



Transport Delivery Committee

Date	13 March 2023
Report Title	Enhanced Partnership Scheme - Variation 003: Update
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Report Considered by	Putting Passengers First Lead Members

Recommendation(s) for action or decision:

Transport Delivery Committee is recommended:

- (1) To note the revocation of the Solihull and Wolverhampton Advanced Quality Partnership Schemes (AQPS) following a period of public consultation.
- (2) To note the update on WMCA taking on local bus service registration powers from the Traffic Commissioner.
- (3) To approve that WMCA, and by extension the WMCA Head of Governance, make the Enhanced Partnership Scheme Variation 003, subject to passing the operator objection stage in accordance with the bespoke variation mechanism as set out in EP Scheme Variation 002 and in line with the Bus Services Act 2017.

1.0 Purpose of Report

- 1.1 To provide a final update on the development of the West Midlands Enhanced Partnership (EP) Scheme for Buses, Variation 003; and to seek approval to make the variation.
- 1.2 Also to provide an update on the revocation of the AQPS schemes, following a period of public consultation.

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 EP 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 The WMCA Board also delegated authority to the WMCA 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 / B425 Lode Lane corridors. Both the EP Plan and EP Scheme were made on 28 June 2021.
- 2.5 From 29 June 2022 the Plan was varied to clarify that upon the AQPS areas ceasing to exist (on expiry or revocation) that those areas would automatically be absorbed into the EP. The EP Scheme was also varied at this date in the same way to cover the entirety of the EP Plan area (i.e. the whole WMCA area).
- 2.6 Variation 002 of the EP Scheme was made on 24 November 2022. This variation was primarily to put obligations on WMCA that implement objectives from the Bus Service Improvement Plan and so unlock central government funding for several initiatives. This variation also included some operator obligations related to area-wide vehicle technical standards for vehicles in place of those in the Solihull and Wolverhampton AQPS areas.

3.0 Revocation of the Solihull and Wolverhampton Advanced Quality Partnership Schemes

- 3.1 As the lead authority (the schemes are made jointly between WMCA and the relevant LA) it is up to us to revoke the scheme, however we must take into account the wishes of partner authorities. Both local authorities have taken the revocation matter to their respective cabinets, who have acknowledged that the respective AQPS needs to be revoked for the EP scheme to be altered to incorporate route requirements.

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

- 3.2 A public consultation was held between 16 October 2022 and 10 January 2023. No objections were received. Some comments asked us to ensure that the status quo is not lost following revocation.
- 3.3 The standards from the AQPS schemes largely already exist within the EP Scheme (since Variation 002), within existing legislation or are being included as part of the Customer Charter (mandated by the EP to exist by March 2023). Thus, many of the benefits of the AQPS schemes are being widened up to the whole WMCA area.
- 3.4 The consultation reports can be found in Annex A.
- 3.5 Revocation is not contingent on Variation 003 being made (though 003 does contain additional specificity) but AQPS revocation is a prerequisite for WMCA taking on bus registration powers.
- 3.6 Therefore, both the AQPS schemes were revoked with effect from 5th March 2023 to enable the adoption of bus registration powers, also effective 5th March 2023.

4.0 WMCA Taking on Bus Registration Powers

- 4.1 The registration of local bus services and regulation of bus operators are, by default, a function of the Office of the Traffic Commissioner. By virtue of the Bus Services Act 2017, bus registration powers can be taken over by the Local Transport Authority for areas in which an Enhanced Partnership Scheme is active. WMCA plans to take on these powers for bus services wholly within the WMCA area.
- 4.2 An operator's service that runs entirely within the WMCA area would be registered with WMCA. Cross-boundary services would remain with the Traffic Commissioner.
- 4.3 This only applies to bus registration powers. Matters pertaining to an operator's licence would remain within the purview of the Traffic Commissioner / DVSA.
- 4.4 It is important to note that WMCA will not have power to refuse or cancel registrations / variations / deregistrations should WMCA be unhappy with routes or timetables operated. For example, where a route requirement does not exist on a corridor, WMCA cannot prevent a new operator from registering a service to stimulate competition on the network.
- 4.5 WMCA's Director of Law and Governance is the specific person who will have registration powers delegated to them. Thus, they are ultimately responsible for acceptance, rejection or cancellation of registrations.
- 4.6 TfWM's Bus Services Manager and their team will be responsible for processing bus service registrations.
- 4.7 TfWM has developed a registration submission website which is now fully developed, has undergone stress testing with stakeholders and is now awaiting the first registrations to arrive.

