

## **Divisions Affected - ALL**

**CABINET– 22 JUNE 2021**

### **NATIONAL BUS STRATEGY – PROPOSAL FOR AN OXFORDSHIRE ENHANCED PARTNERSHIP**

**Report by Bill Cotton, Corporate Director for Environment & Place**

#### **RECOMMENDATION**

1. **Cabinet is RECOMMENDED to:**
  - (a) **commit to establishing an Enhanced Partnership across Oxfordshire under the Bus Services Act 2017; and**
  - (b) **give formal notice of the Council’s intention to prepare an Enhanced Partnership and invite all local bus operators to confirm their intention to participate.**

#### **Executive Summary**

2. In March 2021, Central Government published ‘Bus Back Better’, the National Bus Strategy. This *“sets out an ambitious vision to dramatically improve bus services in England through greater local leadership, to reverse the recent shift in journeys away from public transport and encourage passengers back to bus. Local Transport Authorities (LTAs) and local bus operators must work at pace with local communities to plan and deliver a fully integrated service with simple, multi-modal tickets, more bus priority measures, the same high-quality information for all passengers in more places, and better turn-up-and-go frequencies that keep running into the evenings and at weekends”*
3. Part of the rationale of the strategy, and the proposals it includes, is the need to reshape how bus networks and services are decided, operated and funded, with its central aim to get more people travelling by bus – first, to get overall patronage back to its pre-COVID-19 level, and then to exceed it. The Strategy is attached as Annex 1 – pages 40 to 42 of this document summarise what Local Transport Authorities (LTAs) and bus operators must do and by when.
4. Central to these proposals for the National Bus Strategy to ‘build back better’ are new requirements for Local Transport Authorities (LTAs), to give them a much stronger role in specifying and organising local bus services.
5. LTAs are expected to use the powers available in the Bus Services Act 2017 to achieve the aims of the Strategy. Two potential routes are available – the development of a statutory Enhanced Partnership between LTAs and bus operators, or a franchising scheme. By the end of June 2021, Government expects all LTAs to commit to establishing an Enhanced Partnership across their entire areas and for all operators to be in co-operation with the process.

6. The only alternative to this model (other than non-compliance) is for LTAs to pursue a franchising model for bus services, although this approach requires commitment to implementing an Enhanced Partnership in the meantime until the franchising process, which can be lengthy, is complete.
7. From 1 July 2021, only LTAs and operators who meet these requirements will continue to receive the COVID-19 Bus Services Support Grant (CBSSG) or any new sources of bus funding from the Government's £3bn funding commitment to buses announced last year, including recovery funding for the 2021/22 financial year and potentially Bus Service Operator's Grant (BSOG) which is an annual fuel duty rebate paid to operators and LTAs. Without these funds, there would be a major contraction of bus services in Oxfordshire.
8. Further to these requirements, by the end of October 2021, Government expects all LTAs to publish a local Bus Service Improvement Plan (BSIP), detailing how they propose to use their powers to improve services. This BSIP would need to be updated annually, with six-monthly progress reports, and reflected in the authority's Local Transport Plan. This is proposed to be subject of a separate report and decision by Cabinet in October, informed by further guidance due to be published by Government.
9. On 17<sup>th</sup> May, Government published guidance for Local Authorities and bus operators on BSIPs. Although this will inform the Oxfordshire BSIP report in October, it provides a clear indication of is expected from this whole process, summarised in paragraph 49 of the guidance, which sets out how BSIPs, as a an agreed document with participating operators, should describe in outline how local authorities and operators propose to deliver the key goals of our Bus Strategy, making services:
  - *more frequent*, with turn-up-and-go services on major routes and feeder or demand-responsive services to lower-density places.
  - *faster and more reliable*, with bus priority wherever necessary and where there is room.
  - *cheaper*, with more low, flat fares in towns and cities, lower point-to-point fares elsewhere, and more daily price capping everywhere.
  - *more comprehensive*, with overprovision on a few corridors reduced to boost provision elsewhere and better services in the evenings and weekends, not necessarily with conventional buses.
  - *easier to understand*, with simpler routes, common numbering, co-ordinated timetable change dates, good publicity, and comprehensive information online.
  - *easier to use*, with common tickets, passes and daily capping across all operators, simpler fares, contactless payment and protection of bus stations.
  - *better integrated with other modes and each other*, including more bus-rail interchange and integration and inter-bus transfers
10. This report sets out the requirements, opportunities and potential risks of the approaches which the Council can take and recommends development of an Enhanced Partnership to meet the National Bus Strategy requirements.

