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## An Appraisal of the National Transport Authority Corporate Structure

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## **AN APPRAISAL OF PROPOSED AND EXISTING NTA CORPORATE STRUCTURES**

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### **Abstract**

The National Transport Authority was established originally as a land-use and transport planning agency whose aim was to coordinate and integrate transport infrastructure and service delivery in the Greater Dublin Area and, subsequently, to manage public passenger transport licensing nationally. This paper looks at the corporate structure of the NTA and, comparing it to other transport systems, assesses its incorporation, particularly in terms of accountability.

Many analysts consider institutional arrangement as the most fundamental aspect of delivering effective transport systems. A range of governance systems exist for urban transport authorities. The NTA most closely reflects the model of a public agency with sub-contracted services. Within this structure, levels of accountability and integration with local democracy appear to be very limited, with little or no public representation and the agency exercising control over all land use development plans within its administrative area.

Evidence from other jurisdictions indicates that those systems with high levels of democratic involvement and the most effective distribution of strategic, tactical and operational planning lead to the most efficient and sustainable transport networks. Analysis of the NTA corporate structure suggests that, while it possesses strong strategic and planning controls, a number of factors – including its lack of accountability, its unclear relationship with other transport agencies and its overly broad geographic remit – may hinder its ability to deliver its stated objectives.

Comparison with the public transport federation or “verkehrsverbund” model, in particular, show that increased democratic involvement, combined with greater powers over operational agencies may be a more effective means to creating a sustainable transport network. A recent bill and current government policy also suggest that this may be a more appropriate direction for the Greater Dublin Area if accountability is to be pursued as an objective.

### **Introduction**

The National Transport Authority (NTA), established in December 2009, represents the incorporation of a long-awaited and much debated land-use and transportation planning body with legislatively-backed executive powers. Initially established as the Dublin Transport Authority (DTA), it is now a national agency responsible for transportation matters nationally.

The origins of the NTA's powers lie in not one but a number of statutes, including the Dublin Transport Authority Act 2008 [1] which established the body. The Public Transport Regulation Act 2009 (PTR Act 2009) [2] amended this Act to elevate the DTA to a national body, i.e. the NTA. The Planning and Development Act 2000 [3] is amended by the DTA Act to in order to effect significant land use planning controls.

Out of this legislation emerges an NTA with powers to license and coordinate services, control the distribution of subsidy to agencies and preside over the delivery of infrastructure. Reflecting primarily on the situation of Dublin, the NTA seems to be a significant step forward in terms of concentration and coordination of executive powers. But will this newly incorporated body itself lead to “integrated transport” and / or a state of quality mobility that is socially accessible?

This paper will examine the current and proposed organisational framework of the NTA from the point of view of the end-user and accountability. Comparison is made with other jurisdictions where alternate approaches to transport governance are adopted.

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## **Scope of the Authority**

The general objectives set out in the DTA Act are: [to] “develop an integrated transport system which contributes to environmental sustainability and social cohesion and promotes economic progress; provision of a well-functioning, attractive, integrated and safe public transport system for all users; improved access to transport; increased use of public transport, cycling and walking; and, value for money”.

The geographic remit of the DTA is the “Greater Dublin Area”, defined as the four main Dublin local authorities plus those of Kildare, Meath and Wicklow. This coincides with the boundary of the Regional Planning Authority for the Greater Dublin Area and the Mid-east Region, which, jointly, must prepare a coordinated regional strategy.

The PTR Act of 2009 changed the name of the Agency from the Dublin Transport Authority to the National Transport Authority. It did not substantively make any changes to the incorporation of the agency, nor of its responsibilities.

An exception was the granting of responsibility for the licensing of public passenger transport on a national basis. The PTR Act adds in two additional objectives, being: “regulated competition in the provision of licensed public bus passenger services in the public interest and the objectives set out in section 9 of the [roads] Act of 2003” (also referring to public passenger transport licensing).

