

From: Simon Jones, Corporate Director, Growth, Environment and Transport
Phil Lightowler – Head of Public Transport

To: David Brazier, Cabinet Member for Highways and Transport

Subject: **National Bus Strategy – Enhanced Partnerships**

Classification: Unrestricted

Decision No: 21/00043

Electoral Divisions Affected: **All**

Summary: On 15 March, the Department for Transport published its wide-ranging National Bus Strategy entitled “Bus Back Better”. As a Local Transport Authority (LTA), the Strategy requires Kent County Council to commit to Enhanced Partnerships with local bus operators by 1st July 2020. This will allow KCC and local bus operators to maintain access to current funding and access future funding opportunities.

Recommendation:

The Cabinet Member for Environment and Transport is asked to agree to issue the required statutory notice of the intention to form an Enhanced Partnership (EP) for bus services in Kent as shown at Appendix A.

1. Introduction

- 1.1 On 15 March, the Department for Transport published its wide-ranging National Bus Strategy entitled “*Bus Back Better*”.
- 1.2 The strategy changes the regulatory framework under which buses have operated for the past 35 years, by linking the existing and future funding for bus services plus other Local Authority Highway funding to enacting elements of the Buses Act 2017, namely the use of statutory enhanced partnerships or franchising.
- 1.3 Prior to the launch of the national bus strategy the operation of bus services has been de-regulated, with operators free to choose the services they provide, when and where and with local authorities being responsible for the consideration of socially necessary services where the commercial market cannot provide. Any partnerships with operators, such as quality bus partnerships have been voluntary and national policy has been to revert to the commercial market. The new strategy changes this approach.
- 1.4 The new approach from national government acknowledges the role the bus can play in achieving a net zero emission society and commits it government to supporting bus and bus rapid transit schemes.

2. The Strategy

- 2.1 The Strategy is a marked departure from previous national government policy of the past 35 years and it requires local authorities to deliver this significant change at a very fast pace.
- 2.2 The Strategy sets out ambitious goals; backed by £3 billion of investment across England and a commitment to repurpose current funding. It is aimed at seeing passengers benefiting from “more frequent, more reliable, easier to use, easier to understand, better coordinated and cheaper bus services.” The ambitious objectives include:
- Simpler bus fares with daily price caps, so people can use the bus as many times a day as they need without facing mounting costs
 - More services in the evenings and at the weekends, possibly using DRT services and, where appropriate, through reduction in “over bussed” corridors during the daytime.
 - Integrated services and ticketing across all transport modes, so people can easily move from bus to train
 - All buses to accept contactless payments
 - Expectation that LTA will commit to significant bus priority measures. Hundreds of miles of new bus lanes making bus journeys quicker and more reliable, getting people out of their cars, reducing pollution and operating costs.
 - Delegation to local authorities of powers to enforce traffic offences but also with a requirement to ensure bus services can operate reliably, by placing an onus on LTA designated Traffic Managers.
 - Creation of bus passenger charters and establishment of bus panels
 - Enabling local branding instead of operator branding
 - New requirements around bus stop and bus interchange accessibility.
 - All new buses to be zero emission, diesel buses phased out.
 - New bus information requirements
 - The delivery of 4,000 new British-built electric or hydrogen buses to provide clean, quiet, zero-emission travel.
- 2.3 The strategy sets an ambitious timeline for LTAs to comply which allows them to maintain access to current funding and access future funding. It requires (LTAs) and bus operators to commit to the introduction of Enhanced Partnerships (EPs) by **1st July 2021**. It also states that LTAs that wish to pursue franchising will need to satisfy the Secretary of State that they have the capability and resources to do so, and that it will better deliver service improvements for passengers. However, this process will take some time and it is recommended that EPs are introduced in the meantime. . Indicative guidance for EPs (based on the original guidance in the Buses Act 2017) is set out in Appendix 1
- 2.4 Once committed to the statutory process of establishing an EP, an LTA is required to complete a Bus Service Improvement Plan (BSIP). At this point in time no guidance has been published by national government on what a BSIP

is required to contain. An LTA has to deliver the BSIP by end of October 2021 and national government expect implementation from April 2022.

