



# National Free Travel for older people and those with certain disabilities

The Herefordshire Concessionary Travel Scheme  
2011-12

Second Issue – March 2011



*Scheme Commencing 1<sup>st</sup> April 2011*

# 1. Legislation and Background

## Statutory Minimum Requirement

- 1.1 A mandatory bus concession for older and disabled people has been in place since 2001. The scheme has gradually been extended since its introduction and since April 2008 has provided free off-peak local bus travel to eligible older and disabled people anywhere in England.
- 1.2 Travel Concession Authorities (TCAs) are required to implement the mandatory travel concession as set out in the Transport Act 2000 and the Greater London Authority Act 1999, both of which were amended by the Concessionary Bus Travel Act 2007.
- 1.3 TCAs are required by law to reimburse bus operators for carrying concessionary passengers. In respect of the mandatory concession, TCAs must reimburse bus operators for all concessionary journeys starting within their boundaries, regardless of where the concessionary pass holder making the journey is resident.
- 1.4 The Statutory Minimum Requirement is to offer:
  - FREE travel on any local bus service in England at all times on Saturday, Sunday and Bank Holidays and between 0930 and 2300 on any other day.
- 1.5 Whilst operators may seek to appeal against the reimbursement arrangements proposed by any TCA they are obliged to carry eligible pass holders during the above periods of time.

## Discretionary Enhancements

- 1.6 In addition to the mandatory bus concession, TCAs are also able to offer discretionary concessionary travel schemes using the powers provided by the Transport Act 1985, i.e. schemes which go beyond the statutory minimum in one or more respects. This does not necessarily require a separate scheme to be created; a scheme which offers benefits which include but are more generous than the statutory minimum will at the same time fulfill any obligation to ensure that the statutory minimum is provided.
- 1.7 Arrangements for reimbursing operators for the cost of the mandatory concession under the Transport Act 2000 are legally distinct from reimbursement arrangements arising from the use of powers under the Transport Act 1985.
- 1.8 Operators have the right to decline to participate in any discretionary enhancements to a scheme. This must be done in writing to the TCA or their agents acting on their behalf within 28 days of either publication of the scheme or any notice of variation of the scheme.

## Right of Appeal

- 1.9 In both the Transport Act 1985 and the Transport Act 2000 there is provision for bus operators to apply to the Secretary of State for modification and in the case of schemes established under the Transport Act 1985, cancellation of the arrangements of the local authority, if they consider that there are special reasons why the arrangements would be inappropriate.

## Reimbursement of Statutory Minimum Scheme

1.10 The provisions of sections 149 and 150 of the Transport Act 2000 apply in determining how operators are to be reimbursed in respect of the mandatory concession:

- Four months prior to the commencement or variation of the statutory scheme the TCA must publish reimbursement proposals in as much detail as possible to allow for meaningful negotiation (Transport Act 2000, section 150(1)).
- 28 days prior to the commencement or variation of the statutory scheme the TCA must determine final reimbursement arrangements (Transport Act 2000, section 149(2)).

1.11 TCAs are required by law to reimburse bus operators for carrying concessionary passengers, on the principle that the operators are “no better off and no worse off” by taking part in concessionary travel schemes. The aim is not to subsidise bus operators, but to pay for any increased costs that they have incurred. An explanation of the principles of generation is provided in Appendix 1.

1.12 In addition to the UK legislation governing concessionary travel schemes, TCAs are obliged to comply with European regulation No 1370/2007, which sets out the overarching rules for reimbursement of public service obligations and places a duty on TCAs to ensure that bus operators are not over compensated. Concessionary travel schemes are considered to be public service obligations. The guidance published by the DfT includes a copy of the Annex to the Regulation (EC) 1370/2007, which sets out the compensation rules.

1.13 Reimbursement paid to bus operators takes two forms: revenue foregone and additional costs. Revenue foregone is reimbursement of the fares operators would have received for existing passengers now travelling free. This is not usually as simple as looking at the quoted full fare and should instead be calculated on an average fare basis.

