

Subsidy Advice Unit Report on a Proposed Subsidy to Warrington's Own Buses

Referred by Warrington Borough Council

13 June 2023

Subsidy Advice Unit

Part of the Competition and Markets Authority

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1. Introduction

- 1.1 This report is an evaluation prepared by the Subsidy Advice Unit (SAU), part of the Competition and Markets Authority, under section 59 of the Subsidy Control Act 2022 (the Act). The SAU has evaluated Warrington Borough Council's (the Council) assessment of compliance of the proposed subsidy to Warrington Borough Transport Limited (trading as Warrington's Own Buses (WOB)), with the requirements of Chapters 1 and 2 of Part 2 of the Act (the Assessment).¹ The evaluation takes into account any effects of the proposed subsidy on competition or investment within the United Kingdom.
- 1.2 This report is based on the information provided to the SAU by the Council in its Assessment and evidence submitted relevant to that Assessment.
- 1.3 This report is provided as non-binding advice to the Council. The purpose of the SAU's report is not to make a recommendation on whether the subsidy should be given, or directly assess whether it complies with the subsidy control requirements. The Council is ultimately responsible for granting the subsidy, based on its own assessment, having the benefit of the SAU's evaluation.
- 1.4 A summary of our observations is set out at section 2 of this report.

The referred subsidy

- 1.5 WOB is a municipal bus company owned by the Council.
- 1.6 On 30 March 2021, the Department for Transport invited Local Transport Authorities to submit expressions of interest in receiving funding to become a Zero Emission Bus Regional Area (ZEBRA). This funding is to help local transport authorities, in England but outside London, to introduce zero-emission buses and the infrastructure needed to support them. The ZEBRA scheme allowed authorities to apply for up to 75% of the difference in cost between a zero-emission and diesel bus and also up to 75% of the cost of the necessary infrastructure.
- 1.7 The Council was successful in its bid for funding to deliver electric buses and associated infrastructure.
- 1.8 The Council's proposal is to use the ZEBRA grant, and its own funds, to purchase a fleet of 105 electric buses, as well as all required vehicle chargers and

¹ Chapter 1 of Part 2 of the Act requires a public authority to consider the subsidy control principles and energy and environment principles before deciding to give a subsidy. The public authority must not award the subsidy unless it is of the view that it is consistent with those principles. Chapter 2 of Part 2 of the Act requires a public authority to ensure that a prohibited subsidy is not awarded, and that the requirements in relation to the giving of certain other subsidies are satisfied.

infrastructure. The buses and chargers will then be immediately sold to WOB at a nominal cost.

- 1.9 The proposed subsidy to WOB therefore represents the full value of these buses and infrastructure. The value of this subsidy is £47,940,842, comprising £42,377,122 for the buses and £5,563,720 for the chargers. This is made up of £21.4 million of ZEBRA funding and £26.5 million from the Council's own funds.

SAU referral process

- 1.10 On 24 April 2023, the Council requested a report from the SAU in relation to its proposed subsidy to WOB.
- 1.11 The Council explained in its submission why, because of its value, the WOB subsidy is considered to be a 'Subsidy of Particular Interest',² and, accordingly, is subject to mandatory referral under the Act.³
- 1.12 The SAU notified the Council on 28 April 2023 that the SAU would prepare and publish a report within 30 working days, on or before 13 June 2023.⁴ The SAU published details of the referral on 2 May 2023.⁵

² Regulation 3 of [The Subsidy Control \(Subsidies and Schemes of Interest or Particular Interest\) Regulations 2022](#) sets out the requirements for a subsidy (or scheme) to be considered a 'Subsidy of Particular Interest'.

³ Section 52(2) of the Act.

⁴ Sections 53(1) and 53(2) of the Act.

⁵ [Referral acceptance details - GOV.UK \(www.gov.uk\)](#)

