

Evidence from Prospect

Introduction

Prospect is the 8th largest union in the UK and we represents over 142,000 working people across the UK. We focus on professionals, managers, technical experts and craftspeople working in a huge range of industries. We cover both public and private sector employers of which over 7000 are based in Wales. We are one of three recognised trade unions for Welsh Government and other devolved public bodies in Wales.

We have many members currently working for Transport for Wales and are currently one of the recognised trade unions there.

The union holds progressive views, is not affiliated to any political party and aims for a co-operative approach with employers. To find out more about the union you may wish to visit the website - www.prospect.org.uk

Terms of Reference:

The Committee would like to hear views on the governance and future development of TfW, including:

- Whether the current governance, structure and funding of Transport for Wales are effective and transparent.
- What action should be taken to develop these aspects of the organisation? And what other governance models and good practice are available?
- The future role of Transport for Wales in delivering transport policy. What additional responsibilities should it take on and how should these integrate with the role of the Welsh Government, local government and emerging regional transport authorities?

The focus of Prospect's response to this consultation is on governance.

Prospect does not believe that the current governance arrangements of Transport for Wales are as effective and transparent as they could be, there is no clarity about the governance of TfW. The employment practices, terms and conditions within TfW are impossible to identify and we are unsure as to how TfW fits with 'One Wales Public Service'.

This is a particular concern for a body that “ key to delivering the Welsh Government’s key themes as set out in Prosperity for All: The National Strategy” and “exists to drive forward the Welsh Government’s vision of a high quality, safe, integrated, affordable and accessible transport network that the people of Wales are proud of.” (TfW Website – About)

TfW states that they are; “committed to good employment practices through our supply chain to ensure that all workers, at every stage are treated fairly and equally, as outlined in our Modern Slavery Statement. We encourage all our suppliers to follow The Code of Practice on Ethical Employment in Supply Chains.

We’re an advocate for the National Living Wage, a voluntary hourly rate that is set by the Living Wage Foundation based on the cost of living. Our adoption of The Living Wage rate is to do our part in creating a prosperous, equal and responsible Wales.” (TfW Website – Our Approach)

While this is commendable, Prospect feels that more can be done to improve the quality of governance and make it consistent with the principles of making Wales a fair work nation and help deliver good working outcomes for all. We would like to draw attention to the following principles which should be incorporated into the TfW governance structure.

Good Work – The Taylor Review of Modern Working Practices – identifies that the best way to achieve better work is through “responsible corporate governance, good management and strong employment relations within the organisation” This is why it is important that companies are seen to take good work seriously and are open about their practices and that all workers are able to be engaged and heard.

TfW is owned by Welsh Government, with the latter signed up to an industrial relations approach based on partnership with its recognised Trade Unions. It has been stated that those in TfW will not be civil servants, although the most senior staff in TfW appear to have the unique dispensation to retain their civil servant status as they are on secondment. Yet lower grades, if transferred will be compelled to lose that status and the associated employee benefits.

Concerns have been raised that it appears TfW is staffed by external consultants, paid a multiple of civil servants’ salaries while civil servants provide them with the background information and policy lines to support their work; with reports often coming back to the people who held the data in the first place. To whom are they accountable?

Transport members within WG are increasingly concerned that a ‘tupe’ transfer could be forced upon them without reassurance that basic good working practices, policies and processes that are tested, proven and exist within WG will be transferred.

The process to date has provided staff with no confidence that TfW will be a good employer, will align with WG Policy and Public-Sector values as opposed to a WDA type quango.

In 2012 a revised partnership agreement for public services in Wales entitled Partnership and Managing Change was agreed between the Welsh Government (WG), Wales TUC Cymru, Welsh Local Government Association (WLGA) NHS Wales and other stakeholders associated with the Workforce Partnership Council (WPC). The Agreement develops the concept of Social Partnership in Wales, with trust and shared understanding representing the cornerstone of such social partnerships. The agreement set out a shared vision by the stakeholders for public services in Wales and made a commitment to a set of principles relevant to managing change in public services.

This agreement takes account of developments at the Public Service Workforce Partnership Council including Working together for Wales – A Strategic Framework for the Public Service Workforce in Wales and the importance of sector groups (including the devolved civil service group) to the work of the WPC.

The Partnership Agreement informs the way that business is conducted between management and the Trade Union Side (TUS). This was previously carried via Whitley Council arrangements, known since 2009 as the Partnership Forum. This is in addition to any informal working arrangements that may also be in place.

The WG management and TUS (which consists of the three Trade Unions formally recognised by WG; Prospect, PCS and the FDA) are committed to effective partnership working and agree that a shared vision for improving delivery of public services in Wales and the lives of the people who work within the government can be best achieved by this approach.