1.14 If there has been a very significant increase in bus patronage as a result of the new concession then this might represent what is known as ‘generated travel’ i.e. passengers only travelling because of the concession. The only extra funding requirement associated with generated travel should therefore be additional costs that bus operators experience as a result of this generated travel, namely wear and tear on buses and, exceptionally, the cost of providing additional journeys if required.

1.15 Calculating concessionary travel reimbursement is predicated on determining what would have happened in the absence of the scheme and requires TCAs to estimate the following components of reimbursement:

- The fares that operators would have offered and that concessionary travellers would have paid in the absence of a scheme.
- The number of journeys that would have been made by concessionary travellers in the absence of a scheme.
- Any net additional costs that operators have incurred as a result of the scheme.

- 1.16 The Department for Transport provides guidance to local authorities and bus operators on how to calculate appropriate reimbursement. The latest version of this guidance, published at the end of November 2010 can be found at:

<http://www.dft.gov.uk/pgr/regional/buses/concessionary/informationlocalauthorities/reimbursementappeals/busoperators/pdf/busoperators.pdf>

## Reimbursement of Discretionary Enhancements to a Scheme

- 1.17 The proposed arrangements for discretionary travel schemes should be published by the TCA at least 28 days before the scheme commences. It should be clear to the operators from the published details what concessions they will be required to offer and the timing and amount of reimbursement that they can expect to receive to cover their revenue foregone and any additional costs incurred.
- 1.18 The principles of reimbursement applied to the statutory scheme that operators should be “no better off and no worse off” also apply to Discretionary Enhancements.

## Notice of Participation or Variation

- 1.19 The Transport Act 1985 permits the TCA to serve a Participation Notice upon any operator who does not wish to participate voluntarily in a travel concession scheme or a variation to a scheme made under that act (a “s.93 scheme”). Any such notice must be served within 28 days of the operator giving notice that they do not wish to participate in a scheme.
- 1.20 The operator may lodge an appeal regarding the Participation Notice to the Secretary of State if he feels that there are special reasons why his participation would be inappropriate or if any details of the scheme or the reimbursement arrangements are inappropriate. Any such applications must be made no later than 56 days from the date the obligation to participate commences (or in the case of a new service from the date that the service is due to begin). Local authorities can request a specific period of notice (of at least seven days) if an operator intends to appeal.

## The Appeal Process

- 1.21 The right of an operator to apply to the Secretary of State for modification of the proposed reimbursement arrangements offered by a TCA is an important safeguard. This application process is often referred to as the ‘appeal process’. Applications should only be submitted after proper consideration and after attempts to reach a resolution at the local level have been exhausted. The time limit for making an appeal is 56 days from the commencement or variation of the scheme.
- 1.22 Any application submitted by an operator should be properly evidenced. It should be made clear exactly which elements of the reimbursement arrangements are, and are not, being disputed.
- 1.23 Even after an appeal submission has been made, TCAs and bus operators are encouraged to continue negotiations with the aim of reaching a settlement.

- 1.24 The DfT has published separate guidance for TCA's and bus operators with regards to the appeals process which can be found on the Department's website.
- 1.25 The Secretary of State, or his appointed representative, will utilise the methodology set out in the published guidance and in the regulations when determining appeal applications. This will provide a standard benchmark for assessing appeals cases.

## Eligibility for a pass

- 1.26 There are two broad categories of people eligible for a statutory concession. These are men and women who have reached a certain age and eligible disabled people, where no age limits apply. The government has announced that it intends to introduce an additional category for certain Service Personnel and War Veterans although full details have yet to be announced.
- 1.27 The Concessionary Bus Travel Act 2007 specifies that Travel Concession Authorities must issue a Concessionary Bus Pass to an eligible person whose sole or principal residence is in the authority's area. It does not relate to ownership of property. Those who reside in more than one property should apply only once to the TCA in the area where they reside for most of the time.
- 1.28 An English Concession pass is not available to those whose principal residence is not in England (including Wales, Scotland, Ireland or Northern Ireland and overseas), whether or not they hold a British Passport. It makes no reference to nationality but to 'residents'. Foreign nationals living in England who have met the residency requirements are eligible, whilst those on a short stay visa or on business or holiday are not.
- 1.29 Prior to April 2010 the age of eligibility for an age related concessionary travel pass was 60 years of age. However, since this date the age of eligibility in England has been tied to the pensionable age for women. So as the pensionable age for women gradually increases from 60 to 65<sup>(1)</sup> over the ten year period from 2010 to 2020 so too will the age of eligibility for concessionary travel for both men and women.

