

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

CABINET MEMBERS' BRIEFING

6 MARCH 2018

JOINT REPORT OF THE HEAD OF ENGINEERING & TRANSPORT – D.GRIFFITHS

AND

HEAD OF LEGAL SERVICES – C.GRIFFITHS

MATTER FOR DECISION

WARDS AFFECTED: ALL

IMPROVING PUBLIC TRANSPORT – WELSH GOVERNMENT CONSULTATION

Purpose of Report

To advise Members of the Welsh Government's (WG) White Paper consultation on improving public transport and to endorse the Council's response.

Background

This paper sets out a summary of the Welsh Government's (WG) proposals for improving the legislative framework in Wales for how local bus services are planned and delivered, together with reform of the licensing regime for taxis and private hire vehicles (PHVs).

The full consultation document is available at:-

https://beta.gov.wales/sites/default/files/consultations/2018-12/improving-public-transport_0.pdf

Legislative Proposals

Provide the flexibility to better respond to local public transport needs; and

Ensure consistency and coordination of bus services delivery and a more modern approach to taxi/PHV licencing.

Bus Services

Need for better integration and collaboration detailed; achieved through organisational and structural change, as well as providing some central support.

Need for improved passenger experience; clear, high quality and up-to-date information including ticketing information and ticketing systems.

Concessionary Pass Holder changes proposed, whilst retaining the following fundamental principles; universal entitlement (pass holders can catch any bus any time in Wales), no current pass holder to have their eligibility removed and all people of state pensionable age will be eligible for free bus travel.

Proposal – Joint Transport Authorities

The WG is proposing establishing a Joint Transport Authority (JTA) which would be able to develop a distinctive regional approach in a broader national context towards transport planning and implementation.

This JTA could have responsibility for the full range of public transport functions, as well as certain traffic management functions (for example, the ability to make Traffic Regulation Orders for bus priority measures).

The purpose of the JTA is to pool the existing transport functions and powers of two or more local authorities. Would be established by secondary legislation which requires a dedicated formal consultation which, depending on the outcome of this consultation would be issues in autumn 2019.

Proposed structure of JTA's will be exercised on either a national/strategic basis or on a regional/implementation basis, based on the nature of the function being discharged.

Two potential options exist;

- A single JTA for the whole of Wales with regional delivery boards (i.e. committees of the national JTA), this JTA would be responsible for discharging functions specified in the establishing Order making arrangements for the discharge of certain functions, such as regional or locally specific functions, by committees of the authority (i.e. regional delivery boards); or
- A national JTA that would be required to discharge specified national/strategic functions, and three separate regional JTAs that would be required to discharge specified regional/implementation functions (i.e. 4 JTAs in total).

Proposed Legislative Change; it is proposed that a Bill would be required to make minor amendments to those enabling powers. Amendments include Welsh Ministers being represented on the JTAs and any committees of the JTAs and enabling any established Orders to require the JTAs to set up committees for the discharge of functions. It is also

proposed that Welsh Ministers be given new powers to issue guidance and directions to JTAs.

Enhanced Quality Partnerships

The WG is proposing to introduce new powers to enable LA's to make Enhanced Quality Partnerships, working between LA's and bus operators to develop agreed plans and schemes for the delivery of improved bus services in an area.

This will be an agreement between a LA and bus operators to work together to improve local bus services. Operators will be required to comply with the service standards set out in an EQP.

Franchising

The WG is proposing to revise current legislation to make franchising a useable tool for Welsh LA's to enable them to award the exclusive right to run a bus route to the most competitive bidder.

Proposed decision-making process for franchising. New franchising process will require LA to undertake an assessment of any proposal to franchise local services in its area.

With franchising in place, the deregulated market will be replaced in the franchised area and all 'local services' will either have to be operated as part of the franchise contract or operated under a permit issued by the authority.

Local Authority Bus Services

The WG is proposing to revise current legislation so that LA's can run their own bus services.

LA's to be given the power to run local services with options being considered for LA's running buses directly and also via an arms' length company established for this purpose.