- 2.5 If an LTA does not commit to starting the process for establishing a statutory enhanced partnership or franchising, then access to current and future sources of bus funding, to both the LTA and operators in the area come to an end from the 1st of July 2021. There is scope in the strategy for government to be flexible with operators should they wish, however. In the case of operators, in the establishment of an enhanced partnership, if they do not wish to participate then they lose access to current and future funding.

3. Enhanced Partnerships

- 3.1 Enhanced Partnerships (EP) were introduced under the Bus Services Act 2017. Guidance was issued by the DfT on how to set up an EP and the notes below summarise the key points from that advice. DfT is to update this advice in the next few weeks to reflect the bus strategy.
- 3.2 An EP is an agreement between local transport authorities (LTAs) and bus operators to work together to improve bus services. It includes a clear vision of the improvements that the EP is aiming for together with the actions to achieve them.
- 3.3 The LTA has responsibility for creating the scheme but can only proceed with the support of bus operators. However, the requirement to have an EP in place to receive funding will no doubt encourage operators to take part in the process.
- 3.4 In Hertfordshire, one Enhanced partnership has been introduced county-wide to build on their long-established *Intalink* partnership. However, it would be possible to introduce a number of partnerships covering smaller areas of Kent, allowing more targeted plans better meeting local needs. In those areas where they are established, EPs can build on the existing voluntary bus partnerships.
- 3.5 Effectively the Enhanced Partnership, through its BSIP would become the Kent Bus Strategy.
- 3.6 It is clear from the national bus strategy that the BSIP will form the core of the EP. The LTA in signing up to an EP is committed to the measures agreed in the BSIP and the same for the operators.
- 3.7 In setting up the EP, there is an expectation that BSIP will involve consultation with not only members, but districts, the business community and the wider public. It is therefore a public commitment.

4. Financial Implications

- 4.1 The proposed decision to issue the required statutory notice of the intention to form an Enhanced Partnership (EP) for bus services in Kent does not commit KCC to any financial implications whilst the BSIPs are being developed.

- 4.2 The BSIP is to be published by the end of October 2021 and will be subject to a further key decision before submission to the DfT who will then advise Kent's funding allocation. Once this is known, the EP can be derived from the BSIP action plans for introduction from April 2022. At this time, the Council will need to have committed investment to the partnerships. Further papers will be submitted to Cabinet at appropriate stages including those that include proposals for KCC expenditure.
- 4.3 As set out in paragraph 2.3, in signing up to a partnership, KCC will be able to maintain receipt of current bus funding and gain access to new funding. At the time of writing, the level of any new funding and potential allocation is not clear.
- 4.4 Current funding to the bus industry comprises Bus Services Operator's Grant (BSOG) and Covid-19 Bus Services Support Grant (CBSSG). The latter is support funding being provided by government to operators to ensure the future provision of a full bus network, whilst demand is subdued by the pandemic.
- 4.5 KCC receives £1.1m BSOG annually which is used to support supported bus services/public transport projects and £5.9m to operators for delivery of commercial services. If KCC did not to commit to establishing an enhanced partnership, the financial risk is the annual BSOG of £1.1m and CBSSG funding of £1.6m.
- 4.6 If the funding reduction was also applied to operators by national government, then annual BSOG of £5.9m is at risk plus an unknown sum of CBSSG.

5. Legal implications

- 5.1 Once an EP Plan and Schemes are made by the Council, measures and facilities agreed by the authority will become a legally enforceable commitment. An Enhanced Partnership is a statutory scheme with a procedure that must be followed. Invicta Law will be commissioned to support the legal elements of the EP.

6. Equalities implications

- 6.1 There are no equality implications in entering into an Enhanced Partnership with bus operators.

7. Other corporate implications

- 7.1 There are no other corporate implications arising from this decision.

