

## Executive Board – 21 January 2025

<b>Subject:</b>	Nottingham City Council Concessionary Travel Scheme Arrangements 2025-26
<b>Corporate Director(s)/Director(s):</b>	Nicki Jenkins, Interim Corporate Director for Growth and City Development
<b>Executive Member(s):</b>	Cllr Neghat Khan, Executive Member for Strategic Regeneration, Transport and Communications
<b>Report author and contact details:</b>	James David Howe <a href="mailto:james.howe@nottinghamcity.gov.uk">james.howe@nottinghamcity.gov.uk</a> and mob. 07960 199 657
<b>Other colleagues who have provided input:</b>	Steve Tough
<b>Subject to call-in:</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Key Decision:</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Criteria for Key Decision:</b>	
(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
<b>and/or</b>	
(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
<b>Type of expenditure:</b>	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital If Capital, provide the date considered by Capital Board Date:
<b>Total value of the decision:</b>	£10.883m
<b>Section 151 Officer expenditure approval</b>	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: 11611
<b>Commissioner Consideration</b>	Has this report been shared with the Commissioners' Office? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Any comments the Commissioners wish to provide are listed below.
<b>Wards affected:</b>	
<b>Date of consultation with Executive Member(s):</b>	
<b>Relevant Council Plan Key Outcome:</b>	
Clean, Green 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"/>
<b>Summary of issues (including benefits to citizens/service users):</b>	
<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 being between 9.30am and 11.00pm on weekdays and at any time on weekends and bank holidays.</p> <p>There are also discretionary elements in the Scheme, as follows;</p>	

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

The report seeks approval for the Nottingham Concessionary Travel Scheme for 2025/26, and to publish the Scheme, which it is required to do by 3<sup>rd</sup> March 2025, 28 days prior to the Scheme commencing from 1 April 2025.

Public Transport functions are due to transfer to the East Midlands County Combined Authority (EMCCA), and this will include responsibility for managing Concessionary Fare Schemes across the area. To ensure that clear arrangements are put in place, the legislation also allows for a two-year transition period up to April 2026, during which functions will transfer. The detailed arrangements for transferring functions, including timescales and reviewing variations in discretionary elements between the constituent authorities, are currently being worked through, and this may lead to the Nottingham Concessionary Travel Scheme being reviewed and amended during 2025/26. Updates will be provided to the Board as required. Following the transfer, it is expected that the Council will continue to fund part or all of the Nottingham Concessionary Travel Scheme through the payment of a Transport Levy to EMCCA.

Ahead of publishing the Scheme, the Council is required to agree reimbursement arrangements with the six local bus operators and tram concessionaire to cover each operator's loss of fares revenue, based on guidance from the Department for Transport (DfT). A significant review of the guidance was undertaken by DfT ahead of the scheme arrangements for 2024/25 as datasets and methodologies used previously were very dated and travel habits/demands post COVID had also changed. No further significant changes are expected to the guidance and calculator when they are expected to be re-issued in November 2024.

The actual costs for the scheme in 2025/26 will be determined through calculating and agreeing on a reimbursement rate per journey with operators that is based on historic passenger data. This reimbursement rate will then be applied to actual travel demand to determine the actual costs throughout the year.

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

No.

**Recommendation(s):**

- 1 To approve the Nottingham Concessionary Travel Scheme (NCTS) for 2025/2026, and the publication of the final scheme statutory notice on 3 March 2025
- 2 To approve the following additional discretionary elements of the scheme from April 2025;
  - 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 to city residents for certain disabilities.
  - c. free travel on the bus or tram for disabled city residents before 9:30am on weekdays, from start the of service. This is funded by the government's Bus Services Improvement Plan (BSIP).

- 3** To grant delegated authority to the Corporate Director for Growth and City Development, in consultation with the Executive Member for Strategic Regeneration, Transport and Communications to;
- a. agree reimbursement arrangements and associated financial commitments for statutory and discretionary concessionary fare payments for 2025/26 and;
  - b. review the Scheme throughout 2025/26 as part of the transitioning process to a new East Midlands Combined County Authority (EMCCA).

## 1. **Reasons for recommendations**

- 1.1 The recommendations ensure that the Council meets its statutory duty in relation to concessionary fares and also continues to provide a wide range of travel opportunities and choices for the residents of Nottingham, aligning with the Council and Government's strategic objectives in the context of public transport.

## 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 a 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) was established in spring 2024, with a Mayor elected in May 2024. The government announced that the new Authority would have access to £1.5bn to fund sustainable transport improvements to help 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 2025, 28 days prior to the scheme commencing from 1<sup>st</sup> April 2025. This notice should include the final scheme entitlements and reimbursement arrangements.
- 2.6 Section 149 of the Transport Act 2000 also imposes a duty on the Council to reimburse operators providing such concessionary travel; the proposal will, subject to 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 the East Midlands Combined County Authority (EMCCA).

