



Northern Ireland
Assembly

Committee for Regional Development

OFFICIAL REPORT (Hansard)

Inquiry into Comprehensive Transport
Delivery Structures: DRD Briefing

1 May 2013

NORTHERN IRELAND ASSEMBLY

Committee for Regional Development

Inquiry into Comprehensive Transport Delivery Structures: DRD Briefing

1 May 2013

Members present for all or part of the proceedings:

Mr Jimmy Spratt (Chairperson)
Mr Seán Lynch (Deputy Chairperson)
Mr John Dallat
Mr Alex Easton
Mr Ross Hussey
Mrs Dolores Kelly
Mr Declan McAleer
Mr Ian McCrea
Mr David McNarry

Witnesses:

Ms Anne Breen	Department for Regional Development
Mr Ciaran Doran	Department for Regional Development
Mr Sean Johnston	Department for Regional Development

The Chairperson: I welcome Ciaran Doran, director of transport, finance and governance; Sean Johnston, head of public transport reform; and Anne Breen from transport services division. You are very welcome. You have about 10 minutes to make a presentation before we open the discussion for questions.

Mr Ciaran Doran (Department for Regional Development): Thank you for the opportunity to brief the Committee again. In January, in response to the inquiry, we sent you a briefing paper and you have been provided with a copy of slides that we will refer to today. We do not have time to go through each slide in detail, so I propose to highlight some key points from the Department's perspective that relate to the terms of reference that were published for the inquiry. Sean will talk you through part of that. Anne, who is part of my team, deals with Translink issues on a day-to-day basis, and is here to answer specific questions.

I will start with the legal status of the Northern Ireland Transport Holding Company (NITHCo) and its relationship with the Department for Regional Development. First, I will talk briefly about the legislation that controls public transport in Northern Ireland. The Transport Act (Northern Ireland) 1967, which was referred to previously, established the holding company as a statutory public corporation. There is no shareholding in that organisation but, effectively, it is controlled by government as defined in the 1967 Act. The Act, for example, empowers the Minister to appoint a chairman and board of directors, and to give direction on policy matters, among other things. The board is appointed by the Minister and, in certain situations, the Minister can direct on specific issues. However, there is a commercial remit for the holding company, as set out in the Transport Act, and a degree of operational independence is built into the legislation.

The Transport Act (Northern Ireland) 2011, which went through the Assembly two years ago, is targeted on the issue of EU regulations — *[Interruption.]*

The Chairperson: I apologise for the noise. Someone has been sent to tell them to stop. Keep going, but bear with us for a few minutes.

Mrs D Kelly: I think that it is probably a band. I saw drums being carried up the stairs earlier.

The Chairperson: Well, they are about to be told to band together somewhere else.

Mr McNarry: You are always against the bands, Dolores. *[Laughter.]*

Mrs D Kelly: Only some.

The Chairperson: Let us not get into that debate. We will leave that for the Parades Commission. Go ahead, Ciaran.

Mr Doran: The point that we would emphasise is that the Transport Act (Northern Ireland) 2011 reviewed the Transport Act (Northern Ireland) 1967, and the Assembly effectively agreed that there would be no change to that legislation. I think that that is an important point. The 1967 Act introduced a regulated public transport system, which means that operators require a licence to provide regular scheduled public transport services. The 2011 Act retained that system. The key advantage from the Department's point of view is that that enables Translink to provide socially necessary transport routes in areas where the service would otherwise not be viable. In other words, it allows for a system of cross-subsidisation within the Translink group.

The other change was to give the Department clear contracting powers and, over the next 12 months, it is our priority to put in place a contract with Translink. As we have explained previously, that was to comply with the EU regulation 1370/2007, which requires that the relationship between the Department and NITHCo be controlled through a corporate and business planning process, the management statement and financial memorandum that we referred to in previous sessions, as well as a system of key performance indicators. It is certainly our intention that the contract with Translink or the holding company will be a further and improved means of performance management.

The second issue in the terms of reference that I want to refer to is the financial support given to public transport. In the slides, we set out the planned capital and revenue funding for 2013-14, which is £84 million of revenue and £16 million of capital. Most but not all of that relates to Translink. It is very difficult and complex to draw clear conclusions about the level of subsidies that are provided to Translink in comparison with England, Scotland, Wales, the Republic of Ireland, or anywhere else. Our approach has been to compare Translink to like regions and operators, as that allows us to be clear about the figures. That was the approach that was used when the outline business case for public transport reform was produced, and I know that the Committee has been briefed previously on that issue.