8. Governance

- 8.1 Simon Jones, Interim Corporate Director, Growth, Environment and Transport will hold main delegations for this decision via the Officer Scheme of Delegation.

9. Conclusions

- 9.1 On 15 March, the Department for Transport published its wide-ranging National Bus Strategy entitled “Bus Back Better”. LTAs and bus operators must commit in principle to the introduction of EPs by 1st July 2021. An EP is an agreement between LTAs and bus operators to work together to improve bus services
- 9.2 The strategy sets an ambitious timeline for Local Transport Authorities (LTAs) to comply to ensure continued access to both current and future funding. Operators also need to co-operate with this process to retain their funding streams.

10. Recommendation

10.1 The Cabinet Member for Environment and Transport is asked to agree to issue the required statutory notice of the intention to form an Enhanced Partnership (EP) for bus services in Kent as shown at Appendix A.

11. Background Documents

- Bus Back Better: <https://www.gov.uk/government/publications/bus-back-better>
- Appendix 1: [Establishing an Enhanced Partnership \(EP\) – Buses Act 2017](#)
- Appendix A: Proposed Record of Decision

12. Report Authors:

Dan Bruce – Policy, Infrastructure and Community Team Leader
Dan.bruce@kent.gov.uk

Stephen Pay – Planning and Operations Manager
Stephen.pay@kent.gov.uk

Phil Lightowler – Head of Public Transport
philip.lightowler@kent.gov.uk

Relevant Director:

Simon Jones – Director of Highways, Transportation and Waste
Simon.Jones@kent.gov.uk

Appendix 1

Establishing an Enhanced Partnership (EP) – Buses Act 2017

1. Informal and Formal Discussions

- 1.1 Before progressing a scheme formally, LTAs and operators that run services in an affected area should hold informal discussions on whether an EP is likely to be viable. It is expected that informal views should also be sought from wider stakeholders at this point, including passenger groups, community transport operators and local business representatives.

The discussions should cover such areas as:

- What a formal partnership might achieve
- How people might use bus services in the future
- Identifying planned housing and business developments
- Current and future pressures on the road network
- What bus priority measures might be beneficial
- Air quality and other environmental challenges
- How buses could be promoted and marketed
- How ticketing changes might help
- High level financial and commercial implications of potential options
- What competition issues might be present

- 1.2 An EP, although made by an LTA, is effectively a joint proposal with operators. Even when a formal process begins, there can still be negotiations so some flexibility and compromise may be needed to achieve agreement at this stage. Once a scheme is made, any commitments made by either party is legally binding and action could be taken via the courts or the Traffic Commissioner. Note that an LTA could have legally binding commitments under an EP to secure facilities such as bus priority measures and bus only sections of route. Provisions may therefore be required to hold developers to account where they are responsible for provision of any elements of infrastructure or services.
- 1.3 EP arrangements are subject to the competition test in Schedule 10 of the 2000 Act. Any potential effects of a loss of open competition will need to be balanced by the benefits to passengers from the measures from an EP. This is covered further in Section 9 of this document. It should be noted that an EP Scheme cannot prevent new operators from entering the market if they meet the required standards.
- 1.4 It is important that the needs of small and medium operators (SMO) are considered as part of the development of an EP. There should be a level playing field for smaller operators and authorities should discuss potential administrative burdens or financial outlays with these operators at an early stage, adjusting the scheme where necessary.
- 1.5 Before drafting a plan for an EP, it is a legal requirement that the LTA gives formal notice of its intention to prepare a scheme and invites all the local bus operators to participate in the process. The LTA must keep all affected

operators updated on progress and outcomes of discussions and ensure that they are given an opportunity to take part in the process.

- 1.6 Formal discussions will aim to form an outline of the improvements to be delivered through an EP including making bus services more attractive, devising steps to relieve traffic congestion, and taking actions to achieve passenger growth. Investment would be expected from both operators and authorities.
- 1.7 Other stakeholders such as passenger groups should also be involved at this stage to ensure that the EP is likely to deliver the required outcomes. However, whilst stakeholder input will be very useful, only the LTA and operators will be able to decide whether a scheme goes ahead.

