

DECISION-MAKER:	CABINET		
SUBJECT:	CONCESSIONARY FARES 2010/11		
DATE OF DECISION:	15 FEBRUARY 2010		
REPORT OF:	CABINET MEMBER FOR ENVIRONMENT AND TRANSPORT		
AUTHOR:	Name:	Simon Bell	Tel: 023 8083 3814
	E-mail:	simon.bell@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY

None.

SUMMARY

The report seeks agreement to extending the operation of the existing Concessionary Fares Scheme, pending the publication of revised guidance from the Department for Transport.

RECOMMENDATIONS:

- (i) Subject to the inclusion of an 'additional costs' claims procedure in accordance with recommendation (v), to extend the 2009/10 Concessionary Fares Scheme, as set out in Appendix 1, so that it will remain in operation from 1 April 2010 until further notice, pending the publication of revised guidance from the Department for Transport (DfT);
- (ii) To continue to reimburse operators at the 2009/10 rate of 41.2p in the £, plus 15p per generated journey, in accordance with the guidance given by the Department for Transport's Reimbursement Analysis Tool ('RAT') that was issued in December 2008 until such time as a revised RAT is issued by the DfT and re-imbursement rates re-calculated by the Authority accordingly;
- (iii) To retain a figure of 50% for return ticket sales in the average fare calculation;
- (iv) To delegate authority to the Executive Director of Environment, in consultation with the Solicitor to the Council and the Executive Director of Resources, following consultation with the Cabinet Members for Environment & Transport and Resources, to make any necessary variations or changes to the scheme arising from any outstanding appeals or revised guidance issued by DfT and to take any action necessary to give effect to the recommendations including but not limited to the service of statutory Notices (including Variation and Participation Notices if required) and participation in and determination of any appeal against the proposed Concessionary Fares Scheme or reimbursement arrangements for 2010/11.

- (v) To delegate authority to the Executive Director of Environment, in consultation with the Solicitor to the Council and the Executive Director of Resources, following consultation with the Cabinet Members for Environment & Transport and Resources, to determine the arrangements for operators to claim additional capacity and capital costs.

REASONS FOR REPORT RECOMMENDATIONS

1. To enable the Council to comply with the statutory requirement to serve bus operators with minimum 28 days notice of the reimbursement arrangements to be used during 2010/11.

CONSULTATION

2. The Council has consulted with bus companies about the scheme for 2010/11 and they have again expressed serious concerns at the Councils proposals to continue with a similar reimbursement in 2010/11 to 2009/10. It has only been possible to take into account the two appeal decisions released so far as the result of the remaining one is not known at present.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3. It is a statutory requirement that the Council has to publish details of its proposed reimbursement calculation in advance of the scheme introduction, so the only options that could be considered are to vary the level of generation factor employed, or the level of additional costs allowed, or the proportion of non-single journeys included in the calculations. The first two of these factors have been assessed in the light of the adjudication in December 2009 received from the Secretary of State and the contents of the Guidance issued by the Department for Transport (DfT) in December 2008 for use in 2009/10 as no guidance is yet available for 2010/11.

DETAIL

4. Cabinet made a decision on 23 November 2009 to confirm the concessionary fares scheme for 2010/11 which was no change from the scheme in 2009/10 in accordance with the requirements of the Transport Act 2000. Persons registered blind, partially sighted, deaf or without speech will need to provide a letter from the sensory services department of the City Council to confirm that they are unable to travel alone and require a companion pass.
5. The Council is required by law to advise bus operators 28 days before the start of the scheme what the reimbursement arrangements will be. Bus operators then have 56 days from the start of the scheme to appeal to the Secretary of State on the proposed reimbursement arrangements. In the 2009/10 year the Council received 3 appeals, of which two have been determined so far. So, at present, it is not possible to incorporate the recommendations in the reimbursement arrangements for 2010/11, although it is possible that a determination will be made prior to this decision.
6. The appeal decision given by the Secretary of State in relation to the appeals by the Go-south coast companies requires that the Council provides information on how it will calculate additional capacity costs which the operator may incur as a result of participation in the scheme. The decision also requires the Council to set out the procedures in greater detail as to how

operators should claim additional costs and what supporting evidence, including costings, the Council would require to be provided. The scheme must also explain how the operator can challenge the methodology for calculating additional costs and the amounts offered. No decision has been issued in relation to the appeal by First Hampshire and Dorset.