To some extent, the comparison of the levels of funding depends on Executive and departmental priorities for where budgets are provided. However, it also depends on whether you are comparing the level of funding for public transport for the whole population of Northern Ireland or for those who actually use public transport. Depending on the approach that you adopt to that, you can get different answers. I will now hand over to Sean.

Mr Sean Johnston (Department for Regional Development): In your packs, there is a slide about public transport-related objectives, which shows the business plan for the current year. Our plans have been influenced by the regional development strategy, the regional transportation strategy and the Programme for Government. We are moving to a new approach to public transportation, and the Committee will have seen a version of that some time ago. The outworkings of that will lead to what is termed a policy prioritisation framework, which will set out the aims and objectives of the Department, and a programme of investment, which will set out how that will be carried through in reality. It is expected that that will lead to a delivery plan of prioritised strategic transport investments from 2015 onwards. Obviously, that will be influenced by the next spending review.

The terms of reference specify public transport structures. The fourth slide in your pack is about Transport Northern Ireland and sets out the public transport authority functions carried out by Transport NI, including its roads functions. Those roads functions include the design of new roads and the management of the road network. The contract for transport will initially focus on the Department's sponsorship role and the existing services that are delivered by Translink. Transport NI will also focus on rural accessibility and urban schemes for disabled and elderly people. A number of functions are not yet part of Transport NI, including Belfast rapid transit; planning for the integration of publicly funded transport services in the Dungannon pilot scheme; a number of ongoing sustainable transport schemes; work with Translink on passenger information and new ticketing; enforcement of bus lanes; and use of geographic information systems, which will become a key area for us in future in trying to exploit the data available for the integration and planning of public transport.

Mr Doran: I will conclude with a couple of additional comments. We emphasise that the Department's key priority up to April 2014 is to put in place a contract with Translink to comply with EU regulations. Transport NI will take that forward in conjunction with other parts of the Department. Transport NI and the arrangements in that part of the Department will take some time to bed in, but we are keen to take account of your views and any suggestions from your inquiry about how structures should be developed, going forward.

The Chairperson: I hope that there will be quite a few. You heard at first hand a few minutes ago, Ciaran, the chairman of the holding company say that you supply a lack of funding. What will the Department do about that? Is the Department guilty of market foreclosure by denying competition to Translink? Finally, the general counsel to Translink has written to the Committee to state that the management statement and financial memorandum has no binding legal status. Those are not my words. How, then, does the Department carry out meaningful governance over Translink and the substantial grants and subsidies made it to from the public purse?

Mr Doran: I will try to deal with all those points, but you might have to remind me about some of them. We have never, at any point, said that the management statement and financial memorandum is a document with legal standing. It is common practice across the public sector for management statements and financial memorandums to be put in place between arm's-length bodies and Departments, and that is the arrangement with Translink. It is a document signed by the Translink board and by the departmental accounting officer. So, to an extent, it is a voluntary arrangement. However, it is based on Department of Finance and Personnel guidance, and we will place considerable focus on that document as we work through the arrangement. I think it is fair to say that the budgetary context up to 2015 for the Department for Regional Development generally, including Translink's arrangement, has been difficult. The Chair's previous comments about in-year monitoring funding being used to support Translink, particularly on the concessionary fares reimbursement scheme, are valid. That is what has happened. Our view about the corporate plan for the current year is that making realistic assumptions about the level of in-year support we can provide to Translink would prevent the implementation of higher fare increases, and the Department's view is that consumers would welcome that.

I cannot remember the third part of your question, Chair.

The Chairperson: It was about whether the Department is guilty of market foreclosure by denying competition to Translink.

Mr Doran: I am an official of the Department, and the Transport Act (Northern Ireland) 2011 continues a regulated public transport system and clearly defines that Translink is the lead public transport operator into the future, subject to EU regulation. That, effectively, is government policy. That is all that I can say about that.