Otherwise, the “DTA” became the “NTA” without having amended its corporate structure or its principal functions. For example, the NTA’s principal function is to prepare a transport strategy not for the country, but for Dublin. It also has a specifically Dublin-based representation on its Board and Advisory Council.

The Act does stipulate that the NTA “shall, at any time at the direction of the Minister, submit a report to the Minister setting out recommendations in relation to the expansion of its functions, functional area and remit with a view to giving it a national remit in respect of all of its powers, duties and functions under the Act of 2008 and this Act.”

Notwithstanding this, currently, the principal function of the NTA is the preparation and implementation of a Transport Strategy for Dublin. The DTA Act requires that the Authority “shall endeavour to ensure that the first transport strategy shall be published not later than one year following the review of the regional planning guidelines for the GDA”. The Minister has the sole responsibility to sign off on the Strategy for Dublin and it becomes binding on all other development plans once he does so.

Is there any way of determining the optimal or correct catchment area for a transport authority? Nix and Leahy point out appositely in a recent article on the matter of regulation of bus services that “there are three main bus markets in Ireland – urban services, rural services and inter-urban services.” [4] Each market requires an appropriate level of regulation. Mees states that it is vital for an authority to cover the functional urban area, not just the metropolitan area, irrespective of current administrative boundaries, stating: “the agency must have jurisdiction over the entire functional urban area, rather than just the central municipality” [5, p160]. Mees would further suggest further that regulation itself will be insufficient if each market is not planned and operated as a network with transfer opportunities and timetable interdependencies. And it must control overall finance [5, p160].

The above suggests that the area over which a transport agency has statutory control is important not only to the transport users within its domain but also to the effectiveness of the agency. In other words, the agencies’ effectiveness may be hindered by either over- or under-reach. Ideally, it is suggested, an effective agency is one whose remit best overlaps with the transport “market” it serves. In this case it appears that the Greater Dublin Area, being the dominant functional urban region on the island is a discrete and primary transport market. This may be followed by a level of similarly ranked “tier 2” urban areas (i.e. Galway, Limerick, Cork, Waterford), as reflected in, among other strategies, the Retail Planning Guidelines [6]. The conversion from DTA to NTA, even without a significant increase in executive function, may suggest “mission creep” beyond the point of diminishing marginal returns. Even if the future authority’s functional remit remained the Greater Dublin Area, the question can be posed about Dundalk (part of the Borders, Midland and West Region),

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which geographically is likely to form part of the GDA functional area as the towns of Navan or Naas.

### **Agency Accountability**

Before reflecting on the level of accountability within the new transport structure this paper looks at the actual governance make-up of the NTA. The board of the National Transport Authority is comprised of a Chairperson (appointed by the Minister) plus 9 ordinary members, being: the CEO of the NTA, 1 other member from senior management, the Dublin City Manager, 6 members (appointed by the Minister) experienced of transport, commerce, finance, planning, labour, etc. Authority members are appointed for 5 – 10 year terms, can meet at own discretion, a quorum being 5 of 9 members.

The National Transport Authority has an Advisory Council (as yet to be appointed). This comprises of a Chairperson (appointed by Minister) plus 23 members, being: the Dublin City Manager, One County Manager from Fingal County Council, Dun Laoghaire Rathdown County Council and South Dublin County Council, One County Manager from Meath County Council, Kildare County Council and Wicklow County Council, One member each of Greater Dublin Area and Mid-east Regional Authorities, Seven Councillors (one from each local authority), 1 Garda representative, 2 trade union representatives, 2 business representatives, 2 community representatives and 4 “public interest” representatives. Advisory Council members can have up to 5 year terms but can be reappointed. The Council should meet 4 times per annum and is required to consider and monitor the NTA plans and provide advice to the authority. The Advisory Council, however, has no executive authority or any decision-making role within the NTA. At the time of writing this article it had neither been appointed nor held any meetings.

The NTA is comprised, then, of an executive board appointed by the Minister and a non-executive advisory council. As mentioned above, final power to implement strategies drafted by the authority lies with the minister, thus eroding somewhat its ambit of authority.

