

WEST YORKSHIRE PASSENGER TRANSPORT AUTHORITY

AUDIT & GOVERNANCE COMMITTEE

DATE: 29 JUNE 2007

AGENDA ITEM NO: 9

SUBJECT: LOCAL TRANSPORT BILL

Report of the Passenger Transport Executive

1. MATTER FOR CONSIDERATION

- 1.1. The draft Local Transport Bill and process for developing a Metro response.

2. INFORMATION

Background

- 2.1. A report to the 2 March 2007 meeting of the Audit and Governance Committee set out the expected contents of the Road Transport Bill and the issues in relation to governance and powers.
- 2.2. The draft Bill (now called the draft Local Transport Bill) was published on Tuesday 21 May. The publication of the draft Bill marks the start of a formal consultation period which runs until 7 September 2007.

Draft Local Transport Bill

- 2.3. The draft Local Transport Bill covers, as expected (and reported to the 22 June meeting of the Authority), the following three areas of local transport:
 - local bus services, including enhanced and stronger partnership arrangements, a stronger focus on bus performance, a new approach to bus franchising (Quality Contracts), an enhanced role for Community Transport and a review of bus subsidy.
 - powers and governance arrangements in metropolitan areas, with a recognition that current arrangements do not work as well as they might and the proposal that the Secretary of State would require 'metropolitan authorities to review and propose changes to their governance arrangements'. The draft bill specifically refers to the need to update the powers and duties of PTAs and for the PTA to prepare a new Integrated Transport Strategy and implementation plan for metropolitan areas.

- local road pricing schemes, with the aim of facilitating the development of local road pricing schemes by authorities that wish to do and ensuring consistency and inter-operability between schemes.
- 2.4. The draft bill has been published as a suite of four documents, covering
- Volume 1: A consultation
 - Volume 2: The Draft Bill
 - Volume 3: Explanatory Notes
 - Volume 4: Regulatory Impact Assessments
- 2.5. A summary of the draft Bill is included as Appendix 1. The draft Bill's first volume (Consultation) contains specific questions for consultees to consider. These questions are set out in Appendix 2. The Department for Transport (DfT) is holding a regional workshop on the draft Bill in York on 29 June.

Developing a Response

- 2.6. It is proposed that the three elements of the draft Bill are considered separately and that:
- responses to the questions on local road pricing be considered initially by individual authorities to inform the development of a City Region response;
 - Metro leads the West Yorkshire authorities input (through pteg and the PTA Special Interest Group) to develop responses to those parts of the Bill relating to local bus services;
 - The powers and governance implications of the proposed Bill are considered at a number of levels:
 - Implications for Metro (including a consideration of the preferred future model(s));
 - How the proposed model(s) would work at a West Yorkshire level;
 - How the arrangements might be expanded to cover the City Region.
- 2.7. It is proposed that the work on powers and governance is overseen by the Audit and Governance Committee and reported to the Passenger Transport Authority.

Initial Work on Powers and Governance Arrangements

- 2.8. Metro has undertaken some initial scoping work on the implications of the Bill for West Yorkshire and an initial workshop was held for officers involved with highways and transport in the five West Yorkshire districts.
- 2.9. It is recognised that attendees were contributing to a scoping discussion and did not necessarily reflect any formal position of their employing authorities. The following issues were raised as part of the discussion:
- the current arrangements do not always lead to optimal outcomes (for example conflict between local and strategic objectives);
 - decisions are not always taken at the right level;
 - there are sometimes conflicts between the objectives of the multitude of bodies involved in transport planning and delivery (e.g bus operators not signing up to LTP targets);
 - there is scope for efficiency savings;
 - there is a risk that the West Yorkshire / Leeds City Region could 'lose out' on potential new funding sources and delivery mechanisms if issues of powers and governance are not addressed;
 - there is a need for greater intelligence and modelling to provide a better evidence for decision making;
 - the political implications (including democratic accountability of bodies making strategic transport decisions) need to be addressed in the models considered;
 - powers of influence over both bus and rail services will be essential to achieve better implementation and integration.
- 2.10. Further discussion sessions are planned as part of the process of preparing a report on the benefits and disbenefits of various governance models.