*(1) Under the Comprehensive Spending Review it was announced that the State pension Age will rise to 66 by 2020. The current position is that the government is reviewing the current timetable for increasing the State Pension age from 65 to 66. No decision has yet been made as to how the timetable will change. Any change will require the approval of Parliament."*

- 1.30 The age of eligibility for concessionary travel is therefore:
- For women = pensionable age
  - For men = pensionable age of a woman born on the same day.
- 1.31 The Department for Transport has published guidance on the change in age of eligibility for concessionary travel, which can be found at:

<http://www.dft.gov.uk/pgr/regional/buses/concessionary/informationlocalauthorities/guidance-for-la/>

1.32 A calculator to determine the age of eligibility can be found at:

<http://pensions.direct.gov.uk/en/state-pension-age-calculator/home.asp>

1.33 There are seven categories of disabled people who are entitled to the statutory minimum concession and these are set out in section 146 of the Transport Act 2000 and section 240(5) of the Greater London Authority Act.

1.34 Anyone who has reached the age of eligibility for a pass will no longer be issued with a pass entitling them to travel due to their disability.

1.35 An eligible disabled person is someone who:

- a. is blind or partially sighted
- b. is profoundly or severely deaf
- c. is without speech
- d. has a disability, or has suffered an injury, which has a substantial and long-term adverse effect on his or her ability to walk
- e. does not have arms or has long-term loss of the use of both arms
- f. has a learning disability, that is, a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning
- g. would, if he or she applied for the grant of a licence to drive a motor vehicle under Part III of the Road Traffic Act 1988, have his/her application refused pursuant to section 92 of the Act (physical fitness) otherwise than on the ground of persistent misuse of drugs or alcohol.

1.36 The Department for Transport has produced guidance to local authorities on assessing eligibility of disabled people, which can be found at:

<http://www.dft.gov.uk/pgr/regional/buses/concessionary/informationlocalauthorities/guidancedisabled/ancetolocalauthoritieson3561.pdf>

1.37 The government has announced <sup>(2)</sup> that it intends to introduce an additional category for certain Service Personnel and War Veterans although full details are yet to be given.

*(2) It is likely that the broad aims of the previous Government's commitment in this respect will be met by including automatic eligibility for seriously injured veterans and service personnel who have been awarded a guaranteed income payment for tariff levels 1-8 under the 2005 Armed Forces Compensation Scheme and who fall within the categories of disability set out in the Transport Act 2000 (and equivalent legislation in Scotland)*

## Eligible Services

1.38 The England National Concessionary Travel Scheme applies on eligible local bus services as defined by the Travel Concessions (Eligible Services) Order 2002 as amended by the Travel Concessions (Eligible Services)(Amendment) Order 2009.

1.39 The 2009 Amendment Order explicitly excludes the following types of services from the mandatory concessions scheme:

- Services on which the majority of seats can be reserved in advance of travel (such as coaches);
- Services that are intended to run for a period of less than 6 consecutive weeks;
- Services operated primarily for the purposes of tourism or because of the historical interest of the vehicle.
- Bus Substitution (rail replacement) services;
- Services where the fare charged by the operator has a special amenity element.

1.40 The changes introduced by the 2009 Amendment Order explicitly exclude certain types of service that are outside the spirit of the mandatory national concession, thus reducing the potential for any confusion over whether a service is eligible. Local authorities remain able to offer concessionary travel on any services affected by the changes on a discretionary basis.

1.41 Further information about the changes introduced by the 2009 Amendment Order can be found at:

<http://www.dft.gov.uk/pgr/regional/buses/concessionary/informationlocalauthorities/eligibleservices/servicechanges>

## Geographical Coverage

1.42 The Concessionary Travel Act 2007 entitles eligible people who are resident in England to travel on any eligible service within England.