## **Current Context of Bus Operations**

11. Nationally, bus use in most areas has been continuing to fall, even pre-pandemic. Oxfordshire has historically been a bus patronage success story, with the highest per capita bus use of any shire county in England – however, even here bus use has been on a broadly downward trajectory, with annual trips falling from 43.2m in 2013/14 to 40.8m in 2019/20.
12. The COVID-19 pandemic has brought these difficulties into sharp focus, as it has accelerated the challenges to the bus operating model. Few services could now survive without the emergency state support which is continuing to keep the industry going and services running. There is a significant risk to communities as services can no longer be planned and operated purely on a commercial basis and the Council currently does not provide support for socially necessary services.
13. The latest Government data suggests that nationally bus use is close to 70% of its pre-pandemic level. However, in Oxfordshire, the local picture is clouded by the higher proportion of tourist activity (particularly for Oxford City) and, in general, lower levels of discretionary bus use where users with a choice are now turning to other forms of travel, especially car (with traffic levels now exceeding 95% of normal). As a result, bus use is noticeably lower in Oxfordshire, particularly in the Oxford city area. The latest data following the easing of restrictions, shows bus use at around 55% of pre-COVID levels in Oxford City, slightly higher at around 60-65% in Witney and Banbury and around 80% on Thames Travel inter-urban routes – lower than national levels of use.
14. The impact on Park & Ride use in Oxford, previously operated entirely without subsidy, is particularly notable, with current use around 35-40% of pre-COVID levels at peak travel times, well below the overall figure for bus use in Oxfordshire, although off peak / holiday use has been higher. Longer distance coach operations particularly serving Airports are also significantly depressed.
15. Overall, it is very clear that the bus market in Oxfordshire will not recover to its former position without increased financial support and a package of measures designed to encourage greater bus use, as part of an agreed strategy with dedicated officer and political governance.

## **Future options**

### **Franchising of bus services**

16. The first option available to LTAs is to follow the model for how bus services are managed and operated in London, which unlike the rest of England, are franchised. Transport for London determines the network of services which are provided, under contracts for specific routes, by private sector operators. Franchising does not necessarily have to replicate this route-by route tendering – contracts can be let for different parts of a city or to a single operator for a whole network, with significant co-design opportunities for that operator.

17. Franchising powers are only available automatically to Mayoral Combined Authorities but can be provided to other Local Transport Authorities (LTAs) through secondary legislation. Whilst some metropolitan areas, most notably Tyne & Wear and West Yorkshire, have considered this approach in the past, no franchising proposals have come forward and currently only Greater Manchester has stated they are proposing to take this approach.
18. This reflects the complex realities of a franchising approach – In order to proceed with a franchise scheme LTAs must follow a very robust process that includes producing a business case, detailed consideration of the effects of the scheme, whether it is affordable, achievable and represents value for money, plus a comparison of the proposed scheme with alternatives. The governance and financial risks associated with such a proposal are highly significant, which is partly why none have successfully come forward to date (Greater Manchester considers the initial (planning) cost of franchising to be £134.5m).
19. Franchising would therefore be a very significant legal and commercial change, requiring several years to bring about (Greater Manchester's process is not envisaged to be complete until 2025) and very significant resource commitment to do so, without any guaranteed benefit and leaving the bulk of the financial risk with the Local Authority rather than operators.

