



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

Economic Development and Transport Committee



Draft Transport (Wales) Bill

July 2004

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Economic Development and Transport Committee

Draft Transport (Wales) Bill

July 2004



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CHAIR'S FOREWORD



The Transport (Wales) Bill represents a major step forward in the development of public transport services in Wales. It also marks an important stage in taking forward the recommendations of the Environment, Planning and Transport Committee of the first Assembly in its Report “Policy Review of Public Transport”.

That report set out a vision for public transport in Wales and proposed ways in which many of the barriers to its delivery could be removed. The Economic Development and Transport Committee, which now has the Committee responsibility for Transport matters, very much welcomes the range of powers the Bill would provide to enable this vision to be realised.

We also very much welcomed the opportunity to work with the Welsh Affairs Committee of the House of Commons in undertaking this scrutiny of the draft Bill and the friendly and constructive way both Committees went about bringing our different procedures into harmony. This is the first time we have worked together in this way and it was possible only through the agreement of both the National Assembly in plenary and the House of Commons.

I would like to pay tribute to, and express my thanks to, everyone who has been involved in the enormous amount of work necessary to undertake the scrutiny in such a short period of time. These include, in particular, Martyn Jones, the Chair of the Welsh Affairs Committee, all the Members of both Committees, and the Clerking teams both in Wales and in London.

A handwritten signature in cursive script that reads "Christine Gwyther".

Christine Gwyther AM
Chair, Economic Development and Transport Committee



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Conclusions and summary of recommendations

The Economic Development and Transport Committee very much welcomes the proposals set out in the Draft Transport (Wales) Bill and the opportunity to scrutinise it with the Welsh Affairs Committee of the House of Commons. It has made various recommendations in this report which are summarised below:

General comments

We recommend that the UK Government brings forward its timetable for the publication of Wales-only draft Bills so that the Assembly and the Welsh Affairs Committee may in future be given a suitable period of time in which to undertake pre-legislative scrutiny.

Clause 1. General transport duty

We recommend that a duty to have regard to sustainable development be included in the General transport duty.

We recommend that Clause 1(3) of the draft Bill be amended to refer also to cyclists.

Clause 2. Wales transport strategy

We welcome proposals to enable the National Assembly to establish a Wales Transport Strategy. We recommend that Clause 2(5) of the Bill be amended to place a duty on the National Assembly to consult Welsh local authorities and English local authorities whose boundaries lie adjacent to the Welsh border, in addition to “any persons it considers appropriate” in the preparation of the Wales Transport Strategy.

Clause 3. Local transport plans

Local transport plans will play an integral part in delivering the Welsh Transport Strategy. Therefore it is appropriate for the National Assembly to have some control over their content. However, the powers of approval to be conferred on the National Assembly need to be accompanied by an active duty to take a partnership approach to plans.



Clause 4. Arrangements for the discharge of transport functions

We support this clause.

Clause 5. Joint transport authorities

The proposals to establish joint transport authorities will offer the potential to implement the Wales Transport Strategy at a regional level. For that reason we welcome the proposals. We recommend that Clause 5(4)(a) be reworded to make it a requirement that the majority of members of joint transport authorities must be appointed by the local authorities.

Clause 6. Financial assistance: local transport functions

We consider that the power to provide financial assistance to authorities discharging transport functions, including new bodies established by the National Assembly for Wales, is a necessary power.

Clause 7. Provision of public transport services

We conclude that clause 7 is a necessary proposal to enable the National Assembly to provide direct financial assistance for the provision of public transport services, including school transport.

We further recommend that the UK Government sets out any impact the School Transport Bill is likely to have on this clause.

Clause 8. Rail Passengers' Committees

We support the proposal for the National Assembly to have the power to appoint the Chair of the Rail Passengers' Committee for Wales. We recommend that the UK Government includes provisions in the Bill to ensure the independence of the Rail Passengers' Committee.

We recommend that the UK Government includes in the Bill the necessary powers to establish a public transport passengers' committee for Wales.



Clause 9. Power to give directions etc to the Strategic Rail Authority


We welcome the proposals to give the National Assembly powers of direction and guidance over the Strategic Rail Authority for services covered by the existing Wales and Borders Franchise. We also recommend that the Bill should include a statutory duty for the Strategic Rail Authority to consult the National Assembly on its activities, as they affect Wales. We further recommend that the UK Government seeks to enhance the influence of the National Assembly over inter-city and cross-country services in Wales.

We consider it important that the Strategic Rail Authority should establish and maintain an office in Wales and we therefore recommend that the Bill is amended to include such a requirement.

We are aware that the Draft Transport (Wales) Bill may well need to be amended in the light of the UK Government's Rail Review. If this proves to be necessary, we recommend that Ministers use the opportunity to give the National Assembly the broadest appropriate range of powers in the field of rail transport, including a role in determining priorities for investment in railway infrastructure in Wales and in England where this impacts on rail services in Wales.

We recommend that the UK Government include in the explanatory notes to the Bill, a clear description of the working relationship between Network Rail and the National Assembly and any obligations on Network Rail resulting from the Transport (Wales) Bill.

Clause 9(6) reflects the need for the Secretary of State to hold the final authority on the priorities of the UK rail network. It is included in the Bill to ensure that the policies of the National Assembly do not adversely impact on rail services in England. It raises the question of the influence that can be exerted by the National Assembly over a rail service in England that adversely impacts upon Wales. We seek an assurance from the UK Government that in having regard for the protection of English rail services, the Bill can be amended to offer a similar protection to rail services in Wales.



