considerable feedback”.

The Minister also highlighted to the EIS Committee the announcement from the UK Government of a “£5 billion pledge for new money to be spent on bus and active travel”. The Minister stated that he expects “that £5 billion to translate into a consequential of £250 million for [the] Welsh Government”. As a result, the Minister said the Welsh Government “[would] be able to accommodate [the] increasing cost” of the concessionary fares scheme.

5.2.d Bus Services

It seems that only provisions related to bus franchising, EQPs, the information provisions and local authority bus services will appear in the Bill.

The Minister’s July 2019 statement described these changes as:

... a key element of a wider process of reform that we are undertaking in relation to the delivery of bus services in Wales, which will contribute to our ambition of a high quality, low carbon, multi-modal and integrated public transport network, which meets the needs of the travelling public.

The changes proposed in the Bill will seek to address some of the negative impacts of de-regulation on users, operators and authorities, by creating a number of tools which would enable local authorities to intervene should they chose to do so. Using these tools alone however, will not halt or reverse the decline in bus patronage.

During the February 2020 EIS Committee meeting, a **Welsh Government official highlighted** that “a significant number of [bus] operators in Wales are small and medium-sized operators”. Therefore, the Welsh Government is:

...ensuring that there’s actually something specifically written into the legislation that requires local authorities to consider how small and medium enterprises can participate in any procurement process as part of the franchising.

When discussing the EQPs, the Minister said that “through the consultation it was established that there were concerns that these could be overly bureaucratic”. Therefore, revisions have been made “to ensure that the Welsh Quality Partnership Scheme is less bureaucratic than the equivalent schemes in Scotland and England”.

The Minister went on to say they have:

...developed a range of tools that can be adopted as necessary by each local authority and each region. We don’t expect all of the tools to be adopted and utilised at any one time by all of the regions and all of the local authorities but we felt it was important that we gave every opportunity to intervene as necessary, dependant on local situations and the state of the bus industry in any given area.

The Minister highlighted that “it’s important...to recognise that, by the time the tools are available, CJs will have been created” and “we would have expected to see that £250 million consequential to begin to flow into the Welsh Treasury”.

The Minister also said that “the Bill itself will not lead to the bus revolution that we wish to see. It will come about as a result of more investment in bus services”.

The Welsh Government also published a **Draft Regulatory Impact Assessment (RIA) for the planned Bill**. While the White Paper promised that this would be published in January 2019 during the consultation, it was finally made available in July 2019. The Draft RIA considers the potential costs and benefits of the proposals, along with a ‘business as usual’ option without any change. A final RIA will accompany the Bill when it is introduced.

6. UK and Scottish Acts

As outlined, the Welsh Government is expected to introduce a Bus Services (Wales) Bill in the Spring. This section briefly describes how recent legislation for Scotland and England has sought to address many of the areas that will be in the Welsh Bill. As noted above, the White Paper made clear that the Welsh Government had taken Scottish and English provisions into account in developing its proposals.

6.1. Bus Services Act 2017

The **Bus Services Act 2017** (“the 2017 Act”) was passed by the UK Parliament and introduced a number of provisions for England, with some also applying to Wales and Scotland.

The Act provides the following powers for England:

- **Franchising:** the Act only permits Mayoral Combined Authorities to have automatic access to franchising powers. Regulations are required for other local authorities to access the powers. Franchising plans must consider the needs of small and medium sized operators and the Act sets out the consultation and assessment processes that must be followed.
- **Advanced Quality Partnerships (AQPs):** these extend the measures local authorities can offer as part of a partnership from purely infrastructure, to service-based initiatives such as parking restrictions and traffic management. It also broadens the requirements that can be placed on operators to include the marketing of services, tickets and fares.
- **Enhanced Partnerships (EPs):** an EP would enable partnership working to go further than under a QP or an AQP. It requires collaboration between local authorities and operators. EPs expand the types of standards that partnership schemes can cover, aim to provide for more joined-up network planning and allow local implementation and enforcement of the scheme’s requirements. They are intended to apply to a wide geographical area.
- **Information provision:** the Act provides the Secretary of State with powers to make regulations regarding the release of open data on routes, timetables, punctuality and fares, including their format. Operators are required to release this information.

- **Local authority bus services:** in contrast to the planned Welsh Bill, the Act prevents English local authorities forming any **new** municipal bus companies (existing companies are unaffected).

Unlike the proposed Welsh Bill, the 2017 Act also considered ticketing arrangements, replacing existing ticketing powers in England with new powers called ‘Advanced Ticketing Schemes’. These new schemes are intended to permit the establishment of multi-operator and multi-modal ticketing.

The Act also provides a regulation-making power to the Secretary of State which would ultimately require bus operators to provide accessible information, using both audible and visible media, on-board local bus services. These provisions apply to Wales, England and Scotland. However, the power to make these provisions has not yet been exercised by the Secretary of State.

6.2. Transport (Scotland) Act 2019

The **Transport (Scotland) Act 2019** includes a wide range of transport provisions, including a number for bus services.

The Act provides the following bus service powers for Scotland:

- **Local authority bus services:** local authorities are permitted to provide bus services. The authority must be satisfied that such a service will contribute to the implementation of their “relevant general policies”.
- **Bus Service Improvement Partnerships (BSIP):** replacing QPs, local authorities would formulate a plan (called a Partnership Plan) with the operators in their area and then decide how best to implement it through supporting schemes (Partnership Schemes). BSIPs differ from QPs in several ways, including greater operator involvement, and a requirement for operators to meet operational service standards or risk de-registration of services.
- **Local service franchises:** the Act enables local authorities to create and operate local bus services under a franchise model. This involves establishing an overarching franchising framework and entering into franchise agreements with bus operators within the framework area. It updates and replaces the QCS approach. While there are procedural similarities to the QCS, the tests to be satisfied before establishing the framework differ.

- **Information relating to services:** The Act enables local authorities to obtain specific service information from an operator planning to vary or cancel a local service and, in limited circumstances, share it with others wishing to provide a similar service. It also empowers the Scottish Ministers to require bus operators, local authorities and the Scottish Traffic Commissioner to provide information in relation to local services. The Scottish Ministers are able to require operators registering, varying or cancelling a service to provide information connected with the application.

It should be noted that a number of these provisions are not yet in force and the provisions will come into force via regulations on a date prescribed by the Scottish Ministers.

Like the *Bus Services Act 2017* in England, but again unlike the planned Welsh Bill, the Act also legislated for ticketing arrangements and schemes.

