

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

5 FEBRUARY 2009

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION

Lead Cabinet Member : Regeneration & Transport – Cllr R Cook

LOCAL TRANSPORT ACT

1. Summary

Members may be aware that the Local Transport Act received Royal Assent in November 2008, following an 18 month passage through the legislative procedures.

The Act has three main parts:

- It enables local authorities to improve the quality of local bus services;
- It reforms the arrangements for local transport governance in major conurbations; and
- It reforms the existing legislation relating to local road pricing schemes.

During the Bill's passage through Parliament, the Tees Valley authorities and other partner organisations have been working together in anticipation of the Act to produce a locally-tailored response to all three parts of the Act. The rest of this report sets out this response in more detail.

The Council's response is a joint one with the other Tees Valley Authorities and, in summary, involves:

- The development of a Quality Partnership Scheme (QPS) with the principal bus operators, in line with the major bus scheme funding bid that is currently with Government for approval. Our QPS will follow the scope outlined in the Act and is likely to be the first multi-authority, multi-operator agreement of its type in the country.
- The setting up of a non-statutory Transport Board, Transport for Tees Valley, within the new governance structure of Tees Valley Unlimited.
- A new way of working with the Highways Agency to make better use of our existing strategic road network without the need for a local road pricing scheme for the foreseeable future.

2. Recommendations

- 1 Members note the new powers contained within the Local Transport Act.
- 2 Members note that the Council will continue to work in Partnership with the other Tees Valley Local Authorities and Bus Operators to deliver the 'Connect Tees Valley' Bus Major Scheme.

3. Reasons for the Recommendations/Decision(s)

The reasons for this recommendation are:

- a) The approach taken by the Tees Valley authorities and their partner organisations provides solutions that are much more complementary to the particular circumstances of the city region rather than adopting a 'national' model.
- b) The approach taken allows future flexibility to move towards more statutory arrangements in the future, as allowed by the Act, depending on the circumstances, and with the prior agreement of all authorities involved.

4. Members' Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.

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CABINET DECISION

LOCAL TRANSPORT ACT

SUMMARY

The purpose of this report is to update Cabinet on the Local Transport Act and what the new legislation means to Local Authorities and Stockton-on-Tees in particular.

RECOMMENDATIONS

- 1 Members note the new powers contained within the Local Transport Act.
- 2 Members note that the Council will continue to work in Partnership with the other Tees Valley Local Authorities and Bus Operators to deliver the 'Connect Tees Valley' Bus Major Scheme.

DETAIL

- 1 The Local Transport Act came into force in November 2008, following an 18 month passage of the draft Local Transport Bill through Parliament. The draft bill was announced in the consultation document, "Putting Passengers First", published by the Department for Transport (DfT) in December 2006. It is supported by elements of secondary legislation that are still to be enacted, but the powers offered by the Act are now available to use.
- 2 There have been some overly simplified reports in the press of the Act's contents and powers which may lead to misunderstanding of the act's detail. Consequently, this report has been prepared to brief Cabinet on the provisions of the Act, and to outline the Council's response to the main parts. All of the Tees Valley authorities have been working with partner organisations during the Act's passage through Parliament to develop a locally-tailored response.

Contents of the Act

- 3 The Local Transport Act has three main elements:
 - It enables local authorities to improve the quality of local bus services;
 - It reforms the arrangements for local transport governance in major conurbations; and
 - It reforms the existing legislation relating to local road pricing schemes.
- 4 The first of these is the most important to Stockton-on-Tees, given the recent history of bus service changes within the Tees Valley, and the bid for major scheme funding worth over £40 million that is currently being considered by the DfT.

- 5 The second has a more direct application in metropolitan areas, but does allow further reform within the Tees Valley, should all five Authorities wish to pursue this.
- 6 The third element is not supportive to the local situation in the Tees Valley given the current network conditions and the economic climate. Road Pricing powers within the Act are being utilised by some larger City and Metropolitan areas.
- 7 The following sections of the report examine the Act's provisions under each of these three elements in more detail, and outline the Council's position.

