

Purpose

To provide an overview of the new powers and opportunities in the Bus Services Act 2017 on formal arrangements for partnership working between bus operators, the WMCA and local authorities through an Enhanced Partnership.

To outline the development for an Enhanced Partnership for the entire West Midlands region, in order to improve bus travel and deliver Sprint phase 1 corridors (A34 / A45) in advance of the 2022 Commonwealth Games.

Enhanced Partnership (EP)

An EP is a formal agreement between a local transport authority and local bus operators to work together to improve local bus services.

It includes a clear vision of the improvements that the EP is aiming for (known as an EP Plan) and accompanying actions to achieve them (set out in one of more EP schemes). An EP Plan cannot exist without at least one EP Scheme and vice-versa.

The local transport authority has formal responsibility for making the scheme, but at set points in the process they can only proceed with their proposals if they have the support of a defined proportion of local bus operators.

Transport for West Midlands (TfWM) will lead the development of the Plan and Schemes for the West Midlands on behalf of its seven constituent authorities and the WMCA.

Each of the constituent authorities will need to agree to the EP to ensure it can be 'made'. It is important that TfWM ensures that the relevant highway authority is fully supportive of any facilities or measures that require action by them, as they will have a legal obligation to provide the facilities or measures throughout the life of the scheme. Non-constituent authorities will also be made aware of the EP.

It is proposed to issue a notice of intention to prepare an EP Plan and 2 EP Schemes for Sprint (A34 / A45 corridors). This will set out the geographical area for the Plan to cover the entire West Midlands Combined Authority area.

A Plan for the area of the West Midlands Combined Authority¹ is proposed, as the guidance states if an Authority is unsure of the geographical area to include at this stage, it recommends including the entirety of the authority's area – as this links to the powers to request information set out in the Bus Services Acts 2017. The geographical area can be modified at a later date.

Proposing an EP for the delivery, management and operation of two Sprint schemes does not preclude the exploration of other powers in the Bus Services Act 2017, to deliver options for bus travel in the future.

Informal Discussions

Before any formal processes are embarked upon, TfWM, local authorities and local bus operators have held informal discussions on whether an EP is viable in the West Midlands to achieve positive change for bus travel and deliver the 2 Sprint schemes. This also involved seeking views from a wider set of stakeholders, such as passenger groups and community transport operators.

TfWM has led this work with local bus operators through the Bus Alliance, passenger groups and other associated meetings with local authorities. These discussions are vital, as they allow TfWM and operators

¹ As defined by the West Midlands Combined Authority Constitution

to form a view on what is likely to be collectively deliverable under an EP within an informal environment and before any commitment is made to an EP.

Notice of Intention and Invitation to Participate

Once the informal discussions have taken place and there is general agreement that an EP proposal is worth pursuing, the formal legal processes can begin. It is an important legal requirement that if TfWM embark on drafting an EP plan and schemes, they give formal notice of its intention to prepare an EP.

This requires TfWM to give a Notice of Intention to prepare an EP Plan for the area of the West Midlands Combined Authority² and associated Schemes for the A34 and A45 Sprint corridors. All local bus operators will be made aware of this notice and invited to participate in the formal development of the EP.

The WMCA Board are recommended to approve giving formal notice of its intention to prepare an EP for the West Midlands, on behalf of its constituent authorities. The Board are asked to delegate approval for 'making' the Plan and Schemes, at a later stage in the development, to the WMCA Transport Delivery Committee.

During the formal discussions stage, the constituent authorities will be asked to seek approval to provide delegated authority from their own Cabinet to a Senior Officer in their authority for the 'making' of the Plan and Schemes.

The EP Plan and Schemes (Formal Discussions)

Once the formal discussions have been held, the drafting of formal documentation of an EP Plan and 2 EP schemes will occur. The EP Plan is a high-level vision and objectives for bus services in the West Midlands. The strategic Vision for Bus provides a blueprint and starting point for the EP Plan to be discussed during the formal discussions. It is proposed at this time, that 2 separate EP schemes for the 2 Sprint corridors (A34 and A45) will be developed.

There is nothing to prevent further schemes being introduced at any time later, as the formal partnership sees fit to improve bus travel. Any additional Schemes made after the Plan, will have separate notice and approval requirements apply.

These can be developed as project needs are identified and taken forward in line with the Bus Services Act guidance.

