

DECISION-MAKER:	CABINET MEMBER FOR ENVIRONMENT AND TRANSPORT
SUBJECT:	CONCESSIONARY FARES 2011/12
DATE OF DECISION:	14 FEBRUARY 2011
REPORT OF:	HEAD OF PLANNING AND SUSTAINABILITY
STATEMENT OF CONFIDENTIALITY	
N/A	

BRIEF SUMMARY

This report seeks agreement to the proposed reimbursement rate to be paid to bus operators for revenue forgone as a result of participation in the Council's Concessionary Fares scheme. The report also seeks agreement to publishing the final details of the Concessionary Fares Scheme for 2011/12.

RECOMMENDATIONS:

Having complied with paragraph 15 of the Council's Access to Information Procedure Rules.

- (i) To reimburse operators at a rate of 47.6p in the £, plus 7.5p per generated journey, in accordance with the guidance given by the Department for Transport (DfT);
- (ii) To revise the ticket types used in the calculation of the average fare to include day tickets and carnet (multi-trip tickets) in addition to single and returns, as per the guidance issued by the DfT;
- (iii) To delegate authority to the Head of Planning and Sustainability, in consultation with the Chief Financial Officer, to reimburse smaller operators at a fixed rate by agreement between the parties;
- (iv) To delegate authority to the Head of Planning and Sustainability in consultation with the Solicitor to the Council and the Chief Financial Officer, following consultation with the Cabinet Members for Environment and Transport and Resources and Workforce Planning to make any necessary variations or changes to the 2011/12 scheme arising from any outstanding appeals 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) and participation in and determination of any appeal against the proposed Concessionary Fares Scheme or reimbursement arrangements for 2011/12; and
- (v) To delegate authority to Head of Planning and Sustainability, in consultation with the Solicitor to the Council and the Chief Financial Officer, following consultation with the Cabinet Members for Environment and Transport and Resources and Workforce Planning, to determine and approve payment of any substantiated operator claims for additional capacity and capital costs, in accordance with Financial Procedure Rules.

REASONS FOR REPORT RECOMMENDATIONS

1. This report is submitted for consideration as a General Exception under paragraph 15 of the Access to Information Procedure Rules in Part 4 of the City Council's Constitution, notice having been given to the Chair of the relevant Scrutiny Panel and the Public.
2. The matter requires a decision that will 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 2011/12. Delays with the issue of guidance for the DfT had prevent this from being entered on the forward plan.

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 February 2010 received from the Secretary of State and the contents of the Guidance for 'reimbursement calculation' issued by the Department for Transport (DfT) in December 2010 for use in 2011/12. In addition, the Council could provide a different rate of reimbursement to different operators, discussed further at paragraph 5 below.

DETAIL (Including consultation carried out)

4. The concessionary fares scheme for 2011/12 will be the same as the scheme in 2010/11 in accordance with the requirements of the Transport Act 2000. 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 2010/11 year the Council received 3 appeals, none of which have been determined by the Secretary of State so far, so at present it is not possible to incorporate the recommendations in the reimbursement arrangements for 2011/12 although it is possible that a determination will be made prior to this decision.
5. The DfT have issued revised reimbursement guidance designed to more accurately reimburse bus operators. The principles set out in this guidance can be used at different levels of spatial aggregation (e.g. area, operator, route, service type, etc) so that councils can decide which level of calculation is most appropriate in view of their local circumstances. However, the guidance suggests that, generally, it would be sensible to undertake reimbursement calculations at operator level.
6. The City Council have chosen to use the DfT methodology and the reimbursement rates vary between 37.5% and 47.6% for individual operators. By using various rates the council would be open to appeal when the same types of service between the same two points reimburses operators at substantially different rates unless it is possible to clearly demonstrate and evidence that the concessionary take up differs substantially between

operators. The present reimbursement rate is 41.2% for all services and all operators and it is proposed that a new rate of 47.6% (the highest of the operator specific calculations) be used in line with the DfT guidance. However, delegated authority is sought for the Head of Planning and Sustainability to reimburse some smaller operators at a fixed rate, following consultation with the Chief Financial Officer, subject to reaching agreement between the two parties and the arrangement constituting best value for the Authority.

7. The Council will also reduce the figure per generated trip where at present operators receive 15p (around two thirds of trips are generated). This figure was recommended in an appeal decision in 2010 but in the decision it was stated that no evidence had been provided to back this up. The new figure will be 7.5p per generated trip and is based on an average trip length provided by the DfT guidance.
8. The other change is in the type of tickets used to calculate the average fare which operators submit as part of their claim. It is proposed to use day tickets and carnet (multi-trip tickets), in line with the DfT guidance, in addition to single and return tickets, which is what people would use if there was no scheme. This means that, although the reimbursement percentage rate increases, the total amount bus operators receive will reduce which is less likely to be successful if appealed to the Secretary of State.
9. The Council is still awaiting the appeal decisions for three appeals submitted in respect of 2010/11 by Marchwood Motorways, Solent Blue Line and Wilts & Dorset. These could have implications for the 2011/12 scheme, as there may be recommendations which the authority may need to implement.
10. The Council has consulted with bus companies about the scheme for 2011/12 and they have again expressed serious concerns at the Council's proposals but the Council believes that this is in line with the DfT's 'no better or no worse off' objective. The bus operators do not believe that the new guidance is any more suitable than the previous guidance and it is very likely they will again appeal to the Secretary of State (SoS) but the rules are being revised in that if the appeal is unsuccessful the SoS can reduce that rate the bus operator is reimbursed at.

RESOURCE IMPLICATIONS

Capital/Revenue

11. Based on current assumptions for the number of passenger journeys and the average fare for each operator, it is estimated that the cost of the scheme will be £4,088,000 in 2011/12, including a provision of £61,000 for the reimbursement of smaller operators at a fixed rate. However, three operators have lodged appeals against the 2010/11 scheme with the Secretary of State (SoS) and none of these have been determined yet. The Council has also received a claim for additional capacity costs for 2009/10 from two operators, which is being worked through but the final figure is not known yet. It is very likely that further claims will be made for additional capacity costs in subsequent years.

Property/Other

12. There are no property 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 2011 scheme must be given by 1 December 2010 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.

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KEY DECISION? Yes

WARDS/COMMUNITIES AFFECTED:	ALL
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SUPPORTING DOCUMENTATION

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

Appendices

1.	None
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Documents In Members' Rooms

1.	None
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Integrated Impact Assessment

Do the implications/subject of the report require an Integrated Impact Assessment (IIA) to be carried out.	Yes/No
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Other Background Documents

Integrated Impact Assessment and Other Background documents available for inspection at:

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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