We further recommend that Clause 9(6) is amended so that the Secretary of State cannot by Order exclude rail services starting and ending in Wales

Clause 10. Agreement with Strategic Rail Authority on exercise of franchising functions

The draft Bill provides a framework with which the National Assembly may pursue its integrated transport strategy. The Committee believes that this clause is a necessary part of that framework.

Clause 11. Financial assistance: air transport services

We welcome the provision in the draft Bill to grant the National Assembly the power to give financial assistance to people providing air transport or airport services. We recommend that the UK Government sets out clearly what resources, if any, will be transferred to the National Assembly as a result of this clause.

OTHER ISSUES

Traffic Commissioner for Wales

Easy access to the Traffic Commissioner for Wales is an important factor in the development of a Wales Transport Strategy. Whilst we commend the work of the current Traffic Commissioner, we believe that Wales would be better served if he were to be located in Wales. We recommend that the UK Government consider relocating the Traffic Commissioner for the Welsh Traffic Area from Birmingham to Cardiff. Should that not be possible, we believe that some of the Traffic Commissioner's staff should be based in Wales.

Bus franchising

We recommend that Ministers should consider whether the Assembly needs further powers over the provision of bus services in Wales. Any necessary changes to existing primary legislation should be included in the Transport (Wales) Bill.



Introduction



1 Introduction

Publication of draft bill


The Secretary of State published the Draft Transport (Wales) Bill, Explanatory Notes and Regulatory Impact Assessment on 27 May 2004. The consultation letter said that the Bill would provide the National Assembly for Wales with a range of transport related powers and invited comments by Thursday, 5 August 2004. The letter was signed by the Secretary of State for Wales and the Minister for Economic Development and Transport of the Welsh Assembly Government.

Joint working arrangements

It is now standard practice for departmental select committees at Westminster to examine and report on draft legislation. They do this by seeking the views of stakeholders through oral and written evidence.

The Welsh Affairs Committee recently recommended that the House of Commons should grant powers for Select Committees to hold joint formal meetings with committees of the National Assembly for Wales. In doing so it was particularly keen to avoid duplication in pre-legislative scrutiny of draft bills relating to Wales by enabling committees of both the House of Commons and the National Assembly for Wales to conduct such scrutiny jointly.

Subsequently a joint working group of officials of the House of Commons and the National Assembly for Wales examined the procedural and practical implications of doing this and their report was considered by the Procedure Committee of the House of Commons: "Joint Activities with the National Assembly for Wales."¹ This noted: "The expected arrival of a draft Bill applying to Wales" and recommended: "a suitable limited experiment". In order to do this, both the House of Commons and the National Assembly for Wales amended their Standing Orders to enable the two Committees to attend each other's meetings. On 21 June the two Committees met together at the National Assembly in Cardiff to take



evidence from a number of organisations. On 23 and 24 June, further evidence was taken jointly at the House of Commons. Details of these meetings and the witnesses are given at Annex 1.

This report presents the findings of the Economic Development and Transport Committee of the National Assembly for Wales and draws on this evidence and the discussions the Committee has held with the Welsh Affairs Committee. While many of the recommendations contained within this report agree with those within the Welsh Affairs Committee's own report on the draft Bill, it is nonetheless, the Economic Development and Transport Committee's report. The powers conferred on the Committees did not empower the preparation of a joint report.



Background





2 Background

The development of public transport services has long been a priority for the National Assembly for Wales. In December 2001, the Environment, Planning and Transport Committee of the First Assembly published the final report of its review of public transport in Wales. This was the culmination of a substantial programme of discussions, visits and evidence-taking which concluded with a major consultation exercise. The final report set out a vision for a system of public transport which was: ***“integrated, accessible, affordable and [the] favoured mode of travel of the people of Wales.”***² It made recommendations aimed at achieving this vision.

The Welsh Assembly Government accepted many of these recommendations, including a commitment to pursue primary legislation to give the Assembly more powers over public transport in Wales. The Draft Transport (Wales) Bill is the outcome of this.





Draft Transport (Wales) Bill



3 Draft Transport (Wales) Bill

Scope of Bill


The Bill is broadly based and needs to be seen as a framework within which the National Assembly can develop policies to deliver the vision of a transport system for the future. To achieve this the Bill would provide the Assembly with a range of powers and duties.

In essence, it requires the Assembly to develop a Wales Transport Strategy which to a large extent will be delivered through a revised local transport planning system. The Assembly would be given powers to facilitate and require joint working between local authorities and to provide financial assistance for these. It would also be empowered to secure public passenger transport services where they would not otherwise be met. The Assembly would be given a more direct role in relation to the Strategic Rail Authority and would have the power to give financial assistance for the development of their services. Finally, the Bill would provide powers to give financial assistance for the development of air transport services.

The consultation letter from the Ministers concludes that: “Taken together with existing powers, the measures.....would provide the Assembly with a coherent set of transport powers for the first time, enabling it to take forward its integrated transport strategy.”³

General comments

In his oral evidence, the Parliamentary Under Secretary of State for Wales told the Committees that in taking such Welsh-specific legislation through the House: “we have always sought to recognise the importance of the devolution settlement.....and.....have been reluctant to specify things in too much detail because it would impinge upon the Assembly’s right to make secondary legislation.”⁴ We fully support and welcome this approach.




The Committee notes that, in conjunction with this, any secondary legislation based on this Bill would be subject to further detailed scrutiny by the National Assembly. Indeed, the Economic Development and Transport Committee will carefully examine the implementation of the full range of the Bill's powers as the strategy is implemented.

A further concern immediately apparent to the Committee, and articulated by several witnesses, was the extremely short time available for this scrutiny of the draft Bill. While we fully understand the Parliamentary Under Secretary of State for Wales' desire to have a Bill that can be brought forward at the start of the new Parliamentary session, we nonetheless consider that many of the concerns put to us would have been eased had greater time been available to discuss and explain the Bill. Moreover, a number of witnesses felt that it was simply not possible in the time available to give the level of detailed consideration, including carrying out their own consultations, that they would have wished to.