Next Steps

- 2.11. It is proposed that a seminar is organised for members of the Audit and Governance Committee once initial scoping work has been completed.
- 2.12. A proposed response will then be brought to a future meeting of the Authority.

3. FINANCIAL AND LEGAL IMPLICATIONS

3.1. None as a result of the report.

4. STAFFING IMPLICATIONS

4.1. None as a direct result of the report. Any staffing implications as a result of the implementation of the Bill will be reported to a subsequent meeting of the Authority.

5. EQUAL OPPORTUNITY IMPLICATIONS

5.1. None

6. RECOMMENDATIONS

6.1. That the report be noted.

6.2. That the process for developing a response to the draft Bill as set out in section 2 be endorsed.

**Director General
West Yorkshire Passenger Transport Executive**

APPENDIX 1

Executive summary

THE CORE PURPOSE OF THE DRAFT BILL IS TO TACKLE CONGESTION AND IMPROVE PUBLIC TRANSPORT ...

E.1 The Department for Transport's aim is transport that works for everyone. This means a transport system which sustains economic growth and improves productivity; contributes to our objectives for tackling climate change and other environmental challenges; and enhances access to jobs, services and social networks, including for the most disadvantaged.

E.2 Rising demand for transport is a consequence of a strong and prosperous economy, and increasing globalisation of markets for goods and services. Against that background, and despite planned transport spending of some £140 billion over the ten years to 2015, congestion is expected to increase by 25 per cent over the same period.

E.3 As Sir Rod Eddington pointed out in his advice to government last December, the prospect of rising congestion now presents a significant risk to our future economic performance. We therefore need to act now to ensure that we are equipped to meet the future transport needs of our economy, while also continuing to meet our environmental and social goals.

E.4 There is no single policy that, by itself, will address all these issues. That is why our strategy is based around a broad package of measures. These include targeted increases in road capacity where justified, sustained investment in public transport, and better management of our existing transport networks.

E.5 The measures contained in the draft Bill form part of this wider strategy to address our future transport challenges. For the most part, the extent of the provisions in the draft Bill is confined to England and Wales, though a small number of measures would apply throughout Great Britain.

THE DRAFT BILL AS A WHOLE IS ABOUT EMPOWERING TRANSPORT DELIVERY AT THE LOCAL LEVEL ...

E.6 The draft Bill seeks to empower local authorities to develop local solutions to the local transport challenges they face, consistent with the devolutionary principles set out in the Local Government White Paper *Strong and Prosperous Communities*. It seeks to give those local authorities that need them strengthened powers to deliver a local transport system that is best suited to local needs by:

- giving them the mix of powers required to harness the investment and innovation of the bus industry to meet the specific needs of the local community;

- setting out proposals that would enable our major urban areas to strengthen their capacity to deliver efficient transport networks designed around local needs; and
- updating the legislative basis for those local authorities who decide to take forward local road pricing schemes as part of a package of transport improvements.

DEVELOPING THE BUS MARKET THROUGH STRONGER JOINT WORKING BETWEEN PUBLIC AND PRIVATE SECTORS ...

E.7 Buses play a key role in our transport system. They account for two thirds of all journeys made by public transport. The post-war decline in bus patronage is now levelling off, and we have seen the first year-on-year increases in patronage for decades. However, in too many places the current framework is still not delivering the quality of service that passengers expect. The draft Bill seeks to ensure we have a framework that enables more areas to replicate the successes that some areas have already achieved.

E.8 Last year we carried out an extensive review of bus services across the country, and in December 2006 published *Putting Passengers First*, a set of policy proposals designed to help improve the standard of bus services across the country. Taken together, they constitute a balanced package of measures, which aim to:

- promote more effective partnership working between local authorities and bus operators, to deliver services that are better matched to the needs of passengers in their local areas;
- make the implementation of 'quality contracts' schemes a realistic option in areas where it is in the public interest for local authorities to take greater control over bus services;
- provide a new regime to deliver better punctuality, for the first time holding local authorities as well as bus operators to account for their contribution to punctuality performance; and
- support further development of the community transport sector, by removing unnecessary restrictions and by streamlining the system for issuing permits to community transport providers.

