



Transport Delivery Committee

Date	16 March 2020
Report Title	Enhanced Partnership Plan and Scheme – Update
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Recommendation(s) for action or decision:

- To approve the Enhanced Partnership (EP) Plan and associated Enhanced Partnership Scheme (subject to the outcome of the Operator Objection Period) for public consultation.
- To note the outcome of the operator objection mechanism for the EP.
- To note the consultation strategy for the EP approved by TDC on 4th November 2019.

1.0 Purpose of Report

- 1.1 To provide an update on the development of the Enhanced Partnership Plan being developed for the West Midlands and associated Scheme covering the A34(north) and A45/Lode Lane corridors.
- 1.2 To seek approval from the Transport Delivery Committee to undertake formal (public) consultation on the Enhanced Partnership Plan and Scheme, following the successful outcome of the operator objection mechanism on the EP Plan and subject to a successful outcome for the EP Scheme.

2.0 Background

- 2.1 An Enhanced Partnership (EP) is a formal agreement between a local transport authority, local highway authorities and local bus operators to work together to improve local bus services and is one of the new powers available in the Bus Services Act 2017. It requires a clear vision for the improvements that the EP is aiming for, known as the EP Plan. The actions, requirements and commitments to achieve the objectives within the Plan are set out in one or more accompanying EP Schemes.

- 2.2 The West Midlands Combined Authority (WMCA) Board approved Transport for West Midlands (TfWM) to give formal notice of the intention to prepare an Enhanced Partnership Plan and accompanying Enhanced Partnership Schemes as set out in section 138F of the Bus Services Act 2017, at its meeting on 28 June 2019.
- 2.3 Authority was also delegated to the Transport Delivery Committee to oversee the development and subsequent making of the Enhanced Partnership Plan and Schemes.
- 2.4 TfWM issued the Notice of Intention to prepare an EP Plan for the area of the West Midlands Combined Authority¹ excluding the three existing Advanced Quality Partnership Scheme (AQPS) areas due to the way the legislation is written and applied, as they cannot both apply within the same geography; and associated EP Schemes for the A34 (north) and A45/Lode Lane corridors. This was published on 17th July 2019 on the TfWM website. All local bus operators were also made aware of this notice and invited to participate in the formal discussions for the EP.
- 2.5 The formal discussions have been held, with the drafting of an EP Plan and an EP Scheme. 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. Through the formal discussions, it has been agreed by the partners to prepare one EP Scheme covering both the corridors of the A34 (north) and A45/Lode Lane.
- 2.6 Within the EP Scheme the details of the infrastructure commitments, service specification and standards, customer standards, performance requirements and maintenance will be agreed between partners. It is intended that this Enhanced Partnership Scheme will complement the introduction of Sprint by providing bus priority as well as higher bus standards for all bus services in the area, in readiness for the 2022 Commonwealth Games.
- 2.7 A notice was published on 20th December 2019 by TfWM (<https://www.tfwm.org.uk/operations/enhanced-partnership/>), giving operators until 24th January 2020 (at least 28 days as required by legislation), within which to make an objection to either the Plan and/or Scheme. TfWM must assess any objections using two criteria – if either is satisfied, it is a legal requirement that the consultation exercise on the Plan and Scheme cannot go ahead. TfWM did not receive any operator objections to the EP Plan or the EP Scheme.
- 2.8 Subsequently, a further review of the EP Scheme has been undertaken with partners. It has been agreed to undertake a further operator objection period on the EP Scheme. TfWM issued a further notice on 28th February 2020, giving the relevant local bus operators until 28th March 2020 to lodge a formal objection to the EP Scheme. Subject to the successful outcome of this EP Scheme operator

¹ As defined by the West Midlands Combined Authority Constitution, excluding the three existing Advanced Quality Partnership Schemes

objection period, the EP Plan and associated EP Scheme can then proceed to formal (public) consultation.

