

Subsidy Advice Unit Report on the West Midlands Bus Network Support Grant scheme

Referred by West Midlands Combined Authority

17 April 2025

Subsidy Advice Unit

Part of the Competition and Markets Authority



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1. The Referral

- 1.1 On 28 February 2025, West Midlands Combined Authority (WMCA) requested a report from the Subsidy Advice Unit (the SAU)¹ in relation to the West Midlands Bus Network Support Grant scheme (the Scheme) under section 52 of the Subsidy Control Act 2022 (the Act).²
- 1.2 This report evaluates WMCA's assessment of compliance (the Assessment) of the Scheme with the requirements of Chapters 1 and 2 of Part 2 of the Act.³ It is based on the information and evidence included in the Assessment.
- 1.3 This report is non-binding. It does not consider whether the Scheme should be implemented, or directly assess whether it complies with the subsidy control requirements.

Summary

- 1.4 The Assessment is structured to address each principle in turn, and our evaluation follows that structure, rather than the four-step structure described in the Statutory Guidance for the United Kingdom Subsidy Control Regime (the [Statutory Guidance](#)) and as reflected in the SAU's Guidance on the operation of the subsidy control functions of the Subsidy Advice Unit (the [SAU Guidance](#)).
- 1.5 In our view, WMCA has considered in detail some aspects of the compliance of the Scheme with the subsidy control principles. In particular, WMCA has articulated a clear policy objective, and explained and evidenced how the Scheme would change the beneficiaries' economic behaviour and how it brings about changes that would not have occurred absent the subsidy. WMCA has also clearly identified the relevant market, considered some of the adjacent markets, and the Assessment covers some aspects of the effect of the Scheme on competition and investment.
- 1.6 However, we have identified the following areas for improvement:
- (a) To the extent that WMCA wishes to rely on positive externality arguments, the Assessment should explain how the Scheme will achieve a more efficient outcome by describing the additional economic spillovers that would be

¹ The SAU is part of the Competition and Markets Authority

² [Referral of the proposed West Midlands Bus Network Support Grant scheme by West Midlands Combined Authority - GOV.UK](#)

³ 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 prohibits the giving of certain kinds of subsidies and, in relation to certain other categories of subsidy creates a number of requirements with which public authorities must comply.

enabled by maintaining a comprehensive and efficient bus network for the West Midlands. (Principle A).⁴

- (b) The Assessment should explain in further detail how providing the ‘at-risk’ bus services through direct tenders would be more costly than subsidising them through the Scheme; it should also be clearer that the estimated cost of providing lost services by tender is only indicative. (Principle B).
- (c) The Assessment should explain why more alternatives to the Scheme were not considered. (Principle E).
- (d) The Assessment should assess potential impacts on competition and investment in more detail, drawing on a wider range of, and more specific, information. (Principle F).
- (e) The Assessment should weigh the benefits of the Scheme against its identified negative impacts, rather than the negative impacts of the ‘do-nothing’ scenario. The Assessment should quantify the beneficial impacts of the Scheme on its policy objective, and where possible, the negative impacts. The Assessment should then detail how benefits and negatives were weighed against each other and explain more clearly how it reached its conclusions. (Principle G).
- (f) The Assessment should take a more systematic approach to presenting how the SPEI requirements are addressed. The Assessment should further explain how the review at the end of the delivery period will ensure that awards under the Scheme remain limited to the minimum necessary, and how the Scheme will ensure that excess funds can be recovered. (Other requirements of the Act).

1.7 We discuss these areas below, along with other issues, for WMCA to consider in finalising its assessment.

The referred scheme

1.8 WMCA proposes to provide £50 million to operators of commercial registered local bus services in the West Midlands as part of a bus recovery package (the Scheme). The Scheme will follow on from a previous West Midlands Bus Recovery Grant scheme,⁵ which aimed to address the impact of the pandemic and subsequent cost of living crisis and will run until 30 April 2025.

