



Our ref - MA-KSNWT-2000-25

Mike Hedges MS Chair
Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff
CF99 1NA

8 September 2025

Dear Mike

Thank you for your Report on the Bus Services (Wales) Bill. Please see below my responses to the recommendations and conclusions set out in your report.

Recommendation 1: The Cabinet Secretary should respond to the conclusions and recommendations we make in this report at least two working days before the Stage 1 general principles debate takes place.

Response - Accept

Conclusion 1: We note the Cabinet Secretary's comments in respect of the Bill's impact on human rights but believe that, as a matter of good practice, an Explanatory Memorandum should always include a commentary on the consideration given to such implications.

The Welsh Government's assessment of the impact of the Bill on human rights is included in the integrated impact assessment. I believe this is sufficient or we risk duplication and increasing unnecessarily the amount of accompanying documentation associated with legislation.

Conclusion 2: We note that Chapter 9 of the EM sets out details of a series of impact assessments which have been completed on the Bill by the Welsh Government as part of its Integrated Impact Assessment. We further note that, on 21 May 2025, the Welsh Government published its justice system impact

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

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identification assessment. We are disappointed that this assessment was not published until nearly two months after the Bill was introduced to the Senedd, as its availability may have assisted the Senedd's scrutiny of the Bill.

The team did endeavour to publish the justice system impact assessment as soon as possible. However, I note the Committee's comment.

Recommendation 2: Given the Cabinet Secretary's statement that he is confident that all necessary changes have been made to existing primary legislation to enable the Bill to operate efficiently, we believe he should provide clarity as to why further consequential amendments in respect of other existing powers are also needed.

Response - Accept

I am happy to provide further clarity on the need for consequential amendments. Key changes to existing legislation have been set out in the Bill. These are namely around the removal of registration requirements, the restricting of the Welsh Ministers' general power to secure the provision of public passenger transport services, the removal of local authorities' duty to secure local bus services, and the lifting of restrictions on the creation of municipal bus companies.

However, it has taken time to assess the full impact of the Bill on existing legislation and identify all of the consequential provisions needed for the effective implementation of our Bill. I am hoping to table most, if not all, of the necessary consequential amendments to existing legislation at stage 2. As I mentioned in my evidence on 12 May, this should include amendments to provisions on quality partnerships, quality contract agreements and joint ticketing schemes. We will take this opportunity to tidy up the statute book and remove some provisions which are no-longer relevant in Wales. The consequential amendments will also include amendments to repeal existing provisions on the provision of information and other matters to ensure we do not retain legislation that over-laps provisions in the Bill.

Recommendation 3: The Cabinet Secretary should clarify why section 6 and 8 of the Bill do not contain a specific requirement for the Welsh Minister to consult English local authorities when an English authority may be affected by a cross-border service.

Response – Accept

I am happy to provide further clarification on why English local authorities are not explicitly mentioned in these provisions.

I am confident that sections 6(4)(g) and 8(4)(g) place an implicit duty on the Welsh Ministers to consult relevant English local authorities on cross-border services that directly impact the people, communities and services in their areas, where it is appropriate to do so. I believe this is the appropriate and proportionate way of ensuring they have a say in the development of the Plan. In practice, we will aim to include the relevant English authorities in discussions about any cross-border services that is expected to cross into their area. On a more strategic level, Welsh Government officials will continue to engage with Department for Transport officials to ensure proper support and engagement is available where needed to support cross-border services.

Recommendation 4: To avoid the potential for any uncertainty amongst stakeholders, the Cabinet Secretary should confirm what factors will be used to determine whether a revision to the Welsh Bus Network Plan is minor and give examples if possible of how those factors will be used to make that judgement. The Cabinet Secretary should also consider including these factors on the face of the Bill.

Response – Accept in principle

I am happy to outline the types of factors that will be used to determine whether a revision to the Welsh Network Plan merely has a “minor” effect on the provision of local bus services. Each case will be assessed individually and the weight given to any factors will vary. However, the following list, which is not intended to be in any order of importance, provides an overview of the type of factors and examples of how they may be significant:

- i. The impact on connectivity – for example, the impact on passengers’ ability to reach and leave key destinations such as recreational, retail, medical and educational hubs. This would also apply in relation to enabling passengers to link effectively with other transport modes, including active travel and rail.
- ii. The impact on passengers - number of people, how and how often they are impacted – this is not to say that a change to a busy service in a city would have more weighting than a rural service. A proportionate view in relation to this factor would be required.
- iii. The amount of time the revision will be in place. There is already provision in the Bill relating to revisions that do not exceed 14 days, however, this factor may have a bearing on the effect of a revision depending on consideration of other matters, including those above. For example, a revision may last three weeks at a popular ‘summer season’ tourist destination. If the revision occurs over the winter this may have no more than a minor effect on bus services, but if it was required in the summer the effect would be more than minor.

I cannot accept the Committee’s recommendation to include these on the face of the Bill because an assessment relating to each specific circumstance will have to be made on a case-by-case basis. I do not think it would be in the interests of a dynamic network to limit consideration to those factors listed above when additional reasons for revisions to the Plan may emerge in the future.

