

Transport and Environment Committee

10.00am, Thursday, 12 November 2020

Reform of Transport Arm's Length External Organisations

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Wards	All
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1. Recommendations

- 1.1 Transport and Environment Committee is asked to:
- 1.1.1 note the progress that has been made regarding development of options for reform of the Council's wholly and partly owned Transport Arm's Length External Organisations (Transport for Edinburgh Limited, Edinburgh Trams Limited and Lothian Buses Limited) (the Transport ALEO's);
 - 1.1.2 Note the summary of responses received so far from West Lothian Council (one of the minority shareholders in Lothian Buses), the Transport ALEOs and Unite;
 - 1.1.3 Agree that a short term working group, made up of Council officers and representatives from the Transport ALEOs, be established to further appraise the options presented against the responses received and to agree a delivery plan for the chosen option; and
 - 1.1.4 Agree that engagement should continue with the minority shareholders and with Unite, in parallel with the short term working group.

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Reform of Transport Arm's Length External Organisations

2. Executive Summary

- 2.1 This report updates committee on the engagement undertaken to date on the reform of the Transport ALEO's and requests approval to enter a phase of detailed engagement with the Boards of the Council's Transport ALEO's, Minority Shareholders and employee representatives.

3. Background

- 3.1 A report to Policy and Sustainability Committee dated [9 July 2020](#) set out the current arrangements for the management of the Council's Transport ALEO's and highlighted challenges in continuing to manage existing arrangements.
- 3.2 At paragraph 4.6 the report noted objectives for reform of the Transport ALEOs. Three options for reform were proposed, an initial assessment made of these and a preferred option identified based on that initial assessment. The need for a new public transport strategy was also identified to be prepared in parallel with the creation of the new structure.
- 3.3 Council officers undertook to conduct initial engagement with each of the regulated Transport ALEOs, the minority shareholders in Lothian Buses Limited and the trade unions recognised by the Transport ALEOs, with feedback to be brought to this committee.
- 3.4 Council officers were also asked to include an evaluation of the proposed integration on the delivery of the 2030 Carbon Neutral Edinburgh targets and on equalities. Council officers were also asked to provide a timetable for the creation of a new plan for public transport, and to consider within that plan the contribution of rail services.
- 3.5 This report updates committee on the engagement undertaken to date and seeks approval to progress with a proposed delivery plan.

4. Main report

- 4.1 In the period since the report of 9 July 2020 Council officers have engaged with the boards of each of the Transport ALEOs along with representatives of Unite, the union formally recognised by the Transport ALEOs and the Minority Shareholders in Lothian Buses.
- 4.2 Each of the key stakeholders were asked to give feedback on the proposals made in the report of 9 July 2020.
- 4.3 Responses have been received from each of the Transport ALEOs and Unite. Each Transport ALEO and Unite support the principle of integrated delivery. The responses can be summarised as follows:
- 4.4 Transport for Edinburgh
 - 4.4.1 Particularly considering COVID-19, Transport for Edinburgh supports the principle of and recognises the benefits of integration of public transport delivery and consequently does not support the option to 'do nothing'.
 - 4.4.2 Transport for Edinburgh expressed concern that COVID-19 represents additional risk to transformation, but recognised the complexity of existing arrangements and supports simplification and streamlining them.
 - 4.4.3 Transport for Edinburgh do not support the 'do nothing' option. Broadly, the Board supports further exploration of Option 2, albeit with considerable refinement of existing structures and arrangements, and Option 3 going forward; and
 - 4.4.4 Transport for Edinburgh considers that the reform proposals should recognise the considerable importance of regionalisation, impact on customers and delivery of mobility as a service.
- 4.5 Lothian Buses
 - 4.5.1 Lothian Buses note that they have been supportive of reform of the governance of the Transport ALEOs since early informal engagement commenced and are not in favour of the 'do nothing' option. Their view is that the reform proposals must now be progressed in a smooth and timely fashion.
 - 4.5.2 It is the view of Lothian Buses that Option 2 (adapting the existing governance model) will not achieve the objectives set out in the report of 9 July. Lothian Buses agrees with the view expressed in the 9 July report that this approach would result in a sub-optimal outcome. In considering how the Council's public transport reform objectives could best be achieved, Lothian Buses' current thinking has focussed on the single company option.
 - 4.5.3 While they suggested a new governance model for a single operating company in their written response, Lothian Buses have acknowledged a need for input from various parties if Option 3 (single operating company) is to be delivered. They have underlined the need for effective engagement with

