

Committee: Regeneration Scrutiny

Date of meeting: **6th January 2021**

Report Subject: **Bus Emergency Scheme Phase 2 (BES2) Briefing**

Portfolio Holder: **Cllr David Davies, Executive Member for Regeneration**

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| Reporting Pathway | | | | | | | | |
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| Directorate Management Team | Corporate Leadership Team | Portfolio Holder / Chair | Audit Committee | Democratic Services Committee | Scrutiny Committee | Executive Committee | Council | Other (please state) |
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1. Purpose of the Report

1.1 This paper provides an overview on progress of the Bus Emergency Scheme (BES) Phase 2 to respond to the Covid-19 pandemic and to enter into longer term arrangements to make the bus services more sustainable across Wales.

2. Scope and Background

2.1 Journey to Date and Plans for BES2

Since the start of the COVID 19 pandemic Welsh Government, Local Authorities, TfW and operators have worked together to make bus services available to Welsh citizens in spite of the significant reduction in passenger numbers and associated fare income. Money is still being provided to operators on an emergency basis under the terms and conditions in the BES 1.5 agreement which expires at the end of March 2021.

2.2 With the BES2 agreement the public sector is planning to enter into longer term arrangements with operators, ideally by the end of January 2021, which will replace BES 1.5 when agreed.

What does BES2 Mean for Local Authorities?

2.3 Actively managing recovery from the impact of COVID-19 on local bus services

The BES2 agreement formalises Welsh Government's commitment to supporting recovery of bus services following the impact of COVID-19. BES2 funding will be used to address the loss of fare box revenue and the additional costs associated with responding to the COVID 19 pandemic. Welsh Government will be a co-signatory to the proposed BES2 agreement with bus operators

- 2.4 Under the terms of the BES2 agreement, operators will be required to provide bus services that meet local needs under the direction of the Lead Authority for each region, working with and on behalf of its constituent local authorities.
- 2.5 The end date for the BES2 contract is 31 July 2022. This should allow enough time for revenues to recover. The contract may be terminated earlier if market conditions mean that additional Government funding is no longer required to address the impact of COVID-19.
- 2.6 **Funding responsibilities**
The BES2 agreement exists to provide a legal basis for funding the costs associated with the impact of COVID 19. These include the loss of fare box, duplication of buses to take account of social distancing or providing alternative services where operators give them up and the services are still needed. This applies to services that were commercial pre-COVID and to tendered services.
- 2.7 The BES2 agreement does not change local authorities' ability to determine where and how they spend the Revenue Services Grant (RSG). The RSG funding is not hypothecated and most local authorities including Blaenau Gwent spend an element of this grant on local bus service provision to fill gaps in the commercial network and to match with the Bus Services Support Grant (BSSG) (roughly £8m across Wales) to secure the delivery of services to a specified standard.
- 2.8 The BES2 funding for COVID19 related costs sits alongside this local authority funding for local bus services and does not remove or amend local authority powers and responsibilities with regard to local bus services. The two funding streams serve different purposes and Blaenau Gwent will still need to prioritise and fund local bus services where we see fit.
- 2.9 Welsh Government have clarified that in terms of this BES 2 Funding:
- if a local authority chooses to cease to fund a supported contract, BES 2 funding cannot be applied to backfill that loss of funding
 - local authorities remain responsible for their existing contracts and may need to vary these contracts to scale back services if BES 2 funding were to cease before fare box takings return to pre-COVID levels, unless additional sources of funding are available.
- 2.10 **Directing the provision of services**
Working in a similar way to the way that the BSSG is currently regionally managed, with the Lead Authority in each region, local authorities will need to jointly prioritise the routes that BES 2 funding should be applied to, taking into account the work already undertaken under BES 1.5 and using these priorities for spend:
- supporting learners' journeys to school or college on registered local bus services;
 - increasing frequencies where demand exceeds capacity;
 - improving accessibility to jobs and services across our regions and communities;

