

**Forward Plan reference number: FP/063/05/21**

<b>Report title:</b> Bus Back Better: Proposed Enhanced Bus Partnership for Essex	
<b>Report to:</b> Cabinet	
<b>Report author:</b> Councillor Lee Scott, Cabinet Member for Highways Maintenance and Sustainable Transport	
<b>Date:</b> 22 June 2021	<b>For:</b> Decision
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<b>County Divisions affected:</b> All Essex	

## 1. Purpose of Report

- 1.1 Bus Back Better, the Government's national bus strategy, was published on 15 March 2021. It makes it clear that better bus services are seen as a key part of the Government's 'levelling up' agenda by improving public transport outside London. The Council has a key part to play in improving sustainable transport which will improve the environment, reduce congestion and improve our residents' lives.
- 1.2 Amongst other things the strategy asks local transport authorities to commit either to setting up 'enhanced quality bus partnerships' or adopt bus franchising and to make a statement to that effect.
- 1.3 This report asks the Cabinet to agree that ECC should formally issue a statement of intention to set up enhanced quality bus partnerships.

## 2. Recommendations

- 2.1 Agree that the Council will progress the development of an Enhanced Partnership Plan for the whole of the administrative county of Essex with the intention of delivering an Enhanced Partnership Plan and one or more Enhanced Partnership Schemes as soon as possible, and if possible, by April 2022.
- 2.2 Note that the Cabinet Member will take decisions relating to:
  - the final number of schemes,
  - the draft issued to give operators the chance to object
  - the consideration of objections from operators; and
  - the final consultation draft.
- 2.3 Note that as there are likely to be additional resources required in order to issue a Bus Service Improvement Plan (BSIP) by 31 October 2021, a further decision

relating to the resource requirements may be required once the detailed requirements have been developed.

- 2.4 Note that the Cabinet will take the final decision on adopting the Enhanced Partnership plan and scheme(s) and on the adoption of the Bus Service Improvement Plan.

### **3. Summary of issue**

- 3.1 Essex County Council is the local transport authority (LTA) for Essex. This makes it responsible for delivering concessionary fares and for addressing market failure by commissioning bus routes. Bus services have been seriously affected by the pandemic and have received significant public funding to maintain the financial position of operators.
- 3.2 Supporting people to transfer journeys that can be made by bus from car to bus is one of the key opportunities to quickly address carbon emissions from the transport sector. It's a direct way for individuals to help reduce the impact of climate change, as well as supporting better air quality, their communities, better urban spaces, the local economy and local jobs and reducing congestion. Supporting growth in the bus sector is one of the priorities identified by the Essex Climate Action Commission. Good bus networks also support the renewal of the local economy, jobs, the environment and communities by enabling people to access a wide range of services. They also support equality, as they disproportionately support the travel of those on lower incomes, women, older and younger people and people with a disability. This includes supporting access to jobs, education, training, healthcare and leisure.
- 3.3 'Bus Back Better', the Government's national bus strategy, was published on 15 March 2021. It sets out a bold and ambitious vision for the UK's bus network and places significant expectations on LTAs. These include:
- a request that by 30 June 2021 each LTA issues a statement of intent to pursue one of two statutory routes provided to enhance the delivery of local bus networks
    - An Enhanced Partnership (EP); or
    - Network Franchising.
  - a request to issue a Bus Service Improvement Plan (BSIP) by 31 October 2021 setting out the Council's vision and timeframes for developing the local bus network in its area.
  - the request to publish an Enhanced Partnership Plan and at least one Enhanced Partnership scheme by April 2022. Even if a franchise approach is adopted, an EP is still required as a first step.
- 3.4 The document states that failure to commit to one of the approaches will leave the authority ineligible for further bus specific funding from DfT; including, from April 2022, the remaining part of the £3bn announced in the strategy and

funding it already receives, such as Covid Bus Service Support Grant Restart and potentially other funding received which supports contracted bus services.

