

Evidence from Federation of Small Businesses Wales

About FSB Wales

FSB Wales is the authoritative voice of businesses in Wales, with around 10,000 members. It campaigns for a better social, political and economic environment in which to work and do business. With a strong grassroots structure, a Wales Policy Unit and dedicated Welsh staff to deal with Welsh institutions, media and politicians, FSB Wales makes its members' voices heard at the heart of the decision-making process.

Introduction

The quality of transport and transport infrastructure investment has a huge impact on small and medium-sized enterprises.

Much of economic policy in Wales (as elsewhere) centres on a small number of very large firms, however we often forget around 99 per cent of businesses aren't in this category despite employing 676,800 people in Wales and generating around three times Welsh Government's annual budget in turnover (£47.4bn).¹

Decision-making processes and the governance of institutions charged with infrastructure projects is vital to success in this area. As the OECD puts it:

'High quality public infrastructure supports growth, improves well-being and generates jobs. Yet, infrastructure investment is complex, and getting from conception to construction and operation is a long road fraught with obstacles and pitfalls. Poor governance is a major reason why infrastructure projects often fail to meet their timeframe, budget, and service delivery objectives'²

As such, we view the governance of Transport for Wales (TfW) as vital to the interests of the SME sector.²

In terms of our members' short-term needs, the last time we surveyed businesses on physical infrastructure, over 80 per cent said their car or van was 'crucial' to their business, with around 70 per cent saying their number one infrastructure priority was to invest in roads. In comparison, public transport was only seen as

¹ Information available from: <https://gov.wales/docs/statistics/2017/171221-size-analysis-welsh-business-2017-en.pdf> ² OECD, *Getting Infrastructure Right* (OECD: 2017)

² FSB Wales has commissioned a report to develop an evidence base on transport, see Prof Stuart Cole 'Moving Wales Forward' (FSB: May 2016).

crucial for around 10 per cent of businesses showing how utterly dominant private forms of transport are to the Welsh economy.

However, such a conversation has a 'chicken and egg' side to it, with (for example) bus routes having been declining and access to town centres by public transport in retreat, making for a lack of a viable alternative to the private car. The infrastructure governance needs a view of infrastructure in the round including public and private transport, as well as in a wider sense an integrated approach looking at the physical, digital and social infrastructure in Wales.³

General Principles

In order to analyse the quality of TfW's current structures, and how it should develop, it is useful to look at first principles in terms of bodies charged with coordinating and providing for better more integrated infrastructure development.

There are challenges and general policy failures based around governance internationally. As such, a new body such as TfW should be viewed as an attempt to rationalise governance and decision-making, which the literature⁴ indicates is an issue both within the UK and internationally. Some of these are:

- Lack of forward-thinking strategy
- Failure to secure consensus, creating high political risk
- Weak evidence base
- Community opposition and lack of effective engagement

Firstly, any infrastructure body (such as the National Infrastructure Commission for Wales [NICW], or Transport for Wales) must think long-term and join the conversation up with the Economic Action Plan. Such a body should use the Wellbeing of Future Generations Act and share the evidence upon which decisions are made. Secondly, it needs to work out how we can spend more money on infrastructure and ensure greatest economic return. Chronic underinvestment is a problem that has plagued Wales' economy and we need to be bullish in making the case for investment where the powers aren't devolved.

Thirdly, it should ensure everybody is included in the conversation and that Wales' infrastructure priorities can move forward on the basis of buy-in from across the political spectrum. Recent experience with the M4 Relief Road shows how a lack of buy-in to projects leads to poorly considered actions and eventually no action at all.

³ FSB Wales will be researching and publishing a new report on infrastructure in Wales in 2019.

