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**Executive****17<sup>th</sup> November 2009**

Report of the Director of City Strategy

## **Introduction of a Quality Contract for bus service provision in York**

### **Summary**

1. The meeting of Full Council on 2nd April 2009 passed a motion requesting that the Executive make an application to take up the available powers to impose a Quality Contract scheme as set out in Section 124 (see annex 1) of the Transport Act 2000.
2. This report outlines the process by which a Quality Contract might be introduced and identifies benefits and disadvantages of so doing.

### **Background**

#### **Operational Regime**

3. Prior to the Transport Act of 1985, bus services in York and across the United Kingdom were largely operated by publicly owned bus operators in a regulated environment.
4. The motion proposed at Full Council does not seek a 're-nationalisation' of bus services, but rather seeks to address the issue of re-regulation through the introduction of a Quality Contract Scheme.
5. The City of York has long been held up as an example of good, sustainable public transport planning with bus operators providing a high quality service and a local authority that understands that bus priority measures are required for the effective operation of the bus network.
6. The voluntary quality bus partnership (which can be most closely aligned to a 'voluntary partnership agreement' as described in the Local Transport Act 2008) has assisted with these objectives. The Council motion, however, presents the case that York's travelling public would benefit from greater local authority control over the network of bus services in the City.
7. The Government, through the Transport Act (2000) and as amended in the Local Transport Act (2008), introduced a means to better control bus services through either:

- a Voluntary Partnership Agreement (between local authorities and bus operators)
  - a Statutory Quality Partnership scheme
  - a Statutory Quality Contract scheme (QCS).
8. The last of these measures would equate to the re-regulation of the York bus network. A majority of bus services in the City currently operate on a commercial basis and are outside Council control. The introduction of a QCS would enable the Council to issue contracts for routes (or a combination of routes), specifying service levels, monitoring contract performance and regulating frequencies and fares.
9. The Department for Transport issued a consultation document on the draft regulations and guidance that would support the delivery of re-regulation through a QCS (as established in the 2000 Act and amended in the 2008 Act). The draft guidance indicates that an independent panel (including the Traffic Commissioner and two independent experts) be satisfied that the introduction of a QCS would be the best means of serving the 'public interest'. In short, the five measures of 'public interest' as outlined in the consultation document are as follows:
- Increased bus patronage in the scheme area.
  - Improved quality of local bus service.
  - Contribution to the policies of the Local Transport Authority (LTA).
  - That the scheme contributes in an economic, efficient and effective manner to the LTA policies.
  - Any adverse effects of the scheme on operators are proportionate to the improvement in the well being of persons living or working in the scheme area.
10. The public interest measures, in theory, make the introduction of a QCS more achievable. The 2000 Act, in contrast, only permitted the introduction of a QCS if there was no other means of supplying a workable bus network in an area. For this reason, there are currently no Quality Contract Schemes in operation. If York were to introduce a scheme we would be leading the way with no UK example to follow.
11. Whilst the Transport Act made provision for introducing a QCS, until the results of the consultation and subsequent regulations are made available the approved mechanism for introducing a QCS remain unclear. Publication of this guidance by the Department for Transport is likely to be in early 2010.
12. Bus Operators are statutory consultees in the process and it is not the case that the Council can simply impose a QCS without a detailed proposal

submission to Quality Contract Scheme Board, the Board's endorsement and extensive consultation.

### Stability

13. The introduction of a QCS to York would bring stability to the bus network and would enable the introduction of a number of passenger-focussed initiatives, including multi-operator ticketing products.
14. Currently bus service routes and schedules are changed on a frequent basis, undermining the ability for the Council to invest in bus stop infrastructure and bus priority schemes, safe in the knowledge that they will be used in perpetuity.
15. The principal bus operator in York focuses its attention on those corridors which can be operated without Council subsidy (or with support at the margins of the day and Sundays). The introduction of a QCS for the bus network in York would allow the local authority to better plan for a sustainable, comprehensive bus network, ensuring that profitable services subsidise those which are less profitable but which still play a very important accessibility role in the local community.
16. In addition to the regular network changes, year-on-year increases to bus fares have served to make bus travel less attractive when compared to the private car.
17. The Council has been unable to reach agreement with bus operators to launch an integrated ticketing product. With the exception of the poorly used 'PlusBus' product and the statutory Concessionary Fares Scheme, there is no integrated ticketing between the various bus operators in York. A QCS, would enable the Council to insist on such a product being accepted on all bus services within the area and would better allow for the control of bus fares.

