

Executive Board – 13 February 2024

Subject:	Nottingham City Council Concessionary Travel Scheme Arrangements 2024-25
Corporate Director(s)/Director(s):	Sajeeda Rose, Corporate Director for Growth and City Development
Portfolio Holder(s):	Cllr Angela Kandola, Portfolio Holder for Highways, Transport and Planning
Report author and contact details:	James Howe james.howe@nottinghamcity.gov.uk and mob. 07960 199 657
Other colleagues who have provided input:	
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: £10.08m	
Section 151 Officer expenditure approval Has the spend been approved by the Section 151 Officer? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/a Spend Control Board approval reference number: 4532	
Wards affected: No Nottingham City Council Wards are directly affected.	
Date of consultation with Portfolio Holder(s):	
Relevant Council Plan Key Outcome:	
Green, 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"/>
Living Well in our Communities	<input type="checkbox"/>
Keeping Nottingham Moving	<input checked="" type="checkbox"/>
Improve the City Centre	<input type="checkbox"/>
Better Housing	<input type="checkbox"/>
Serving People Well	<input type="checkbox"/>
<p>The Nottingham Concessionary Travel Scheme is made up of statutory and discretionary elements.</p> <p>Concessions must be provided on bus services under the statutory English National Concessionary Travel Scheme (ENCTS), which guarantee free off-peak local 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>There are also discretionary elements in the Scheme, as follows;</p> <ol style="list-style-type: none"> free travel on the tram during the same period as per the English National Concessionary Travel Scheme 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 funded using Bus Services Improvement Plan funding provided directly by the government until March 2025.

The report seeks approval for the Nottingham Concessionary Travel Scheme for 2023/24, and to publish the Scheme, which it is required to do by 3rd March 2024, 28 days prior to the Scheme commencing from 1 April 2024.

Under the draft legislation for the East Midlands County Combined Authority (EMCCA), powers for statutory and discretionary concession schemes will be concurrent between the new Authority and the constituent Authorities. To ensure that clear arrangements are put in place across all public transport functions, the legislation also allows for a two-year transition period up to April 2026. The detailed arrangements for transferring functions, including timescales and funding allocations, and the arrangements in particular for discretionary concessions schemes, are currently being worked through, and this may lead to the Nottingham Concessionary Travel Scheme being amended during 2024/25. Updates will be provided to the Board as required.

Ahead of publishing the Scheme, 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, based on guidance from the Department for Transport (DfT). A review of the guidance has recently been undertaken by DfT as datasets and methodologies used are very dated and travel habits/demands post COVID had also changed.

The actual costs for the scheme in 2024/25 will be determined through historic passenger data, final reimbursement arrangements with operators and actual travel demand. However, the significant changes made to the new calculator suggest that urban areas could see a 20-21% increase in the reimbursement rate, compared to only 4% for rural areas. Nottingham has also seen passenger numbers recover quicker than many other areas, with concessionary pass holder trips up to around 82% of pre pandemic levels. A combination of these factors means the financial impact for Nottingham will be higher than for most other Authorities.

The estimated impact of the new calculator and guidance is to increase the annual concessions cost by approximately £1.705m. The DfT has advised that no additional funding is being provided to transport authorities to support the expected cost increases, and so lobbying is underway both directly and through the Urban Transport Group (which represents the larger cities on transport issues) to secure government funding support to cover this additional cost.

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

No.

Recommendation(s):

- 1 To approve the Nottingham Concessionary Travel Scheme (NCTS) for 2024/2025, and the publication of the final scheme statutory notice on 3 March 2024.
- 2 To approve the following additional discretionary elements of the scheme from April 2024;
 - 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 Growth and City Development, in consultation with the Portfolio Holder for Highways, Transport and Planning to;
- a. agree reimbursement arrangements and associated financial commitments for statutory and discretionary concessionary fare payments for 2024/25 and;
 - b. review discretionary elements of the scheme throughout 2024/25 as part of the transitioning process to a new East Midlands Combined County Authority.