3.5 The National Bus Strategy also indicates that a council's performance in developing its strategy for improving bus services in its area will be taken into account by the Department for Transport in considering applications for all other transport funding. The Bus Service Improvement Plan (BSIP) will set out the Council's assessment of the current state of its bus network; the opportunities; and risks; and also set out its vision for the future and the strategy for delivery. The BSIP will be subject to a further Cabinet decision in the autumn.

3.6 Buses are a key element in achieving a range of ECC's priorities including:

- Helping deliver economic recovery from the Covid pandemic
- Achieving Zero Carbon Emissions
- Attracting inward investment from businesses
- Reducing congestion
- Improving air quality
- Allowing Essex residents to access a whole range of services from school, training and work to health, leisure and shopping
- Promoting social inclusion - bus passengers are disproportionately from more vulnerable groups, such as older people, younger people, women, those on lower incomes and those with disabilities.

3.7 Therefore, measures to support the bus network also help deliver the following Strategic Priorities:

- Help people in Essex prosper by increasing their skills
- Enable Essex to attract and grow large firms in high growth industries
- Target economic development to areas of opportunity
- Help keep vulnerable children safer and enable them to fulfil their potential
- Enable more vulnerable adults to live independent of social care
- Improve the health of people in Essex
- Help to secure stronger, safer and more neighbourly communities
- Help to secure sustainable development and protect the environment
- Facilitate growing communities and new homes
- Limit cost and drive growth in revenue
- Re-imagine how residents' needs can be met in a digital world

3.8 The two options for Essex County Council are an Enhanced Partnership or Franchising.

3.9 An **Enhanced Partnership (EP)** is a legally binding partnership between a Council and operators in an area. Both parties commit to certain measures to improve services. The partnership comprises:

- **An EP plan** - which is a high-level vision and objectives for bus services in the local area; and

- **One of more EP schemes** - which set out the detail of how the vision and objectives will be achieved, including any commitments made by the local authority or standards to be met by bus operators
- 3.10 An EP scheme must put obligations on bus operators to improve their services. There are five main types of obligation:
- the vehicles used to operate bus services, including their appearance (livery)
  - providing information about bus services to the public and the publicising of local services;
  - harmonising the dates on which timetables may be changed; and
  - tickets - including:
    - how tickets can be purchased and fares paid;
    - how entitlement to travel can be evidenced by passengers;
    - the publicising of fares or ticketing arrangements;
    - the appearance of tickets;
    - the price of multi-operator tickets;
    - standardised ticketing zones, ticket lengths, or concession eligibility; and
  - arrangements that facilitate the operation of the scheme.
- 3.11 The creation of an EP requires a long and complex statutory process to be followed, involving discussion and consultation as well as an objection period. The Council and all bus operators in the area are then bound into the scheme (even if a minority of bus operators opposed the EP they are still included in its provisions). Advice from the monitoring officer about deliverability by April 2022 is set out in the legal implications.
- 3.12 The advantages of an enhanced partnership are that it can articulate a clear set of commitments for both the Council and operators which passengers can see. The level and type of commitment involved are agreed between the parties as part of the negotiation process and a decision by the County Council at this time to pursue an EP route does not commit it to any particular set of measures or level of expenditure.
- 3.13 A binding partnership of this type also gives both parties confidence that the partnership will be delivered and that investments made by one will not be undermined by the failure of the other parties to proceed. As it does not involve significant change to the underlying commercial operating model it can therefore be done relatively quickly. However, because it is a partnership there may need to be some compromise from each side's ideal position to reach agreement.
- 3.14 An ambitious EP is likely to take longer to put in place than a less ambitious one. Once an EP is in place, we can work with operators in local areas to build more ambitious proposals tailored to local areas.
- 3.15 **Franchising** involves the Council taking control of the management and high-level delivery of the local bus network in a designated area, similar to how Transport for London controls bus services in London.