3.0 Enhanced Partnership Plan and Scheme

- 3.1 Stakeholder engagement and consultation forms a critical component of decision making in the development of an EP Plan and Scheme. The Engagement and Consultation Strategy was approved by TDC on 4th November 2019.
- 3.2 Subject to being able to proceed, the formal (public) consultation will begin on 11th May 2020 and run for a 6-week period, ending on 21st June 2020. As part of the requirements set out in the Bus Services Act 2017, TfWM will carry out formal consultation on the EP Plan and Scheme, 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.
- 3.3 The stakeholder mapping for any other such persons as WMCA see fit, is detailed in the consultation strategy for the EP, approved by the WMCA TDC on 4th November 2019. This includes, but is not limited to, blue light services, relevant businesses, transport groups, public sector equality duty and equality impact assessment groups.
- 3.4 Once the formal consultation has been completed, the next stage will be to inform all local bus operators of the intention to proceed, subject to the outcomes of the public consultation exercise.
- 3.5 The EP Plan and Scheme cannot be made if there are modifications made following the consultation exercise. If modifications are made, it will trigger another statutory 28-day operator objection mechanism. Once any further objection process has been completed and only if there are not sufficient objections to prevent the EP Plan and Scheme being made, or if there are no modifications required to the Plan or Scheme, WMCA can then make the Plan and Scheme, with relevant local highway authorities.
- 3.6 Transport Delivery Committee will be asked to approve the making of the final EP Plan and associated EP Scheme, post-public consultation. This will seek delegated authority to the WMCA Head of Governance, to legally seal the EP Plan and EP Scheme.
- 3.7 Once the EP Plan and Scheme have been made with the relevant local highway authorities (which includes the document signing); the local bus operators and other

relevant stakeholders including the Traffic Commissioner, will be informed within 14 days of the date the Plan and Scheme were made.

4.0 Local Highway Authority Approvals

- 4.1 During the development of the EP, the constituent authorities will be seeking to provide delegated authority from their own Cabinet to a Senior Officer in their authority for the signing to make the EP Plan and Scheme with WMCA, subject to a successful public consultation outcome.
- 4.2 Birmingham City Council provided approval for the EP Plan and associated EP Scheme at its Cabinet meeting on 17th December 2019.
- 4.3 City of Wolverhampton provided approval for the EP Plan at its Cabinet meeting on 19th February 2020.
- 4.4 Both Coventry City Council and Dudley Metropolitan Borough Council (MBC) will be seeking approval on the EP Plan. Sandwell MBC, Solihull MBC and Walsall MBC will be seeking approval of the EP Plan and associated EP Scheme during the public consultation exercise.

Action	Who	Dates
Issue Notice of Intention to Prepare an EP	TfWM	17 July 2019
Formal Discussions	TfWM, Constituent Authorities & Local Bus Operators	July to December 2019
Approval on Consultation Strategy	Transport Delivery Committee	4 November 2019
Issue a Notice that an EP Plan and EP Scheme have been prepared	TfWM	20 December 2019
Local Bus Operation Objection Mechanism Period (minimum 28 days)	Local Bus Operators	20 December 2019 to 23 January 2020
Sprint Approval	WMCA Board	14 February 2020
Issue a further Notice that an EP Scheme has been prepared	TfWM	28 February to 26 March 2020
Approval to Consult	Transport Delivery Committee	16 March 2020
Local Highway Authorities to seek approval to develop EP and delegate making the EP to responsible senior officer	Constituent Authorities	December 2019 to June 2020
Formal (Public) Consultation	TfWM	11 May to 21 June 2020

Consultation Outcomes and Approval to 'make' the EP Plan and EP Scheme	Transport Committee	Delivery	July 2020 (tbc)
Issue Notice to make the EP Plan and EP Scheme	TfWM		August 2020
EP Plan and EP Scheme Made (70 days after the Scheme has been made)	-		70 days after notice issued

5.0 Competition Test Part 1

5.1 A local transport authority can only make an EP if it satisfies the requirements of the Competition Test in Part 1 of Schedule 10 to the Transport Act 2000. The test is satisfied if:

- the scheme does not have or is not likely to have a significantly adverse effect on competition, or
- the effect it has on competition is proportionate to the achievement of one or more of the following purposes:
 - improving the quality of vehicles or facilities covered by the scheme;
 - securing other improvements to local services of benefit to their users;
 - reducing or limiting traffic congestion, noise or air pollution.