We recommend that the UK Government brings forward its timetable for the publication of Wales-only draft Bills so that the Assembly and the Welsh Affairs Committee may in future be given a suitable period of time in which to undertake pre-legislative scrutiny.

Clause 1. General transport duty

There was strong, broadly-based support from witnesses for this duty and we fully endorse it. In a few cases respondents went further and urged that the Bill should also incorporate an obligation to promote transport that is sustainable. We endorse this too. We note that section 121 of the Government of Wales Act lays down sustainability as a principle underlying all the work of the National Assembly. Since sustainability is a key principle and since this clause of the Bill sets out the principles for the development of transport facilities and services that are safe, integrated, efficient and economic, it is appropriate that sustainability is also included so that all such legal requirements are clear on the face of the Bill.



We recommend that a duty to have regard to sustainable development be included in the General transport duty.


Concern was also expressed by a couple of witnesses and those providing written evidence, that section 1(3) which refers to facilities and services for pedestrians, should relate also to cyclists.

We recommend that Clause 1(3) of the draft Bill be amended to refer also to cyclists.

Clause 2. Wales Transport Strategy

There was general and widespread support amongst witnesses and those providing written evidence for the development of a Wales Transport Strategy although the comment was made that this was required primarily because of the Bill's 'centralising' features. One concern was that Clause 2 gives no indication of the timescale for the preparation of the strategy and of the period which it would cover and frequency of reviews. In his evidence the Minister for Economic Development and Transport said that he was: "looking at something like 2006"⁵ bearing in mind the widespread consultation that is required. The Welsh Local Government Association argued that: "This is at best paradoxical as local transport plans would have to contain policies for the implementation of the Wales Transport Strategy."⁶ Schedule 1 of the Bill also gives the Assembly the power to issue directions to local authorities concerning the timetable for preparation of Local Transport Plans.

Concern was also expressed that whilst the Bill would require the Assembly to consult any persons it considered appropriate in preparing or revising the strategy, it does not set out who those persons should be. The Committee acknowledges and understands the concerns of people and bodies who might be affected by the Bill over the uncertainty that results from this lack of specificity. At the same time, the view was put to it that any list of specific bodies to consult would inevitably become very quickly out of date. One suggestion was that the Bill might specify categories of bodies that should be consulted.




The Parliamentary Under Secretary of State for Wales emphasised in his evidence that the requirement in the draft Bill was that the Assembly **must** consult and thus it was a duty for the Assembly to do so.⁷ The Legislative Counsel from the National Assembly said that the wording was a standard formulation which had been used in other recent Bills.⁸ Bearing in mind the tight scrutiny that is undertaken within Wales and the National Assembly, the Committee accepts the arguments that the Bill does not need to be overly specific. The only exception to this are local authorities in Wales, which we feel, because of their statutory responsibilities for transport, should be specified as organisations that the Assembly must consult. We are also very conscious that a successful transport system for Wales would require close co-operation with local authorities in England and particularly those authorities located adjacent to the Welsh border.

We welcome proposals to enable the National Assembly to establish a Wales Transport Strategy. We recommend that Clause 2(5) of the Bill be amended to place a duty on the National Assembly to consult Welsh local authorities and English local authorities whose boundaries lie adjacent the Welsh border, in addition to “any persons it considers appropriate” in the preparation of the Wales Transport Strategy.

Clause 3. Local transport plans

This section of the Bill amends the Transport Act 2000 to allow the Assembly to ensure these plans are consistent with the Wales Transport Strategy. This appears to be one of the most contentious aspects of the Bill with local authority organisations arguing that it eliminates local democratic accountability for transport policies and imposes a ‘dictate and deliver’ strategy.⁹ While they recognise and endorse the aim of an integrated and efficient transport system, they propose an alternative mechanism for achieving this through effective collaboration and joint working between local authorities through the existing voluntary regional consortia with the Assembly becoming a statutory consultee in the preparation of local transport plans.




While we accept that local authorities have had only limited time in which to present these arguments, it is nonetheless difficult to see how action taken independently by authorities, even within the umbrella of an overarching strategy or a voluntary regional partnership, will lead effectively to an integrated transport system for the whole of Wales. The Assembly needs the power to direct local authorities to work together and produce a single local transport plan for a region such as South East Wales, if the Assembly is to ensure that its strategy for integrated transport is implemented. It is clearly right for local transport requirements to be determined and met locally but it is difficult to see how without some kind of central control mechanism they will collectively constitute a regionally or nationally integrated system.

We asked the local authority associations about how the voluntary transport consortia worked together to produce a coherent picture for the whole of Wales. In their response they referred to the Welsh Association of Technical Officers which they said: “..... meets regularly to co-ordinate and develop best practice. They bring together those lead officers from the four consortiaand we discuss ways in which we can take that dimension and learn from best practice of each of the various consortia and develop in a way that complements each of the regional activities.”¹⁰

While we accept that bringing together the lead officers from the consortia in Wales is highly desirable and a good way to share best practice, this is nonetheless essentially a technical group. We cannot see how, for example, such a process would necessarily identify national transport gaps or requirements, or indeed, that it offers an appropriate mechanism for resolving conflicting priorities which might ultimately call for political decisions.

The Committees heard evidence to suggest that the proposed mechanism in the Bill for resolving disputes between the Assembly and a local authority on the content of a local transport plan needed amendment. In particular that some independent arbitration mechanism was required to avoid a local transport plan being knocked back and forth.



