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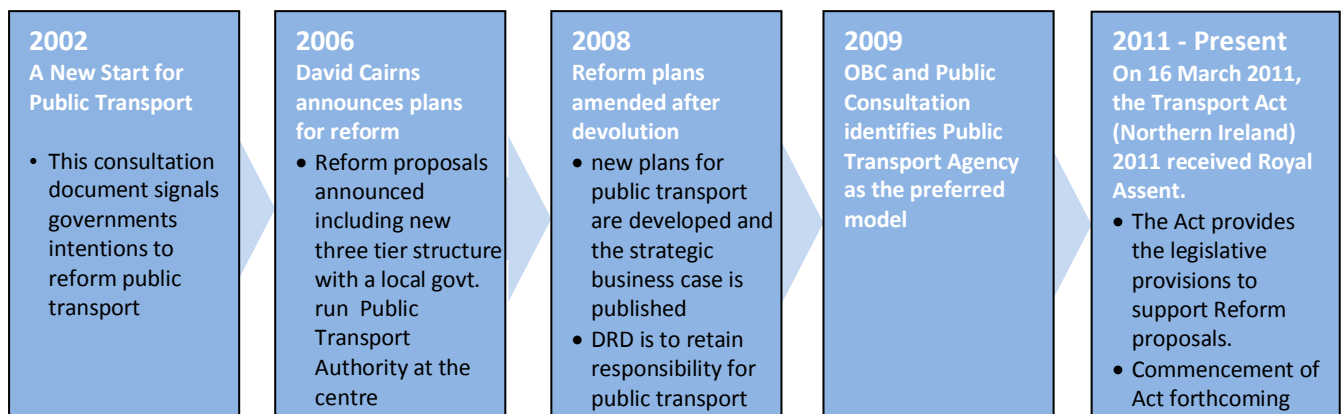
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Public Transport Reform

1 Overview

This paper provides an outline of the current legal status of the Northern Ireland Transport Holding Company (NITHC) and its relationship with the Department for Regional Development (DRD). This paper is written in the context of the on-going reform of public transport which was legislated for with the Transport Act (Northern Ireland) 2011. The Transport Act will significantly alter how public transport services are delivered in Northern Ireland and will enable an improved and more accessible public transport system. Figure one below shows a timeline of the reform process to date with all key dates considered further in this paper.

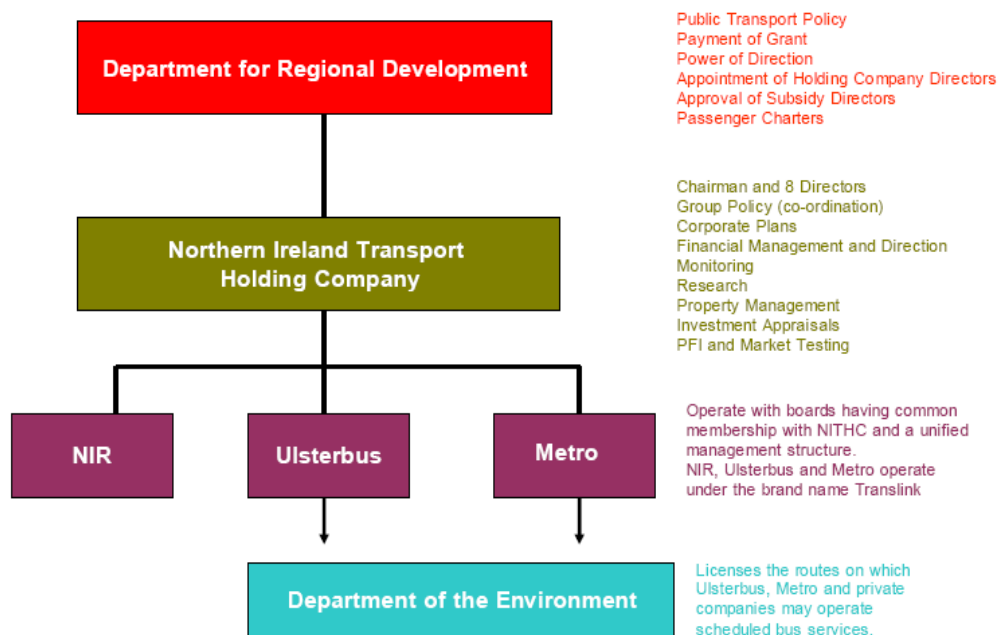
Figure 1: Timeline representing the progression of public transport reform in Northern Ireland



2 The current relationship between DRD and NITHC

The Department for Regional Development (DRD) has overall responsibility for public transport policy and planning in Northern Ireland, whilst the Department of the Environment (DoE) is responsible for the safety and operating standards of road passenger transport providers and for the licensing of bus routes. Delivery of the majority of public transport services is the responsibility of the Northern Ireland Transport Holding Company (NITHC) and its subsidiary companies; Metro, Ulsterbus and NI Railways which operate under the collective brand name of Translink (see figure 2).