Eligibility Age for the Mandatory Concessionary Fares

The WG is proposing to increase the eligibility age of the mandatory concessionary fare scheme to bring it in line with woman's pensionable age.

In making these amendments the following fundamental principles will be protected; universal entitlement (pass holders can catch any bus any time in Wales), no current

pass holder to have their eligibility removed and all people of state pensionable age will be eligible for free bus travel.

Public Transport Information and Monitoring

The WG is proposing to put in place new information monitoring and sharing arrangements.

Establishing a comprehensive open data set for the bus industry by requiring bus operators, LA's and the Traffic Commissioner to provide information on routes (to include proposals for changes to routes), timetables, fares and tickets for public access.

Taxis and Private Hire Vehicles (PHV)

Improvements to be made to standards, enforcement and safeguarding.

The proposals will tackle the following areas by centralising the licensing regime:

- The variation in taxi and PHV standards between the twenty two LA's in Wales;
- The inability to take enforcement action against vehicles which are operating 'out-of-area';
- The difficulty in sharing relevant safeguarding information.

The existing taxi and PHV licensing functions of the twenty two Welsh LA's should be redirected to a single national licensing authority which would be the JTA. A secondary option exists which does not include this proposal.

Taxi and PHV – Proposals – National Standards

The WG is proposing to set national standards for taxi and PHV licensing ensuring these standards would have to be met in order to obtain a licence.

Proposal to confer a power on Welsh Minister to create a national standard which the JTA or LA will have to have regard to when issuing licences.

Taxi and PHV – Proposals – Enforcement

The WG is proposing to allow a licensing authority to take enforcement action against any vehicle operating in its area.

Proposed legislative change to allow a LA or JTA to suspend or revoke a licence relating to any vehicle operating in its area and to issue a lesser sanction to any vehicle operating in its area.

Taxi and PHV – Proposals – Information Sharing

The WG is proposing to allow the creation of a mechanism by which relevant information can be shared, for the purposes of safeguarding.

Proposals to create a duty on the Welsh Minister to create a database, or make other information-sharing arrangements, to ensure that relevant information can be shared for the purposes of safeguarding.

Taxi and PHV – Joint Transport Authority

The WG is proposing to redirect all of the existing taxi and PHV licensing functions away from LA's and into a national licensing authority, a JTA.

This would include licencing, fee and fare setting, enforcement, hearing appeals arising from licensing decisions, prosecutions and deciding matters such as whether to apply quantity controls to taxis.

Another option has been put forward which would allow LA's to continue to have responsibility for taxi and PHV licensing. This would be done by amending the existing legislation.

Consultation Response

Members are advised that there are 38 questions that require response. Questions 1-21 on Bus Reform and questions 22-38 which relate to 'Reforming the Law of Taxi and Private Hire Services'. The latter has been scrutinised and endorsed by the Licensing Committee set out at Appendix 1 for Members' information (licensing matters being a non-executive function). Members are therefore requested to scrutinise only questions 1-21 at today's meeting but to note the response proposed to the Welsh Government in respect of the proposals in respect of licensing changes.

Q1. Do you agree that it is important for local authorities to work together with regard to local bus services? Please explain your answer.

Yes, South West Wales LA's previously worked on a regional basis as part of the former consortium and continues to work collaboratively with regional partners.

NPT's Task & Finish Group on the Valleys identified transport as a key strategic issue that needs to be addressed. The Bevan Foundation has pointed out that detailed mapping of public transport provision against employment opportunities undertaken by the Joseph Rowntree Foundation shows that Neath Port Talbot has one of the highest proportion in Wales of deprived Lower Super Output Areas classed as 'disconnected'. The Foundation has recommended that ideally there needs to be a region-wide approach. This would seem possible in the short to medium term as Welsh Government, through Transport for Wales (TfW) develop policies and guidance on the delivery of bus services for the future and as long term proposals for a "Swansea Bay Metro" are also developed. Simultaneously, the City Deal is seeking to extend its role in the area of transport and connectivity. A joint approach is sensible in our view, particularly in light of downward revenue pressure and reducing staff numbers.