We fully recognise that to a very significant extent the provision of transport services to people in a locality are a matter for local people and local democracy. Nonetheless, there is also a need for transport services to cover a wider area and the Assembly has a proper and direct responsibility to ensure the development of integrated transport services to meet these needs at a regional and national level.

The Welsh Local Government Association argued that requiring local authorities to produce local transport plans at a regional level, that are compatible with the Wales Transport Strategy, undermines the current close relationship between local transport plans and other local authority plans and strategies, such as the Unitary Development Plan.¹¹ However in his evidence, the Minister for Economic Development and Transport argued that these relationships would be maintained at a regional level through linkages between the Wales Transport Strategy, the Wales Spatial Plan and regional economic strategies.¹²

Given the arguments put to us, we are convinced that the Assembly requires the power to direct local authorities individually or jointly to produce local transport plans that are compatible with the Wales Transport Strategy. We also do not consider it necessary for the Bill to set out in any greater detail how local authorities should be involved in the delivery of this. Nonetheless, we hope that the Welsh Assembly Government will fulfil its clear commitment to involve local authorities closely in this process and also that it will take every effort to ensure that it does not interfere with decisions which are properly left to locally-elected authorities.

Local transport plans will play an integral part in delivering the Welsh Transport Strategy. Therefore it is appropriate for the National Assembly to have some control over their content. However, the powers of approval to be conferred on the National Assembly need to be accompanied by an active duty to take a partnership approach to plans.



Clause 4. Arrangements for the discharge of transport functions

This clause will enable the Assembly to give directions to two or more local authorities to enter into specified arrangements in relation to the discharge of transport functions including the arrangements for these to be discharged jointly.

This seems a necessary element of a strategy which involves local authorities being required to work within the framework of an overall transport strategy. In its evidence the Welsh Local Government Association commented that in their view: “The case for such powers is, at best, unmade.”¹³ They went on to argue that the Assembly already has substantial powers over the way in which local authorities discharge their transport functions. Others argued about the lack of detail within this clause, for example how these functions will be funded. It was also argued that there is little evidence that local authorities are not working together collaboratively.

In his evidence the Minister for Economic Development and Transport cited as an example of where existing powers are inadequate, the large number of authorities involved in dealing with the needs of the very many commuters flowing into Cardiff daily. He said that there was a “very significant increase in traffic growth in Wales which exceeds that in the UK generally.”¹⁴ He referred to a range of measures that needed to be put in place quickly which he thought could only be done through having powers of direction. It was unclear from his evidence whether this was the only example of where these powers would be needed and it was unclear from the local authorities’ evidence whether, if this were the case, they would be more or less reassured. Nonetheless, powers to require local authorities to work together, particularly if they are used only sparingly, do seem an essential part of a policy to develop an integrated transport strategy along the lines envisaged in the draft Bill.

We support this clause.

Clause 5. Joint transport authorities

Powers to establish joint transport authorities also seem to be an integral part of a package of measures to develop and implement an integrated transport strategy. However, this Clause appears to be another area of the draft Bill where a lack of specificity has clouded the picture and caused unnecessary concerns.

In its evidence the Welsh Local Government Association expressed concern about the concept of a joint transport authority and the concern that it would be imposed on a number of local authorities rather than the current voluntary consortia arrangements that, they argued, can deliver the Assembly's transport strategy.¹⁵

In his evidence the Minister said: "in the first place a very good case could be made for a joint transport authority in the south east area which currently is covered by the South East Wales Transport Association and indeed the voluntary transport consortia."¹⁶ The Minister also said: "We would envisage the majority of the members of the joint transport authority being local authority representatives."¹⁷ The Welsh Local Government Association said they would be much happier if a statutory right for local authorities to appoint members of a joint authority was included.¹⁸ There seems therefore no fundamental disagreement of principle between the Welsh Assembly Government and the Welsh Local Government Association in respect of how these authorities should be managed, although local authorities still believe that existing mechanisms such as the regional transport consortia and the existing powers of the Assembly are sufficient.

Given the situation in south east Wales, we consider that the Assembly requires the power to set up at least one joint transport authority to ensure that its transport strategy is implemented. Bearing in mind that any such authority would have to be set up by Order, the National Assembly will have the opportunity to consider the extent of local authority involvement in great detail at a later stage. Nonetheless, we recognise the very real concerns expressed to us by local authorities and also the very important role that they will play in the development and implementation of any Wales Transport Strategy.



The proposals to establish joint transport authorities will offer the potential to implement the Wales Transport Strategy at a regional level. For that reason we welcome the proposals. We recommend that Clause 5(4)(a) be reworded to make it a requirement that the majority of members of joint transport authorities must be appointed by the local authorities.


Clause 6. Financial assistance: local transport functions

This clause provides the Assembly with powers to give financial assistance to authorities in order to discharge their functions, including those established under Clause 5. It seems to offer a reasonable and essential power for the Assembly to have if it is going to make the joint working of local authorities or joint transport authorities effective in developing and implementing an integrated transport strategy. The administration and allocation of these funds would however be a matter for the National Assembly.

We consider that the power to provide financial assistance to authorities discharging transport functions, including new bodies established by the National Assembly for Wales, is a necessary power.

Clause 7. Provision of public transport services

The Welsh Local Government Association expressed concern to us about this clause but mainly in terms of uncertainty as to why the Assembly was seeking these powers.¹⁹ Their particular concern was that the Assembly was trying to take over the services traditionally delivered by local government. They went on to question why the Assembly would need these powers when local authorities through their local transport plans will identify needs. There was however guarded support for the provision from the local authority consortia but concerns were again expressed about the lack of a clear intention behind these powers or the extent to which the Welsh Assembly Government was expecting to use them.²⁰ Detailed discussion on where and how that assistance would be given will again be a matter for the National Assembly in conjunction with other interested bodies.