### De-regulation

18. The factors listed in the section above help to make the case for the introduction of a QCS in York, however de-regulation has brought some positive elements to the bus network.
19. The re-organisation of the bus network in 2001, largely concerning bus services operated by the major city operator, transformed a confusing array of bus services with a multitude of infrequent services (often with a number of route variants, eg 6A, 6B, 6C, etc) into a simplified, colour coded network. The Council and the operator has been able to build on this base and, through the Quality Bus Partnership, introduce a colour coded bus route map which appears in every York bus shelter.
20. Some variations have been made to this network, but it has remained largely in tact with a number of high frequency services operating at every ten to fifteen minutes for most of the day. There is a possibility that removing

the need for services to be commercially viable may result again in a pre-2001 network with a less attractive range of services.

21. Further, the overwhelming majority of the York based bus fleet is still under ten years old, significantly more modern than many towns and cities with an equivalent passenger base.

## **Alternative courses of action**

### **a) Voluntary Quality Partnership**

22. The existing voluntary Quality Bus Partnership has delivered a number of initiatives which have benefited the bus travelling public in York, including the recent 'Car Free Day' which gained active support from a majority of bus operators in the city. A comprehensive summary of the Partnership's achievements is included as annex 2 to this report.
23. In spite of the completion of a number of 'easier' initiatives, the voluntary partnership has not been able to reach agreement on some of the more difficult issues facing bus passengers in York, principally the inter-acceptance of tickets between bus operators. In some part, this has resulted from the close attention paid by the Office of Fair Trading (OFT) to ensure that collusion between bus operators does not take place, hampering competition, on either timetabling or fares levels. Bus operators are wary of discussions which might compromise their commercial integrity, even when chaired by the Council.
24. The voluntary partnership does, however, provide a forum for bus operators to openly discuss operational concerns and problems with Council officers. If the existing voluntary partnership working between the Council and bus operators is to continue, the arrangements could be enhanced to reflect more formal cooperation and targets. This could include the introduction of one or more Punctuality Improvement Partnerships with identified targets for both the operators and the Council to meet for the improvement of bus services.

### **b) Statutory Quality Partnership Scheme**

25. If followed through, the Council motion as adopted in April, would see the network of bus services move from an entirely unregulated system to a regulated system. It is possible that many of the aims of a QCS could be implemented through a third solution, a statutory quality partnership.
26. The statutory Quality Partnership Scheme (QPS) model was introduced by the 2000 Transport Act. Under such a scheme the Council (or a number of councils) agree to invest in improved facilities at specific locations along bus routes (e.g. bus stops or bus lanes) and operators who wish to use those facilities undertake to provide services of a particular standard (e.g. new buses, or with specified driver training standards).

27. Only those operators prepared to provide services to the standards specified in the scheme are permitted to use the facilities. Whilst other operators are not generally prevented from providing local services in the area covered by the scheme, they cannot use the facilities provided by the LTA for the scheme. The 2000 Act, associated regulations and guidance, set out the procedure for introduction of a QPS. The QPS model is flexible in that schemes can be route or corridor specific, or could cover larger networks of routes (i.e. the whole of York).
28. The Local Transport Act (2008) extended the scope of a QPS, allowing the LTA to specify requirements as to frequencies, timings or maximum fares as part of the standard of service, in addition to quality standards. The Act also provides important safeguards to ensure that unrealistic conditions are not imposed on operators, and that their legitimate right to a fair commercial rate of return on their investment is not denied.
29. A bus operator can object to particular standards included in a scheme relating to frequencies, timings or maximum fares. The responsibility is placed on the operator to justify the grounds for their complaint, thus minimising the scope for vexatious or frivolous objections. The QPS model is intended to be used as a true partnership between consenting parties.
30. As with the Quality Contract Scheme, the making of a QPS would be subject to a period of formal consultation and its implementation would be decided by the Traffic Commissioner.
31. The introduction of a QPS would require a significant level of funding to be identified to deliver the capital measures required to effectively 'balance' the demands the Council might make of bus operators through the scheme. Under the rules of the scheme, a number of these measures may already be in place (installed no longer than ten years ago). The Council would be bound to maintain the facilities installed for such a period as the scheme was to continue. The cessation of this maintenance would also equate to termination of the scheme.
32. Such a scheme would support and underpin the existing voluntary partnership and would complement rather than replace the existing work. Bus operators, whilst not necessarily in favour of the implementation of such a scheme, would be more accepting of its introduction than they would of a QCS which would have far more wide reaching implications for their commercial freedom.
33. A QPS has the potential for agreements to be reached more easily with operators, would reduce the risk of removing an existing operator from the city and raise standards. However, it would not necessarily reshape the bus network in the city.
34. A QPS could be introduced in a staged manner e.g. on a route or corridor basis and need not necessarily cover the whole city as is the case in Sheffield where one QPS exists and two more are proposed. (It should be