Mutual Objectives

The WG & TUS are committed to effective industrial relations, through a social partnership approach, working at all levels within WG, both structurally and geographically. This includes a commitment to:

- The continued success of WG
- Developing and maintaining WG as an exemplar employer
- Working with trade union members and management to ensure there are no barriers to delivering Ministerial priorities.
- All members of staff being supported to deliver an effective service for the people of Wales.
- A mutual understanding of the context in which we are all working and a shared commitment to resolve the key challenges that this creates for management and unions.

Prospect is unaware of a similar agreement within TfW and despite recent discussions with the organisation remains unconvinced of its commitment to establishing one. This is disappointing in the context of the Taylor Review. What is particularly difficult to understand, however, is the inconsistency between WG's

commitment to partnership and TfW's reluctance to it. Why this has not been mandated by WG (the owners) from the outset is unfathomable.

In its report [ALL ABOARD - Making worker representation on company boards a reality](#), the TUC sets out the case for worker representation on boards - how it works in practice in other European economies - and how it could be put into practice in the UK.

The case for worker representation on boards

Prospect believes that the case for work place representation on boards is a strong one, for the following reasons:

- Enhancing the quality of board decision-making
- Workers have an interest in the long-term success of their company; their participation would encourage boards to take a long-term approach to decision making.
- Worker board representation would bring people with a very different range of backgrounds and skills into the boardroom, which would help challenge 'groupthink'.
- Workers would bring the perspective of an ordinary worker to bear on boardroom discussions and decisions; evidence from countries with worker board representation shows that this is particularly valued by other board members.
- Workforce relationships are central to company success, and worker board representation would help boards to manage these key stakeholder relationships more effectively.

The importance of a voice

Workers' interests are affected by the priorities and decisions of company boards and it is therefore a matter of social justice that they should be represented within those discussions.

Representation in practice

Evidence from Europe

- Worker board representation is in place across most of Europe; the UK is one of a minority of European countries with no rights for workers' voice within corporate governance.
- In 19 out of 28 EU Member States plus Norway (i.e., 19 out of 29 European countries), there is some provision for workers' representation on company boards, and in 13 of these countries the rights are extensive in that they apply across much of the private sector.
- There is no one model of workers' board representation across Europe, and the way in which it operates varies from country to country.
- Research shows that where worker board representation is in place, the contribution of worker representatives is valued by other board members.
- Countries with strong workers' participation rights perform better on a whole range of factors, including R&D expenditure and employment rates, while also achieving lower rates of poverty and inequality.

UK precedents

FirstGroup plc has had an employee director since the company's inception in 1989. A FirstGroup spokesperson said:

"We are proud of our long history in bringing the voice of our workforce into the boardroom through our Employee Directors. In our experience, the perspectives and input of Employee Directors aids decision making and demonstrates the company's desire to hear from our workforce. It complements the strong and positive relationship we have with trade unions, rather than being a substitute for normal industrial relations. Directors and workers alike find Employee Directors invaluable in providing a closer link between the depot and the boardroom."

There are other areas in which unions and workers are well-practiced in carrying out a representative role which has parallels with board representation, including collective bargaining, health and safety representatives, Trade Union Member Nominated Trustees, Green Workplace Representatives and European Works Council representatives.

A particularly relevant case study - in the context of this consultation and our response - is the Transport for London Governance structure.

TfL is a statutory body created by the Greater London Authority (GLA) Act 1999. This Act gives the Mayor of London a general duty to develop and apply policies to

promote and encourage safe, integrated, efficient and economic transport facilities and services to, from and within London.

The GLA Act (Schedule 10) sets out how the Board may establish committees and how it may delegate certain functions to either those committees or to an officer(s) of TfL.

The delegations are set out in the Scheme of Delegation which is included in the standing orders. That document, along with the TfL committees and panels document setting out the terms of reference and the membership for the committees and advisory panels, are on the standing orders page in Publications & reports.

TfL's code of corporate governance provides further details of their governance arrangements, particularly around risk management and standards of conduct. They are committed to acting in accordance with the Nolan Principles of public life, namely: selflessness, integrity, objectivity, accountability, openness, honesty and leadership <https://www.gov.uk/government/publications/the-7-principles-of-public-life>. Prospect feels that it would be beneficial to have TfW explicitly state their commitment to these principals.

The actual board is currently made up of seven women and five men and the Mayor and Deputy Mayor for Transport. In addition a further board member, to represent workers, is nominated by the TUC.