5.2 The EP is subject to the test in Part 1 of Schedule 10 to the Transport Act 2000. This test has three stages.

Part 1 Test – 3 Stages	West Midlands Combined Authority assessment
a) Is there or is there likely to be a significantly adverse effect on competition?	<p>We do not think that there is likely to be a significantly adverse impact on competition. We have reached this conclusion on the basis of our interpretation of Competition Law.</p> <p>In terms of fairness, we have fully completed the assessment to demonstrate why we think there is no significant adverse effect on competition.</p>
b) If Yes, is the LTA's involvement with a view to securing one or more of the three purposes specified (known as 'bus improvement objectives'), either: <ul style="list-style-type: none"> • to secure improvements in the quality of vehicles or facilities used to provide local services, 	<p>The implementation of an EP Plan for the West Midlands region (excluding the existing 3 AQPS) and an EP Scheme for the A34 (north) and A45/Lode Lane corridors is aimed at delivering improvements to bus services for passengers in a de-regulated bus market in readiness for the 2022 Commonwealth Games.</p>

<ul style="list-style-type: none"> • to secure other improvements in local services, or • to reduce or limit traffic congestion, noise or air pollution; 	<p>This is expected to secure improvements in local bus services and improved standards for Sprint bus-rapid transit services; improve the quality of vehicles used to provide local bus services; and improve vehicle emission standards (minimum Euro VI).</p>
<p>c) Is the effect on competition proportionate or likely to be proportionate to the achievement of that purpose?</p>	<p>We have reasonably concluded that the effect on competition is proportionate to the achievement of the purposes set out in the Second Stage and, therefore, the 'Part 1' test is met.</p>

5.3 All operators in the West Midlands will be part of the EP Plan, but only bus operators operating services in the EP Scheme area will be affected by the EP Scheme requirements. There are currently 6 bus operators in the EP Scheme Area operating local qualifying bus services. The EP Scheme requirements have been prepared in consultation with the affected local bus operators and local highway authorities.

5.4 All operators are likely to be affected by future vehicle standards that will apply to the EP Scheme, in the absence of improvements being made to their existing fleets. We have reasonably concluded this effect is proportionate to the achievement of bus improvement objectives through the following framework.

Framework	Assessment
<p>Will the EP Scheme's requirements on vehicle quality represent a barrier to competition in that not all operators will be able to meet these requirements?</p>	<p>All operators will be required to make improvements to their fleets, but this is concluded as proportionate for the achievement of the bus improvement objectives; as the West Midlands Combined Authority has declared a Climate Emergency² and the West Midlands Bus Alliance has committed to working towards all buses being at least Euro VI by April 2021 to reduce air pollution³.</p>
<p>Whether the EP Scheme's restriction on vehicle quality reduce the potential for competition on differentiated price/quality options to travellers?</p>	<p>The EP Scheme has considered smaller operators and set later dates for certain standards to be introduced (i.e. audio-visual).</p>
<p>Whether the restrictions of the EP Scheme will prevent new</p>	<p>The EP Scheme does not prevent new entries in direct competition with an existing EP operator, as</p>

² WMCA Board Meeting 28th June 2019: <https://governance.wmca.org.uk/documents/g221/Decisions%2028th-Jun-2019%2011.45%20WMCA%20Board.pdf?T=2>

³ WMCA Board Meeting 28th June 2019: <https://governance.wmca.org.uk/ieListDocuments.aspx?CId=137&MId=221&Ver=4>

entry in direct competition with the existing EP operations?	all the standards will apply to any operator (dependant on operator size) for the achievement of the bus improvements objectives.
Whether the restrictions of the scheme will prevent new entry by an operator planning to offer alternative services that partially overlap with the EP Scheme routes?	The EP Scheme has been designed to account for bus services only partially operating in the EP Scheme area and where operating a limited number of services, to ensure it does not restrict cheaper services for the public.
Whether the restrictions of the EP Scheme will prevent an existing operator from diversifying or innovating its services?	Exemptions for certain vehicle types are included so that the EP Scheme does not prevent an existing operator from diversifying or innovating its services.