A further observation is the Dublin-centric nature of both the board and council. Where geographically-specific posts exist, they are drawn from local authorities in the Greater Dublin Area and Mid-east Region. This is in spite of the NTA having public passenger transport licensing responsibility nationally.

Aside from accountability within Dublin transport, there are many issues raised by the new legislative framework. The potential effectiveness of the authority in the delivery of services and infrastructure, its ability to deliver and operate an integrated network and to effectively brand and explain the transport service to the community; these are all relevant questions in the early stages of its incorporation.

However, fundamental to all of these is the accountability of the entity. In its current composition, the NTA is an appointed body which answers to a national minister. Yet its functions relate primarily to an urban area, being Dublin and its hinterland. The level of citizen control in this situation – restricted, for the most part, to a limited public consultation exercise – appears low. In fact, as set out in an analysis of impacts on land-use planning below, the level of citizen control may even be subverted by the pre-eminence of NTA strategies over democratically-decided development plans.

### **Strategic, Tactical and Operational Control**

In assessing and planning urban transport systems Vuchic [7] considers three levels of activity: strategic, tactical and operational. At the strategic level, system objectives are set, for example service levels, mode share targets or energy targets. At the tactical level, networks are designed, transport products are chosen, etc., while at the operational level day-to-day matters such as vehicle maintenance, marketing and the running of services are transacted.

The range of ways in which these functions can be distributed or managed is set out on a ladder of up to 7 agency models or variants by Mees [8]:

- Government or municipal department
  - Public corporation
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- Public transport federation or “verkehrsverbund”
- Public agency with sub-contracted, tendered services
- The concession system or “franchising”
- Private operation with discretionary regulation
- Private operation with deregulation

A more detailed explanation of these models is provided in “Transport for Suburbia: Beyond the Automobile Age” (pp72-75) [8]. However, the spectrum essentially extends from government dominance at one end to market deregulation at the other, while never actually encompassing one extreme exclusively. As Mees points out, even the most centralised of systems interacts with or relies on market services, while in the most deregulated of urban transport systems subsidies are still required.

The NTA incorporation would seem to most closely follow the *public agency with sub-contracted, tendered services* approach since its approach is largely based on delivering services via licensing and competitive tendering albeit with strong regulatory controls. Elements of a *public corporation* model are evident too as it is a state agency with strategic issues being shared with central government. A limited range of powers are transferred to the agency which then has a coordinating role among other agencies. A degree of *discretionary regulation* is also evident within the NTA structure as a large emphasis is placed on the licensing of individual operators, suggesting that the new Irish transport entity is an attempt at being selective between these various models.

The range of functions to be carried out by the NTA includes, inter alia, the making of plans, the delivery of infrastructure and of services. For instance, the NTA is required to “secure provision of, or provide” public transport infrastructure jointly with, or enacted by various agencies. The NTA may issue instructions to agencies to act and has the ability to take over contracts from agencies. The Authority has Railway Order powers and the ability to purchase lands and borrow up to €1bn.

The NTA is also required to “secure provision of, or provide” public transport services. The NTA is also required to operate and license all public transport services contracts and may also act as “operator of last resort”. The NTA is also responsible for administering Public Service Obligations to contractors.

The NTA must prepare and implement certain strategies and plans over and above the Transport Strategy for the Greater Dublin Area. Within 9 months of agreeing the Strategy it must prepare an Integrated Implementation Plan. A Strategic Traffic Management Plan is required every 6 years. And the NTA is responsible for Demand Management within the Greater Dublin Area.

The NTA has also a plethora of other responsibilities, including the integration of services within the GDA. It is required, for example, to create and deliver a single brand for transport in Dublin, and to implement and regulate integrated ticketing.

The NTA also becomes owner of all transport data, irrespective of which agency or operator generates it. The NTA is required to undertake research and monitoring, including the collection of data, statistics and KPI monitoring of all services. This appears to be a particularly strong power if exploited to its full degree.

