



WMCA Board

Date	25 May 2018
Report title	Midland Metro Penalty Fares Order
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Report to be/has been considered by	WMCA Programme Board – 11 May 2018

Following the West Midlands Combined Authority Board meeting that took place on 8 December 2017 where Councillor Roger Lawrence presented a report seeking the approval under the provisions of section 239 of the Local Government Act 1972 (which applies by virtue of section 20 of the Transport and Works Act 1992) for WMCA to submit an application for the Midland Metro (Penalty Fares) Order to the Secretary of State for Transport under the Transport and Works Act 1992 it was resolved that WMCA is authorised to submit the above application. This report is now presented to the full WMCA Board by virtue of section 239 of the Local Government Act 1972 in order to provide a second resolution confirming the resolution passed on 8 December 2017.

Recommendation(s) for action or decision:

The WMCA Board is recommended to:

- (1) Confirm the resolution passed on 8 December 2017 to authorise the WMCA to submit an application for the Midland Metro (Penalty Fares) Order to the Secretary of State for Transport.

Purpose

1. To seek from the full West Midlands Combined Authority (WMCA) Board a second resolution confirming the resolution as set out in the West Midlands Combined Authority Board Report of 8 December 2017 to promote a Transport & Works Act Order (TWAO) for the Midland Metro (Penalty Fares) Order under the Transport and Works Act 1992.

Background

2. On 8 December 2017 the WMCA Board passed a resolution authorising the submission of a TWAO to seek the necessary powers for West Midlands Combined Authority (WMCA) to make changes to the penalty fares on Midland Metro (including increases and a two tier system). The application for the above TWAO was submitted to the Secretary of State for Transport on 27 February 2018.
3. By virtue of Section 20 of the Transport & Works Act (TWA), Combined Authorities such as the WMCA may promote a TWA Order, but the power to do so is subject to the same conditions as apply to Combined Authorities promoting bills in Parliament.
4. In this instance, therefore, the Combined Authority must comply with the conditions set out in Section 239 of the Local Government Act 1972.
5. Section 239 provides that where a Combined Authority is satisfied that it is expedient to promote a Bill (and so also a TWAO) it must pass a resolution to do so which then needs to be confirmed at a further meeting of the authority after the Bill is deposited or, in the case of a TWAO, the application made. In each case the necessary resolutions must be passed by a majority of the full Council (i.e. not just the members present).
6. Such a resolution must:
 - (a) be preceded by not less than 30 clear days' notice, given by advertisement in one or more local newspapers and by the ordinary notices required to be given for convening a meeting of the WMCA;
 - (b) be passed by a clear majority of the whole number of the members of the WMCA Board (i.e. not a majority of those present but a majority of all members).
7. The wording of the proposed resolution has been based directly on the wording of the resolution passed on 8 December 2017, and any proposed changes to it should be subject to further legal advice.

Impact on the Delivery of the Strategic Transport Plan

8. Changes to improve the protection of future revenues will support the continued success of Midland Metro which has an important expanded future role. This is a key part of the Strategic Transport Plan's Metropolitan Rail and Rapid Transit Network.

Wider WMCA Transport Implications

9. The Midland Metro Concession currently held by ALTRAM L.R.T. Ltd will terminate on the 24 June 2018. At its meeting on 17 March 2017 the Board of the West Midlands Combined Authority approved the recommendation in principle to award a Public Services Contract to Midland Metro Limited ("MML") in accordance with the provisions of EU regulation 1370/2007.
10. The Public Services Contract will come into effect on 24 June 2018 and that the functions currently discharged by Altram L.R.T. Ltd and its Operating sub-contractor Travel Midland Metro will be taken up by MML at that date. This will include ticket sales and revenue collection.
11. WMCA will at this point take revenue risk on Midland Metro and will need to ensure MML has robust revenue protection measures in place. An appropriate penalty fare regime is fundamental to this to act as a deterrent to potential fare evaders. By seeking the changes as proposed WMCA will be protecting future revenues which contributes to the continued and successful delivery of Midland Metro operation.

Background and details of the TWAO Application

12. The TWAO application was submitted to the DfT on 27 February 2018.

Financial Comments

13. The financial impact will be reduced by having a penalty fare regime that will protect future revenues of Midland Metro operations as detailed in this report.

Legal Comments

14. The WMCA has power to apply for a TWA Order by virtue of section 20 of the Transport and Works Act 1992. Subsection (2) of section 20 provides that the power to make a TWAO application is subject to the same conditions (if any) that apply to the applicant when promoting a Bill in Parliament.
15. The WMCA has powers to promote Bills in Parliament under section 10 of the Transport Act 1968 (as amended) and section 239 of the Local Government Act 1972 (as amended).
16. In order to comply with the conditions that apply to the exercise of the power in the LGA 1972, special notice of this meeting and its purpose has been given in accordance with section 239. As WCMA Board has approved the submission of the TWA application, it will also be required by the LGA 1972 to decide, at this second meeting whether to resolve to continue with decision of the first resolution made at the WMCA Board Meeting of 12 December 2017.

Equalities Implications

17. No equality impact is envisaged. A comprehensive communications plan for all customers will be implemented ahead of any penalty fare changes.

Schedule of background papers

WMCA report 8 December 2017

Transport Delivery Committee Meeting 6 November 2017