These concerns arising (again) from the lack of information about the use to be made of these powers are understandable. Nonetheless, if a national transport strategy is to be effective there could well be a need for support for services operating on a national basis which would not be met by local authorities individually, collectively, or by the private sector. This power, with the safeguards contained within the clause, therefore seems a necessary component of developing a national transport strategy.

Clause 7(5) refers to school transport. The Committee also considers it important that this Bill should explicitly refer to the proposals in the School Transport Bill and explain how they relate to each other.


We conclude that clause 7 is a necessary proposal to enable the National Assembly to provide direct financial assistance for the provision of public transport services, including school transport.

We further recommend that the UK Government sets out any impact the School Transport Bill is likely to have on this clause.

Clause 8. Rail Passengers' Committees

The Committee welcomes the proposal for the Assembly to appoint the Chair of the Rail Passengers' Committee for Wales and the requirement for it to submit an annual report to the National Assembly.

The Committee also concurred with the views put to it by a number of witnesses that there was now a need for passenger committees to represent the interests of bus and other public transport passengers, either through a separate bus users committee or through a public transport passenger committee. The Committee noted at the time of taking evidence that there were rumours that the UK Government was considering the abolition of rail passengers' committees although it can comment only on what is before it, and cannot speculate on what alternative proposals the UK Government might put forward. It does nonetheless, agree with the suggestion that passenger views should be



reflected on a wider basis and we recommend the establishment of a public transport passengers' committee for Wales whose Chair would be appointed in line with the recommendation for the Rail Passengers' Committee.

We support the proposal for the National Assembly to have the power to appoint the Chair of the Rail Passengers' Committee for Wales. We recommend that the UK Government includes provisions in the Bill to ensure the independence of the Rail Passengers' Committee.


We recommend that the UK Government includes in the Bill the necessary powers to establish a public transport passengers' committee for Wales.

Clause 9. Power to give directions etc to the Strategic Rail Authority

The Committee was conscious, at the time of taking evidence, that the UK Government was still considering the findings of the UK Rail Review. We were aware that there had been rumours about future changes to the organisation of railway services within the UK and also to the Strategic Rail Authority. Nonetheless, we can examine the draft Bill, and make recommendations, only on the basis of the proposals before us and the arrangements as they currently exist.

The Committee welcomes the power for the Assembly to give directions and guidance to the Strategic Rail Authority in relation to the services described. This relates essentially to the Wales and Border franchise and will provide the Assembly with the basis to establish a Welsh railway service rather than one peripheral to England. It is of course essential that with this the Assembly receives an appropriate share of the funding from the Department for Transport that supports the franchise.


However, it is important to recognise that for reasons of geography, rail services in Wales depend crucially on the provision of services and infrastructure in England. For example, the main Cardiff to Swansea rail service is integrally linked with the Cardiff to London service provided by



First Great Western. That service in turn is critically dependent on track and infrastructure in England which is increasingly under pressure, and in need of investment, and which is a long way from Wales. Other services are similarly affected. The need for Wales' voice to be expressed clearly within the deliberations of the Strategic Rail Authority is much greater than might immediately be apparent.

The Committee therefore welcomes the power to give advice in respect of these services to the Strategic Rail Authority, but is disappointed that the opportunity has not been taken to establish a clearer voice for Wales within the Authority. The Welsh Affairs Committee²¹ and the Assembly in Plenary²² have previously recommended the appointment of at least one member to represent Wales on the Authority and we are disappointed that the opportunity in this Bill has not been taken to provide this. It would provide a clearer link between the National Assembly and the Strategic Rail Authority. The evidence presented to the Committee was that although currently one member of the Board had Welsh interests, this was not the same as having a person appointed with specific responsibility to represent the interests of Wales. While we recognise the argument put to us by the Strategic Rail Authority that the key requirement from the Board's point of view was a broad range of skills, talent and input, we feel that it is equally important to have a representative who has a specific responsibility to represent Welsh interests.

The Committee also considers that in order to give the Strategic Rail Authority greater knowledge and understanding of the situation facing the railways in Wales, and for developing links on a day to day basis with the Assembly Government, it would be appropriate for the Authority to establish an office in Wales, as it has in Scotland. It was noted that another recent Act, the Communications Act 2003 (Section 1(6)) includes a requirement for OFCOM to establish and maintain separate offices in Wales, England, Scotland and Northern Ireland. The Committee would wish to see a similar requirement, for the Strategic Rail Authority to establish and maintain an office in Wales, included in the Transport (Wales) Bill.




While the Committee very much welcomes the transfer to the National Assembly of powers in relation to the Strategic Rail Authority concerns were expressed to us about the lack of clarity in relation to the respective roles of the Department of Transport, the National Assembly, the Strategic Rail Authority and Network Rail. Indeed, the latter is mentioned nowhere in the Bill.

The Committee seeks an assurance that whatever the outcome of the UK Rail Review, the intention of the draft Bill in giving the Assembly the powers of direction and guidance over Welsh railways is not diminished. The Bill should also include a role for the Assembly in determining priorities for investment in railway infrastructure in Wales and in England where this impacts on rail services in Wales.

Clause 9(6) of the Bill allows the Secretary of State to exclude certain services from those over which the Assembly has powers of direction and guidance because of ‘unexpected changes to the pattern of rail services’. We understand this to refer to the fact that rail services in Wales are closely linked with services in England and that a future change to the franchise map or in the provision of services by a franchisee could lead to the Assembly being able to provide direction and guidance about services that are predominantly in England. The corresponding provision for Scotland does not give the Secretary of State this power. The Committee is concerned that this power could potentially be used sometime in the future to undermine the role of the Assembly with respect to railways in Wales. This concern could be overcome by excluding from clause 9(6) any rail services that start and end in Wales.