⁴ [Statutory Guidance](#), paragraphs 3.36 to 3.55

⁵ The SAU published a report on this scheme on 22 November 2023, see [Referral of the proposed West Midlands Bus Recovery Grant by the West Midlands Combined Authority - GOV.UK](#)

- 1.9 While the previous scheme had a positive impact in terms of protecting the West Midlands' bus network, WMCA states that the continued and significant increase in costs over the same period, alongside the previous impacts of the pandemic, continue to have a detrimental impact on the West Midlands bus market. WMCA therefore considers that, without support, the bus network in the West Midlands will be reduced. The Scheme will provide bus network security while WMCA decides later this year whether it will move to a franchising approach, following the public consultation which closed on 30 March 2025.
- 1.10 The Scheme will be open to local bus operators providing registered local bus services in the West Midlands, which are operated on a fully commercial basis. The Scheme incorporates up to 2% further route cuts for participating operators which must be agreed with WMCA, with operators agreeing in turn to maintain their registered networks, and to revenue and cost targets.
- 1.11 The Scheme will run from 1 May 2025 to 31 December 2025, with an option to extend until the end of April 2026 (the Scheme duration).
- 1.12 The Scheme will be funded through a combination of the one-year Integrated Settlement allocation and the Exceptional Support Grant, which will provide for bus network support for 2025/26. This will be through two payment mechanisms, BSOG+⁶ and BSIP⁷, collectively called the Network Support Grant (NSG).
- 1.13 National Express West Midlands (NXWM) will be the largest beneficiary of the Scheme, as it provides over 90% of relevant services in the area.
- 1.14 WMCA explained that the Scheme to be made is a Scheme of Particular Interest⁸ because it allows for the provision of one or more Subsidies of Particular Interest. In particular, the Scheme will allow the award of individual subsidies of a value above £10 million.

⁶ Bus Services Operators Grant Plus is a grant from the Department for Transport for eligible commercial bus services designed to support the reform and consolidations of bus funding and develop long term sustainability in bus funding. The scheme started on 1 July 2023 and ran until 31 March 2025. See [Bus Service Operators Grant Plus - GOV.UK](#)

⁷ Bus Service Improvement Plans set out the vision, objectives and delivery plans of local transport authorities and their partners on how to improve local bus services; funding is awarded by the Department for Transport following assessment of BSIPs. [Bus service improvement plan - GOV.UK](#)

⁸ Within the meaning of regulation 3 of [The Subsidy Control \(Subsidies and Schemes of Interest or Particular Interest\) Regulations 2022](#) which sets out the conditions under which a subsidy or scheme is considered to be of particular interest.

2. The SAU's Evaluation

- 2.1 This section sets out our evaluation of the Assessment. WMCA structured its Assessment to address each principle in turn, and our evaluation follows that structure.

Principle A

- 2.2 Under Principle A, subsidies should pursue a specific policy objective in order to
- (a) remedy an identified market failure; or
 - (b) address an equity rationale (such as local or regional disadvantage, social difficulties or distributional concerns).⁹

Policy objectives

- 2.3 The Assessment states that the policy objective of the Scheme is to maintain 'a comprehensive and efficient bus network for the region, which is crucial to deliver the WMCA's purpose to build a better connected, more prosperous, fairer, greener, and healthier West Midlands'.
- 2.4 It relies on evidence of reduced patronage since the COVID-19 pandemic, and recent increased costs to demonstrate that the current network, already reduced since the pandemic, is commercially unsustainable, and that, without financial support, operators will withdraw non-profitable routes.
- 2.5 The Scheme has been designed as a temporary measure, until WMCA decides whether to pursue a franchising model, and considers the application of any new powers which may be introduced through the Government's Bus Services (No.2) Bill (Bus Bill)¹⁰ to deliver a more reliable bus network.
- 2.6 In our view, the Assessment clearly describes and evidences the specific policy objective of the Scheme.

Market failure

- 2.7 Market failures arise where market forces alone do not produce an efficient outcome. When this arises, businesses may make investments that are financially rational for themselves, but not socially desirable.¹¹

⁹ Further information about Principle A can be found in the [Statutory Guidance](#) (paragraphs 3.33 to 3.58) and the [SAU Guidance](#) (paragraphs 4.7 to 4.11).

¹⁰ [Bus Services \(No. 2\) Bill \[HL\] - Parliamentary Bills - UK Parliament](#).

¹¹ [Statutory Guidance](#), paragraphs 3.36 to 3.50.

