

**West of England Partnership
Joint Transport Executive Members Meeting
22 January 2009**

Issues Paper on the Local Transport Act 2008

Purpose of report

1. To consider issues arising from the Local Transport Act 2008.

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. These are discussed below.

New Bus Powers

3. The Act contains important changes to local authority powers over bus services:
 - Framework for Voluntary Partnership Agreements strengthened allowing elements of service and fare co-ordination between bus operators, which would not previously have been permitted by the Office of Fair Trading. This will be subject to a competition test.
 - Contract period of any subsidised service contract has been extended from a maximum of five years to eight years.
 - Provisions to allow statutory Quality Partnership Schemes (see below) to cover minimum frequencies, timings and maximum fares, and to allow local authorities to phase in improvements over a period of time.
 - Making Quality Contract Schemes (see below) a more realistic option, removing the need for approval by the Secretary of State and with new public interest criteria replacing the previous “only practicable way” test.
 - Changes to the community transport permit system to allow more flexible use of vehicles and payments of drivers.
 - Local authorities more accountable for bus service punctuality with the Traffic Commissioners given the power to direct spending on remedial measures.
 - Bus passengers given a new voice through Passenger Focus.

Quality Partnerships

4. The Act provides for a stronger leadership role for local authorities in terms of setting quality standards for local bus services through more effective partnerships with bus operators.
5. Statutory Quality Partnerships have been improved to impose minimum standards relating to frequency and timing and set maximum fares. These may only be implemented if there has not been an “admissible objection” from relevant bus operators. An operator may refer the matter to the Traffic Commissioner for a final determination.

Quality Contracts

6. Quality Contracts are in effect the franchising of a network of services similar to how bus services are run in London and rail franchises across the country.
7. A Quality Contract would allow an authority to specify and regulate bus networks – the frequency of buses, routes and fares. This could be for a town or a whole sub-region. Bus companies would be invited to bid to operate the specified network under a franchise arrangement.
8. Quality Contracts must be negotiated and consulted between partners, but the local transport authority now only needs to demonstrate a broader public interest rather than being the only practicable way of meeting local bus strategy objectives. A Quality Contract can be introduced if it is likely to result in:
 - increased bus use;
 - increased quality;
 - it will contribute to local transport policies in an economic, efficient and effective manner; and
 - adverse effects on operators are proportionate to these benefits.
 - affordable to the authority.
9. The local authority will take the final decision about whether a Quality Contracts scheme should be made in its area. An advisory Quality Contract Schemes Board, appointed by the Secretary of State, can give an opinion on Quality Contract proposals and make recommendations. For bus operators there is a right of appeal through a Transport Tribunal.
10. If a Quality Contract is in operation, and the existing operator stops providing the services for whatever reason, the Act allows the authority to become an operator of last resort for a maximum period of 12 months until a replacement operator can be sourced. The Act does not give local authorities the general power to run bus services.

Integrated Transport Authorities

11. This is the new name and new role for Passenger Transport Authorities. Integrated Transport Authorities (ITA) will have a wide responsibility in relation to local transport policies and plans, and will have powers to act for the economic, social and environmental well being of their area.
12. The Act is designed to assist the reforming of existing Passenger Transport Authorities in places such as Manchester, Liverpool, Birmingham, Leeds and Newcastle, and allow new Integrated Transport Authorities to be established as an alternative.
13. The Act will allow local authorities, both in areas with ITAs and in those without, to review existing arrangements in their area and come forward with proposals for improvements or new ITAs. Two or more authorities can undertake a review. The Secretary of State can direct two or more authorities to undertake a review if required.

14. It will be up to the authorities in each area to decide how wide a review it wishes to carry out. 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.
15. 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.
16. An ITA must consist of the whole area of two or more authorities. For the West of England, this would preclude parts of Wiltshire from an ITA unless the whole of Wiltshire were to be included. It could include districts in Somerset and Gloucestershire. No part of an ITA may be separated from the rest of an ITA by an area that is not part of the ITA.
17. 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 or amend the constitution of an existing one. This decision will have to go through the parliamentary process.
18. Voting membership of an ITA guarantees each 'representative council' at least one elected member and membership must reflect the local political balance of the authority or authorities. Non-elected members may be appointed to an ITA, e.g. business representatives or transport user groups, but must remain in the minority. Non-elected members may or may not be able to vote on issues.
19. The review of the area's current governance arrangements will be expected to take at least two years in order to be comprehensive and allow time for consultation with appropriate and affected organisations. The current guidance also recommends allowing 12 months after agreement before implementation.
20. There is no additional funding resulting from the creation of an ITA. The DfT expect greater efficiencies of operations will more than fund the cost of creation and running of the ITA. An ITA will be a levying (rather than precepting) authority.

Governance Reviews

21. Guidance on Governance Reviews to accompany the Local Transport Act 2008 was published by the DfT in December 2009. As well as covering ITA the guidance states that reviews need not necessarily lead to the creation of an ITA in areas that do not currently have one. Other options that would not require legislation and would be achievable quickly include creating a partnership board, joint committee or a non-profit company limited by guarantees.

Local Transport Plans (LTPs)

22. The statutory duty to provide a LTP every five years is replaced by a general duty to keep LTPs under review and update them as is seen fit (see Item 7b on the Agenda). If an ITA exists, responsibility for the LTP would rest solely with the ITA.

Next Steps

23. It is expected that the various elements and guidance of the Act will be implemented over the coming months. It should be noted that once the legislation is enacted, it might still take a considerable length of time to implement some of the changes, such as the introduction of an ITA or a Quality Contract.

Recommendation

That Executive Members views on the Local Transport Act are sought.

Officer presenting report: James White, West of England Partnership

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