### **Enhanced Partnership**

20. An Enhanced Partnership (EP) is a statutory arrangement under the Bus Services Act 2017 which can specify, for example, timetables and multi-operator ticketing, and allows the LTA to take over the role of registering bus services from the Traffic Commissioners. It is important to be clear that an EP is a legally binding commitment between the Local Transport Authority and Bus Operators, specifying what improvements will be made to bus services that operators (which would remain substantially commercial) would still run.
21. The main difference compared with franchising is that in an EP, operators have a much greater role, working with LTAs to both develop and deliver improvements for passengers and having a real say on how bus services should be improved – bringing expertise, innovation and the potential for investment. Enhanced Partnerships also offer significantly more flexibility than franchising.
22. What is not yet clear is the extent to which the requirements for EPs set out in the 2017 Act will apply, or what changes may be made – Government has said it will publish updated guidance on EPs 'in the coming weeks' but there is no specific timing commitment and given the time constraints we are therefore working on the basis of what the 2017 Act sets out – given that much of this is framed in legislation, it is not expected there will be significant change.
23. Under the EP guidance in the 2017 Act, a LTA working with local bus operators will produce an Enhanced Partnership Plan (EPP) which analyses the local bus market and considers the improvements the LTA and the operators want to make to the bus network. The LTA and local bus operators will also produce an Enhanced Partnership Scheme (EPS) which will set standards that all operators within a geographical area would need to meet. These could include frequency

and timing of services; vehicle standards (e.g. emissions standards, vehicle branding); ticketing arrangements (types of tickets; fare zones across operators, methods of payment, price of a multi-operator tickets); the way information is provided to the public (both on and off buses); common terms and conditions. A fuller summary of current EPP and EPS requirements is set out in [Annex 2](#).

24. The Council awaits further guidance, but our understanding is that the Bus Service Improvement Plan (BSIP) required by October 2021 would effectively be the Enhanced Partnership Plan. In the absence of this our assumption is that, with the EP having set the partnership commitment, the BSIP / EPP sets out the vision and outcomes outlined above and the EPS, which would become effective from April 2022, would contain the details of how this into practice, monitored and reviewed.
25. In some ways, an EP is a more formal extension of the 'Quality Bus Partnership' which has been operating in Oxfordshire over recent years and has led, through joint working, to a number of successful initiatives including introduction of the Oxford 'Smartzone' and multi-operator ticketing, coordinated timetables on main routes via the associated Bus Qualifying Agreement and a managed approach to introduction of low emission buses.
26. More recently, despite the current challenging operating situation, partnership working with operators has continued. This has involved developing proposals for specific funding initiatives (currently the Zero Emission Buses Regional Areas fund) but also agreeing an overall outcomes-based approach based on '50 deliverables' across this area, which are expected to underpin our BSIP. This is being overseen by a reconstituted Oxfordshire Bus Board, supported by specialist joint working groups, which will feed into decision making.
27. An EP approach would require a significant step change in joint working and commitment to a shared vision. This will be important to enable Oxfordshire to continue to benefit from the pro-active approach operators have shown, and to allow them to continue to bring investment and innovation to the Oxfordshire bus market – which would be at risk if a franchising approach were adopted. In addition, it would also allow our strategies for zero emission buses, bus priority and associated service enhancements to be an integral part of the BSIP and Enhanced Partnership Scheme when it is finalised.
28. This reflects the legal status of EPs as a binding commitment of partners to the Enhanced Partnership Plan / Scheme and the BSIP once it has been agreed. This would place a more significant and binding requirement on the Council as any measure agreed to via the EP process. For example, the National Bus Strategy states that in Bus Service Improvement Plans, Government expects to see proposals for bus lanes "*on any roads where there is a frequent bus service, congestion, and physical space to install one*". Under an EP, proposals to introduce bus priority on a specific corridor would effectively become a firm commitment (subject to any other process required to be followed). Paragraphs 42 to 44 below cover this point in more detail.