noted that this is currently the only statutory QPS in England, reflecting the difficulty in implementing such schemes.)

## Proposal

35. The meeting of Full Council on 2nd April 2009 passed a motion requesting that the Executive make an application to take up the available powers to impose a Quality Contract scheme as set out in Section 124 of the Transport Act 2000.

## Analysis

36. The introduction of a Quality Contract Scheme (QCS) would give City of York Council regulatory powers for the bus network in the local area. This responsibility would not come without significant cost, as outlined in table 2 at paragraph 55, but would deliver benefits for the bus travelling public.
37. The scope of a City-wide QCS would include all of the bus routes operating wholly within York (currently 17 services excluding Park & Ride) and possibly to include services operating to nearby towns for example Easingwold (a further 14 services)
38. Routes would be contracted on an individual or package basis and it is assumed and the Council would seek to retain services from all of the eight major bus companies operating services in York.
39. The scope of a trial, corridor or area based, QCS could potentially include all of the bus services operating within or to and from a specific area or corridor. By example, an A59 area QCS could potentially include some or all of the services outlined in the following table 1:

**Table 1 Service which might be included in an A59 QCS**

Poppleton Park & Ride	Poppleton P&R site via A59 to York
Route 10	Poppleton - A59 - York
Routes 24 & 26	Askham Lane - Acomb - A59 – Leeman Road – York
<i>Routes 142/143 (if scheme included longer distance services)</i>	<i>York – A59 – onwards to Ripon</i>
<i>X54 (if scheme included longer distance services)</i>	<i>York – A59 – onwards to Harrogate</i>

40. It is unclear as to whether or not the existing Park & Ride network (5 routes) could be accommodated into a QCS. An exclusive licence agreement with

First Group commenced in February 2009 to run for a period of five years, with a possible two year further extension period to 2016.

### **Benefits**

41. Residents and visitors to York would benefit from a more easily accessible network of bus services through a series of measures which, with the necessary finance, might include:
  - Integrated ticketing. Passengers could make through-journeys on the services provided by a number of different operators. The only passengers currently able to achieve this in York are those who are in possession of a concessionary bus pass, either because of age or disability, or those who have a 'PlusBus' add on to their rail ticket.
  - Contracting/franchising services. Passengers would benefit from routes remaining in operation for at least the length of the contract period (probably five years). Quality standards for service delivery, performance, bus cleanliness, etc would be set and monitored by the Council in much the same way as the York Park & Ride network of services is let currently (and London's Quality Incentive Contracts system).
  - Services would operate outside the sphere of purely commercial interests. Bus services could be tendered with high and low patronage routes packaged together (eg an Acomb area package). This could ensure that rural communities as well as those requiring bus services in the evening and on Sundays would benefit from an improved bus service compared to that currently on offer. It would also ensure that smaller bus operators were still able to compete with the major national operators
  - Local bus fares have increased on a regular basis, with the principal local operator's day-pass product increasing in price from £2.20 in April 2004 to £3.70 by January 2009. Under the terms of a QCS fares would be regulated and any changes could be justified in a transparent manner and would result from changes to operational cost or priority at a local level.
  - The Council would be able to plan bus stop infrastructure and bus priority measures with confidence that the services impacted by any changes would continue for a significant period of time without alteration to the route or timetable at just fifty-six days notice (the existing period required for de-registration or alteration of a bus service).
42. In recent years a number of major service changes and fare increases have hampered Council efforts to encourage modal shift across the city and achieve Local Transport Plan objectives. There have been twelve significant alterations to service levels across the network and seven occasions on

which routes (or sections of routes) have been withdrawn, four of which have been within the last two years.