We welcome the proposals to give the National Assembly powers of direction and guidance over the Strategic Rail Authority for services covered by the existing Wales and Borders Franchise. We also recommend that the Bill should include a statutory duty for the Strategic Rail Authority to consult the National Assembly on its activities, as they affect Wales. We further recommend that the UK Government seeks to enhance the influence of the National Assembly over inter-city and cross-country services in Wales.



We consider it important that the Strategic Rail Authority should establish and maintain an office in Wales and we therefore recommend that the Bill is amended to include such a requirement

We are aware that the Draft Transport (Wales) Bill may well need to be amended in the light of the UK Government's Rail Review. If this proves to be necessary, we recommend that Ministers use the opportunity to give the National Assembly the broadest appropriate range of powers in the field of rail transport, including a role in determining priorities for investment in railway infrastructure in Wales and in England where this impacts on rail services in Wales.


We recommend that the UK Government include in the explanatory notes to the Bill, a clear description of the working relationship between Network Rail and the National Assembly and any obligations on Network Rail resulting from the Transport (Wales) Bill.

Clause 9(6) reflects the need for the Secretary of State to hold the final authority on the priorities of the UK rail network. It is included in the Bill to ensure that the policies of the National Assembly do not adversely impact on rail services in England. It raises the question of the influence that can be exerted by the National Assembly over a rail service in England that adversely impacts upon Wales. We seek an assurance from the UK Government that in having regard for the protection of English rail services, the Bill can be amended to offer a similar protection to rail services in Wales.

We further recommend that Clause 9(6) is amended so that the Secretary of State cannot by order exclude rail services starting and ending in Wales

Clause 10. Agreement with Strategic Rail Authority on exercise of franchising functions

This clause will enable the Assembly to enter into agreements with the Strategic Rail Authority for the provision of facilities and services and is essential for the Assembly to use the Strategic Rail Authority in the



delivery of an extended service. The Committee accepted the argument that this power was necessary in order to ensure that the Strategic Rail Authority uses its franchising powers to deliver the Assembly's priorities for rail services in Wales. Although the draft Bill does not give any indication of the way in which the Assembly proposes to use this power, it seems a reasonable and sensible power for the delivery of an integrated transport system. Detailed discussion on financial arrangements will be a matter for the National Assembly and the Strategic Rail Authority.


The draft Bill provides a framework with which the National Assembly may pursue its integrated transport strategy. The Committee believes that this clause is a necessary part of that framework.

Clause 11. Financial assistance: air transport services

The draft Bill would provide the Assembly with powers to support the development of air transport services or airport facilities within Wales where these would not otherwise be provided. These powers are also limited by the wider requirement to conform with European Community law.

Witnesses expressed strong views both for and against this clause. Those in favour argued largely on commercial and economic grounds and on the basis that appropriate air travel was an essential part of an integrated transport strategy. Those against argued about environmental factors such as the use of fossil fuels and the disruption to people living close to airports. There were also concerns about commercial viability of flights within Wales and the fact that only a relatively small number of people would benefit from expanded air services.

The Committee recognises that air services must potentially form part of an integrated transport strategy and that those within Wales are generally under-developed. Nonetheless it shares a great many of the concerns expressed. The need for any form of subsidy can mean that in some cases there are concerns about their commercial viability. The small number of people likely to use air services within Wales also means that there must be questions about using limited funds to support them – but



we note the argument put to us that the increased availability of air transport would greatly facilitate links between North and South Wales and the cost of doing this would be cheaper than improving road and rail links. A particular concern for the Committee was the absence of firm evidence on unmet demand for air services and the extent to which it might be appropriate to interfere with the growth of these services through normal commercial decisions.

At the same time, a strong case was made to the Committee for the powers contained in the Bill as a means of developing the availability of air services into Wales from both within the UK and abroad. There is clearly a significant potential here which could be of wider benefit to the Welsh economy. Ultimately, though, reconciling these complex issues in respect of individual projects is a matter for the Welsh Assembly Government. The Committee urges a degree of caution in the use of these powers, and stresses the importance of undertaking full environmental and economic assessments of any proposals before deciding whether to offer support. It is unclear to the Committee what resources (if any) are to be transferred to the Assembly by the UK Government in respect of support for air transport.

We welcome the provision in the draft Bill to grant the National Assembly the power to give financial assistance to people providing air transport or airport services. We recommend that the UK Government sets out clearly what resources, if any, will be transferred to the National Assembly as a result of this clause.



Other issues





Other issues

a. Financial

Concern was expressed to the Committees about the costs associated with the Bill, which are not set out in any great detail. Reference is made to a cost of £100,000 for four additional posts within the Assembly Government for the administration of the enhanced powers. We were assured by the Economic Development and Transport Minister's officials that while this was a very low figure it was realistically based.²³

More concern was expressed to us about the estimated running costs of £1m per year for each joint transport authority. It was suggested to us that a figure as round as this was unlikely to have been derived from a detailed calculation.²⁴ The Welsh Assembly Government did not agree and subsequently provided us with a note which set out the basis for these figures in terms of staff numbers, broad levels of expertise and associated costs.²⁵ It was clearly not possible to examine these in any great detail but it is something that should be looked at further if and when proposals for joint transport authorities are considered. The Minister made it clear in his evidence that the decision to establish a particular joint transport authority for a particular area would be taken in the light of circumstances. Presumably at that time the Minister will set out the costs associated with the proposals and make a decision in the light of these. This ought to form part of the Impact Assessment accompanying any draft Order.

