

# Report on the Bus Services (Wales) Bill

July 2025



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July 2025



# About the Committee

The Committee was established on 26 May 2021. Its remit can be found at [www.senedd.wales/SeneddLJC](http://www.senedd.wales/SeneddLJC)

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Current Committee membership:



**Committee Chair:**  
**Mike Hedges MS**  
Welsh Labour



**Alun Davies MS**  
Welsh Labour



**Samuel Kurtz MS**  
Welsh Conservatives



**Adam Price MS**  
Plaid Cymru

# Contents

<b>1.</b>	<b>Introduction .....</b>	<b>5</b>
	Purpose of the Bill .....	5
	The Committee's remit .....	6
<b>2.</b>	<b>Legislative competence .....</b>	<b>7</b>
	Our view .....	8
<b>3.</b>	<b>General observations .....</b>	<b>10</b>
	The development of and need for the Bill .....	10
	General matters .....	12
	Balance between the detail on the face of the Bill and delegated powers ..	13
	Our view .....	15
<b>4.</b>	<b>Specific observations .....</b>	<b>17</b>
	Part 1 of the Bill .....	17
	Section 3 – meaning of “flexible local bus service” and “standard local bus service” .....	17
	Section 4 – Welsh Ministers’ duty to have regard to objectives .....	19
	Our view .....	21
	Part 2 of the Bill .....	22
	Section 5 – local bus services: core duties .....	22
	Sections 6 to 8 – Welsh Bus Network Plan .....	22
	Section 10 – power to make supplementary provision about local bus service contracts .....	24
	Sections 13 to 15 – local bus service permits .....	25
	Section 17 – provision of local bus services by the Welsh Ministers .....	26
	Our view .....	27
	Part 3 of the Bill .....	29

Section 21 – restriction on providing local bus services .....	29
Section 23 – enforcement of the restriction .....	30
Our view .....	31
Part 4 of the Bill .....	32
Section 25 – provision of information to the Welsh Ministers by current and former operators for the purposes of functions under Part 2 or 3 .....	32
Section 26 – provision of information about infrastructure and certain other matters to the Welsh Ministers by local authorities and community councils for the purpose of functions under Part 2 .....	33
Sections 27 and 28 – information to be made available to the public .....	33
Section 30 – enforcement of information requirements .....	34
Our view .....	35
Part 6 of the Bill .....	37
Section 35 – application of TUPE .....	37
General provisions .....	38
Our view .....	39
Appeals .....	40
Our view .....	40
Franchising .....	40
Our view .....	41

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# 1. Introduction

On 31 March 2025, Ken Skates MS, the Cabinet Secretary for Transport and North Wales (the Cabinet Secretary), introduced the Bus Services (Wales) Bill<sup>1</sup> (the Bill), and accompanying Explanatory Memorandum<sup>2</sup> (the EM).

1. A Statement of Policy Intent for subordinate legislation to be made under the Bill was also issued.<sup>3</sup>
2. On 1 April 2025, the Business Committee referred the Bill to the Climate Change, Environment and Infrastructure Committee and set a deadline of 25 July 2025 for reporting on its general principles.<sup>4</sup>

## Purpose of the Bill

3. In the EM, the Cabinet Secretary states that the Bill:

*“... establishes a new legislative framework to support the delivery of local bus services as part of a wider “one network, one timetable, one ticket” reform of public transport in Wales.”<sup>5</sup>*

4. He goes on to state that:

*“The Bill will provide for a more inclusive provision of services for communities across Wales to enable people to reduce their car use and promote social equity so that those who need public transport to access jobs, education and recreational opportunities are able to do so.”<sup>6</sup>*

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<sup>1</sup> Bus Services (Wales) Bill, as introduced

<sup>2</sup> Bus Services (Wales) Bill, Explanatory Memorandum, March 2025

<sup>3</sup> Welsh Government, Statement of Policy Intent, 14 April 2025

<sup>4</sup> Business Committee, Timetable for Consideration: The Bus Services (Wales) Bill, April 2025

<sup>5</sup> Explanatory Memorandum, paragraph 1.1

<sup>6</sup> Explanatory Memorandum, paragraph 3.23

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## The Committee's remit

**5.** The remit of the Legislation, Justice and Constitution Committee is to carry out the functions of the responsible committee set out in Standing Orders 21 and 26C. The Committee may also consider any matter relating to legislation, devolution, the constitution, justice, and external affairs, within or relating to the competence of the Senedd or the Welsh Ministers, including the quality of legislation.

**6.** In our scrutiny of Bills introduced into the Senedd, our approach is to consider:

- matters relating to the competence of the Senedd, including compatibility with the human rights protected by the European Convention on Human Rights (the ECHR);
- the balance between the information that is included on the face of the Bill and that which is left to subordinate legislation;
- whether an appropriate legislative procedure has been chosen in relation to the granting of powers to the Welsh Ministers to make subordinate legislation;
- any other matter we consider relevant to the quality of legislation.

**7.** We took oral evidence from the Cabinet Secretary on 12 May 2025.<sup>7</sup>

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

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<sup>7</sup> Legislation, Justice and Constitution Committee, 12 May 2025

## 2. Legislative competence

The Welsh Government is satisfied that the Bill would be within the legislative competence of the Senedd.<sup>8</sup>

**8.** We considered the Bill under the reserved powers model of legislative competence, as set out in section 108A of the *Government of Wales Act 2006* (the 2006 Act).

**9.** In her statement on legislative competence, the Llywydd, the Rt Hon Elin Jones MS, stated:

*“In my view, most of the provisions of the Bus Services (Wales) Bill would be within the legislative competence of the Senedd.*

*The following provisions would not be within competence because they require the consent of the Secretary of State, and such consent has not been obtained at this time:*

- *Section 22 – Duty on Welsh Ministers to inform traffic commissioner of any breach of the restriction*
- *Section 23 – Enforcement of the restriction*
- *Section 25 – Provision of information to the Welsh Ministers by current and former operators for the purposes of functions under Part 2 or 3*
- *Section 30 – Enforcement of information requirements”.*<sup>9</sup>

**10.** The Cabinet Secretary states in the EM that the Minister of the Crown consent has been sought but not yet received at the time the EM was drafted.<sup>10</sup>

**11.** In our evidence session with the Cabinet Secretary on 12 May 2025 we noted that the Cabinet Secretary does not discuss human rights in the EM, and therefore asked what account of human rights had been taken in preparing the Bill. He responded:

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<sup>8</sup> EM, page 1. See also LJC Committee, 12 May 2025, RoP [98]

<sup>9</sup> Presiding Officer’s Statement on Legislative Competence, 31 March 2025

<sup>10</sup> EM, footnote 1

*“... as with all Senedd Bill proposals, the Welsh Government has to carry out a full human rights assessment before introduction, and we're satisfied that the provisions in this Bill are compliant.”<sup>11</sup>*

**12.** Chapter 9 of the EM sets out details of a series of impact assessments which have been completed on the Bill by the Welsh Government as part of its Integrated Impact Assessment.

**13.** In the EM the Cabinet Secretary states that a response from the Ministry of Justice is expected in relation to the justice impact identification assessment on or around the introduction of this Bill. As regards publication of the full assessment, the Cabinet Secretary told us that it had been cleared by the Ministry of Justice and the Welsh Government was “due to publish that imminently”.<sup>12</sup> On 21 May 2025, we were notified that the justice system impact identification assessment had been published by the Welsh Government.<sup>13</sup>

## **Our view**

**14.** We note the evidence in relation to matters of legislative competence from the Cabinet Secretary.

**15.** We further note that the Cabinet Secretary considers that Minister of the Crown consent will be required in relation to sections 22, 23, 25 and 30. We acknowledge it is the responsibility of the Cabinet Secretary to seek and obtain this consent.

**16.** As we have stated previously<sup>14</sup>, we believe that an assessment of a Bill’s engagement with the rights protected by the ECHR should be included as a matter of course within the accompanying EM, and that assessment should also set out any steps which have been taken to make that engagement proportionate. We believe that following this approach would assist Members of the Senedd in their consideration of a Bill.