Figure 2: Current structure of institutional arrangements for the provision of public transport in Northern Ireland



Source: Ports and Public Transport Division 2007

2.1 NITHC Status

The NITHC is a statutory body (public corporation) established by the Transport Act (NI) 1967. In common with other public corporations, NITHC:

- is a trading body, recovering (a proportion of) its costs from fees charged to customers;
- is controlled by central government;
- has substantial day to day operating independence, acting commercially as required by section 48 of the Transport Act (NI) 1967 and should be seen as an institutional unit separate from the Department for Regional Development.

The Department for Regional Development is the sponsoring department of NITHC/Translink and as such the Minister has ultimate authority over the way the company operates and how they use public funds.

2.2 Operating framework

As required by the Transport Act (NI) 1967 the Minister, the Department and NITHC/Translink agree a broad framework under which NITHC/Translink operate, this is published in the Management Statement and Financial Memorandum (MSFM). The Management Statement includes:

- NITHC's overall aims, objectives and targets in support of the Department's wider strategic aims and the outcomes and targets contained in its current Public Service Agreement (PSA);
- the rules and guidelines relevant to the exercise of NITHC's functions, duties and powers;
- the conditions under which any public funds are paid to NITHC; and
- how NITHC is to be held to account for its performance.

The associated Financial Memorandum sets out in greater detail certain aspects of the financial provisions which NITHC is required to observe.

3 Public Transport Reform

Government announced its intention to reform the way in which public transport is delivered in 2002 via the consultation document 'A New Start for Public Transport in Northern Ireland'.¹ The reform process was intended to create an effective, efficient and sustainable public transport service that contributes to the Government's mobility, environmental, social and economic objectives.

The overall aims of the Public Transport Reform proposals are to deliver a public transport system that:

- supports the implementation of the Regional Transportation Strategy;
- provides safe, efficient and high quality public transport services;
- complies with EU regulations;²
- encourages the greater use of public transport; and
- maximises efficiency and value for money.³

¹ (DRD) Department for Regional Development (2002) *A New Start for Public Transport in Northern Ireland* [online] available from: <http://nia1.me/d0>

² EU Regulation (1370/2007) on public transport by rail and road came into force in 2009 aiming to ensure regulated competition within public transport delivery. This has implications for the current system in Northern Ireland as it requires public authorities who award exclusive rights or provide funding to an operator to do so within the framework of a public service contract that must be strictly controlled and adhere to a performance-based contractual regime (NIAR 373/09)

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

Initially the intention was to devolve responsibility for planning, designing and securing public transport services to the new 'super councils' that were to be established under the Review of Public Administration (RPA). However, following devolution in 2007 it was decided that public transport should remain the responsibility of the DRD. Local roads were also earmarked for devolution, however given the complimentary nature of both roads and public transport, it was agreed that responsibility for both should be retained by the DRD.

3.1 Regulated bus services

At all stages in the reform process it was 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. The position taken was that accountability is crucial, given the role public transport plays in many of the Government's economic, mobility, environmental and social objectives. Under the reform proposals responsibility for the regulation of bus routes will transfer from the Department of the Environment to the Department for Regional Development with effect from April 2014.

3.2 Drawbacks of deregulation

The experience of Great Britain (GB), where bus services were deregulated in 1986, demonstrated the potential drawbacks of such a model. Since deregulation, bus operators have been able to design and develop their own commercial services and set their own fares. It was envisaged that this type of competitive system would bring about a higher quality service and lower fares, ultimately benefiting passengers. However, the opposite has occurred⁴ and the situation exists where there are too many services on busy routes and not enough on quiet ones. This has resulted in 'fares which are too high and service quality which is too low'.⁵ It has also resulted in the local Councils in GB having to fund and contract with operators to provide services on routes that are unprofitable

3.3 Reform proposals

DRD along with key stakeholders including Translink/NITHC, the Federation of Passenger Transport (FPT) and the Consumer Council concluded that future public transport needs in Northern Ireland would best be met by a three-tier structure with consumer representation at each level.

The reform proposals therefore included a three tier structure: a government top tier, responsible for broad policy, legislation and regulation; a middle tier responsible for

⁴ (OFT) Office of Fair Trading (2009) *Local Bus Services* [online] available from: <http://nia1.me/10c>

⁵ Preston, J. (2004) *The Deregulation and Privatisation of Public Transport in Britain: Twenty Years On*. Transport Research Foundation [online] available from: <http://nia1.me/10b>

designing and managing services and securing provision from transport operators; and a third tier which comprises the transport operators.