Notice that a Plan and Schemes have been prepared

Once the draft Plan and Schemes have been prepared, a notice will be published, giving operators at least 28 days within which to make an objection, and their reasons for making an objection.

TfWM must assess objections using two criteria – if either is satisfied, it is a legal requirement that the consultation exercise on the Plan and Schemes cannot go ahead. The criteria are:

- The combined registered distance of all the qualifying local services operated by objectors in the relevant EP area is at least 25 per cent of the total registered distance of all local bus services operated by all the bus operators in that area; or
- At least 50 per cent of the total number of operators of qualifying local services within the relevant plan or scheme area have objected and the combined registered distance of qualifying local services operated by the objectors in the relevant area is at least 4 per cent of the registered distance of all local bus services operated by all the bus operators in that area.

² As defined by the West Midlands Combined Authority Constitution

Formal Consultation

Assuming that the objection stage does not raise sufficient objections to meet either of the objection criteria, TfWM will carry out formal consultation on the Plan and Schemes (subject to approval by Transport Delivery Committee), with at least the following statutory consultees:

- All local bus operators
- Passenger organisations
- Other local authorities affected by the proposals
- Traffic Commissioners
- Chief of Police for the West Midlands
- Transport Focus
- Competition and Markets Authority (CMA)
- Any other such persons as WMCA sees fit.

Notice of intention to ‘make’ the Plan and Scheme

Once the consultation has been completed, the next stage will be to inform all local bus operators of the intention to proceed. The Plan and Schemes cannot be made if there are modifications made following the consultation exercise. If modifications are made, it will trigger the operator objection mechanism as set out above.

Once any further objection process has been completed and only if there are not sufficient objections to prevent the Plan and Schemes being made, TfWM will then ‘make’ the Plan and Scheme.

Transport Delivery Committee will be asked to confirm and approve the ‘making’ of the final EP Plan and associated Schemes. Once the Plan and Schemes have been made, operators and other relevant stakeholders including the traffic commissioner, will be informed within 14 days of the date the Plan and Schemes were made. This will include the signing of the Plan and Scheme by the relevant highway authorities.

Revocation of a Plan or Scheme

An authority or individual operator cannot unilaterally back out of an EP. The EP can only change or end in accordance with the requirements set out in the 2017 Act and any rules laid down within it. That gives clarity to both the Authority and the operators. Under the Act, it can have different bespoke triggers for certain things to happen – e.g. automatically revoke if, say, patronage targets are not hit.

An EP could alternatively include a series of metrics to assess the success (or otherwise); be time-limited or allow for the operator objection mechanism in the Act to be used. These will be discussed with operators during the making of the Plan and Schemes, recognising other work and development being undertaken for the longer term delivery of bus in the West Midlands.

Enhanced Partnership Governance

The Bus Services Act guidance in developing an EP, suggests that for an EP covering a whole region, governance structures are created that support the management and involvement of many different stakeholders. In these circumstances it is advocated creating a Board, with an independent Chair to oversee work on the EP, made up of the authority, bus operators, representatives of passenger groups, local businesses/ Local Enterprise Partnerships and local authorities whose areas would neighbour any proposed schemes.

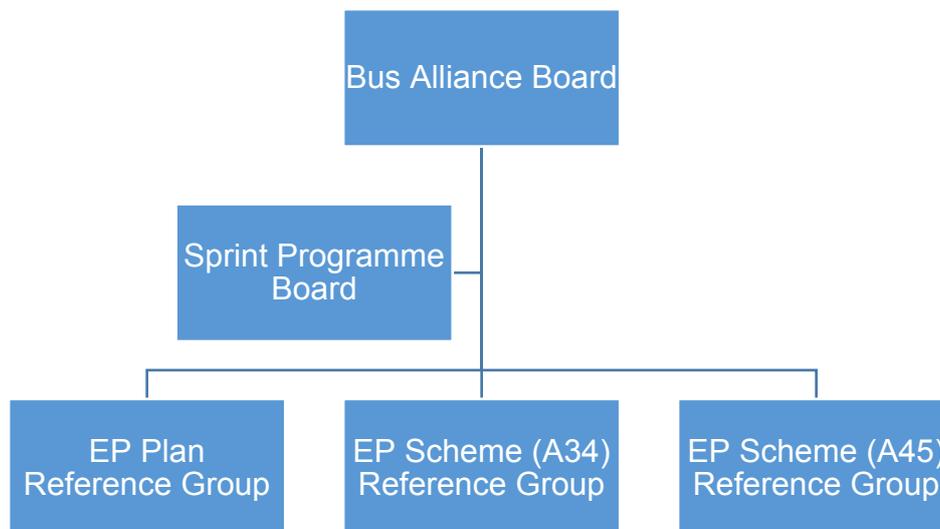
Only the operators and authority can determine whether an EP goes forward, but this does not prevent others on the Board from contributing to the development of the proposals and ensuring discussions are open, honest and productive.