43. Whilst a Council decision to introduce a QCS is unlikely to be met with favour by bus operators, the contract would provide bus operators with a guaranteed revenue stream, allowing them to focus more closely on operational and performance issues.

### **Disadvantages**

44. Since 2007 there has been an increase in the number of services provided by different bus operators. This has been very good for local bus industry competition, in some cases providing the passenger with a choice of operators. Whilst it remains to be seen whether the current levels of competition are sustainable, it is possible that the competition between commercial operators on the corridor between the University and the City Centre will drive down fares for intending passengers.
45. The introduction of a QCS would take the commercial incentive away from bus operators to provide a variety of ticketing and service initiatives to attract new customers. Under a QCS, operator interest in the quality aspect of their services could be retained through the introduction of Quality Incentive Contracts, with operators being financially rewarded for achieving certain standards, but this would be at the expense of the Council.
46. The third, significant disadvantage is that nowhere in Great Britain has, to date, introduced a Quality Contract Scheme. This does not mean that it is unachievable and in many respects, York could win plaudits for 'leading the way'. However, there is a commonly held view amongst transport professionals that the difficulty and cost of introducing a QCS, even with the 2008 legislation, outweighs any possible benefits.
47. It is possible that a QCS needn't be applied to the whole city. It may be that there are specific areas of York which would benefit from a QCS whilst the service in others is satisfactory at present (for instance, it may be felt that a QCS would be of benefit for bus passengers on the A59 corridor between Poppleton and York but would not be of as great value on the Haxby – York corridor). Whilst the administrative and legal costs of introducing a corridor based scheme are still likely to be high, the initial funding for capital infrastructure works and ongoing revenue support would be significantly lower than a network wide QCS. It is anticipated that the publication of scheme guidance would better inform officers as to the budget necessary to deliver both corridor-specific and area wide schemes.

### **Procedure**

48. The earliest date work could be started to establish the case for introduction of a QCS would be 2010, once the necessary guidance has been issued by the Department for Transport. It is anticipated, however, that it could be 2012/13 before a Quality Contract was introduced. This is due to the significant amount of work which would be required on the part of the Council in order to present a business case for formal public consultation,



consideration by the independent 'Quality Contract Scheme Board' and if approval is granted, the 'making' of the scheme.

49. Table 2 at paragraph 55 demonstrates the costs and timescales of the principal elements of the scheme and is based on the process defined by the Department for Transport for the establishment of a QCS.
50. It is important to note that there is no alternative route by which local authorities are able to fully regulate bus services.
51. The Traffic Commissioner is currently responsible for ensuring that bus operators run services according to their timetable. Were a QCS to be launched, these powers would transfer to City of York Council. Consultation with neighbouring Councils and the Commissioner would be required to understand the geographic limits of the QCS and to ascertain their views on the transfer of responsibilities. Furthermore, a significant amount of work would be required to put the necessary measures in place for the Council to fulfil the monitoring requirements as set out in legislation.

### **Funding**

52. The financial implications of introducing a QCS should not be underestimated. The current bus network is sustained through a combination of fare-box revenue, Bus Service Operators Grant (from Central Government), Concessionary fares reimbursement and Council subsidy. If the Council decided that an increase in the level of service (or reduction in fares) was required, then there would be likely to be an increase in cost.
53. In the event of budgeting for re-regulation, the Council would need to consider if a rationalisation of the bus network would be possible to achieve savings without disadvantaging the passenger (i.e. establishing whether there are corridors served by two bus operators' services currently which would only require one service).
54. The Council would also need to assign funding to increase its staff establishment for the purpose of introducing the scheme, letting contracts and monitoring the services, which would become a legal responsibility (see paragraph 51) for the Council rather than the Traffic Commissioner.
55. The introduction of a QCS would require significant funding be made available. Officers anticipate that the process for introduction of the QCS would be likely to take four to five years. Whilst specific details cannot be identified at this stage, table 2 provides an approximation of the funding and timescales required.