1.43 TCAs are required by law to reimburse bus operators for carrying concessionary passengers. In respect of the mandatory concession, TCAs must reimburse bus operators for all concessionary journeys starting within their boundaries, regardless of where the concessionary pass holder making the journey is resident.

1.44 TCAs that border Wales or Scotland can use their existing powers to offer travel across the border on a discretionary basis based on their assessment of local need and their overall financial priorities. The revised administrative responsibilities from April 2011 in England mean that new arrangements will be required where these previously existed.

## Alternative Provision

1.45 TCAs may provide an alternative scheme under section 93 of the 1985 Act whereby a person eligible for the statutory minimum concession may agree with the authority concerned to give up that entitlement for a period and to accept instead an alternative concession offered by that

authority, such as travel tokens. The person concerned can opt for the alternative even if it would generally be a lower value than the statutory minimum bus concession.

- 1.46 In cases where authorities envisage offering a scheme (such as tokens) as an alternative to the statutory minimum rather than in addition to it, they will need to ensure that the information provided about the alternative scheme makes it clear to those participating in it that they do so on the basis that they have accepted it as an alternative to their rights to the statutory minimum (the national bus concession) and not as an addition to those rights.
- 1.47 It should be noted that authorities are under no obligation to offer an alternative scheme; nor are the residents able to require them to offer it.

## 2. The Herefordshire Scheme

### The Herefordshire Concessionary Travel Scheme

- 2.1 From April 2011 in many areas the authority responsible for concessionary travel known as the Travel Concession Authority will change from the district to the county council. As a unitary authority, Herefordshire Council was already the Travel Concession Authority and are hence unaffected by this change. However, for a number of reasons it has been necessary to review the provisions of the scheme which has remained otherwise largely unchanged since April 2008.
- 2.2 JMP will continue to administer the scheme and will continue to be the first point of contact for operators, receiving and processing all claims for reimbursement on behalf of the Council.
- 2.3 In April 2011 a revised claims system using new forms will be introduced.

### Statutory Minimum Requirement

- 2.4 The Herefordshire Scheme will follow the principles of the guidance provided by the DfT relating to the England National Concessionary Travel Scheme.
- 2.5 The Statutory Minimum Requirement is to offer:
  - FREE travel on any local bus service in England at all times on Saturday, Sunday and Bank Holidays and between 0930 and 2300 on any other day.
- 2.6 A summary of the eligibility details for pass holders and services included within a statutory scheme is provided in section 1 of this document.
- 2.7 The Herefordshire Concessionary Travel Scheme will reimburse operators following principle of the guidance calculators provided by the DfT with respect to:
  - **Revenue Foregone** – the amount of revenue foregone that needs to be paid to operators is dependent on non-generated travel or the number of journeys that would have been made by current concessionary passengers in the absence of the concessionary travel scheme.
  - **Marginal Operating Costs** – the costs to a bus operator of carrying an additional passenger assuming a fixed level of service. The components of these costs comprise fuel, tyres and oil, maintenance and cleaning, insurance, information and additional time costs. These costs are applicable to all eligible services and all eligible operators without the need for further information.
  - **Peak Vehicle Requirement Costs** – the costs associated with the requirement to run additional vehicles in the peak period due to generated concessionary travel.

## Enhancements to the Herefordshire Free Travel Scheme

2.8 In addition to the statutory minimum requirement to allow free travel between 0930 and 2300 on Monday to Friday and at all times on weekends and at Bank Holidays the Herefordshire Scheme will also entitle FREE travel:

- **ON CROSS-BORDER JOURNEYS INTO WALES** – during all eligible time periods for holders of ENTCS passes issued by Herefordshire Council and Welsh Scheme passes issued by Welsh Authorities. Free travel is permitted on journeys commencing in Herefordshire to destinations in Wales. NOTE – a reciprocal agreement exist whereby holders of Herefordshire passes are entitled to undertake return journeys to destinations in Herefordshire commencing in Wales. Claims for all cross border journeys should to be made to the authority where the journey commences as if they were a local.
- **COMPANION TRAVEL<sup>(4)</sup>** – during all eligible time periods for certain pass holders who have been issued with any ENTCS ‘Companion pass’ to be accompanied by a companion who is eligible for the same FREE travel benefits as the pass holder (including cross-border journeys into Wales where the pass holder is entitled to such a journey themselves).

