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PUBLIC TRANSPORT REFORM – ANALYSIS OF STRATEGIC BUSINESS PLAN OPTIONS

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The Minister for Regional Development is considering options to bring about reform to the way Public Transport Services are delivered in Northern Ireland. This paper provides background information on the process to date and critically examines the five delivery options contained within the Strategic Business Plan prepared by the Department for Regional Development.

Research Papers are compiled for the benefit of Members of The Assembly and their personal staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise members of the general public.

SUMMARY OF KEY POINTS

- In August 2006 the Government announced its intention to reform the way public transport services in Northern Ireland would be delivered.
- The overall objective of the reform programme is to create an effective, efficient and sustainable public transport service that contributes to the Government's mobility, environmental, social and economic objectives.
- It has been widely agreed among key stakeholders that public transport provision should remain regulated with designers and providers of services remaining accountable to the Minister for Regional Development who would therefore be accountable to the Northern Ireland Assembly.
- Reform would involve the development of a three tier structure to deliver services as follows:
 - A top, Government tier responsible for broad policy, legislation and regulations;
 - A middle tier responsible for designing and managing services and securing their provision; and
 - A third tier comprising transport operators.
- In 2006 it was envisaged that the new middle tier body would be controlled by local authorities acting together in the form of a Passenger Transport Authority.
- In the light of the recent statement by the Environment Minister on the future shape of local government, confirming that the Department for Regional Development would retain responsibility for roads functions, these proposals have been reconsidered by the Minister for Regional Development.
- The Department for Regional Development have prepared a Strategic Business Case which identifies and evaluates five structural options for reform which focus on the middle tier.
- The five options considered are to:
 - 1) Do Nothing;
 - 2) Revise Northern Ireland Transport Holding Company (NITHC)/Translink Model;
 - 3) Set up Local Authority Based Passenger Transport Authority (PTA);
 - 4) Set up an Executive Agency; and
 - 5) Set up a Non Departmental Public Body.
- A range of objectives and key principles of reform were agreed by key industry stakeholders and each of the above options was considered against these.
- The primary reasons for reform included the need for:
 - A regulated, integrated public transport service;
 - Clear roles and responsibilities and a split between designers and operators;
 - Improved revenue and funding arrangements; and
 - Compliance with new EU Regulations.

- The Strategic Business Case concluded that three options should be brought forward for more detailed evaluation as part of an Outline Business Case. These options were: 1) Do Nothing; 2) Revised Translink Model; and 4) Departmental Agency.
- At this stage, the Agency model is the preferred choice of the Minister for Regional Development.
- Consultants have been appointed to carry out the Outline Business Case. A final report is expected in December 2008. Public consultation will follow.
- Table 1 overleaf, provides a summary of the key points relating to each of the five options considered and focuses on the following:
 - Key characteristics of model;
 - Roles and responsibilities;
 - Legal Requirements – EU Regulation;
 - Financing and funding arrangements;
 - Performance in practice;
 - Structural reform required; and
 - Overall satisfaction of reform objectives.

Table 1: Summary of Key Points for each Middle Tier Option					
	Option 1 - Do Nothing	Option 2 - Revised Translink	Option 3 - Local Authority Based	Option 4 - Agency	Option 5 - NDPB
Key characteristics	<p>DRD has overall responsibility for policy and planning.</p> <p>DoE responsible for safety, operating standards and licensing.</p> <p>Majority of services delivered through NITHC through subsidiary companies: NIR, Ulsterbus and Metro. DRD manages relationship with NITHC through agreed Management Statement and Financial Memorandum.</p>	<p>DRD has overall responsibility for policy and planning</p> <p>NITHC would have extended role to include design and delivery of integrated network.</p> <p>Network would be controlled through Translink subsidiaries and independent operators.</p> <p>New regulatory framework to monitor services provided.</p>	<p>Local authorities would have responsibility for planning, designing and securing public transport services for both rail and bus.</p> <p>Authorities would act together in the form of a unitary Passenger Transport Authority made up of council representatives.</p> <p>A Passenger Transport Executive (PTE) would be responsible for the day-to-day delivery of services.</p>	<p>Agency is linked to a sponsoring department and Ministers do not concern themselves with day to day running of the agency.</p> <p>Chief executive is normally answerable on operational issues to the Minister.</p> <p>Staff are civil servants and accounts of agency are consolidated into those of the sponsoring department.</p>	<p>Operates at arms length from government.</p> <p>Chief executive is normally accountable to a management board. Sponsoring Ministers are accountable to the Assembly for the body.</p> <p>Body is responsible for its own budget and has separate staffing structure.</p>
Roles and Responsibilities	<p>Lack of a clear division of roles and responsibilities between transport bodies.</p> <p>No clear split between those regulating; designing; and providing the services.</p> <p>NITHC required to operate commercially in a virtual monopoly which confuses role.</p> <p>There are limitations in seeking professional advice from Translink.</p>	<p>Lack of clear division of roles and responsibilities between transport bodies.</p> <p>NITHC would be unable to regulate provision therefore role would have to be undertaken by DRD.</p> <p>Limitations in seeking professional advice from Translink.</p> <p>Conflicts of interest in competitive tendering situations given NITHC / Translink relationship.</p>	<p>Would allow for the clear division of responsibilities of regulation; network design; and service provision.</p> <p>Importantly, RPA resulted in DRD maintaining responsibility for local roads functions. Powers not devolved to local authorities.</p> <p>Not desirable to split roads functions from public transport provision.</p>	<p>Clear division of roles and responsibilities between Chief Executive of the Agency and the Departmental Minister.</p> <p>Minister retains specific control of services provided through framework document and targets.</p> <p>Ambiguities may exist over whether incidents occur because of policy or operational decisions.</p> <p>Agencies may become disconnected from sponsoring Department which can lead to problems.</p>	<p>Would facilitate clear division of roles and responsibilities.</p> <p>May be cases in medium /long term where body may not act appropriately in relation to certain social functions.</p>
Legal Requirements	<p>Difficult to comply with EU regulations aimed at ensuring openness and transparency given links between NITHC and Translink and the need for multiple contracts.</p>	<p>Model could possibly be adapted to suit Regulation. DRD are seeking legal advice on this matter.</p>	<p>Would satisfy stipulations of EU Regulation.</p>	<p>Would satisfy stipulations of EU Regulation.</p>	<p>Would satisfy stipulations of EU Regulation.</p>
Funding and Financial Arrangements	<p>NITHC operates a virtual monopoly on services. Translink able to maintain uneconomical services by cross subsidisation from profitable ones. Difficult to shift to revenue funding from capital funding which would allow for greater transparency of investments.</p> <p>Translink not exposed to competition - little incentive to gain efficiencies. Difficult to incorporate involvement from the private sector.</p>	<p>Difficult to assess if this would result in additional private sector investment due to perceived relationships between NITHC and Translink. Difficult to shift to revenue funding sources if no private sector involvement.</p> <p>Difficult to maintain current levels of capital investment. Difficult to link capital investments to actual outputs.</p>	<p>Would allow for increased participation from the private sector thus enabling revenue funding streams to be increasingly used.</p> <p>Difficult to determine funding arrangements given RPA increase of local authorities to 11 instead of 7</p> <p>Conflicts between funding of local and cross boundary services.</p>	<p>Model should allow for increased participation from the private sector and therefore a move to revenue funding.</p> <p>Agency will be subject to sponsoring Department's EYF rules. An agency's plans may be disrupted for reasons unrelated to own performance. Lack of investment capital can be common issue for Agency.</p>	<p>Would allow for increased participation from the private sector.</p> <p>Agency would be responsible for its own budgets and a layer of accountability may therefore be lost.</p>