Welsh Government funding streams for Concessionary Fares, Bus Service Support Grant, etc, have witnessed sharp reductions since 2012. This has resulted in a significant loss/reduction in services particularly in semi-rural areas and in the evenings and on weekends:

- Funding to support local bus services in NPT has reduced from £717K in 2011-2012 to £312K in 2016-2017.
- Concessionary travel in NPT has reduced from 2.2M journeys in 2011-2012 to 1.9M in 2016-2017. An average of 6,000 less journeys made each week; and
- On routes subsidised by the Council reduction in concessionary card use is even more significant. From 409,553 in 2011-2012 to 151,568 in 2016-2017. A reduction of 37%.

Taken in the round, the current arrangements are not fit for purpose in terms of providing comprehensive services and the difference between cost and subsidy represents a growing budget pressure for our Council. Reform of the current arrangements including the introduction of regional Joint Passenger Authorities is generally supported.

In this regard, strong governance will be essential to ensure services are delivered in line with WG's expectations that also allows for democratic input at a local and regional level, as without sufficient funds, there is a highway risk that LA's will be in conflict over priorities over bus service coverage and infrastructure investments.

Q2. Please provide comments on the proposed organisational structures. Which is your preferred option and why?

To ensure consistency of approach a single JTA for the whole of Wales with regional JTA's with flexible democratic representation will be the best approach. This would ensure there is consistency across Wales in the JTA's approach to bus services (cross border) and on infrastructure investments. Regional JTA's would have a greater understanding of local service requirements and what infrastructure schemes would benefit their regions most.

Q3. Is there another organisational structure for JTAs that we should consider? Please describe.

Due to the diverse nature and requirements for bus services in various parts of the country a further option could involve combining rural L.A's into one JTA. Urban L.A's into another and those which have a mix of both rural and urban into a third. This structure would require a National JTA and the JTA's with similar issues that affect semi-rural areas

Q4. Do you have any comments on the proposal that the Welsh Ministers should be represented on a JTA or any committees of a JTA?

In principle, we would have no objection to this proposal, however this would depend on the final governance structure to be implemented. It is to be recognised that Ministerial involvement will help to drive forward W.G.'s vision for bus services at a national level with a close working relationship with proposed chairs democratically elected on to the new JTA's.

Q5. Do you have any comments on the proposals that the Welsh Ministers should have powers to issue guidance and directions, and to intervene where a JTA is failing to exercise its functions effectively?

Ministers should be able to provide guidance to JTA's, however, they should not interfere with the day to day working of the JTA's, nor should they interfere on prioritising where transport requirements should be focused. Ministers should have powers to address JTA's that are underperforming. Ministers should through a National JTA develop guidance, as set out in the consultation paper, ensuring support and training is part of the new JTA's arrangements, we would not advocate oversight of day to day operations but recognise routine auditing would be undertaken.

Q6. Is the proposed division of national and regional functions appropriate?

The proposed functions of the National and Regional functions appears to be sensible. However, there is some overlap in roles and responsibilities. Greater clarification and more definition is needed to make an informed assessment. Regional JTA's would offer the local knowledge that a National JTA may lack.

Q7. Should any other transport functions be transferred to a JTA? Please describe.

The JTA's need to be established before considering other functions. However, non-emergency patient transport would benefit review to realise any benefits to the bus network and to Health Boards, perhaps lead by the National JTA if established.

Q8. Do you think that legislation is required to secure the benefits of enhanced partnership working? Yes/No? Please explain your answer to this question.

Yes, without legislation it would be difficult to ensure operators would commit to agreements. A barrier has been lack of funding and competing commercial interest. Maintenance of infrastructure is also key. Frequency and timing of services is reliant on infrastructure improvements.

Q9. Do you agree with our proposals for EQPs, in particular the proposed process for developing and making EQPs? Yes/No? Please explain your answer to this question.

Yes, although it could cost significantly more to implement and difficult to manage without additional resources. Any Enhanced Quality Partnership (EQP) that is going to cost the operators will inevitably mean that there will be reduction in services to compensate for the extra cost/expectations in the EQP area. In this regard, franchising may be the easier option as this would afford some control by the JTA/LA.

