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A Public Transport Authority for Northern Ireland

1 Background and context

The process to reform the way in which public transport is delivered in Northern Ireland began in 2002. There were a number of important drivers for this, including:

- The need to comply with EU regulations (EC) No 1370/2007, specifically:
 - The need for a transport authority (client) to specify and manage contracts;
 - The requirement for greater transparency over the funding of Translink;
 - The requirement to move from capital to revenue funding;
- A lack of clarity around roles and responsibilities among the main stakeholders: The Department for Regional Development (DRD), The Northern Ireland Transport Holding Company (NITHC)/Translink and the Department of the Environment (DOE);
- The desire to improve efficiency, value-for-money and service quality; and
- The need to support the implementation of the Regional Transportation Strategy (RTS);

The reform process has been predicated on the development of a three-tier structure consisting of a top government tier (DRD) responsible for policy, legislation and regulation; a middle tier (a new transport authority) to specify, manage and procure

public transport service contracts; and a third tier of transport operators (Translink) responsible for service delivery.

A number of options for the new transport authority “middle tier” were evaluated against the policy objectives, out of which an Executive Agency model scored the highest. The Regional Development Minister of the time, Conor Murphy MP indicated to the NI Assembly that the Agency model was his preferred option on account of the greater levels of accountability offered; defined roles and responsibilities; and the ability to achieve an integrated approach to public transport, roads and traffic management.¹

The current Regional Development Minister, Danny Kennedy MLA has now reviewed this decision and has decided against the formation of an Executive Agency. Current plans are to create a new organisation called Transport NI (as a core business area within the Department) that will combine the functions carried out by Roads Service and the newly acquired public transport authority functions. Roads Service ceased being an Executive Agency in April 2012; it currently retains the Roads Service branding and continues to deliver the same services as before but as a core business area within the Department rather than as an agency.

¹ Minister for Regional Development, Letter to Chair of Reg. Dev. Committee, 9.06.08, pg. 5.

2 The Agency

The establishment of a Public Transport Agency was fundamental to the public transport reform process. The proposed agency would have operated within the DRD, taking control of a number of the functions currently undertaken by the NITHC and its subsidiaries while also incorporating the various regulatory powers for public transport currently held by DRD and the DOE² (see figure one). The main rationale for the creation of the agency was to comply with EU Regulation 1370/2007 which requires more of a separation between the body responsible for transport (NITHC) and the operator (Translink).

Figure 1: Proposed Agency Functions

Functions transferred from DRD Core	Functions Transferred from NITHC/Translink	Functions Transferred from DOE	New Functions
Public transport planning	Specification of service level outcomes	Route licencing	Awarding and managing of contracts
Concessionary fares	Fares policy		Monitoring operational performance against standards
Fuel duty rebate	Part of promotion and marketing of public transport		Specification of bus access arrangements
Door-2-Door and Community Transport	Specification of integrated ticketing requirements		Specification of customer information requirements
Statutory consultee for land use planning			Securing and management of developer contributions

2.1 What is an Executive Agency?

An executive agency is a public body responsible for delivering government services. An agency does not set the policy required to carry out its functions - these are determined by the department that oversees the agency.

Although Executive Agencies are sometimes mistakenly categorised as Arm's Length Bodies similar to Non Departmental Government Bodies (NDPB), they are distinct in that they operate within Government; this Agency would have been part of the DRD and as such the responsibility of the Minister. Executive Agencies are overseen by a Chief Executive who is a civil servant, as are the staff.

According to the Cabinet Office Agencies and Public Bodies team, an Executive Agency can be considered in a variety of circumstances but commonly its creation will be most suitable when:

² The Department of the Environment (DoE) is currently the licensing authority for Road Service Licences, which are administered on its behalf by the Driver and Vehicle Agency.

- It is appropriate for Ministers to have direct strategic and policy control but is neither realistic nor appropriate for them to take responsibility for day-to-day decisions;
- A clearly designated unit exists within a department, of a sufficient size to justify major structural change;
- The unit can be held independently accountable i.e. it must be capable of having agency-specific targets, which are reported to Parliament. It must also produce Agency annual reports and accounts; and
- By the time of launch the unit must be financially viable i.e. adequately resourced to attain challenging targets as contained in their Business or Corporate Plan.