1. **Reasons for recommendations**

- 1.1 The recommendations ensure that the Council meets its statutory duty in relation to concessionary fares.
- 1.2 Removing the free tram travel concession is not recommended as it is particularly well suited for travel by people with mobility difficulties as it is designed to offer fully accessible trams and stops. Removal would also mean that a large number of residents would not have a public transport service within walking distance on which they could use their concessionary card. These restrictions would not align with Nottingham's strategic aims in its commitment to provide access for people with disabilities.
- 1.3 Removing companion travel is not recommended as it ensures that residents who cannot travel alone are able to use public transport, and removal of this benefit would create barriers to travel and potentially result in vulnerable people being isolated.

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

Strategic background

- 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 to meet the Council's CN28 objectives. In 2021, the National Bus Strategy was published, and it 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 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. Further BSIP funding has since been awarded, taking the total package up to nearly £15m. An Enhanced Partnership Scheme (approved by Executive Board in June 2022) was set up with local bus operators to help identify, deliver, and monitor the key objectives of the Plan, which includes several key initiatives and projects.
- 2.3 The East Midlands Combined County Authority (EMCCA) will be established in 2024-25, with a Mayor expected to be elected in May 2024. The government has announced that the new Authority will have access to £1.5bn to fund sustainable transport improvements and this will help to grow public transport attractiveness in the future, contributing to the Council's objectives to grow the economy and meeting its CN28 ambitions.

Concessionary scheme requirements

- 2.4 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.
- 2.5 The publication requirements set out in section 150 of the 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 2024, 28 days prior to the scheme commencing from 1st April 2024. This notice should include the final scheme entitlements and reimbursement arrangements.
- 2.6 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.

Discretionary elements of scheme and formation of Combined Authority

- 2.7 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.
- 2.8 In addition to the statutory scheme, the Council, at its own discretion, provides discretionary elements using powers set out in the Transport Act 1985. There are currently three additional travel entitlements for eligible residents.
- 2.9 Free off-peak travel on the tram network is provided, 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 2024/25 is up to £1.233m.
- 2.10 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 £0.070m in 2024/25.

2.11 Free travel is also provided 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 funded using Bus Services Improvement Plan funding provided directly by the government until March 2025

2.12 Under the draft legislation for the EMCCA, powers for statutory and discretionary concession schemes will be concurrent between the new Authority and the constituent Authorities. To ensure that clear arrangements are put in place across all public transport functions, the legislation also allows for a two-year transition period up to April 2026. The detailed arrangements for transferring functions, including timescales and funding allocations, and the arrangements for discretionary concessions schemes, are currently being worked through, and this may lead to the Nottingham Concessionary Travel Scheme being amended during 2024/25, with updates provided to the Board as required.

Revised DfT guidance on reimbursement

2.13 Ahead of 3 March 2024, 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 Concessionary Fares Reimbursement 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.

2.14 The Department for Transport undertook a thorough review of the reimbursement guidance and calculator tool this year as the datasets and methodologies used are very dated and travel habits/demands post COVID had also changed, leading operators to highlight a concern that they have been under-reimbursed.

2.15 The actual costs for the scheme in 2024/25 will be determined through historic passenger data, final reimbursement arrangements with operators and actual travel demand. However, the significant changes made to the new calculator suggest that urban areas could see a 20-21% increase in the reimbursement rate, compared to only 4% for rural areas. Nottingham has also seen passenger numbers recover quicker than many other areas, with concessionary pass holder trips up to around 85% of pre pandemic levels, and this will further increase the costs of Concessionary Fares reimbursement. A combination of these factors means the financial impact for Nottingham will be higher than for most other Authorities.

2.16 The estimated impact of the new calculator and guidance is to increase the annual concessions cost by up to approximately £1.705m. The DfT has advised that no additional funding is being provided to transport authorities to support the expected cost increases, and so lobbying is underway both directly and through the Urban Transport Group (which represents the larger cities on transport issues) to secure government funding support to cover this additional cost.