- 3.16 The Council would plan routes and timetables and then procure services. Operators have a limited range of statutory objections that they can raise to the process. This is a completely different operating model to the one that currently operates in Essex, where the commercial operators decide in the first instance which routes to operate. ECC's role is to commission services to fill any gaps in provision not provided by the market.
- 3.17 The Franchising process is lengthy and requires significant investment by the Council – both the upfront costs of establishing a franchise and then through the ongoing strategic, customer and contract management plus operational oversight for what would be in effect a major business operation. A Franchise system would allow all fare revenue to accrue to the Council, meaning that profitable high use routes, such as commuter routes, could be used to cross subsidise un-commercial routes with lower usage, for example in rural areas. However, this would leave the full revenue risk falling on the taxpayer and it can potentially mean lower investment in higher usage routes because of the element of cross subsidy. As the Council would have full control of the network, major decisions (such as on routes, frequencies and fares) would be made by elected representatives who would be publicly accountable for them.
- 3.18 ECC will continue to engage with operators and wider stakeholders throughout the process, including businesses and District councils. This also includes working closely through Transport East and with neighbouring transport authorities to ensure measures are co-ordinated and do not disproportionately impact cross-border services. Early engagement is focused on which, if any, statutory route should be pursued. Operators are asked to indicate their preference. Four engagement sessions have been held with operators, community transport schemes bus user groups and a further session was held with business representatives. All eight of the operators who expressed a view on the options have indicated they would prefer an enhanced partnership approach. The other stakeholders raised no objections to the proposed option and welcomed the opportunity to become informed.

#### **4. Options**

- 4.1 **Option 1: Do Nothing (not recommended):** this option would mean Essex chose to pursue neither an Enhanced Partnership nor Franchising. It could well result in the County Council being unable to access Central Government funding for bus services, including some funding it already receives such as the Covid Bus Service Support Grant Restart and the replacement Bus Services Operators Grant. It would also mean operators were potentially excluded from funding such as the Green Bus Bids and Essex County Council bids for other transport funding could be detrimentally impacted. While Essex would be able to continue its ongoing support for the bus network, it would mean that there would be no opportunity to deliver a step change in provision or develop proposals for new funding streams in line with our climate change and levelling up goals.

- 4.2 **Option 2: Commit to an Enhanced Partnership for Essex (recommended):** Enhanced Partnerships (EPs) offer a way for Essex County Council and bus operators to work formally together to identify and commit to a package of measures that can deliver significant improvements to the bus network. They also offer an opportunity to identify projects which are suitable for future funding bids from central government which are expected to be made available as part of the implementation of the strategy. In addition, it secures operator access to ongoing funding such as Covid Bus Service Support Grant and ensures that Essex County Council bids for other transport funding will not be detrimentally impacted. As such an EP avoids the disbenefits of Option 1 and the significantly higher costs and risks associated with Option 3, while retaining flexibility over the level of commitment, which can be shaped in the light of available resources. This is therefore the recommended option.
- 4.3 As part of this ECC need to decide how many schemes to make. Given the speed at which the process needs to move it is likely that a relatively straight forward county wide scheme will be the most achievable, but this will need to be kept under review as the work develops.
- 4.4 In the longer term more local, schemes can be made. Examples of the kinds of improvements can be achieved in the longer term include bus priority measures, ticketing arrangements, information and vehicle standards and new services.
- 4.5 **Option 3: Commit to franchising for Essex (not recommended):** The bus strategy makes clear that only Councils that have already commenced the franchising process can commit to this route. Councils which have yet to commence a franchising route must complete an Enhanced Partnership first. As noted above this option entails significantly higher level of investment, operational responsibility and risk than an EP approach. Therefore, although this option is available in principle, there is insufficient time to progress franchising in Essex, meaning that a commitment to franchising alone would not be sufficient to meet the expectations of the national strategy. There has been insufficient time to work up proposals for franchising as a long-term ambition. It is not therefore recommended that the Council explores franchising further at this time. The Council will need to monitor the position nationally on franchising and this may be something that can be considered in future.