It is recommended that three EP Reference Groups are established to oversee the formal discussions in creating an EP Plan and 2 EP Schemes, as part of the existing WMCA governance structure.

The EP Reference Groups would be responsible for approving the decision point that an EP Plan and 2 EP Schemes have been prepared, prior to the operator objection period, as well as holding TfWM and operators to account during the formal discussions.

Transport Delivery Committee would retain the responsibility to ‘make’ the final Plan and associated EP Schemes, as well as approving the formal (public) consultation stage.

The EP Reference Groups would be accountable to the Bus Alliance Board, with members of the Board invited to be part of the EP Reference Groups.



The EP Reference Groups would meet monthly and consist of the following membership, with the Chair elected by the Groups at their first meeting, independent of the Authorities or Bus Operators:

1. EP Plan Reference Group

- Bus Operator Representatives (maximum 1 per operator)
- Director of Integrated Network Services (TfWM)
- Transport Focus (from the Bus Alliance Board)
- Confederation of Passenger Transport (from the Bus Alliance Board)
- 1 officer representing each of the constituent authorities (7)
- 1 representative from Bus Users UK
- 1 representatives from each of the Local Enterprise Partnerships (3)
- *A representative from the Department for Transport (Observer)*
- *Neighbouring and non-constituent authority representatives (Observers)*

2. EP Scheme (A34) Reference Group

- Bus Operator Representatives of local bus services on the corridor (maximum 1 per operator)
- Director of Customer Experience (TfWM)
- Officer representative from each of the constituent authorities on the corridor (Birmingham, Sandwell and Walsall)
- 1 representative each from Transport Focus and Bus Users UK
- 1 representatives from each of the Local Enterprise Partnerships on the corridor (BCLEP and GBSLEP)
- *A representative from the Department for Transport (Observer)*

- *Other local bus operator representatives (Observers)*

3. EP Scheme (A45) Reference Group

- Bus Operator Representatives of local bus services on the corridor (maximum 1 per operator)
- Director of Customer Experience (TfWM)
- Officer representative from each of the constituent authorities on the corridor (Birmingham and Solihull)
- 1 representative each from Transport Focus and Bus Users UK
- 1 representative from Greater Birmingham and Solihull LEP
- *Officer representative from Warwickshire County Council (Observer)*
- *A representative from the Department for Transport (Observer)*
- *Other local bus operator representatives (Observers)*

Enhanced Partnership Timeline

Action	Who	Date
Informal discussions	TfWM, Constituent Authorities & Local Bus Operators	April to June 2019
Approval to Prepare an EP Plan and 2 EP Schemes	WMCA Board	28 June 2019
Issue Notice of Intention to Prepare an EP	TfWM	July 2019
Formal Discussions ³	TfWM, Constituent Authorities & Local Bus Operators	July to September 2019
Local Authorities to seek approval to develop EP and delegate 'making' the EP to responsible senior officer	Constituent Authorities	August 2019
Issue a Notice that an EP Plan and 2 EP Schemes have been prepared	TfWM	End of September 2019
Local Bus Operator Objection Period (minimum 28 days)	Local Bus Operators	October 2019
Seek Approval to Consult ⁴	Transport Delivery Committee	4 November 2019
Formal (Public) Consultation	TfWM, Constituent Authorities & Local Bus Operators	November / December 2019
Consultation Outcomes and Approval to 'make' the EP Plan and 2 EP Schemes ⁵	Transport Delivery Committee	10 February 2020
Issue Notice to 'make' the EP Plan and 2 EP Schemes	TfWM	March 2020
EP Plan and 2 EP Schemes Made (70 days after the schemes have been 'made')	-	June 2020

³ *Formal discussions will take as long as necessary to agree that an EP Plan and 2 EP Schemes have been prepared. Therefore, the timelines may change depending on the progress of the formal discussions.*

⁴ *Subject to passing the operator objection period*

⁵ *Subject to no modifications to the EP Plan or 2 EP Schemes following formal consultation*

