

Executive Board – 21 February 2023

Subject:	Nottingham City Council Concessionary Travel Scheme Arrangements 2023-24
Corporate Director(s)/Director(s):	Sajeeda Rose, Corporate Director for Growth and City Development
Portfolio Holder(s):	Audra Wynter, Highways, Transport and Parks
Report author and contact details:	James Howe james.howe@nottinghamcity.gov.uk and ext. 64676
Other colleagues who have provided input:	Steve Tough (Head of Transport Operations)
Subject to call-in:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Key Decision:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Criteria for Key Decision:	
(a) <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision	
and/or	
(b) Significant impact on communities living or working in two or more wards in the City <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Type of expenditure: <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital If Capital, provide the date considered by Capital Board Date:	
Total value of the decision: £8.546m	
Wards affected: No Nottingham City Council Wards are directly affected.	
Date of consultation with Portfolio Holder(s):	
Relevant Council Plan Key Outcome:	
Clean and Connected Communities	<input type="checkbox"/>
Keeping Nottingham Working	<input type="checkbox"/>
Carbon Neutral by 2028	<input checked="" type="checkbox"/>
Safer Nottingham	<input type="checkbox"/>
Child-Friendly Nottingham	<input type="checkbox"/>
Healthy and Inclusive	<input type="checkbox"/>
Keeping Nottingham Moving	<input checked="" type="checkbox"/>
Improve the City Centre	<input type="checkbox"/>
Better Housing	<input type="checkbox"/>
Financial Stability	<input type="checkbox"/>
Serving People Well	<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):	
<p>Nottingham City Council is a Travel Concession Authority (TCA) for the purposes of mandatory bus concessions for older and disabled people. Travel Concession Authorities are required to implement the mandatory travel concessions set out in the Transport Act 2000 and under the English National Concessionary Travel Scheme (ENCTS), which guarantee free off-peak local bus travel to eligible older and disabled people anywhere in England. Off-peak is defined as between 9.30am and 11.00pm on weekdays and anytime at weekends and bank holidays.</p> <p>The publication requirements set out in section 150 Transport Act 2000 require details of the proposed arrangements, or variations to the proposed arrangements, for the mandatory scheme to be published at least four months before coming into operation. Publication includes sending copies to the relevant operators, which the Council has completed. The final scheme statutory notice then needs to be finalised and published by 3 March 2023, 28 days prior to the scheme commencing from 1 April 2023.</p>	

Section 149 Transport Act 2000 also imposes a duty on the Council to reimburse operators providing such concessionary travel; the proposal will, subject to budget approval, allow the Council to meet this statutory duty. TCAs receive funding from central government via the Local Government Finance Settlement (LGFS) as a contribution towards this statutory duty. The manner in which reimbursement will be calculated also follows Secretary of State guidance. This is particularly important as reimbursement will follow the principle that operators should be left 'no better and no worse off' as a result of the operation of the scheme. This will mean that the payment will not constitute a subsidy for the purposes of the Subsidy Control Act 2022.

The proposal also seeks to continue the existing discretionary elements of the scheme. The Council can offer such discretionary elements using powers set out in the Transport Act 1985. If the Council is minded to change or remove the discretionary elements of the scheme, a process that includes widespread consultation and an assessment of Equality Act 2010 considerations would need to be undertaken before such a decision is considered.

The Council currently offers three additional travel entitlements for Nottingham residents; these are

1. free travel on the tram during the same period as per the ENCTS conditions (weekdays 9:30am to 11:00pm and all day at weekends and on bank holidays);
2. a companion travel facility attached to passes issued for certain disabilities and;
3. free travel on the bus or tram for disabled city residents before 9:30am on weekdays, from start of service. The free travel before 9:30am on weekdays is presently funded using Bus Services Improvement Plan funding provided directly by the government until March 2025.

Does this report contain any information that is exempt from publication?

No.

Recommendation(s):

1 To seek approval for the Nottingham Concessionary Travel Scheme (NCTS) for 2023/2024, publication of the final scheme statutory notice on 3 March 2023 and the proposed funding (subject to Full Council budget approval).

2 To seek approval to continue with the Council's additional discretionary elements of the scheme from April 2023, which are estimated to cost £1.075m. These are;
a. free travel on the tram by city residents that possess a valid City Council issued concessionary travel pass and;
b. the companion facility attached to passes issued for certain disabilities.

3 To grant delegated authority to the Corporate Director for Development and City Growth, in consultation with the Portfolio Holder for Highways, Transport & Parks, to agree reimbursement arrangements and associated financial commitments for statutory and discretionary concessionary fare payments for 2023/24.

1. Reasons for recommendations

1.1 The recommendations ensure that the Council meets its statutory duty whilst continuing to provide a wide range of travel opportunities and choices for the residents of Nottingham, aligning with the Council and Government's strategic aims.