Q10. Do you think that the proposed scheme provides a more workable option for the franchising of local bus services? Yes/No? Please explain your answer?

Yes, but only if there is sufficient funding in place. Franchising of urban routes would work as "patronage" in urban areas which is higher than in rural or semirural areas. Rural and semirural L.A's would require a larger proportion of the funding available to make franchising work in our view.

Investment to grow established Community Transport Organisations would be an alternative and welcomed option.

Q11. Do you think there should be a requirement for the assessment to be subject to an independent audit? Yes/No? Please explain your answer.

Yes, an independent Audit would ensure all L.A's are in compliance with the new legislation. In rural/semirural areas there needs to be the realisation that a regular bus service is not the best or most cost effective option. When patronage falls below a specified level, JTA's may need to look at alternative transport modes.

Q12. Do you have any other comments on the proposed process for franchising?

Engagement with the operators to establish if there is an appetite for franchising would need to be undertaken before any changes to legislation is made. Otherwise TfW could end up with a system in place but no way to deliver it. There is also a lack of competition in some areas which would mean that operators may or may not decide to bid on a franchised area.

Q13. Do you have any comments in relation to the proposals for the issuing of permits in circumstances where franchising arrangements are in place?

The onus is on the franchising authority and clarification is required as to whether or not this is the JTA or LA's who will issue permits to commercial services to operate in a franchised area. This could be difficult to manage and may impact on the franchised service if a commercial service was to alter their timetable or reduce their fares/charges eg: free travel on weekends.

Q14. Do you agree that as part of any arrangements to let franchise contracts, specific consideration should be given to how SMEs can be enabled to be involved in the procurement process? Yes/No? Please explain your answer.

Yes, particularly as there are a limited SME's in our particular area. Larger operators could manipulate the process to cherry pick numbers of areas that have the potential of increasing patronage.

Q15. What transitional arrangements should be considered in order to ensure that bus services are not compromised during the process of preparing to franchise?

Short term interim contracts may offer a way to retain bus services while franchising is being developed. Caution needs to be shown as operators may withdraw commercial services if the route is to be franchised.

Q16. Do you think that local authorities should be able to run bus services directly (i.e. in-house services)?

In principle yes, however the number of L.A's that would have the resources to introduce bus services would very limited. As with commercial bus companies L.A's would have to operate on a commercial basis and would be in direct competition with the commercial operators.

This is not an affordable proposition in the current financial climate and would need careful analysis - one-off pilots could be considered should finances permit.

In what circumstances do you think this would be appropriate?

If there is a lack of bus operators in an area and the L.A has to heavily subsidy services it may be an option to introduce a bus service. However, it is worthy to note that L.A's already have the option to run socially necessary buses under section 22 permits which would be the easier option.

What, if any, safeguards do you feel ought to be put in place with in-house services to ensure that no local authority has an unfair advantage in a deregulated market, and why?

It is important to note that there is no capacity within our Council to deliver in-house services within current resources on a commercial basis.

In a deregulated market LA's would be competing against the larger commercial bus operators and may be privy to data and financial details which would mean that they would need to be tendered independently of the L.A.'s.

Q17. Do you think that local authorities should be able to set up arms' length companies to operate local bus services?

This is an option but is likely to be cost prohibitive without funding initial start-up costs.

In what circumstances do you think this would be appropriate?

No comment

What, if any, safeguards to you think should be put in place with arms' length bus companies to ensure that no local authority has an unfair advantage in a deregulated market, and why?

See response to Question 16.

Q18. Do you agree with the Welsh Minister's proposal to align entitlement to a mandatory concessionary fares pass with a woman's pensionable age? Please give reasons for your answer.

With the state pension age increasing and people having to work on until later in life, raising the entitlement age for a concessionary bus pass to the woman's state pension age would not be unreasonable and help the concessionary fare reimbursement budget which could be reinvested into bus services.

Q19. Do you agree that an incremental change is the most appropriate method?

Yes, as this would impact in the same way that the incremental rise in state pension age did. Going forward there could also be a charge for the concessionary card. This would reduce the number of applicants unless they genuinely required a card. A nominal charge to cover the administration cost could also be considered.