The previous TfL Board included 13 men and four women, with no BAME representative. By contrast, the Mayor's new Board is 57 per cent female, 29 per cent BAME and 13 per cent with a disability – with the final position to fill. So it is worth noting that while the current board is representative of a way that we would approve of, in TFW, it is not mandated, so we would want a representative structure such as this enshrined as mandatory in the constitution of TFW.

A public notice of the date, time and venue for meetings for TfL board meetings is published on the TfL website as well as at their head office and the meeting venue. The meetings are held in public unless information that is exempt from publication needs to be discussed.

All papers (unless exempt from publication or accepted by the relevant Chair as an urgent item) are published five clear working days before each meeting.

Board meetings are also recorded and webcast live. You can access the live stream or recordings on the GLA website.

Pan Wales focus

TfL is obviously focused on the London and the surrounding area, Prospect believes that a firm commitment from TfW to commit to delivering a high standard of service across Wales as a whole would be most welcome. We would also wish to see a fully integrated public transport system in place across the whole of

Wales, which provides affordable, sustainable and convenient transport services for all the people of Wales.

Whether TfW should have additional responsibilities - and indeed retain its existing responsibilities - should depend on the key objectives the Welsh Ministers decide to set for transport. A comprehensive and transparent analysis of the options for achieving those objectives in the most efficient way, we understand, was never undertaken in respect of TfW's existing responsibilities.

On the basis of the evidence provided, Prospect believes that governance transparency and accountability can be improved at TfW by:

1. TfW committing itself to the Good Work principles set out in the Taylor Review, particularly those concerning corporate governance and strong employment relations.
2. Implementing a partnership agreement - consistent with that which exists within the body that owns TfW - that commits all parties to constructive industrial relations and treats TfW in line with the principle of One Public Service Wales.
3. Having a worker representative on the board, as is the case in TfL.

In terms of general governance, Prospect is squarely behind the principle of devolution and would welcome as much of transport funding, decision making and setting fares, being delegated to TfW via the Welsh Government as much as possible. It is surely beneficial for the people of Wales to be in control of the transport infrastructure they use on a daily basis. We would be as supportive as possible of transport policy in Wales being fully devolved to the people of Wales.

A useful example is that which is currently in place in Scotland under Transport Scotland. In that organisation they have eight separate Transport Scotland directorates:

- Aviation, Maritime, Freight and Canals
- Bus, Accessibility and Active Travel
- Finance and Corporate Services
- Low Carbon Economy
- Major Infrastructure Projects
- Rail
- Roads
- Transport Strategy and Analysis

Each section has its own separate director and organisation but all operate under a single senior management team (which meets and publishes its minutes every month) and are all part of an integrated transport strategy. In addition they also publish monthly reports showing all items of expenditure over £25000.

As more transport policy is devolved to Wales, Prospect feels a similar system of governance would be beneficial. However we must ensure that the structure of TfW does not become top heavy, without the expertise to deliver the range and quality of work demanded from those who are currently civil servants. From the wide range of job adverts currently appearing for TfW, it appears the organisation is growing exponentially, albeit without any apparent workforce plan, or analysis of what roles currently could be transferred from WG.

Other Issues

The sense of many of our members is that the development of TfW as a centre of excellence is a very positive step forward. However, that vision has not been clearly set out despite ample opportunity. This has significantly delayed the development of a business case and the subsequent transfer of functions. The only logical explanation of why WG has struggled so much with developing the business case is that the transfer of functions is being considered for reasons that will not stand up to scrutiny.

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The models being suggested as examples of how TfW could manage highways, for example, include TfL, TfGM and Mersey Travel. None of the models referenced include the separation of policy and delivery that is being considered for the WG / TfW transfer of functions. The implications of this, including the crucial detail of how Welsh Ministers can be protected in their duty as Highway Authority if they do not have competent staff within WG do not appear to have been considered. No evidence has been presented on how scenarios might play out and there is a risk that roles will be duplicated in TfW and WG if this detailed thinking is not undertaken before any transfer of functions happens.

Wales is too small to have a myriad of transport plans and projects. We support Public Service Transport and a One Wales Public Service. Transport for Wales is a not for profit company, wholly owned by the Welsh Government. Transport for Wales exists to drive forward the Welsh Government's vision of a high quality, safe, integrated, affordable and accessible transport network that the people of Wales are proud of. We want TfW to be fully integrated into the Public Sector, to not only

look and feel like an excellent example of a Public Service but to deliver on the principles and values. As a new organisation this should be a shining example, it currently feels like a missed opportunity.

For Transport for Wales as a new organisation to be seen as a success, not only amongst its staff but as importantly by the people of Wales it must adhere to the principles of openness, transparency, integrity and honesty.

With the experience of rail passengers with the previous franchise holder TfW must regain the confidence of the Welsh travelling public.