**Conclusion 1.** We note the Cabinet Secretary’s comments in respect of the Bill’s impact on human rights but believe that, as a matter of good practice, an

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<sup>11</sup> LJC Committee, 12 May 2025, RoP [100]

<sup>12</sup> LJC Committee, 12 May 2025, RoP [111]

<sup>13</sup> Welsh Government, [Bus Services \(Wales\) Bill: justice system impact identification](#), 21 May 2025

<sup>14</sup> See, for example, conclusion 1 of our [Report on the Welsh Language and Education \(Wales\) Bill](#), conclusion 1 of our [Report on the Elections and Elected Bodies \(Wales\) Bill](#) and conclusion 1 of our [Report on the Environment \(Air Quality and Soundscapes\) \(Wales\) Bill](#).

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Explanatory Memorandum should always include a commentary on the consideration given to such implications.

**Conclusion 2.** We note that Chapter 9 of the EM sets out details of a series of impact assessments which have been completed on the Bill by the Welsh Government as part of its Integrated Impact Assessment. We further note that, on 21 May 2025, the Welsh Government published its justice system impact identification assessment. We are disappointed that this assessment was not published until nearly two months after the Bill was introduced to the Senedd, as its availability may have assisted the Senedd's scrutiny of the Bill.

### 3. General observations

#### The development of and need for the Bill

**17.** In December 2018, the Welsh Government published a White Paper<sup>15</sup> on “Improving public transport”, and subsequently introduced a Bus Services (Wales) Bill<sup>16</sup> in March 2020 (the 2020 Bill). The 2020 Bill was later withdrawn<sup>17</sup> on 15 July 2020 due to challenges faced by the Welsh Government in light of the Covid-19 pandemic.

**18.** We asked the Cabinet Secretary to explain the five-year gap between the introduction of the 2020 Bill and the introduction of the Bill now being scrutinised. The Cabinet Secretary told us that the Covid-19 health pandemic “upended” the Welsh Government’s legislative programme, but that it gave it “an opportunity to revisit this particular Bill”. He went on to say:

*“We were moving at speed up until 2020 to try to introduce a Bill that would reform bus services. And so, what we proposed then is not as ambitious as what we’ve been able to propose today, and we’ve used that time to effectively move from a position where we gave tools under the previous Bill to local authorities to actually requiring, on a national basis, franchising across Wales. So, it takes it a huge step further, what we’re proposing now. If you compare it to the UK bus Bill, the better buses Bill, that effectively offers those tools to local authorities that we were proposing with 2020 Bill, but we’re going much further with the legislation that we’re proposing under our bus reform today.”<sup>18</sup>*

**19.** An official accompanying the Cabinet Secretary added:

*“... restructuring this framework in a way that best delivers what we set out in the White Paper has been a really complex undertaking, and it’s important that we take that time to get it right and put buses on a stable footing. This Bill is very different to the 2020 Bill and, as the Cabinet Secretary says, much more ambitious. I wonder if it’s also worth mentioning that, in the*

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<sup>15</sup> Welsh Government, [Consultation: Improving public transport](#)

<sup>16</sup> [Bus Services \(Wales\) Bill](#), 2020

<sup>17</sup> [Letter from the then Minister for Economy, Transport and North Wales, Ken Skates MS](#), 15 July 2020

<sup>18</sup> LJC Committee, 12 May 2025, RoP [102]

*intervening period since 2020 and since the withdrawal of the previous Bill, there has been a huge amount of work carried out, including a consultation in 2022, the publication of the road map, which is a really important document, and a huge amount of direct engagement with stakeholders. So, it's really given us that opportunity to engage and bring in a really wide range of stakeholders into the process.”<sup>19</sup>*

**20.** The 2020 Bill differed from the current proposals. It proposed giving local authorities powers to introduce Welsh Partnership Schemes, Welsh Franchising Schemes and to run their own bus services. The 2020 Bill would have allowed local authorities to use any or all of these options but did not mandate their use. In the case of franchising, local authorities, rather than the Welsh Ministers (as per the current Bill’s provisions), would become the franchising authority.

**21.** In March 2022, the Welsh Government published ‘Bws Cymru’, setting out the Welsh Government’s plans to reform the planning and delivery of local bus services over the next 5 years. It included a commitment to publish a white paper in advance of new primary legislation to alter the way bus services are secured.<sup>20</sup>

**22.** The Welsh Government published its White Paper ‘One network, one timetable, one ticket: planning buses as a public services for Wales’ for consultation on 31 March 2022.<sup>21</sup> A summary of responses was published in December 2022.<sup>22</sup>

**23.** The Welsh Government did not consult on a draft Bill. In the EM the Cabinet Secretary states:

*“The provisions included in the Bill are underpinned by the proposals put forward in the White Paper consultation published in March 2022, and have been refined in light of the responses received. Given the breadth and depth of engagement with key stakeholders, including local authorities and representatives of bus operators in respect of the proposals, it was not considered necessary to consult on a draft Bill.”<sup>23</sup>*

<sup>19</sup> LJC Committee, 12 May 2025, RoP [103]

<sup>20</sup> Welsh Government, [Bws Cymru: connecting people with places](#)

<sup>21</sup> Welsh Government, [Consultation: One network, one timetable, one ticket: planning buses as a public service for Wales](#)

<sup>22</sup> Welsh Government, [Consultation – summary of responses: One Network, One Timetable, One Ticket: Planning Buses as a Public Service for Wales](#)

<sup>23</sup> EM, paragraph 4.35

## General matters

**24.** The Bill's 44 sections are split over six Parts. We asked the Cabinet Secretary why the Bill does not contain an overview section upfront which explains the Bill's structure. He told us that this "was on the basis of advice from the drafters of the Bill". The Cabinet Secretary went on to say:

*"I agree that an overview can help to contribute to the accessibility of legislation, but in this instance we're of the view that the structure of the Bill and the type of provision that's included in it is actually relatively easy to follow in its own right. So, an overview would essentially just restate the various cross-headings and sections that are already set out in the table of contents, and so we felt that duplication was not necessary and certainly not desirable."*<sup>24</sup>

**25.** An official accompanying the Cabinet Secretary added that the Welsh Government did look at other Acts and Bills currently before the Senedd, and that officials did not consider that an overview section "would have added a lot".<sup>25</sup>

**26.** The Bill makes several amendments to, and disapplies certain provisions in, Acts of Parliament, for example removing the restriction on local authorities in Wales from providing bus services (section 32).

**27.** We asked the Cabinet Secretary if he was confident that all of the necessary changes have been made to existing primary legislation to enable the Bill (if enacted) to operate efficiently. He responded:

*"Yes. I mean, the Bill makes amendments to the existing requirement for local authorities in Wales to secure public passenger transport services that, obviously, wouldn't be provided, and the power to subsidise such services, but we are planning to table further consequential amendments at Stage 2 in respect of other existing powers—for example, in relation to the powers within the transport Act that relate to quality partnership schemes and quality contract schemes, and also ticketing schemes."*<sup>26</sup>

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<sup>24</sup> LJC Committee, 12 May 2025, RoP [106]

<sup>25</sup> LJC Committee, 12 May 2025, RoP [107]

<sup>26</sup> LJC Committee, 12 May 2025, RoP [109]

**28.** The Legislation (Procedure, Publication and Repeals) (Wales) Bill will codify and rename the Senedd's subordinate legislation procedures. The new "Senedd approval procedure", as set out in the new section 37C to be inserted by section 1(2) of that Bill into the *Legislation (Wales) Act 2019* (the 2019 Act), will replace the current draft affirmative procedure. The new "Senedd annulment procedure", as set out in the new section 37E to be inserted by section 1(2) of that Bill into the 2019 Act, will replace the current made negative procedure.