E.9 The proposals were welcomed by local authorities and bus operators alike, and the draft Bill includes the legislative provisions that would support delivery of the policies set out in *Putting Passengers First*.

STRENGTHENING TRANSPORT STRATEGY AND DELIVERY IN OUR MAJOR URBAN AREAS ...

E.10 There is a broad consensus that the current arrangements for the administration of statutory transport functions ("governance") in the major English cities outside London do not adequately support effective transport planning and delivery. The existing legislation lacks flexibility and needs to be updated to reflect

changing patterns of transport needs and use. This need is likely to become more pressing as road congestion increases.

E.11 We are committed to ensuring that the structures in place in each area reflect what works best locally, rather than a “one size fits all” approach imposed from the centre. Our aim is devolution, not centralisation.

E.12 The draft Bill includes provisions to:

- require the major cities, and enable other areas, to review and propose their own changes to existing transport governance arrangements. The Secretary of State would be able to implement proposed changes through secondary legislation tailored to the needs of individual areas; and
- in all metropolitan areas outside London, update the existing powers and duties of the Passenger Transport Authorities (PTAs) and individual local authorities, and provide a stronger process for planning transport by means of an *Integrated Transport Strategy* and accompanying implementation plan.

CONTINUING TO SUPPORT THE INTRODUCTION OF LOCAL ROAD PRICING AS PART OF A PACKAGE OF TRANSPORT IMPROVEMENTS ...

E.13 Rising congestion on our roads, particularly in our towns and cities, increases delay and frustration for motorists, and could have a significant impact on our future prosperity, environment and quality of life. We cannot simply build our way out of congestion, so we need to look at alternative ways of tackling it. In particular, we need to consider seriously the role that road pricing – as part of a package of measures including better public transport – could play.

E.14 This is why in 2005 we called for a national debate on road pricing. In the first instance, the Government is working with interested local authorities to bring forward local schemes as local solutions to local problems. We have said that we will make funding available from the Transport Innovation Fund for schemes in England that combine demand management, including road pricing, with improvements to local transport.

E.15 The draft Bill would support this strategy by:

- ensuring that local authorities who wish to develop local road pricing schemes are free to do so in a way that is best suited to local needs, within a clear framework of local accountability; while
- ensuring that schemes are consistent and interoperable, so as to avoid unnecessary costs and complexity for road users who need to interact with more than one scheme.

E.16 No decision has yet been taken on whether or not to introduce a national road pricing scheme. Neither existing legislation nor the provisions in the draft Bill would provide the powers that would be needed for such a scheme: separate legislation would be required if, in the future, a decision was made to introduce a national

scheme. We have made clear that the earliest such a scheme could be introduced would be the middle of next decade, and there needs to be a full and informed public debate.

HOW TO HAVE YOUR SAY ...

E.17 Publication of the draft Bill is just the first step. We invite views from all interested parties on all aspects of the draft Bill and the accompanying documentation. The consultation closes on Friday 7 September, and Chapter 7 provides full details of how to respond.

E.18 In parallel with the public consultation process, the draft Bill is being made available to the House of Commons Transport Committee for Parliamentary pre-legislative scrutiny.

CURRENT SITUATION AND PROPOSED CHANGES

	Current Situation	Proposed Changes
Improving the quality of local bus services (Chapter 3)		
<p>Voluntary partnership agreements between local authorities and bus operators (<i>clause 24 and Schedule 2</i>)</p>	<ul style="list-style-type: none"> • Local authorities and bus operators voluntarily agree a package of improvements to local bus services, relying on mutual agreement to ensure promised improvements are carried through. • Local authorities can generally enter into bilateral agreements with individual operators without raising competition issues; this is more difficult for multilateral agreements for the things that matter most – timetables and fares 	<p>Strengthened voluntary agreements with a revised competition test to facilitate multilateral agreements between a local authority and more than one operator. The competition test would be consistent with other domestic and EC competition law requirements, but with terms tailored to the bus market.</p> <ul style="list-style-type: none"> • Such agreements could specify minimum frequencies, timings and maximum fares as appropriate
<p>Quality partnership schemes (<i>clauses 3 to 6</i>)</p>	<ul style="list-style-type: none"> • A local authority can make a scheme whereby it enters into a formal arrangement with bus operators, under which each party commits to certain improvements (e.g. operators who commit to invest in new buses are granted access to improved facilities such as bus priority measures). • Minimum frequencies, timings and fares cannot be included within the scope of a scheme, and all measures (by local authorities and operators) must come into effect on a single date. 	<p>Quality partnership schemes could cover minimum frequencies, timings and maximum fares as appropriate. Schemes would still be subject to the competition test in Schedule 10 to the Transport Act 2000.</p> <ul style="list-style-type: none"> • Improvements by local authorities and operators could be phased in over a period of time.