However, even analysis at this level reveals certain confusion as to the distinct role of the NTA and other operators within the overall transport delivery “system”.

At the strategic level, the actual transfer of power from government to agency is highly checked as final approval on strategy rests with the national minister. However the authority has strong powers to prepare plans, so strategic control is essentially shared between agency and national government.

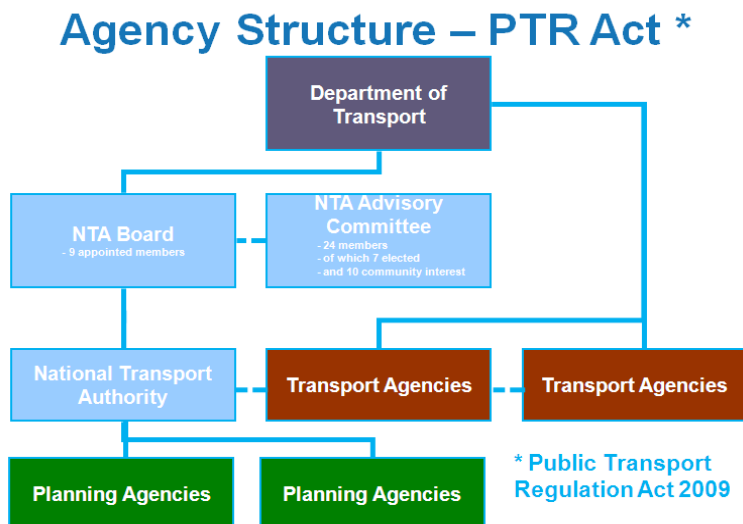
At the tactical level, the authority can enter into agreements with and give directions to other infrastructure agencies. It can also procure infrastructure itself and has powers to raise revenues in order to do so. And yet, it does not have any executive or shareholding controls

over any other such agencies, which are still answerable to and financed directly by the minister.

At the operational level and in the delivery of services, the authority's powers are stronger as public transport service-providers cannot function without license from the NTA. Public Service Obligations are also distributed via the NTA. This is supported by the agency's power to brand the services and to integrate them under a ticketing framework. The full level of integration may be hindered if, as seems likely, routes are licensed on an individual basis. The authority then performs the role of a back-office arbitrage facility and end-users have to "tell" the system they are moving from one agency to another via tag-on/tag-off activities.

This compares with the *public transport federation* approach which often subcontracts to private operators but tends to franchise out networks or segments of them, as opposed to individual routes. Typically, in this situation, end-users purchase a ticket from the federation which then reimburses operators based on service levels, etc. From the end-user perspective, in this situation, this delivers full mobility under an integrated ticket.

Figure 1 illustrates the organisational framework of the adopted NTA transport structure for Dublin. Ultimate control rests at national level with the minister being statutorily responsible for the NTA (with the national minister having veto powers over NTA strategy) and transport infrastructure agencies.



**Figure 1: Organisational Structure of the NTA and related Agents**

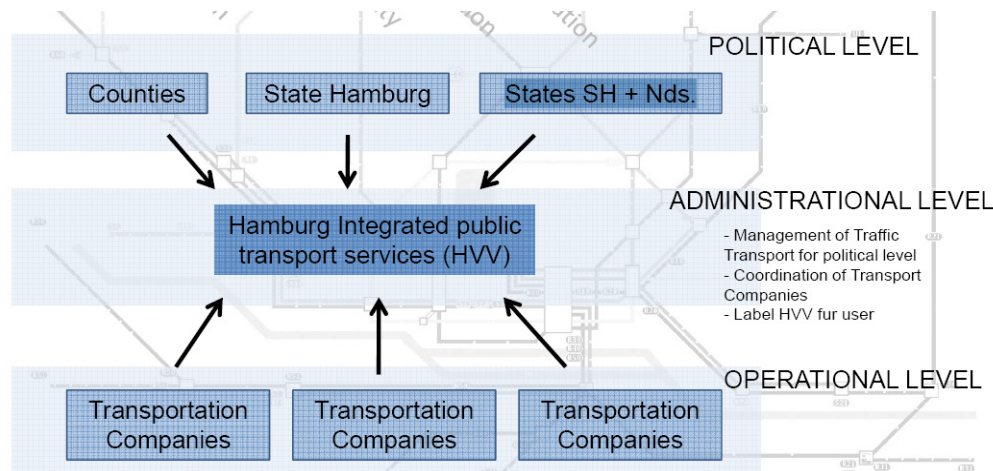
The NTA board may take advice from the Advisory Council, but it is responsible for the activities of the authority itself. The role of the advisory council, as the name suggests, is primarily advisory with no executive control.