- supporting economic recovery; and
 - ensuring social inclusion,
- 2.11 Under the terms of the BES2 contract, subject to the Lead Authority acting reasonably within the bounds of available funding, the bus operators will be required to provide services that meet local priorities as directed by the Lead Authority.
- 2.12 The BES2 arrangements include the collaborative development of regional Reference Networks by local authorities, operators, Welsh Government and TfW. The Reference Networks will reflect local, regional and national priorities and will help to guide investment in bus services for the future. BES2 ensures local authorities have an influence over the development of a coherent Reference Network which will ultimately be delivered by a mix of tendered and commercial services.
- 2.13 **Implications for local bus contracts**
The BES2 agreements do not supersede the existing supported contracts (e.g. section 63 contracts) that are in place between each local authority and bus operators. The BES2 agreements sit alongside existing contracts and provide a legal basis for the additional funding that operators are receiving in respect of their supported contracts to cover the loss of fare box and additional costs incurred, for example, with respect to complying with social distancing and cleaning requirements. The BES2 agreements also set out the basis on which operators will exit the BES arrangements and return to the original terms of contract.
- 2.14 The additional funding that is being paid to operators to address the impact of the COVID 19 pandemic would breach local authorities' de minimis limits for direct award contracts. Welsh Government is a signatory to the existing BES 1.5 agreement and to the proposed BES2 agreement in order to use its powers to support continued provision of the operators' services without breaching the de minimis cap. Welsh Government powers in this regard can be exercised for a two-year term and date from the start of the BES 1.5 agreement on 1 August 2020 to 31 July 2022.
- 2.15 BES can impact on local contract procurement. Where a local authority wishes to tender for a new or time expired supported contract the risks associated with predicting fare box revenue, during and immediately after the pandemic, will affect tender prices. In these circumstances, bidders will be required to offer a price that they will charge while BES funding is in place and alternative prices for when BES funding is no longer available, with their tenders covering both before and after the fare box has returned to pre-COVID levels.
- 2.16 **Regional Working**
BES2 supports the move to improve regional co-ordination and oversight of delivery of local bus services. Under BES1.5, the funding was distributed to the Lead Authority in each region. Each operator signed one agreement with the Lead Authority in each region where it operates, with Welsh Government and Transport for Wales as co-signatories. The Lead Authority is then responsible

for distributing the BES funding to the operators in its region. It is proposed that this model is retained for the BES 2 agreement. The responsibilities of each party will be clearly set out in the grant letter to the Lead Authority and in the BES 2 agreement, and measures are being taken to minimise the risk to the Lead Authority relating to funding and termination of the BES2 agreement.

2.17 Why move to BES2?

The benefit for operators is that they will be able to make a profit under the terms of BES2. No profit has been allowed in the emergency arrangements up to now.

2.18 The benefit for the public sector is that we can jointly better manage the recovery of bus services. The alternative is that, as recovery begins, operators will shrink their networks to the routes and services that are commercially viable for them leaving government to support an even larger subsidised network. The BES2 arrangements are seeking to ensure that operators are incentivised to support the recovery of the whole network and not just a limited number of commercial routes.

2.19 The public sector is taking fare box risk under BES2 and, as fare box levels rise, this revenue will augment the funding available to work with operators to support the recovery of services. This will benefit us all in the long term by building passenger confidence in a reliable and comprehensive public transport network.

2.20 Although recovery from the impact of the COVID 19 on patronage is likely to be slow, we do not expect operators to stay within the BES2 arrangements forever. As passenger confidence returns and fare box recovers, we expect operators to exit the BES2 arrangements and work with us under partnership agreements. The partnership agreements will be based on agreed core set of principles and behaviours that will be developed with operators as part of the BES2 arrangements.

2.21 What results are we trying to achieve with BES2?

BES2 provides a mechanism for managing the recovery and reshaping of bus services to respond to the impact of the COVID 19 pandemic. Specifically:

- Address areas of high demand where social distancing has reduced available capacity
- Ensure that communities are not cut off due to low fare box revenues.
- Offer new options for meeting demand such as demand responsive transport which may be more cost effective as patterns of travel change.
- Offer better value for money for passengers by working with operators to rationalise their fare structures and develop multi operator ticketing, to the extent permitted by competition law.
- Build a better working relationship with operators to develop a robust and viable network of services for the future.
- Gain a better understanding of the costs of delivering bus services in Wales to inform future policy and funding decisions
- Reduce pollution by introducing measures to attract people out of their cars and onto public transport and by working with the industry to upgrade their fleet.

2.22 **What does BES2 mean for operators?**

Where an operator signs up to the BES arrangements (whether BES1, 1.5 or BES2), all the services that the operator runs – whether they are supported or formerly commercial – are included in the contract.