Q20. Do you agree with our proposal to require the release of open data on routes, timetables, fares and tickets? Yes/No? Please explain your answer.

Yes, this is available now, however conditions should make it a requirement that the data is provided, rather than on request.

Q21. Do you agree with our proposal to enable local authorities to have the power to obtain information on services which are to be cancelled or varied, and where appropriate, disclose this information as part of tendering process? Yes/No? Please explain your answer.

Yes. As the Welsh Government are funding the introduction of new technology this will allow for comprehensive info boarding and alighting stages etc. to inform the tendering process.

Financial Impact

There are no financial impacts as part of the consultation process.

Integrated Impact Assessment

An Integrated Impact Assessment is not required as part of this consultation. In the event that legislation is passed implementing any of the proposals, should the Council look to implement the same, then all integrated impacts will be considered at the appropriate time.

Workforce Impacts

There are no workforce impacts in respect of the response to this consultation.

Legal Impacts

There are no immediate legal impacts stemming from the decision to make a response to this consultation. Should any of the proposals suggested by the Welsh Government ultimately be implemented then it will require legislative changes which this Council will be under an obligation to comply with

Risk Management

There are no risk management issues related to the consultation at this stage.

Consultation

This is an All Wales Welsh Government-lead consultation process and as such, does not fall within the Council's consultation remit.

Recommendation

It is recommended that:-

- Members endorse the response to questions 1-21 for submission to the Welsh Government.
- Members note the responses which will also be submitted as part of the Council's response set out at Appendix 1 questions 22-38 previously endorsed by the Registration and Licensing Committee.

Reasons for Proposed Decision

The response to the consultation will inform Welsh Government Policy Development, with a view to improving public transport across Wales and within NPTCBC.

Implementation of Decision

The decision is proposed for immediate implementation due to requirement to submit responses by 27th March 2019.

Appendices

Appendix 1 – Consultation Responses 22-38

List of Background Papers

Written Statement: White Paper: Improving Public Transport – Ken Skates, Cabinet Secretary for Economy & Transport

NPT Cabinet (Special) response to the Council's Task & Finish Group on the Valleys (17th December 2018)

Report of the 11th February 2018 to the Registration and Licensing Committee – Welsh Government White Paper

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Appendix 1

Q22. Do you agree with our proposal to introduce national standards which will apply to all taxis and PHVs in Wales? Yes/No? Please explain your answer.

Yes, this is consistent with the previous consultation work undertaken between the Licensing Expert Panel and Welsh Government lead on taxi reform in Wales. It is also consistent with recommendation 2 made by the “Ministerial Working Party into Hackney Carriage and Private Hire Licensing in England [2018]” and the Law Commission review “Reforming the Law of Taxi and Private Hire Services” [2012]”.

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

Q23. Are there any matters which you would like to see contained in any national standards?

Separate national standards should be defined for vehicles, drivers and operators. The following matters should be included, although this is not an exhaustive list:

- Enhanced DBS and Barring List checks (certificate of good conduct for overseas applicants) for drivers, operators, proprietors and dispatchers. We believe that anyone taking or holding an individual’s personal information should have to be vetted to ensure that that person is safe and suitable (“fit and proper”).
- Medical fitness and specifically the requirement of Group 2 Medical Standards and the need for the applicant’s full medical history to be noted by the completing GP. Standards should also consider consistency of the issue of exemption certificates in terms of Equality Act duties.
- Immigration checks specifically the Right to Work in the UK
- Suitability of applicants and licence holders. The Institute of Licensing has published guidance on determining the suitability of applicants and licence holders in the hackney carriage and private hire trades. The criteria used in this guidance should be incorporated into any national standards
[https://www.instituteoflicensing.org/documents/Guidance on Suitability Web Version \(16 May 2018\).pdf](https://www.instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(16_May_2018).pdf)
- Nationally-recognised vocational qualifications to include disability quality and awareness training, safeguarding awareness training (Child Sexual abuse / Exploitation, County Lines), practical driving standards test, communication skills and literacy, customer care, handling of emergencies, managing conflict etc.