Mr Johnston: To add one thing to what Ciaran has said, there is provision in the 2011 Act and, indeed, in the 1967 Act, for competition to fill gaps in the market that are not being filled by Translink. Some operators come forward with ideas from time to time. There are around 40 operators operating 100-odd routes, so if a commercial operator identifies a gap in the market and says that it can run a commercially viable service, we are not allowed to have willy-nilly cherry-picking of profitable routes because the public transport system depends on cross-subsidy, as we discussed earlier. The whole thing would fall apart on us. It is controlled through the regulated system, but that does not preclude operators from coming forward, as they occasionally do, to address gaps in the market. They get those licences.

The Chairperson: I suppose that every bus company, including commercial outfits, has a problem with the non-profitable bits.

Mr Johnston: Generally speaking —

The Chairperson: Has there ever been any appetite to put it out to other companies on these islands?

Mr Doran: The system in place now allows for what I would call a degree of limited competition. However, it envisages that Translink would be the lead operator in the system for the foreseeable future. Clearly, it is possible to revisit that policy, but it was part of the Transport Act (Northern Ireland) 2011. That was specifically part of the process that led to the completion of that legislation.

The Chairperson: I have one final point, which concerns not just my perception or that of others on the Committee, but a general perception among the public. How would you respond to what is often referred to as the cosy relationship between the Department and Translink? You are often seen coming along here, holding hands, and we have seen a highly paid chief executive refer to you before she would answer a question. How do you respond to that? That is one of the reasons why I, as Chair of this Committee, want you to come along separately so that you can be questioned separately.

Mr Doran: I am not sure whether I can comment on that terminology, but there is a structure of meetings in place with the Translink board involving the Minister and the permanent secretary of the Department. I regularly meet Catherine Mason in a series of monitoring meetings, all of which are minuted. I suppose the best way that I could answer that question is to say that we were subject to a Northern Ireland Audit Office review in the past two years. A report was published towards the end of last year that looked in detail at the governance arrangements of Translink over quite a long period. I ask the Committee to look at the conclusions of that report. It was not produced by me or the Department; it was produced by an independent organisation: the Northern Ireland Audit Office.

The Chairperson: Mr Doran, the public perception is that there is a lack of transparency. It is part of the Department's job to address that lack of clear and open transparency. It is not there. We are having to ask probing questions to try to delve into it and get some answers. It is not just my or the Committee's perception; it is the perception of the general public.

Mr Johnston: In 2010, there was quite a detailed review of Translink's performance. A review was done in, I think, 2008, and a follow-up review was done in 2010 that looked at how Translink had got on in the interim. I think that the 2010 review is worth rereading. I do not know whether it will answer all your questions, but it will certainly give you some information that will be useful in the overall context of your inquiry.

The Chairperson: Where is the performance and efficiency delivery unit (PEDU) review?

Mr Johnston: That is ongoing. We have seen a very early draft of it, but —

The Chairperson: When are we likely to get some transparency on it?

Mr Johnston: We hope to get it over the next few months.

Mr Doran: We are working with PEDU. We assure the Committee that we will share the results of that review.

Mr Lynch: How do you plan to redress the imbalance between road capital projects and public transport? That issue has been raised.

Mr Doran: That will be an issue to be considered as part of the remit of Transport NI and in the Department for Regional Development. Sean has previously referred to a new approach to judging the need for expenditure: the policy prioritisation framework. That is an attempt to look at all the relevant political and economic issues to be considered in decisions about spending and it is seen as the way in which this will be done from 2015 onwards.

Mr McNarry: We have established that Translink is a brand name. We are told that the Northern Ireland Transport Holding Company is a company for Ulsterbus, Citybus, Northern Ireland Railways and NIR Travel. Those are all limited companies. I take it that they are limited companies covered by separate articles and memorandums. Which of those companies holds the property portfolio?

Mr Doran: The Northern Ireland Transport Holding Company. Sometimes, the term "holding company" is used to refer to the entire group. I use the term specifically to refer to NITHCo. It holds at least some of the assets that you are referring to. For example, the fixed assets of Northern Ireland Railways include the rail infrastructure. As I understand it, the holding company includes the assets held for purely commercial purposes that are not directly involved in public transport provision.

Mr McNarry: You mentioned the contract. You tell me that the Northern Ireland Transport Holding Company has a significant property portfolio. Is that of any concern or interest to the Department?