4.8 Formal notice to the Traffic Commissioner of WMCA adopting registration powers was sent on 27th January 2023 (see Annex B). The powers were officially delegated to WMCA starting from Sunday 5th March 2023.

5.0 EP Scheme Variation 003

5.1 Operators were formally informed on 29th November 2022 that WMCA intends to vary the EP Scheme.

5.2 The proposed changes are to implement further objectives from the Bus Service Improvement Plan. Notably the removal of the nBus premium, introduction of new passenger charter and a mechanism for the introduction of route requirements.

5.3 The EP Scheme will apply to nBus (and the bus element of nNetwork) products and would remove the price premium between the dominant operator's multi-journey ticket prices and corresponding tickets in the nBus product range for the period until March 2025.

5.4 With the removal of the price disincentive for passengers to use the multi-operator nBus products, it is important to ensure that the market is not flooded with wasteful competition on routes that are already served adequately (as this may result in diversion of existing resources to the main corridors from other areas). The proposed mechanism to limit this is the mechanism to implement Maximum Frequency Route Requirements. The proposed EP Scheme Variation 003 provides the mechanism through which the maximum number of buses per hour on a specific corridor can be capped at the level required to meet current and immediate future demand. The EP Scheme provides a clear mechanism and the triggers to implement these Maximum Frequency route requirements. If implemented, where a corridor has services in excess of the maximum frequency, Operators are asked to agree timetable co-ordination or service reductions to meet the route requirement. These can be secured via a Qualifying Agreement. If Operators cannot reach agreement, then WMCA and the Traffic Commissioner (where appropriate) will cancel the service registrations and let a Slot Allocation Contract for that corridor with a 5 year duration.

5.5 The Variation has been drawn up in collaboration with stakeholders and the indicative date for making the scheme variation is 2 April 2023.

5.6 A meeting of the EP Reference Group will be held and a formal vote on the proposed variation conducted on 15th March 2023. This will either result in the proposed variation being accepted by operators, or a 14-day objection period being triggered. If sufficient objections are received at that point, then we will be unable to implement this variation of the EP Scheme in its current form. Under all other scenarios we will make the EP Scheme Variation 003 subject to all other approvals.

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 WMCA from undertaking activity referred to in this report will be from within agreed overall Integrated Transport Services budgets and resources including BSIP and CRSTS funding. The cost of the system to facilitate bus registrations are being fully funded by the BSIP allocation and the ongoing costs of administration can be met from within existing resource.

7.0 Legal Implications

- 7.1 It is noted that the request for advance approval to make the EP Plan and Scheme is subject to the statutory objection period by operators for the modified Scheme, being satisfied. This can be construed as a 'conditional' advance approval from TDC, which legal considers to be acceptable. This is however subject to the proviso that the appropriate WMCA officers, namely the Accountable Director and employee report back to TDC without delay, in the event the conditionality referred to above, is not satisfied.

8.0 Equality Implications

- 8.1. An Equality Impact Assessment has been undertaken on the original Scheme, 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.

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.
- 9.2 EP Scheme Variation 003 proposes a price reduction on multi-operator tickets and a passenger incentive ticket programme which should make bus travel more affordable, enabling travel to employment especially for the poorest.

10.0 Geographical Area of Report's Implications

- 10.1 This report covers the constituent area of the West Midlands Combined Authority.