Performance in Practice	<p>Mixed perceptions of recent performance.</p> <p>Increased levels of patronage recorded which met government targets three years early.</p> <p>High profile management limitations e.g.: overspend on upgrade projects.</p>	<p>Mixed perception of recent performance.</p> <p>Increased patronage levels recorded and customer satisfaction highest since records began.</p> <p>High profile management limitations. E.g. Overspend on upgrade.</p> <p>De Lijn model in Belgium is broadly comparable.</p>	<p>This model has been used to some success in Europe and other parts of the UK.</p> <p>Republic of Ireland has also introduced a Bill to implement new body, Greater Dublin Passenger Transport Authority.</p> <p>CfIT¹ notes that patronage increased in European cities following the creation of passenger transport authorities.</p>	<p>A Cabinet review concluded that the agency model has been a success.</p> <p>The model is flexible enough to adapt to changing markets and circumstances.</p> <p>Solid relationships between Department and Agency are required to be in place.</p>	<p>RPA concluded that the establishment of a new public body should be of last resort.</p> <p>High profile cases demonstrating loss of accountability.</p>
Structural Reform Process	<p>Limited.</p>	<p>Some restructuring required.</p>	<p>Considerable reform required to develop new organisation.</p> <p>Number of bodies with involvement may make operational logistics difficult.</p> <p>New staffing, legal and funding mechanisms would be required.</p>	<p>Considerable cost and disruption to implementing agency model.</p> <p>Same HR and funding mechanisms can be used.</p>	<p>Considerable cost and disruption as new body is implemented</p> <p>Separate HR and funding mechanisms would be required.</p>
Overall Achievement of Reform Objectives	<p>Provides useful baseline to analyse other options.</p> <p>Option does not satisfy reform objectives.</p> <p>Scores the lowest in appraisal of all options considered.</p> <p>Recommended that model is retained for further assessment in OBC.</p>	<p>Option does not satisfy roles and responsibilities objective.</p> <p>Does provide the opportunity to improve the current system at a lower cost.</p> <p>Scored second to last in the DRD appraisal process.</p> <p>Recommended that model is retained for further assessment in OBC.</p>	<p>Favoured model of the previous administration and would achieve reform proposals.</p> <p>However, local authorities do not have powers over local roads. Undesirable to split these functions.</p> <p>Recommended that this option is not taken forward for detailed assessment on account of RPA statement.</p>	<p>Model achieves all reform objectives.</p> <p>Option scored highest of all considered.</p> <p>Recommended that option is taken forward for detailed assessment.</p>	<p>Option satisfies many of the reform objectives.</p> <p>Model ranked 2nd out of 5 options considered.</p> <p>Recommended that this option not be taken forward for further consideration on account of current policy and RPA guidance.</p>

¹ Commission for Integrated Transport.

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BACKGROUND

Debate on Public Transport Reform has been ongoing since 2001 when the Regional Transportation Strategy was developed.

In 2002, a public consultation paper titled *A New Start for Public Transport in Northern Ireland*² outlined a broad framework for reform. Building on this work and in conjunction with consultation with key industry stakeholders³, in 2006, Minister David Cairns announced reform proposals. These proposals stated that the new local authorities created under the Review of Public Administration should take responsibility for planning, designing and securing public transport services. These local authorities would act in the form of a Passenger Transport Authority. Proposals also included a regulatory body and changes to the way in which services were given financial support.⁴

Minister Arlene Foster made a statement on the future shape of local government in March 2008⁵. This confirmed that the Department for Regional Development would retain responsibility for roads functions and given the undesirability of separating these from public transport provision, the Minister for Regional Development has reconsidered David Cairns proposals.⁶

Throughout the reform process to date, it has been widely agreed that overall responsibility for public transport provision should remain within the public sector. Accountability is crucial, given the role public transport plays in many of the Government's economic, mobility, environmental and social objectives. Experience in the UK has also demonstrated the problems that can occur as a result of deregulation with many operators competing for routes on the ground and market leaders buying out smaller service providers. There is therefore consensus, that the Department for Regional Development should retain overall responsibility for Public Transport provision which allows for accountability and scrutiny from the Northern Ireland Assembly.

THE PROPOSALS

The reform proposals involve a three tier structure to deliver public transport services. A diagram outlining this structure is shown in Figure 1 overleaf.

The proposals include a government top tier which will be responsible for broad policy, legislation and regulation; a middle tier which will be responsible for designing and managing services and securing provision from transport operators; and a third tier which will comprise the transport operators.

There is general consensus among industry stakeholders that a three tier structure is the desired way forward for the delivery of public transport services in Northern Ireland.

² DRD, *A New Start for Public Transport in Northern Ireland – A Consultation Paper*, 2002

³ Key stakeholders included DRD; Translink/NITHC; The Confederation for Passenger Transport (CPT); and the General Consumer Council for Northern Ireland.