In making revisions to services it should be noted that bus networks are a flexible mode of public transport and it is expected that TfW will keep the bus network under constant review to ensure capacity, frequency and accessibility are well matched to demand and services are optimally allocated to suit the needs of customers and ensure an efficient use of resources across the network and take account of changing travel demand.

Following a recommendation by the CCEI Committee, I have committed to drafting an advice note on the delivery and management of the Wales Network Plan. I will, on the back of the Committee’s recommendation, ensure that TfW consider these in more detail in the advice note.

Recommendation 5: If the Welsh Ministers are intending to prescribe terms that must be included in local bus service contracts, the Cabinet Secretary should clarify why these terms could not have been set out on the face of the Bill, with an accompanying Henry VIII power (subject to the Senedd approval procedure) to amend that list of terms if needs be.

Response - Accept

I am happy to clarify why these terms have not been set out on the face of the Bill.

I have directed TfW to develop an early draft template contract, which they have done, and we are currently scrutinising, to inform discussions with stakeholders over the appropriate terms, including potential incentives and penalties, that will support a fair and effective franchised network.

From this work and the information we've collected from the WCPP project, it is clear that there will need to be at least two, but possibly more, iterations of local bus service contracts to support the various packages and markets across Wales. The evidence we've gathered from our engagement programme and presented to the Committee during stage 1 clearly indicate that the contracts need to be reactive and flexible to reflect each unique set of circumstances. The regulation making power ensures that terms we deem, with time and experience, are beneficial to have across all contracts, or all contracts of a particular type, can be added as required. The Senedd will be able to undertake a proportionate level of scrutiny of the regulations when they are available.

This will help to ensure that SMEs are protected and supported under the new system. By placing these terms in regulations subject to the Senedd annulment procedure we are ensuring a more dynamic approach to the delivery of franchised services.

Recommendation 6: The Cabinet Secretary should clarify why further conditions that must be attached to a local bus service permit could not have been included on the face of the Bill, with an accompanying Henry VIII power (subject to the Senedd approval procedure) to amend that list of conditions if needs be.

Response - Accept

I have directed TfW to establish an effective process for administering and delivering permits. Based on the evidence presented to the Committee I have asked officials to work with TfW and key stakeholders, including public, private and third sector industry partners, to develop a guide clarifying the procedures and conditions associated with issuing and maintaining local bus service permits.

Ensuring the Bill maintains flexibility will help future-proof the legislation for the long-term. For example, during transition into the new system we may need to permit certain services that cross from de-regulated areas into areas subject to the new franchised model. To ensure fairness and continuity, during the transition period we may want to limit the conditions applied to the permits. This is subject to on-going consideration, but it does mean that the regulations need to take these into account. If required, future amendments to the regulations will be informed by practical implementation and public policy.

Similar to Recommendation 5, I am of the view that setting out the conditions in regulations rather than on the face of the Bill will ensure flexibility and adaptability in relation to services which we don't yet know about, and we will need to keep that list under review and may need to amend it from time to time to reflect changes in the way bus services are delivered. I am confident that this Bill currently enables the Senedd to undertake a proportionate level of scrutiny of any prescribed conditions which must be attached to permits.

Conclusion 3: The Welsh Government will be well aware of the good legislative practice, and a practice which the Committee has long advocated, that governments should not seek delegated powers where there is no intention to use them. Once delegated, the powers will be available to all future governments; as such, a future government may exercise them in a way that does not deliver the intention of the government that sought them and the Senedd which approved them. We acknowledge that, if exercised, this power would be subject to Senedd scrutiny and approval. Nonetheless, we consider the seeking of such powers to be particularly bad practice when included in primary legislation that this Welsh Government has little opportunity to implement given the Sixth Senedd will dissolve in seven months' time ahead of the next Senedd General Election.

Whilst I agree with the Committee's reasoned argument as to why governments should not seek delegated powers where there is no intention to use them, in the case of delivering this once in a generation change to public transport I am of the view that we must understand the practical implications of developing a dynamic bus network in a wholly new model of delivery. The Bill and its supporting regulations have been designed in such a way to be effective for many years into the future. The scope of the potential changes to section 15(3) is somewhat limited, but maybe very necessary for the continued safe and effective delivery of the permitting regime. For example, the Welsh Government may potentially need to make appropriate changes to subsection 15(3) should a future UK government decide to amend the legislation around the PSV operator's licence using their reserved powers. It would be remiss of us not to make provision in this regard given that permitting is a core supporting part of the new delivery model.

I believe the requirement to seek Senedd approval is proportionate to ensure any potential changes to this subsection, and others we have stated we have no intention to utilise in the short term, are scrutinised appropriately.

Recommendation 7: The Cabinet Secretary should clarify why section 23 of the Bill does not specify the default upper limit penalty amount with an accompanying Henry VIII power (subject to the Senedd approval procedure) that would enable that amount to be amended.

Response – Accept

I am happy to clarify the policy behind the setting of the section 23 penalty.

