

BY SUBMITTING THIS REPORT TO THE CABINET OFFICE, I, ANDREW GREGORY, DIRECTOR OF PLANNING, TRANSPORT AND ENVIRONMENT AM CONFIRMING THAT THE RELEVANT CABINET MEMBER(S) ARE BRIEFED ON THIS REPORT

**CARDIFF COUNCIL
CYNGOR CAERDYDD**

CABINET MEETING: 20 OCTOBER 2022

CARDIFF ELECTRIC BUS SCHEME

TRANSPORT & STRATEGIC PLANNING (COUNCILLOR DAN DE'ATH)

AGENDA ITEM:

Reason for this Report

1. To note that the Welsh Government has allocated £8m of grant funding to support the transition to electric bus on the Cardiff Network.
2. To seek delegated authority from Cabinet for the Director of Planning, Transport and Environment to prepare the scope and method of allocating Welsh Government grant funding to increase the use of electric buses serving Cardiff and to determine, approve and implement the Cardiff Electric Bus Scheme.

Background

3. Cardiff Council has been successful in supporting the transition of buses on the Cardiff network to becoming fully electric. Cardiff Bus were enabled to introduce 36 new electric buses into their fleet from January 2022. It was delivered through a collaboration between Cardiff Bus and Cardiff Council after a successful bid for funding from the Department for Transport's (DfT) Ultra-Low Emissions Bus (ULEB) Scheme that received funding of £5.7m.
4. Nonetheless, this support was a first step in this aspiration for a full conversation of the city-wide bus fleet. There are estimated to be approximately 250 buses operating local bus services in Cardiff.

5. In this context, grant funding has recently been made available by Welsh Government for the sum of up to £8m for Cardiff Council to increase the electric bus provision within (or primarily within) the Council area.
6. This new tranche of grant funding will require full consultation with bus operators. The consultation is planned to be completed by the end of October 2022. Responses to the consultation stage will be used to help shape the process to be adopted, which may take the form of a grant but has yet to be determined. The feedback will also be used to set criteria for any application process.
7. Furthermore, this approach is consistent with Welsh Government and Council policies of moving more quickly towards a zero-emission bus fleet by 2035. In 'Net Zero Wales', the Welsh Government aims to deliver the following targets to decarbonise the bus fleet:
 - The whole Traws Cymru bus fleet to be zero tailpipe emission by 2026.
 - The most polluting 50% of service buses to be replaced by a zero-tailpipe emission bus fleet by 2028; and
 - The remaining 50% of the service bus fleet to be zero emission by 2035.
8. More specifically, in response to the legal direction Cardiff Council received from Welsh Government- Environment Act1995 (feasibility study for Nitrogen Dioxide Compliance) Air Quality Direction 2018, it has been following a legal process to comply. As part of this process the Council submitted its "initial scoping proposals" in March 2018 and its Initial Plan, to Welsh Government in September 2018, as approved by Cabinet 15th November 2018. These proposals presented the results of the initial baseline assessment of the Clean Air Feasibility Study. Cabinet approved an Outline Business Case in March 2019, which set out the preferred option being a package of non-charging measures. It included the following proposals as part of the package of measures:
 - Implementation of Electric Buses;
 - Bus Retro Fitting Programme.
9. Consultation on the measures received overwhelming support (1,303 responses):
 - 96.8% support the proposal to replace the most polluting diesel buses with electric buses.
 - 90.4% support the proposal to retrofit other polluting buses so they are upgraded to meet the latest emission standards.
10. The Air Quality Feasibility Study Final Plan – Full Business Case and City Centre Transport Improvements was approved by Cabinet in June 2019.
11. In terms of Cardiff Council, the Transport White Paper is the central policy. The Transport Vision to 2030 was approved by Cabinet in January 2020. Ensuring that all buses in Cardiff are clean, green and efficient by shifting to electric buses and cleaner engines is a key priority of this 10-year plan.
12. Also, One Planet Cardiff Strategy approved by Cabinet in October 2020 includes the following key actions:
 1. Move to 100% low emission taxis and buses by 2027.

2. Work with local bus operators including Cardiff Bus and local taxi companies to facilitate the shift to low emission taxis and buses.
 3. Help deliver charging infrastructure across the city to ensure businesses have the confidence to make the shift in line with the most recent Electric Vehicle Strategy.
13. The Stronger Fairer Greener strategy published by the Council in July 2022 includes the following commitment:
- Continue to support both bus and taxi sectors to accelerate towards achieving 'Zero Tailpipe' emission fleets in advance of 2028.