2. Summary of the SAU's observations

- 2.1 The Council structured its Assessment to address each of the subsidy control principles outlined in the Act (the Principles). Our evaluation follows that structure.
- 2.2 Overall, we found that the Council engaged with each Principle and has provided some relevant evidence. For example, it provided a clear and easy-to-follow Excel financial model, which it devised with WOB to support the ZEBRA proposals, to demonstrate the need for a subsidy. Further, the Assessment presents policy objectives for the subsidy that are well explained and consistent with existing national and local priorities.
- 2.3 Nevertheless, we found that there were some aspects of the Assessment which could have been improved:
- 2.3.1 According to the Council, the financial model demonstrates that WOB cannot fund the purchase of electric buses and related chargers from the revenue generated by running electric buses. The Assessment could have been strengthened had it provided a full explanation of the determination of the subsidy requirement. To strengthen its Assessment, the Council could have better explained and evidenced the key assumptions underpinning the model and considered a sensitivity analysis to demonstrate the reasonableness of forecasts and to understand WOB's financial position.
- 2.3.2 In relation to several Principles, the Assessment could have been strengthened by following the [Statutory Guidance](#) more closely. For instance, it could have, in relation to Principle A, aligned with the characterisation of market failures set out in the Statutory Guidance; or in relation to Principle F, discussed aspects of subsidy and market characteristics outlined in Annex 2 of the Statutory Guidance.
- 2.3.3 In relation to Principle C, the Assessment could be strengthened by considering the implications of the 'do nothing' scenario for achieving the policy objectives (for instance in terms of carbon emissions or encouraging bus travel).
- 2.3.4 In relation to Principle E, the Assessment could be strengthened if it were to also to consider whether there would be other ways of addressing the market failure or equity issues. The Assessment discusses the replacement of WOB's entire bus fleet with electric vehicles: it could discuss other measures to achieve decarbonisation, including the promotion of public transport use. It could also consider other alternative technologies, for instance the use of hydrogen and biomethane fuelled buses. Finally, it could consider whether some of the objectives could be

partially achieved through introducing modern, less polluting diesel vehicles, or through partial fleet replacement with electric buses.

- 2.4 Our report is advisory only and does not directly assess whether the subsidy complies with the subsidy control requirements, nor is its purpose to make a recommendation on whether the subsidy should continue to be implemented. We have not considered it necessary to provide advice about how the proposed subsidy may be modified to ensure compliance with the subsidy control requirements.⁶

⁶ Section 59(3)(b) of the Act.

3. The SAU's Evaluation

3.1 This section sets out our evaluation of the Council's Assessment of the Principles.

General observations

- 3.2 The Council has provided us with a copy of its financial model, which it devised with WOB to support the ZEBRA proposals. It shows WOB's estimated cash flows, that is money coming in from revenues earned and costs for operating the buses, over 17 years, which is the expected operational lifespan for the fleet of electric buses. The model demonstrates that WOB would operate close to break-even over the entire 17-year period. It also shows that it would incur significant losses if the capital costs of purchasing the electric buses and chargers were accounted for through an annual depreciation charge. As a result, the model shows that it would be necessary for the Council to transfer all buses and chargers to WOB at a nominal cost for the project to proceed - in other words, that WOB would require 100% subsidy for the cost of the electric bus fleet and chargers.
- 3.3 The Council told us that two alternative models (or scenarios) were considered, although these were not provided: (i) the Council sells the buses and chargers at full market price to WOB, and (ii) the Council transfers the buses to WOB at the cost of equivalent diesel buses and the chargers are transferred at 25% of their market cost. We understand from the Assessment that both scenarios were evaluated with respect to a 'market acceptable' commercial equity injection or a loan on 'market terms' by the Council. According to the Council, both scenarios show that the depreciation impact (ie the capital costs spread over the useful economic life) on WOB's profit and loss account as a result of holding the buses and chargers as assets would be so serious that WOB would be unable to proceed with the investment.
- 3.4 The financial model is utilised in the Assessment to demonstrate and evidence a number of points such as proportionality and additionality. The model is based on projections of costs and revenues, were WOB to operate as an electric-only fleet, including assumptions on changes from current figures in revenues, such as passenger numbers and fares, concessionary fares, contract revenue and tendered services and other revenue sources including bus services operator grants. Similarly, it looks at operational costs and overheads, including energy costs. Specific inflation assumptions are made for certain different elements of costs and revenues. The Council told us the model used very conservative assumptions on passenger number increases and price and income inflation.
- 3.5 The Statutory Guidance states that the depth of analysis on a subsidy needs to be commensurate to the size and potential distortive impact of the subsidy.⁷ It

⁷ [Statutory Guidance](#), paragraph 1.31.

indicates that in undertaking their assessment of a subsidy, public authorities should consider whether any features or characteristics of a subsidy would make them more likely to have distortive impacts on competition or investment within the UK. For example, 'Public authorities should consider the size of a subsidy in absolute terms as well as relative to the size of the recipient ... or the value of the market(s) of the affected products or services.... the size of the subsidy should be considered against the investment costs it would be offsetting. Higher intervention rates (for example, more than 70% of project costs) are more likely to distort competition and investment within the UK'.⁸ In this case, where the value of the proposed subsidy is at 100% of the value of a capital investment, and where WOB accounts for a majority of bus services in the Warrington area,⁹ we would consider it appropriate for there to be particular explanation of the determination of the subsidy requirement, including attention to the model's data projections which are used to determine the required level of subsidy.¹⁰