## **5. Links to Essex Vision**

5.1 This report links to the following aims in the Essex Vision

- Enjoy life into old age
- Provide an equal foundation for every child
- Strengthen communities through participation
- Develop our County sustainably
- Connect us to each other and the world
- Share prosperity with everyone

5.2 This links to the following strategic aims in the Organisational Plan:

- Enable inclusive economic growth
- Help people get the best start and age well
- Help create great places to grow up, live and work

## 6. Issues for consideration

### 6.1 Financial implications

6.1.1 The table below summarises expenditure and funding that has been received for local bus services over the past 3 years alongside the current Medium Term Resource Strategy (MTRS) period with expected (but not confirmed beyond 2021/22) funding. The second table summarises grant funding received from DfT for passenger transport over the same period:

	Actuals			Budget (MTRS)		
	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
	£'000	£'000	£'000	£'000	£'000	£'000
Bus Fare income (incl. concessionary fares pot allocation to local bus)	(1,180)	(1,043)	(760)	(664)	(664)	(664)
Bus Service Operators Grant (local bus element)	(1,121)	(1,121)	(1,121)	(1,121)	(1,121)	(1,121)
CBSSG Grant (local bus element)	0	0	(291)	0	0	0
Expenditure	10,389	10,482	11,321	10,899	10,907	10,907
<b>Net Expenditure</b>	<b>8,089</b>	<b>8,319</b>	<b>9,149</b>	<b>9,114</b>	<b>9,122</b>	<b>9,122</b>

Passenger Transport grants	Allocation				Assumed	
	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
	£000	£000	£000	£000	£000	£000
Bus Service Operators Grant	1,186	1,186	1,186	1,186	1,186	1,186
COVID Bus Services Support Grant *	0	0	2,706	TBC	0	0
Supported Bus Service Grant	0	0	965	0	0	0
Transport Demand Management	0	0	225	0	0	0
Rural Mobility Fund	0	0	2,575	0	0	0
Cleaner Bus Grant	1,460	0	0	0	0	0

\* Full year estimate of grant to be received. Not all retained by ECC, a share is allocated to operators for shortfalls in passenger income due to COVID.

6.1.2 Local bus funding by ECC is discretionary. The annual expenditure detailed above reflects ECC's existing policy to support rural and other bus routes that would not otherwise be commercially viable. The DfT's Bus Back Better strategy requires the Bus Service Improvement Plan to be published in October 2021 to contain a commitment from the local transport authority as to how bus service improvements will be delivered including proposed investment plans.

- 6.1.3 There are a number of other, competitive project specific central Government grants that have been secured by ECC and are not at risk. However, for context in terms of materiality and example, these grants include but are not limited to;
- all major schemes
  - levelling up funding
  - growth funding (such as transport elements included within HIF funding)
  - cycle and road network improvements
  - transport related funding from LEPs
- Future funding allocations for wider non-bus related transport schemes such as these may be put at significant risk if ECC does not meet the performance expected by DfT with respect to the policies set out in the Strategy and for which ECC sets out the delivery plan for in its BSIP.
- 6.1.4 A total of £300m has been made available nationally in 2021/22 by DfT to support the bus sector to recover from the pandemic, with a specific £25m allocated for the development of partnership and franchising work. ECC has received a revenue grant of £100,000 to date for the purpose of developing local bus proposals as outlined in the National Bus Strategy. There is a possibility that ECC may benefit from further funding released to support development of the strategic approach, but this has not yet been confirmed by DfT and is dependent on this decision to pursue franchising or an enhanced partnership. This funding would be expected to be returned to the DfT should ECC not apply it to undertake the work as outlined.
- 6.1.5 The national strategy outlines a total of £3bn funding available to support it. The funding is discretionary with imminent implications for funding loss and withdrawal for Council's who do not provide a commitment by the end of June to entering into Enhanced Partnerships or have started the statutory process of franchising services.
- 6.1.6 From 1 July 2021, the COVID Bus Services Support Grant (CBSSG) will only be made available to Councils making the above commitment. For 2020/21, a total of £2.71m is expected to be received from DfT relating to CBSSG. Of this, an expected £1.49m will be retained in relation to ECC operated local bus and park and ride services. There is a commitment from the DfT to continue CBSSG funding as long as is necessary to support operators financially through the pandemic. Any new sources of bus funding from the £3bn announcement are also deemed to be discretionary and accessible only if a commitment to Enhanced Partnerships is entered into by the Council.
- 6.1.7 The Bus Services Operators Grant (BSOG) will be reformed following consultation and as part of the English Devolution and Local Recovery white paper due to be issued in the near future, the reformed BSOG will be devolved to Councils who seek it. It is unclear what impact that will have on the quantum of grant funding ECC may receive in the future.
- 6.1.8 From 1 April 2022, actual delivery of Enhanced Partnerships are expected and the national strategy further underlines that;