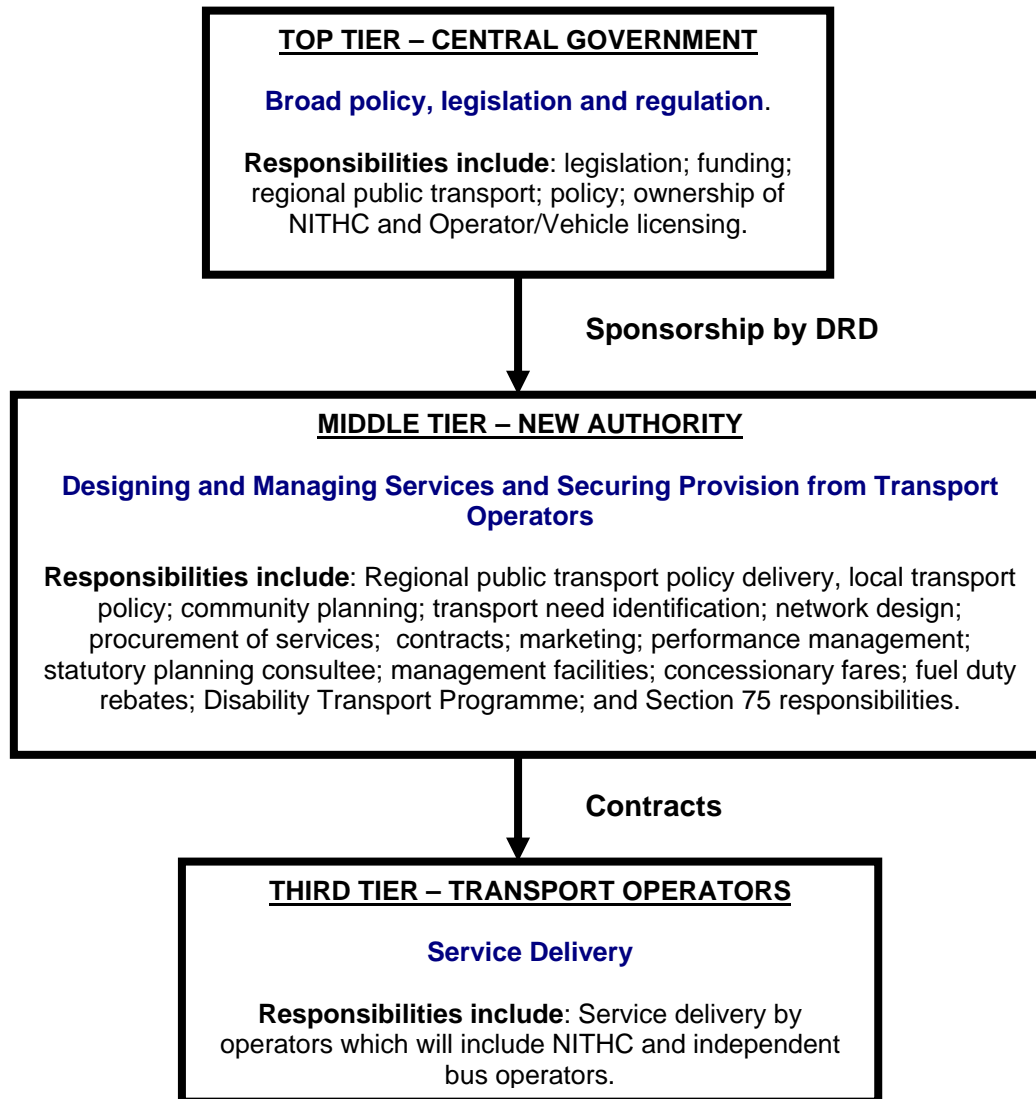
⁴ DRD, News Release, *Future of Transport Services in Northern Ireland*, 22nd August 2006.

⁵ DoE, *Decisions on Future Shape of Local Government, Statement to the Assembly*, 31st March 2008.

⁶ Minister for Regional Development, *Letter to Chair of Regional Development Committee*, 9th 2008.

The *Strategic Business Case – Public Transport Reform*, prepared by DRD, identifies and evaluates five main structural options for delivering this reform which focus on the establishment of a new organisation at the middle tier.

Figure 1: Proposed new structure for the delivery of public transport services⁷



The options considered include:

- 1) Do Nothing;
- 2) Revised Northern Ireland Transport Holding Company (NITHC) / Translink Model;
- 3) Local Authority Based Passenger Transport Authority (PTA);
- 4) Executive Agency; and
- 5) Non Departmental Public Body (NDPB).

These options are considered in further detail in the following chapters.

⁷ DRD, Adapted from *Strategic Business Case – Public Transport Reform*, May 2008, pg7.

OBJECTIVES OF REFORM

Objectives

The overall objectives of public transport reform are to maintain a public transport system that:

- *Supports the implementation of the Regional Transportation Strategy, enabling the maximum possible integration of an effectively regulated public transport network;*
- *Provides safe, efficient and high quality public transport services;*
- *Complies with EU regulations and enables greater controlled competition for the market, with contractual and funding arrangements that provide incentives to deliver an efficient customer-focused and continually improving public transport service;*
- *Encourages the greater use of public transport in support of the Government's economic, social, sustainability objectives; and*
- *Maximises efficiency and value for money, confirmed through benchmarking with comparable public transport operations.⁸*

Throughout the reform debate it has been widely agreed among key stakeholders that future public transport needs in Northern Ireland would be met by a three tier structure with consumer representation at each level.⁹

The objectives of this structure are designed to support the delivery of:

- *A regulated, integrated and accessible public transport network;*
- *A realistic alternative to the car (modal shift);*
- *Greater openness, transparency and accountability (performance based contracts);*
- *A possible increase in services, routes and passenger numbers in the longer term (business and driver opportunities);*
- *An improved quality of service through performance-based contracts (customer satisfaction);*
- *Greater opportunities for private sector investment in line with RTS (increased competition);*
- *Fair and equitable access for licensed operators to all bus/rail stations;*
- *Integrated ticketing across the network (multi-operator);*
- *Improved customer information (travel line);*

⁸ DRD, *Strategic Business Case – Public Transport Reform*, 2008, pg 9.