- Knowledge and suitability test (literacy, numeracy, highway-code, conditions, local area knowledge).
- Foreign driving licences

In addition, we would recommend the following matters be included in relation to vehicles:

- National Inspection Standards and frequency of inspections and testing including the criteria for testing. Consideration should also be given to suitability, independency and availability of testing stations and how they are approved e.g. consider if use of Trade owned testing stations are appropriate.
- Design and appearance and internal spatial requirements of vehicles including the approach to identify taxis and private hire vehicles.
- The information which should be contained on any vehicle identification source (plates, door signs).
- Standards for specialist and novelty vehicles, such as stretched limousines, wedding and funeral cars, omnibuses and pedicabs.
- Taxi Meter standards including the criteria for Pulse and GPS meters.
- The use and standards for CCTV within vehicles, both audible and video as outlined in recommendation 17 & 18 “Ministerial Working Party into Hackney Carriage and Private Hire Licensing in England [2018]”. The Information Commissioner’s Office has produced advice for councils and other organisations in using surveillance and CCTV systems in licensed taxis. A national standard should take account of this advice.
<https://ico.org.uk/about-the-ico/news-and-events/blog-continuous-cctv-in-taxis-where-do-councils-stand> The LGA Guidance has also now been published.
<https://www.local.gov.uk/developing-approach-mandatory-cctv-taxis-and-phvs> The cost of fitting CCTV within licensed vehicles particularly for small businesses may require subsidy from Welsh Government.
- Record Keeping including the retention period required. We believe that ideally records should be kept for every journey undertaken, however, there are obvious practical difficulties with taking this approach. A better option would be to use technology to better the safeguarding processes. The use of CCTV, trackers and GPS systems would not only provide a more robust system for record keeping, but would also not place an administrative burden on taxi drivers.
- Environmental considerations such as vehicle emission standards.

The standards for some of the points recommended above are included in guidance already and should be taken into account when developing any national standards, such as the Department of Transport Taxi and Private Hire Vehicle Licensing: Best Practice Guidance (March 2010), although this is in need of updating.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf

In addition we would recommend mandating training for all individuals involved in the licensing decision-making process. Consistent and appropriate training of officers, councillors and Magistrates' legal clerks (for appeals) is essential to ensure those applying standards are competent to do so. The content of the training should form part of national standards.

Finally, any national standards developed should be consistent with criteria implemented in England to reduce variations in driver, vehicle and operator requirements especially around the border areas.

Q24. Are there any matters which you think should be excluded from any national standards?

There are no matters that should be excluded, although national standards should not duplicate other legislation.

Q25. What practical obstacles might there be to setting common national standards for both taxis and PHVs?

The main obstacle will be incorporating the national standards into the 10,000 vehicles and 12,000 drivers currently licensed in Wales and the provisions that will need to be in place for transitional arrangements and grandfather rights. Consideration will also need to be given to finding suitable consistent standards which work for both urban and rural areas.

Q26. What would be the best approach for determining the content of national standards?

There are already a number of national policies in place which have been adopted by a number of Welsh Local Authorities in order to provide a level of consistency between areas, such examples include:

- National Inspection Standards for hackney carriage and private hire vehicles, and
- Institute of Licensing Guidance on determining the suitability of applicants and licences in the hackney carriage private hire trade.

There are also some excellent examples of local taxi licensing policies and standards in place which have been developed and applied at a local level.

Welsh Government will first need to establish what policies and standards are already in place in Wales and then draw on the knowledge of licensing practitioners who have expert practical experience of undertaking taxi licensing work on a daily basis.

It would be remiss of Welsh Government to disregard any policies, standards or procedures which have been developed by licensing professionals and which actually serve to provide a robust service against a backdrop of legislation which is woefully inadequate and outdated.

The All Wales Licensing Expert Panel consists of managers and team leaders who have extensive knowledge and experience in the taxi licensing field and would without question need to be heavily involved in the development of national standards.

It is suggested that Welsh Government would also need to engage with passenger safety groups and operator representatives by way of meetings, seminars and workshops.

Q27. Please provide any other comments or proposals around national standards that were not covered in the above questions.