**29.** The new procedures are reflected in the Bill. However table 5.1 of the EM refers to the affirmative and negative procedures. The Senedd passed the Legislation (Procedure, Publication and Repeals) (Wales) Bill on 20 May 2025.<sup>27</sup> We asked the Cabinet Secretary to confirm that the EM would be amended to ensure consistency with the Bill. The Cabinet Secretary confirmed that it is his intention to update the EM to reflect the wording in the Legislation (Procedure, Publication and Repeals) (Wales) Bill, following stage 2 proceedings on the Bill (should the Senedd agree to its general principles at stage 1).<sup>28</sup>

### **Balance between the detail on the face of the Bill and delegated powers**

**30.** The Bill contains 19 powers for the Welsh Ministers to make regulations and one power to make an order. These powers are contained in:

- section 10 (Senedd annulment procedure);
- section 13(2) and (3) (Senedd annulment procedure);
- section 14(1) and (2) (Senedd annulment procedure);
- section 15(5) (Senedd approval procedure);
- section 21(3) (Senedd approval procedure);
- section 23(2)(b) (Senedd approval procedure);
- section 23(8) (Senedd annulment procedure);
- section 23(9)(a)(i) and (b)(i) (Senedd approval procedure);
- section 25(3)(b), (4) and (5) (Senedd approval procedure);

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<sup>27</sup> The Legislation (Procedure, Publication and Repeals) (Wales) Bill became the Legislation (Procedure, Publication and Repeals) (Wales) Act 2025 on 10 July 2025

<sup>28</sup> LJC Committee, 12 May 2025, RoP [119]

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- section 26(3)(b) and (4) (Senedd approval procedure);
- section 27(1), (2), (4) and (5) (Senedd approval procedure);
- section 28 (Senedd approval procedure);
- section 30(2)(b) (Senedd approval procedure);
- section 30(8) (Senedd annulment procedure);
- section 30(9)(a)(i) and (b)(i) (Senedd approval procedure);
- section 35(1), (2), (3) and (4) (Senedd approval procedure);
- section 38 (procedure as set out for each power but Senedd approval procedure if modifying any provision of primary legislation);
- section 40(3) (Senedd approval procedure);
- section 42 (Senedd annulment procedure, but Senedd approval procedure if modifying any provision of primary legislation);
- section 43(3) and (4) (no procedure).

**31.** Several of these powers are Henry VIII powers and are subject to the Senedd approval procedure, namely:

- Section 15(5)(a) enables the Welsh Ministers to amend section 15(3) of the Bill via regulations to modify the grounds upon which a local bus service permit may be revoked or suspended (including by removing existing grounds or adding new ones).
- Section 21(3) enables the Welsh Ministers to amend section 21 of the Bill via regulations to provide that the restriction on providing local bus services in the absence of a local bus service contract, a local bus service permit or direct service provision by the Welsh Ministers does or does not apply to certain types of local bus services.
- Section 38(4) enables the Welsh Ministers to modify any enactment when making regulations under subsection (3) that make supplementary, incidental, consequential, transitional or saving provision.
- Section 40(3) enables the Welsh Ministers to make provision via regulations as to when a person is to be treated as providing or not

providing a service, for the purposes of determining whether a person is an “operator” as per section 40(2). For the purposes of the Bill, a reference to an “operator” is to a person, or each of the persons, providing the service. This power could be used to amend the Bill for this purpose.

- Section 42(2) enables the Welsh Ministers to modify any enactment if they consider it necessary when making regulations under subsection (1) that make supplementary, incidental, consequential, transitional or saving provision.

**32.** The Bill also contains one power for the Welsh Ministers to publish a Welsh Bus Network Plan, and two powers for traffic commissioners to make orders in relation to enforcement.

**33.** As noted in Chapter 1 of our report, on 14 April 2025 the Cabinet Secretary issued a Statement of Policy Intent, outlining how the Welsh Government currently intends to use the delegated powers contained in the Bill.

## **Our view**

**34.** We note the Cabinet Secretary’s evidence regarding the development of the Bill. We further note the Cabinet Secretary’s reasoning as to why there was a five-year gap between the introduction of the 2020 Bill (subsequently withdrawn) and the introduction of the Bill now being scrutinised.

**35.** We acknowledge that the Welsh Government undertook public consultations in 2018 and 2022 on proposals to improve public transport and reforming the planning and delivery of local bus services in Wales. Nonetheless, the Cabinet Secretary will be aware of our longstanding preference for the Welsh Government to consult on draft Bills where appropriate, as opposed to consulting solely on policy proposals.

**36.** We note the Cabinet Secretary’s comments regarding the structure of the Bill, and his explanation for why the Welsh Government is of the view that, on this occasion, an overview provision “would essentially just restate the various cross-headings and sections that are already set out in the table of contents” and was therefore “not necessary and certainly not desirable”.

**37.** In addition, we welcome the Cabinet Secretary’s commitment to update the EM to reflect the new descriptions for Senedd scrutiny procedures used in the Legislation (Procedure, Publication and Repeals) (Wales) Bill, following stage 2

proceedings on the Bill (should the Senedd agree to its general principles at stage 1).

**38.** We also note that the Bill makes several amendments to, and disapplies certain provisions in, Acts of Parliament. We note the Cabinet Secretary's comments that, while he is confident that all necessary changes have been made to existing primary legislation to enable the Bill to operate efficiently, he is "planning to table further consequential amendments at Stage 2 in respect of other existing powers—for example, in relation to the powers within the transport Act that relate to quality partnership schemes and quality contract schemes, and also ticketing schemes".

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

**39.** Finally, we note that the Bill contains 20 powers for the Welsh Ministers to make regulations and orders, five of which are Henry VIII powers. Subject to our comments on specific powers and provisions in the Bill, we are content with the balance between what is on the face of the Bill and what is left to subordinate legislation.

**40.** We discuss specific delegated powers in the Bill in more detail in Chapter 4 of our report.

## 4. Specific observations

**41.** As noted in Chapter 3, the Bill comprises 44 sections, and it is split into six Parts.

### Part 1 of the Bill

**42.** Part 1 (sections 1 to 4) defines the key concepts applied in the Bill, such as a “local bus service”, a “flexible local bus service” and a “standard local bus service”.

#### **Section 3 – meaning of “flexible local bus service” and “standard local bus service”**

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**43.** Section 3 of the Bill defines a “flexible local bus service” and a “standard local bus service”. A “standard local bus service” is a local bus service that is not a flexible local bus service. The Bill defines a “flexible local bus service” as a local bus service that is “so flexible” that it would not be practicable to identify its route for the purpose of the Welsh Bus Network Plan.

**44.** In our evidence session with the Cabinet Secretary we asked what are the key differences between the definition of local bus services in the Bill and the definition of local services as per the 1985 Act. He responded:

*“... I may have to provide you with a briefing paper on it because the definition in the 1985 Act was just overly complicated. Essentially, under our Bill, a local bus service is a service with one or more stopping places in Wales using one or more public service vehicles for the carriage of passengers by road as separate fares. That's where passengers are picked up and then set down within 15 miles. So, the definition in section 1 is similar to the definition under section 2, and obviously it aligns with the existing definition for all practical purposes. But there are three key differences, I think. First of all, and it's for obvious reasons, services must have one or more stopping points in Wales. Then, secondly, we're excluding excursions or tours and rail replacement services from the definition. I don't think it is reasonable to expect Welsh Ministers to secure and provide excursions, days out and holiday tours. So, that's been removed. And clearly, it's for the likes of TfW, Avanti, CrossCountry and GWR to provide rail replacement services. So, that's not captured within the definition. And then, the word 'bus' is*

*included in the definition as well. That doesn't appear within the definition in section 2 of the 1985 Act."*<sup>29</sup>

**45.** The briefing mentioned by the Cabinet Secretary during the evidence session was shared with the Committee on 12 June 2025, in which the Cabinet Secretary states:

*"The definition in Section 1 is similar to the definition under section 2 of the Transport Act 1985 and aligns with the existing definition for all practical purposes. However, there are some key differences:*

- *Services must have one or more stopping places in Wales.*
  - *Given that the Bill seeks to establish a Welsh national bus network a definition capturing services operating in Wales was needed.*
- *Excursions or tours and rail replacement services are excluded from the definition.*
  - *It is not the intention for these types of service to be secured by the Welsh Ministers therefore they are not local bus services for the purposes of the Bill.*
- *The word "bus" is included in the definition within the Bill as this word gives important information to the reader about the nature of the services the Bill is dealing with.*
  - *This does not appear within the definition in section 2 of the 1985 Act.*