⁹ *Ibid*, pg 6.

- *Improved linkage between transportation and land use planning (strategic planning and joined up government);*
- *Compliance with EU legislation (legal requirements);*
- *Greater local representation/accountability (involving new local authorities); and*
- *Improved accountability and efficiency.*¹⁰

Proposals for Reform

Five options were considered for the implementation of the proposed middle tier. The Strategic Business Plan evaluates these against the objectives outlined above.

The remainder of this paper examines the options presented by the Department, bringing together analysis from a variety of sources. These include:

- Department for Regional Development;
- Academic research;
- Central and NI Government policy, advice and guidelines;
- Industry reports; and
- Discussion with industry representatives.

The report focuses upon the key areas of:

- Key characteristics
- Roles and responsibilities;
- Legal compliance with EU legislation;
- Funding and financial considerations;
- Performance in practice;
- Structural reform process; and
- Overall satisfaction of reform objectives.

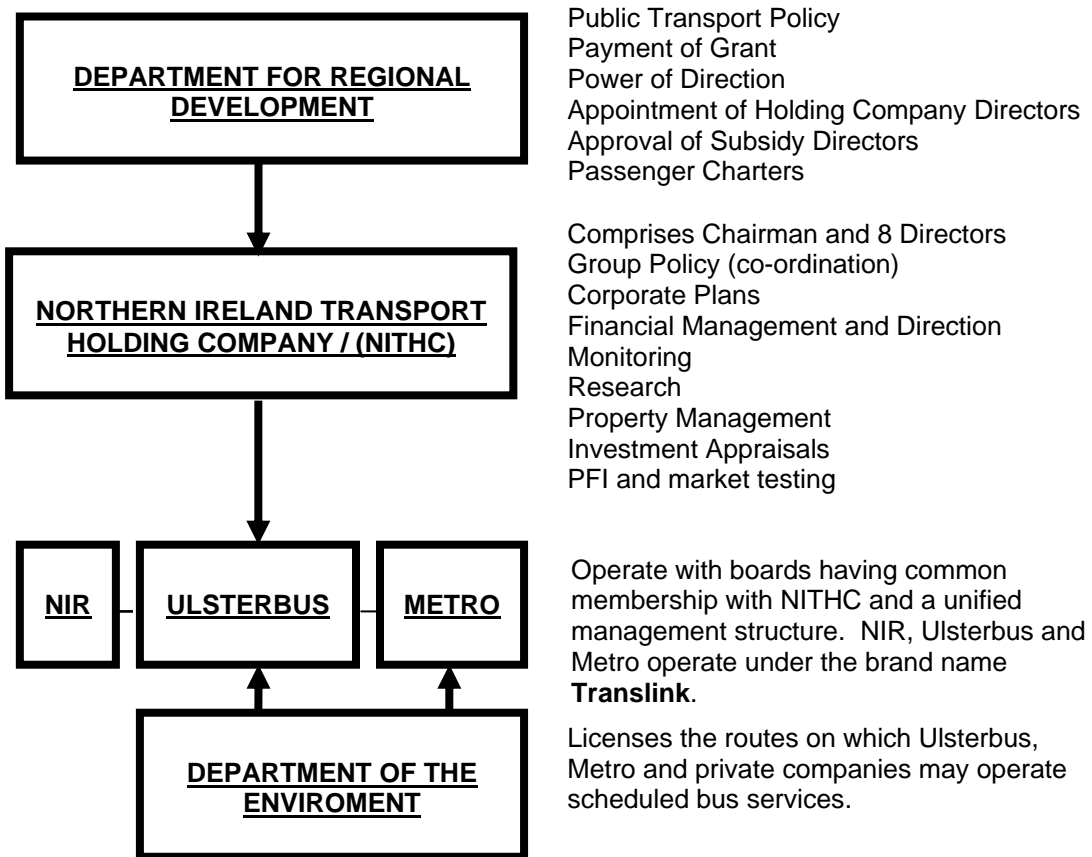
¹⁰ DRD, *Strategic Business Case – Public Transport Reform*, 2008, pg 9.

Option 1: Do Nothing

Key Characteristics

The responsibility for provision of public transport currently rests with a number of different departments and bodies. Figure 2 below shows the current structure.

Figure 2: Current Public Transport Provision Structure in Northern Ireland



Source: DRD, Strategic Business Plan, pg 4.

KEY CHARACTERISTICS

- DRD has overall responsibility for the provision of public transport policy and planning;
- DoE is responsible for safety and operating standards of road passenger transport providers and licensing bus routes;
- Delivery of the majority of services is the responsibility of Northern Ireland Transport Holdings Company (NITHC) through its subsidiary companies – Ulsterbus, Citybus and Northern Ireland Railways which collectively operate under Translink brand name;
- NITHC is required to act commercially however, DRD may direct on certain matters such as providing services on loss making routes; and
- DRD currently manages its relationship with NITCH through an agreed Management Statement and Financial Memorandum which sets out roles and responsibilities.

Issues for Consideration

Roles and Responsibilities

One of the major criticisms of the current model is a lack of a clear division of roles and responsibilities between public transport bodies as there is no clear split between those designing the services and those providing the services. Directors of NITHC (in a quasi regulatory role) are also the directors of the operating companies in Translink.¹¹ This may lead to performance management issues and conflicts of interests whereby the contract provider and the service provider are one in the same.

Furthermore, whilst legislation dictates that NITHC is required to act commercially, there are instances when DRD will require otherwise. This is true of situations where Translink is required to operate on loss making routes and this may lead to complications when defining current roles and responsibilities.

DRD, in its role as policy and strategy provider, will also seek professional advice from Translink. The Strategic Business Case (SBC) states that whilst the importance of obtaining operational information from NITHC /Translink is important in developing services, a number of limitations are displayed. NITHC may not always be fully aware of government policy issues and its interests; and NITHC may not always be best placed to advise on public interest.¹²

Legal Requirements – EU Regulation

In May 2007, a new regulation¹³ was agreed by the European Parliament to deal with public passenger transport by road and rail. The regulation which will come into force in December 2009 is aimed at ensuring as much openness and regulated competition as possible within public transport delivery. Many public transport services are provided for their wider economic benefits rather than their commercial profitability, in return for which they often receive public compensation. The regulation has set out conditions under which such compensation can be granted by operators.