7. Appendix 1 shows the details of the reimbursement calculation that it is proposed to use during 2010/11 to calculate operator entitlements. This calculation accords with the Guidance on Reimbursing Bus Operators issued by the DfT in December 2008. The reimbursement factor for Southampton is 41.2p in the £ (which equates to a generation factor of 142.4%). The average fare calculation takes into account the use of 50% returns and 50% singles, but does not make any allowance for the possible use of any form of day ticket. An additional element for generated trip is also included in the final calculation to take account of scheme implementation costs and marginal operating costs incurred by the operators and this remains at 15p in 2010/11. It is considered reasonable, in the absence of an updated RAT, to continue to reimburse operators at these levels in 2010/11 until such time as a revised calculation can be made using an updated RAT issued by the DfT for the forthcoming year in order to ensure that operators continue to be reimbursed in the interim and that the methodology used to determine reimbursement levels remains consistent with the approach historically adopted by the City Council.
8. Under the current scheme, the eligibility criteria are more generous than those required by the national scheme. The Council provides a discretionary local concession pass for those disabled people who do not meet the national concession criteria but who still have difficulty with travel; this pass allows travel within the City only.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

9. None

Revenue

10. It is estimated that the cost of the scheme will be £4,277,000 in 2010/11 but 3 operators have lodged appeals with the Secretary of State (SoS) and only 2 have been determined. The Council has also received a claim for additional capacity costs from two operators, which is being worked through but the final figure is not known yet. There is also a Judicial Review on the appeal determinations for 2008/09, which could have implications for the scheme. As the results of the appeals are not known and guidance from the Department for Transport has not been issued, it is proposed that the reimbursement rate of 41.2% is used, as in 2009/10. It is also proposed to delegate authority to the Director of Environment to make any necessary amendments arising from outstanding appeals and revised guidance or RAT as and when it is issued. A sum has been set-aside in the Council's Risk Based Contingency Fund to cover any adverse impact from the appeals on Environment and Transport's Portfolio's revenue budget.

Property

11. There are no property implications.

Other

12. There are no other implications.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

13. Concessionary fares are governed by the Transport Acts of 1985 and 2000, and the Concessionary Fares Act of 2007. If it is agreed that in the future, no enhancements over and above the statutory minimum will be offered, then the 1985 Act does not apply.

Other Legal Implications:

14. The provision of a concessionary travel scheme in accordance with the national minimum is a statutory duty. A discretionary power exists to provide a scheme that extends entitlement of services over and above the national minimum. Any scheme must be made having regard to the Human Rights Act 1998 (with which any national minimum scheme will be deemed to comply). Statutory notice of the amendments to the 2009 scheme must be given by 1 December 2009 and any representations received in accordance with this Notice considered and determined in accordance with the Act and Regulations.

POLICY FRAMEWORK IMPLICATIONS

15. The provision of concessionary travel accords with the policy direction of the City's adopted Local Transport Plan 2006 - 2011 by helping the Council meet its targets for increasing the use of sustainable transport modes (and bus travel in particular) and also increasing accessibility and promoting social inclusion.

SUPPORTING DOCUMENTATION

Non-confidential appendices are in the Members' Rooms and can be accessed on-line

1.	Details of scheme.
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Documents In Members' Rooms

1.	None
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Background Documents

Title of Background Paper(s)

Relevant Paragraph of the
Access to Information
Procedure Rules / Schedule
12A allowing document to be
Exempt/Confidential (if
applicable)

1.	None	
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Background documents available for inspection at: N/A

KEY DECISION? YES

WARDS/COMMUNITIES AFFECTED:	ALL
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