



West Midlands
Combined Authority

WMCA Board

Date	13 November 2020
Report title	Bus Byelaws
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Report has been considered by	Strategic Transport Officers Group Transport for West Midlands Leadership Team Transport Delivery Committee Programme Board

Recommendation(s) for action or decision:

WMCA Board is recommended to:

- (1) Note the progress made with regards to bus byelaws since May 2019.
- (2) Approve the progression to the next steps detailed within section 4.
- (3) Delegate authority to the Managing Director of Transport for West Midlands and WMCA Monitoring Officer to conclude the works on bus byelaws in line with process detailed in section 4.

1. Purpose

- To provide the WMCA Board with an update on the development and implementation of bus byelaws.
- To provide an overview of the next steps required to implemented additional powers.
- To seek a delegated authority to senior officers of WMCA to conclude this work stream.

2. Background

- 2.1 Reducing crime and disorder and making passengers feel safer remains a priority not only for Transport for West Midlands but also the Police and Crime Commissioner (through the Safer Travel Plan) and also British Transport through their Annual Plan. Key to achieving these objectives is tackling low level nuisance and anti-social behaviour.
- 2.2 WMCA were provided additional powers to tackle ASB and nuisance across the transport network through the West Midlands Combined Authority (Functions and Amendment) Order 2017, and these powers are being used with partners. However, there are still some gaps in powers, or there are enforcement powers that exist, but these sit with organisations who don't have the capacity to prioritise public transport.
- 2.3 Speaking to front line officers it has become clear that a number of powers that already exist on rail and Metro, do not currently translate into equivalent powers on bus. Therefore, WMCA have been working with partners to implement byelaws or seek wider powers to address these gaps. It is understood that byelaws on buses do not exist anywhere within the UK, however working with the Urban Transport Group it is clear that other areas have expressed a similar desire for additional powers.
- 2.4 In January 2019 WMCA Board approved a set of Bus network related Byelaws. And in Feb./March 2019 an 8-week stakeholder consultation exercise confirmed significant public support for the same. In May 2019, WMCA Board agreed the next step of submitting a regulatory assessment to Government. After further work the regulatory assessment was submitted the Ministry for Housing, Communities and Local Government (MHCLG) for consideration at the end of Summer 2019. This submission was based on existing legislation within their domain, namely S.235 of the Local Government Act 1972.

3. Feedback from MHCLG

- 3.1 Following discussion between departments at the end of 2019, and some further clarification sent by WMCA Officers, WMCA received a response to their submission in February 2020. The feedback from MHCLG said that the submission was not supported in its current format for all of the byelaws.
- 3.2 Due to the impact of Covid response with teams within TfWM and MHCLG focused on those new priorities in terms of emergency planning and keeping the network safe, there has been some delay in reviewing the feedback together with MHCLG. Attention has now returned to this and MHCLG have provided some positive engagement with WMCA towards during August and September of 2020, which has enabled the next steps to be set out.

3.3 Although MHCLG were of the view that the mechanism used by WMCA for its 2019 submission was not appropriate for all of the powers, it is felt that this remains the right mechanism for some, which could probably be addressed through the formulation of byelaws. It is therefore proposed that the powers which remain a desire of WMCA Officers should be dealt with through two separate mechanisms, the first being the formulation of byelaws under the mechanism detailed on 2.4, the second be the application for the remaining powers under devolution similar to the previous powers given under the 2017 Order.

4. Next Steps

4.1 It is proposed that WMCA submit a new regulatory assessment to MHCLG based on Byelaws under existing legislation within their domain, namely S.235 of the Local Government Act 1972. The new assessment would be based on those powers that it is felt are appropriate to be dealt with by the formulation of byelaws. Following discussion with Government departments, the list of powers proposed under this mechanism are detailed in Appendix A.

4.2 It has been confirmed that no previous stages of the process need to be re-visited with regards to 4.1, and the regulatory assessment will be viewed on a power by power basis rather than as a single application.

4.3 If approved by the Board WMCA Officers would submit the regulatory assessment to MHCLG before the end of 2020, with an expectation of a response within 30 days. If approved the byelaws would need to be advertised before going live in Spring 2021.

4.4 To complete the process, it is proposed that approval of the regulatory assessment and other related steps be delegated to the Monitoring Officer and the Managing Director of Transport for West Midlands. Subject to a successful regulatory assessment with MHCLG the final Byelaws will be prepared and brought to the Board for final approval.

4.5 The remaining powers (identified in appendix B), that are still desirable, will be fed into the devolution discussions for mayoral combined authorities and possible reform options contained within the 'Local Recovery and English Devolution White Paper', planned for publication in 2021. These are still considered necessary to remove the barrier to using public transport has from the perception of crime and antisocial behavior but working with MHCLG, are more appropriate through this alternative mechanism.