<sup>(3)</sup> Under the terms of the 1985 Transport Act enhancements to the statutory scheme have to be notified to operators no later than 3 March 2011.

<sup>(4)</sup> NOTE: Under the terms of concessionary fares legislation all journeys are regulated and reimbursed according to the boarding point of the journey. Hence, although enhancements may be permitted by the Herefordshire Scheme it is important to remember that unless otherwise specified return journeys, which will be covered by local terms and conditions, may not always permit the same travel concessions.

2.9 It is important to note that even though certain disabled pass holders may be issued with a pass indicating that a Companion is entitled to accompany them on public transport services, this does not mean that they are not entitled to travel alone, and should not be refused travel without good cause.

2.10 Those eligible because of a disability that require them to be accompanied by a dog (e.g. guide dog for the blind or partially sighted or hearing dog) should not be charged a fare in respect of that dog.

## Participation in the Herefordshire Scheme

2.11 Free Off-Peak Travel on registered local bus services in England is determined by statute for eligible pass holders. Whilst operators may wish to appeal against the terms of reimbursement free travel for all eligible pass holders is mandatory and must be made available on all eligible services.

2.12 Operators have the right to decline to participate in any enhanced elements to a scheme. Operators are therefore required to indicate their unwillingness to participate in the non-statutory elements of the scheme in writing to the concessionary fares authority or their agents acting on their behalf within 28 days of publication of either the scheme or any notice of variation to the scheme TCSR, reg. 36(3)(a)).

2.13 Any operator who notifies their intention not to participate in non statutory elements of the scheme may be served with a participation notice by the concessionary fares authority or their agents acting on their behalf. The participation notice will come into force no earlier than the date immediately following 28 days notice (Transport Act 1985 section 97(5) and TCSR, reg (36(2)). An operator can appeal against the participation notice to the Secretary of State.

## Right of Appeal

2.14 Operators who feel that they may be prejudicially affected by the reimbursement proposals for offering the statutory minimum concession under the 2000 Transport Act may apply to the Secretary of State, not later than 56 days after the arrangements come into operation, for a modification of the arrangements (TA 2000 s150(3) and (4)). However, the statutory minimum concession is mandatory.

2.15 When considering appeals under the 1985 Act or requests for modification of reimbursement arrangements under the 2000 Act the Secretary of State will take account of the extent to which the authority concerned has followed DfT guidance.

## Details of Passes

2.16 Since April 2008 anyone eligible for free travel should be in possession of an English National Concession Pass <sup>(5)</sup>. This will clearly indicate the issuing authority, validity dates, have a photograph of the pass holder, and will indicate if a Companion should also be allowed to travel free.

2.17 From April 2011 new authorities across the country will become TCAs. From this date new and replacement passes will be issued by the new TCAs but old passes still in circulation will continue to be valid until they reach their expiry date which may be as late as March 2016. Operators are requested to note that it is important to ensure that passes are valid England National Travel Scheme passes with the red rose symbol, and not worry that the specific issuing authority may no longer be a TCA in their own right.

2.18 Examples of the English National Free Travel Pass are shown in Appendix 3. The name and/or logo of the issuing authority in the top right hand sector on the front of the pass should be the only variation to the standard design. Details on the reverse of the pass may vary.

2.19 Passes issued by virtue of age and disability whilst sharing the same design are easily identified by a different coloured band on the right hand side. A blue band indicates age whilst a gold band indicates disability.

<sup>(5)</sup> It is understood that London Freedom Passes will be renewed in 2011 prior to which these passes will differ from the standard English National Pass issued elsewhere in England. From April 2008 Freedom Passes should have the English National Symbol 'red rose' applied as a sticker – this is a valid and vital addition to these passes which does not constitute 'tampering'

## 3. Obligations

### Obligations of Operators to pass holders

- 3.1 Anyone in possession of a valid English National Travel Scheme pass must not be refused free travel for any journey covered by the legislation relating to the statutory free scheme <sup>(4)</sup>. Operators who consider that the terms of the Herefordshire scheme prejudicially affect them may exercise their right of appeal, but must not detriment the travel of any eligible concessionary pass holder.