## Conclusion

29. An overall assessment of how the Franchising and EP options compare, both generally how they map against corporate outcomes, is included as [Annex 3](#)
30. For the reasons set out above, and considering the timescale, cost risk and uncertainty that developing a franchising proposal would entail, development of an EP is proposed as the only credible way forward for Oxfordshire. In theory, whilst “doing nothing” and not following either path is an option, the potential financial consequences (summarised in paragraphs 7 and 37-38) and subsequent effect on Oxfordshire’s communities would be little short of disastrous, so this is not being proposed for consideration.

## Joint Working and Engagement with Operators

31. Discussions to date have been taking place with Oxfordshire’s two main operators, Stagecoach (where the Oxfordshire operations are now part of the bigger Stagecoach West group) and the Go-Ahead Group (which includes the Oxford Bus Company, Thames Travel and City Sightseeing) which have informed this report. Both Groups have committed to working with the Council to develop EP and BSIP proposals. The proposed approach outlined in this report is due to be discussed at the Oxfordshire Bus Board on 16<sup>th</sup> June and feedback will be reported at the Cabinet meeting.
32. As required by the guidance on Enhanced Partnerships, informal discussions are also taking place with Oxfordshire’s numerous smaller bus operators on the viability of an Enhanced Partnership from their perspective – recognising that the requirements of an EP which can be more easily absorbed by larger operators are more challenging and less obviously beneficial for smaller ones.
33. Should a decision be agreed to progress an EP, this would require the next, formal, stage of the process to be undertaken, starting with the Notice of Intention and Invitation to Participate in the Partnership, which includes setting out its geographical limits (assumed to cover the whole of Oxfordshire) and a contact point at the authority – to every public service vehicle operator providing services within it. Formal discussions cannot take place before this, which is a statutory requirement.

## Corporate Policies and Priorities

34. The requirement and proposals for an Enhanced Partnership set out in this report are – subject to funding being secured - an opportunity to directly support the County Council’s (and more widely Oxfordshire’s) Vision and Strategic Priorities, including improving bus services, making ticketing and fares simpler and more affordable, reprioritising road space for low carbon travel and reducing carbon emissions, which will have a positive impact on communities, climate change and air quality.
35. Reinforcing the opportunity to support the Council’s Zero Carbon ambition, Government guidance on BSIPs states that “At a local level, every LTA that wishes to receive funding from the Department for local transport projects

must develop ambitious strategies, targets and measures for cutting carbon from transport in their area”

36. More widely, the proposals could substantially contribute to objectives and outcomes aimed at securing greater inclusion, outlined in paragraphs 46-48.

## **Financial Implications**

37. The National Bus Strategy states that CBSSG is discretionary, as will be future bus funding from the £3billion and potentially other transport funding not specifically related to buses. From 1 July 2021, CBSSG and any successor funding to it; funding to transform services as outlined in the Strategy; and potentially reformed BSOG (on which proposals are due to be consulted upon in the near future), will only be available to LTAs who have committed to entering into Enhanced Partnerships or started the statutory process of franchising services, and to operators who co-operate with the process.
38. There would therefore be a very significant impact of not complying with the requirements of the Strategy – the Oxfordshire bus market would effectively collapse or require unsustainable levels of Council funding to maintain. As well as this, Government has also stated that LTAs who don't comply may encounter future difficulty in obtaining funds for non-bus related transport schemes.
39. Government has made available an initial LTA Bus Capacity Fund revenue allocation of £100,000 to LTAs to support and resource the development of EPs and, subsequently, a BSIP. Oxfordshire has secured this initial funding, which can be spent on staff resource, consultancy support or other activity e.g. training. Although it is the Council's decision on how best to use the funding, there is a clear steer from Government towards development of in-house resource, and they will be collecting information and how funding has been spent to shape future funding rounds. Beyond this initial allocation of capacity funding, the Government intends to offer 'further support' from the same funding pot to LTAs that have committed to follow an EP or franchising.
40. Development of a stronger in-house capability to support buses is very likely to be needed, both to develop and implement an Enhanced Partnership and Bus Service Improvement Plan, and to maintain this higher level of activity beyond these initial commitments. As such, any commitment to additional staff resource would potentially require an ongoing staff (revenue) budget commitment, once the allocated Government funding has been used. This would need to be quantified in due course.
41. The likely requirement for additional measures to prioritise and support bus operation – including a potential statutory requirement to provide socially or economically necessary services set out in paragraphs 46 to 48– is also likely to have financial implications. These are not currently able to be quantified, but need not necessarily be additional, as they could for example result in reprioritisation of funding from other projects or programmes.