The authority must work together with the various transport agencies. In the case of services it exerts strong controls via licensing powers (which it controls on a national basis). In the case of infrastructure, other agencies are still controlled and financed by the minister but the NTA may carry out infrastructure works itself, creating a slightly checked relationship. Again, compared to a *public transport federation* model, the latter would normally maintain full control over all agencies via shareholdings or other statutory means.

At the base of the organisational chart are the planning agencies. The DTA Act includes its own significant amendments to the Planning & Development Act 2000, principally that all land use plans MUST comply with the transport strategy. This means development plans, the primary source of all planning control in Ireland and the strongest contract between communities and their local government will be constrained by the directions of the NTA Transport Strategy. This is tempered somewhat by the need to review the Strategy every 6 years. However the degree of autonomy over development plans, normally the reserved function of elected council members, is clearly diminished.

This highlights a third and important distinction between the newly incorporated transport system and a *public transport federation* approach. The latter approach is also referred to by its German title, “verkehrsverbund”, because of its origin (in the cities of Hamburg and Zurich primarily).

A typical organisational model for a *verkehrsverbund* is shown in Figure 2. In the *verkehrsverbund* model, strategic control is moderated at the top political level, with this being distributed between the different spatial hierarchical levels of government. Even the national (“bundesministerium”) level has a say since subvention from the federal state is still required in this model. More importantly, the political strategic level is made up of local municipal and regionally elected politicians. Once strategy is decided, the *verkehrsverbund* is directed to implement the strategy and make tactical decisions [9].



**Figure 2: Organisational Structure of the Hamburger Verkehrsverbund (HVV)**

Critically, it has full control over the operator level. For this reason, the Berlin Transport Authority (VBB) can boast it is made up of 44 separate agencies. From the end-user perspective this does not matter as a ticket is purchased from only one agency: the VBB itself [10]. The degree of local and regional control over the *verkehrsverbund* in Germany has even come under criticism as the national high-speed rail network struggles to compete with its French counterpart. Network planners complain that they cannot secure city centre alignments or slots as these are prioritised for local, municipal and regional services [11].

Bearing in mind that the transport strategy for Dublin must be complied with by every and any land use plan, including Development Plans – the principal source of all spatial planning – this has no little effect on the lives of citizens, the quality of environment and the well-being of the urban economy.

### Dublin Mayoral Bill Proposals

The Dublin Mayoral Bill advanced by the previous government was an attempt at reforming the governance structures of the NTA before they were finally implemented [12]. The administration in question is no longer in government and the bill is not a part of the new government’s programme. The governance structural changes proposed, however, merit some consideration.

The bill proposed a new framework for decision-making in relation to transport in Dublin and the National Transport Authority in particular. The Bill proposes to establish a Dublin Area Transport Council (DATC) which would replace the not-yet-formed Dublin Traffic Advisory Council. Unlike the latter body, which only has an advisory (i.e. non-executive) capacity, the DATC would have strong decision-making powers. Principally it would be responsible for approving the Transport Strategy for the Greater Dublin Area and Mid-east Region, with which all relevant Development Plans and Local Area Plans must comply. How would this body affect the quality and accountability and integrity of Dublin’s transport network?

