

Appendix A

Examples of Bus Byelaws Regulatory Assessments

BYELAWS: <u>Management of queuing</u>	
<ul style="list-style-type: none">• A requirement for any person to queue in order to regulate order or safety on or near the premises, on or near the vehicle.• Any person directed by a notice to queue, or when asked to queue by an authorised person, shall join the rear of the queue and obey the reasonable instructions of any authorised person regulating the queue.	
Objective	To achieve personal safety of bus users from others whilst waiting to board the bus by forming an orderly queue.
Options appraisal	No other existing enactment or regulation is in place specifically designed to address this type of disorderly behaviour and risk to personal safety. This is borne from those waiting and then physically pushing or barging into others to board buses at stops, shelters or in stations. This is a scenario that in the Safer Travel Partnerships experience can often occur causing a bottleneck at the entrance to the bus and in some circumstances then lead to undue pressure on the driver in terms of ticket checking and the potential for ticketless travel. These byelaws would mirror railway byelaws powers currently available under section 219 of the Transport Act 2000.
Impact	Transport for West Midlands (TfWM) consider these byelaws to be reasonable and proportionate in helping to maintain order for those legitimately seeking to queue for a bus at a stop, shelter or in a station.
Effect on regulatory burden	None. These byelaws are initially intended to be used and enforced by West Midlands Police Officers dedicated to working on the West Midlands bus and rail networks
Consultation feedback	There were no negative comments feedback from the public on these byelaws. Bus operator Arriva Midlands Ltd. commented they felt these byelaws were unreasonable and excessive to dictate where people stand in a queue.
Resulting action	TfWM consider that mirroring the same powers for buses as those available on the rail network is proportionate and reasonable due to its experience of this issue. Therefore we propose that these byelaws remain the same.

BYELAWS: Control of potentially dangerous items

- Except with written permission from the operator or an authorised person, no person shall bring with him, attempt to bring with him or allow to remain on the premises or vehicle any potentially dangerous item.
- A potentially dangerous item is an item which, in the reasonable opinion of an authorised person, may be used to threaten, annoy, soil or damage any person or any property.
- For example: a loaded weapon of any kind; flammable, explosive or corrosive substance; any item which is or may become dangerous.

Objective	To achieve personal safety of bus users in stations and on board, by denying other users carrying items deemed dangerous or potentially dangerous to persons or property
Options appraisal	These byelaws would mirror railway byelaws powers currently available under S.219 of Transport Act 2000. Bus operators provide 'Conditions of Carriage' setting out passengers rights and duties in accordance with various 'Public Service Vehicles' legislation and regulations from 1990, 2000 and 2002, all of which affect drivers, inspectors, conductors and passengers. TfWM have consulted an example 'Conditions of Carriage' from a current West Midlands bus operator and content within refers to some articles, substances, luggage or possessions being hazardous or a risk and therefore not allowed. However, this is not an alternative to the proposed byelaws nor does it conflict with them. This is because 'Conditions of Carriage' are only enforceable by the operator themselves under civil law. In addition police officers or other authorised persons require the consent of the driver or operator employee to board a bus and deal with matters such as this under criminal law. In exercising these byelaws, the emphasis is on police or authorised persons being required to act expediently to prevent or avert a potentially dangerous situation arising.
Impact	TfWM consider these byelaws to be reasonable and proportionate in helping to prevent unnecessary onward impact on other passengers or property from those carrying dangerous or potentially dangerous objects or substances onto buses or in bus stations.
Effect on regulatory burden	None. These byelaws are initially intended to be used and enforced by West Midlands police officers dedicated to working on the West Midlands bus network.
Consultation feedback	There were no negative comments feedback from the public on these byelaws.
Resulting action	TfWM consider that mirroring the same powers for buses as those available on the rail network is proportionate and reasonable due to the potential seriousness of this issue and early intervention being critical.

BYELAWS: Smoking/ Vaping

- No person shall smoke or carry a lit cigar, cigarette, lighter, match, pipe or other lighted item on any part of the premises or vehicle on or which there is a notice indicating that smoking is not allowed.
- No person shall vape on any part of the premises or vehicle on or which there is a notice indicating that vaping is not allowed.