In practice, although the regulation will allow public transport to continue to be provided by 'internal operators' which are subsidised by Government, it will require increased transparency in funding arrangements and evidence, for example through performance based contracts.¹⁴

The regulation will require that all authorities awarding an exclusive right or providing funding, of whatever nature, must do so within the framework of a public service contract. This defines the nature of the public service obligations and the agreed compensation arrangements. This must be done in a transparent way that prevents overcompensation, with annual reports being completed by the authority on performance, quality and financing arrangements.¹⁵

The requirement for transparent contracting creates both conflict of interest and resource concerns. Given the close link between NITHC and Translink, the

¹¹ DRD, *A New Start*, 2002, pg 9.

¹² DRD, *Strategic Business Case*, 2008, pg 5.

¹³ EU Regulation (1370/2007)

¹⁴ DRD, *Public Transport Reform – Staff Briefing*, June 2006.

¹⁵ DRD, *Public Transport Reform – Brief and Terms of Reference for Outline Business Case*. 2008, pg3.

Department would be required to manage contracts from service providers. Furthermore, Translink may be seen to have an unfair advantage in competitive tendering situations.

Funding and Financial Considerations

NITCH operates a virtual monopoly on scheduled services.

Translink has been able to maintain uneconomical services by cross-subsidisation from profitable services, largely without the need for government grants. This has been important in satisfying government social and rural inclusion policies.¹⁶ Had these services been tendered in the open market, supply of non-profitable services would have been limited and profitable routes oversubscribed. Government grants would be required to operate non profitable services.

However, operating in a closed market means that Translink has not been exposed to competition which could result in increased efficiencies; quality improvements; and increased customer service. Research conducted by the European Commission suggests that the introduction of competition can generate cost savings of 10-20% with minimal restructuring and up to 35% with more significant restructuring.¹⁷

This is further enforced by research conducted by Patrick von Egmond which states that:

*Public monopolies have become notoriously inefficient due to the lack of incentives in a particular market.*¹⁸

The *New Start* public consultation document acknowledged the positive role that the private sector could provide in delivering the Regional Transportation Strategy. This is further enforced in the Eddington Report¹⁹ which states that the “government needs to consider how to make the most of the private sector”.²⁰ Current structural arrangements make it difficult to incorporate involvement from the private sector given the conflict of interests arising as a result of NITHC’s roles and responsibilities.²¹

Another primary aim of the reform process is to enable revenue funding to be used for services instead of capital funding. The current model has seen DRD invest capital funding amounting to £231m over the past four years.²² A shift to revenue funding would enable a more transparent link, between money invested by government and the output obtained, to be identified. This is a limitation of the current model.

In the Republic of Ireland, there have been claims that the Exchequer funding the purchase of new buses both by Dublin Bus and Bus Eireann, may constitute illegal

¹⁶ DRD, *A New Start – consultation document*, 2002.

¹⁷ *Ibid*, pg 8.

¹⁸ Egmond et al, *A Comparative analysis of the performance of urban public transport systems in Europe*, 2003, pg. 237.

¹⁹ Sir Rodger Eddington, *the Eddington Transport Study – The Case for Action: Sir Rod Eddington’s advice to government*, December 2006.

²⁰ *Ibid*, pg 55.

²¹ DRD, SBC, pg 5.

²² DRD, *Public Transport Reform – Brief and Terms of Reference for Outline Business Case*, 2008, pg. 10.

state aid as such a policy provides little incentive for operators to use buses efficiently and effectively to satisfy the needs of customers.²³

Performance in Practice and Customer Satisfaction

There are mixed perceptions of the performance of the current NITHC/Translink model.

Journeys made on buses and trains throughout 2007-2008 have increased by over three million during the last year, according to Translink's 2007-2008 Annual Review.²⁴ There are now nearly 80m journeys a year by bus and train which achieves government targets three years early. Translink recorded 67.5m bus journeys made in 2006-07 which increased to 69.9m in 2007-08. Rail journeys accounted for 8.5m in 2006-07 and 9.5m in 2007-08.²⁵

A survey published in September 2007, also noted that Translink passengers have given its bus and rail services their best ever rating since records began 14 years ago. Reliability, value for money, comfort and cleanliness all went up in the assessment. Metro, Ulsterbus and NI Railways also exceeded their 9% punctuality target as set out in a Passenger's Charter.²⁶

Whilst patronage trends are positive, the high profile £19m overspend on the Bangor to Belfast rail upgrade has led to auditors heavily criticising Translink's handling of the project. The auditors' report lists a series of errors and failings on behalf of civil service departments, Translink and the lead engineering consultants.²⁷

Structural Reform Process

No structural reform processes required.

Overall Achievement of Reform Objectives

Analysis demonstrates that this model could not satisfy the objectives of reform particularly those in relation to clear delineation of roles and responsibilities; EU Regulation responsibilities; and the role of the private sector.

DRD analysis within the SBC scores this option the lowest of all considered. It is however recommended that this option forward for further detailed consideration as it provides a useful baseline for which to consider the other options.

²³ Patrick Massey, *Delayed Indefinitely – Regulatory Reform of the Irish Bus Industry* – Presentation to Dublin Economics Workshop Annual Policy Conference, 15th October 2006.

²⁴ Translink, Annual Review, 2007-08.

²⁵ Agenda NI, August 2008.

²⁶ Irish News, *Increase in use of rail services*, January 11th 2008.

²⁷ Irish News, *Translink's £19m overspend*, March 22nd 2007.

Option 2: Revised NITHC / Translink Model

This model would involve a new and extended role for NITHC which would include a remit to design and deliver an integrated network through both its own subsidiaries and other independent operators. It would also involve a transfer of some of the functions currently carried out within Translink to the restructured NITHC organisation.²⁸

This option would concentrate on revision of the current roles and responsibilities of NITHC/Translink to align them more closely with the objectives of the reform programme.

Key Characteristics

- DRD has overall responsibility for the provision of public transport policy and planning;
- NITHC would have extended role to include design and delivery of integrated network;
- Network controlled through Translink subsidiaries and independent operators under a newly agreed regulatory framework.

