



Report of the Cabinet Member for Environment Enhancement and Infrastructure Management

Cabinet – 21 January 2021

Bus Emergency Scheme 2 (BES 2) Agreement for Future Welsh Government Funding

Purpose:	To provide information on the Bus Emergency Scheme (BES) and seek agreement to sign up to the BES 2 Scheme.
Policy Framework:	Regional Transport Plan for S W Wales.
Consultation:	Access to Services, Finance, Legal.
Recommendation(s):	It is recommended that: <ol style="list-style-type: none">1) The Authority signs up to the BES 2 Agreement (Appendix 2) as regional lead authority to secure (conditional) financial support for the bus sector and to establish a relationship with their constituent local authorities that ensures that the ongoing emergency funding meets those authorities' priorities and is delivered on their behalf.2) In the event that the template agreement at Appendix 2 is varied by Welsh Government, authority is delegated to the Director of Place together with the Cabinet Member for Environment Enhancement & Infrastructure Management, in conjunction with the Chief Legal Officer, to agree any amendments necessary to the draft agreement; and authorises the Chief Legal Officer to enter into the agreement on behalf of the Council as regional lead authority.3) Authority is delegated to the Chief Legal Officer to enter into any ancillary documentation necessary to deliver the scheme including any inter authority agreements with other councils in the region or with any participating operators.4) A further report be presented to Cabinet on bus reform proposals relating to the future management of bus services in Wales.
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1. Introduction

- 1.1 This report sets out the wider context, the background to, and reasons for the Bus Emergency Scheme (BES) and seeks the agreement of this authority to sign up to the BES2 scheme.

2. Wider Context

- 2.1 Bus travel has been severely affected by the Covid-19 pandemic. Passenger numbers have plummeted, whilst social distancing and additional cleansing requirements have placed added burdens and costs on operators.

- 2.2 Welsh Government (WG) and local authorities (LAs) have stepped in to support the sector with substantial financial assistance. There has also been ongoing dialogue between all parties to discuss and agree on support arrangements.

- 2.3 Prior to the pandemic, WG had consulted on a range of proposed changes to the way bus services are delivered in Wales. A Bus Bill was due to have been brought forward during the current Senedd term. Pressures associated with not only Covid but also the large volume of legal work generated by Brexit and the transition period forced WG to postpone the planned legislation.

- 2.4 Due to the large amount of public funding that goes into bus services from WG and LAs, WG would like to see the public sector having greater influence over areas such as the networks of services provided, ticketing and integration with rail services. It also sees a greater role for Transport for Wales, which is now responsible for rail services in Wales.

- 2.5 This raises two issues:

- (i) short term survival of operators and
- (ii) longer term reform of the sector.

WG believes that these two can be linked. In the short term, the funding being provided to keep operators afloat is therefore being provided with a number of conditions attached. These are to incentivise operators to engage in planned changes, that are in line with their longer-term ambitions for reform.

- 2.6 The Minister for Economy and Transport and North Wales, Ken Skates MS, has met with Leaders of all 22 LAs, along with his officials, to outline Welsh Government's direction of travel. Further details have been included in the Wales Transport Strategy (WTS), which has been the subject of consultation. More recently, the Deputy Minister, Lee Waters MS, met with all Leaders to discuss the WTS but also to encourage LAs to sign up to the Bus Emergency Scheme 2 (BES2). This is the latest phase of financial support to help operators through the period of the pandemic. More details on BES 2 are set out below.

- 2.7 Leaders have agreed to establish a WLGA Bus Member Group, with a focus on the longer-term proposals to reform the sector's operations. That group includes the WLGA Leader (who is also the WLGA's Transport Spokesperson), the deputy Transport Spokesperson, the chairs of the four regional transport bodies and the co-chairs of the WLGA Rural Forum. The Member Group is due to meet with Lee Waters on 18th January 2021.

3. Background

- 3.1 The problems facing operators were recognised at an early stage of the pandemic. Looking ahead, to secure their services for the future, local authorities agreed to continue making payments for contracted services even though many services were initially suspended.
- 3.2 Alongside this, WG stepped in to help operators deal with reduced income on commercially operated routes and the additional costs being incurred. Initially, WG made £29m available from a Hardship Fund, which operated from April 2020 for three months. This Fund was assembled from monies that would otherwise have been paid via Bus Services Support Grant (BSSG), Mandatory Concessionary Fare reimbursement and the 'My Travel Pass' scheme.
- 3.3 The Bus Emergency Scheme was then introduced in July to provide ongoing support. This became known as 'BES 1' and it continued to maintain operators' income at historic levels, based on what was being paid to them under previous grant schemes. In return for this financial support Welsh Government signalled that it expected operators to contribute to a reshaping of bus services in Wales – to include improved regional networks with greater integration with rail services, smart ticketing and timetabling.
- 3.4 'BES 1.5' was introduced in August, administered by the lead Authorities, through whom BSSG had been paid since 2013. The lead authority acts as a conduit for BSSG funding from Welsh Government to operators. Currently Swansea is the Lead Authority for South West Wales. Within each Local Authority, transport staff play an important role liaising with operators on a range of issues to meet local Members' requirements. The roles include administration of Concessionary Fares reimbursement and provision of support for contracted journeys on non-profitable routes.
- 3.5 BES 1.5 provided £10m of so-called 'ramp up funding' to support the reopening of schools and economic activity. This funding helped to cover the cost of reinstating services suspended when travel restrictions associated with the pandemic were introduced and which were needed to meet increasing demand, given capacity constraints of social distancing. BES 1.5 was then extended to the end of March 2021 following the announcement of a further support package in September 2020. Operators were once again asked to sign up to a range of terms and conditions to access the BES funding. Overall, an additional £45m

has been provided by WG to support the bus sector this financial year including the £10m ramp up funding and an extra £35m from September to the end of the year.