2. The Formal Documentation

- 2.1 After the formal discussions, two formal documents need to be prepared:
 - An EP Plan is a high-level vision with objectives for bus services in the local area.
 - An EP Scheme sets out the detail of how the vision and objectives will be achieved, including commitments from the LTA and standards to be met by operators.
- 2.2 The **EP Plan** sets the bus network in the EP area into context. It must cover the following:
 - The geographical area to be covered
 - The period to which the plan relates
 - If the plan is to be reviewed, how and when this is to take place
 - An analysis of current local bus services
 - Plan objectives; how they will improve the quality and effectiveness of services in the EP area and what outcomes need to be delivered to improve services
 - What policies regarding local bus services will be pursued in the EP area and what overall interventions will be needed to deliver the intended outcomes
 - How the related EP Scheme is intended to assist in implementing the policies and achieving the objectives in the plan
 - All the relevant factors that the parties consider will affect the local bus market over the life of the plan
 - The intended effect of the EP Scheme on neighbouring areas that are outside the plan area
 - The LTA plans for consulting passenger groups on how the plan is working. The plan needs to include any available data on passenger experiences of using bus services in the area and their priorities for improving services
 - A summary of current bus journey speeds and the impact of congestion in the area
- 2.3 It is for the LTA to decide the detailed contents of the plan and it could also include, for example:
 - Targets for bus usage, journey times or connectivity from available data

- The strategic issues relevant to the future provision of local bus services, such as retail, business and housing developments, economic growth objectives or air quality challenges
- Local and central government investment that will or may be available, including developer contributions
- The aspirations of local transport providers

2.4 The **EP Scheme** sets out requirements in relation to local bus services and actions to be taken by the LTA to deliver the policies and objectives in the EP Plan. These elements must be formally agreed by the LTA, who decides whether to make the scheme, and most affected bus operators, through the operator objection mechanism.

A scheme must state:

- The area to which it relates
- The requirements imposed on local bus services within it
- If the scheme is to be reviewed, how and by which dates
- The commencement date and period of operation

The scheme must also:

- Specify the facilities and measures (if any) that will be provided by the authority and when they will be provided from
- Include provisions for its variation or revocation, including any dates where they come into force or apply

3. Provision of Information

3.1 The Act allows LTAs to obtain information from bus operators including:

- Passenger usage
- Fare structures and ticket usage
- Bus journey times and reliability
- Vehicles used, age, emission, and types of fuel
- Results of promotions undertaken on the services

3.2 However, there is no power for the LTA to request revenue data in relation to EP plans and schemes. It would therefore be preferable to achieve the sharing of such data voluntarily by working closely with the operators in partnership and by demonstrating that it will be in operators' interests to do so.

4. Requirements of an LTA under a Scheme

4.1 The EP Scheme may require an LTA to provide facilities or to take particular measures:

Facilities are physical assets that will be provided on routes in the scheme area. These could include:

- Bus priority measures including bus only roads, bus lanes, or equipment at junctions
- New or improved bus stops or other passenger waiting facilities

Passenger information provision cannot be included as a facility as the LTA already has a legal obligation to provide this.

4.2 Measures are other things that an LTA can do to make buses more attractive. These are not defined in the legislation but examples of these could be:

- Marketing schemes (wider than normal information provision) to promote bus use
- Changes to parking provision
- Limiting other types of traffic on parts of the routes
- Commitments to enforce traffic offences such as illegal parking
- Restrictions on the frequency of roadworks on the routes
- A commitment to ensure that bus journey times do not increase over the life of the scheme

4.3 If facilities or measures are included in a Scheme, the LTA is legally obliged to deliver them by the specified dates and maintain them during the life of the Scheme. The only exceptions are if the scheme is formally postponed or if the LTA is temporarily unable to deliver due to circumstances beyond their control. If a TRO is required, it is important to ensure that this will be in place by the highway authority before offering facilities or measures in a Scheme.