The default upper limit is set out in the Bill as £550, see subsections 23(9)(a)(ii) and 23(9)(b)(ii). The regulation making powers provide the flexibility needed to set a different amount in light of inflation or any other mitigating factors.

By requiring regulations under section 23(9)(a)(i) and (b)(i) to be subject to the Senedd approval procedure, the effect is essentially the same as the Committee has proposed in relation to the scrutiny of any regulations by the Senedd in the future.

The provisions as drafted are similar to sanctions for similar breaches under existing legislation, namely section 155 of the Transport Act 2000. We have kept with established provisions because the industry is familiar with them. It also helps to make things a little more consistent for those delivering cross-border services.

Recommendation 8: The Cabinet Secretary should explain why details about an appeals process that will be available to current and former operators who are required to provide information to the Welsh Ministers is not set out on the face of the Bill.

Response – Accept

I recognise that appeals mechanisms would normally be on the face of the Bill, but the purpose and scope of these provisions potentially require taking a more flexible approach, though retaining the requirement for appropriate approval by the Senedd.

The provisions under section 25(5)(a) require the Welsh Ministers to put in place a procedure to allow operators and former operators to appeal notices requiring them to provide specified information. This has been included to ensure there is an opportunity for those served with a notice to appeal before the section 30 enforcement provisions are applied.

We recognise that some operators, in particular SME operators, may not have access to the information and data that we are requesting. Requests for information during the Covid pandemic demonstrated that not all operators hold the same breadth of information and where information is held, the manner and time in which it is held is widely inconsistent. This subsection provides an additional useful step to enable to us to understand the circumstances of each operator, so that, particularly in the transition into franchising, we can apply these provisions proportionately and fairly.

As we move from transition into business as usual the grounds for appeal may vary because the information and our expectations of operators going forward, will be more uniformed across Wales.

Recommendation 9: The Cabinet Secretary should explain why sections 27 and 28 of the Bill do not contain more detail about the information to be provided to the Welsh Ministers and why, instead, such detail is being left to regulations.

Response - Accept

I am happy to explain the reasons why there is no more detail regarding the information and data that needs to be provided to the Welsh Ministers by operators and former operators. We have included a comprehensive list of the type of matters which may be specified in regulations under subsections 27(4) and 28(3). However, we know that information, both what is required by the public and the way we will need to provide it may change significantly and at pace over the lifetime of this legislation.

Recommendation 10: The Cabinet Secretary should clarify why section 30 of the Bill does not specify the default penalty amount with an accompanying Henry VIII power (subject to the Senedd approval procedure) that would enable that amount to be amended.

Response - Accept

I am happy to clarify for the Committee policy behind the setting of the section 30 penalty.

The default upper limit is set out in the Bill as £550, see subsections 30(9)(a)(ii) and 30(9)(b)(ii). As with section 23, the regulation making powers provide the flexibility needed to set a different amount in light of inflation or any other mitigating factors.

As with section 23, I believe the requirement to follow the approval procedure in relation to any future regulations under subsections 30(9)(a)(i) and (b)(i) will essentially have the same effect as the alternative proposal put forward by the Committee.

Recommendation 11: The Cabinet Secretary should clarify why the regulation making power in section 35(3) may need to be exercised in order to ensure “sufficient clarity”.

Response - Accept

I am happy to clarify way section 35(3) may need to be exercised to ensure “sufficient clarity”.

Arrangements made under the Bill for the provision of local bus services will take a range of different forms, reflecting the services involved, and the context and transport needs, in each case. As a result, regulations made under section 35 may need to make specific provision for how the application of TUPE will work in a particular context, that is, it will not be enough simply to provide that certain types of arrangements made under the Bill will result in a TUPE

transfer being treated as taking place, more will be needed in order to ensure TUPE works in the context in question. This need is reflected in section 35(3).

Conclusion 4: We remain unclear how expressly referring to franchising on the face of the Bill would hinder the Welsh Government's policy intent.

To clarify, I am not concerned that referring to franchising hinders our policy intent, however, I am not of the view that it is legally necessary or helpful to refer to it on the face of the Bill. As explained by the accompanying official at the evidence session in May, there is no existing legal definition of franchising, so including it may in fact create uncertainty and have the opposite effect to that wanted by Committee. The processes and provisions to enable the mechanism for achieving franchising is clear in the Bill, in that the Welsh Ministers will enter into bus service contracts with operators. I believe the reference to local bus service contracts is more accessible and easier to understand than the term "franchising".

I agree with the principle of supporting accessibility. To most, the term "contract" is clear and, therefore, more easily accessible. However, there may be some in the bus sector, who have been using the term "franchising" who would appreciate the clarification of including it in the accompanying documentation. I'm of the view that this would be more effective than amending the Bill. I have asked officials to amend the Explanatory Memorandum accordingly in the normal course of the process at stage 2.

I want to thank the Committee for their time and if you have any further questions, please let me know.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ken Skates', with a large, stylized flourish extending to the right.

Ken Skates AS/MS

Ysgrifennydd y Cabinet dros Drafnidiaeth a Gogledd Cymru
Cabinet Secretary for Transport and North Wales