3.6 The outcomes of the model are sensitive to the projections made for revenues and costs. It is therefore important that the numbers in the model are clearly explained and justified. The Assessment would be improved if:

3.6.1 The model's assumptions were explained and evidenced, for example explaining price and cost projections by reference to published sources (such as industry sources and government guidance on passenger numbers, wage rates, and energy costs), historical experience etc.

3.6.2 It may also be helpful if a sensitivity analysis was conducted to demonstrate a range of possible outcomes under plausible future projections to show whether the case for the full subsidy is supported within the range of reasonable uncertainty.

3.7 It would also be helpful to compare the operational and market conditions faced by WOB with those faced by other recipients of ZEBRA funding. This could be done through comparison with industry averages. This would help explain any differences in subsidy levels compared to other recipients of ZEBRA funding.

Principle A

3.8 The Statutory Guidance sets out that public authorities may only give subsidies to pursue a specific policy objective. The objective must be one which remedies a market failure or addresses an equity concern.¹¹

⁸ [Statutory Guidance](#), paragraph 3.74.

⁹ See [Statutory Guidance](#), paragraph 16.54.

¹⁰ We understand that the level of subsidy offered by the Council is greater than for some other councils, which required lower, or no council funds to supplement the ZEBRA grant for operators to invest in new vehicles. This is a further reason why it would be commensurate to provide further explanation of the level of the subsidy required in this case.

¹¹ [Statutory Guidance](#), paragraph 3.18.

- 3.9 To assess compliance with Principle A, the public authority should clearly set out and evidence the policy objective(s) pursued, and identify and evidence the market failure that is being remedied or equity rationale that is being addressed.

Policy objectives

- 3.10 Under Principle A the Assessment describes the national and local policy objectives which sit behind the proposed intervention and which build upon a successful bid by the Council to the Government's ZEBRA scheme.
- 3.11 The Assessment describes the purpose of the subsidy as being to provide WOB with a fully electric, zero-emission bus fleet (consisting of 105 electric buses) and associated charging infrastructure to enable delivery of the Council's objectives.
- 3.12 The Assessment identifies the specific objectives of the Council's funding as follows:
- 3.12.1 decarbonising our transport system as we work towards a zero-carbon future;
 - 3.12.2 improving air quality in Warrington;
 - 3.12.3 strengthening working relationships between the local authority and bus operator for the long-term benefit of passengers and the wider community;
 - 3.12.4 encouraging more people to choose to travel by bus;
 - 3.12.5 understanding the challenge of introducing zero-emission buses to support their wider roll-out across the country; and
 - 3.12.6 partnership working with suppliers to support the development of suitable zero-emission buses.
- 3.13 The Assessment explains that the objectives of the proposed intervention are consistent with the national ZEBRA funding objectives, tailored to the local context in the Warrington administrative area, as well as the Council's Local Transport Plan (LTP4) and commitment to reduce both exhaust and non-exhaust emissions from transport.
- 3.14 We consider the policy objectives to be well explained and consistent with existing national and local priorities.

Market failure and equity rationale

- 3.15 The Statutory Guidance sets out that market failure occurs where market forces alone do not produce an efficient outcome. The most common cases of market failure which are relevant to subsidy control occur when at least one of the

following features is present: the existence of externalities; the involvement of public goods; or imperfect or asymmetric information.¹²

- 3.16 The Assessment submits that the introduction of zero-emission buses ‘will not currently be delivered through reliance on the market’. This reasoning is explained primarily in relation to the prohibitive cost of an electric bus fleet and related infrastructure compared to its diesel equivalent.
- 3.17 The Council appears to conflate its reasoning on market failure with the effect of the WOB financial performance and depreciation policy and also the high comparative costs of an electric bus fleet. The Assessment therefore does not align with the characterisation of market failures as set out in the Statutory Guidance.¹³ Evidence that a project or activity would not go ahead in the absence of subsidies is not necessarily a sign of market failure, as it may in fact show that a market is working well and that the activity would not be an efficient use of resources.
- 3.18 In order to strengthen its Assessment, the Council could provide a clearer and more explicit articulation of the market failures underpinning the policy objective, referring back to the categories of market failure detailed in the Statutory Guidance. In order to do so, the Council could set out how positive externalities (such as encouraging public transport use) or reduced negative externalities (such as reduction of carbon emissions and air pollution) arise from the use of electric buses rather than diesel. The Council could also consider including how this project contributes to encouraging the wider roll-out of zero-emission buses around the country (generating knowledge spill-overs), as well as any potential equity benefits derived from a better functioning public transport system.