4.6 Each of the powers detailed within Appendix B will be subject of a further review to ensure that they are still powers that are required, and this will be conducted before the end of 2020.

5. Financial Implications

- 5.1 The associated cost of advertising a Public Notice to publicise the bus byelaws can be funded from the available Safety and Security budget. There is no need to increase numbers of Safer Travel Police Officers as the use of byelaws would be an additional tool for the existing safer travel officers to tackle anti-social behaviour and delivering on the outcomes already contained within the Police and Crime Commissioners Local Transport Policing Plan. Hence the bus byelaws should not financially impact our partnerships with WMP and BTP as the wider Police organisations will be able to enforce them and it covers low level crime. Financial implications may arise during the implementation phase. For example, there may be some back office administration of Fixed Penalty Notices and fines.

6. Legal Implications

- 6.1 The law and procedure around the making of bylaws is prescriptive and bylaws may only be introduced in certain circumstances. The principle is that bylaws should not duplicate any statutory provisions that may already exist. Review of this matter by both MHCLG and WMCA has identified a way forward which can deliver some of the benefits originally sought by the proposal to introduce bylaws together with other proposals to secure additional powers in due course.

7. Impact on Delivery of Strategic Transport Plan

- 7.1 Safety concerns are highlighted in Movement for Growth as one of the transport barriers for undertaking journeys. It is vital that passengers feel safe whilst waiting for and on-board public transport. The perceived safety risk of public transport is also a barrier, and the greater presence of uniformed officers will help to provide additional comfort and security for passengers.
- 7.2 In light of the Covid-19 pandemic, the safety and security of passengers remains a priority, and this will help to encourage passengers back onto using public transport, avoiding a shift to private cars.

8. Equalities Implications

- 8.1 The byelaws are likely to have a positive impact on public transport/bus users as they will help a) reduce anti-social behaviour for bus users b) improve perceptions of safety on buses. They will be especially beneficial for those equality groups that are more reliant on public transport, and those equality groups who are more concerned about public transport/bus safety and anti-social behaviour. An up to date Equality Impact Assessment has been carried out for this scheme.

9. Geographical Area of Report's Implications

- 9.1 The powers contained within Appendix A and B would apply within the boundary of the West Midlands only.

Conduct and Behaviour**1. Management of queuing**

- (1) A requirement for any person to queue in order to regulate order or safety on or near the premises, or, on or near the vehicle.
- (2) 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.

2. Smoking or Vaping

1. 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.
2. 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.

3. Intoxication

- (1) No person shall enter, attempt to enter or remain at premises or on a vehicle where such a person is unfit as a result of being in a state of intoxication. Intoxication means being under the influence of intoxicating liquor, or illegal drugs.
- (2) No person shall enter, attempt to enter or remain at 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.
- (3) 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.
- (4) If an authorised person reasonably believes that;
 - (a) any person is unfit to enter or remain on the premises or vehicle
 - (b) is in possession of an open container 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.

4. Unfit to travel

- (1) No person shall enter or remain on the premises or vehicle, if, in the reasonable opinion of an authorised person, he is;
 - (a) in an unfit or improper condition and causing nuisance or annoyance to any other person,
 - (b) his clothing may soil or damage the premises or vehicle, or any property or clothing of other users of the premises or vehicle.

Safe and proper use of premises and vehicles

5. General safety

- (1) No person shall enter or leave by an emergency exit except in an emergency or when directed to do so by an authorised person.

6. Loitering

- (1) No person shall loiter on any part of the premises;
 - (a) to the nuisance or annoyance of any other person
 - (b) if asked to leave by any authorised person.

7. Pedestrian only areas

- (1) Any person who enters, or is on, any part of the premises to which the public have access must be on foot, except where there is an identified need for those using a specified means of transport e.g. mobility scooter, wheelchair, baby or child pushchair or pram.

8. Control of animals

- (1) The Operator or an authorised person may refuse entry or carriage to any person with an animal which, in their reasonable opinion, may threaten or annoy any person on the premises or vehicle.
- (2) No person shall bring an animal on any part of the premises or vehicle to which it has been refused access pursuant to this byelaw.
- (3) No person in charge of an animal shall;
 - (a) leave or place it unattended
 - (b) allow it to annoy or threaten any person
 - (c) allow it to foul, soil or damage any property, person, vehicle, or part of the premises.
- (4) These byelaws do not apply to any assistance or guide dogs for people with disabilities.

Ticketing and fares

9. Name and Address

- (1) Any person reasonably suspected by an authorised person of breaching or attempting to breach any of the Byelaws shall give his name and address when requested to do so by an authorised person.
- (2) The authorised person requesting details under this Byelaw shall state the nature of the suspected breach of the Byelaws in general terms at the time of the request.