<p>Quality contracts schemes (<i>clauses 7 to 23</i>)</p>	<ul style="list-style-type: none"> • Local authorities can suspend the deregulated market in specified areas for a specified time, and following a competitive bidding process grant exclusive rights to a single operator to provide a specified service. • Before implementing a scheme, the local authority must demonstrate that it is the “only practicable way” to achieve a policy in their bus strategy; a scheme in England must be approved by the Secretary of State, and a scheme in Wales by the Welsh Ministers; and a scheme can last no longer than ten years, with individual contracts within a scheme limited to five years. 	<ul style="list-style-type: none"> • The “only practicable way” test replaced with a series of public interest criteria. • In England, the Secretary of State’s approval role replaced with a new framework for scheme approval and appeals. • The duration of a scheme could be extended beyond the current ten years in certain circumstances. • An increase to a maximum of ten years for individual contracts.
<p>Punctuality (<i>clauses 31 and 32</i>)</p>	<ul style="list-style-type: none"> • Traffic commissioners (TCs) are responsible for taking action against operators who are failing to provide services in accordance with the terms they have registered with the TCs. • But TCs have limited access to punctuality data to identify areas of under-performance, and have no means of holding local authorities to account for their contribution to bus punctuality. 	<ul style="list-style-type: none"> • To develop a new performance regime where the local TC receives better quality data; and local authorities, as well as operators, can be held to account for their contribution to the performance of local bus services (e.g. the provision and enforcement of bus priority measures).

<p>Community transport (<i>clauses 27 to 30</i>)</p>	<p>The voluntary sector plays a significant complementary role in providing transport services through two systems of permits under the Transport Act 1985.</p> <ul style="list-style-type: none"> • “Section 19” permits are issued to bodies concerned with education, religion, social welfare etc, for the use of vehicles with nine seats or more. They do not allow members of the general public to be carried. • “Section 22” permits allow the provision of local services for the general public, but prohibit the payment of drivers and the use of vehicles with more than 16 seats. 	<p>For section 19 permits: to allow the use of vehicles with fewer than nine seats, and to simplify the permit issuing system so that all permits are issued by TCs.</p> <ul style="list-style-type: none"> • For section 22 permits: to allow drivers on those local services to be paid, and to allow the use of vehicles with more than 16 seats.
<p>Taxi-buses (<i>clause 26</i>)</p>	<p>Only taxi owners can apply for a “special restricted” public service vehicle (PSV) operator’s licence, to enable them to provide local bus services.</p>	<p> Holders of a private hire vehicle (PHV) licence would also be able to apply for these licences</p>
<p>Flexibility for local authorities (<i>clauses 33 to 37</i>)</p>	<p>The Secretary of State must give consent for the sale of council-owned bus companies.</p> <ul style="list-style-type: none"> • Local authorities, and in Wales also the Welsh Ministers, have the power to subsidise local bus services only where transport needs would not otherwise be met. • Bus subsidy contracts may be no longer than five years. 	<p>This requirement would be removed.</p> <ul style="list-style-type: none"> • Clarification of powers to subsidise improvements in the standard of service (for example, frequency, hours of operation and quality of vehicle). • Limit for bus subsidy contracts extended to eight years.