*The definition in section 2 did not fulfil our brief as to what the Bill was to capture. Excursions or tours and rail replacement services have been excluded from the Bill's definition of local bus services. It was also felt that the definition in the 1985 Act was overly complicated."*<sup>30</sup>

**46.** When asked during our evidence session how it would be possible to determine which routes are 'so flexible' so as to fall within the definition of a "flexible local bus service", the Cabinet Secretary told us:

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<sup>29</sup> LJC Committee, 12 May 2025, RoP [121]

<sup>30</sup> Letter from the Cabinet Secretary for Transport and North Wales, 12 June 2025

*“This largely relates to demand responsive transport, and it's going to be for Transport for Wales on behalf of the Welsh Ministers, and, crucially, in collaboration. It will be undertaken in collaboration with councils to agree that a service should have no fixed route and, therefore, as such, be included in the plan as a flexible service.”<sup>31</sup>*

## **Section 4 – Welsh Ministers’ duty to have regard to objectives**

**47.** Section 4 in Part 1 of the Bill sets out the general objectives to which the Welsh Ministers “must have regard” when exercising functions under the Bill. Those objectives are:

- To promote the use of local bus services.
- To continuously improve the reliability, safety, affordability and accessibility of local bus services.
- To work towards increasing the availability of local bus services.
- To work towards achieving an integrated transport system.
- To facilitate passenger journeys that involve using more than one local bus service.
- To reduce greenhouse gas emissions and waste from road transport.

**48.** We asked the Cabinet Secretary to clarify why the Welsh Ministers must only have regard to the general objectives. He responded:

*“Essentially, it's because there has to be the flexibility for Ministers to be able to have regard to duties rather than tie Ministers' hands to achieving a particular outcome at all costs. If we were required to meet those duties, then we could end up in a situation where you don't have the finely balanced measure of meeting each of the duties. You end up prioritising one particular one at all costs to the others, where that particular one might be more difficult to achieve. (...)*

*But this shouldn't be read in isolation from the other form of scrutiny that's going to be taking place and the collaborative work that's going to be taking place by Transport for Wales on*

<sup>31</sup> LJC Committee, 12 May 2025, RoP [124]

*behalf of Ministers with local authorities. So, the flexibility doesn't just apply to Welsh Ministers, it applies to the system, to be able to co-ordinate and construct a network that has regard to those duties but doesn't become overly obsessed with meeting each and every one in equal terms.”<sup>32</sup>*

**49.** A Welsh Government official accompanying the Cabinet Secretary added:

*“... in the short term, we're talking about bus reform, but, in the long term, it's a business-as-usual way of delivering a dynamic bus service across Wales. And I think the nature of the generational change that we'll see with buses is that, in the first instance, it might mean that some of the objectives may conflict, or even one might be more pre-eminent than another in order to get where we need to get to. So, for example, in establishing a new model, we may be more focusing on promoting the use of services rather than reducing emissions, which is obviously very important and we're tied by other legislation there and rightfully so. But this will need to be the case because we may still need to buy diesel buses in order to provide more services to encourage more people out of their cars. And in this way, all of the objectives need to be considered, but one can have pre-eminence over the others.”<sup>33</sup>*

**50.** When probed on matters relating to ensuring Ministerial accountability for decisions being taken, the Cabinet Secretary also told us that there are “various means for scrutinising Welsh Ministers on this”. He stated:

*“First of all, the plans have to be consulted upon within the regions. We're establishing a memorandum of understanding as well with the corporate joint committees to ensure that, effectively, CJsCs are able to then propose the networks to Ministers. And then furthermore, the Bill requires Welsh Ministers to report to the Senedd on the extent to which the exercise of their functions has contributed towards achieving the objectives in section 4. There'll also be then, further to that, an opportunity for the Senedd to examine and scrutinise Ministers' actions. And then, the reporting requirement, coupled with the duty to lay revised network plans, ensures that the*

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<sup>32</sup> LJC Committee, 12 May 2025, RoP [128] and [130]. See also RoP [134].

<sup>33</sup> LJC Committee, 12 May 2025, RoP [133]

*Senedd is able to keep a watching brief over what Ministers are doing.*

*I'm confident that the Senedd has the capability and the capacity to be able to fully scrutinise what Welsh Ministers are striving to achieve with the network map and the plan as a whole, and, in so doing, curtail any powers that Members feel might be excessive. But I feel that what we are proposing is both proportionate and pragmatic. I think flexibility is absolutely vital in order to achieve what we have laid out in our aspirations in the road map to franchising.”<sup>34</sup>*

**51.** The EM also sets out additional matters which are envisaged to be included in the report on the progress made against the section 4 objectives. We asked the Cabinet Secretary to explain his rationale for not including these additional matters on the face of the Bill. The Cabinet Secretary told us that he wanted “an approach that included on the face of the Bill what balances the need to make progress towards the objectives with the need to demonstrate how the functions are being exercised”. He added:

*“Further information in the report may include matters that are connected to the wider delivery of bus services or the network that don't directly relate to the objectives, and they may include actions that we plan to take going forward and wider achievements or issues identified that require an improvement. They're not included in the Bill because we need to allow, again, the flexibility to understand exactly what they would be.*

*Technology is moving on at pace. Different behaviour patterns will influence the provision of bus services. But we think that any additional matters that are relevant to the Senedd or the public in the delivery of the objectives should be included in the report. I think it's absolutely vital that we're completely transparent with any additional matters.”<sup>35</sup>*

## **Our view**

**52.** We note the Cabinet Secretary's evidence regarding the provisions in Part 1 of the Bill.

<sup>34</sup> LJC Committee, 12 May 2025, RoP [136] and [137]

<sup>35</sup> LJC Committee, 12 May 2025, RoP [140] and [141]

**53.** We note that section 3 as currently drafted means it will be open to the Welsh Ministers to decide what is a “flexible local bus service”.

**54.** As regards section 4, we note that the Welsh Ministers will only be required to have regard to the general objectives when exercising functions under the Bill. We further note the reasoning provided by the Cabinet Secretary and his officials that, in the first instance, some of the objectives may conflict or one might be more pre-eminent than another, and so flexibility for the Welsh Ministers is needed rather than “tie Ministers' hands to achieving a particular outcome at all costs”.

## **Part 2 of the Bill**

**55.** Part 2 (sections 5 to 20) sets out the core duties and other functions of the Welsh Ministers relating to local bus services.

### **Section 5 – local bus services: core duties**

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**56.** Under the Bill, the Welsh Ministers will be required to first determine the local bus services required for the purpose of the provision of safe, integrated, sustainable, efficient and economic transport in Wales (section 5(1)(a)). They must then prepare (in consultation with a range of stakeholders), publish and lay before the Senedd a Welsh Bus Network Plan under which they will be required to set out the key particulars of those local bus services which have been identified as required for the purposes described above (section 5(1)(b)). The Welsh Ministers must then, if reasonably practicable to do so, secure those services (section 5(1)(c)).