- 2.8 The Assessment states that the Scheme will remedy the following market failures:
- (a) Negative externalities of higher carbon emissions, air pollution and congestion, that are associated with lack of access to bus services. The Assessment explains that bus services have a much lower impact on the environment than dispersed movement through private vehicles. The Assessment relies on research undertaken by WMCA showing that a significant proportion of residents would shift to car use should their bus service not be provided anymore.
 - (b) Positive externalities, linked to ensuring that more disadvantaged groups in society (including people on low incomes who may not have access to a car, disabled people, the elderly, the unemployed and women) have access to an extensive and efficient bus network, and to reducing congestion and increasing air quality.
- 2.9 In our view, the Assessment clearly describes the negative externalities that the Scheme seeks to remedy. However, to the extent that WMCA also wishes to rely on positive externality arguments, the Assessment should explain how the Scheme will achieve a more efficient outcome by describing the additional economic spillovers¹² that would be enabled by maintaining a comprehensive and efficient bus network for the West Midlands, in line with the Statutory Guidance.¹³ WMCA could also consider whether its positive externality argument would be better articulated as an equity objective (eg in relation to the impact on people on low incomes).

Principle B

- 2.10 Principle B requires that subsidies should be proportionate to their specific policy objective and limited to what is necessary to achieve it.¹⁴
- 2.11 The Assessment outlines several features that contribute to keeping the Scheme to the minimum necessary and proportionate to the policy objective including the following:
- (a) The Scheme is designed to meet the viability gap faced by bus operators providing bus services in the West Midlands. The overall funding envelope of the Scheme (capped at £50 million) is based on an open-book assessment of NXWM's funding gap (including a 4.5% profit level), factored up to

¹² For example, positive externalities related to improved education, should the bus network enable improved access to education and skill development opportunities, or those related to the ability of local businesses to access a wider labour pool.

¹³ [Statutory Guidance](#), paragraph 3.41 and paragraph 16.14.

¹⁴ Further information about Principle B can be found in the [Statutory Guidance](#) (paragraphs 3.74 to 3.110) and the [SAU Guidance](#) (paragraphs 4.15 to 4.19).

incorporate the commercial mileage operated by all other operators in the West Midlands.

- (b) Beneficiaries will be required to commit to stretching revenue and cost-cutting targets, covering financial shortfalls themselves should the estimated revenue and cost targets not be met. In addition, overall bus network mileage will be reduced by up to 2% in order 'to remove any mileage that is deemed to be wasteful, for example, reducing services on any route which are currently overserved'.
- (c) Any profits generated above the planned profit level, will be shared on a 50:50 basis between the relevant beneficiary and WMCA respectively.
- (d) The funding contract allows for an independent expert to be appointed (under instruction from WMCA) to propose changes in bus fares, ensuring continued commercial viability and long-term sustainability of demand. This would apply following significant unforeseen price and cost pressures,¹⁵ or other unforeseen events.

2.12 The Assessment also states that providing the 'at-risk' bus services through direct tenders¹⁶ would be more costly (estimated between £60.2 million and £80 million). The Assessment relies on cost calculations using a simple net cost per bus hour across existing tendered services (unit cost).¹⁷ The WMCA clarified separately that it considers it likely that the £60.2 million minimum estimate (based on current tender prices) to be a significant underestimate, as it is expecting a 15% price increase for those tender contracts due for renewal in 2025/26.

2.13 In our view, the Assessment demonstrates and evidences at a high level that the Scheme is proportionate. However, the Assessment should explain in further detail how providing the 'at-risk' bus services through direct tenders would be more costly than subsidising them through the Scheme; it should also be clearer that the estimated cost of providing lost services by tender is only indicative. For example, the Assessment could:

- (a) consider the robustness of the costings provided by assessing their sensitivity to changes in the assumptions or calculation method, such as weighting the average price across existing tendered services by mileage or another measure (in addition to using the simple average provided in the Assessment);

¹⁵ Defined as the gap between CPI and the Confederation of Passenger Transport (CPT) cost index exceeding 4%.

¹⁶ Where public authorities enter into service agreements with bus operators, through a tendering process, to support them to provide certain services which would not be provided commercially (which may cover all or part of a route and its operating hours).

¹⁷ The total cost is estimated using the average net cost per bus hour of existing tendered bus services in the West Midlands) multiplied by the 'assumed' total bus hours lost per annum.

- (b) explain the rationale for using unit costs for, respectively, all operators and for NXVM only in its calculation of the maximum, and minimum cost estimates it presents; and
- (c) consider how likely it is that the cost estimate across the Scheme duration would be significantly higher than the estimated £60.2 million minimum to tender, given that the calculations are based on existing contracts, most of which will run until at least July 2026.

