

ENVIRONMENT, PLANNING AND TRANSPORT COMMITTEE

Date: Wednesday 7 March 2001
Time: 2.00 to 5.00 pm
Venue: Committee Room X, National Assembly Building

TRANSPORT POWERS: PAPER BY EXPERT ADVISER

Introduction

1. This paper sets out the powers available to the various agencies with transport responsibilities in Wales, from the UK Government, National Assembly for Wales, through to local government, and including other agencies, and a comparison between the powers available to the National Assembly and the Scottish Parliament.

Transport Powers, and Where They Reside

2. Current responsibilities, and the relationship between all the various agencies involved in transport, which have an impact upon public transport, are set out in the appendix to this report, for information. Specific powers, of significance, are set out below.

a) DETR, London

3. The UK Secretary of State for the Environment, Transport and the Regions (DETR) is responsible for overall UK transport policy, and the regulatory framework for all modes. Typically, this would include:

- Roads - highway code, speed limits, vehicle (construction and use) regulations etc
- Rail - legal framework, regulation and financial support
- Buses - overall regulation, safety, competition and reliability
- Air - promotion and regulation of air services
- Shipping - promotion and regulation

4. The DETR Secretary therefore controls the legal and policy framework for Wales (significantly), as well as the regulation and support of specific modes of transport. Before devolution, he consulted with the Secretary of State for Wales, but there was no statutory requirement to do so. Distinctive Welsh policy has been difficult to detect, therefore. Post devolution, consultation still takes place, but there is still no statutory requirement for the UK Secretary to reflect Welsh policy.

b) National Assembly for Wales (NafW), Cardiff

5. NafW's current powers are relatively limited, and cover:

- Trunk roads and Motorways - maintenance and development
- LA roads expenditure - through LG finance and specific grants
- Public transport - through LG settlement and specific grants
- Freight - through Freight Facility Grants

6. There is no direct control over other modes other than investments through Transport Grant for infrastructure not provided in any other way. In particular, rail, maritime, ports, inland waterway, air policy, and even taxi regulations, are all controlled by DETR in London.

c) Local Government (LG)

7. LG's role is based upon their specific transport powers, allied to their wider role of community planning, leadership and provision of other, related, services.

8. Following Transport Act 2000 enactment, LG are charged with:

- Preparation of Local Transport Plans
- Considering use of powers for workplace charging and congestion charging

9. LG can, via revenue budgets, support:

- Socially necessary bus services
- Community transport schemes
- Concessionary fares
- Some, limited, rail services
- Limited on street equipment and traffic functions
- Traffic regulation support to bus operations

10. LG can support through capital and grant finance:

- Infrastructure developments for buses
- Limited rail schemes
- Ticketing and interchange improvements

d) Community Councils

11. Community Councils enjoy some parallel powers to Unitary Authorities in LG legislation. This extends to the ability to sponsor, or provide, streetside equipment such as shelters, with the siting approval of the UA, and some limited contribution powers towards the running of services. Powers to create traffic orders to support public transport do not exist.

12. These powers have rarely been invoked, and there is far from universal coverage of Community Councils across the areas of each unitary authority.

Commentary

13. Where powers reside at Westminster, a close working relationship is required to ensure Wales' views are given due consideration. Also there are numerous boundary issues that necessitate co-operation along the Welsh-English border, between adjacent regions or authorities.

14. It was established by the former Wales Transport Advisory Group (WTAG) (Annex 3, item 9), that to achieve a fully integrated transport policy in Wales, that NAFW and its Executive and LG, between them would need to have the policy making role for, and power to finance:

- Road construction, investment and maintenance
- Bus service frequencies, routes, subsidy levels, contract payments and investment incentives
- Rail investment (DETR/Railtrack/Strategic Rail Authority (SRA))
- Rail passenger service levels and contractual arrangements with Train Operating Companies (TOC's) (SRA)
- Environmental issues
- Land use / development
- Current Traffic Commissioner powers (DETR)
- Traffic reduction / management policy and regulation (DETR/NAfW)
- Personal safety of pedestrians, cyclists and mobility impaired
- Liaison with SUSTRANS in Wales

- Airport development (DETR, Civil Aviation Authority (CAA))
- Air service development and regulation (DETR, CAA)
- Bus industry regulation (DETR)
- Public transport policy development (DETR)
- Rail regulation and user group representation (Office of the Rail Regulator (ORR), RPC's)
- Regulatory framework for taxis / private hire cars etc (DETR)
- Port development (DETR)
- Shipping services development (DETR)
- Inland waterways (BW)

- Integration of road / rail freight operations (PACT, Railtrack, DETR)

15. To achieve full integration, as can be seen, apart from DETR, there are at least six other agents involved! Is this sustainable into the longer term?