**57.** Section 5(2) sets out the key particulars of local bus services that must be included in the Welsh Bus Network Plan. We asked the Cabinet Secretary if consideration was given to including a delegated power in the Bill that would allow this list of key particulars to be amended. The Cabinet Secretary told us that the key particulars are “very unlikely to change in this context” and, as such, he was not of the view that a power to amend the list is necessary.<sup>36</sup>

### **Sections 6 to 8 – Welsh Bus Network Plan**

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**58.** Sections 6 and 8 of the Bill set out a number of stakeholders that must be consulted during the preparation of the draft Welsh Bus Network Plan, or when preparing a revised draft plan. We asked the Cabinet Secretary why the Bill does not include an express duty to consult with English local authorities when an English authority may be affected by a cross-border service. The Cabinet Secretary

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<sup>36</sup> LJC Committee, 12 May 2025, RoP [145]. See also RoP [147] to [149].

told us that he knows how important cross-border services are when preparing and revising a transport plan and its nature. He added:

*“... consultation with English local authorities is covered; it's covered by sections 6(4)(g) and 8(4)(g) of the Bill. Under these provisions, Welsh Ministers will be required to consult with English local authorities. But they'll be required to consult on cross-border services when it's considered appropriate, rather than the entire network map. We didn't feel that it'd be appropriate to have to consult with English local authorities on all of the map. That would not be proportionate or desirable.”<sup>37</sup>*

**59.** Subsections (7) to (9) of section 6 provide that the Welsh Ministers may prepare a draft of the Welsh Bus Network Plan, and seek views and consult in relation to that plan, prior to the rest of section 6 coming into force. When we asked the Cabinet Secretary why he considered these provisions to be necessary he told us:

*“That's basically because a huge amount of work has already been done by Transport for Wales and others to develop and, indeed, to consult on the network plan, as the intention is to publish the initial version, subject to Royal Assent, as soon as possible in the new year. So, these powers enable us, essentially, to capture the work that's being done already, as part of a requirement for the development of the network plan, in time for rolling out the bus model next year.”<sup>38</sup>*

**60.** Section 8 provides that some of the requirements around seeking views and consulting on a proposed revision to the Welsh Bus Network Plan do not apply where the proposed revision is “no more than minor” or it would “not be reasonably practicable to consult over the proposed revision”. We asked the Cabinet Secretary how will “no more than minor” be determined and in what circumstances would it not be reasonably practicable to consult on a proposed revision. He responded:

*“... given the nature of transport and road works, there will inevitably be times when minor revisions are required due to emergency works or resurfacing and therefore a route is diverted. In those circumstances the work might actually not take as long as consultation would take and so it wouldn't be*

<sup>37</sup> LJC Committee, 12 May 2025, RoP [151] and [153]

<sup>38</sup> LJC Committee, 12 May 2025, RoP [155]

*desirable, it wouldn't be necessary to conduct consultation because it would be such a small and unavoidable change and one that wouldn't actually change the stopping points for the overall time frame of the journey.”<sup>39</sup>*

**61.** Section 7 of the Bill provides that, where any revision is made to the Welsh Bus Network Plan, that revised plan must be laid before the Senedd within the period of 13 months beginning with the date on which the plan was most recently laid. The Cabinet Secretary told us that a 13-month period “gives a little bit of flexibility”. He added that the Welsh Government “would aim to be able to publish the plan around the same time every year, but given that recess dates do change, it just provides that small amount of flexibility of one month.”<sup>40</sup>

### **Section 10 – power to make supplementary provision about local bus service contracts**

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**62.** As highlighted in Chapter 3, section 10(1) contains a regulation-making power enabling the Welsh Ministers to make provision about the terms that must be included in a local bus service contract. If and when exercised, the power will be subject to the Senedd annulment procedure. In the Statement of Policy Intent, the Cabinet Secretary states:

*“The Regulations will ensure that the compulsory terms of local bus services contracts can evolve to meet future requirements. It is likely that the list of “must-haves” included in the regulations will be supplemented by other terms as and when they are required, and/or will be expanded on in certain contracts where this is needed. Work is already on-going with Transport for Wales to understand and test contracts for use under the new model. We intend to produce an early draft model local bus contract before the summer recess to aid engagement with key stakeholders. This will inform proposals for compulsory terms to be specified in regulations. We envisage the regulations, in the first instance, to include terms relating to many (or all) of the matters listed in subsection (2).”<sup>41</sup>*

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<sup>39</sup> LJC Committee, 12 May 2025, RoP [159]

<sup>40</sup> LJC Committee, 12 May 2025, RoP [157]

<sup>41</sup> Statement of Policy Intent, page 3

## Sections 13 to 15 – local bus service permits

**63.** Sections 13 to 15 of the Bill include provisions that relate to local bus service permits. We highlighted in Chapter 3 of our report that these sections include regulation-making powers for the Welsh Ministers.

**64.** In accordance with section 13(2), the Welsh Ministers will be able to make regulations which make provision about further conditions that must be attached to a local bus service permit. Such regulations will be subject to the Senedd annulment procedure. In the Statement of Policy Intent, the Cabinet Secretary states:

*“The policy intention is, in the first instance, for the regulations to set out conditions in relation to some or all of the matters listed in subsection (3). It is recognised that some permits will require similar standards to contracted services, while others will need to be tailored to the specific type of local bus service being provided. Setting “must-have” matters in regulations will mean operators applying for a permit will know, at that point, what many of their obligations will be. It may also, as far as possible, help set a level of consistency in services across Wales.”<sup>42</sup>*

**65.** Section 14(1) contains a regulation-making power for the Welsh Ministers that will enable them to make provision about applications for local bus service permits. Again, such regulations if made will be subject to the Senedd annulment procedure. The Cabinet Secretary comments in the Statement of Policy Intent that:

*“This power may be used to set out, among other things, the form of the application, any information required from applicants (including for example: information relating to the operator, or details about the service(s) for which the permit is required, and the vehicles to be used to provide the service(s)), the process for making an application, and any fees payable. We are of the view that the process for applying for a local bus service permit will evolve over time. It is important that there is flexibility in relation to the way in which applications must be made, e.g. by taking account of future technology and ensuring*

<sup>42</sup> Statement of Policy Intent, page 4

*fees can stay proportionate to the cost of administering the applications, and in line with inflation.”<sup>43</sup>*

**66.** Section 15(3) of the Bill lists the grounds on which a local bus service permit may be revoked or suspended. Section 15(5)(a) contains a regulation-making power enabling the Welsh Ministers to amend section 15(3) to modify this list of grounds. As we highlight in Chapter 3, this is a Henry VIII power permitting the modification of the Bill itself (if and when enacted). The power, if and when exercised, will be subject to the Senedd approval procedure. In the Statement of Policy Intent, the Cabinet Secretary states that:

*“It is not intended that regulations be made to amend this list. The power to modify the grounds will only be used should it become clear that there are other circumstances, not included in section 15(3), under which local service permits could, for example, have a negative impact on other services, or where there is a need to enforce evolving standards or safety requirements.”<sup>44</sup>*

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## **Section 17 – provision of local bus services by the Welsh Ministers**

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**67.** Section 17 provides that the Welsh Ministers may directly provide a local bus service so long as they are satisfied that doing so would be more effective than entering into a local bus service contract. When we asked the Cabinet Secretary how he will determine whether the direct provision of a service would be more effective he told us:

*“... there are some examples that I could perhaps outline to demonstrate this. One might be that if, under the franchise model, bidders came back and highlighted that within a package of routes one would be incredibly expensive to operate, it might then be more desirable for us to operate it directly. The whole purpose of this measure is to make sure that we can keep wheels on the road and keep the network operating in the best way possible in those circumstances and, indeed, if a business was to fail. And then equally, and I sincerely hope and I doubt that this will happen, but equally if there was a package of routes and bidders came back to say it's not cost effective for them to bid, then in those circumstances Transport for Wales could provide them directly.*

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<sup>43</sup> Statement of Policy Intent, page 5

<sup>44</sup> Statement of Policy Intent, page 5

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*So, again it's about making sure that we take a pragmatic approach and one that is flexible to enable us in all circumstances and all eventualities to provide bus services across the entire network map.”<sup>45</sup>*

## Our view

**68.** We note the Cabinet Secretary’s evidence regarding the provisions in Part 2 of the Bill.

**69.** In relation to section 5, we note that the Welsh Ministers will be required to first determine the local bus services required for the purpose of the provision of safe, integrated, sustainable, efficient and economic transport in Wales, before preparing, publishing and laying before the Senedd a Welsh Bus Network Plan. We also note that the Welsh Ministers will be required to set out the key particulars of those local bus services under this plan.

**70.** We further note that sections 6 and 8 as drafted set out certain stakeholders that must be consulted during the preparation of the draft Welsh Bus Network Plan, or when preparing a revised draft plan. This includes any person the Welsh Ministers consider appropriate. There is no specific requirement to consult English local authorities when an English authority may be affected by a cross-border service. While we acknowledge that there may be a clear expectation for the Welsh Ministers to consult the relevant English local authorities in relation to a cross-border service, we believe clarity is needed regarding this drafting decision.