Principle C

- 2.14 Principle C requires that subsidies must bring about something that would not have occurred without the subsidy.¹⁸ They should not be used to finance a project or activity that the beneficiary would have undertaken in a similar form, manner, and timeframe without the subsidy ('additionality').¹⁹
- 2.15 In assessing the counterfactual, public authorities should consider what would likely happen in the future – over both the long and short term – if no subsidy were awarded (the 'do-nothing' scenario).²⁰
- 2.16 The Assessment sets out that, without the Scheme, NXWM and other local bus operators would have no choice but to follow a significant downsizing strategy. It calculates a reduction absent the Scheme of 33.6% of the current bus network and likely fare increases above current levels of approximately 20 – 25%, that would potentially drive consumers to switch to other modes of transport, leading to a spiral of decline, further cuts and price increases to achieve profitability.
- 2.17 However, the Assessment states elsewhere that the network would not automatically be cut by 33.6% in the event of no subsidy, but that NXWM would do so in stages, and it assesses the impact of cuts at each stage.
- 2.18 The counterfactual assessment relies on summary NXWM profit and loss accounts, other accounting information, and the business case for the subsidy. The Assessment also sets out that the Scheme allows NXWM and other bus operators to pursue a stabilisation strategy that protects the bus network until December 2025, with the option to extend further. This gives time for the fruition of several initiatives that WMCA is implementing through its BSIP, which will help to grow patronage and increase competition to aid a possible move towards a franchising model.

¹⁸ Further information about Principle C can be found in the [Statutory Guidance](#) (paragraphs 3.59 to 3.73) and the [SAU Guidance](#) (paragraphs 4.12 to 4.14).

¹⁹ [Statutory Guidance](#), paragraphs 3.65 to 3.69.

²⁰ [Statutory Guidance](#), paragraphs 3.62 to 3.64.

- 2.19 In our view, the Assessment explains and evidences how the Scheme would change the beneficiaries' economic behaviour and how it brings about changes that would not have occurred absent the subsidy.

Principle D

- 2.20 Principle D sets out that subsidies should not normally compensate for the costs the beneficiary would have funded in the absence of any subsidy.²¹
- 2.21 The Assessment explains that WMCA was able to establish through open-book accounting that NXWM would make a significant loss if it continued to serve its bus network at current mileage without a subsidy and as a result, would have no alternative but to cut its network by around a third to prove to auditors that it was a going concern.
- 2.22 It further explains that in this scenario, it would be for NXWM to determine which routes it was seeking to de-register and that the Scheme, together with the wider bus recovery package, will enable NXWM and other operators to continue to provide a bus network close to current mileage that they would otherwise need to reduce.
- 2.23 The Assessment also states that, through the terms and conditions of the Scheme, WMCA will ensure that operators do not reduce mileage to the network contrary to their obligations. If revenue targets are met or exceeded, any profits generated above a specified level are subject to a profit sharing or clawback mechanism.
- 2.24 In our view, the Assessment explains and evidences how the Scheme brings about changes that would not have occurred absent the subsidy, to avoid losses being incurred and the need to cut the bus network by around a third, enabling operators to service a bus network close to current mileage.

Principle E

- 2.25 Under Principle E, subsidies should be an appropriate policy instrument for achieving their specific policy objective and that objective cannot be achieved through other, less distortive, means.²²
- 2.26 Public authorities must determine whether a subsidy is the most appropriate instrument for achieving the policy objective. As part of this, they should consider other ways of addressing the market failure or equity issue.²³

²¹ Further information about Principle D can be found in the [Statutory Guidance](#) (paragraphs 3.59 to 3.73) and the [SAU Guidance](#) (paragraphs 4.12 to 4.14).

²² Further information about Principle E can be found in the [Statutory Guidance](#) (paragraphs 3.33 to 3.58) and the [SAU Guidance](#) (paragraphs 4.7 to 4.11).

²³ [Statutory Guidance](#), paragraphs 3.56 to 3.58.

- 2.27 The Assessment explains that WMCA has considered the following means to achieve the policy objective:
- (a) tendered contracts to replace any cancelled routes; and
 - (b) the proposed Scheme.
- 2.28 The Assessment sets out at a high level why tendered contracts were not seen as a viable option, drawing on conclusions from elsewhere in the Assessment. It sets out that in WMCA's view, there is insufficient competition in the market, and that in order to take up these tendered contracts, successful bidders would be likely to de-register other commercial services, where profit margins have less certainty.
- 2.29 In our view, in order to demonstrate that the Scheme is the most appropriate tool to achieve the policy objective, the Assessment should explain why more alternatives to the Scheme were not considered.