As mentioned above, the Committee seeks an assurance that, with the power of direction and guidance over the Strategic Rail Authority, the Assembly receives an appropriate share of the funding from the Department for Transport that supports the Wales and Borders franchise.

It also asks that the UK Government sets out the resources (if any) to be transferred to the Assembly in respect of support for air transport.

b. Bridges

It was put to the Committee that the Bill might include a power to transfer control of bridges within Wales – in particular the Severn Bridge and the Cleddau Bridge.


A particular issue in relation to the Severn Bridge was the fact that this was a gateway to Wales and yet arrangements for its operation and the negotiating of tolls with the bridge owner fell to the Department of Transport.

Responding to this, the Minister for Economic Development and Transport pointed out that there are existing commitments in respect of the bridge amounting to perhaps £1 billion over the next 17 years.²⁶ Clearly taking these on would not be something that could be contemplated without a careful study of the figures and the transfer of appropriate funds to the Assembly in respect of them. It does not seem to be a priority within the context of developing an integrated transport strategy, which is the focus of this Bill and so we do not recommend that the matter be pursued.

The Minister for Economic Development and Transport and his officials explained that due to proposals to trunk the A477/Cleddau Bridge, the Welsh Assembly Government would be looking at financial arrangements for the bridge.²⁷ The Committee is satisfied that it would not be appropriate to include this in the Bill.

c. Traffic Commissioner for Wales

It was put to us that the opportunity should be taken in the Bill to appoint an additional Traffic Commissioner with sole responsibility for Wales. The Environment, Planning and Transport Committee of the First Assembly had recommended making the Commissioner accountable to the Assembly, because of the Commissioner's role in the enforcement of the delivery of bus services.²⁸ They also argued for a separate office for the Commissioner in Wales. The Minister for Economic Development and Transport's officials told us that they had not considered this in the context of the Bill for a number of reasons. First, the role is a quasi-




judicial one and the function is a Great-Britain wide one. They referred to the Scottish Traffic Commissioner who is not responsible to the Scottish Executive.²⁹ Both the Confederation of Passenger Transport and the National Federation of Bus Users argued the case for having a separate Commissioner for Wales, or at least for the Commissioner to have an office in Wales.³⁰ The Traffic Commissioner saw the issue principally in terms of workload.³¹ In his view there would not be sufficient work for a full-time Commissioner in Wales nor indeed would there be justification for a full-time Commissioner to serve the West Midlands area alone, the other traffic area for which he is also currently responsible. On the other hand, there is no particular reason for, or benefit arising from, a Traffic Commissioner serving both Wales and the West Midlands from an office in Birmingham. The post could equally well be located in Wales and transferring it here would make a clear statement about Wales' commitment to developing a national transport strategy.

Easy access to the Traffic Commissioner for Wales is an important factor in the development of a Wales Transport Strategy. Whilst we commend the work of the current Traffic Commissioner, we believe that Wales would be better served if he were to be located in Wales. We recommend that the UK Government consider relocating the Traffic Commissioner for the Welsh Traffic Area from Birmingham to Cardiff. Should that not be possible, we believe that some of the Traffic Commissioner's staff should be based in Wales.

d. Bus franchising

The Committee heard evidence from Professor Stuart Cole to suggest that a fully integrated public transport strategy for Wales would be difficult to achieve without effective bus powers for the Assembly.³² In his view these are not currently available and in this respect the Bill did not pass this particular test for alternative organisation structures as set out in public transport policy review carried out by the Environment, Planning and Transport Committee of the First Assembly.

Professor Cole argued that the Assembly would benefit from 'London-style' or supply-side bus franchising powers, which would give the Assembly greater control of bus services in Wales.³³ However other witnesses said that such powers would require changes to other primary



legislation (eg: the Competition Act 1998) and it would be better to use the Bill as an opportunity to amend the Transport Act 2000 to make it easier to establish quality partnership schemes and quality contract schemes for bus services in Wales. Others argued that the Assembly and local authorities already have the necessary powers but are unwilling or face too many difficulties in using them at present, particularly because of the bureaucratic nature of such schemes.

The Committee's view is that the Bill should be seen as an opportunity to amend existing legislation, if this is not working, to enable the Assembly, joint transport authorities and individual local authorities to ensure that bus services are more effectively integrated with other modes of transport. This may require amendments to the Transport Act 2000 or to other primary legislation.

We recommend that Ministers should consider whether the Assembly needs further powers over the provision of bus services in Wales. Any necessary changes to existing primary legislation should be included in the Transport (Wales) Bill

Footnotes

Key:


OE (1) – Minutes of evidence taken before National Assembly for Wales Economic Development and Transport Committee and House of Commons Welsh Affairs Select Committee, 21 June 2004

OE (2) – Minutes of evidence taken before National Assembly for Wales Economic Development and Transport Committee and House of Commons Welsh Affairs Select Committee, 23 June 2004

OE(3) – Minutes of evidence taken before House of Commons Welsh Affairs Select Committee and National Assembly for Wales Economic Development and Transport Committee, 24 June 2004

TB references refer to the written evidence listed in Annex 2

1. Paragraph 12. Joint Activities with the National Assembly for Wales, House of Commons Procedure Committee, Third Report of Session 2003-04
2. Paragraph 1.1. Policy Review of Public Transport, Final Report, Environment, Planning and Transport Committee, National Assembly for Wales, December 2001.
3. Draft Transport (Wales) Bill Consultation Letter, Peter Hain, Secretary of State for Wales, Andrew Davies, Minister for Economic Development and Transport, Welsh Assembly Government, 27 May 2004
4. OE(3) Q 319
5. OE(3) Q 313
6. TB15 paragraph 23
7. OE(3) Q 315
8. OE(3) Q 317
9. TB15 paragraph 3
10. OE(3) Q 291
11. OE(3) Q 290
12. OE(3) Q 330