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

**71.** We also note that subsections (7) to (9) of section 6 provide that the Welsh Ministers may prepare a draft of the Welsh Bus Network Plan, and seek views and consult in relation to that plan, prior to the rest of section 6 coming into force. We acknowledge the Cabinet Secretary’s reasoning that these powers will allow for the work that is being done already to be captured and form part of the requirement for the development of the network plan.

**72.** In addition, we note that section 7 provides that, where any revision is made to the Welsh Bus Network Plan, that revised plan must be laid before the Senedd

<sup>45</sup> LJC Committee, 12 May 2025, RoP [162]

within the period of 13 months beginning with the date on which the plan was most recently laid.

**73.** As regards section 8 of the Bill, we note that it will enable some of the requirements around seeking views and consulting on a proposed revision to the Welsh Bus Network Plan to not apply where the proposed revision is “no more than minor” or it would “not be reasonably practicable to consult” over the proposed revision. We have some concerns that determining what may be ‘minor’ could be seen as an arbitrary decision.

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

**74.** We note that section 10(1) of the Bill contains a regulation-making power enabling the Welsh Ministers to make provision about the terms that must be included in a local bus service contract. We further note that, if and when exercised, the power will be subject to the Senedd annulment procedure.

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

**75.** We similarly note that section 13(2) will enable the Welsh Ministers to make regulations which make provision about further conditions that must be attached to a local bus service permit, and that such regulations will be subject to the Senedd annulment procedure.

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

**76.** We note and are content that the regulation-making power in section 14(1) of the Bill, enabling the Welsh Ministers to make provision about applications for local bus service permits, will be subject to the Senedd annulment procedure.

**77.** As regards section 15, which lists the grounds on which a local bus service permit may be revoked or suspended, we note that it contains a regulation-making power enabling the Welsh Ministers to amend the section to modify this list of grounds. As such, this is a Henry VIII power. The Cabinet Secretary told us that there is no intention that such regulations will be prepared to amend this list.

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

**78.** Finally as regards Part 2 of the Bill, we note that section 17 as drafted will enable the Welsh Ministers to directly provide a local bus service so long as they are satisfied that doing so would be a more effective way of fulfilling the duty in section 5(1)(c) than entering into a local bus service contract.

## **Part 3 of the Bill**

**79.** Part 3 (sections 21 to 24) makes provision about the restrictions on providing local bus services.

### **Section 21 – restriction on providing local bus services**

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**80.** Section 21(1) sets out the restrictions on providing local bus services in Wales.

**81.** Section 21(3) enables the Welsh Ministers to amend the section via regulations to provide that subsection (1) applies or does not apply to a specified description of a local bus service, or does or does not apply to a local bus service that is provided in a specified manner.

**82.** As we highlight in Chapter 3, the regulation-making power in section 21(3) is a Henry VIII power permitting the modification of the Bill itself (if and when enacted). The power, if and when exercised, will be subject to the Senedd approval procedure. In the Statement of Policy Intent, the Cabinet Secretary states:

*"It is not intended that regulations be made under this section. However, it is recognised that in an evolving market of public transport there may be, for example, types of bus services that are not envisaged to form part of the core scheduled network but may still be captured by the definition of local bus services."*<sup>46</sup>

## **Section 23 – enforcement of the restriction**

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**83.** Section 23 of the Bill makes provision in respect of enforcement of the restrictions on providing local bus services. We highlighted in Chapter 3 that the Bill contains two powers for traffic commissioners to make orders in relation to enforcement. These powers can be found in section 23.

**84.** Section 23(2)(b) contains a regulation-making power for the Welsh Ministers that "provides the option to create a new enforcement method".<sup>47</sup> This power will be subject to the Senedd approval procedure. In the Statement of Policy Intent, the Cabinet Secretary states that:

*"It is not intended to use this power unless required. Whilst it is likely that provision under section 23(2)(a) will be sufficient to deter breaches, and will be proportionate to any that do occur, we recognised that alternative provision may be required should either of these prove not be the case."*<sup>48</sup>

**85.** Using the power in section 23(8), the Welsh Ministers will be able to make regulations that can provide for the form and content of an order and the procedure to be followed by a traffic commissioner in relation to an order. Such regulations, if made, will be subject to the Senedd annulment procedure.

**86.** Section 23(9)(a)(i) and (b)(i) contain regulation-making powers for the Welsh Ministers regarding the upper limit of the penalty a person may be ordered to pay. In the absence of a prescribed upper limit, section 23(9)(a)(ii) and (b)(ii) provide that a default sum of £550 will apply, multiplied by the total number of vehicles licensed to be used by the person under all PSV operator's licences held by them. Both powers will be subject to the Senedd approval procedure. In the Statement of Policy Intent the Cabinet Secretary states:

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<sup>46</sup> Statement of Policy Intent, page 6

<sup>47</sup> Statement of Policy Intent, page 7

<sup>48</sup> Statement of Policy Intent, page 7

*"The policy intention is to enable the Welsh Ministers to specify a figure that takes account of changes in inflation and to ensure that the penalty remains proportionate.*

*The provision as drafted is similar to certain sanctions included in existing primary legislation (the Transport Act 1985). However, it is recognised that the amount of the penalty may need to change in the future to appropriately enforce the restriction.*

*It is not intended to use this power in the short term."*<sup>49</sup>

## Our view

**87.** We note the Cabinet Secretary's evidence regarding the provisions in Part 3 of the Bill.

**88.** We note that section 21(3) as drafted will enable the Welsh Ministers to amend section 21 via regulations to provide that subsection (1) applies or does not apply to a specified description of a local bus service, or does or does not apply to a local bus service that is provided in a specified manner. This is a Henry VIII power. We also note that section 23(2)(b) contains a regulation-making power for the Welsh Ministers that provides the option to create a new enforcement method.

**89.** The Cabinet Secretary told us that he has no intention on using either of these regulation-making powers. As we state above in conclusion 3, it is not considered good legislative practice to seek and take delegated powers where there is no intention to use the powers. We draw this to the attention of the Senedd.

**90.** As regards the regulation-making powers in section 23(9)(a)(i) and (b)(i) regarding the upper limit of the penalty a person may be ordered to pay, we have concerns that this legislative approach may prove to be confusing and inaccessible to users and readers of the legislation. In our view, the upper limit for the purposes of a penalty that a person is ordered to pay under section 23 should be clear and unambiguous, and we are not convinced that section 23(9) as currently drafted meets that objective.

**Recommendation 7.** The Cabinet Secretary should clarify why section 23 of the Bill does not specify the default upper limit penalty amount with an

<sup>49</sup> Statement of Policy Intent, page 7

accompanying Henry VIII power (subject to the Senedd approval procedure) that would enable that amount to be amended.

**91.** Finally, as regards Part 3 of the Bill, we note and are content that the regulation-making power in section 23(8), which will enable the Welsh Ministers to prescribe the form and content of an enforcement order and the procedure to be followed by a traffic commissioner in relation to an order, will be subject to the Senedd annulment procedure.

## **Part 4 of the Bill**

**92.** Part 4 (sections 25 to 31) makes provision in respect of the collection and sharing of data and information that is required to inform the development and continual review of the bus network. The Welsh Ministers will be able to require, by notice, the provision of information by certain operators and former operators, local authorities and community councils.