- 3.6 WG working with Transport for Wales (TfW), are now proposing to enter into a longer-term BES 2 agreement with operators and local authorities to protect services. It will operate for an initial maximum term of up to 2 years from the date BES 1.5 commenced (i.e. up until 31 July 2022, unless market conditions recover sufficiently for an operator to no longer require BES support for any of its services whether they be contracted or commercial.

4. Key Features of BES2

- 4.1 BES 2 will continue to address the loss of fare box revenue and the additional costs associated with responding to the pandemic. Under BES 2 the WG funding will sit alongside local authority funding (provided through the Concessionary Travel Scheme and via Revenue Support Grant) and the Bus Services Support Grant to make up the shortfall. Welsh Government will be a co-signatory to the BES 2 agreement with bus operators, along with Transport for Wales. The Agreement is under discussion between Welsh Government, operators, Transport for Wales as well as local authorities, and must be approved by all parties. It may therefore be subject to some changes before it is finalised.
- 4.2 Local authorities retain legal responsibilities for bus services and therefore remain central to determining which local services receive this support. They need to sign up to the principle of the agreement and the relationship with their Lead Authority, in ensuring that the ongoing emergency funding meets their priorities and is delivered on their behalf. This will provide the legal basis for WG to make payments to the operators. In this way, WG can use its powers to support operators, whereas the additional funding would breach local authorities' de minimis limits for direct award contracts. Further details are provided in the briefing notes in Appendix 1, Appendix 3 and the full proposed Agreement in Appendix 2.
- 4.3 Local Authorities will remain responsible for those services which they currently contract directly with bus operators. Local Authorities will need to consider planning for contingencies, such as if the BES2 agreement is not signed or the level of funding for BES2 is reduced during the period of the agreement.
- 4.4 Key features of BES 2 will be as follows:
- Maximum term until 31st July 2022 or until operators enter into an embedded partnership agreement
 - development and delivery of a Reference Network, intended to provide a range of benefits to communities; multi-operator ticketing; and operator sign-up to an Economic Contract at the heart of WG's

Economic Action Plan (and its principles of fair work, health, decarbonisation, skills and learning etc)

- long term co-operation and co-ordination across TfW, LAs and operators by entering into partnerships with a clear set of obligations and shared standards
- one agreement per operator in each of the regions that they work in, signed by Welsh Government, TfW, a lead authority and the operator
- operators will be allowed to make a (capped) profit on services that has not been possible under emergency funding to date.

5. Beyond BES 2

- 5.1 Discussions are starting to take place in relation to the planning of future networks and the respective roles of WG, TfW, LAs and operators. The reference network will need to be designed and agreed collectively by WG, TfW and LAs and discussed with operators. An All-Wales Bus Network officer group has been established to progress the thinking around this. It is important to note that these are not the prime focus of the BES2 agreement. It will be vitally important for further detailed discussions to take place with Members on these matters. However, this is not a reason to delay the signing of the BES 2 agreement. WG believes that the BES2 offer will help to engage operators in the discussions about the future at a time when their income is more dependent than ever on public sector support. In signing up to BES 2, though, LAs are agreeing to financial support being provided to the sector. They are not committing themselves to any specific, future model of bus service management as that will be the subject of further debate.

6. Equality and Engagement Implications

- 6.1 The Council is subject to the Public Sector Equality Duty (Wales) and must, in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.

Our Equality Impact Assessment process ensures that we have paid due regard to the above.

- 6.2 An Equality Impact Assessment Screening Form was completed, with the outcome that a full Equality Impact Assessment Report is not required. The BES 2 arrangements will replace existing grant funding provision by WG and will ensure continued support for bus services across the S W Wales region.

7. Financial Implications

- 7.1 WG are currently setting their budgets for 21/22 and have therefore not confirmed the quantum of funding available for BES 2 support.
- 7.2 At present BSSG funding is paid to Swansea as the lead authority for the Region and is distributed between the 4 local authorities to subsidise bus and community transport services in their area, and also to make payments directly to bus operators for mileage that they operate in the region. Each Council also receives funding from WG to reimburse operators for carrying concessionary bus pass holders free of charge in their area. Both of these funding streams will continue alongside the BES2 arrangement.
- 7.3 The Council will remain responsible for those services which it currently contracts directly with bus operators. WG has indicated that local authorities will need to consider planning for contingencies, such as if the BES2 agreement is not signed by a bus operator or the level of funding for BES2 is reduced during the period of the agreement

8. Legal Implications

- 8.1 In the event that the template agreement at Appendix 2 is varied by the Welsh Government, it is proposed that authority be delegated to the Director of Place together with the Cabinet Member for Environment Enhancement & Infrastructure Management in conjunction with the Chief Legal Officer, to agree any amendments necessary to the draft agreement. It is also proposed that the Chief Legal Officer be authorised to enter into the agreement on behalf of the Council as regional lead authority.
- 8.2 It is also proposed that authority be delegated to the Chief Legal Officer to enter into any ancillary documentation necessary to deliver the scheme including any inter authority agreements with other councils in the region or with any participating operators.

Background Papers: EIA Screening Form

Appendices:

- Appendix 1 Bus Emergency Scheme Phase 2 (BES2) – Briefing Note for Local Authorities
- Appendix 2 Agreement relating to Bus Emergency Scheme 2
- Appendix 3 Bus Emergency Scheme Phase 2 (BES2) – Local Authority Legal Briefing