⁴ *Getting Infrastructure Right* (OECD: 2017); M Coelho, V Ratnoo, S Dellepiane, *The Political Economy of Infrastructure in the UK* (Institute for Government: 2014)

The means to address the common problems around infrastructure (which Transport for Wales is a move towards and carries real potential) can be an arm's length organisation to facilitate the following:

- Integrate the consultation process.
- Gather an independent evidence base, generating, analysing and disclosing open data.
- Provide coordination across government.
- Clear regulatory frameworks.
- Provide a fulcrum for strategy and framework for stronger public and sectoral engagement and buy-in across sectors and policy areas.
- Guard affordability and value for money.
- Ensure insofar as possible the infrastructure assets perform in the long term, are resilient and future proofed.⁵

So, an understanding of the effectiveness of the current governance structure, and the options for the future, needs to take into account to what extent they address the above needs within the specific Welsh context, both in terms of rhetorically (in their mission statements etc.) and in terms of structures to promote deliverability across them. Given that the organisation is still relatively new, any conclusions and suggestions outlined here are necessarily contingent and provisional. However, given the potentially huge impact of the governance of TfW, we would suggest that they need to be pursued and scrutinised further by the Committee.

Transport for Wales – Government documents and Rationale

- *Whether the current governance, structure and funding of Transport for Wales are effective and transparent.*
- *What action should be taken to develop these aspects of the organisation?*

When taking into account the above general principles underpinning governance and infrastructure, it is worth remembering how this applies to the Welsh context with its role as owned by the Welsh Government as a sub-state actor.⁷ The jagged edges of devolution are particularly so for infrastructure, with powers shared and often unclearly delineated between the Westminster Government and the Welsh Government.

As such, the role of Transport for Wales as giving an arm's-length coordinating role for a key element of infrastructure (transport) is a rational position. TfW as a body

⁵ Adapted from OECD's 10 key Governance challenges for infrastructure, *Getting Infrastructure Right* (OECD: 2017) ⁷
It should be noted that this should not be seen as an impediment in itself – with almost 60% of total public investment undertaken by sub-national governments *Integrity Framework for Public Investment* (OECD 2016)

can deal with a set of devolved powers and coordinate policy and the evidence base centrally. Similarly, in dealing with external partners and stakeholders (including cross-border), it is useful to have a single identifiable body. As TfW itself notes 'the model is also familiar to the commercial organisations with which TfW will need to work closely'.⁶

The structure has the merit of both coordinating a substantial policy area with holistic impact, and a recognisable central corporate identity within which to do operate. In terms of stated ambition and rhetorical guarantees of good governance, the Welsh Government Transport Company Management Agreement, TfW's two year business plan (1 April 2018 – 31 March 2020) and the Welsh Government's remit letters provide:

- Its role in relation to Welsh Government
- the framework for its operations
- Its governance structure
- Its objectives within the themes outlined

FSB Wales welcomes in particular the explicit commitment to improved engagement, including

- 'involving communities and business to deliver safe, reliable, affordable and lowcarbon transport'⁷
- 'Work with SMEs and larger organisations in an alliancing approach to maximise direct value for money through efficient and effective delivery, as well as wider sustainable economic benefits'⁸
- 'lead role in development and apprenticeships'⁹

We also welcome the commitment to the TfW's role to 'establish an evidence-based approach to support decision-making associated with infrastructure investment' and in 'ensuring [TfW] serve all of Wales effectively...maximise our understanding of local and regional needs across Wales for the benefit of current and future transport users'.¹⁰ We note that these aims map well across the principles for infrastructure governance noted above.

⁶ Transport for Wales, *Summary two-year business plan* (June 2018), p 9

⁷ Ibid, p 4

⁸ Ibid p 13

⁹ Ibid

¹⁰ Ibid, p 4,5

Transport for Wales – Rationale in Practice

However, we would note that within these documents these remain largely rhetorical commitments. This is largely understandable, as TfW remains a relatively new and evolving structure, and that it has also had to – and will continue to – deliver on substantial operational work while developing as an organisation.