5. Requirements of a Bus Operator under a Scheme

5.1 An EP Scheme must include requirements that local bus services operating within the Scheme area must meet or abide by. These can either be Route Requirements, specific to the frequency or timing of local services, or Operation Requirements, for other types of requirement.

5.2 The main categories of **Operation Requirements** can include:

- The vehicles to be used to operate bus services, including their livery. This can include bus age, emission standards, technological requirements such as wi-fi, seat style or quality and the vehicle livery and appearance
- Providing information about bus services to the public. This can include printed material, bus stop displays, online or on smartphones. A brand can be specified including logos and colour schemes on marketing materials
- Dates on which timetables may be changed or minimum notice periods for a change
- Ticketing structure, methods, and the price of multi-operator tickets
- The range of ticket types to be offered in a Scheme area can be specified, including multi-operator tickets. However, operators will still be free to offer their own single-operator tickets and the only prices that can be set under a Scheme are those for multi-operator tickets.
- The LTA must ensure that any measures will meet competition requirements
- The Scheme can specify how tickets are paid for and the technology to be used. Tickets can be branded or meet a common design and there can be measures to ensure that Scheme ticketing must be marketed on an equal basis to any operator own products.

5.3 **Route Requirements** may cover the frequency or timing of services in the Scheme. There should be regular review and flexibility to ensure that passenger needs are being met. However, the Scheme can not specify which operators are to run which services and it will need to apply to all services operated on a

particular corridor. The frequency of services can be specified, perhaps set out as a minimum requirement or, where there are constraints on infrastructure, a maximum level of service. Where a maximum frequency is specified, if a new operator wishes to operate on the corridor and meets the standards, either room needs to be found for them by rearranging the existing operator services or the existing registrations would need to be cancelled and put out to tender by the LTA. The timing of services can also be included, for instance the need to meet train times at certain times of the day. The need for even headways could also be specified, especially where there is more than one operator.

- 5.4 Under an EP, the standards of service required from operators become conditions of service registrations and operators when registering will need to give an undertaking that they will comply with these. If the obligations are not met, the registration authority can take enforcement action against the operator. It is possible under the Act for the LTA to become the registration authority for services within the EP Scheme area, instead of the Traffic Commissioners.
- 5.5 There should be arrangements for both the Plan and Scheme to be reviewed post implementation. This could include reviewing the prices of multi-operator tickets. A Scheme should be reviewed in the case of circumstances changing which result in the competition test no longer being met. There also needs to be provisions for possible variation or revocation of a Scheme.

6. Further stages

- 6.1 Once the draft Plan and Scheme have been prepared, there are further formal stages to undertake. Note that there must be both a Plan and Scheme to be introduced at the same time.
- 6.2 Notice to Operators. A notice that the Plan and Scheme have been prepared needs to be sent to all operators of qualifying local services. Operators may object to the plan or Scheme and if this exceeds a set proportion, the scheme cannot proceed. In this event, further negotiation to mitigate the objections would be required until the threshold can be met.
- 6.3 Formal Consultation. The LTA needs to carry out a formal consultation that at least covers statutory consultees, including the police and the competition authority. LTAs should also consider including local residents, business occupiers, major local employers, existing bus passengers and existing road users. Responses should be analysed by the partnership (not just the LTA) and changes made to the proposals, where necessary.
- 6.4 Finally, a Notice that a Plan and Scheme have been made needs to be sent to local stakeholders, affected operators and the Traffic Commissioners.

7. Competition Issues

- 7.1 A detailed section of the guidance covers competition issues which are taken seriously in the advice. Key issues would be:
 - Smaller operators would have a right to the same level of engagement as a larger operator

- A balance needs to be struck between the EP delivering improvements for passengers against imposing any necessary restrictions on the deregulated bus market.
- Operators should still be able to flexibly adapt services to meet changes in passenger requirements
- Plans and Schemes need to set out how the LTA has addressed identified competition issues to ensure that any restrictions are appropriate and to detail any issues that remain unresolved.
- The formal Notices are required to be sent to the CMA for their views.