Issues

14. The grant funding process for this new electric bus scheme is intended to follow a clear, structured and transparent approach that ensures all interested bus operators are treated equally and fairly, in a non-discriminatory manner, to achieve best value for money and encourage a positive competition market response.
15. Competition and procurement rules require that all bus operators be given the opportunity to apply for the funding to increase their use of electric buses in Cardiff. Consideration will also be given to funding the supporting infrastructure, but the key delivery metric will be the delivery of increased use of electric buses in Cardiff. The bus operators will also need to confirm what the lead times are for delivery allowing for payment of deposits and final acquisition costs by October 2023 in accordance with the Welsh Government grant letter.
16. The grant letter from the Welsh Government requires the Council to consult with these bus operators on approaches to implementing the scheme. The commitment to spend the funding needs to be made by the end of March 2023, with a view to ensuring buses are on the roads and in operation as soon as possible. To achieve this, delegated authority to the Director of Planning, Transport and Environment is needed to scope and implement the scheme.
17. Newport Council has received similar grant funding from the Welsh Government. Officers have been working closely with Newport on the joint approach for consulting and engaging with bus operators.
18. At this stage the Council has yet to determine how (whether by grant or other means) the funding would be used and or allocated. The consultation and engagement will seek the views of bus operators bearing in mind the various legislation which the Council has to comply with including subsidy control and competition law. The information received will be used to inform the development of the scheme. Any response received may be made public, as part of any decision-making process. Accordingly, the bus operators will be asked to specifically mark any part of their response which they request be treated as confidential and provide the reasons for doing so.
19. The timescale for delivery is as follows as agreed with the Welsh Government:
 - Consultation period with bus operators.

- Undertake legal and technical due diligence on proposed scheme – November 2022.
 - Funding application period – Jan 2023.
 - Assessment – February 2023.
 - Make grant awards and commitments to operators - March 2023.
 - Make payments in accordance with funding awards, to allow for the payment of deposits and final acquisition costs having regard to lead time of vehicle acquisition by October 2023.
20. The recommendation to delegate authority to the Director of Planning, Transport and Environment to prepare the scope and method of allocating the Welsh Government funding will facilitate achieving this timescale for delivery.
21. The Council is also required to undertake consultation with bus operators on the scheme. The consultation will be undertaken over a four-week period in September/October. The results of the consultation will be used to prepare the scope and decide on the method of allocating the funding for the scheme.
22. The Council must also consider the following subsidy matters. Responses to each matter are provided in relation to this scheme:
- 1) The subsidy pursues a specific public policy objective to remedy an identified market failure or to address an equity rationale such as social difficulties or distributional concerns (“the objective”);
Response: Currently, bus operators are unable to afford the cost of purchasing electric buses. The policy objective supports addressing this matter.
 - 2) The subsidy is proportionate and limited to what is necessary to achieve the objective;
Response: The assessment of bids for the funding will ensure value for money and will account for bus operator fleet plans to ensure that the funding is only used to provide what is necessary.
 - 3) The subsidy is designed to bring about a change of economic behaviour of the beneficiary that is conducive to achieving the objective and that would not be achieved in the absence of subsidies being provided;
Response: Currently, bus operators are unable to afford the cost of purchasing electric buses. The scheme is the only way in the current market to achieve the objective.
 - 4) The subsidy should not normally compensate for the costs the beneficiary would have funded in the absence of any subsidy;
Response: The assessment of bids for the funding will ensure that the funding is only used to provide what is necessary and not compensate for what would be funded in the absence of the scheme.

- 5) The subsidy is an appropriate policy instrument to achieve a public policy objective and that objective cannot be achieved through other less distortive means; and

Response: The scheme is currently the only mechanism available to achieve the objective. There are not expected to be any measurable distortion effects because the scheme only replaces existing buses that are not currently electric.

- 6) The subsidy's positive contributions to achieving the objective outweigh any negative effects, in particular the negative effects on trade or investment between the parties.

Response: There are no negative trade or investment effects identifiable.

23. Although public transport is generally exempt of Value Added Tax (VAT), any specific requirements or exceptions will be considered in the development of the scheme.

24. Bus operators will be advised to engage early with their parent company and/or board to ensure they get endorsement. The award of any grant funding following a bidding process will be subject to signing of a certificate of guarantee to confirm this endorsement.

25. The following factors will be considered in developing the proposals and making the decision to proceed with the scheme:

- a) Technical requirements, quality standards and ambitions;
- b) The need to comply with all applicable laws (By way of example only, the Council would have to comply with the laws relating to, and consider its various legal duties as regards, Well-being of Future Generations, Sustainability, Equality, the Welsh Language, best value, procurement, Subsidy Control, Competition, Freedom of Information, the Environmental Information Regulations and Data Protection);
- c) The requirement to put in place appropriate mechanisms to deal with audit, monitoring and safeguarding the funding against fraud.