- Discretionary forms of bus funding from this date are accessible only by services operated or measures taken under an Enhanced Partnership or franchising scheme.
- Only services operated under this statutory arrangement will be eligible for the reformed BSOG (currently £1.186m per annum is received by ECC).
- Council's performance with respect to policies set out in the strategy will also be taken into account when considering funding allocations for wider, non-bus local transport schemes. This may include schemes such as pothole funding and local road widening schemes amongst others. Detail of previously received grant funding is set out in the table above and could be at risk should the strategy not be pursued.

6.1.9 Future discretionary funding arising from the £3bn announcement will be available competitively and based on performance evaluation against the strategy and the Council's published Bus Services Improvement Plan. Additionally, the BSIP will influence the share of transformation funding that each Council will receive. This funding is not limited to buses alone. The performance of local authorities with respect to policies set out within the plan will be taken into account when considering funding allocations for wider, non-bus local transport schemes putting it at risk should ECC not pursue the development of EPs or a franchising model.

### **Mobilisation and development phase**

6.1.10 By taking a decision to pursue Enhanced Partnerships, revenue costs will start to be incurred in 2021/22 in order to mobilise the development of the BSIP document and the development and negotiation of Enhanced Partnership agreements. At the present time, the scope of works is not established and as such, resourcing requirements not set out in detail, but these can be expected to include resourcing requirement for service operoperancy, project management, finance, legal, procurement, communications, IT and HR. Expenditure is expected to align with key deliverables within the Better Bus Back strategy such as the deadline in October 2021 for the publishing of the BSIP and subsequent deadline of 1 April 2022 for EP's to be agreed and in place. £100,000 grant funding currently received from DfT may be used towards this requirement, but any remaining shortfall is currently unfunded within the MTRS, therefore it is likely that a Cabinet Member decision will be required in the next few months to seek additional funding in this respect.

6.1.11 Financial and commercial insight will be actively sought from other Local Authorities to help inform mobilisation and assist in identifying the most appropriate operating model for ECC to take forward within the strategy.

6.1.12 Financial analysis and due diligence will be undertaken during the mobilisation phase to accurately map out the existing state to include financial stakeholders and relevant cashflows into and out of ECC, detailed financial costings will be developed for all phases of the project to include the initial mobilisation phase, implementation and a future forecast of costs and revenue flows post implementation as far as is possible. The aspiration of ECC that it

becomes a net zero emissions county by 2050 will be integrated into the planning and costings.

6.1.13 Cross council collaboration will be required and is key in successfully achieving the aims of the strategy within the timeframe and optimising activity to produce the best result possible. Collaboration between Councils is also specifically noted and encouraged by the strategy whereby joint plans and partnerships should be developed if beneficial to overlapping local economies and travel to work areas.

