



WMCA Board

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Report title	West Midlands Bus Byelaws Update
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Report has been considered by	Transport for West Midlands Leadership Team – 15 April 2019 Programme Board – 10 May 2019

Recommendation(s) for action or decision:

The WMCA Board is recommended to:

- (1) Note and comment as required on the results of the bus byelaws consultation exercise given in section 4;
- (2) Support the next stages of work described in section 5, in completing a 'Regulatory Assessment' of proportionality and impact of the byelaws taking account of stakeholder feedback and input from legal services; and
- (3) Approve the preparation and submission of the formal application to the relevant government department seeking approval for the byelaws to be made as detailed in section 6.

1. Purpose

- 1.1 To update the WMCA Board on the results and feedback from the consultation exercise on the proposed set of bus byelaws.
- 1.2 To detail the next stage of work in completing an internal 'Regulatory Assessment' of each byelaw and how this forms part of the formal application to the relevant government department for approval to make the byelaws.
- 1.3 To provide the remaining key milestones and anticipated timescales in the application process up to implementation.

2. Background

- 2.1 In January 2019 the WMCA Board approved the rationale, content and outline process for a proposed set of bus byelaws across the region.
- 2.2 Similar byelaws powers already exist on the rail and tram networks. However, there exist no such equivalent powers on the bus network, with staff relying on bus operators' own "Conditions of Carriage" not enforceable in criminal law. The Safer Travel Police team regularly indicated that they sometimes felt their hands were tied on the bus network when dealing with low level nuisance incidents, in comparison to other forms of public transport.
- 2.3 The proposed byelaws were drafted and tailored for the bus network using the three existing sets of rules and regulations described in point 2.2 for reference.
- 2.4 The Safer Travel Partnership understand the proposed byelaws would be a national first for bus related public transport.
- 2.5 The Mayor of the West Midlands and Police and Crime Commissioner (PCC) fully support the introduction of byelaws for the bus network. Adding further powers to tackle ASB on the bus network forms a deliverable within the PCC's Safer Travel Plan and therefore a deliverable within the WMCA's Annual Plan. The region's Congestion Management Plan also identified perception of safety on public transport as a barrier to more people using the bus and making more sustainable journeys. The introduction of bus byelaws will help remove this barrier. The byelaws have been considered and endorsed through the West Midlands Bus Alliance Board who fully support the introduction of the bus byelaws. The Alliance consists of the Safer Travel Team, all bus operators, local authorities, TfWM and the DfT.
- 2.6 The mechanism for the WMCA to make byelaws is 'The Byelaws (Alternative Procedure) (England) Regulations 2016.'
- 2.7 The first stage in progressing the proposed byelaws through to approval has been to conduct a thorough stakeholder consultation exercise which was undertaken in February and March 2019.

3. Consultation overview

- 3.1 The government regulations required consultation with such persons that may be affected by the proposed byelaws. To this end the WMCA Network Resilience team undertook a formal eight week consultation exercise between 4th February 2019 and 29th March 2019.
- 3.2 Members of the public had their say on the proposals via:
- An online survey hosted on www.tfwm.org.uk;
 - Self-completion paper surveys made available at a number of public consultation events at bus stations and other prominent city centre locations; and
 - Comments by letter, email, telephone and invited through a comprehensive use of social media.
- 3.3 A number of stakeholders and groups were directly contacted including:
- Over 20 bus operators represented on TfWM's operator panel;
 - Around 200 groups representing all equality strands;
 - Colleges, universities and schools; and
 - Bus user campaign groups including Transport Focus and Bus Users UK.
- 3.4 From a wider perspective, local authorities, politicians and the business community were also directly contacted for their views

4. Consultation results

- 4.1 There were 478 responses to the public survey questionnaire which covered the 11 of the main byelaw areas:
- Unacceptable behaviour
 - Drunkenness, drugs & unfit to travel
 - General safety
 - Smoking and vaping
 - Ticketless travel & misuse of tickets
 - Music and sound
 - Actions in stations inc. unauthorised access and loitering
 - Following traffic signs, safety instructions and parking
 - Pedestrian only areas
 - Control of animals
 - Advertising
- 4.2 All of the proposed byelaws received a high level of support, with the highest areas (at over 90% agreement) being unacceptable behaviour, drunkenness, drugs and unfit to travel, general safety, smoking and vaping, music and sound and actions in stations.

- 4.3 31% of respondents said they felt very unsafe/ unsafe. Regular bus users were more likely to state they felt safe (37%) compared to those that rarely / never used the bus (16%). One of the main reasons for feeling unsafe was due to the behaviour of passengers / anti-social behaviour.
- 4.4 61% thought the new byelaws would help tackle low level anti-social behaviour with only 12% thinking they would not help and 27% unsure either way. A recurring comment from respondents on this question was that “tackling anti-social behaviour will help me feel safer.”
- 4.5 Stakeholders directly contacted as part of the consultation were broadly supportive of the principle of introducing byelaws. A summary of the specific feedback was as follows:
- In total there were 8 stakeholder responses from interested groups including three bus operators, Transport Focus, Campaign for Better Transport, the West Midlands Pensioners convention and the UK Vaping Industry Association;
 - A number of stakeholders offered their support to the proposals or the principles behind the proposals;
 - A number of stakeholders commented that some byelaws were already covered by other legislation or bus operators’ Conditions of Carriage and were as such ‘unnecessary’. *TfWM feel that this is not the case as the byelaws offer enforcement responses to a range of nuisance and anti-social behaviour types specific to the bus network. In addition, operators’ Conditions of Carriage are not enforceable under criminal law and do not assist the Safer Travel police in making swift responses to the problems they encounter on a day to day basis on the network;*
 - Some of the wording of the byelaws was criticised or the language was found inaccessible. *This will be addressed through the Regulatory Assessment and consultation with legal services.*
 - There were concerns that vaping should not be treated the same as smoking from one stakeholder whilst another said there was sense in treating both the same for enforcement purposes. *The latter is in keeping with public feedback from the consultation which did not differentiate between the two.*