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.
- 3.2 Consideration was given to removing the free tram travel benefit for city resident concessionary pass holders and the companion facility attached to passes issued to city residents with certain disabilities. If the tram was excluded from the concessionary travel scheme there would be a large migration from tram to bus as Nottingham residents would most likely have a local bus service available as an alternative option to the tram, meaning there would still be a considerable cost to the Council. There would also be a loss of accessibility for the elderly and for people with mobility difficulties. NET is particularly well suited for travel by people with mobility difficulties as it is designed to offer fully accessible trams and stops. Trams are 100% low floor throughout with level boarding at stops. Removal would also mean that a large number of residents would not have a public transport service within walking distance on which they could use their concessionary card. These restrictions would not align with Nottingham's strategic aims. The companion card ensures that residents who cannot travel alone are able to use public transport, and removal would create barriers to travel and potentially result in vulnerable people being isolated.
- 3.3 Notwithstanding the above, the Council has committed to review its discretionary concessionary travel offer in conjunction with the wider region and emerging Combined Authority to ensure consistency of approach. This could lead to changes during to the Scheme arrangements due to be published in March, with updates provided to the Board as required.

4. **Consideration of Risk**

- 4.1 The cost of the scheme is budgeted to be £10.08m in 2024/25. 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. **Please detail how best value is demonstrated including consideration of the following:**

- DIY- do it yourself through redesign
- BIY- buy it yourself e.g. procurement
- BIWO- buy it with others- joint procurement
- DIWO- do it with others e.g. shared services/ partnerships with local authorities
- DIFO – do it for others- trading and income enhancement
- EO- enable others
- REDUCE- service standards commensurate with affordability
- STOP

- 5.1 Reimbursement payments to operators are calculated using DfT issued guidance to help ensure that payments are calculated appropriately. Consideration was given to discontinue funding free tram travel and the companion facility attached to certain disabled persons' passes. This is not recommended for the reasons outlined in paragraph 3.2.

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

- 6.1 £10.08m is the current estimated cost for the Nottingham Concessionary fares Travel Scheme in the 24/25 Financial Year, Based on the latest patronage model. A significant change to the previous years due to Reimbursement rates increase as detailed in (2.11) above. This is an increase of £1.705m from the in-year forecast of £8.375m (for 23/24 financial year). The budget currently stands at £8.6m.
- 6.2 The amounts paid out for Concessionary Fare reimbursement in 24/25 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.

Paul Rogers – Finance Business Partner (G&CD) 03/01/2023

7. Legal colleague comments

- 7.1 The proposal in this report seeks approval and publication of the Nottingham Concessionary Travel Scheme for 2024/25, approval to continue with the existing discretionary elements of the scheme and to delegate authority to the Corporate Director for Growth and City Development, in consultation with the Portfolio Holder for Highways, Transport & Planning, 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.
- 7.8 It is noted that the draft legislation for the East Midlands Combined County Authority includes powers for statutory and discretionary concession schemes will be concurrent between the new Authority and the constituent Authorities. The report cites that the draft legislation also allows for a two-year transition period up to April 2026. The detailed arrangements, including timescales and funding allocations, are currently being worked through, and this may lead to the Concessions Scheme being amended during 2024/25, with updates to be provided to the Board as required. From a legal risk perspective, it may be prudent to set out this context in any communications around the concessionary travel arrangements for 2024 – 25 and, indeed, 2025 – 26 to raise awareness and start to mitigate risks of challenge should the eventual scheme differ markedly from that being adopted by this Council.

Anthony Heath. Senior Solicitor, Contracts and Commercial, 21st December 2023.

8. Equality Impact Assessment (EIA)

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

No

Yes

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

9. **Data Protection Impact Assessment (DPIA)**

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

No

A DPIA is not required because this report does not contain any personal data.

Yes

10. **Carbon Impact Assessment (CIA)**

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

No

A CIA is not required because:

Yes

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

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

11.1 **N/a**

12. **Published documents referred to in this report**

12.1 **N/a**