2.2 Why was the Agency model chosen?

The Outline Business Case considered the potential monetary and non-monetary benefits for the three shortlisted options, as well as the risks associated with each option, in order to determine the best organisational option to deliver the reform programme. The three options were:

Option 1 – Do Nothing: current structures, roles and responsibilities within public transport would remain the same;

Option 2 – Enhanced Northern Ireland Transport Holding Company (NITHC) Model: the NITHC would have a new and extended remit to both design and deliver an integrated public transport network and procure the delivery of services through Translink and independent operators; and

Option 3 – Agency Model: a single departmental agency would assume responsibility for a range of functions currently carried out by DoE, DRD, NITHC and Translink.

The 'Do Nothing' option was unsuitable for a number of reasons, not least due to the fact there would be insufficient separation between the transport authority (NITHC) and the service provider (Translink), making it very unlikely to comply with EU Regulation 1370/2007; the same applied to the option two.

The monetary/non-monetary benefits of the agency model included:

- It had the potential to generate annual operational efficiency savings of £12.4m across the three Translink companies;
- Sensitivity analysis found that the agency model had a positive Net Present Value (NPV), meaning it was deemed likely to generate net financial benefits even if costs are higher or benefits are lower than forecast;
- There was clear separation of roles i.e. the three tier structure with autonomy at each level;
- An independent body would have greater scope to exert influence on operators thereby achieving better value-for-money; and

- It is easier for an agency to represent the wider public interest in public transport issues than a publicly owned commercial company;

2.3 Risks associated with Agency Model

A primary function of the proposed agency would be to assess the need for public transport services and to secure their provision through a contracted network. However, the Outline Business Case (OBC) identified the lack of skills and expertise within Northern Ireland, in both these areas (transport planning and contracting), as a significant risk to the Agency Structure. This skills shortage would apply to any middle tier authority given that these two functions are so fundamental to its role.

In order to alleviate this, the proposal was to recruit outside of Northern Ireland and over the medium to long term develop these skills internally. This would place extra emphasis on the involvement of local stakeholders in the transport planning process as anyone coming to Northern Ireland from elsewhere will have limited knowledge of local transport conditions. Of course this combination of transport planning expertise and local knowledge may only serve to improve the impact of the planning function.

Perhaps the most significant risk to the entire reform process was whether or not the new structure would comply with EU Regulation 1370/2007. Of the three options considered, the agency model was considered most likely to comply.

2.4 Resource requirement

The analysis in the OBC Review indicates that the proposed agency would have required 80 Full-Time Equivalent (FTE) personnel, costing around £3.4m per annum. The OBC review proposed that the 80 FTEs would be made up of 53 staff transferring from existing DRD posts with the remaining 27 identified as new posts. These 27 new posts were in **'specialist priority areas'** such as Network design, procurement and contract management, for which the skill base did not currently exist within the Department or indeed within Northern Ireland.

In addition to a one-off 'transition cost' of £365,400, the OBC review projected the annual running cost of the Agency to be £3,592,000, covering both existing and new functions. In effect the new functions were estimated to require around £1.25m per annum in additional funding, beyond costs incurred carrying out current functions. The OBC suggested that even if the Agency proposal were not to proceed, some of these additional costs would still be incurred to ensure compliance with EU legislation and to deliver the new functions while there could be no insurance that alternative models could achieve the same level of monetary and non-monetary benefits as identified for the Agency.

2.5 Key stakeholder views of agency proposals

According to the consultation report, the majority of respondents were supportive of the creation of a 'Departmental Public Transport Agency', although six of the responses (out of 109) were not, citing reasons such as increased bureaucracy and the perceived lack of input from local elected representatives.³

In written evidence provided to the Regional Development Committee on the 24th September 2008,⁴ Translink stated that in the view of Translink, the proposal for the Public Transport Agency was "...*completely avoidable and not necessary*". Officials explained:

- The span of control from Minister / NI Assembly would be extended and extra bureaucracy would be added;
- The organisation would add extra cost to the public transport system which may be removed from frontline delivery;
- Functions and resource would be duplicated;
- A new agency would have no procurement / contract management expertise;
- Contract management is a significant cost;
- No closer integration with highways / planning would arise; and
- The option carried more risk with no guarantee of results.