(4) It is not the role of the operator to deny travel to a pass holder. If the operator has any concerns over the validity of a pass, they should bring it to the attention of the pass issuing district or scheme administrators.

- 3.2 Operators are reminded that proof of age or disability is not sufficient proof of eligibility to a concession. Blue Badge Permit holders are NOT automatically entitled to free travel nor to apply for a pass. Eligibility criteria differ. Anyone eligible to a free travel pass must apply for a pass and use this for travel.
- 3.3 Operators are reminded that elderly and, in particular, disabled pass holders fall into their most vulnerable group of clients and should be treated appropriately. Drivers should not attempt to determine the eligibility of the holder for a pass unless there are obvious signs that the pass is not genuine or has been tampered with in any way.
- 3.4 Whilst travel must only be allowed within the confines of the scheme it is important not to refuse travel without good cause. Instances where disabled clients find themselves abandoned are not acceptable and generally bring the good name of the operator and the scheme into disrepute.
- 3.5 Where any driver believes there is undue cause for concern about a particular pass holder they are asked to provide specific details of their concern to the authority or scheme administrator. This should include the name and pass number plus the date, time and location where the concern arose.
- 3.6 Under normal circumstances passes should not be confiscated by the driver unless there is a blatant attempt by someone to fraudulently use a pass which does not belong to them.
- 3.7 Where a pass indicates that a Companion is eligible to travel, both the pass holder and companion should be issued with a FREE ticket. Reimbursement returns should indicate that two tickets have been issued.

### Obligations of Operators to the Travel Concession Authority

- 3.8 Operators must provide the administrators of the scheme with appropriate data to enable an assessment to be made of revenue foregone based on the boarding point of pass holders. Spreadsheets will be provided to assist in this process which must be supported as appropriate with evidence of travel.

- 3.9 Operators must supply the scheme administrators with relevant timetables, fare tables and details of any fares incentives or season tickets. Revised timetables should be supplied when significant variations are made to either the route or number of journeys operated, and changes to fares and discounted deals should be notified as appropriate.
- 3.10 It is the responsibility of the operator to make a claim for reimbursement. Where the accounting procedures of an operator require an invoice to be raised this should be based on the reimbursement calculations and should be raised against the authority not the agents of the scheme who are not the fund holders. Presentation of inappropriate invoices will result in payment delays.
- 3.11 It is the responsibility of the operator to make regular claims for reimbursement, the frequency of which may be subject to prior agreement with the scheme administrator. Unless otherwise agreed, claims should be monthly.
- 3.12 Smaller claims may be accrued and paid by the authority in accordance with their terms of payment (de-minimis terms).
- 3.13 Unless by prior agreement, or in acceptable exceptional circumstances, operators are requested to submit claims within three months of the end of the monthly or quarterly period to which they relate. However, due to the requirements of Local Authority Accounts and Audit Regulations prompt claims for the last three months of the financial year are required. Actual claims or a reasonable assessment of likely claim amounts must be received by 15th April for claims up to and including 31<sup>st</sup> March each year. Appendix 4 shows the latest submission dates for monthly and quarterly claims.
- 3.14 Any claims for additional capacity and Peak Vehicle costs must be initiated by operators within the financial year to which they relate along with sufficient evidence to justify the need for additional capacity and confirm that additional capacity has been provided.
- 3.15 Operators must ensure that claims are submitted for carriage of all eligible pass holders, including those wishing to travel on services operated under any contract. Where a contract is operated as a 'Cost Based' (also known as Revenue Guaranteed) Contract, to Herefordshire Council any reimbursement revenue due for these services will be attributed by the authority to the appropriate contract and will not be paid to the operator.
- 3.16 It is the responsibility of the operator to ensure that claims are made for all services operated on contract to any other authority. Any income received as concessionary fares reimbursement must be declared as revenue to that authority. Operators are advised that without prejudice to matters of commercial confidentiality, if requested the scheme administrators will provide details to anyone with a financial interest in a service of any reimbursement payments made in respect of that service.
- 3.17 Operators are obliged to note that the scheme administrators reserve the right to correct any errors in payments either by invoice or by the adjustment of future reimbursement payments.
- 3.18 Any operator who has reason to believe that erroneous data has been submitted must bring this to the attention of the scheme administrators as soon as possible. The scheme administrators reserve the right to challenge the validity of data submitted at any time, taking

into consideration emerging trends and patterns in data for all operators which may cast doubt on historic data provided by any individual operator.