10. Enforcement and penalty

- (1) Anyone reasonably believed to be in breach of these byelaws shall leave the premises or vehicle immediately if asked to do so by an authorised person.
- (2) Any person who is reasonably believed by an authorised person to be in breach of any of these byelaws and who fails to desist or leave when asked to do by an authorised person may be removed from the premises or vehicle by an authorised person using reasonable force. This right is in addition to the imposition of any penalty for the breach of byelaw.

(3) No person shall fail to carry out the instructions of an authorised person acting in accordance with the powers given by these Byelaws or any other enactment.

Conduct and behaviour

Control of potentially dangerous items

- (1) No person, except a Police Officer acting in the course of their duties, shall bring with him, attempt to bring with him or allow to remain on the premises or vehicle any potentially dangerous item.
- (2) 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 weapon of any kind; flammable, explosive or corrosive substance; any item which is or may become dangerous.

Unacceptable behaviour

- (1) No person shall use any threatening, abusive, obscene or offensive language on the premises or vehicle.
- (2) No person shall behave in a disorderly, indecent or offensive manner on the premises or vehicle.
- (3) No person shall write, draw, paint or fix anything on the premises or vehicle.
- (4) No person shall soil any part of the premises or vehicle.
- (5) No person shall damage or detach any part of the premises or vehicle.
- (6) No person shall spit on the premises or vehicle.
- (7) No person shall leave litter or waste on the premises or vehicle, except into receptacles specifically provided by the Operator for that purpose.
- (8) No person shall molest or wilfully interfere with the comfort or convenience of any person on the premises or vehicle.
- (9) No person shall beg for money on the premises or vehicle causing nuisance or annoyance to any person.
- (10) No person shall place, throw, drop or trail anything on or from the premises or vehicle, which is capable of injuring, damaging, or endangering any person or any property.

Music, sound and advertising

- (1) No person on the premises or vehicle shall, to the annoyance of any person, sing or use any instrument, article or equipment for the production or reproduction of sound.
- (2) Except with written permission from the Operator no person on the premises or vehicle shall, display anything for the purpose of advertising or publicity, or distribute anything.
- (3) No person shall sell anything or expose or offer anything for sale; or, tout or solicit for money, reward, custom or employment of any kind.

Safe and Proper use of premises and vehicles

General safety

- (2) No person shall move, operate, obstruct, stop, or interfere with any vehicle, equipment on the vehicle or premises except in an emergency, by means of any controls/equipment on or near where there is a notice indicating that it is intended to be used in an emergency or intended for the use of passengers in normal operating circumstances.
- (3) No person shall disobey reasonable instructions without good cause, on or near to the vehicle or premises relating to safety or in the event of an emergency by means of;
 - (a) a notice
 - (b) an instruction from an operator or authorised person
- (4) No person whilst on the premises or vehicle, shall wilfully obstruct or impede any authorised person in the execution of his duty.

Ticketing and fares

Ticketless travel

- (1) No person shall enter a vehicle unless he has with him a valid ticket or purchases a valid ticket whilst on board the vehicle.
- (2) A person shall hand over his ticket for inspection and verification of validity when asked to do so by an authorised person.
- (3) No person shall be in breach of this byelaw if the Operator or an authorised person gave him permission to travel without a valid ticket.
- (4) If an authorised person has good reason to believe a person is travelling without a valid ticket, he may require him to leave the vehicle and provide name and address for a fare penalty fine.

Altering tickets

- (1) No person shall alter any ticket in any way with the intent that an Operator shall be defrauded or prejudiced.
- (2) No person shall knowingly use any ticket which has been altered in any way in breach of this byelaw.

Unauthorised buying and selling of tickets

- (1) No person shall transfer or receive any unused or partly used ticket, intending that any person shall use it for travelling unless the conditions of use for that ticket specifically permit such transfer.
- (2) No person shall buy, transfer or produce a ticket on behalf of another intending to enable another person to travel without having paid the correct fare.
- (3) No person shall knowingly use any ticket which has been obtained in breach of this byelaw.

Enforcement and penalty

- (4) Prior to removal of a person, the authorised person shall state the nature of any breach of any of these byelaws in general terms prior to exercising the power conferred upon him.
- (5) An authorised person shall produce a form of identification when requested to do so if exercising this power: This identification should state the name of his employer and contain a means of identifying the authorised person.
- (6) No person shall be subject to any penalty for breach of any of the Byelaws by disobeying a notice unless it is proved to the satisfaction of the Court before whom the complaint is laid that the notice referred to in the particular byelaw was displayed.
- (7) Penalty: Any breach of these Byelaws ultimately resulting in conviction for a summary offence may be liable to a penalty not exceeding Level 3 (maximum £1,000) on the standard scale of fines.