2. **Background (including outcomes of consultation)**

2.1 The aim of the Council's Local Transport Plan is to deliver a world-class, low carbon, sustainable transport system for Nottingham, to support the local economy, enable growth and help the meet the Council's CN28 objectives. In 2021, the National Bus Strategy was published that set out the Government's vision for improving bus services in England, outside London, through greater local leadership, to reverse the recent shift in journeys away from public transport and encourage passengers back to using the bus.

2.2 Nottingham is comparable to similar UK cities in terms of patronage recovery with overall passenger numbers at around 90% of pre COVID levels. With regards to concessionary travel, Nottingham has higher than average levels of recovery however in comparison.

2.3 To help achieve the aims of the national strategy, a Greater Nottingham Bus Services Improvement Plan (BSIP) was finalised and supported with a financial package of £12m provided by Government. An Enhanced Partnership Scheme was set up with local bus operators to help identify, deliver and monitor the key objectives of the plan, which included several key initiatives and projects.

2.4 The Council provides a range of concessionary travel benefits for Nottingham's elderly and disabled residents, enabling those residents to access work, training, health, shopping and leisure facilities as part of the wider strategic vision.

2.5 In addition to the statutory scheme, the Council, at its own discretion, provides its eligible residents with free off-peak travel on the tram network, at the same times as on local bus services, between 9.30am and 11.00pm on weekdays and anytime at weekends and bank holidays. Free travel on the tram is non-statutory because it is not included in English National Concessionary Fare Scheme legislation. The estimated cost to reimburse Tramlink in 2023/24 is £1.055m.

2.6 The Council also funds a companion pass for eligible residents who are blind, have a severe walking disability or a severe learning disability and would have difficulty travelling alone. The pass allows one additional person to travel with the pass holder at the same discounted rate for all journeys commencing within the city boundary. This additional discretionary concession is estimated to cost the Council £0.020m in 2023/24.

2.7 The Council is required to agree reimbursement arrangements with the five local bus operators and tram operator to cover each operator's loss of fares revenue. The Department for Transport issues annual guidance to assist with the calculation of reimbursement due to the operator based on actual trips made, and the underlying principle of the calculation is to ensure that each transport operator is "no better or no worse off" as a result of carrying the concessionary passengers.

2.8 The Council has a statutory obligation to issue a final scheme notice by 3 March 2023 to enable the scheme to be effective from 1 April 2023 until 31 March 2024. This notice should include the final scheme entitlements and reimbursement arrangements.

2.9 The government introduced grant support packages for public transport operators during the pandemic, and following government guidance, the Council paid operators at pre-Covid levels of travel during this period to help maintain network provision and ensure that operators remain as going concerns. Although the government is intending to lay a further statutory instrument to allow payments at pre-pandemic levels to continue into 2023/24, following DfT guidance issued in October 2021, the Council returned to paying concessions based on actual trips made on a phased basis during the 2022/23 financial year.

2.10 The actual costs for the scheme in 2023/24 will be determined through historic passenger data, final reimbursement arrangements with operators and actual travel demand. In the year before the pandemic (2019/20), the Council made a reimbursement of £8.1m to transport operators based on 8,919,468 journeys per year. However, costs are forecasted to reach up to £8.546m in 2023/24 due primarily to record levels of inflation, but also operator fare increases and improving patronage levels following the pandemic.

3. Other options considered in making recommendations

3.1 No other options are available for the national scheme as the provision of concessionary travel for elderly and disabled people is a statutory duty. If the tram was excluded from the concessionary travel scheme there would be a loss of accessibility for people with mobility difficulties, which would not align with Nottingham's strategic aims. There would also be a large migration of tram users over to the bus as Nottingham residents will most likely have a local bus service available as an alternative to the tram, meaning there would still be a significant cost to the Council.

4. Consideration of Risk

4.1 The cost of the scheme is budgeted to be £8.546m in 2023/24. The final costs will be subject to a number of factors, including actual demand for travel on public transport services during the financial year, fares increases and inflation or deflation. Patronage data will be closely monitored and any variation to predicted costs will be reported.

5. Best Value Considerations, including consideration of Make or Buy where appropriate

5.1 Reimbursement payments to operators are calculated using DfT issued guidance to help ensure that payments are calculated appropriately.

6. Finance colleague comments (including implications and value for money/VAT)

- 6.1 The budget within the MTFP for Concessionary Fares is as shown below in Table 1:

Table 1	
22/23 base budget for Concessionary Fares payments	£7,846,530
Inflation funding included in MTFP 23/24	£ 700,000
23/24 budget for Concessionary Fares	£8,546,530
Included as a risk for additional costs on Concessionary Fares	£ 549,000

As shown above, £8,546,530 will be the budgeted figure for 23/24. The risk amount of £549,000 was identified and given a 60% likelihood of materialising. The risk assessed value (£329,400 as 60% of the identified figure) has been included within the MTFP calculations and the amount set aside in the Finance Resilience Reserve (Executive Board Tuesday 20th December 2022 – Medium Term Financial Plan report reference 5.27 - Table 12).