Local Bus Services

- 8 This part of the Act has had the greatest coverage in terms of what it allows authorities to do with bus services in the future. It is not a mechanism for re-nationalisation, nor is it a mechanism to allow authorities to take over the running of bus services immediately.
- 9 It is intended to ensure authorities and operators work more closely together to improve bus services. Crucially, however, the Act reflects that bus services are operated by the private sector and open to competition.
- 10 The Act outlines three mechanisms to improve local bus services:
- Voluntary agreements and partnerships;
 - Quality Partnership Schemes (QPS); and
 - Quality Contract Schemes (QCS).
- 11 Voluntary agreements and partnerships - essentially the local authority agrees to provide facilities or improvements and operator(s) agree to - a service standard when using those facilities. There is some added flexibility from the Office of Fair Trading to assist Voluntary Partnerships with regard to the competition Act. There are no 'enforcement powers'.
- 12 Quality Partnership Schemes – similar to a Voluntary Partnership except it is a statutory scheme prescribed by the Transport Act 2000, it is not an 'agreement' although the process is subject to competition tests. In a QPS the Local Authority defines standards to be provided by any bus operator and facilities to be provided by the Local Authority. Any transport operator can then apply to join the QPS, so long as they can reach the required standards. Such standards can include;
- Timings of buses to spread arrivals across the hour
 - Frequency of service
 - Maximum Fares
- BUT ONLY if there are no admissible objections from operators. Local Authorities must specify realistic and deliverable standards, essentially parties have a contractual link to protect each other's investment – unlike a Voluntary Partnership, minimum period is 5 years.
- 13 Quality Contract Schemes – the specifications by the Local Authority of the routes, timetables, fares etc for bus services, effectively suspending the deregulated market. There are safeguards against inappropriate use of Quality Contracts including a Quality Contract external authority ratification of the use of a Quality Contract. The benefits to the public must be proportionate to the adverse impact proposal on operators, for a 'QC' scheme to go ahead. As you would expect there are many legal hoops to leap through to undertake such powers. The Local Authority would then seek tenders from operators to run bus services and there is a risk that prices will be unaffordable if care is not taken or insufficient competition can be generated. Should an operator be unable to meet the needs

of the contract there are powers for the authority to become an 'operator of last resort'. However this is intended to cover insolvency issues and is a time limited power. TUPE issues will apply for bus employees.

The Way Forward

- 14 Stockton, together with our Tees Valley Partners have been pursuing the second option, a QPS, for a number of years, following a major review of the bus network by independent consultants, completed in 2005. This approach has picked up pace in the last year with the submission of the Bus Network Improvements major scheme funding bid.
- 15 As part of this scheme, an outline QPS has been developed, which will be fleshed out during the implementation of the scheme itself. However, to show commitment during the three year build period, the authorities, Arriva and Stagecoach intend to sign a Heads of Terms Agreement in Spring 2009.
- 16 Once confirmation of the funding bid is received from the DfT (expected now in February 2009), the authorities and all bus operators will also look to develop a new partnership covering the tertiary and rural networks, that is, those corridors where there is an hourly or less frequent service, often partly or wholly subsidised, connecting settlements to the main centres or corridors.
- 17 The authorities believe that this approach is the best given the current local circumstances, and that the risks associated with pursuing a QCS, in terms of time, relationships with operators, and the very real possibility that a QCS will actually cost the local authorities significantly more than at present, are too great and will undermine the work done to date.
- 18 The possible future need for a QCS will, however, be kept under review as the major changes to bus provision over the coming years take place, and any future recommendations will be brought back to Members.

Other Elements of the Act

- 19 There are other elements to the Bill that allow the transfer of powers to Passenger Transport Authorities (to be known as Integrated Transport Authorities) for issues such as Road charging. However, in the Tees Valley such a body is not constituted. The MAA and Tees Valley Unlimited are a local solution with far wider influence than a PTA.
- 20 With regard to the Tees Valley we have been going along the Quality Partnership route for some years prior to the act being even drafted.

Progress so far is:

2005 – Review of all TV Bus Services which defined a draft route network in partnership with Bus Operators

2005-2007 – Development of a TV Authority and Bus Operator partnership to deliver quality, efficient bus services. Bid and business case prepared for Regional Funding.