Mr Doran: The Department has required Translink to produce an asset management strategy. That is a particular focus of the Executive at the minute. We expect Translink to consider the production of an asset management strategy. Yes; it is of concern to the Department, but we appreciate that the income that those assets generate helps to create a degree of profitability that, to some extent, provides subsidy across the operating companies such as Ulsterbus, Metro and Northern Ireland Railways.

Mr McNarry: I accept that, but I would like to see some evidence of that cross-pollination, where moneys have been taken from profits and assets into other loss-making parts of the holding company, which are, according to this paper, four separate limited companies.

Mr Doran: Yes, they are. I do not think that we could show —

Mr McNarry: How does that work in accountancy? Does one limited company borrow from the holding company? How does it handle that movement of money?

Mr Doran: The best way that I can answer that question, and avoid confusion arising from the way I describe it —

Mr McNarry: It is very difficult to avoid confusion.

Mr Doran: — is that the Committee has made a number of requests for us to specifically put in writing to you how that arrangement in respect of the companies works. We are about to write to the Committee on that.

Mr McNarry: Could you maybe include the extent of the property rentals and the annual incomes from the rental of those properties? Will you include that in your response?

Mr Doran: We will consider that; yes.

Mr McNarry: This is not a conclusion, but it is nearly there in my head. In looking at the new contract, do you think that it is worth considering the separation of Translink from the Northern Ireland Transport Holding Company? The public would find it more open and transparent to deal with just one company that looked after transport in Northern Ireland. That is likely to be more open and transparent, certainly for idiots like me, rather than us having to go round the houses about all these other companies moving money and property between them. It might be better if we just had Translink, which appears to be a successful brand name, also as the company. That is what we should deal with. You asked for some ideas. Is it possible that you could look at a contract with one company?

Mr Doran: It is one of the options that can be considered; yes. We have not made a final decision on all those matters. However, I refer you back to the transport legislation that specifically set up Translink, or the holding company, to combine rail and bus operations and have a holding company.

Mr McNarry: I am only suggesting that we have one company to look after both aspects, so that we know exactly who it is, and the public know exactly who they are dealing with and do not have to go all round the houses. We have established Translink as a brand name. A brand name has a chief executive.

Mr Doran: Translink is a brand name, but it incorporates the three major subsidiary or operating companies: Ulsterbus, Metro and Northern Ireland Railways.

Mr McNarry: I realise that.

The Chairperson: Mr McNarry makes a very good point. The governance arrangements for Translink and the Northern Ireland Transport Holding Company are, let us face it, many years old. Is it not time that the Department sat down seriously, looked at the governance arrangements and perhaps consigned the Northern Ireland Transport Holding Company to the dustbin of history?

Mr Johnston: The previous Act looked at —

The Chairperson: It is up to the Department to look at governance. The governance arrangements of Northern Ireland Water are about to be looked at. It is high time that you looked at these governance arrangements. That would be a good idea. I am asking you to come and give us a briefing on the new contract.

Ms Anne Breen (Department for Regional Development): Governance arrangements would have been looked at as part of the original public consultation in the early stages of the public transport reform process, which looked at that sort of issue and decided what structures we should use. A lot of it came down to the final decision to maintain the regulated system, with the ability for cross-subsidies within that.

The Chairperson: If we want transparency and openness, some of the present arrangements, which are complicated to say the least, need to be consigned to the dustbin and new arrangements put in place. For the public — the paying public; the customers — who pay a second time through the public purse, those governance arrangements should be made open, clear and transparent for everyone; not something that came from dear knows how many years ago. It is time that we got into the real world of today, and that is the Department's job.

Ms Breen: The other issue is about moving towards the contracting system. Transparency is key in complying with EU regulations, so we have a job to do at the moment.

Mr McNarry: As you do when it comes to procurement. I hope that your new contract system will include some more ambitious ideas on procurement. At the moment, it is a closed shop. That is what you have been saying to us.

The Chairperson: There is a lot for the Department to think about. Be assured that we will be asking more questions and that we will include these issues in our report to the Assembly. The bottom line is that there is not the openness, clearness and transparency from the Department, the holding company or Translink that we and the public demand. Thank you.