### **Section 25 – provision of information to the Welsh Ministers by current and former operators for the purposes of functions under Part 2 or 3**

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**93.** Section 25 gives the Welsh Ministers a regulation-making power to give notice to current and former operators to require those operators to provide certain information to them. Such regulations must make provision about appeals, and will be subject to the Senedd approval procedure. When we asked why it was considered appropriate for provision about appeals to be set out in secondary legislation rather than on the face of the Bill, an official accompanying the Cabinet Secretary responded:

*“So, the content of this provision might vary as we move through the process from the current deregulated model through a relatively lengthy transition and into business as usual under the franchise model. Transport for Wales are already working with industry representatives and operators to understand the sort of information they currently hold and the means in which they retain it, which can obviously differ quite significantly between small and large operators, and we want to be able to work with all operators to ensure clarity and fairness in our expectations around the sharing of information. So, given that this provision about appeals may need to be amended over time to make sure it remains fit for purpose, it's considered appropriate for provision to be made in regulations rather than*

*on the face of the Bill. Again that word—it's important that Welsh Ministers have the flexibility to reflect those changes.”<sup>50</sup>*

## **Section 26 – provision of information about infrastructure and certain other matters to the Welsh Ministers by local authorities and community councils for the purpose of functions under Part 2**

**94.** Section 26(3) contains a regulation-making power for the Welsh Ministers that will enable them to require information from local authorities and community councils about infrastructure and certain other matters in order to perform their functions under Part 2 of the Bill. The types of information are set out in a non-exhaustive list in section 26(4). The regulation-making power will be subject to the Senedd approval procedure. In the Statement of Policy Intent, the Cabinet Secretary states that:

*“The type of information required to plan and deliver the bus network, will change over time, therefore, including an exhaustive list on the face of the Bill would not be practical.*

*The policy intention is, in the first instance, for the regulations to specify information relating to the matters listed in the Bill, among others (subject to consultation with stakeholders).”<sup>51</sup>*

## **Sections 27 and 28 – information to be made available to the public**

**95.** Sections 27 and 28 of the Bill make provision relating to information that is to be made available to the public. In the Statement of Policy Intent, the Cabinet Secretary states that “the Bill will result in public access to more consistent and reliable data”.<sup>52</sup>

**96.** Section 27(1) contains a regulation-making power that will enable the Welsh Ministers to specify how and when the required information will be provided. The regulation-making power will be subject to the Senedd approval procedure. In the Statement of Policy Intent, the Cabinet Secretary states:

*“The manner in which this information is shared is likely to change in the future with technological and other advances, therefore, including an exhaustive list of the types of*

<sup>50</sup> LJC Committee, 12 May 2025, RoP [165]

<sup>51</sup> Statement of Policy Intent, page 9

<sup>52</sup> Statement of Policy Intent, page 10

*information or the way in which it is to be shared on the face of the Bill would not be practical.”<sup>53</sup>*

**97.** Section 28(1) contains a regulation-making power for the Welsh Ministers enabling them to require operators of local bus services to provide specified information for the purposes of the duty in section 27(1). Again, the regulation-making power will be subject to the Senedd approval procedure. In the Statement of Policy Intent, the Cabinet Secretary states:

*“It is the intention that the Welsh Ministers will specify (i) the type of bus operators who are required to provide certain types of information; (ii) the information required; and (iii) how and when the information is to be provided in regulations. The content of the information to be shared with the public may need to change over time.*

*We intend to work with key stakeholders in the development of these regulations.”<sup>54</sup>*

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### **Section 30 – enforcement of information requirements**

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**98.** Section 30 of the Bill deals with enforcement of the information requirements of sections 25 and 28. It contains three regulation-making powers that may be exercised by the Welsh Ministers.

**99.** Section 30(2)(b) provides the Welsh Ministers with the power to make regulations specifying an order a traffic commissioner may make to enforce the information requirements. Such regulations will be subject to the Senedd approval procedure. In the Statement of Policy Intent, the Cabinet Secretary states:

*“Whilst it is likely that provision under section 30 will be sufficient to deter breaches, and will be proportionate to any that do occur, this provision provides the flexibility to respond should either of these prove not be the case.*

*It is not intended to use this power unless required.”<sup>55</sup>*

**100.** Section 30(8) includes a regulation-making power to make provision about orders under the section, including about the form and content of an order and

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<sup>53</sup> Statement of Policy Intent, page 10

<sup>54</sup> Statement of Policy Intent, page 11

<sup>55</sup> Statement of Policy Intent, page 11

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the procedure to be followed by a traffic commissioner. Such regulations will be subject to the Senedd annulment procedure. In the Statement of Policy Intent the Cabinet Secretary states:

*“Given that the orders will be imposing a financial penalty, the regulations may need to cover the form and content of the orders, to ensure consistency and clarity. The intention is to work with the Traffic Commissioner’s Office in the first instance to agree the form and content, as well as the relevant procedure, in relation to the orders.*

*These regulations will need to be made alongside regulations under section 25 and/or under section 28 to ensure the requirements of those provisions can be appropriately enforced.”<sup>56</sup>*

**101.** Section 30(9)(a)(i) and (b)(i) provide the Welsh Ministers with powers to make regulations prescribing the maximum penalty that may be imposed for breaches of the information requirements. In the absence of a prescribed upper limit, section 30(9)(a)(ii) and (b)(ii) provide that a default sum of £550 will apply, multiplied by the total number of vehicles licensed to be used by the person under all PSV operator’s licences held by them. Such regulations will be subject to the Senedd approval procedure. In the Statement of Policy Intent the Cabinet Secretary states:

*“The policy intention is to enable the Welsh Ministers to specify a figure that takes account of changes in inflation and to ensure that the penalty remains proportionate.*

*The provision as drafted is similar to certain sanctions included in existing primary legislation (the Transport Act 2000) and will be familiar to former and existing operators of bus services.*

*It is not intended to use this power in the short term.”<sup>57</sup>*

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## **Our view**

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**102.** We note the Cabinet Secretary’s evidence regarding the provisions in Part 4 of the Bill.

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<sup>56</sup> Statement of Policy Intent, page 12

<sup>57</sup> Statement of Policy Intent, page 12

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**103.** We note that section 25(3) and (4) of the Bill gives the Welsh Ministers a regulation-making power to give notice to current and former operators to require those operators to provide certain information to them. While we acknowledge that such regulations will be subject to the Senedd approval procedure, we also note that they must make provision about appeals in accordance with section 25(5)(a). It is unclear to us why an appeals process – even in outline form – is not set out on the face of the Bill. We consider that its inclusion would improve the clarity and accessibility of the legislation.

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

**104.** We also note that section 26(3) contains a regulation-making power for the Welsh Ministers that will enable them to require information from local authorities and community councils about infrastructure and certain other matters in order to perform their functions under Part 2 of the Bill. We acknowledge that the types of information that may be required are set out in a non-exhaustive list in section 26(4). We further acknowledge the evidence from the Cabinet Secretary that the policy intention is, in the first instance, for the regulations to specify information relating to the matters listed in the Bill.

**105.** As regards sections 27 and 28 of the Bill, we note that they make provision relating to information that is to be made available to the public. Both sections contain regulation-making powers that will enable the Welsh Ministers to require and specify what information is to be provided to them. We note that the provision of information to the public forms a large part of the policy intention behind the legislation. As such, we are unclear as to why there is limited detail contained in sections 27 and 28 as currently drafted.

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

**106.** We again note that, through section 30(2)(b), the Cabinet Secretary is seeking the delegation of a power that is not intended to be used. We draw the attention of the Senedd and the Cabinet Secretary to conclusion 3.

**107.** Finally as regards Part 4 of the Bill, we note that section 30(9)(a)(i) and (b)(i) provide the Welsh Ministers with powers to make regulations prescribing the maximum penalty that may be imposed for breaches of the information

requirements. We further note that such regulations will be subject to the Senedd approval procedure and, in the absence of regulations, a penalty of £550 will apply, subject to the multiplication sum of licensed vehicles described above. We have concerns that this legislative approach may prove to be confusing and inaccessible to users and readers of the legislation. In our view, the amount of penalty for a breach of the information requirements should be clear and unambiguous, and we are not convinced that section 30(9) as currently drafted meets that objective.

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

## **Part 6 of the Bill**

**108.** Part 6 (sections 35 to 44) makes miscellaneous and general provision.

### **Section 35 – application of TUPE**

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**109.** The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) provide rights to employees when their employment changes when a business is transferred to a new owner.

**110.** Section 35(1) places a duty on the Welsh Ministers to bring forward regulations, subject to the Senedd approval procedure, that make provision for the circumstances in which a relevant transfer is to be treated as taking place for the purposes of TUPE and sections 257 and 258 of the *Pensions Act 2004* (the 2004 Act). Section 35(3) provides a further regulation-making power enabling the Welsh Ministers to make further provision in regulations in connection with the application of TUPE by virtue of provision made under section 35(1).