Principle B

- 3.19 Principle B states that subsidies should be proportionate to their specific policy objective and limited to what is necessary to achieve it.
- 3.20 In evaluating the proposed subsidy against the requirements under Principle B, the Assessment outlines that, based on the financial model, incurring a full, or even partial, cost to acquire the electric buses and associated chargers would cause WOB to incur losses over the lifespan of the new bus fleet.
- 3.21 The Assessment therefore covers why the subsidy’s size is limited to the minimum necessary to achieve the replacement of WOB’s diesel fleet with electric vehicles. However, it does not address how the subsidy is proportionate to the objectives set

¹² [Statutory Guidance](#), paragraphs 3.21–3.32.

¹³ [Statutory Guidance](#), paragraphs 3.21–3.34.

out under Principle A.^{14,15} The Assessment's evaluation of proportionality could have been strengthened had it compared the direct impact on harmful emissions and air quality (including in relation to health impact) of diesel buses in Warrington (as covered under Principle A), with those arising from operating an electric fleet, on both cases over the course of the 17-year operational life of the buses (see paragraph 3.25), and then explaining how the subsidy is proportionate to achieving the objective of reducing such harmful impact.

Principle C

Changes in economic behaviour of the beneficiary.

- 3.22 Principle C states that subsidies should be designed to bring about a change of economic behaviour of the beneficiary. That change in relation to a subsidy, should be (a) conducive to achieving its specific policy objective, and (b) something that would not happen without the subsidy.
- 3.23 The Statutory Guidance explains that public authorities should consider what would happen in the absence of the subsidy; the 'do nothing' scenario. This counterfactual is the baseline against which public authorities should assess change. The baseline for this comparison would not necessarily be the current 'as is' situation (the 'status quo') but what would likely happen in the future – over both the short and long term – if no subsidy were awarded.¹⁶
- 3.24 The Assessment sets out that without the subsidy, WOB would not be in a financial position to purchase the electric buses, chargers and related infrastructure. The Assessment states that '[t]he Directors' fiduciary duties prevent the bus company entering into such an agreement where the bus company is loss-making for a sustained period. This would prevent the objectives of the scheme being realised.' Consequently, based on its financial model, the Council concluded that without the subsidy, WOB would continue to operate a mature diesel fleet. The Assessment addresses how WOB's economic behaviour, and benefits from associated partnership working and learning (eg from engaging in transactions with bus and charger suppliers) would result from the subsidy.
- 3.25 However, the Assessment does not develop what operations under the counterfactual might look like and particularly how they would evolve over time without subsidy.
- 3.26 In accordance with the Statutory Guidance, public authorities should look at likely future developments in the market including the impacts on recipients or

¹⁴ [Statutory Guidance](#), paragraph 3.75.

¹⁵ [SAU Guidance](#), paragraph 4.16.

¹⁶ [Statutory Guidance](#), paragraphs 3.46–3.47.

competitors in the absence of the subsidy.¹⁷ The counterfactual assessment could have been strengthened by adding a scenario to its financial model of WOB continuing to own and operate diesel buses. This would cover the same time period as the electric fleet including setting out what would happen in each case to replace end of life buses absent further subsidy.¹⁸ For example, the Assessment could explain whether, as a possible alternative, the Council could have taken a more incremental approach to replacing the diesel buses with electric ones but within the resources available to WOB. The Assessment could then have considered the implications of the 'do nothing' scenario for achievement of policy objectives. Specifically, the assessment does not forecast future harmful emissions from WOB continuing to operate a diesel fleet of buses (including for example any improvements in emissions from newer diesel vehicles or incremental purchases of electric buses). As a result, there is no baseline cost or emissions scenario against which to compare forecasts for the electric fleet. Similarly, it could have considered whether differences in the fleet would have impacted on passenger numbers.