- 3.19 Operators are advised to note that re-submission of claims made in error will only be considered on merit at the discretion of the partner authorities concerned. Resubmissions will not be considered beyond the end of the financial year to which they relate unless extreme circumstances dictate otherwise.
- 3.20 Operators must permit representatives of the scheme holding a valid authority to travel to carry out on-bus surveys to:
- survey passenger numbers and fares paid by passengers
  - interview passengers to ask questions relevant to reimbursement
- 3.21 All participating operators are to:
- utilise any ticketing equipment on eligible services that may be supplied to them by the authority.
  - utilise any data handling equipment that may be supplied to them by the authority.
  - display any notices required by the authority (without charge) in or on any vehicle used in connection with the scheme to indicate that relevant pass holders can travel at a concessionary rate.
- 3.22 Operators must notify the Travel Concessions Authority or their agents of any desire not to participate in any non-statutory elements of the scheme, giving 42 days notice of their decision not to participate.

## Obligations of the Travel Concession Authority to Operators

- 3.23 The authority will provide no less than four months' notice to bus operators of proposed changes to reimbursement arrangements for the statutory minimum scheme as specified by the Transport Act 2000. They will try to reach agreement on these changes with operators both before and after publication.
- 3.24 The authority will publish their intention to enhance the statutory free scheme under the terms of the 1985 Transport Act, giving 28 days notice of the enhancement. Operators will be given the option to decline to participate in these elements.
- 3.25 Where an operator has notified their unwillingness to participate in any non-statutory element of the scheme, the concessionary fares authority may serve a participation notice to commence no earlier than 28 days after serving notice of participation. Therefore an authority wishing to ensure that operators participate may wish to publish their intended enhancements 56 days prior to implementation in order to allow sufficient time to serve a notice of participation if voluntary participation is declined.
- 3.26 The proposed arrangements should be published in the form the authority intends to implement, should be feasible, and should contain appropriate levels of detail given the level of information available to authorities at the time. It should be clear to operators from the

published details what concessions they will be required to offer and how much reimbursement they will be entitled to.

- 3.27 Authorities are required to determine final reimbursement arrangements at least 28 days prior to commencement of the scheme. These may or may not be the same as the reimbursement arrangements initially published, though any changes will have to be reasonable. The objective of the initial notice period is to allow parties to discuss the matter.
- 3.28 Any enhancements to the scheme over and above the statutory minimum can be made using powers in the Transport Act 1985. In such cases, the authority must give an operator to whom any such period of notice applies at least 28 days prior warning of the change to an existing scheme, or to the reimbursement arrangements concerning it.
- 3.29 For reasons of administrative efficiency the authority is entitled to have a single integrated scheme based on powers and duties of both acts, providing that appropriate notice requirements of both acts are fulfilled.
- 3.30 TCAs have a duty to ensure that bus operators are not over compensated for the carriage of concessionary pass holders. European regulation No 1370/2007 sets out the overarching rules for reimbursement of public service obligations; concessionary travel schemes are considered to be public service obligations.
- 3.31 Authorities are free under their local government powers to arrange for other authorities to act on their behalf, and (under the 1985 regulations) to employ others to act as their agents provided they meet the statutory minimum in each individual authority in all respects. There is no obstacle to schemes which involve any groups of authorities working together, or which are provided by any tier of authority. It is for authorities themselves to work out reimbursement of one authority by another.