**111.** In the Statement of Policy Intent the Cabinet Secretary states:

*“Social partnership and working with trade unions has furthered our understanding of the impact the Bill may have on key employees. We intend to continue to engage on the circumstances to be specified in the regulations under which TUPE may apply when there is a transfer of services between operators, for example, during the initial roll-out of the new model and later between incumbent and new operators in the future. We intend to set out proposals in advance of the Senedd*

*Elections (May 2026) in order to draft the provisions in readiness to publish before the next Senedd term. (...)*

*It is the policy intention to provide for the protection of staff in appropriate circumstances. This will be achieved by specifying, in regulations made under section 35(1), the situations which should be treated as “relevant transfers” to which TUPE applies (to the extent that it would not otherwise do so). (...)*

*It is also the intention that where there is a relevant transfer, the pensions protections provided to employees by sections 257 and 258 (and in regulations made under section 258) of the Pensions Act 2004 should apply. This will be achieved by exercising the duty to make regulations which is found in section 35(2).*

*It may be necessary to exercise the power in section 35(3) to ensure there is sufficient clarity about the situations which are to be treated as relevant transfers.”<sup>58</sup>*

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## **General provisions**

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**112.** Section 38(3) provides that a power to make regulations under the Bill includes the power to make supplementary, incidental, consequential, transitional and saving provision.

**113.** Section 40(3) of the Bill enables the Welsh Ministers to make provision via regulations as to when a person is to be treated as providing or not providing a service, for the purposes of determining whether a person is an “operator” as per section 40(2). For the purposes of the Bill, a reference to an “operator” is to a person, or each of the persons, providing the service. This regulation-making power could be used to amend the Bill for this purpose; it is therefore a Henry VIII power, and it will be subject to the Senedd approval procedure. The Cabinet Secretary comments in the Statement of Policy Intent that:

*“This power gives the Welsh Ministers the flexibility to amend the definition of an operator should the term need to change in the future. This is an important definition for the sector therefore a mechanism to amend more responsively is required.*

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<sup>58</sup> Statement of Policy Intent, pages 13 and 14

*It is not intended to use this power in the short term.”<sup>59</sup>*

**114.** Section 42(1) provides the Welsh Ministers with a regulation-making power to make supplementary, incidental, consequential, transitional, transitory or saving provision for the purposes of giving full effect to any provision of the Bill. If such regulations modify an enactment, the regulations will be subject to the Senedd approval procedure. In the Statement of Policy Intent the Cabinet Secretary states: “Transitional and savings provisions are often utilised to ensure smooth transition between existing and new regimes”.<sup>60</sup>

**115.** Section 43(3) gives the Welsh Ministers an order-making power to commence certain provisions of the Bill that are not commenced automatically. Transitional or saving provisions can be made in connection with the coming into force of the provisions. Any such order will not be subject to a Senedd scrutiny procedure.

### **Our view**

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**116.** We note the Cabinet Secretary’s evidence regarding the provisions in Part 6 of the Bill.

**117.** We note that section 35(1) places a duty on the Welsh Ministers to bring forward regulations, subject to the Senedd approval procedure, that make provision for the circumstances in which a relevant transfer is to be treated as taking place for the purposes of TUPE and sections 257 and 258 of the 2004 Act. We further note that section 35(3) provides an additional regulation-making power, enabling the Welsh Ministers to make further provision in regulations in connection with the application of TUPE. We are unclear why, as stated by the Cabinet Secretary, it “may be necessary to exercise the power in section 35(3) to ensure there is sufficient clarity”.

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

**118.** We also note that sections 38, 40, 42 and 43 contain regulation-making powers that may be exercised by the Welsh Ministers.

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<sup>59</sup> Statement of Policy Intent, page 14

<sup>60</sup> Statement of Policy Intent, page 15

## Appeals

**119.** Section 16 of the Bill provides that appeals relating to local bus services permits may be made to the First-Tier Tribunal. Appeals relating to the enforcement of the restrictions on providing local bus services under section 24 and those relating to the enforcement of information requirements under section 31 are to be made to the Upper Tribunal.

**120.** We asked the Cabinet Secretary to explain why appeals under sections 24 and 31 are to be made to the Upper Tribunal, rather than the First-Tier Tribunal. The Cabinet Secretary responded:

*“So, both sections 24 and 31 make provision for appeals against enforcement decisions made by a traffic commissioner under sections 23 and 30 to be dealt with by the upper tribunal, and, as the role of a traffic commissioner is quasi-judicial, it's appropriate therefore that any appeals go to the upper tribunal for determination as a superior court.”<sup>61</sup>*

## Our view

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**121.** We note the Cabinet Secretary's evidence regarding the appeal provisions in sections 16, 24 and 31 of the Bill.

## Franchising

**122.** In March 2024, the Welsh Government and Transport for Wales published the document 'Bus reform for Wales: our roadmap to franchising'. It outlined the proposed approach to bus franchising in Wales.<sup>62</sup>

**123.** In the EM, the Cabinet Secretary states that a series of Bus Operator Engagement Sessions took place in November 2024, whereby Transport for Wales and Welsh Government officials met with operators to discuss franchising.<sup>63</sup>

**124.** In our evidence session with the Cabinet Secretary we suggested to him that, while the Bill is predicated on the policy of franchising, the Bill itself is silent on that policy aim. As such, we asked the Cabinet Secretary why the Bill is drafted in this way. The Cabinet Secretary told us “this relates to existing law and the lack of

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<sup>61</sup> LJC Committee, 12 May 2025, RoP [167]

<sup>62</sup> Welsh Government, Written Statement: One Network. One Timetable. One Ticket: Planning Buses as a Public Service for Wales, March 2024. A final version of the document was published in March 2025.

<sup>63</sup> EM, paragraph 4.34

definition for franchising”<sup>64</sup>, before an official accompanying the Cabinet Secretary added:

*“So, the UK doesn't have laws that exclusively govern or define the relationship between franchisers and franchisees. That relationship is governed by the contract in place. So, for that reason, it was felt unnecessary and potentially unclear, given the lack of a legal definition, to refer to franchising in the Bill. The system proposed by the Bill is different to the system proposed in 2020, which focused on changing the existing legal framework in respect of local authority powers to secure bus services. So, the terminology used won't necessarily be the same. I know, in the previous 2020 Bill, there was a reference to Welsh franchising schemes. So, whilst the current Bill doesn't expressly refer to franchising, it refers to the mechanism by which franchising will be achieved, and that is that the Welsh Ministers will enter local bus service contracts with operators.”*<sup>65</sup>

**125.** We then asked the Cabinet Secretary if he was content that the legal framework – through the Bill, the *Social Partnership and Public Procurement (Wales) Act 2023* and the *Procurement Act 2023* – was sufficient to deliver bus franchising in Wales. He responded:

*“Yes, I am confident recent legislation is relevant to this and provides us with the powers necessary to be able to undertake franchising. I'm more than confident; the advice that I've had from lawyers amounts to the confidence that's needed to go forward with franchising arrangements.”*<sup>66</sup>

## Our view

**126.** We note the Cabinet Secretary's evidence regarding his intentions to use the Bill to take forward franchising arrangements in Wales.

**127.** We note that the Bill is largely a standalone Bill when compared to the 2020 Bill introduced to the Senedd which amended existing transport legislation to achieve the policy aims.

**128.** In our view, the Cabinet Secretary's evidence to us seems to suggest that the Bill is entirely reliant on other legislation to deliver the Welsh Government's policy

<sup>64</sup> LJC Committee, 12 May 2025, RoP [172]

<sup>65</sup> LJC Committee, 12 May 2025, RoP [173]

<sup>66</sup> LJC Committee, 12 May 2025, RoP [175]

objectives. We are unclear how referring expressly to franchising on the face of the Bill would hinder those objectives. Consequently, given the lack of referencing to franchising on the face of the Bill, we have concerns that this may hinder the accessibility of the legislation and the understanding of how it will work.

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