Comments checked by: Rob Finlayson, Finance Business Partner  
(Environment & Place) – Email: [rob.finlayson@oxfordshire.gov.uk](mailto:rob.finlayson@oxfordshire.gov.uk)

## Legal Implications

42. Entering into an Enhanced Partnership, once it is 'made', is a legal undertaking by all parties with specific requirements. The LTA has the formal responsibility for making the Enhanced Partnership Scheme. In doing so, this potentially places more significant and binding obligations on the Council to deliver scheme requirements (as per the example in paragraph 28 of this report).
43. More generally, if an authority includes any facilities or measures in an Enhanced Partnership Scheme, they have a legal obligation to provide the facilities and take the measures not later than the date(s) specified in the scheme and continue to provide those facilities and take those measures throughout the life of the scheme or until a scheme is varied to remove the obligation to do so. The only exception to this rule is if the EPS is formally postponed or if the authority is temporarily unable to provide a facility or take a measure due to circumstances beyond their control.
44. When considering any type of partnership, even if underpinned by legislation, LTAs must consider competition issues. In this case, this is not just to ensure compliance with competition law, it is also to preserve as far as possible the passenger benefits of lower fares, quality services and innovation that competition between operators will help foster. This is also an issue for operators and will need to be worked through in finalising any Enhanced Partnership Plan. Further guidance on competition requirements is expected to be issued by the Government in due course.

Comments checked by: Christian Smith, Principal Solicitor (Contracts and Conveyancing), Oxfordshire County Council and Cherwell District Council  
Email: [christian.smith@oxfordshire.gov.uk](mailto:christian.smith@oxfordshire.gov.uk)

## Staff Implications

45. As set out in paragraphs 40 to 41 there is likely to be requirement for a greater level of staff resource to support this activity in future. Currently, existing staff resources are being used to develop initial EP proposals and engage with operators, supported by some limited call-off consultancy support. However, this can only be maintained in the short term and hence it has been agreed to appoint a fixed-term Principal Bus Strategy Officer, using the Government capacity funding previously referred to, to lead the process for the authority.

## Equality & Inclusion Implications

46. Buses are the most-used mode of public transport and are key to the levelling-up agenda; in many areas, users are disproportionately from less advantaged social groups and places. Improved services should strengthen communities, sustain town centres and connect disabled and isolated people. Strengthening the Council's commitment to buses via an EP and BSIP should directly benefit these objectives, as well as providing wider benefits to meet the 'thriving communities' element of the Council's Vision.



47. The Strategy states that "*making sure that people are connected to centres of employment, broadening their choice of work and education, is both socially and economically important*". Government is also proposing to publish new guidance on the meaning and role of 'socially necessary' services, expanding the category to include 'economically necessary' services for the first time, to recognise "*the vital role that buses have in getting people to work at all times of the day and night*". To drive forward the levelling-up agenda, this will include provision for economically disadvantaged areas.
48. While the details of what this would mean for Oxfordshire primarily need be considered as part of the development of the BSIP, it is noted that the strategy references that "*if this cannot be achieved by agreement, we will consider statutorily requiring the provision of socially necessary bus services, including those which improve people's access to employment.*" The Council does not currently fund such services.

