

Network North: Phase 3 BSIP funding allocation for Nottingham City Council

Legal Comments

The decision concerns the acceptance of additional funding of up to £1.84 million, known as “Network North: Phase 3 BSIP funding allocation for Nottingham City Council” to support the delivery of the Greater Nottingham Bus Service Improvement Plan in 2023/24 & 2024/25, from the Department for Transport (DfT) and is therefore an executive key decision, due to its financial value.

The funding compliments and is additional to an existing Phase 1 BSIP funding allocation of £11,367,414 and Phase 2 BSIP (BSIP+) funding allocation of £890,044 accepted under a Memorandum of Understanding (MOU) entered into with the DfT following authorisation by the Executive Board on 18 October 2022.

The initial MOU terms will apply to the additional funding as amended by the DfT letter of 07.12.2023. The funding will be issued to the Authority as non-ring-fenced grant payments under Section 31 of the Local Government Act, when a formal grant letter is entered into with the DfT.

The funding must be utilised on the purposes specified in the DfT approved Project Assessment Request (PAR) dated 28.03.2024. The issue of the formal grant letter is however, first subject to

(a) Continued compliance with the expectations outlined in the letter of 7 December 2023 and associated annexes.

(b) A commitment to submit your updated BSIP to DfT by 12 June 2024, with publication as soon as practicable thereafter.

(c) Completion and submission of the DfT Bus Connectivity Assessment by the specified deadline.

Any future amendments to the proposed use of the funding must be dealt with through the PAR process set out in the original MOU. As was the case with the initial £11.3 m of funding, use of the money should be in accordance with grant conditions confirmed by the DfT upon receipt of the funding, the conditions of which should be cascaded down with respect to onwards use of the funding with third parties. The spend of funding must be carefully managed and when utilised towards extension of the contracts on the routes identified (having been commercially tendered/procured routes where the Council is paying was towards the service provision), the Council must ensure there is no inadvertent spend on any element of the routes subject to ‘de-minimis’ rules/exceptions, under which local transport authorities are in some cases excepted from the requirement to let bus subsidy contracts through competitive tender but which are subject to strict financial thresholds. Any extension of the contracts must also be in accordance with the

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Council's Contract Procedure Rules and Public Contracts Regulations 2015 where applicable.

Appropriate contractual arrangements must be put in place to reflect the use of the funding, at all times ensuring compliance with the DfT's grant conditions and associated monitoring and reporting requirements. Quarterly reporting against each scheme funded through Phase 3 BSIP (Network North) funding will be expected including delivery progress and spend, along with any other reporting requirements as set out in the existing Memorandum of Understanding (MOU).

Clawback of funding would be possible if the conditions of the grant are breached.

As a key decision to be taken by the Leader the Article 10.21 of the Constitution must be satisfied alongside the notice requirements of Article 13 of the Constitution. The Leader must be satisfied that the requirement to ensure immediate use of the funding to continue the delivery of the essential public transport infrastructure over the next 12 months are exceptional circumstances, meaning it is not possible to take the decision to the next scheduled meeting of the Executive Committee. It is understood that the following receipt of funding that it would be utilised on variations to existing contracts. In the circumstances the report writer must obtain prior SCB approval prior to incurring any spend.

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