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13. TB15 paragraph 32
 14. OE(3) Q 328
 15. TB15 paragraph 38
 16. OE(3) Q 331
 17. OE(3) Q 341
 18. OE(3) Q 299
 19. TB15 paragraph 42
 20. TB14 paragraph 24 ,TB30 – Appendix, TB22 – paragraph 10
 21. Paragraph 121 – The Provision of Rail Services in Wales, House of Commons Welsh Affairs Committee, Third Report of Session 2003-04
 22. National Assembly for Wales Record of Proceedings, 17 March 2004
 23. OE(3) Q 334
 24. OE(3) Q 332
 25. TB32
 26. OE(3) Q 318
 27. OE(3) Q 318
 28. Paragraph 2.23. Policy Review of Public Transport, Final Report, Environment, Planning and Transport Committee, National Assembly for Wales, December 2001.
 29. OE(3) Qs 365 to 369
 30. OE(1) Qs 89 to 91
 31. OE(2) Qs 209 to 211
 32. OE(3) Q 222
 33. OE(3) Q 244-248



Annex 1: Witnesses giving Oral Evidence

Monday 21 June 04 – National Assembly for Wales

Network Rail

John Armitt - Chief Executive

John Curley - Route Director for the Western Region

Strategic Rail Authority

Chris Austin - Executive Director of Community Rail Development

Stephen Wolstenholme - Assistant Director, Policy

Association of Train Operating Companies (ATOC)

George Muir - Director General

Arriva Trains Wales

Roger Cobbe - Commercial Director, Arriva Trains Ltd

Ian Bullock - Customer Services Director Council, Arriva Trains Wales

Confederation of Passenger Transport (Wales)

Justin Davies – Chairman CPT (Wales)

John Pockett – Director, Government Relations

National Federation of Bus Users (NFBU)

Leo Markham - Officer for Wales

Cardiff International Airport

Steve Hodgetts - Head of Business Development

Air Wales

Roy Thomas - Managing Director

Wednesday 23 June 04 – House of Commons

Rail Passengers' Committee Cymru

Colin Foxall - Chairman (Member of the Rail Passengers Council)

Clive Williams – Director

Rail Passengers' Council

Mike Hewitson, - Acting Policy and Research Manager

Traffic Commissioner for the Welsh Area

David Dixon

Thursday 24 June 04– House of Commons

Wales Transport Research Centre, University of Glamorgan

Professor Stuart Cole - Director of the Wales Transport Research Centre

Welsh Local Government Association (Welsh Local Government Association)

Sandy Blair - Director, Welsh Local Government Association

Dr Kevin Bishop - Head of Policy, Regeneration and Environment, (Welsh Local Government Association)

Rachel Jowitt - Policy Officer (Environment) Welsh Local Government Association

Chris Kay - Director, Transportation, Planning and Environment, Flintshire County Council, Welsh Local Government Association Transport Adviser

West Midland Local Government Association

Cllr Roger Phillips, Leader of Herefordshire Council and Chair of the West Midlands Regional Transport Partnership;

Rob Surl, Head of Transportation, Shropshire County Council;

Richard Ball Lead Planner (Transportation), Herefordshire Council;

Danny Lamb Strategic Advisor for Transport, WMLGA



Welsh Assembly Government

Andrew Davies AM, Minister for Economic Development & Transport,
Welsh Assembly Government

Robin Shaw Director of Transport, Welsh Assembly
Government

Denzil Jones Head of Transport Policy Division ,Welsh
Assembly Government

Keith Bush Legislative Council, National Assembly for Wales


Wales Office

Don Touhig MP, Under Secretary of State for Wales,



Annex 2: People and Organisations giving Written Evidence

TB1	Carmarthenshire County Council
TB2	Local Government Association (LGA)
TB3	Traffic Commissioner for the Welsh Region
TB4	Network Rail
TB5	Brecon Beacons National Park Authority
TB6	Professor Stuart Cole, Wales Transport Research Centre, University of Glamorgan
TB7	Neath Port Talbot County Borough Council
TB8	CTC Cymru (The National Cyclists Organisation)
TB9	National Federation of Bus Users (NFBU)
TB10	Rail Passengers Committee Wales and Rail Passengers Council Network
TB11	RMT (National Union of Rail Maritime and Transport Workers Union)
TB12	North Pembrokeshire Transport Forum
TB13	Civil Engineering Contractors Association
TB14	South East Wales Transport Alliance (SEWTA)
TB15	Welsh Local Government Association (WLGA)
TB16	Cardiff International Airport
TB17	Confederation of Passenger Transport Wales
TB18	Rail Freight Group
TB19	Sustrans
TB20	Denbighshire County Council
TB21	Strategic Rail Authority
TB22	Powys County Council on behalf of Trafnidiaeth Canolbarth Cymru/Mid Wales Transportation (TRACC)
TB23	Arriva Trains Wales
TB24	Shrewsbury – Aberystwyth Rail Passenger Association (SARPA)
TB25	Ministry of Defence (MOD)

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- TB26 Transport 2000
 - TB27 Taith – Working for Integrated Transport in North Wales
 - TB28 Association of Train Operating Companies (ATOC)
 - TB29 West Midlands Local Government Association
 - TB30 South West Wales Integrated Transport Consortium (SWWITCH)

 - TB31 RSPB Wales (Royal Society for the Protection of Birds)
 - TB32 Welsh Assembly Government – note on Additional Costs in Establishing a Joint Transport Authority
 - TB33 Malcolm Cowtan
 - TB34 Robert Saxby BSc, C. Eng, M.I.C.E., F.C.I.L.T