

West of England Partnership
Joint Transport Executive Committee
1 October 2009

Local Transport Act 2008 Governance Review

Purpose of Report

1. To outline the requirements for a possible review of transport governance in the West of England.

Background

2. The Local Transport Act received Royal Assent on 26 November 2008. The purpose of the Act is to tackle congestion and improve public transport with new governance and powers for local authorities.
3. The Act allows local authorities to review the effectiveness and efficiency of existing governance arrangements in their area and come forward with proposals for improvements or for the establishment of new Integrated Transport Authorities (ITA). Two or more authorities can undertake a review.
4. An ITA must consist of the whole area of two or more authorities.
5. Guidance on Governance Reviews to accompany the Local Transport Act 2008 was published by the Department for Transport (DfT) in December 2009.
6. The Local Transport Act is enabling legislation, i.e. proposals should be locally driven and one size or type of ITA does not fit all.
7. The Joint Transport Executive Committee Meeting on 16 July 2009 discussed the Committee's Forward Plan. It was agreed that the October report on the Local Transport Act 2008 would include the scope of a review under the provisions of the Act.

Review Scope

8. Whilst it is up to local authorities to decide how wide a review they wish to carry out Part IV of the guidance sets out the process for any review. Based on this, and the Joint Transport Executive Members Local Transport Act Workshop on 16 March 2009, the requirements for a potential review of transport governance in the West of England are set out below.

1) Problem analysis and identification of objectives - identify high level vision, objectives and outcomes. Establish what the local authorities wish to achieve. Need to demonstrate links to wider agenda and existing problems, barriers and challenges. To include the current provision and procurement of transport services for example road, rail, ferries, bus, cycling and walking. Identify what can be achieved using existing powers for the provision of bus and rail services. Early identification of possible governance options and costings.

2) Identification and assessment of options - how best can the objectives be achieved. Need to consider a range of options (see Appendix One) in more detail. An ITA is not necessarily the most appropriate option. Options could also be grouped into packages. Consider best practice from around the country, not just existing ITAs. The Tees Valley (five unitary authorities) for example is considering setting up a 'Combined Authority' incorporating an Economic Prosperity Board with an ITA. The recent New Local Government Network 'On the Right Track' report should also be reviewed. Assess options against existing arrangements - what do we gain over existing powers and governance?

3) What powers could be included – consider the appropriateness of a wide range of powers (see Appendix Two) in greater detail. What are the advantages and disadvantages of including these powers? Which powers best help to deliver the objectives? Under the Act strategic road and rail powers can be delegated by the Government to an ITA. Local highway powers (e.g. bus lanes, traffic calming, maintenance) can also be transferred to an ITA. The current and future distribution of powers could form part of a review.

4) Area covered – consider options including cross boundary arrangements with neighbouring authorities.

5) Constitution – how governance proposals are constituted including voting, non elected members, transparency and accountability.

6) Funding – cost of new governance and how will it be funded. The guidance makes it clear that transitional costs should be offset by savings within five financial years. Value for money, savings and costs should be considered. Note the Department for Transport has repeatedly stated there will be no additional funding for new ITAs. Comparison with existing ITAs.

7) Consultation – the guidance suggests involving organisations with a direct interest in a review such as the Regional Development Agency, Network Rail and the Highways Agency. "Sounding boards" could be used to assist in securing the views of a wide range of stakeholders.

8) Conclusions – review concludes either existing arrangements work well and do not require change or changes are needed with recommendations for future structures.

Timescales

9. The Guidance on Governance Reviews suggest a review will be expected to take at least two years in order to be comprehensive and allow time for consultation with appropriate and affected organisations (see Appendix Three). The guidance also recommends allowing 12 months after agreement before implementation.
10. A review could be split into two stages. The first stage would focus on problem analysis and identification of objectives (part 1) of the Review Scope) to establish if new governance is required or not. If it is stage two would investigate governance in more detail (parts 2) to 8) of the Review Scope). Stage 1 could be delivered relatively quickly over a 3 month period.

11. It is important to note that any review submitted to the DfT must have been undertaken by two or more authorities.
12. The Secretary of State for Transport will review the outcomes of any review and make a decision as to whether to make an individual order to establish a new ITA. This decision will have to go through the parliamentary process.

Management

13. If the decision is made to undertake a review it is suggested that the existing Major Scheme project management process is used with a Senior Responsible Owner, Project Manager, Project Board and Project Team reporting to the Joint Transport Executive Committee. Joint Scrutiny would provide the necessary scrutinizing role.
14. The role of the Project Team would be to commission consultants to undertake the review. This should ensure that the review is as independent and impartial as possible.

Funding

15. Splitting a potential review into two stages would help manage costs. Suggested costs are:

Stage 1 (problems analysis and identification of objectives) = £10,000

Stage 2 (options, powers, area, constitution, funding, structures) = £90,000.

Recommendations

Member's views are sought.

Appendices

Appendix One: Alternative Options

Appendix Two: Potential Integrated Transport Authority (ITA) powers

Appendix Three: Timescales and Tasks for setting up an Integrated Transport Authority (ITA)

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Alternative Options

The Department for Transport Guidance on Governance Reviews (December 2008) states that a number of options for improving the joint delivery of services are already available within existing legislation (paragraph 4.7). Options which authorities may consider with advantages and disadvantages include:

1) Contractual Arrangement

This is a contractual agreement between authorities. This could be a strengthened version of existing West of England Partnership arrangements.