the Transport ALEOs, Minority Shareholders and Unite. They state that what needs to be avoided is the impression that the Council is imposing change on its transport companies. Successful transition implementation from a current state to a future state will always be more likely if the transition process is co-owned amongst the participants along with agreed unanimity regarding the desired outcome.

4.6 Edinburgh Trams

- 4.6.1 Edinburgh Trams also agree that the 'do nothing' option should not be developed further.
- 4.6.2 They agree that with any of the options there would be a desire for a unified Board to oversee the activities of its modal components. They consider that the one board solution is appropriate to drive the integration agenda. An integrated board would also have a vital accountability and governance role ensuring the companies work together to deliver the policy outcomes set by the Council.
- 4.6.3 Edinburgh Trams believe that greater consideration should be given to development of Option 2, and have noted a number of concerns about Option 3 (a single operating company) as follows:
 - 4.6.3.1 Given the complexity and size of a single company, the opportunity to realise efficiencies in back office functions is likely to be limited;
 - 4.6.3.2 Whether the differing needs of a large established "steady state" company and a younger organisation seeking growth, alongside new initiatives such as bike hire can be met within the same organisation;
 - 4.6.3.3 They have also raised the discrete safety management systems required by each mode and, specifically under Rail and Other Guided Transport Systems (Safety) Regulations 2006 (ROGS), that it is good practice to have separation between owner and operator/maintainer, due to the differences in terms of duties (and consequent liabilities) under legislation. They are concerned that the separation between owner and operator could become blurred in a single company structure;
 - 4.6.3.4 Possible industrial relations issues from a change to a single operating company. Experience suggests that harmonisation of terms and conditions can be contentious, and that there could be attendant additional cost. In addition, there is greater potential impact across the city arising from possible future industrial action with a joint workforce; and
 - 4.6.3.5 Continuing good operational reputation is key to future growth of the network and concerns that risk of moving to a single operating company could impact that.

- 4.6.4 They acknowledge that their concerns about a single company structure could be mitigated by moving in the interim to a three company structure with a unified board, from which point delivery of a single company structure could be developed and implemented.
- 4.6.5 Edinburgh Trams made clear the need for engagement with all parties as the process is progressed.

4.7 Unite

- 4.7.1 Unite recognise that cost savings could be made from merging operations but have concerns that a drive to save money could result in diminution of services. Unite make clear that it would not support a process which leads to redundancies or a diminution of bus services, nor privatisation of the companies.
- 4.7.2 Unite agrees that a new board structure is required. It seeks representation at board level for employees and an understanding of how the board would engage with the workforce of both companies. They also consider that care must be taken in appointment of directors to the board to ensure a combination of experience and skills and a commitment to delivery of public transport in Edinburgh.
- 4.7.3 Unite also considers that governance arrangements within the Council should be strengthened, with a stronger role in oversight, responsibility and accountability.
- 4.7.4 Unite would wish to see cost savings delivered through efficiencies at senior management level. They also seek protection of workers terms and conditions, job security and parity of pay and terms and conditions, using Lothian Buses terms and conditions as the benchmark.

4.8 West Lothian Council

- 4.8.1 As a minority shareholder, West Lothian Council agree that the strategic objective of the review sounds sensible but note that more work is required to fully understand the proposed governance structure and role of the minority shareholders within any reformed structure.
- 4.8.2 They also raised a concern that company reform, particularly considering other pressures on local authorities as a result of COVID-19, will be time consuming and complex. Therefore, they ask that realistic timescales be agreed.