Principle D

- 3.27 Principle D states that subsidies should not normally compensate for the costs the beneficiary would have funded in the absence of any subsidy. The public authority should explain the additional costs that the subsidy will cover, and why those costs would not be funded by the beneficiary in the absence of the subsidy. This demonstrates that subsidies are not used to finance a project or activity that the beneficiary would have undertaken in a similar form, manner, and timeframe without the subsidy.¹⁹
- 3.28 According to the Assessment, WOB would not purchase the buses without a full subsidy. Therefore, it indicated that WOB is not using the subsidy to compensate for costs it would have likely funded as it lacks the financial capacity to do so.
- 3.29 The financial model submitted by the Council is not discussed under Principle D but is relevant in demonstrating that the subsidy is not being used to fund costs that would have been funded anyway, based on replacing the entire bus fleet.
- 3.30 However, the analysis in the financial model is sensitive to minor changes in assumptions as explained in paragraph 3.6. The Assessment of this principle would be improved by taking into account our observations on the financial model set out in paragraphs 3.6 and 3.7.

¹⁷ [Statutory Guidance](#), paragraphs 3.43–3.48.

¹⁸ Any such assessment would also benefit from discounting the cashflows to show their present value.

¹⁹ [Statutory Guidance](#), paragraphs 3.49–3.53.

Principle E

- 3.31 Principle E states that subsidies should be an appropriate policy instrument for achieving their specific policy objective and that objective cannot be achieved through other, less distortive means.²⁰ The Statutory Guidance sets out that, once the policy objective has been identified, public authorities must determine whether a subsidy is the best means for achieving that policy objective. As part of this, there should be consideration of other ways of addressing the market failure or equity issue.²¹
- 3.32 The Assessment explains that the Council had a policy to ‘support local fleet operators to switch to vehicles that use cleaner fuels’, that it had chosen to pursue electric vehicles, and that ‘there is a particular opportunity in Warrington given that an estimated 83% of the bus fleet is under the management of WOB which is a council owned arms-length bus company, thereby providing greater potential to influence this transition’, and that ‘an important factor which led to the choice to pursue electric buses is the extensive investment the Council has made in purchasing solar farms’. It said ‘the need to provide the proposed subsidy now is driven by the fact that the Council is in receipt of the ZEBRA funding, there is therefore a significant opportunity cost saving in proceeding with the [subsidy] now’.
- 3.33 The Assessment states that the Council evaluated funding the investments through ZEBRA funding and borrowing by the Council to support a loan or equity injection, but there was additional cost and ‘the fundamental of the depreciation impact of the assets remains’. The Council also considered staged replacement of the current diesel fleet with zero-emission buses but considered this would delay achievement of the objectives and would likely increase the cost of the project. The Council stated that it is prohibited from directly providing bus services itself.
- 3.34 The financial model also supports the Council’s case as to why alternative approaches such as commercial or Council loans or equity would not be viable, because the returns on the new buses would not provide for these investments to be rewarded/repaid.
- 3.35 The Assessment would be strengthened if it were also to consider whether there would be other ways of addressing the market failure or equity issues. The Assessment does not consider and explain the reasons for rejection of approaches other than replacement of WOB’s entire bus fleet with electric vehicles. We note that the Council has produced an Air Quality Action Plan²² which sets out a range of actions the Council will take to improve air quality in Warrington. The

²⁰ [SAU Guidance](#), paragraphs 4.7–4.10.

²¹ [Statutory Guidance](#), paragraphs 3.40–3.41.

²² [Warrington Borough Council, Air Quality Action Plan 2022-25](#)

Assessment could be strengthened if it set out how the electric bus project fits into the overall range of actions, and why the subsidy is appropriate given the availability and impact of other measures. Similarly, the Assessment could discuss other measures to achieve decarbonisation, the promotion of public transport use, etc. These might, for example, include transport restrictions or vehicle charges to discourage private vehicle use, clean air zones to deter the most polluting vehicles, encouraging use of electric cars or non-car transport (eg bike lanes), or looking at whether any non-transport derived pollution could be effectively reduced. The Assessment could be improved in its coverage of Principle E if it addressed a range of alternative approaches and explained the Council's reasons as to why these were found to be less effective in addressing the policy objectives.

- 3.36 In addition, the Assessment does not evaluate the case for use of non-electric vehicles, such as hydrogen and biomethane fuelled buses. Nor does the Assessment explain why the Council's ownership of solar farms impacts on the appropriate choice of vehicles (given that the electricity produced by the solar farms will not itself directly power the fleet).
- 3.37 The Assessment also does not address whether some of the objectives could be partially achieved through introducing modern, less polluting diesel vehicles, and/or through partial fleet replacement with electric vehicles. While from the Council's perspective there would be a lost opportunity from not utilising all the ZEBRA funding, that funding is part of the value of the overall subsidy and alternatives to its full use could be addressed in the Assessment.