5.5 It is deemed reasonable that the future standards that will be specified in the EP Scheme, to achieve the bus improvements objectives, are proportionate to achieving the aims and are acceptable.

6.0 Financial Implications

6.1 There are no direct financial implications as a result of this update report. Costs incurred or support provided by TfWM from undertaking activity referred to in this report will be from within agreed overall Sprint and on-street bus infrastructure maintenance budgets and resources.

7.0 Legal Implications

7.1 It is noted that paragraph 2.8 (above) confirms that there have been no objections to EP Plan and or EP Scheme, although the EP Scheme is subject to another operator objection period; the requirements and timetabling of which are in line with provisions under the Bus Services Act 2017. Notwithstanding this, it should be noted that whilst most of the proposed infrastructure and WMCA/TfWM commitments relate to highway land or otherwise land over which appropriate property rights will be secured; the EP Scheme contains commitments on the part of WMCA/TfWM to deliver infrastructure on third party land. This relates to land in the control and or ownership of network rail ('NR') (at Birmingham International train station) and airport land (Birmingham International Airport) ('BHX').

7.2 Appropriate agreement(s) and rights will need to be agreed with NR and BHX as soon as reasonably possible, to allow delivery on WMCA/TfWM commitments given under the EP Scheme; in particular the delivery of such infrastructure by the 30th June 2022. Whilst it is anticipated that matters are being progressed and/or will be progressed both parties, there is a residual risk that there maybe delay in concluding discussions and any necessary agreements with both parties; which in turn could have a consequence on the commitments that WMCA/TfWM are providing. Legal will assist as necessary in order to facilitate such arrangements.

8.0 Equality Implications

- 8.1. An Equality Impact Assessment has been undertaken, which noted some groups of people are more likely to be reliant on public transport and are more likely to face barriers to public transport. The Enhanced Partnership is likely to enhance the travel experience for everyone but will especially positively impact these groups. From a disability perspective measures such as audio-visual availability will help address some of the key information barriers.
- 8.2 The implementation of cashless ticketing options may exclude individuals who rely on cash as a means of purchase. This can have an adverse effect on individuals who do not have access to a bank account (only a small %) thus being unable to use debit/credit cards to make transactions. Similarly, some of the elderly population feel more comfortable using cash to purchase tickets. In addition, those from a low socio-economic background may not have enough cash within their bank accounts to reach the cap threshold via contactless/card and therefore will rely on cash purchasing being available. Cashless ticketing may restrict the accessibility for these groups. To ensure the measures do not have negative impact on a number of groups (disabled people, people from lower socio-economic backgrounds and different age groups) it is important to ensure a) ticketing options are broad and cash payments continue to be an option, and b) pricing remains at the same level for Enhanced Partnership area services as with other services. This assessment will be taken into account during the development of the EP Scheme. Groups identified through the equality impact assessment will be consulted with as part of the consultation.

9.0 Inclusive Growth Implications

- 9.1 Bus is a vital component to inclusive growth as it directly supports access to the labour market, and allows people to access education, employment and services. The flexibility of the bus network also makes bus the perfect means of providing public transport options in areas of growth, changing travel demand and new housing; directly supporting our West Midlands Housing Deal and Local Industrial Strategy. This means that buses are central to supporting regeneration, inclusive growth and social integration. Where there may not be a case for investing in permanent rail and light rail infrastructure, new bus infrastructure can be planned to connect new communities and support housing and jobs growth.

10.0 Geographical Area of Report's Implications

- 10.1 This report covers the constituent area of the Combined Authority. Whilst the Enhanced Partnership Plan covers all of this area, the Enhanced Partnership Scheme only covers the A34, A45 and Lode Lane corridors.

Appendix A – Enhanced Partnership Plan and proposed Scheme