Principle F

- 2.30 Principle F requires that subsidies should be designed to achieve their specific policy objective while minimising any negative effects on competition or investment within the United Kingdom.²⁴

Design of subsidy to minimise negative effects on competition and investment

- 2.31 The Assessment sets out aspects of the Scheme design which safeguard against negative effects (time-limited, capped at £50m, open to all providers currently operating bus services in the West Midlands, shortfalls underwritten by beneficiaries, and monthly progress meetings). In line with recommendations from the SAU's 2003 Report, the Assessment also includes details on the clawback mechanism and how performance will be assessed to maintain operators' incentives to deliver revenue targets through the delivery period of the Scheme.
- 2.32 In our view, the Assessment demonstrates and evidences how some design features of the Scheme contribute to minimising any negative effects of the Scheme on competition and investment within the United Kingdom.²⁵

²⁴ Further information about Principle F can be found in the [Statutory Guidance](#) (paragraphs 3.74 to 3.110) and the [SAU Guidance](#) (paragraphs 4.15 to 4.19).

²⁵ As set out in Annex 3 of the [Statutory Guidance](#).

Assessment of effects on competition and investment

Market definition

- 2.33 The Assessment identifies the relevant market for the competition assessment, in this case the local bus market in the West Midlands, and notes that competition could occur at both the flow level (point to point travel) and a network level. It identifies some relevant adjacent markets (trains, trams and taxis). In support of its conclusions on the relevant market, it refers to information from the Competition Commission's Local Bus Services market investigation from 2011.²⁶

Impact on competition

- 2.34 The Assessment considers the impact on competition with respect to the impact on NXWM's market share in the West Midlands, and the impact on areas bordering the West Midlands and some adjacent markets.
- 2.35 The Assessment acknowledges that the Scheme will allow NXWM to maintain its market share. However, it argues that, while NXWM would reduce services absent the subsidy, there are no other providers that could then operate them, including via a tender process. The Assessment notes that other operators are downsizing and those routes that would be cut would be unlikely to be profitable without NXWM's scale.
- 2.36 The Assessment considers that the Subsidy may have limited impacts on operators of neighbouring bus networks, referring to the small number of bus services operated by NXWM that extend from the West Midlands into bordering areas. However, it states services along such routes are unlikely to be taken on by another operator in the absence of the subsidy, thereby limiting the scope for negative effects from the Subsidy.
- 2.37 The Assessment considers potential impacts on other adjacent markets such as taxis, trams and trains, noting that bus services currently represent 80% of all public transport journeys in the West Midlands. It states the Scheme will not have significant impact on taxi services as most bus passengers are unlikely to be able to afford taxis as an alternative should the bus network be reduced. It acknowledges the scope for distortive impacts on transport demand in the immediate area around fixed train and tram lines; however, it considers the overall impact to be neutral, given that a reduced bus network would mean fixed tram and train routes could struggle to attract passengers journeying from further away, as they may rely on bus services to provide connectivity.

²⁶ [Local bus services market investigation \(CC\) - GOV.UK](#)

- 2.38 In our view, the Assessment covers some aspects of the effect of Scheme on competition and investment, in line with Annex 3 of the Statutory Guidance.
- 2.39 However, we consider that the Assessment should assess potential impacts on competition and investment in more detail, drawing on a wider range of, and more specific information, and referring to Annex 3 of the Statutory Guidance as appropriate. In particular, it could:
- (a) assess the scale of the Scheme relative to the overall size of the market;
 - (b) explicitly consider the likely competitive impact of the up to 2% bus mileage reduction (to be coordinated jointly between operators and WMCA) on competition, including how impacts (if any) may vary over the medium term. Given the Assessment states that mileage reduction will focus on ‘overserved’ routes, the Assessment could be clearer on any expected impact on flow-level competition; and
 - (c) identify the largest businesses operating public transport networks in bordering areas, in relation to the impact on adjacent markets (such as inter-regional routes). By using available information on their scale and depot availability, it could provide a more specific assessment on the likely ability of other competitors to expand to take on NXWM routes, thereby supporting Principle F.