Issues

- The absence of non road powers at the NAFW constricts the ability of NAFW to develop a truly integrated policy in Wales?
- Is there sufficient interest in Westminster politics to understand the distinct needs of Wales and deliver them?
- The NAFW's ability to focus upon strategic transport matters and on integrating transport considerations with other policy areas such as economic development, health and education?
- NAFW's ability to control and steer all transport investment decisions for Wales?
- How can regional strategy be delivered in Wales?
- Are existing consortia adequate, can they be built upon with binding compacts or concordats to deliver NAFW's policy?
- If not, what is needed – PTA/E's, Strategic Boards, Transport Partnerships? – and how will the players relate to each other?
- Will present non binding concordats with DETR, SRA, and private providers be sufficient to deliver integrated transport policy?
- Should SRA be restructured so as to give a clear responsibility for Wales to a Welsh Board Member accountable to NAFW, or at least subject to scrutiny by NAFW?
- Can NAFW's framework for transport be delivered with NAFW only having effective control over LG expenditure and priorities?
- How can non road investment decisions and processes be "captured" to the benefit of Wales?
- Should there be a Welsh Traffic Commissioner, sitting in Wales, accountable to NAFW?

UK Nations Comparisons

16. The above and attached set out the UK National and Welsh National powers and responsibilities. But, how do these compare with other UK Nations and devolved administrations?

17. The comparison with Scotland is interesting. The Scottish Parliament combines the policy making roads framework and NAFW type road controls. Prior to devolution, Scottish transport legislation was separate from England and Wales legislation. Scotland, therefore, does not suffer from the overall policy / roads funding split as between Westminster and Cardiff.

18. With rail, as was examined on the fact finding visit, the devolution settlement has provided

for rail policy control by the Scottish Parliament. It is regulated by the Scottish Parliament and Executive, by the issue of objectives, instructions and guidance to the SRA, who then procure matters such as service levels and fares policies, within appropriate contractual constraints. But control is with the Scottish Parliament, not the SRA. This is in stark contrast to Wales, where there is not a recognisable Welsh dimension to the SRA.

19. The franchise comparison is now similar, with ScotRail covering nearly all Scottish services, like the new all Wales franchise. The Scottish cross border exceptions are Virgin and Great North Eastern Railways, similar to Virgin and Great Western Trains in Wales, relative to the single franchises. However, even on these cross border franchises and routes, Scottish Ministers can issue (non binding) guidance, and this is recognised in legislation, as is their ability to issue (binding) guidance on long distance sleeper services, recognised as a specific Scottish interest upon which Scottish Ministers have the right to decide.

20. During Parliamentary scrutiny in Scotland, the provision for workplace parking charges was dropped, unlike the Transport Act 2000 covering England and Wales. This has removed a possible funding source for public transport improvements.

What is the Vision? What are the Options?

21. Assembly process:

Minister

- Sets objectives
- Prepares plans
- Allocates funds

Committee

- Scrutinises policy and objectives
- Debates proposals
- Observes on budgets and allocations

22. What additional powers needed to deliver this process?

- Rail
- Maritime / ports / shipping
- Air / Air services
- Inland waterways
- Taxi regulations

23. Assuming that the Assembly / Executive relationship is adequate, and no "non Government" Agency or body is needed to supplement the Civil Service, consideration turns to delivery of policy nationally and regionally in Wales.

24. Options available, in generic description terms, are:

- **Status Quo "plus"**

Refine existing arrangements based upon existing players and powers

- **Wales Wide Passenger Transport Board**

To combine the existing NAFW support with "top sliced" responsibilities from LG for strategic transport matters, added to transferred powers from "England and Wales" agencies.

- **Regional Consortia**

Build up existing LG Consortia by enabling bespoke secretarial support; agreeing binding 5 year compacts; and charging them with policy delivery, to agreed budgets, comprising NAFW vote and allocated constituent local authority moneys.

- **Separate PT Regional Boards**

Separate from LG, and set up as free standing Boards with co-opted LG members and industry members, but with specific powers to deliver NAFW's regional policy. Answerable directly to NAFW or Minister.

25. For either a Wales wide Board, or Regional Boards, or Regional (strengthened) Consortia, what range of duties could be visualised? A possible menu could be:

Regional public transport "LTP" – A Regional Passenger Transport Plan (RPTP) 10 year development plan, including at a **policy level**:

- Rail co-ordination
- Rail regulation and control (to Wales Division of SRA)
- Bus and rail policy
- Air policy, development and services
- Medium to long term firm linkage with land use planning
- Quality control and "Inspectorate" functions
- Bids, funding and evaluation

And, at an **implementation level**:

- Bus co-ordination, integration with rail
- Bus franchising
- Interchange and interticketing
- Timetable integration and passenger information
- Bus related traffic management powers (cf London)
- Bids, evaluation and programme management

26. Guidance is sought on these generalised questions and issues, and possibilities, as a prelude to more detailed work being done, on those options attractive to Members, and papers brought forward for Committee's consideration.