Principle F

- 3.38 Principle F states that subsidies should be designed to achieve their specific policy objective while minimising any negative effects on competition or investment within the UK.

Subsidy design

- 3.39 The Assessment states that the subsidy will address issues that are important to the local area without compromising the potential for competition.
- 3.40 The Assessment submits that in April/May 2021, the Council offered all other operators active in the borough of Warrington to partake in the Council's ZEBRA bid to the Department for Transport. We understand that the level of funding that could be secured was set out at the ZEBRA limits, ie up to 75% of the cost difference between diesel buses and equivalent electric buses and up to 75% of the infrastructure costs. The Assessment states that WOB was the only operator which expressed an interest in entering into a partnership with the Council to submit a bid.

- 3.41 The Assessment also sets out that the proposed new fleet and associated chargers are intended to replace the existing fleet, and that WOB is not aiming ‘to significantly grow into areas outside of Warrington, nor use the new fleet of electric buses to compete in such areas.’
- 3.42 The statement on WOB’s intended use of the new bus fleet, ie not using this fleet to expand into areas outside of Warrington, is helpful in demonstrating the minimisation of impacts on competition, although there is no evidence provided to support this intention.
- 3.43 The Assessment would be strengthened by explicitly engaging with and discussing other aspects of subsidy characteristics and design set out in Annex 2 of the Statutory Guidance. This is intended to help the public authority identify additional aspects it could consider when designing a Subsidy of Particular Interest to minimise impacts on competition and investment.
- 3.44 Whilst we note that the Council offered WOB’s rivals the opportunity of partaking in its ZEBRA bid, alternative providers in Warrington borough were not offered the same final package of financial assistance that is proposed for WOB. Consequently, while it is still possible that the offer would not have appealed to other operators, to strengthen the Assessment, the Council could have considered whether offering the same terms to competitors would have reduced any potential competition impacts.

Assessment of effects on competition or investment

- 3.45 The Assessment identifies alternative providers that operate bus services in the borough of Warrington, alongside their respective market shares based on passenger numbers for the financial year 2022/23. It discusses individual competitor offerings in more detail, outlining key differentiating factors between WOB and its rivals. Focussing on WOB’s largest competitor in the area, Arriva, the Council sets out key differences between the services run by the two companies and sets out some views on why electric buses may not suit Arriva’s offering in Warrington.
- 3.46 The Assessment states that that the introduction of zero-emission buses is not expected to have ‘material effect on the market’, primarily because bus services are run at the ‘commercial risk’ of individual companies as opposed to bidding for franchises. We understand this to mean that individual areas or routes can be entered by competitors should they wish to do so.
- 3.47 Whilst not directly discussed under Principle F, the Assessment mentions under Principle G that a potential negative effect of the subsidy could be that passengers will prefer WOB’s new buses to those of its competitors. However, this potential negative effect is considered to be immaterial on the basis of there being very little

current competition on routes, which means that the subsidy's potential negative impacts on competition would be outweighed by its positive impacts.

- 3.48 Additionally, the Assessment submits that the operator cooperation in Warrington is high, and that competition between operators is low, especially due to the Covid-19 pandemic's impact on the sector. Further to this, the Assessment notes the existence of an Enhanced Bus Quality Partnership between the Council and all bus operators in Warrington.
- 3.49 Whilst we acknowledge the detail provided in the Assessment's evaluation of the current competitive landscape of the market for bus services in Warrington, the Assessment would be strengthened by a more dynamic and forward-looking appraisal of competition. For instance, the Assessment could have covered a discussion of potential competitive impacts of the subsidy in a future scenario where rivals might try to enter as direct competitors to existing services or establish new services. This is particularly so given the subsidy may have the unintended consequence of raising barriers to entry and expansion, as new or existing operators seeking to directly compete with WOB would have to do so in competition with a fleet of new electric buses. The subsidy could thus further reinforce WOB's position as the largest provider of bus services in the borough of Warrington. This is particularly worth noting in the context of WOB's rivals not having been offered the same final subsidy terms as WOB (ie a 100% subsidy).