To that end the composition of the proposed DATC is both important and interesting. According to the bill it would be a council of 12, made up of the Mayor, 5 mayoral

appointees, 5 appointees of the Minister of Transport and the Cathairleach of the Mid-east Regional Authority. This Council would take over the approval of the transport strategy for Dublin. Thus it would exert strong influence over the direction of the city and its future transport system. Under current standing this approval belongs to the Minister. The proposal therefore would have represented some increase in accountability, i.e. one would assume that an elected mayor plus appointees would have some closer interest in the city region than a national minister. However, coupled with the fact that the minister has five appointees to the council AND retains vetoing rights under the Bill, any increase in accountability would appear to be incremental.

In conclusion, the proposals contained within the Mayoral Bill – albeit no longer an active bill – make some attempt to address shortcomings of answerability in transport for Dublin but appear to stop short of a comprehensively democratic and accountable structure.

### **2011 – 2016 Programme for Government**

No specific reference is made to the NTA in the new programme for government of the current administration (“Towards Recovery: Programme for a National Government 2011 – 2016”) [13]. However a number of provisions suggest policy changes that could impact on its incorporation, if implemented. Under “Reforming Local Government”, a provision is made to replace the position of County Manager with that of Chief Executive with “a limited range of executive functions” whose role is primarily to facilitate the implementation of democratically decided policy”. That would at minimum affect the board and advisory council composition and may also suggest changes in the way transport strategies are decided. The section also proposes “a democratically-decided Regional or City Plan” and gives a commitment to fundamentally reform governance structures in order to “give more control over transport and traffic, economic development,...[etc.]...to local communities”. Such commitments would appear to contradict the existing centralised and more “dirigiste” approach to transport strategy development and implementation under the DTA and PTR Acts.

These intentions are reiterated under the “Planning” section, which includes mandatory “Local Transport Plans” to be decided at local authority level. Such a proposal, if implemented, would undermine and possibly contravene the Transport Strategy-setting powers of the NTA and minister under the DTA and PTR Acts.

### **Conclusions**

It appears anomalous that the primary function of the NTA – a national agency – is the preparation and delivery of a transport strategy for the Greater Dublin Area. This anomaly is further compounded by the vetoing powers of the national minister over the same strategy.

The NTA is governed by a board of 9 members who are appointed by the national minister. It also has an advisory body which is Dublin-centric but without executive power. This is not necessarily an accountable corporate governance structure from the point of view of the city and her dwellers.

The strategy for Dublin, once agreed, is binding over all other development plans. Even though the strategy must comply with the regional planning guidelines, the lack of any civic debate or rigorous consultation – in either process – seems to diminish the degree of citizen involvement in the making of the land use and transport strategy for the region.

The NTA has recommendations to make regarding the reconstitution of its functions as a national agency. Assessment of other transport governance systems suggests that those which are most effective in achieving high levels of accessibility within successful urban environments are those with effective financial and organisational powers over its partner agencies, where governance allows a degree of citizen control in the development of strategy and where the administrative area represents most closely the functional urban region [7] [8].

Changes proposed by the no longer extant Dublin Mayoral Bill made interesting proposals to link transport strategy with the office of mayor, albeit diluted by national ministerial involvement [12]. The new national administration has stated objectives to increase levels of citizen involvement in decision-making, particularly in the areas of land-use and transport



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planning [13]. If accountability is an overt political objective, current governance structures for transport may not meet those aspirations.

Experience from cities like Zürich, which boast an efficient and easy-to-use transport system, suggests that accountability is not just an end in itself but is fundamental to delivering socially accessible and mobile urban environments [9]. Writers such as Thomson regard institutional arrangements as the most fundamental aspect of delivering effective transport systems [14]. Even a cursory glance at most European local government systems, most especially the northern European and Nordic models, shows that communities have a much greater say in the direction of their towns and cities.

On a recent Urban Academy Study Tour to Freiburg, commenting on the quality and sustainability of its transport network, the Chief Planner for Freiburg said that “It comes from their citizenship”, implying that the involvement and empowerment of the community led to decisions that best benefitted them and their city [15].

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