Denys Morgan
Expert Adviser

ANNEX

ROADS STATUTORY POWERS

The NAFW has a statutory role under the Highways Act, 1980, as Highway Authority for the Trunk Road network in Wales. This duty covers maintenance of the existing trunk road network, reviewing the adequacy of the network, and carrying out, where necessary, improvements to safeguard road users and meet public needs.

Non trunk roads are the responsibility of local authorities. NAFW exercises responsibility over the provision of funds for local authority road expenditure, through Revenue Support Grant (RSG) and Basic Credit Approval (BCA) mechanisms. Grants and credit approvals are payable to LA's via Transport Grant for major road, transport package and other transport expenditure which cannot be financed through BCA allocations.

NAFW also possess a number of powers which relate to the roads network generally. Examples are road safety and traffic signs. NAFW powers do not extend to testing and licensing of drivers and vehicles, and the regulation of the road haulage industry.

Public Transport Statutory Powers

NAFW has very few powers in relation to public transport. In particular, the Secretary of State for the Environment, Transport and the Regions administers the following on a UK or GB basis:

- Setting the policy framework for public transport generally;
- Regulating the railways, and the provision of financial support for passenger rail services (partly now vested in SRA);
- Regulating the bus industry, and the promotion of safety, competition and reliability;
- Setting the regulatory framework for taxis and private hire vehicles;
- Promoting and regulating air services, and setting the policy framework for airports;
- Promoting and regulating shipping, and setting the policy framework for ports.

NAfW does have direct responsibility for the provision of funds for LA expenditure on public transport (subsidised, socially necessary services, or concessionary fares). Within their overall budget allocations, the amount spent on public transport is a matter for LA's to decide, taking account of their assessment of local priorities. Since 1998/99, additional funds have been made available for bus subsidies by LA's, via the Special Grant Report mechanism.

A few specific public transport powers are vested in the NAfW, in addition to Transport Grant for integrated transport packages:

- Freight Facility Grants towards the costs of facilities to transfer freight from road to rail or inland waterway.
- Rural Transport Grant towards the cost of rural public transport services (currently being consolidated by NAfW).
- Limited regulatory powers in relation to the subsidised public transport services provided by LA's (e.g. on the tendering of services).
- Limited regulatory powers in relation to concessionary fares schemes operated by LG (e.g. order-making powers to extend eligibility of classes of people qualifying for travel concessions).
- A requirement to consider proposals for the sale or financial restructuring of LA owned bus companies.

NAfW can seek to influence the wider policy debate to ensure that Welsh interests are taken into account

Organisational Structure

NAfW responsibilities for trunk roads are carried out by the Transport Directorate, with LA's responsible for other roads. A number of other regulatory functions are carried out in Wales by the following UK or GB wide bodies which report back to the Secretary of State for DETR:-

- **Driving Standards Agency** which promotes road safety by testing drivers and instructors;
- **Vehicle Certification Agency** which administers EU and domestic type approval

schemes;

- **Vehicle Inspectorate** which ensures that goods vehicles, buses and passenger vehicles are maintained and operated to the required standards;
- **Driver and Vehicle Licensing Agency** which has responsibility for licensing drivers and for the registration and licensing of vehicles, and the collection of Vehicle Excise Duty;
- **Traffic Commissioners** who administer the operators licensing system for goods vehicles and buses, as well as the registration of local bus services. Since April, 1999, there has been a single Traffic Area for Wales, administered from Birmingham, by a joint Area appointee. No Commissioner has sole responsibility for Wales;
- **Strategic Rail Authority** which since Transport Act 2000 enactment has assumed powers of the former British Railways Board, as well as providing support for train operating companies for socially necessary passenger rail services and ensuring that operators meet contractual obligations in their franchise agreements (former OPRAF powers), and consumer protection functions (formerly with ORR) and for the payment of rail freight grants (although FFG's will be administered by NAFW);
- **Office of the Rail Regulator (ORR)** which seeks to promote competition as well as ensuring that Railtrack delivers the maintenance and investment underpinned by track access charges;
- **Health and Safety Commission** which exercises the Secretary of State for DETR's responsibilities for passenger safety on the railways.

Both bus and rail services in Wales are provided by private sector operators, who number some 600 (bus and coach) and include some major operators. Passenger rail services are provided by, at present, TOC's of Cardiff Railway Company, Central Trains, First Great Western, First North Western, Virgin Cross Country, Virgin West Coast, and Wales and West. Only Cardiff Railways operate 100% within Wales. Freightliner and English, Welsh and Scottish Railways(EWR) provide freight services. A single all-Wales franchise is under procurement for operations from 2004 onwards.