## Summary of process for implementing a Quality Contract Scheme

Table 2

The Department for Transport has not yet issued statutory guidance confirming the exact process to be followed. The following provides an indication but this will not be confirmed until, earliest, Spring 2010.

Local Authority actions	QCS Board / Tribunal actions	Minimum timescale	Estimated cost
Establishment of a QCS project team		13 weeks	£5,000
Preparatory work to develop a proposal for consultation – including discussions and data collection with local bus operators, transport users, bus company employees & other interested parties and network design.		39 weeks	£400,000 (est staff cost for scheme implementation)
LTA gives notice and carries out public consultation on its proposals	Copying consultation document to the senior traffic commissioner triggers the setting up of a QCS board. The Board can advise LTA and consultees on procedural questions, and may also begin familiarising with early consultation responses.	12 weeks	£75,000
Send copies of responses to QCS Board. LTA considers consultation responses and decides whether, and if so how, it intends to proceed. Seek Member approval on determined course of action  LTA submits scheme to QCS Board, with request to prepare an opinion.		10 weeks	
	Board prepares and publishes opinion and any recommendations	6 weeks	
LTA finalises its proposals in light of QCS Board's opinion and any recommendations. Seek Member approval if required.		9 weeks	
<i>LTA may choose to ask QCS Board for further opinion based on a revised proposal</i>	<i>Board prepares and publishes opinion and any recommendations</i>	<i>6 weeks?</i>	
Having published its response to QCS Board, LTA may make its scheme	<i>Depending on QCS recommendation, any objections may go to tribunal. The LTA must act on any outcomes from the tribunal.</i>	52 weeks	£20,000 (legal contingency)
LTA issues invitation to tender for service, assesses bids and enters into quality contracts with successful bidders. This process is likely to take a minimum of 9 months.			£2,500,000 (to finance capital works/tendering)
Scheme comes into operation (either on a single date or phased in)			
<b>Total</b>		<b>147 weeks</b>	<b>£3,000,000</b>

56. With such a degree of up-front expenditure required, the risk element cannot be ignored. Adoption of a 'gross cost' contract approach, in addition to the capital investment, would result in the Council adopting the risk associated with fluctuating bus patronage from the private sector. Any operational risks, however, would remain with the private sector as the proposal is not for the establishment of a Council owned and managed transport operation. A 'net cost' contract approach would leave the revenue risk with the operator, but that risk would be considered in the submission of contract tender prices. Again, publication of DfT guidance on the introduction of a QCS will allow officers to provide a clearer indication of the necessary procedures and associated costs.
57. It is estimated that in addition to the cost of scheme implementation, an ongoing revenue cost of £500,000 per annum would be required to adequately manage the contract and maintain the infrastructure.
58. Further investigation into a possible scheme can be carried out prior to the Department for Transport (DfT) issuing its scheme guidance in Spring 2010. This would be accommodated within the existing budget for 2009/10. There are, however, currently no identified sources of funding for the detailed preparation and introduction of a QCS. Whilst additional capital funding to the Local Transport Plan might be achieved through a regional funding allocation, such a scheme is not currently a regional priority.
59. On the basis of the cost estimates outlined in table 2 above and in light of the budgetary pressures currently faced by the Council, it is thought at this stage that the cost of the scheme could be prohibitive. A 'corridor' approach to The DfT guidance may show that the costs are significantly lower. Officers will update members in a further report when the guidance has been published.

### **Consultation**

60. The implementation of this proposal would require formal consultation as part of the process outlined in table 2. As well as consulting with bus users groups and the general public at large, neighbouring authorities and the traffic commissioner would need to be included in any discussions.
61. No consultation has been carried out with bus operators in the creation of this report. The planning of a Quality Contract Scheme would require input from bus operators but the decision to actually seek to implement one or other of the schemes would be one for the Council to take and it is likely that a vast majority, if not all, of the bus operators would be opposed to a QCS.