The previous Welsh Government consultation on Taxi and Private Hire Vehicle Licensing in Wales [WG31865] referred to “national standards for all taxis and private hire vehicles, set by Welsh Ministers, with the power for local licensing authorities to set additional conditions where it is appropriate to do so”

Although the White Paper makes no reference to minimum national standards, it is worth noting that we would not recommend that local licensing authorities be permitted to set additional local conditions above the national standard.

Enforcement

Q28. Should a Local Authority be able to revoke or suspend a licence relating to any vehicle operating in its area, even if it did not issue the original licence? Yes/No? Please explain your answer.

We believe that the revocation of a vehicle licence should be the responsibility of the home Licensing Authority. Where it is proposed that action is taken to revoke a licence, it is imperative that the licence holder is afforded the opportunity to be heard i.e. the opportunity of a fair hearing; this is a requirement of Article 6 Human Rights Act which protects your right to a fair trial. The Licensing Authority that has issued the licence will also have invaluable local knowledge about the licence holder, have immediate access to the history of the vehicle and any complaints received and should be responsible for recovering any fees associated with taking the enforcement action. It is noted that proposals in relation to fee setting are not included in the White Paper.

We believe however that it is appropriate for any authorised officer from any Licensing Authority area to have the power to suspend immediately (Section 68 Local Government (Miscellaneous Provisions) Act 1976) a licence of any vehicle operating in their area (irrespective of where it was licensed) where there is an immediate public safety risk e.g. defective tyre, or potentially where the vehicle fails to meet the national standards e.g. missing door signs / back plates. The authority that issues the suspension, would then report the matter to the home Licensing Authority for them to consider whether to lift the suspension or take further action.

Q29. Should a Local Authority be able to issue a lesser sanction in relation to any vehicle operating in its area, even if it did not issue the original licence? Yes/No? Please explain your answer.

We consider this of benefit to aid the home Licensing Authority in order to determine whether any further action is required e.g. improvement notice / advisory / warning. For example introducing a system of issuing a Fixed Penalty Notices would bring taxi and private hire enforcement in line with other areas of local government. Some method of referral scheme would need to be developed to notify the issuing Licensing Authority, however the practical implications of this would need further consideration.

Q30. Please provide any other comments or proposals around enforcement that were not covered in the above questions.

The All Wales Licensing Expert Panel has previously been in discussion with Welsh Government about introducing the power to stop and direct taxi and PHVs. This would be a useful and beneficial addition to the enforcement options currently available to local authorities.

Currently Licensing Authorities are unable to attach conditions to hackney carriage driver licences, some local authorities have Byelaws in place and we would recommend incorporating any relevant component of these into national standards

We would recommend other enforcement provisions be introduced by Welsh Government such as where a driver refuses a fare due to the short distance involved or for cases of overcharging.

In addition we would recommend mandating training for all individuals involved in the licensing decision-making process (as mentioned above). Consistent and appropriate training of officers and councillors (this should also include Magistrates' legal clerks) is essential to ensure those applying standards are competent to do so. The content of the training should form part of national standards.

Information Sharing

Q31. Do you agree with our proposal to create a database or make other arrangements for relevant safeguarding information to be shared? Yes/No? Please explain your answer.

The establishment of a mandatory national database of all licensed drivers is critical, however this database should be expanded to include vehicle and operators, proprietors and dispatchers to support stronger enforcement. This must be established quickly.

In the interim, the National Anti-Fraud Network (NAFN) currently provides an online register of taxi and private hire drivers who have been refused or had their licence revoked. The database includes the reasons for any refusal or revocation, along with the relevant Licensing Authority details. Welsh Government must introduce legislation to mandate its use as a priority. The Licensing Expert Panel has agreed in principle to use this database and at the time of this consultation response all local authorities in Wales were progressing this.

In addition any national database must be able to accommodate or link in with an equivalent database in England to avoid duplication of data entry and ensure public safety particularly around the border areas.

Q32. Please provide any other comments or proposals around information-sharing that were not covered in the above questions.