Rather than this major reform, Translink proposed "...*a controlled, low-risk, stepped approach to change*" that would comply with the new EU Regulation 1370 and be consistent with agreed stakeholder objectives for Public Transport Reform. The proposed model has the transport authority functions being carried out by the DRD, with Translink providing 85-90% of services, with the remainder sub-contracted to private sector operators.

The Federation of Passenger Transport took a different view than Translink:

*"We believe that this [agency] structure will deliver a properly integrated and regulated system which will dramatically improve public transport in the province. It will also ensure a properly coordinated and all inclusive approach to public transport which has not previously existed."*⁵

Their reasoning was based on the fact that the agency model would enable:

- Compliance with EU Regulations and OFT concerns on competition;

³ (DRD) Department for Regional Development (2010) 'Public transport Reform: Final Report on Public Consultation May 2010' DRD: Belfast [online] available from: <http://nia1.me/10d>

⁴ How to Deliver Better Passenger Transport: Answers for Northern Ireland. Evidence Provided by Translink in support of the Regional Development Committee's scrutiny of Public Transport Reform proposals [online] available from: <http://nia1.me/19z>

⁵ The Federation of Passenger Transport. Presentation to Regional Development Committee 24th September 2008 in support of the Regional Development Committee's scrutiny of Public Transport Reform proposals [online] available from: <http://nia1.me/1a0>

- Proper joined up thinking and responsibility, not just for transport but for roads and traffic management;
- No perceived conflict of interest in relation to defining service levels and delivery of services; and
- More control and accountability to the DRD, the Minister and the Assembly

The Consumer Council were also supportive of the proposed agency:

*“The Consumer Council considers it essential that the new agency should be responsible for specifying public transport service requirements, awarding contracts and monitoring and reporting on operator performance. This will allow for the separation of the ‘design’ and ‘delivery’ functions of NITHC/Translink and prevent any conflict of interest in relation to ‘defining service levels’ and ‘delivery of services’.”*⁶

3 Transport NI proposals

The DRD is currently planning for the implementation of a single transport delivery organisation to be called Transport NI. The DRD has stated that this organisation will enable a joined up approach within the Department to the delivery of the current roads service functions and the new public transport authority functions. The main benefits of Transport NI (identified by the Department) are that:

- It provides greater budgetary focus to allocate and balance resources, ensuring greater efficiency and effectiveness in the delivery of key business objectives relating to roads and public transport; and
- It enables a more coherent approach to the planning and delivery of the Regional Transportation Strategy;
- It will enable compliance with EU Regulation 1370/2007 by putting in place a contract with Translink for the delivery of public transport services and ensure an on-going focus on service delivery and the efficiency of Translink;
- It will provide a clear point of contact for co-ordination and consultation with external stakeholders, including local councils; and
- It (Transport NI) is consistent with similar type delivery models in other parts of the UK.

3.1 Key functions of Transport NI

Detailed proposals for Transport NI have yet to be released by the DRD. However, key functions revealed in the Regional Development Committee meeting held on the 7th November 2012 indicate that it will fulfil all the roles proposed for the agency with the addition of Roads Service's functions.

⁶ The Consumer Council (2009) Response to the Department for Regional Development (DRD) on the Public Transport Reform Consultation [online] available from:

- Planning and specification of public transport services.
- Planning and specification of roads capital and maintenance schemes.
- Design of capital schemes for roads.
- Procurement of roads capital and maintenance schemes, and public transport services.
- Manage contracts – roads capital & maintenance schemes and public transport services.
- Manage budgets for roads and public transport capital investment schemes, roads maintenance schemes and public transport services.
- Regulation of public transport services (when transferred from DoE).
- Local public transport planning.