### **Corporate Objectives**

62. The Sustainable Communities Strategy identifies a number of strategic aims and actions which would be supported by the re-regulation of bus services in the City:

- To build on York's established role as a strategic transport hub by developing sustainable means of travelling to, from and within York that meets the needs of residents, visitors and the economy.
  - To reduce, by progressive planning, the distances people need to travel for all purposes and to promote walking and cycling.
  - To create an integrated network of public transport that is of the highest quality, priced in the public interest and given priority in use of road space to achieve maximum operational reliability.
  - To substantially reduce the volume, speed, noise, pollution and visible intrusion of motor traffic.
63. The introduction of statutory Quality Contract or Quality Partnership schemes would not only assist the Authority in the introduction of integrated ticketing in the City but would also ensure that the public transport network is better co-ordinated, ensuring that bus routes do not duplicate one another, reducing the number of vehicles on the road and protecting less commercially viable services. A Quality Contract scheme could also enable the Authority to ensure that fares are better controlled and more attractive (as is already the case on the Park & Ride network where fares are considerably lower than on service buses) if the necessary funding was available.
64. A reduction of vehicles on specific corridors and the ability to stipulate vehicle emissions standards would assist the Authority to meet its Local Area Agreement (LAA) target (NI186) of reducing the per capita CO2 emissions in the local area. A more attractive bus service would also encourage residents to use the bus rather than drive and would assist the Authority in meeting LAA target NI167, to reduce congestion, demonstrated by the average journey time per mile during the morning peak (LAA).
65. The introduction of either a Quality Contract or Statutory Quality Partnership would also assist in the delivery of the Local Transport Plan, in particular:
- Indicator 3B and 1B, the reduction of traffic levels and a reduction in the modal split of car trips used to travel to work (through increased bus usage)
  - Indicator 3A, increase bus passenger trips (through a more comprehensible and accessible bus network)

## Implications

66. **Financial** – Initial investigation work into the introduction of a Quality Contract Scheme can be undertaken within the existing budget for 2009/10. A further report should be taken to members to further progress this scheme once the financial pressures of introduction of such a scheme are better understood. To place the scheme in context, the current Council investment in the bus network is outlined in table 3 below.

**Table 3 2009/10 Council expenditure on the York bus network**

<b>Area of expenditure</b>	<b>Cost (£)</b>
English National Concessionary Travel Scheme (bus passes)	4,000,000
Support for bus services	710,000
Monitoring of bus services	60,000
Provision of bus information (inc. telephone/internet service, Real Time Passenger Information and printed information)	53,000
Provision of new bus stop infrastructure/bus priority measures	300,000
Maintenance of existing bus stop infrastructure/priority measures	140,000
<b>Annual total</b>	<b>5,263,000</b>

67. **Human Resources (HR)** – The introduction of a Quality Contract Scheme will require a significant increase in staff levels, in the short term for the introduction of the scheme and in the longer term for contract and service management purposes.
68. **Equalities** – The introduction of this proposal will remove the opportunity for bus operators to make commercial decisions within the boundaries of the Quality Contract Scheme area.
69. **Legal** – Significant. The implementation of a QCS will demand a great amount of legal advice in the preparation of the documentation for the scheme and subsequently to address any admissible objections from third parties. In addition, there would be likely to be ‘TUPE’ implications for bus operator staff moving from companies as a result of the QCS
70. **Property** – N/A
71. **Crime and Disorder** – N/A
72. Information Technology – N/A

### **Risk Management**

73. In compliance with the Councils risk management strategy the main risks that have been identified in this report are those which could lead to the inability to meet Corporate (e.g. Local Transport Plan) objectives (Strategic) and to deliver an effective range of public transport services (Operational), leading to financial loss, which might result from the adoption of public transport revenue (fares) risk (Financial), non-compliance with the

legislation laid out for introduction of a Quality Contract (Legal & Regulatory), damage to the Council's image and reputation and failure to meet stakeholders' expectations (Governance). Measured in terms of impact and likelihood, the risk score all risks has been assessed at less than 16, This means that at this point the risks need only to be monitored as they do not provide a real threat to the achievement of the objectives of this report.

## Recommendations

The Executive is requested to:

- a) Note the contents of this report.
- b) Consider the benefits, disadvantages and costs of introducing a Quality Contract Scheme and advise officers as to whether or not to proceed with the first stages of enquiry into a possible launch.

and/or

- c) Ask officers to consider whether introduction of a Quality Contract Scheme on specific bus routes or corridors might be possible and if so, identify a corridor(s) which might form the basis of a trial Quality Contract Scheme. Request that officers report findings back to a future meeting.

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Wards Affected: all

All

For further information please contact the author of the report

### Background Papers:

None