5. Next steps

Regulatory Assessment

- 5.1 In line with the government's byelaws procedure, an internal 'Statement of Assessment' (Regulatory Assessment) is currently being drafted for each byelaw using all the consultation feedback. This will address the necessity, proportionality and effect of the byelaws. Examples of some of the completed assessments are provided in Appendix A.
- 5.2 The assessment has also included outcomes from an Equality Impact Assessment (EIA) of the byelaws conducted by the WMCA's Equalities Manager. The two issues raised in the EIA are outlined in section 6 of this report.
- 5.3 The assessment will lead to a review of and amendments to the byelaws content, undertaken in consultation with legal services. Based on the stakeholder feedback, it is not envisaged that any of the main byelaw areas will be significantly changed or omitted.
- 5.4 Once completed a 'Statement of the Assessment' concluding the impact of each byelaw on those affected by it is required to be published on the WMCA's website and other publications. It will also form part of the wider submission to government for approval.

Formal application to government for approval

- 5.5 The government department responsible for approving the proposed byelaws is the Ministry for Housing, Communities and Local Government (MHCLG), as they deal with byelaws covering public open space which includes bus stations and at stops and shelters. There has also been dialogue with the Department for Transport on the matter as a significant number of the byelaws would be intended to be used on board buses.
- 5.6 The WMCA will need to submit their final application to the relevant Secretary of State for approval who must respond within 30 days. The application should contain the draft proposed byelaws, Regulatory Assessment and a report including the following key areas:
 - Explanation of the purpose of, and need for, the byelaw;
 - Explanation of the WMCA's reasons why it considers the proposed byelaw is reasonable, and why the proposed sanction for contravening the byelaw is both necessary and proportionate;
 - Explanation and assurance of whether or not any other existing enactment, law or legislation already fulfils the purpose of, and need for, the proposed byelaw or conflicts with it;
 - Explanation whether the local authority has used a model byelaw to help draft the proposed byelaw and if so, which one;
 - Identifying, using a map if necessary, the area which the byelaw applies;
 - Describing the result of the consultation; and

- Summarising any objections made to the proposed byelaw during the consultation exercise and the local authority's response to those objections; the authority should also include with the report copies of all correspondence dealing with the objections.

5.7 The Secretary of State may request technical and formatting changes if it gives leave to make the proposed byelaws.

6. Equalities Implications

6.1 The WMCA is ensuring through its Regulatory Assessment that the proposed byelaws are proportionate and do not have an unnecessary, excessive or disproportionate effect on individuals. Over 200 groups representing all equality strands have been consulted for their feedback on the proposed byelaws.

6.2 An Equality Impact Assessment of the proposed byelaws has also been undertaken by the WMCA's Equality Manager and recommendations from this will be incorporated into two minor amendments. These relate to:

- 'Control of animals' byelaw ensuring disabled people with assistance dogs are not denied access
- 'Unauthorised access or loitering' byelaw ensuring transgender people retain the right to use whichever single sex they choose.

7. Legal Implications

Legal services will be consulted on the content of specific stakeholder feedback which has been received. Following this, any required amendments to the byelaws' wording will be made and the Regulatory Assessment updated prior to the application being submitted to the government.

8. Financial Implications

8.1 No additional budgetary requirements are required in order to enforce bus byelaws. There is no need to increase numbers of Safer Travel Police Officers as the use of byelaws would be an additional tool to tackle anti-social behaviour thus allowing them to do their job more efficiently.

8.2 Potential costs incurred by West Midlands Police in administering a system of fines will need to be discussed and actions agreed.

8.3 The financial impact of introducing bus byelaws will be offset over the long term by having penalty fines for convicted breaches.

9. Revised milestones and timescales leading to implementation

- Complete Regulatory assessment. Complete and submit byelaws application for approval – end May 2019

- Government decision to give leave to make byelaws or refuse to give leave - end June 2019 (30 day decision period)
- Advertise & consult - formal 'notice' of consultation period – end July 2019 (minimum 28 day notice period)
- WMCA Board – feedback on consultation and final approval – August 2019
- WMCA formally make the byelaws and publicise (30 day notice period) – September 2019
- Byelaws are implemented – October/ November 2019

9. Inclusive Growth Implications

Buses serve parts of our communities where there are higher levels of deprivation, low car ownership and limited access to other forms of transport. Introducing bus byelaws will help improve safety and the perception of safety on buses removing a potential barrier to travel and enable greater access to education and employment opportunities.

10. Geographical Area of Report's Implications

The West Midlands seven constituent local authority areas

11. Other Implications

None