The Strategic Business Case (SBC) for Public Transport Reform, prepared by DRD in 2008, identified and evaluated five main structural options for delivering reform, focusing on the establishment of a new organisation at the middle tier. The options considered were:

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).

3.4 Options for Reform (Outline Business Case)

The SBC recommended that two options be taken forward to an Outline Business Case for a more detailed review against the 'do nothing' option. Therefore the OBC report considered the 'revised NITHC/Translink' option and the 'Agency' option for reform, particularly focusing on the potential monetary and non-monetary costs and benefits, and the risk associated with each option.

3.5 Preferred Option

Following the publication of the OBC and subsequent public consultation the 'Public Transport Agency' was chosen as the preferred option which would operate as an Executive Agency within the DRD, thereby making it accountable to the Minister for Regional Development, the Executive and the Assembly. The intention is for the agency to take control of some of the Authority 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 Department of the Environment (DOE).

According to the Outline Business Case for Public Transport Reform⁶ the proposed formation of an Executive Agency to oversee and manage public transport in Northern Ireland will bring benefits such as efficiency and improved service. Therefore DRD proposed:

"A single client body with expertise in the specification of integrated transport services and facilities, and in procurement and contract management is necessary in order to achieve and sustain the best possible value for money over the long term".⁷

⁶ McClure Waters (2009) *Outline Business Case for Public Transport Reform*. DRD: Belfast [online] available from: <http://nia1.me/10e>

⁷ DRD) Department for Regional Development (2009) *Public Transport Reform Consultation: Detailed policy proposals* [online] available from: <http://nia1.me/td>

This model received significant support in the public consultation⁸ with the DRD stating that the agency model was chosen based on consideration of a number of options and it was “...concluded that the agency option provided greater independence and offered the prospect of a more efficient system overall.”⁹

The Department emphasised the need for an independent body as an important factor in bringing together all the various stakeholders involved with public transport into a cohesive unit, in order to provide the best possible service; this would not be achievable through the existing NITHC model. The proposal was that the new public transport agency would be responsible for:

- Public transport regulation, planning and policy implementation;
- Working with others, including new local authorities, to develop and agree local public transport plans;
- Specifying the public transport service requirements;
- Securing the delivery of those public transport services through performance-based contracts, awarded either directly to Translink or, in some specific circumstances, subject to open competition;
- monitoring and evaluation of service delivery performance by operators;
- the granting and enforcement of public transport service permits where gaps in service provision are identified;
- the designation of bus/rail stations as shared facilities, to allow permitted independent operators to set down and pick up passengers at those locations; and
- providing public funding subsidies.

3.6 The Transport Act (Northern Ireland) 2011

On 10th June 2010, the Northern Ireland Executive gave approval for a Draft Transport Bill to be introduced into the Assembly which provides the legislative basis for bringing forward the proposed reform of public transport. The Transport Act (Northern Ireland) 2011 received Royal Assent on 16 March 2011. The Act provides the necessary legislative provisions to support the Public Transport Reform proposals.

3.7 Current status of public transport reform process

The reform process is on-going and subordinate legislation will be required to facilitate most of the powers given to the DRD by the Transport Act. In the short term, a pilot scheme involving the opening up of Translink's Europa Bus Centre has just commenced on 3 September 2012, while further down the line the powers to issue public transport service permits will transfer from DoE to DRD in April 2014.

⁸ In total there were 109 written responses to the consultation; 56 responded on the agency issue, six of which were opposed.

⁹ (DRD) Department for Regional Development (2010) *Public transport Reform: Final Report on Public Consultation* [online] available from: <http://nia1.me/10d>

Significantly the remit of the original Public Transport Agency model is now to be combined with the responsibilities of Roads Service; thereby forming one Departmental grouping called Transport Northern Ireland. This is broadly similar to the position in Wales and Scotland, where Transport Wales and Transport Scotland perform broadly similar functions to those proposed for Transport NI. These proposals are still at an early stage and are not expected to come into play before 2013. Roads Service ceased to be an Executive Agency on 31st March 2012 and is now part of the Core Department within DRD.

The new organisation will not be an Executive Agency. The CRD is due to receive a briefing on this in October

3.8 Forthcoming legislation

The following subordinate legislation is currently being developed.

- Conduct at or near bus stations – to bring conduct in bus stations broadly in line with rail stations;
- Service agreement (contracts) and service permits regulations to enable the Department to enter into directly awarded contracts with Translink (in line with EU Regulation 1370/2007) and to enable the DRD to take over responsibility for regulating permit applications where gaps in the market result in operators putting forward proposals for new services;
- Access to shared bus stations and bus stops – to enable other permitted operators to access NITHC/Translink bus stations and bus stops.