6.1.14 The strategy states that there will be a 6 monthly reporting requirement placed upon the Authority to evaluate performance against the BSIP and strategy. The BSIP also requires a formal annual review and to be reflected in ECC's Local Transport Plan. These requirements will ultimately impact upon funding decisions and will require investment to ensure that robust management information and key performance indicator data can be produced and tracked accurately and effectively. Performance evaluators include (but are not limited to);

- Journey time targets and reliability improvements
- Air quality and carbon reduction targets
- Road network pressure targets
- Passenger growth
- Customer satisfaction

6.1.15 On the 17 May, the DfT issued further guidance to assist with preparing a Bus Service Improvement Plan and have previously indicated that existing guidance on Enhanced Partnerships and franchising will also be updated. Within this BSIP guidance, DfT have deferred the provision of information on how future funding will be allocated and assessment to the summer. But at a high level it suggests that two tranches of funding will be made available, one allocated by formula to all local authorities based on the overall quality of their BSIP, together with other relevant information; and a separate tranche of funding for specific larger schemes. In assessing the overall quality of BSIPs, the Government will give particular weight to measures which support local bus markets as they emerge from the pandemic, for example bus priority and targeted fares reductions. It was hoped that clarity around financial commitment and investment would be given along with more detailed guidance on reporting requirements that will be placed on the authority and how these will be assessed. Without such clarity, the extent of financial commitment required from ECC both during mobilisation and implementation is unable to be quantified. We await further guidance to be issued in the summer.

### **Investment**

6.1.16 There are a number of strategic aims stated by DfT that potentially place a significant revenue and capital burden on operators and/or ECC in future years if funding cannot be secured from DfT and projects are still considered a priority,

- Public subsidy to support operator and whole system financial viability of an enhanced provision at lower cost with a commitment to making buses more frequent, expanding existing routes, supporting the system until patronage increases sufficiently to make the system profitable to operate and financially self-sustaining.
- Turn up and go services on major urban routes where passengers do not require a timetable
- Demand responsive vehicles in low-density and low-demand areas – every village every town aspiration set out in the strategy
- New Council traffic regulation enforcement powers
- Ambitious bus priority schemes planned to compliment walking and cycling routes, with swift implementation in areas of high traffic stress
- Lowering of fares and price capping
- Journey planning websites and apps
- Real time information at bus stops
- Socially necessary provision to be expanded into economically necessary which will impact level of public subsidy requirement over what is currently provided for in the MTRS
- Branding, promotion and marketing
- Enhanced accessibility and security i.e. CCTV
- Modernisation of fleet to a high specification and greener, zero emission buses which will help drive cost out of the provision and ultimately contribute towards lower public subsidy. An expectation that Councils may play a role in the funding and financing arrangements for this investment alongside DfT and operators.
- Integration of buses with other modes of transport, rapid transit systems.

6.1.17 Significant investment may be required to fulfil these strategic requirements in future years subject to the gap between existing provision and meeting the aspiration of the national strategy and the availability of central Government funding. The current capital programme does not explicitly include funding for many of these investments. Many of these requirements will need capital investment which may subsequently lead to a revenue cost of borrowing burden on ECC in the future unless existing commitments are re-prioritised.

6.1.18 There may be the opportunity to direct some existing line items within the current aspirational capital programme to directly address some of the requirements that DfT have set out. There will also be a requirement for a detailed gap analysis of the Essex market to determine the extent to which investment in each of the areas is needed.

6.1.19 The strategy states an explicit requirement that the BSIP published in October 2021 must set out how the objectives in the strategy will be achieved including growing bus use and setting out a detailed plan for delivery. Specifically referenced is the requirement to detail investment plans for both the Council and the operators and financial support that the Council is providing for subsidised bus services (to include number of routes and route mileage supported). These requirements may create additional financial commitments that will need to be determined and reflected in future years' medium term resource strategy (MTRS) if approved.

6.1.20 The Better Bus Back strategy references aims that could have a direct impact on the whole system by which buses are managed and sustained. Achieving a step change in the national bus network to deliver holistic bus services that are of low cost to the passenger, with expanded geographical coverage, increased bus frequency, with high quality and accessible buses which unlocks modal shift from cars represents a significant challenge and is likely to require significant resource over a long period to achieve.

## **6.2 Legal implications**

6.2.1 An Enhanced Partnership consists of a Plan and one or more schemes. It is given statutory force by the Transport Act 2000. Before it can be put in place there is a lengthy and complex multi-stage process to be followed as set out below and the Council may not proceed unless it is satisfied that:

- (1) the scheme will contribute to the implementation of—
  - (a) the policies set out in the related enhanced partnership plan, and
  - (b) their local transport policies.
  