There has needed to be a balance between fleetness-of-foot and its wider commitments. We would hope that it has followed these strategic objectives in its ways of working on work already done, but this is difficult to measure from outside.

It is often the case that there is a rhetorical commitment to participation, and anecdotally we have heard that TfW have engaged well with sectoral interests and been open to critique and engagement. However, there is always the risk that without a structured consultation process that is integrated into the TfW ways of working, this may fall by the wayside as other commitments take priority.

While it is important that TfW remains fleet-of-foot and is not overburdened by disproportionate levels of commitment, it should be noted that the commitment to a strong evidence base, of identifying local and regional needs, and of aggregating different interests will be degraded without a clear integrated consultation process. This way of working should be open to scrutiny and follow best practice. **We would recommend:**

- ***That TfW develop (or publish) an Open Government and Consultation strategy, taking into account how proportionate consultation should be, dealing with issues of confidentiality and commercial sensitivity, and a strategy for identifying SME stakeholders.***
- ***Formal mechanisms and forums for monitoring infrastructure investments and delivery.***

Delineation of Roles

In its strategic aims, TfW has clarity about the delineation of its role(s) in terms of operations and advice as distinct from the Welsh Government:

"Transport for Wales is a not-for-profit company, wholly owned by the Welsh Government. Across Wales and its borders, we collaborate with other transport providers, partners and stakeholders to deliver a safe, accessible, reliable, affordable and low carbon integrated transport system.

*"Transport for Wales does not set policy, nor do we exercise any statutory functions ourselves. However, we are the Welsh Government's expert adviser and advocate for transport-related matters. We provide technical advice to allow the Welsh Government to develop policy. Everything we do is discharged within the Welsh Government's policy framework."*¹¹

This is a practical delineation between strategy and operations, with a division of responsibilities that will allow for an independent advisory role, including the gathering and production of a strong evidence base to foster consensus, while also aligning with wider strategy and legislation as set by Welsh Government, such as the Future Generations agenda.

However, to ensure this independence and the strengths of an arm's length organisation it is important that strong formal structures and separation follow from this mission statement.

The role of TfW in relation to Welsh Government has been questioned previously. During the EIS Committee inquiry of 2017, Railfuture Cymru highlighted the risk that Transport for Wales will have

"Indistinct links with government, local authorities and local communities as it has no clear democratic accountability."¹²

The Committee report questioned the governance arrangements of TfW in June 2017:

"Conclusion 28. While the governance arrangements for TfW are unusual, the Committee consider them to have been appropriate to this stage of the organisation's development where it is effectively an advisory body. **However, they will not be suitable in the longer term.**

"Recommendation 16. While TfW is a new and evolving organisation there are clear weaknesses in its governance arrangements – particularly the accountability of its chair. The chair of TfW should not be line managed by his own deputy. **Governance arrangements should be reviewed and strengthened as TfW evolves.**"¹³

¹¹ Ibid, p 3

¹² National Assembly Economy Infrastructure and Skills Committee, *On the Right Track? The Rail Franchise and the South Wales Metro* (June 2017), p 43

¹³ Ibid, p 44

It is unclear to us to what extent these issues have been addressed. We would encourage that this committee inquiry contribute to this process of scrutiny and ensuring the governance arrangements are sufficiently robust.

We recognise that there is a Board of Directors, and internal scrutiny through the Chair and board members as well as to Welsh Government ministers. However, this does not address accountability to those external to TfW and Welsh Government, and the lines of accountability currently seem unclear from the outside looking in. This suggests the need for an outward facing policy as a complement.

The recent issues of disruption to rail services due to aging rail stock recently indicate some of the risks here. We acknowledge that TfW have been proactive and open in the media in addressing the public. We have no reason to assign blame on the franchise so early in the process. However, there is a question of whom is to be held accountable and who is to scrutinise any issues that have arisen, as a structure that allows for rhetorical separation of functions while also in practice making the links 'indistinct' makes this a difficulty.