4.9 East Lothian Council

- 4.9.1 As a minority shareholder, East Lothian Council agree that the strategic objective of the review is sensible, but reinforced the comments made by West Lothian Council that more work is required to fully understand the proposed governance structure and the role of minority shareholders within that.

4.9.2 They also raise concerns around the complexity of company reform, particularly in light of COVID 19.

4.9.3 In addition, they wish to have representation on any project board that might be constituted and they would wish to see their dividend rights preserved.

Further Engagement

- 4.10 The initial engagement clearly supports reform of the governance of the Transport ALEOs, with further development of the Council's preferred option, Option 3, alongside refinement of Option 2.
- 4.11 The engagement responses also offer close working and support to design an optimal governance structure. In light of these responses and noting that further time is required to receive responses from East Lothian Council and Midlothian Council.
- 4.12 it is proposed to establish a short-life working group comprising Council officers and non-Executive Board members from the Transport ALEOs to develop an optimal governance model for future operations. A draft Terms of Reference for this working group is attached in Appendix 1.
- 4.13 In addition, separate engagement will take place with the minority shareholders and Unite. This engagement will be led by Council officers, and will ensure that the minority shareholders and Unite are appraised of progress from the working group and engaged in the development of the proposals emerging from the working group and on the final preferred governance and operating structure in advance of this being presented to Committee.
- 4.14 This approach takes advantage of the offers made in the engagement responses and maximises the opportunity for detailed and constructive development of a final proposal for the Council.
- 4.15 Appropriate further legal (including regulatory, competition and procurement law) and financial advice continues to be sought noting that, as issues are identified, further examination and discussion with the Transport ALEOs will be required.
- 4.16 In the report approved by Policy and Sustainability Committee on 9 July 2020 a key objective of reform is identified as: Delivery of public transport that takes account of wider public policy drivers, particularly in delivering anti-poverty and pro-sustainability strategies.
- 4.17 This objective is contained within the Terms of Reference for the working group, which will be tasked with appraising the options and initial engagement responses received to identify and plan for the delivery of the option which best allows Council policy delivery to be supported by public transport delivery, building on the Council's commitment to net zero by 2030 and the Council Coalition commitments.
- 4.18 It is recognised that the need for a new public transport plan, considering the contribution of rail services as well as bus and tram needs to move quickly. Discussions are on-going about the timetable and funding for this and will continue in parallel to the engagement on reform.

5. Next Steps

- 5.1 If the report recommendations are approved, the development and delivery of this phased approach will require:
 - 5.1.1 The working group to be established in line with the Terms of Reference attached as Appendix 1;
 - 5.1.2 Additional detailed engagement to take place with:
 - 5.1.2.1 Minority Shareholders (East, West and Mid Lothian Councils);
 - 5.1.2.2 The public transport company boards and executive management teams of Lothian Buses and Edinburgh Trams;
 - 5.1.2.3 employee representatives and trade union stakeholders, through Unite; and
 - 5.1.2.4 Any other stakeholders that may be considered necessary.

6. Financial impact

- 6.1 A small funding allocation has been made in the Place directorate budget to develop the implementation plan for this approach.
- 6.2 The cost of financial and legal advice to the project can be met from the Place budget for the 2020/21 financial year.

7. Stakeholder/Community Impact

- 7.1 Engagement with the Transport ALEO's, the minority shareholders and Unite has identified a need for continued engagement throughout the process of reform and therefore effective discussion and consultation throughout a period of reform should be established at officer level and reported through the committee process. The proposed way forward maximises the consultation required to inform the final structure.
- 7.2 Initial assessments have been made on the likely positive and negative impacts of the potential reforms. However, it is proposed that the Working Group develop a full interim Integrated Impact Assessment on the preferred option in advance of reporting back to Committee.
- 7.3 An early draft Risk Management Plan has been prepared, which sets out the four key risk themes emerging from the earlier report. These were identified as:
 - 7.3.1 Project Governance;
 - 7.3.2 Stakeholder Engagement;
 - 7.3.3 Design and Implementation; and
 - 7.3.4 Project Delivery.
- 7.4 It is proposed that the Working Group develop a detailed Risk Management Plan from the outset of their activities, detailing and assessing the risks under each of the above themes.
- 7.5 Early assessment of a single integrated company which fully adopts the 2030 net zero carbon target into its service level agreement indicates that it will have a

significantly positive impact on the city's carbon emissions. The Working Group will be asked to set targets for this and once this is done a quantitative assessment of the carbon impacts will be produced.