26. The Council will also, with cooperation from any successful bidders:

- a) Undertake legal and technical due diligence on any proposed scheme;
- b) safeguard the Funding against fraud generally and participate in fraud prevention initiatives as may be required from time to time;
- c) maintain appropriate procedures for dealing with any conflicts of interest in relation to the Funding whether actual, potential or perceived;
- d) comply with all applicable domestic or international laws or regulations or official directives;
- e) confirm adequate insurances to cover against the risks which may arise in connection with any property or any activity undertaken in delivery of grant awarded funding;
- f) confirm appropriate financial, risk and control systems before releasing any part of the Funding to provide a grant to or procure any goods or services from third parties; and

- g) demonstrate compliance with any procurement regulations, legislation or guidance in place from time to time to which the local authority, or any person carrying out a business or function of the same or similar nature to you, is subject; and
- h) comply with the local authority procurement policy in place at the relevant time.

Local Member consultation (where appropriate)

27. The proposal does not involve a local issue. The proposal does not require the carrying out of consultation under statute or at law or by reason of some promise or undertaking previously given by or on behalf of the Authority.

Reason for Recommendations

28. To deliver the electric bus scheme to increase the use of electric buses primarily within Cardiff in a timely manner by October 2023.

Financial Implications

29. Funding is available as part of the Council's Capital Programme to implement a scheme to increase the use of Electric Buses within the City. The terms and conditions of any grant awards should consider the standards and long-term sustainability and use of such assets and associated infrastructure provided with financial support. Any expenditure incurred must be eligible capital expenditure. Further financial advice will be needed to support the development of the final grant scheme, including any match funding requirements and implications arising from Public Subsidy advice.

Legal Implications (including Equality Impact Assessment where appropriate)

30. The delegation is wide and full legal advice should be sought as the scope of the scheme is developed. In preparing the scope and method of allocating the Welsh Government grant funding the decision maker must be satisfied that the proposed way forward complies with the conditions attached to the Welsh Government grant as well as subsidy and competition law.

31. It should also be noted that the Council owns Cardiff Bus who could be an applicant for funding under the scheme being developed. Accordingly, as part of the process consideration will need to be given to dealing with any conflict of interest and to ensure compliance with the Transport Act 1985.

32. The decision about these recommendations has to be made in the context of the Council's public sector equality duties. The Council also has to satisfy its public sector duties under the Equality Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties, Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. The Protected

characteristics are: age, gender reassignment, sex, race – including ethnic or national origin, colour or nationality, disability, pregnancy and maternity, marriage and civil partnership, sexual orientation, religion or belief – including lack of belief. If the recommendations in the report are accepted and when any alternative options are considered, the Council will have to consider further the equalities implication and an Equality Impact Assessment may need to be completed.

33. The Well-Being of Future Generations (Wales) Act 2015 (“the Act”) places a ‘well-being duty’ on public bodies aimed at achieving 7 national well-being goals for Wales – a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.
34. In discharging its duties under the Act, the Council has set and published well being objectives designed to maximise its contribution to achieving the national well being goals. The well being objectives are set out in Cardiff’s Corporate Plan 2021-24
35. The well being duty also requires the Council to act in accordance with ‘sustainable development principle’. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without comprising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:
- Look to the long term
 - Focus on prevention by understanding the root causes of problems
 - Deliver an integrates approach to achieving the 7 national well-being goals
 - Work in collaboration with others to find shared sustainable solutions
 - Involve people from all sections of the community in the decisions which affect them
36. The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link below: <http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>
37. The Council has to be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards when making any policy decisions and consider the impact upon the Welsh language, the report and Equality Impact Assessment deals with all these obligations. The Council has to consider the Well-being of Future Guidance (Wales) Act 2015 and how this strategy may improve the social, economic, environmental and cultural well-being of Wales.

HR Implications

38. There are no HR implications. Existing Council staff resources will be used to implement the scheme.

Property Implications

39. There are no property implications.

RECOMMENDATIONS

Cabinet is recommended to:

1. Note that the Welsh Government has allocated £8m of grant funding to support the transition to electric bus on the Cardiff Network.
2. Delegate authority for the Director of Planning, Transport and Environment, subject to consultation with the Cabinet Member for Transport & Strategic Planning, s.151 Officer and Director Governance and Legal Services, to prepare the scope and method of allocating Welsh Government grant funding to increase the use of electric buses serving Cardiff and to determine, approve and implement the Cardiff Electric Bus Scheme.

SENIOR RESPONSIBLE OFFICER	Andrew Gregory Director of Planning, Transport & Environment
	Date submitted to Cabinet office

The following background papers have been taken into account

- Welsh Government Grant Award Letter, dated 14th March 2022.
- Cabinet Report 13 June 2019, Air Quality Feasibility Study Final Plan – Full Business Case and City Centre Transport Improvements.
- Cabinet Report 23 January 2020, Transport White Paper: Cardiff Transport Vision – 2030.
- Cabinet Report 23 January 2020, Clean Air Plan Approval & City Centre Transport Improvements: City Centre West Phase 1 - Central Square.
- Cabinet Report 15 October 2020, One Planet Cardiff – A Response to the Climate Emergency.