2008 – Bid for funding submitted (£60m) and draft Quality Partnership standards developed. Decision expected March 2009.

- 21 In tandem with this process the Tees Valley Authorities have been working with the LGA and DfT as a 'pilot' bus improvement project to assist development of the Bill. We continue to meet LGA/DfT to discuss progress and issues and there is no doubt our approach is held in high esteem.

- 22 They seem particularly interested in how Tees Valley Unlimited and its various boards bring the key strategic ambitions together, under the Multi Area Agreement, and the boards are monitoring and influencing solutions and implementation. In essence Tees Valley Unlimited Transport Board is akin to a Public Transport authority, but uses influence and negotiation toward common goals rather than 'powers' as it has no power conferred upon it.
- 23 In summary although the Act does provide options for Local Authorities to influence bus services, the criteria is still subject to funding and the operators commercial position remains protected. It is for this reason that the Tees Valley approach is to work closely with operators under voluntary agreements and partnerships and proceed with the Connect Tees Valley Major Bus scheme currently awaiting funding approval.

Other Provisions

- 24 The Act also includes a number of other provisions falling outside the three main elements above. Those of relevance include the power for the Traffic Commissioners to specifically direct failing bus operators to invest in facilities used in connection with the provision of the service, such as bus stops, as well as the service itself. In addition, the tax rebate that bus operators receive on a proportion of their fuel costs is to be incentivised towards environmentally friendly vehicles and those with smartcard ticketing systems and real time tracking.

FINANCIAL IMPLICATIONS

- 25 The new Local Transport Act does not place any additional financial implications on the Council. Cabinet have previously approved the bid to the Department for Transport for capital funding for the Connect Tees Valley Major Bus Scheme. Associated with this, was approval of local contributions made up from Local Transport Plan allocation and developer contributions.

LEGAL IMPLICATIONS

- 26 The new Local Transport Act places no immediate Legal Implications upon the Council. It does however make it possible for the Council to enter into legally binding contracts with Bus Operators, should the Council wish to do so. Any such approach would be the matter of a separate Cabinet Decision.

RISK ASSESSMENT

- 27 The Local Transport Act is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk."

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

Economic Regeneration and Transport

- 28 The powers within the new Local Transport Act are already being utilised by the Council and its Tees Valley partners in developing a sustainable Public Transport network that promotes accessibility and economic growth.

Safer Communities

- 29 The powers within the new Local Transport Act are already being utilised by the Council and its Tees Valley partners which will enable enhanced bus services and facilities, which include improved lighting and CCTV coverage.

Children and Young People

- 30 The powers within the new Local Transport Act are already being utilised by the Council and its Tees Valley partners, the development of the bus network through the major scheme will improve accessibility around the Borough and Tees Valley to both education and employment.

Health and Wellbeing

- 31 The powers within the new Local Transport Act are already being utilised by the Council and its Tees Valley partners, the development of the bus network through the major scheme will improve accessibility around the Borough and Tees Valley to both healthcare and leisure facilities.

Environment and Housing

- 32 The new Local Transport Act supports Councils in promotion of Sustainable Transport solutions.

Stronger Communities

- 33 By delivering a stable public transport network communities can have access to education, health, work and leisure ensuring that community life can be sustained.

Older Adults

- 34 A high proportion of public transport users are older adults using concessionary passes. A robust and sustainable public transport network is essential in ensuring that older adults have access to key community facilities.

Arts, Leisure and Culture

- 35 A sustainable public transport network ensures that all have access to the Borough's arts, leisure and cultural facilities.

EQUALITIES IMPACT ASSESSMENT

N/A

CONSULTATION INCLUDING WARD/COUNCILLORS

All Elected Members have received a briefing note on the key aspects of the Act and comments have been invited. Any comments received relevant to the content of the report will be reported verbally at the meeting.

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Background Papers

Report to Cabinet in June 2008 which approved the Tees Valley Major Bus Scheme bid to the Department for Transport.

Ward(s) and Ward Councillors:

All Members.

Property

N/A