- 2.7 The Nottingham Concessionary Travel Scheme (NCTS) 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 2025/26 is £1.429m.
- 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 £0.100m in 2025/26.
- 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 at least March 2025.
- 2.12 Public Transport functions are due to transfer to the East Midlands County Combined Authority (EMCCA), and this will include responsibility for managing Concessionary Fare Schemes across the area. To ensure that clear arrangements are put in place, the legislation also allows for a two-year transition period up to April 2026, during which functions will transfer. The

detailed arrangements for transferring functions, including timescales and reviewing variations in discretionary elements between the constituent authorities, are currently being worked through, and this may lead to the Nottingham Concessionary Travel Scheme being reviewed and amended during 2025/26. Updates will be provided to the Board as required. Following the transfer, it is expected that the Council will continue to fund part or all of the Nottingham Concessionary Travel Scheme through the payment of a Transport Levy to EMCCA.

#### DfT guidance on reimbursement

- 2.13 Ahead of 3 March 2025, the Council is required to agree reimbursement arrangements with the six local bus operators and tram concessionaire to cover each one'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 in 2023/24 as the datasets and methodologies used were very dated and travel habits/demands post COVID had also changed, leading operators to highlight a concern that they have been under-reimbursed. The final guidance and calculator issued were then available to calculate reimbursement due to operators in 2024/25.
- 2.15 For 2025/26, the guidance and calculator are broadly expected to remain unchanged. The actual costs for the scheme in 2025/26 will be determined through calculating a reimbursement rate per journey based on historic passenger data, and actual travel demand. The total forecasted cost of reimbursement in 2025/26 is £10.883m and this accounts for possible increases to fares and patronage and the impact of inflation. Funding approval is being sought through approval of the Medium-Term Financial Plan by Full Council in March 2025.

### **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.

#### **4. Consideration of Risk**

- 4.1 The cost of the scheme is budgeted to be £10.883m in 2025/26. The final costs will be subject to several 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. 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. Commissioner comments**

- 6.1 The Commissioners are content with this report.

#### **7. Finance colleague comments (including implications and value for money/VAT)**

- 7.1 The current total estimated cost for the Nottingham Concessionary Travel Scheme for 25/26 is £11.013m including the pre-09:30am weekday travel, which is separately funded by the Bus Service Improvement Plan (BSIP) (please note this is currently at a forecasted £0.13m for 25/26 does not form part of this decision).
- 7.2 The remaining £10.883m is based on the latest patronage model of which £9.354m of this relates to the cost of statutory travel. This statutory element is funded as part of the Revenue Support Grant (RSG) received each year. The amount of RSG the Council receives for concessionary fares and other services has reduced in recent years, causing additional pressure to the Councils budget.
- 7.3 The Budget currently stands at £10.080m and there has been a significant change to the previous year's costs due to increased reimbursement rates as detailed in paragraph 2.11 above. This equates to an increase of £1.068m from the in-year forecast of £9.815m (for 24/25) compared to last year.
- 7.4 The amounts paid out for Concessionary Fare reimbursement in 25/26 will be monitored and any variation to Budget will need to be closely monitored and included within the monthly forecast and mitigation actions taken where required. In addition, any ongoing impact will be included within future MTFPs and the budget setting process.

7.5 The amounts identified within the report are included within these figures.

Paul Rogers – Finance Business Partner (G&CD) 29/11/2024

## 8. **Legal colleague comments**

- 8.1 The proposal in this report seeks approval and publication of the Nottingham Concessionary Travel Scheme for 2025/26, 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 Executive Member for Strategic Regeneration, Transport and Communications, to agree financial reimbursement to travel operators.
- 8.2 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.
- 8.3 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.
- 8.4 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.
- 8.5 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 has previously been issued sufficiently prior to the date when publication is required by section 150 Transport Act 2000; this year (as with last year) there was again 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.
- 8.6 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.

- 8.7 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 Executive Member should be created and retained.
- 8.8 It is noted that the East Midlands Combined County Authority Regulations 2024 include powers for statutory and discretionary concession schemes will be concurrent between the new Authority and the constituent Authorities. The report cites that the legislation also allows for a two-year transition period up to (but excluding) 1 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 2025/26, with updates to be provided to the Executive 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 2025 – 2026 to raise awareness and start to mitigate risks of challenge should the eventual scheme differ markedly from that being adopted by this Council.
- 8.9 Finally, consideration should be given as to the likelihood of the transfer of the concessions schemes to EMCCA during the year 2025-2026 as to whether and to what extent provision is made within the reimbursement arrangements with travel operators to assist with such in-year transfer, if applicable.

Tom Button, Team Leader - Contracts and Commercial, Legal and Governance 3 December 2024

9. **Other relevant comments**

N/a

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

10.1 N/a

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

11.1 N/a

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

12.1 N/a

13. **Equality Impact Assessment (EIA)**

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

No

Yes

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



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

14.1 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

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

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

No

Yes

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

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

16.1 N/a

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

17.1 N/a