2.23 Each operator is expected to continue to operate routes that are largely similar to those which they operated pre-COVID, amended as necessary to respond to the crisis. This helps to maintain stability in the short term and provides a framework for decision making e.g. if an operator chooses not to run services that they used to run before COVID a decision can be made to let a tender for those services if they are still required.

2.24 Funding for the regional BES contracts will be a mix of existing sources and additional funding from Welsh Government, with operators being funded to cover all their allowable costs across all their services less their earnings from the fare box, concessionary fares, BSSG and YPT.

3. **Options for Recommendation**

Option 1: preferred option

3.1 For Blaenau Gwent to endorse the contents of the attached report and support the BES2 arrangements as part of a regional and Wales approach.

3.2 **Option 2: do nothing**

For BG not to support the BES2 arrangements

4. **Evidence of how does this topic supports the achievement of the Corporate Plan / Statutory Responsibilities / Blaenau Gwent Well-being Plan**

This project support the amendments made to the Outcome Statements within the Corporate Plan in its review in October 2019.

Corporate Plan 2020/22 Outcome Statements:

- Protect and enhance our environment and infrastructure to benefit our communities
- Support a fairer sustainable economy and community
- To enable people to maximise their independence, develop solutions and take an active role in their communities
- An ambitious and innovative council delivering the quality services we know matter to our communities

5. **Implications Against Option 1: preferred option**

5.1 ***Impact on Budget (short and long term impact)***

There is no impact on the funds currently used in Blaenau Gwent to subsidise Buses (BG RSG and Bus Support Grant) as this is additional funding from Welsh Government.

5.2 **Risk including Mitigating Actions**

5.2.1 **What risks exist with the proposed approach?**

Operators choose not to sign the BES2 agreements and instead shrink their networks to the minimum required and/or reduce the quality of their services to make a commercial return. *Mitigation – working with operators to address their concerns and ensure that all parties see this as a beneficial arrangement.*

5.2.2 The BES 2 arrangements breach competition, state aid or procurement law and are rendered invalid. *Mitigation – working with lawyers to ensure that the terms are compliant with the law.*

5.2.3 Operators challenge the local authority's ability to let new contracts on routes where the operator has registered a commercial service. *Mitigation – the standards that will be specified as part of BES2 provide an objective way to defend the local authority's right to let a supported contract where the service offered by the operator does not meet the specified standard. Legal advice and guidance will be provided to local authorities to support this statement.*

5.2.4 Additional funding from Welsh Government beyond the end of March 2021 is yet to be confirmed. *Mitigation – WG have committed additional funding from September 2020 to support local bus services and officials are working to secure further funding to support these key services beyond the 2020/21 budget horizon.*

5.2.5 Funding operators in this way is not cost effective and/or operators are not incentivised to be efficient. *Mitigation – use the data from operators to assess the cost effectiveness of the spend and shape contract terms to incentivise efficiency.*

5.3 **Legal**

Legal matters will be addressed by WG and our lead authority – Torfaen CBC.

5.4 **Human Resources**

There are no human resource issues as part of this initiative.

6. **Supporting Evidence**

6.1 **Performance Information and Data**

Performance will be monitored through Transport for Wales and lead authorities and fed back to BG.

6.2 **Expected outcome for the public**

We are expecting this to improve local bus services for the communities in BG.

6.3 **Involvement (consultation, engagement, participation)**

There has been limited consultation on the options due to time constraints and the emergency nature of the initiative.

6.4 ***Thinking for the Long term (forward planning)***

This scheme takes into account current and longer term needs and is planned in accordance with those on a regional basis.

6.5 ***Preventative focus***

The scheme is being undertaken to prevent bus services failing further due to the effects of the pandemic

6.6 ***Collaboration / partnership working***

We are working with our lead partner Torfaen CBC on this initiative.

6.7 ***Integration (across service areas)***

This initiative will be integrated across all those departments that currently use buses to deliver a service to BG communities.

6.8 ***EqlA(screening and identifying if full impact assessment is needed)***

Screening has been undertaken and no full assessment is required.

7. **Monitoring Arrangements**

Will be undertaken via our lead partner and TfW.

7.1 **Background Documents /Electronic Links**

- *Report to Cabinets on BES2*
- *BES2 Appendix letter*