Issues for Consideration

Roles and Responsibilities

This model would fail to deliver the objective of providing clear lines of responsibilities between service designer and service provider.

Furthermore, unless NITHC was given the responsibility for monitoring service standards connected to the new range of contracts, this function would have to be conducted by the top government tier which would need to recruit new expert staff.²⁹ It would also appear inappropriate for NITHC to be given a performance management role given its requirements to act commercially. The Department would have to continue to be involved in this area of operational business.

As outlined in previous sections, other limitations of this model would involve the provision of advice to the Department and conflicts of interest in competitive tendering situations.

The SBC states that this option would be highly unpopular with many stakeholders who have been heavily involved in reform process to date.³⁰ Translink however, are keen to see this model analysed further.³¹

²⁸ DRD, *Strategic Business Case – Public Transport Reform*, pg 11.

²⁹ *Ibid*, pg 13.

³⁰ *Ibid*, pg 17.

³¹ Discussion with DRD Public Transport Reform representatives, 5.08.08.

Legal Requirements – EU Regulation

This model could possibly be adapted to ensure compliance with new EU Regulations concerning openness and transparency. DRD is completing further work on whether this option could be a legally viable.³²

Funding and Financial Considerations

It is doubtful as to whether this model would allow for increased participation from the private sector. Although in theory NITCH could provide the role of contract manager for a range of private operators, Translink may be perceived as having an unfair advantage, to operators trying to enter the market. It may be difficult for NITHC to maintain impartiality.

Performance in Practice

As outlined previously, Translink has made considerable progress in securing additional patronage on services. The Chief Executive of Translink has attributed much of this to “increased investment by government in buses, trains, track, passenger facilities and ongoing changes and improvements to the services”.³³ It is unlikely that this level of capital investment will be sustained in years to come thus different measures may be required to keep improving patronage levels.

The De Lijn model of transport provision which operates in Belgium is broadly comparable to the proposed Revised Translink Model. This is a model that NITHC and Translink are keen to see implemented.³⁴

Structural Reform Process

There would be minimum disruption in bringing forward proposals to revise current model both in terms of resources required and cost.

Overall Achievement of Reform Objectives

This model scored second to last in the Department’s analysis as it would still not clarify roles and responsibilities. It does however, provide an opportunity to improve the current system and achieve some of the objectives at a lower cost and with less disruption than other methods.

This model is recommended for further assessment within the Outline Business Case.

³² DRD, *Strategic Business Case – Public Transport Reform*, pg 25.

³³ Agenda NI, *Public Transport Investment Pays Off*, July/August 08, pg 7.

³⁴ Discussion with DRD representatives, 5.08.08.

Option 3: Local Authority Based Passenger Transport Authority

In a DRD Ministerial announcement in August 2006, it was envisaged that new local authorities proposed under the Review of Public Administration would have responsibility for planning, designing and securing public transport services for both bus and rail³⁵.

In the light of the outcome of the RPA which concluded that local roads should not be devolved to local authorities, the Minister for Regional Development decided to reconsider this option. Local authorities will not have the relevant powers on local roads functions which will remain with the Department for Regional Development.

Key Characteristics

- Local authorities would have responsibility for planning, designing and securing public transport services for both rail and bus.
- Authorities would act together in the form of a unitary Passenger Transport Authority made up of district councillor representatives.
- A Passenger Transport Executive (PTE) would be responsible for the day-to-day delivery of services.

ISSUES FOR CONSIDERATION

ROLES AND RESPONSIBILITIES

Close integration between transport delivery and local road planning is crucial. As local road responsibilities will not be devolved to local authorities it is considered that the roles and responsibilities associated with decision making would be fragmented. This is the primary reason why it has been decided not to take this option forward to the next stage.

Legal Requirements – EU Regulation

This type of structure in theory would allow for EU Regulation stipulations to be met.

Funding and Financial Considerations

Agreement of a funding regime and prioritisation of future transport expenditure would be more complex due to the inevitable conflicts between funding local services and funding cross-boundary regional services.³⁶

Whilst this option would allow for increased participation by the private sector and revenue funding to be used instead of grant funding, the outcome of the RPA which increased the number of local authorities from seven to eleven, would complicate further funding arrangements.

³⁵ DRD, *Future of Transport Services in Northern Ireland*, 22nd August 2006

³⁶ DRD, *Strategic Business Case – Public Transport Reform*, 2008, pg 14.

Performance in Practice

This is a model which has been used to some success in urban areas throughout Europe and the UK including Transport for London (TfL) and the six main urban areas in England.

TfL has been cited as achieving the desired integration and performance however, new legislation is planned for England for the other Passenger Transport Authorities to provide greater flexibility to allow different governance arrangements to be put in place. The aim is to allow public transport authorities, which are currently made up of the elected councillors from the constituent councils, to have greater control over bus operations, particularly in urban areas where there is a need to provide road infrastructure for public transport and to control road use.

It is noteworthy that, in the Republic of Ireland, a Bill was produced in April 2008, to implement a new public body, the Greater Dublin Transport Authority.

It is important to note however, that in comparison to many of the Metropolitan areas where these Passenger Transport Authorities have been adopted, Northern Ireland is small, both in area and population.

Research commissioned by the Commission for Integrated Transport (CfIT) notes the success of Passenger Transport Authorities in Europe. Patronage increased in Barcelona, Stuttgart, Munich and Graz following the creation of a single Public Transport Authority with responsibility for public transport planning and co-ordination and the subsequent introduction of integrated timetabling and ticketing.³⁷

Structural Reform Process

This option would involve the development of a completely new organisation. New staffing, legal and funding mechanisms would be required which could have significant financial and resource implications.

The RPA also increased the number of local authorities from seven to eleven. This would undoubtedly result in more complicated logistical arrangements. Limitations such as difficulties in reaching decisions; protection of position; weight of decisions; funding allocations etc would all be further complicated by the increase in local authorities.

Overall Achievement of Reform Objectives

Although this was the favoured model for the previous administration, and would enable the achievement of many of the reform process objectives, it has been decided not to consider this model further due to recent RPA statements and implementation complexities.

³⁷ Atkins, *European Best Practice in the Delivery of Integrated Transport*, Report 3: Transferability, 2001, Pg 13.