The Common Law Police Disclosure provisions have been highlighted as a significant concern by the Licensing Expert Panel previously. These proposals do not cover this issue. We would suggest the current disclosure provisions be reviewed to ensure that all relevant information of crimes and conduct by taxi and private hire drivers, including arrest, charge and conviction information, is shared with the Licensing Authority immediately.

We appreciate that Welsh Government may be limited in influencing this suggestion but it is essential to ensure all drivers, operators, proprietors and dispatchers are safe and suitable. Any influence Welsh Government could have on this to improve information-sharing on public safety grounds would be welcomed.

Joint Transport Authority (JTA)

Q33. Do you agree with our proposal to redirect all of the existing taxi and PHV licensing functions away from local authorities and into a national Licensing Authority (Option A)? Yes/No? Please explain your answer.

We would **not** support the proposal on the information provided, as there is no evidence to support the need to redirect the existing taxi and PHV licensing function away from Local Authorities. At this stage 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. We feel that insufficient research has been undertaken in respect of this proposal and that Welsh Government must produce a far more detailed explanation on how the JTA would work. We feel that they would then be in a better position to comment on the proposal. Our overriding concern is the protection of the public, and there is nothing contained within this proposal which suggests that public safety is at the forefront of this proposal.

In addition, Local Authorities have a duty to consider the WG's Framework for Managing the Night Time Economy in Wales. Authorities need to consider the transport need of their local evening and night time economy as part of an integrated approach, which includes the importance of taxis and PHVs. Partnership working between key local agencies such as the Police (including transport Police), licensing and the taxi trade offer the best opportunities for achieving sustainable late-night transport environments that also promote safety. Removal of the duty from Local

Authorities would not be beneficial to implementing plans for improving the night time economy as a whole.

We would be happy to consider the evidence for Welsh Government's proposals and to work with them further to ensure any reform of taxi and private hire vehicle legislation is robust, enforceable and improves public safety.

Q34. Do you think that local authorities should continue to have responsibility for taxi and PHV licensing (Option B)? Yes/No? Please explain your answer.

Yes, we believe that local authorities should continue to have responsibility for taxi and PHV licensing. Whilst we appreciate that the Licensing function requires strengthening as mentioned in option B, it is recognised that licensing at the local level works well. Additional evidence is requested from Welsh Government to justify the contrary to continuing with Local Authority responsibility.

Q35. Please provide any other comments or proposals around responsibility for taxi/PHV licensing that were not covered in the above questions.

We believe that the current proposals contained within the White Paper fall far short of the reform that taxi and private hire licensing so desperately requires. The previous set of proposals contained within the Taxi and Private Hire Vehicle Licensing in Wales [WG31865] would have introduced a robust taxi licensing regime which was fit for the 21st century and afforded local authorities the necessary tools to protect the public, tackle cross border working and introduce more powers for better enforcement. Instead, what is now being proposed is a quick fix and offers nothing more than a sticking plaster solution. The existing legislation is archaic, not fit for purpose and requires fundamental reform with new primary legislation.

We are unfortunately resigned to the fact that the radical, ambitious and exciting plans previously proposed by Welsh Government have effectively been "kicked into the long grass" and are unlikely to be revisited. A viable alternative however is readily available by considering in more detail adopting the recommendations of the "Ministerial Working Party into Hackney carriage and Private Hire Licensing in England [2018]" which builds on the work undertaken by the Law Commission "Reforming the Law of Taxi and Private Hire Services [2012]".

These recommendations offer far more than a sticking plaster solution and would modernise the legislative framework, introducing appropriate regulation and giving licensing authorities the necessary enforcement tools to better protect the public. The recommendations, if implemented, would also ensure that inconsistencies between Welsh and English authorities, particularly along the border, are negated.

Q36. We would like to know your views on the effects that the legislative proposals set out in this paper would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased? or negative effects be mitigated?

Welsh Government must have regard to the Welsh Standards as set out by the Welsh Language Commissioner. It is important that applicants are able to apply in their language of choice. Positive effects could be increased by ensuring that signage, etc. is provided in bilingual format on all taxis and taxi ranks.

Q37. Please also explain how you believe the proposals could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

See above

Q38. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them: Please enter here:

We have no further comments to make.