Principle G

- 3.50 Principle G states that subsidies' beneficial effects (in terms of achieving their specific policy objective) should outweigh any negative effects, including, in particular, negative effects on (a) competition or investment within the United Kingdom and (b) international trade or investment.
- 3.51 The Assessment sets out that the subsidy supports or complements the Council's current plans and policies including:
- 3.51.1 the Council's commitments set out in its transport plan to a wide range of measures to increase and improve bus services and to investigate how best to support local fleet operators to switch to vehicles that use cleaner fuels;
 - 3.51.2 a policy to support sustainable and improved travel in Warrington, containing measures which will help reduce bus journey times and make them more reliable;
 - 3.51.3 the Council's Air Quality Action Plan. A 2016 study identifies the predominant source of poor local air quality is road traffic, with buses having a disproportionate impact compared to the distance travelled; and

- 3.51.4 related projects, including the delivery of a new bus depot on a site near the bus interchange, where bus charging equipment and electrical connection infrastructure can all be easily accommodated.
- 3.52 The Assessment also explains that communities in central areas of Warrington expressed desire for less polluting public transport, with one action being to ‘support local bus companies to replace older diesel with electric, hydrogen or biogas vehicle to meet air quality improvement targets’.
- 3.53 In terms of negative effects, the Assessment recognises that there ‘may be some local distortions’ and that passengers might be more attracted to travel on WOB buses as opposed to other operators. However, in the Council’s view, there is very little competition on routes. Furthermore, the Council states that the opportunity to participate in the ZEBRA scheme was offered to WOB’s competitors and the Council will continue to be willing to work with all operators under future schemes. The Assessment concludes that the potential negative impact is immaterial and would be outweighed by the positive impacts of the objectives.
- 3.54 The Assessment does not address whether there are any negative effects on international trade or investment. Furthermore, there is no discussion of geographical distribution.
- 3.55 In our view, on the positive effects, the Assessment explains how the subsidy supports a number of Council policies and objectives, and in doing so identifies some expected beneficial effects, albeit in broad terms. The Assessment has not attempted to systematically provide any quantitative or qualitative analysis of the relative scale of benefits compared to the policy objectives set out in Principle A.
- 3.56 We recognise that the Assessment refers to some analysis that is relevant to assessing the scale of benefits, for instance the calculation of carbon emissions related to bus travel in Warrington (compared to overall carbon emissions for Warrington). In order to strengthen the Assessment, the Council could have made better use of this analysis to explain how it has evaluated and measured the expected beneficial effects of the subsidy, against the Policy objectives, such as the decarbonisation of transport system. It could have also provided some analysis in relation to how the subsidy contributes to other policy objectives, for instance how the subsidy might encourage more people to choose to travel by bus,²³ or how it might support the wider roll-out of electric buses across the country.
- 3.57 As set out in relation to Principle F, the Assessment would be strengthened by a more dynamic and forward-looking appraisal of competition, which in turn could have been used to inform the analysis of negative impacts in Principle G. Particularly, Principle G would be strengthened by a consideration of the subsidy’s

²³ We note that the model sets out projections of passenger numbers, but it does not set out a counterfactual of how passenger numbers might be expected to evolve absent the subsidy.

potential negative effects on barriers to entry, especially in the context of WOB's rivals not being offered the same financial assistance that is proposed for WOB. New or existing operators seeking to directly compete with WOB would have to do so in competition with a fleet of new electric buses. Whilst the Assessment goes some way to recognising this, it discounts this scenario on the basis of little current competition on routes.

- 3.58 In our view, the Assessment could have been more specific by providing additional evidence and analysis in support of its balancing exercise, in order to demonstrate that the positive effects outweigh the negative impacts of the subsidy.

Energy and Environment Principles

- 3.59 This step involves an evaluation of the Assessment with regard to compliance with the Energy and Environment (E&E) principles, where these are applicable to the subsidy.²⁴ The E&E principles apply only to those granted in relation energy and the environment.
- 3.60 Statutory Guidance summarises the scope of the different E&E principles that apply to different types of subsidies.²⁵ Following clarificatory questions from the SAU the Council submitted that in its view the E&E principles did apply to this subsidy, and stated that principles A, B and H were applicable.

Principle A: Aim of subsidies in relation to energy and environment

- 3.61 The assessment against Principle A should show how the subsidy is consistent with delivering a secure, affordable and sustainable energy system and a well-functioning and competitive energy market, or increasing the level of environmental protection compared to the level that would be achieved in the absence of the subsidy.²⁶
- 3.62 The Council submitted that the proposed subsidy will be consistent with a clear and demonstrable increase in the level of environmental protection than would otherwise be the case in the absence of the subsidy. It said the transition from a diesel fleet of buses to a 100% electric fleet will increase protection of the natural environment, as well as people, from the effects of human activity (ie the burning of fossil fuel) in line with the Statutory Guidance.²⁷

²⁴ See Schedule 2 to the Act.