<p>Traffic regulation conditions – appeals (<i>clause 25</i>)</p>	<p>Traffic regulation conditions may be applied to a public service vehicle (PSV) operator's licence by the TCs, at the request of a local traffic authority. In these cases, appeals against such conditions are currently heard by the Secretary of State.</p>	<p>Appellate function transferred to the Transport Tribunal, consistent with appeals against other decisions made by the TCs.</p>
<p>Reforming local transport governance (Chapter 4)</p>		
<p>Local reviews of transport governance arrangements (<i>clauses 39 to 55</i>)</p>	<p>Existing arrangements for planning and delivery of transport services in different areas set out in primary legislation.</p> <ul style="list-style-type: none"> • In Metropolitan areas, District Councils have responsibility for managing local roads. Passenger Transport Authorities and Executives (PTA/Es) are responsible for planning and implementing policies on public transport. • No powers exist to set up new PTA/Es or change geographical boundaries of existing ones 	<p>The Secretary of State would be able to direct local authorities in Metropolitan and other areas to review existing governance arrangements and publish a scheme with their proposals for change in order to improve effectiveness of transport in their area.</p> <ul style="list-style-type: none"> • The Secretary of State could issue guidance on carrying out reviews and schemes, and implement proposed changes through secondary legislation. Would allow for different arrangements according to needs of each area. • Subject to specific criteria, would allow establishment of new PTA/Es and changes to existing boundaries. • Areas would be able to keep their arrangements under review and submit further proposals for changes in future.

<p>Transport planning and duties (<i>clauses 56 to 63</i>)</p>	<p>Local transport authorities have responsibility for producing Local Transport Plans (LTPs) for their area (Metropolitan District Councils and PTAs undertake this duty jointly in Metropolitan areas).</p> <ul style="list-style-type: none"> • Local transport authorities and PTAs have an additional duty to produce bus strategies 	<p>For Metropolitan areas, the joint duty on district councils and PTAs to produce an LTP would be replaced with a duty on PTAs (including any successor bodies following implementation of proposals in a city's governance review) to produce an Integrated Transport Strategy (ITS) and an Implementation Plan.</p> <ul style="list-style-type: none"> • Bus strategies would be absorbed into the ITS in Metropolitan areas. • Secretary of State would be able to issue guidance on producing ITSs and Implementation Plans. • Local authority "wellbeing" powers would be extended to PTAs. • A new duty would be placed on PTAs and metropolitan district councils to have regard to Government policy and guidance on climate change in carrying out their functions.
<p>Taking forward local road pricing schemes (Chapter 5)</p>		
<p>Local freedom and flexibility: Role of PTAs (<i>clauses 64 to 70</i>)</p>	<ul style="list-style-type: none"> • A local road pricing scheme can be set up only by one or more local traffic authorities (LTAs 	<ul style="list-style-type: none"> • A scheme could be made jointly by LTAs and the relevant Passenger Transport Authority (but not by a PTA acting in isolation).

<p>Role of Secretary of State (<i>clauses 72 and 73</i>)</p>	<p>A scheme must be approved by the Secretary of State.</p> <ul style="list-style-type: none"> • There is a specific power for either a local authority or the Secretary of State to hold an inquiry into a local scheme, or to cause such an inquiry to be held. 	<p>A new framework of local accountability would replace the current role for the Secretary of State in approving schemes and local authorities' plans for the application of the net proceeds from schemes.</p> <ul style="list-style-type: none"> • The power enabling the Secretary of State to hold an inquiry into a local scheme (or require a local authority to do so) would be repealed, but a local authority would still be able to hold such an inquiry if it wished.
<p>Purpose of schemes and application of revenues (<i>clauses 65(2), 71, 81 and 82</i>)</p>	<ul style="list-style-type: none"> • Local pricing schemes must support the achievement of policies in the authority's Local Transport Plan. • Application of revenues for the "initial period" of an "early relevant scheme" (as defined in the legislation) must support the achievement of policies in the Local Transport Plan. 	<p>References to Local Transport Plans would be replaced by (more general) references to local transport policies.</p> <ul style="list-style-type: none"> • The requirement for the application of revenues by local authorities to support local transport policies would apply to all local schemes at all times. • Local authorities would be under a new duty to consider potential impacts on climate change and air pollution when considering whether to introduce a scheme.
<p>Variation of charges (<i>clause 74</i>)</p>	<p>The current legislation includes an indicative list of variables by which charges might be varied in a local scheme.</p>	<p>Legislation would specify that charges could also be varied according to the methods or means of recording, administering, collecting or paying the charge.</p>