### **Sustainability Implications**

49. At the same time, buses should not only be seen, or promoted, only as transport for those without an alternative. There is clear evidence that, as part of an overall transport strategy, a comprehensive, effective and affordable bus network can draw people away from car travel and lead to long-term modal shift. To achieve this, it is proposed that the Bus Service Improvement Plan would essentially form the Bus Strategy in the Council's emerging Local Transport & Connectivity Plan and be baked into the future transport policy of the Council.
50. Given the Government's strong messages on public transport use during the pandemic, and the subsequent changes to work and shopping patterns that may result, it is critical that a strong response to the Strategy is provided so that a car-based recovery can be avoided in Oxfordshire. In particular, through a commitment to an Enhanced Partnership the Council will be able to access Government funds for zero emission buses that are likely to make a significant contribution to air quality in Oxford.
51. Not complying with the requirements of the Strategy will result in a significant reduction in bus service coverage/frequency in Oxfordshire, with withdrawals of operators from the market and a low chance of recovery. The consequences of this would be very significant for communities and for the environment.

### **Risk Management**

52. Entering into a more formal, legally framed partnership arrangement carries a degree of risk in terms of committing the Council to the outcomes and proposals it includes, compared with the current informal quality bus partnership arrangement. This can be mitigated by early discussion and agreement with partners, particularly operators, to ensure that whilst retaining the overall ambition for this area, the Council does not commit itself to interventions or investment it cannot justify or sustain. Expectations as to what the proposed partnership arrangement can realistically achieve in the present climate will also be important to manage, especially those which require significant funding.

53. The much greater risk – whether measured as financial, reputational or in terms of corporate outcomes – is not to follow the requirements of the strategy, with the funding and other implications set out earlier in this report.

### **Consultations**

54. The Strategy states that plans must be developed in collaboration with “*local bus operators, community transport bodies and local businesses, services and people.*” So whilst formal consultation is not a requirement of setting up an Enhanced Partnership, it is expected that stakeholders, including passenger groups, will be engaged in the process of developing the BSIP, and that views are taken into account.
55. In setting out and developing the proposals, views and input would be sought from a range of Stakeholders and partners including Local Members, District Councils, Parish Council Transport Representatives, the Local Enterprise Partnership, Rail Operators and Active Travel Groups. This will require a clear and jointly agreed communications plan to be in place.

### **Next Steps**

56. Subject to a commitment to enter into an Enhanced Partnership being given, the next steps are to:
- (a) inform the Department for Transport, by statutory notice, of this commitment by the 30<sup>th</sup> June deadline;
  - (b) give formal notice of the Council’s intention to prepare an Enhanced Partnership with all participating local bus operators (also by 30<sup>th</sup> June), to secure their agreement to entering into the Partnership;
  - (c) During summer 2021, develop proposals for an Enhanced Partnership Plan (EPP) / Enhanced Partnership Scheme (EPS) and Bus Service Improvement Plan, consult and agree on these with Bus Operators taking into account the views of other Stakeholders
  - (d) report to Cabinet on the proposed EPP/EPS and Oxfordshire Bus Service Improvement Plan (19<sup>th</sup> October 2021) prior to submission of the BSIP (by 31<sup>st</sup> October).

### **BILL COTTON**

Corporate Director for Environment & Place

#### Annexes:

Annex 1 – National Bus Strategy (March 2021)

Annex 2 – Summary of current Enhanced Partnership Plan and Enhanced Partnership Scheme requirements

Annex 3 – Summary Comparison of Franchising and Enhanced Partnerships

Background papers: None  
Contact Officer: John Disley, 07767 006742  
June 2021