Option 4: Executive Agency

The purpose of an Executive Agency is to carry out a service or function within government, using a well defined business unit that has a clear focus on delivering specific outputs and a framework of accountability to Ministers.³⁸

Key Characteristics³⁹

- Ministers do not concern themselves with the day-to-day running of the agency;
- Provides a flexible and responsive framework able to cover a wide range of organisational sizes and responsibilities;
- Is usually part of a government department or is linked to a sponsoring department;
- The Chief Executive of the agency is normally answerable on operational issues to a Minister in the sponsoring Department;
- The Chief Executive is normally recruited through open competition and appointed for a fixed term;
- All staff are civil servants; and
- Accounts of the agency are consolidated into those of a sponsoring department.

There are currently 17 Executive Agencies in Northern Ireland and examples include: Driver and Vehicle Licensing; Roads Service and Environment and Heritage Service.⁴⁰ In the UK, there are over 120 such bodies. Examples include: Transport Scotland, Child Support Agency and the Met Office.⁴¹

Under this model, public transport functions currently carried out across various departments/agencies would be reorganised into a single agency.⁴²

Issues for Consideration

Role and Responsibilities

One of the major advantages of the executive agency is the well defined roles and responsibilities of the Minister and the Chief Executive of the agency. Where a clearly defined business plan is in existence, the responsibility for performance rests clearly with the Chief Executive and the staff of the agency. This is delivered under a framework of accountability to the sponsoring Minister. The Minister retains specific control of the way the service is provided through the targets and governance arrangements set out in the Agency's framework document.⁴³

However, a criticism of the agency model also involves how these divisions of responsibilities operate in practice. One author reports of well publicised situations where ambiguities exist over whether incidents are attributable to policy decisions or

³⁸ DFP, *Classification of Public Bodies – Guidance for Departments*, pg 6.

³⁹ *Ibid*, pg 6.

⁴⁰ *Ibid*, pg 6.

⁴¹ *The Guide to the Executive Agencies*, 2006, pg 8.

⁴² DRD, *Strategic Business Case – Public Transport Reform*, 2008, pg 12.

⁴³ *Ibid*, pg 14.

to administrative/operational decisions.⁴⁴ A Cabinet Review into the Executive Agency model also reports that where detailed process controls, such as micro management and double guessing, replace effective strategic governance, the agency's ability to deliver a responsive service is undermined. Furthermore, it can create perverse incentives and inefficiencies.⁴⁵

The Cabinet Review also concludes that some agencies have become disconnected from their sponsoring Departments and that this was the main hurdle to overcome if effective performance is to be achieved.⁴⁶ The review suggests that without properly resourced, strategic engagement between department and agency, services cannot be effectively provided.

In terms of roles and responsibilities, DFP guidance states that executive agencies perform a useful role where it is "neither realistic nor appropriate for Ministers to take personal responsibility for day-to-day decisions".⁴⁷ This is undoubtedly the case with public transport provision.

Legal Requirements – EU Regulations

It is possible to design this model in such a way so that it would satisfy the transparency and competition stipulations of this Regulation.

It is important to consider however, that whilst structures may change to improve competition and transparency, it is likely that it will still be the same staff employed within these structures. This may lead to impartiality issues in the medium-long term.

Funding and Financial Considerations

No detailed financials have been completed for the models however the Department estimates that this option would require considerable investment for implementation and would be comparable to the cost of implementing Option 5, a NDPB.

A common difficulty that afflicts many agencies is the lack of investment capital. The cabinet review notes that imaginative ways must be found to generate additional funding, with clarity as to the appropriateness of diversification within strategic frameworks".⁴⁸

Furthermore, executive agencies will be subject to their sponsoring Department's EYF (End of year flexibility) rules therefore, an Agency's plans may be disrupted for reasons unrelated to their own performance.⁴⁹

Performance in Practice

The Cabinet Review

In 2002 a review was undertaken by The Cabinet Office into the effectiveness of the Government Executive Agency model. The report, *Better Government Services – Executive Agencies in the 21st Century* concluded that:

⁴⁴ *The Guide to the Executive Agencies*, 2006, pg 11.

⁴⁵ Cabinet Office, *Better government services – Executive Agencies in the 21st Century*, 2002, pg 6.

⁴⁶ *Ibid*, pg 6.

⁴⁷ DFP, *Classification of Public Bodies – Guidance for Departments*, pg 6.

⁴⁸ *Ibid*, pg 42.

⁴⁹ *Ibid*, pg 40.

*The Agency Model has been a success. Since 1988, agencies have transformed the landscape of government and the responsiveness and effectiveness of services delivered by government...The management principles that created agencies continue to be highly relevant.*⁵⁰

It further stated that;

*Agencies have delivered improved and more transparent services and created a performance culture that did not previously exist in the civil service...*⁵¹

The Executive Agency model is also flexible which allows for transformation in accordance with changing markets and customer demands so long as strategic directions and strategic performance management are clear.⁵²

There is evidence of the necessity of a good performance management framework within the agency model. The Cabinet Review recognises that in order for value to be realised, departmental and agency target setting must be aligned and targets must be highly relevant and measurable.⁵³ Furthermore, what is often missing in the agency model is a strong link to a process of intelligent business planning, creating challenging and customer focused objectives.⁵⁴ The Cabinet review reports that there is a “strong view from both agencies and departments that targets are too many, unprioritised and have little link to business objectives or customer needs; and that authority rewards, incentives or penalties bear no relation to performance”.⁵⁵

The Review further notes however, that agencies should be able to recruit, structure, promote and manage staff effectively in the light of local needs and labour markets, including staff in the senior civil service. It notes that centralisation of support functions in a large department can lead to a producer-led approach from the centre that is distanced from the needs of customers and local labour markets, undermining the delivery of services. Some of the agency managers interviewed as part of the review were worried that centralisation will hamper improvements in front line delivery, as large central units might not be as speedy or responsive to the needs they require.⁵⁶

Transport Scotland

In 2006 the Scottish Executive set up an executive agency, Transport Scotland to deliver the Scottish Government’s vision for transport using the national rail and road networks. The Agency is accountable to Parliament and the public through the Scottish Ministers.