Advantages

- Builds on existing Partnership Board
- Open democratic accountability

Disadvantages

- Not a corporate entity i.e. cannot contract or own property in own name

2) Joint Committee

A Committee can be established under section 102 of the Local Government Act 1972 or other relevant legislation. The newly established West of England Joint Transport Executive Committee already fulfils this role. Extending its powers could be considered.

Advantages

- Established arrangements
- Open democratic accountability
- Can be delegated functions.

Disadvantages

- Not a corporate entity i.e. cannot contract or own property in own name

3) Non-Profit Distribution Entity

This can be a company limited by guarantee or an industrial and provident society.

Advantages

- Tailored solution
- Earnings used for agreed objectives
- Can contract and own property

Disadvantages

- Exposure to taxation
- Cannot raise finance by itself

4) Profit Distribution Entity

This could be a company limited by shares or a limited liability partnership.

Advantages

- Familiar to the private sector
- Conflict of interest issues need to be monitored

- Tailored solution
- Raise finance

Disadvantages

- Exposure to taxation
- Conflict of interest issues need to be monitored

5) Simultaneous Executive Meetings

Executives of each local authority meet in a single place but in law separate meetings take place. Each authority retains individual vote, overview and scrutiny.

Advantages

- Can be modified, expanded and created quickly,
- No new organisation required
- Decisions taken at highest level

Disadvantages

- Lacks permanence
- Does not facilitate joint working beyond local authorities.

6) Multi-Area Agreements (MAAs)

New legislation will allow the creation of MAAs with statutory duties. The West of England MAA includes two transport indicators NI 167 Congestion and NI 177 Bus Patronage.

Advantages

- Uses existing MAA
- Open democratic accountability.
- Statutory duty to co-operate on targets

Disadvantages

- Not a corporate entity i.e. cannot contract or own property in own name.

7) Combined Authority

The Local Democracy, Economic Development and Construction Bill, December 2008, allows the creation of Economic Prosperity Boards (EPB) and the merging of an ITA with an EPB, where these have matching boundaries to form a Combined Authority. The Tees Valley authorities are actively considering a Combined Authority.

Advantages

Wider city region agenda and governance
 Incorporates existing structures
 Open democratic accountability

Disadvantages

Legislation not yet in place.
 Not a corporate entity.

Potential Integrated Transport Authority (ITA) powers

<p>Joint Local Transport Plan Produce a single Local Transport Plan covering the whole of the West of England area.</p>
<p>Local Highway Authority Powers Bus lanes, bus priorities, traffic calming and management, cycling and walking schemes, maintenance.</p>
<p>Supported Bus Services and Information Tendering for and monitoring of socially necessary bus services not provided by operators on a commercial basis. Marketing and publicity of bus service provision.</p>
<p>Bus Quality Partnerships Bus operators agree to enhance services – fares, frequencies, and timings - in return for infrastructure improvements. Partnerships can be voluntary and/or statutory.</p>
<p>Bus Quality Contracts Franchising of local bus network, similar to London, with ITA setting and regulating service levels whilst ensuring better integration.</p>
<p>Concessionary Travel and Integrated Ticketing Diamond travel card (senior citizens and disabled) and other travel concessions.</p>
<p>Major Scheme Bids Preparation of bids for major transport schemes (> £5m cost), scheme design and delivery.</p>
<p>Highway Development Control Assess transport impact of major new developments, advise determination to planning authority and request remedial measures. Note this may be beyond the powers of the Local Transport Act.</p>
<p>Travel Plans Central co-ordination of travel plans.</p>
<p>Strategic Highway Powers Transfer of motorways and 'A' roads e.g. M32, A4 and A46.</p>
<p>Rail – Track Responsibility for stations and track.</p>
<p>Rail – Services Responsibility for local train services through franchise arrangements.</p>
<p>Power of Direction Power of direction can be given to an ITA to direct the local authorities that they must or must not do certain things on specific roads or classifications of roads. Any use of this power would require the prior agreement of the local authorities concerned.</p>
<p>Annual Levy Agreed annual levy on the councils that make up the ITA. There are no precepting powers in the Local Transport Act.</p>

Timescales and Tasks for setting up an Integrated Transport Authority (ITA)

Task	Timescale
<p>Undertake a Review Two or more local authorities to review effectiveness and efficiency existing governance including:</p> <ul style="list-style-type: none"> • Problem analysis and identification of objectives • Identification and assessment of options • Conclusions • Preparation of an ITA scheme <p>Consultation during Review</p> <p>Joint Steering Group set up to oversee work of the review</p> <p>Publish ITA scheme and send to Secretary of State (SoS)</p>	12 months
<p>Secretary of State Response SoS will respond to but not formally “approve” or “reject” scheme. SoS will consider how scheme:</p> <ul style="list-style-type: none"> • Improves effectiveness and efficiency of transport • Reflects identities and interests of local communities • Secures effective and convenient local government • Costs, benefits and value for money • Fits with Sub-National Review • Level of support <p>If SoS decides to implement proposals the stages below will be followed.</p>	3 months
<p>Draft Order Order required and likely to be complex.</p>	9 months minimum
<p>Public Consultation SoS will consult authorities and persons considered to have an interest. Tasks are:</p> <ul style="list-style-type: none"> • Preparation of consultation material • Consultation period • Considering responses 	
<p>Parliamentary Consideration Order laid in draft before both Houses of Parliament and subject of debate. Secondary legislation passed.</p>	
<p>ITA Launched Structure of ITA, governance, elected and non elected members, staff appointed, accommodation and budgets all agreed and set up before formal launch of ITA.</p> <p>Shadow ITA or interim arrangements are possible.</p>	12 months