²⁵ Principles A and B apply to all subsidies in relation to energy and environment. Principle C applies for subsidies for electricity generation adequacy, renewable energy or cogeneration. Principle D applies to subsidies for electricity generation only. Principle E applies to subsidies for renewable energy or cogeneration. Principle F applies to subsidies in the form of partial exemptions from energy related taxes and levies. Principle G applies to subsidies that compensate electricity intensive users for increases in electricity costs, Principle H relates to subsidies for decarbonisation of industrial emissions. Principle I relates to subsidies for improving energy efficiency of industrial activities.

²⁶ [Statutory Guidance](#), paragraphs 4.19–4.28.

²⁷ [Statutory Guidance](#), paragraph 4.24.

- 3.63 The Assessment against Principle A of the E&E Principles sets out a baseline position in respect of nitrous oxide and carbon dioxide emissions; the number of people who die annually as a result of poor air quality; and the disproportionate impact of bus travel on the production of harmful emissions. The Council submitted that the transition to a 100% electric fleet will lead to the elimination of carbon dioxide and nitrous oxide emissions from the fleet, and contribute to wider UK Government policy objectives in respect of Net Zero.
- 3.64 In our view the Assessment demonstrates that the proposed intervention is consistent with the second limb of Principle A of the E&E principles. The Assessment is also consistent with evidence submitted in respect of the policy objectives of the subsidy set out under Principle A of the main Assessment, as well as evidence considered as part of the balancing of potential negative and positive effects under Principles F and G.

Principle B: Subsidies not to relieve beneficiaries from liabilities as a polluter

- 3.65 The assessment against Principle B should explain clearly how the proposed subsidy does not relieve a polluter from having to bear the full costs of the pollution caused.²⁸
- 3.66 In supporting evidence, the Council included a high-level statement to the effect that the provision of the subsidy to WOB will not lead to any relief in respect of WOB's liabilities and responsibilities as a polluter.
- 3.67 While we consider this reasonable given the nature and objectives of the subsidy, the Assessment could be strengthened with a clearer explanation and supporting evidence to demonstrate how the terms of the subsidy ensure that the beneficiary is not relieved from any liabilities as polluters under the relevant law.²⁹

Principle H: Subsidies for the decarbonisation of emissions linked to industrial activities

- 3.68 Under Principle H, subsidies for the decarbonisation of emissions linked to industrial activities in the UK should achieve an overall reduction in greenhouse gas emissions and reduce the emissions directly resulting from the industrial activities concerned. The assessment should identify clearly the relevant greenhouse gases (with reference to those identified as such in the Climate Change Act), and the industrial activities (as described in the Act) responsible for those gases, and show that such emissions would be reduced compared to the situation absent the subsidy or scheme.

²⁸ [Statutory Guidance](#), paragraphs 4.29–4.35.

²⁹ [Statutory Guidance](#), paragraph 4.31–4.33.

- 3.69 The Council explained the reasoning behind its view that E&E Principle H is applicable to the proposed subsidy, noting that the Statutory Guidance³⁰ states that this need not relate exclusively to industrial processes and allows public authorities to ‘make their own judgements on the terms of a beneficiary’s activities’. The Council’s view was that the operation of a fleet of buses can be considered as industrial activity. In support of this, it describes how the subsidy will achieve an overall reduction in greenhouse gas emissions. The Assessment notes that whilst WOB may sell its existing diesel fleet, it is highly likely that another operator will replace its own existing fleet with WOB’s fleet, therefore there will be no displacement of the emissions from one operator to another.
- 3.70 In our view, the reasons put forward by the Council to explain why it considers the operation of WOB’s activities to qualify as an industrial activity within the scope of Principle H are not clearly articulated, as the Council’s reasoning only relates to the type of emissions reduction resulting from WOB’s activities, rather than the nature of these activities.

Other Requirements of the Act

- 3.71 This step in the evaluation relates to the requirements and prohibitions set out in Chapter 2 of Part 2 of the Act, where these are applicable.³¹ The Council confirmed that none of these prohibitions or other requirements applied to the subsidy.

DATE: 13 JUNE 2023

³⁰ [Statutory Guidance](#), paragraph 4.63.

³¹ [Statutory Guidance](#), chapter 5.