Moreover, there is a risk of a 'revolving door' from Welsh Government to TfW, which has the potential to undermine the independence of the arm's length organisation, which in turn would undermine trust and the aims of creating a better evidence base, a better engagement, and in building consensus.

FSB Wales would recommend:

- ***A clear outline of the lines of accountability in terms of governance structures.***
- ***That as well as its relation and accountability to Welsh Government in its delivery and operational work, that it also is clearly accountable to the National Assembly. This may be through formal mechanisms, or through norms of being open and available to the Economy, Infrastructure and Skills Committee.***
- ***An Open Government approach would allow wider scrutiny and encourage proactive engagement from the National Assembly as well as wider sectoral interests such as SMEs.***

Other points on the future of TfW

- *What other governance models and good practice are available?* In terms of governance models for arm's-length bodies dealing with complex infrastructure projects and the importance of governance following the principles outlined at the start of this paper, there are the following examples (these are not exhaustive):
- Alders Table, dealing with Schiphol airport development

- Australian Productivity Commission
- Canada's National Energy Board, and USA Federal Energy Regulatory Commission, as an example of a body that encourages deliberative processes and negotiated settlements between interests.

An overview of these can be found in this paper by Coelho, Ratnoo and Dellepiane:

<https://www.instituteforgovernment.org.uk/publications/political-economyinfrastructure-uk>

- *What additional responsibilities should it take on and how should these integrate with the role of the Welsh Government, local government and emerging regional transport authorities?*

We would note there is a huge amount of room for growth of responsibilities of TfW, and so there is a need to ensure accountability processes are in place and are certain. As the Articles put it the TfW is to:

"Undertake any action whatsoever which in the opinion of the Guarantor Member is necessary or desirable for the furtherance of the Objects including without limitation providing any assistance required by the Guarantor Member in relation thereto."

It would be prudent that any governance issues be dealt with before (or as) further development be done.

While, as noted above, TfW's development in transport makes sense in that it is based around largely devolved powers, we would note that its operations should interrelate with wider infrastructure bodies. It would be useful to have a general outline of how it relates with other bodies, such as the National Infrastructure Commission for Wales (NICW), which presumably is to have a wider strategic remit on infrastructure. The relationship between these two bodies and their role could be clarified.

If there is to be a need to reassess and rebuild consensus around options around M4 congestion, then developing options, a business case and evidence base could fall to the NICW and TfW. As noted, recent experience of the M4 relief road has illustrated starkly how the lack of an engagement strategy, a lack of trust in an independent evidence base, and a lack of coordination with knock-on effects across government strategy (such as the Future Generations Act, Active Travel, and the impact on wider public transport), can lead to a dead end.

Putting the project in the hands of arm's-length organisation would provide an impetus for developing the engagement strategy and open government approaches, deliberative approaches and developing new consensus, as well as

ensuring a strong evidence base built around an integrated approach building on the Well-being of Future Generations Act.

Such a project would necessitate a clear independence from Welsh Government, and the Committee should provide scrutiny over this process. In practice it would also outline how these NICW and TfW would work together, and delineate their respective roles in the infrastructure project process.

We would also note, that for transport and general infrastructure projects to succeed in Wales, the Welsh Government needs to address the historical lack of funding and financing on infrastructure in Wales.

Conclusion

Transport for Wales has great potential to be a boon in coordinating infrastructure project to provide for benefits in terms of growth and social impact, and in providing a fulcrum for better evidence base and engagement to provide for a real conversation about Wales, and SMEs in Wales', needs in terms of future transport infrastructure.

As the OECD notes, poor governance is the prime reason for failure in infrastructure projects, and we have recent experience in Wales of some of these common problems that have been identified internationally. As such, we encourage the Committee to scrutinise these arrangements, so that TfW can fulfil its potential in providing a means for the different interest and needs in Wales to overcome those barriers and each take a constructive part in looking at the future of transport infrastructure in Wales.