- (2) the scheme will—
  - (a) bring benefits to persons using local services in the whole or any part of the area to which the scheme relates by improving the quality or effectiveness of those services, or
  - (b) reduce or limit traffic congestion, noise or air pollution.

6.2.2 The current statutory guidance says:

*Before any formal processes are embarked upon, the authority and operators that run services in the geographical area that it is being considered for an EP should hold informal discussions on whether an EP is viable in this area*

*We would also expect the authority and operators to seek informal views from a wider set of stakeholders at this informal stage – such as passenger groups, community transport operators and representatives of local businesses.*

6.2.3 Initial meetings have been held with bus operators, Community Transport schemes, bus user groups, business groups and officers. Officers report that the eight bus operators who have expressed a view are positive about the proposals and that other consultees raised no objections.

6.2.4 Following publication of the notice of intention there need to be discussions with operators and a plan and scheme produced and agreed by Councillors. Given the tight time frame it will be crucial that councillors are involved in the negotiations, otherwise there is a risk that things may be included that Councillors do not support.

6.2.5 Once a draft has been agreed it has to be sent to all operators, giving a period of at least 28 days for operators to object. The scheme has to be abandoned at this point if there is enough objection from operators – there are detailed legal

rules about what the level of objection counts as sufficient to block the scheme from proceeding.

6.2.6 The objections are then published. Objections then have to be considered and if possible resolved.

6.2.7 Assuming there are insufficient objections the scheme can then be approved by the Cabinet or the Cabinet Member for formal consultation. This is likely to need a significant scale public consultation.

6.2.8 At the conclusion of the public consultation all comments must be 'analysed thoroughly' and 'changes made to the proposals where necessary' (statutory guidance). The DfT are clear that sufficient time must be allowed for this.

6.2.9 Once the consultation responses have been analysed there should be discussions with operators and then the Cabinet can decide to make the scheme. If there are significant changes to the scheme then the Council must re-run the objection period with operators.

6.2.10 Notice must be given once the plan and scheme have been made. The scheme and plan can then come into force. It should be noted that if the scheme requires changes to bus services then we will have to allow 56 days for the appropriate legal formalities with the Traffic Commissioner to take effect.

6.2.11 During the process there will be a significant need for legal advice. Many proposals may have an impact on competition between operators and this will need to be carefully considered and assessed, as well as the requirement to undertake a detailed assessment of the impact on smaller operators.

6.2.12 It will be seen that this is a very long and complex consultation, involving three further decisions by the Cabinet or the Cabinet Member and three rounds of consultation/negotiation/discussion with operators. It will be extremely challenging, to say the least, to get anything in place for April 2022. Many other authorities will be in this place. The more ambitious the plans the longer it is likely to take to put them in place. The Council may therefore choose to focus initially on one scheme covering part of the county rather than spreading resources across the County

6.2.13 The Council has told the Department for Transport of its concerns and it is considering whether or not to issue further guidance including on the timescales.

## **7. Equality and Diversity implications**

7.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

7.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic. The bus network is disproportionately used by those with a protected characteristic in terms of age, disability and gender. Measures to improve the network will therefore be beneficial to these groups and individuals.

## **8. List of appendices**

Appendix A - Draft notice of Intent

Appendix B - EQIA

## **9. List of Background papers**

[The Bus Services Act 2017: enhanced partnerships \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

[Bus back better - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

## APPENDIX A - NOTICE OF INTENT

### Notice of Intent to Prepare an Enhanced Partnership Plan and Scheme

[Date]

Essex County Council hereby gives notice pursuant to section 138F (1)(a) of the Transport Act 2000 that it intends to prepare an Enhanced Partnership Plan to cover whole of its area and one or more Enhanced Partnership Schemes.

For further information please contact Helen Morris, Head of the Integrated Passenger Transport Unit [helen.morris@essex.gov.uk](mailto:helen.morris@essex.gov.uk)