The Agency works in partnership with private sector transport operators, local authorities and government. It also works closely with the seven regional transport partnerships which take strategic views of the transport needs of people and businesses in the region.⁵⁷ As yet, there has been no formal review of the Agency

⁵⁰ Cabinet Office, *Better government services – Executive Agencies in the 21st Century*, 2002, pg 5.

⁵¹ *Ibid*, pg 20.

⁵² *Ibid*, pg 20.

⁵³ *Ibid*, Ch. 5.

⁵⁴ *Ibid*, pg 6.

⁵⁵ *Ibid*, pg 13.

⁵⁶ *Ibid*, pg 44.

⁵⁷ Transport Scotland, About Us. <http://www.transportscotland.gov.uk/about-us>

however, a 2008 review of train services provided by ScotRail, confirmed increased performance levels.⁵⁸

Structural Reform Process

This model would involve considerable restructuring of both the Department and existing bodies. Functions currently undertaken by DRD, NITHC/Translink and DoE would be transferred to the new agency. However, existing Department work streams such as HR and financials could still be used.⁵⁹

DFP guidance states that agency models are best suited where “the function is predominantly concerned with the delivery of services to the public and the number of staff is large enough to satisfy a separate structure”.⁶⁰ Public transport provision would certainly appear to satisfy these criteria.

Public Transport Reform Objectives

The evaluation undertaken by the Department demonstrates that the agency model scores favourably on all reform objectives outlined in section 2. Of all 5 options, the Agency scored the highest.

This option is to be taken forward for detailed consideration and is the preferred choice of the Minister 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.⁶¹

⁵⁸ Further information can be found at: <http://www.transportscotland.gov.uk/news/Annual-results-Rail-Service-Quality-Performance>

⁵⁹ DRD, *Strategic Business Case – Public Transport Reform*, pg 14.

⁶⁰ DFP, *Classification of Public Bodies – Guidance for Departments*, pg 6.

⁶¹ Minister for Regional Development, Letter to Chair of Reg. Dev. Committee, 9.06.08, pg 5.

Option 5: Non Departmental Public Body (NDPB)

A NDPB is defined as:

*A body which has a role in the processes of government, but is not a government department, or part of one, and which accordingly operates to a greater or lesser extent at arms length from Ministers.*⁶²

*NDPBs carry out a wide range of important functions. Their distance from government means that the day-to-day decisions they make are independent as they are removed from Ministers and Civil Servants. Ministers are however ultimately responsible to Assembly for a NDPB's independence, its effectiveness and efficiency.*⁶³

Key Characteristics⁶⁴

- Operate under statutory provisions and are legally incorporated;
- Chief executive is normally accountable to a management board;
- Staff are not civil servants and are employed directly by the body itself;
- The body is responsible for its own budget;
- Appointments to boards are usually made by Ministers;
- All appointments to the board must be made in line with the Commissioner for Public Appointments for Northern Ireland's Code of Practice;
- Ministers are answerable to the Assembly for the body and have the power to wind it up; and
- Bodies are mostly funded through grant-in-aid from the sponsoring department.

There were 62 NDPBs sponsored by the NI Government as of the 31st March 2007.⁶⁵ The RPA recommended that the total number of NDPBs be reduced to 53.⁶⁶

Issues for consideration

Roles and Responsibilities

The development of a NDPB would facilitate clarity of roles and responsibilities of all key stakeholders in the public transport industry. The body would allow for an effective split between the regulator; network designer and service provider.

The Department notes however, that there may be some instances when the body may not act appropriately in relation to certain social functions required of the transport sector in the medium and long term.⁶⁷ This may be the case for when the body is expected to provide loss making services.

⁶² DFP, *Public Bodies: A Guide for NI Departments*.

⁶³ *Ibid.*

⁶⁴ DFP, *Classification of Public Bodies – A Guide for Departments*.

⁶⁵ *The Guide to Public Bodies "Quangos" – 2007*, 6.

⁶⁶ *Review of Public Administration*.

⁶⁷ DRD, *Strategic Business Case – Public Transport Reform*, pg 18.

Legal Requirements – EU Regulation

This would allow for all EU regulations on passenger services to be complied with. It would allow for effective contractual and funding arrangements to be put in place.

Performance in Practice

The Review of Public Administration, aimed at streamlining the public sector in order to improve service delivery and make accountability lines clearer, concluded that the establishment of a new public body should be a last resort.⁶⁸

The Committee on the Programme for Government on the Review of Public Administration and Rural Planning also state that:

The sub-group agreed by consensus that the reduction in the number of Quangos had not gone far enough. Members considered further significant reductions, based on an assessment of each body, should be made and that clear lines of democratic accountability to either central or local government should be established within a devolved administration for those bodies to be retained⁶⁹.

This is the principal reason why this model has not been recommended for detailed evaluation.

Funding and Financial Considerations

Although no detailed costings have been completed on this option it is estimated that it would be of a similar cost to the agency model as a completely new body would need to be developed.⁷⁰

Unlike the agency model, an NDPB would be responsible for its own staffing and accounting structures.

Given that NDPBs are responsible for their own budgets, a level of accountability may be lost. It is desirable to underwrite the body's independence, powers and obligations through legislation however as a number of high profile cases have demonstrated, accountability can be lost. Note the case of Northern Ireland Event Company.⁷¹

Structural Reform Process

This option would involve the establishment of a new body with separate accounting and staffing procedures implying significant resource expenditure. The Department estimates that implementation costs of this option would be broadly comparable to the Agency option.⁷²

New legislation would also be required resulting in significant time delay.

⁶⁸ DFP, *Public Bodies: A Guide for NI Departments*, 1.1.3.

⁶⁹ Committee on the Programme for Government, *Review of Public Administration and Rural Planning*, Fifth Report, Executive Summary, 2006/07, pg 5.

⁷⁰ DRD, *Strategic Business Case – Public Transport Reform*, 2008.

⁷¹ For further information on case see: http://news.bbc.co.uk/1/hi/northern_ireland/7474169.stm

⁷² DRD, *Strategic Business Case – Public Transport Reform*, 2008, pg18.

Public Transport Reform Objectives

Whilst it is recognised that this model could be used to satisfy public transport reform objectives, it has been decided not to bring this option forward for detailed consideration primarily on account of recommendations of the RPA and current government policy guidance.

In terms of the impact assessment undertaken by the Department, this model ranked 2nd out of the 5 options considered.

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