3.1 Implementation

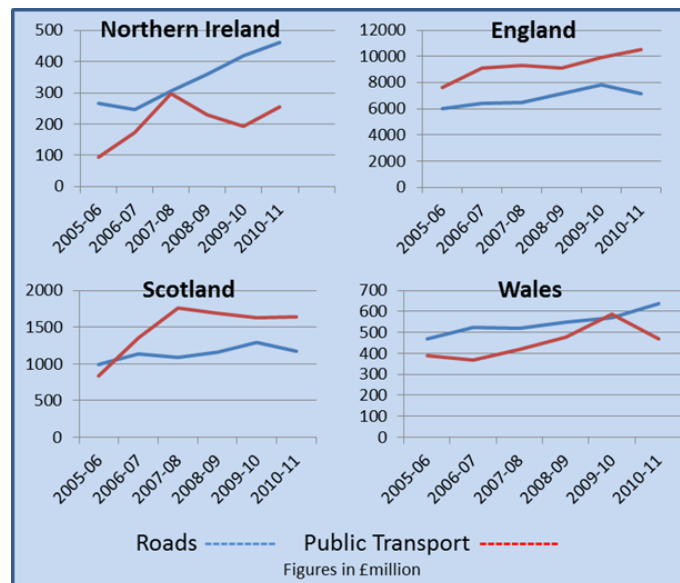
The DRD has indicated that new transport authority functions will be absorbed by the Department with no additional resources required. This is in contrast to the resource requirement of 27 additional staff and £1.25m identified in the OBC review for the public transport agency.

It is important to note that this additional resource requirement was to enable the agency to carry out a number of new functions aimed at meeting the policy objectives. The OBC acknowledge that the DRD did not have the necessary skills base to carry out functions such as planning and specification of public transport services; procurement of public transport services; and management of contracts. Therefore the question must be asked, if there is no need for additional resources will Transport NI be able to fulfil the 'priority functions' identified in the policy proposals for public transport reform.

The DRD has indicated that the New Chief Executive of Roads Service will assume responsibility for the new combined Transport NI organisation. This is an interesting decision given the perceived auto-centric policies favoured by the DRD in recent years. This could beg the question of whether there is a conflict of interest, even perceived, whereby a civil-engineering professional is charged with co-ordinating two areas, often seen to be competing for the same pot of cash.

Policy analysts will often use the levels of funding allocated to roads and public transport as a true indicator of transport policy. Despite the DRD rhetoric indicating strong support for public transport, spending analysis shows that roads have consistently attracted significantly more funding than public transport. This is in contrast to the rest of the United Kingdom, particularly Scotland and England, where spending on public transport is consistently higher than roads spending (see figure 2).

Figure 2: UK expenditure on roads vs. public transport 2005-06 to 2010-11



Source: HM Treasury 2011⁷

4 Summary

Public Transport Reform has been based around the formation of a transport authority for Northern Ireland. A number of different organisational models for the authority were considered with an Executive Agency coming out as the preferred option. This option retained a degree of ministerial accountability, while day-to-day management was to be the responsibility of a Chief Executive. Throughout the reform process, the level of autonomy between policy and delivery offered by this model was seen as a strength; therefore the reasons for choosing to adopt the transport authority functions as a core business area, thereby removing any separation between policy and delivery remain unclear.

A cursory examination of the literature does offer some possibilities:

- The number of Executive Agencies within the UK has been in decline over the last decade and this policy may simply be following this trend;
- The Regional Development Ministry has changed hands, therefore this decision may be based on an ideological preference; or
- The resources required may not be available.

There is no evidence to suggest that the decision not to proceed with the agency model will inhibit the performance of Transport NI, it will simply result in reduced autonomy between policy and delivery and greater ministerial accountability. However, the OBC did indicate that an inability to attract expertise in transport planning and contracting would have a high impact on the organisations performance and therefore plans to proceed without recruitment may be of concern.

⁷ HM Treasury (2011) Public Expenditure Statistical Analyses [online] available from: <http://nia1.me/132>