- 6.2 The amounts paid out for Concessionary Fare reimbursement in 23/24 will be monitored and any variation to budget will need to be included in the monthly forecast reports, with any ongoing impact included within future MTFPs.
- 6.3 The amounts identified within the report are included within these figures.

Susan Tytherleigh – Strategic Finance Business Partner (G&CD) 21.12.22

7. Legal colleague comments

- 7.1 The proposal in this report seeks approval and publication of the Nottingham Concessionary Travel Scheme for 2023/24, approval to continue with the existing discretionary elements of the scheme and to delegate authority to the Corporate Director for Development and City Growth, in consultation with the Portfolio Holder for Highways, Transport & Parks, to agree financial reimbursement to travel operators.
- 7.2 Nottingham City Council is a Travel Concession Authority for the purposes of mandatory bus concessions for older and disabled people. Travel Concession Authorities are required to implement the mandatory travel concessions set out in the Transport Act 2000, which guarantee free off-peak local bus travel to eligible older and disabled people anywhere in England. Off-peak is defined as between 9.30am and 11pm on weekdays and anytime at weekends and bank holidays.
- 7.3 Specifically, the Council has a statutory duty to offer concessions for prescribed bus journeys starting in its area between designated times by the s145A Transport Act 2000. The proposal will, subject to budget approval, allow the Council to meet this statutory duty. The proposal also follows Secretary of State for Transport guidance, which the Council are required to have regard to.
- 7.4 Section 149 Transport Act 2000 also imposes a duty on the Council to reimburse operators providing such concessionary travel; the proposal will, subject to budget approval, allow the Council to meet this statutory duty. The manner in which reimbursement will be calculated also follows

Secretary of State for Transport guidance. This is particularly important as reimbursement will follow the principle that operators should be left 'no better and no worse off' as a result of the operation of the scheme. This will mean that the payment will not constitute a subsidy for the purposes of the Subsidy Control Act 2022.

- 7.5 The publication requirements set out in section 150 Transport Act 2000 require details of the proposed arrangements, or variations to the proposed arrangements, for the mandatory scheme to be published at least four months before coming into operation. Publication includes sending copies to the relevant operators and having copies available at the Council's principal office. The guidance issued by the Secretary of State for Transport is often issued sufficiently prior to the date when publication is required by section 150 Transport Act 2000; this year there was a very short period of time between publication of the guidance and the relevant date under section 150 Transport Act 2000. The Council has sent copies of the draft scheme to relevant operators as it usually does. As the scheme follows closely the guidance issued by the Secretary of State for Transport, and has changed little from the previous arrangements, the risk of challenge seems low and the risk of a successful challenge seems low. It is envisaged that in respect of the scheme arrangements for 2024/25, proposed arrangements will be published more widely to comply with section 150 Transport Act 2000 but will also make clear that such arrangements are subject to change pending guidance issued by the Department for Transport.
- 7.6 The proposal also seeks to continue the existing discretionary elements of the scheme. The Council can offer such discretionary elements using powers set out in the Transport Act 1985. If the Council are minded to change or remove the discretionary elements of the scheme, a process that includes widespread consultation and an assessment of Equality Act 2010 considerations would need to be undertaken before such a decision is considered.
- 7.7 In the delegation of agreement for financial reimbursement, colleagues will need to still comply with the Council's Constitution. Further, auditable evidence of the consultation between the Corporate Director and the Portfolio Holder should be created and retained.

Anthony Heath. Senior Solicitor, Contracts and Commercial, 28th December 2022.

8. **Other relevant comments**

8.1 N/A

9. **Crime and Disorder Implications (If Applicable)**

9.1 N/A

10. **Social value considerations (If Applicable)**

10.1 N/A

11. **Regard to the NHS Constitution (If Applicable)**

11.1 N/A

12. Equality Impact Assessment (EIA)

12.1 Has the equality impact of the proposals in this report been assessed?

No

Yes

Attached as Appendix 2, and due regard will be given to any implications identified in it.

13. Data Protection Impact Assessment (DPIA)

13.1 Has the data protection impact of the proposals in this report been assessed?

No

A DPIA is not required because:

The report does not contain personal data.

Yes

14. Carbon Impact Assessment (CIA)

14.1 Has the carbon impact of the proposals in this report been assessed?

No

A CIA is not required because:

(Please explain why a DPIA is not necessary)

Yes

Attached as Appendix 3, and due regard will be given to any implications identified in it.

15. List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

15.1 None

16. Published documents referred to in this report

16.1 Concessionary travel for older and disabled people: guidance on reimbursing bus operators.