Objective	To help achieve the personal comfort and health and/or safety of bus users from the effects of secondary smoke or vapour.
Options appraisal	The first byelaw would mirror a railway byelaw power currently available under S.219 of Transport Act 2000 and Midland Metro Byelaw 6(1) for the West Midlands tram network. As before TfWM have consulted an example 'Conditions of Carriage' from a current West Midlands bus operator and content within refers to smoking or carrying lighted tobacco on board buses not being allowed. However, this is not an alternative to the proposed byelaws nor does it conflict with them. This is because 'Conditions of Carriage' are only enforceable by the operator themselves and in addition authorised persons require the consent of the driver or operator employee to board a bus and deal with matters such as this under current laws. Current law to enforce no smoking in public areas under Health Act 2006 would not conflict with these byelaws but sit alongside it. However, critically use of this legislation is resource intensive on local authorities and little used on buses or in shelters or bus stations. Vaping and the vapour cloud it emits is not covered by any of the regulatory or legislative areas above but is known to be of similar concern as smoking to the travelling public through the numbers of complaints TfWM receive. The effects of smoking and vaping is the main anti-social behaviour complaint type TfWM receives from bus passengers.
Impact	TfWM consider these byelaws to be reasonable and proportionate in helping to maintain smoke and vape free areas for the travelling public on board buses, at stops, shelters or in stations.
Effect on regulatory burden	None. These byelaws are initially intended to be used and enforced by West Midlands Police Officers dedicated to working on the West Midlands bus and rail networks.
Consultation feedback	93% of respondents to TfWM's public consultation survey either strongly agreed or agreed with the proposed byelaws relating to smoking and vaping. Transport Focus agreed with the premise of treating smoking and vaping the same for enforcement purposes.
Resulting action	TfWM consider that mirroring the same powers for buses as those available on the rail and tram networks is proportionate and reasonable due to its experience of this issue. We also consider it is appropriate and reasonable to extend this power to vaping based on public feedback in our consultation.

BYELAWS: Intoxication

- No person shall enter, attempt to enter or remain at bus premises or on a vehicle where such a person is unfit to enter or remain at bus premises as a result of being in a state of intoxication. Intoxication means being under the influence of intoxicating liquor, drugs or other substance.
- No person shall enter, attempt to enter or remain at bus premises or on a vehicle while in possession of an open container of alcohol unless expressly permitted to do so by the Operator in a particular area.
- No person shall consume alcohol on the premises or on a vehicle unless expressly permitted to do so by the operator in a particular area.
- If an authorised person reasonably believes that any person is unfit to enter or remain on the premises or vehicle, or is in possession of alcohol, then the authorised person may require him to leave, remove any alcohol and prevent him from entering or remaining on the premises or vehicle until the authorised person is satisfied that he is no longer in an unfit condition or no longer has any alcohol with him in contravention of this byelaw.

Objective	To refrain person(s) from attempting to use or using the bus network who are in an intoxicated state or carrying or consuming alcohol. All such activity can often have a negative effect on the travel experience of other passengers
Options appraisal	These byelaws would mirror railway byelaw powers currently available under S.219 of Transport Act 2000 and Midland Metro Byelaw powers for the West Midlands tram network relating to alcohol and substances. As before TfWM have consulted an example 'Conditions of Carriage' from a current West Midlands bus operator and content within only refers to passengers not consuming food or drink on vehicles. However, this is not an alternative to the proposed byelaws as it does not cover the issue of potential nuisance caused by carrying or consuming alcohol or being in an intoxicated state. In addition, 'Conditions of Carriage' are only enforceable by the operator themselves with the police and other authorised persons requiring the consent of the driver or operator employee to board a bus to deal with matters such as this. In exercising these byelaws the emphasis is on police or authorised persons being required to act expediently to prevent, in some instances a potentially dangerous situation arising through the drink or drug induced behaviour of others.
Impact	TfWM consider these byelaws to be reasonable and proportionate in helping to maintain a bus environment free from those in an unfit condition due to the use of alcohol or drugs who may cause harassment alarm or distress to other passengers. TfWM also acknowledges the use of alcohol on the bus network may cause a nuisance to other passengers and can often result in those consuming it to behave anti-socially.

Effect on regulatory burden	None. These byelaws are initially intended to be used and enforced by West Midlands police officers dedicated to working on the West Midlands bus and rail networks
Consultation feedback	95% of respondents to TfWM's public consultation survey either strongly agreed or agreed with the proposed byelaws relating to intoxication and being unfit to travel
Resulting action	TfWM consider that mirroring the same powers for buses as those available on the rail and tram networks is proportionate and reasonable due to its experience of this issue in terms of unacceptable behaviour borne from the consumption of alcohol or drugs in public environment.