Principle G

- 2.40 Under Principle G, public authorities should establish that the benefits of the subsidy (in relation to the specific policy objective) outweigh its negative effects, in particular negative effects on competition or investment within the United Kingdom and on international trade or investment.²⁷
- 2.41 The Assessment sets out the benefits of the Scheme compared to the negative outcomes which would arise in the ‘do-nothing’ scenario and refers to its conclusion under Principle F that the Scheme will have minimal effects on competition. However, it does not weigh these benefits against the negatives of the Scheme.
- 2.42 The Assessment states the main benefit of the Scheme is enabling the continuation of bus services for millions of people, in line with the policy objective of maintaining a comprehensive and efficient bus network for the West Midlands. It also includes the following benefits as a result of this:

²⁷ Further information about Principle G can be found in the [Statutory Guidance](#) (paragraphs 3.111 to 3.119) and the [SAU Guidance](#) (paragraphs 4.20 to 4.22).

- (a) preventing social and economic isolation for residents;
- (b) avoiding increasing congestion and pollution; and
- (c) building a better connected, more prosperous, fairer, greener and healthier West Midlands.

2.43 The Assessment acknowledges that the Scheme will impact competition in the relevant market by allowing NXWM (the main operator) to maintain its market position. It also considers the impact on neighbouring bus networks, but concludes that these impacts are limited and are outweighed by the beneficial effects that will be delivered in the long term through franchising.

2.44 In our view, the Assessment should weigh the benefits of the Scheme against its identified negative impacts, rather than the negative impacts of the 'do-nothing' scenario. The Assessment should quantify the beneficial impacts of the Scheme on its policy objective, and where possible, the negative impacts.²⁸ The Assessment should then detail how benefits and negatives were weighed against each other and explain more clearly how it reached its conclusions.

Other Requirements of the Act

2.45 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.²⁹

2.46 WMCA has identified that a subsidy given under this Scheme would involve the delivery of a service of public economic interest (SPEI). Consequently, WMCA should assess whether the requirements of section 29 of the Act would be complied with in relation to any subsidy given under the Scheme. These requirements include:

- (a) the subsidy is limited to what is necessary to deliver the SPEI having regard to costs of delivery and reasonable profits;
- (b) the subsidy is given in a transparent manner, meaning that the subsidy is given in accordance with a contract or other legally binding instrument, which sets out the terms of the subsidy and contains certain prescribed information; and
- (c) arrangements are in place to regularly review the subsidy to ensure it remains limited to the minimum amount necessary and that any excess funds can be recovered.

²⁸ [Statutory Guidance](#), paragraph 3.116.

²⁹ [Statutory Guidance](#), chapter 5.

- 2.47 The Assessment addresses the points as follows:
- (a) The Assessment states that the amount of the subsidy is limited to what is necessary to deliver the SPEI, referring to the analysis under Principle B. Under Principle B, the Assessment explains that the bus network is currently at 88% of pre-pandemic mileage, with around 96% of pre-pandemic patronage. The proposed Scheme includes a further mileage reduction of up to 2%, to reduce wasteful mileage. The Assessment also sets out that the amount of subsidy is appropriate as it is less than it would cost to tender out non-viable services without the Scheme. The Assessment states that this demonstrates that the Scheme is limited to what is necessary to deliver a bus network which delivers the WMCA's purpose.
 - (b) The Assessment states that the Scheme is transparent, and includes a template of the key terms and conditions that will apply to the Scheme.
 - (c) The Assessment confirms that the Scheme will be reviewed at the end of the delivery period and that each operator will be periodically monitored through data submission.
- 2.48 While the requirements of Section 29 of the Act appear to be addressed, the analysis is difficult to follow as the information is not directly signposted from the SPEI assessment, and is not clearly stated in the Assessment of Compliance. In our view, the Assessment should take a more systematic approach to presenting how the SPEI requirements (both substantive and procedural) are addressed, in line with the Statutory Guidance.³⁰
- 2.49 The Assessment should further explain how the review at the end of the delivery period will ensure that awards under the Scheme remain limited to the minimum necessary, and how the Scheme will ensure that excess funds can be recovered. WMCA separately clarified that the copy of terms and conditions provided are compliant with SPEI; however, they also do not clearly demonstrate 'steps for recovery if this becomes necessary', as asserted by the Assessment, or how this will be done.
- 2.50 The terms and conditions refer to recovery of funding if required by a subsidy control regulator; however, it should be noted that the Subsidy Advice Unit's non-binding role within the UK regime does not include requiring recovery of funding.
- 2.51 WMCA confirmed that no other requirements or prohibitions set out in Chapter 2 of Part 2 of the Act apply to the Scheme.

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³⁰ [Statutory Guidance](#), paragraphs 6.9 to 6.26.