8. Background reading/external references

8.1 None.

9. Appendices

9.1 Appendix 1 – Terms of Reference for Working Group

Appendix 1 – Stakeholder Working Group Terms of Reference

Name: City of Edinburgh Council Transport ALEO Reform Working Group

Purpose: To develop a preferred governance and operating structure for delivery of Council owned public transport that takes account of wider public policy drivers, particularly in delivering anti-poverty and pro-sustainability strategies

Objectives:

- The continued development of high quality regional public transport services across Edinburgh and the Lothians, catering for the needs of all passengers;
- The efficient mobility of the passenger is a key factor in infrastructure and investment decisions, enabling increased movement between modes;
- Efficiency and value for money must be optimised;
- Strategic planning across public transport in Edinburgh and the wider region should anticipate and respond to future development and demographic needs;
- Public transport arrangements must be fit for the post COVID- 19 operating environment;
- Dividend performance is a key issue and must be factored into any new arrangements;
- Any reform should enable and maximise collaboration between public transport delivery and local, regional and national policy;
- Compliance with all relevant transport, employment, competition and regulatory requirements; and

- Any industrial relations and HR risks due to unnecessary transition complexity should be mitigated.

Membership:

- Two Officer Representatives from City of Edinburgh Council;
- Two Non-Executive Representatives from the Board of Edinburgh Trams Limited;
- Two Non-Executive Representatives from the Board of Lothian Buses; and
- Two Non-Executive Representatives from the Board of Transport for Edinburgh.

Specialist Advisers:

Legal and Financial Advisers, appointed by City of Edinburgh Council, as required.

Accountability and Decision Making:

This is not a decision making working group. The group will report initially to the Executive Director of Place for City of Edinburgh Council and a report bringing forward recommendations will be prepared for the Council's Transport and Environment Committee for decision.

Additional Considerations:

The Working Group should explore:

- service integration, route optimisation and fare/ticketing optimisation;
- the maintenance of a competitive and inclusive fare structure that can encourage and maximise public transport utilisation;
- all relevant policies including Edinburgh city centre, transformation, LEZ implementation and wider net zero carbon objectives;
- supporting the transport policies of the minority shareholders and wider regional transport objectives;
- developing options which assume zero-subsidy contribution from all shareholder councils;
- maintaining financially and operationally viable bus and tram service provision that meets the mobility needs of customers across Edinburgh and the Lothians; and
- the interaction of reforms with other modes such as cycling, walking, wayfinding, commuter clubs and bike hire schemes

Meeting Arrangements:

The meetings will initially take the form of workshops. It may be possible that sub-groups will be formed to progress individual themes emerging through engagement. Any sub-groups will be

comprised of representatives from the Working Group and any specialist advisers required.

Initial Timeline: It is expected that initial outputs from the Working Group will be delivered by 31 January 2021.

Outputs: The initial outputs could include but will not be limited to:

- A preferred governance structure for the future delivery of public transport services owned by City of Edinburgh Council and the other minority shareholders;
- A plan for continuity of service through implementation of an optimal governance structure, minimising the impacts of change which will include but not limited to:
 - Detailed interim Integrated Impact Assessment to include equalities, sustainability and economic impacts arising from the preferred option; and
 - Detailed risk management plan which includes appropriate controls to address all risks identified arising from the preferred option;
 - Initial plans for delivery of Council policies, in particular anti-poverty and sustainability.