<p>Consistency and interoperability (clauses 75 to 77)</p>	<p>Secretary of State can make regulations covering the “installation and maintenance” of equipment for road pricing schemes.</p>	<p>This power would be extended to cover the “use” of equipment, so that (for example) standard data formats, encryption standards and equipment numbering systems could be specified.</p> <ul style="list-style-type: none"> • The appropriate national authority could make regulations requiring charging authorities to accept payment from specific types of road user in a specific manner.
<p>Information flows (clauses 78 to 80)</p>	<p>Certain information held by central government can be useful to local authorities designing or operating a road pricing scheme, but central government cannot charge to cover the administrative costs of providing that information.</p> <ul style="list-style-type: none"> • The appropriate national authority can request information from charging authorities, but cannot require them to provide it. 	<p>The appropriate national authority would be able to charge a reasonable fee to cover the costs of supplying such information.</p> <ul style="list-style-type: none"> • The appropriate national authority would be able to require charging authorities to provide information about their schemes, for example to inform the future national debate on road pricing.
<p>Traffic commissioners (Chapter 6)</p>		
<p>Senior traffic commissioner (STC) (clause 1)</p>	<p>STC appointed administratively, possesses no statutory powers and can promote consistency only through agreement with other TCs.</p> <ul style="list-style-type: none"> • Secretary of State able to issue general directions to the TCs. 	<p>Role of STC placed on a statutory footing, with power to issue directions and guidance to the individual TCs covering any aspect of the conduct of their functions.</p> <ul style="list-style-type: none"> • Secretary of State would be able to issue guidance to the STC on matters of generic process and policy.

Annex B – Summary of consultation questions

Chapter 3

Q1: What are your views on the proposals relating to:

- (a) voluntary partnership agreements;
- (b) quality partnership schemes;
- (c) quality contracts schemes;
- (d) bus punctuality;
- (e) community transport; and
- (f) other measures?

Q2: What are your views on the specific questions relating to competition legislation (Box 3.4)?

Q3: Do the proposed “public interest” criteria for quality contracts schemes cover the right issues (Box 3.5)? Do they strike the right balance between making schemes a realistic option and protecting the legitimate interests of bus operators?

Q4: How can the proposed new bus punctuality regime (paragraphs 3.32 to 3.39) best be designed to achieve the desired benefits at minimum cost, particularly for smaller operators?

Q5: Do the proposals to amend the existing powers relating to subsidy contracts provide sufficient flexibility to meet local authorities’ needs (paragraph 3.47)?

Chapter 4

Q6: Do you agree that governance arrangements in the metropolitan areas outside London require reform?

Q7: Do you agree that there is a need for flexible arrangements which allow for variation in the governance developed for different areas?

Q8: Do you agree that the cities themselves should be asked to publish proposals on revised governance? Do you have views on which body or bodies should be asked to prepare those proposals?

Q9: Do you agree that the Bill should enable broad changes, or should there be limitations on what change might be allowed?

Q10: Do you think that the power to review and amend governance arrangements should allow development over time, or should the powers lapse after an initial review?

Q11: Do you agree with the changes we are proposing to the powers and duties of PTAs in all the metropolitan counties?

Q12: Do you agree with the proposed changes to Local Transport Plans described in paragraphs 4.43 to 4.45? Should these changes be applied only to the metropolitan counties, or should they be applied elsewhere, for example to other city regions?

Chapter 5

Q13: What are your views on the proposals relating to:

- (a) local freedom, flexibility and accountability (paragraph 5.18), including the proposals in Box 5.1;
- (b) consistency and interoperability (paragraph 5.22); and
- (c) information (paragraphs 5.26 and 5.29)?

Chapter 6

Q14: To what extent is there a problem of 'inconsistency' between the approaches of the different traffic commissioners, and what costs does this impose on PSV and goods vehicle operators?

Q15: Do you agree that the proposals outlined here would help to reduce those costs?