## 4. Reimbursement Procedure

- 4.1 Section 149 of the 2000 Transport Act provides for the Secretary of State to make regulations about reimbursement of revenue foregone.
- 4.2 The objectives of reimbursement are that bus operators should be “no better/no worse off” as a result of participating in a concessionary fares scheme.
- 4.3 All claims for reimbursement should be supported by appropriate documentary evidence, as agreed between the authority and the claimant. This will be commensurate with the level of detail of data available to any particular operator from their available ticketing equipment.
- 4.4 Operators may be required to use equipment or enhancements to existing equipment provided by the Authority to facilitate them in the provision of data associated with the carriage of concessionary fare passengers.
- 4.5 An example calculation using the elements detailed below is given in Appendix 7.

### Revenue Foregone for non-generated passengers

- 4.6 The amount of revenue foregone that needs to be paid to operators is dependent on non-generated travel of the number of journeys that would have been made by current concessionary passengers in the absence of the concessionary travel scheme – it is not possible to observe this directly this needs to be estimated.
- 4.7 The level of non-generated journeys is best expressed by the Reimbursement Factor, the percentage of journeys that would have been made in the absence of a scheme (i.e. if commercial fares had been charged). The higher the reimbursement factor, the higher the number of journeys that would have been made in the absence of a scheme and the lower the number of journeys that have been generated by the scheme.
- 4.8 The reimbursement factor is applied to the observed number of journeys made at free fare to derive the estimated number of journeys made in the absence of a scheme. This, multiplied by the fare that would have been paid, gives the total revenue foregone for which operators need to be reimbursed.
- 4.9 Hence the reimbursement calculation in Herefordshire will be based on an estimate of fares lost taking into consideration a factor to account for the additional travel activity generated by the granting of the concession. This factor, applied to calculations in Herefordshire will be in accordance with guidance published by the DfT.
- 4.10 Guidance published in late November 2010 suggested that assuming no change in real fares, the reimbursement factor in a non PTE area in 2010/11 would be **43.4%**. However, if it is determined locally that there has been an increase in real fares since 2005/6 the reimbursement factor for 2010/11 will be lower, and if the real fare has decreased since 2005/6 the reimbursement factor will be higher. Appendix 5 gives an extract from the guidance regarding estimation of growth in fares.

4.11 Using the default value suggested by the application of the National Bus Index the reimbursement factor applicable to the Herefordshire Scheme for most services in 2011-12 would be **42.3%**. However, an enhanced rate to include an allowance for Marginal Capacity Costs will be paid to all operators by the Herefordshire Scheme. The rate applicable for the 2011/12.scheme year will be **55.3%**<sup>(6)</sup>.

(6) Where an operator makes a claim for Marginal Capacity Costs reimbursement claims will be recalculated at the basic reimbursement rate of 43.4%.

4.12 Guidance published in late November 2010 recommended that TCA's may wish to consider making special arrangements for the reimbursement of infrequent bus services. The guidance recommends that the definition of an infrequent service is one which operates once a day or less.

4.13 From April 2011 the Herefordshire Scheme will use the recommended definition of an infrequent service and apply a higher reimbursement factor of **67.3% for infrequent services**.

4.14 Operators will be reimbursed for the carriage of pass holders on each service (global or aggregated figures may be used if more suitable). An agreed methodology will be agreed with each operator to calculate average fares to be used.

4.15 The DfT published a revised calculator in mid December 2010 which will be used by the Herefordshire Scheme as the basis for calculations. The latest calculator can be found at:

<http://www.dft.gov.uk/pgr/regional/buses/concessionary/informationlocalauthorities/reimbursementappeals/calculator/>

## Marginal Operating Cost

4.16 Marginal operating costs are the costs to a bus operator of carrying an additional passenger assuming a fixed level of service. The components of these costs comprise fuel, tyres and oil, maintenance and cleaning, insurance, information and additional time costs. These costs exclude operators' administration/management time.

4.17 Marginal operating costs are applicable to all eligible services and all eligible operators without the need for further information. Hence they this element will automatically be paid to all claimants in accordance with DfT guidance which will vary with respect of the variation in route length.

4.18 The recommended value is **7.55p per generated journey** (at 2011/12 prices). This rate is based on an average journey lengthy of 3.9 miles. If TCAs and operators have good evidence that journey length in their area is different from the average default value, then DfT guidance suggests the use of a local journey length using the following formula:

**Marginal operating cost = 4.2 + 3 x [AverageJourneyLength (in miles) / 3.9]**

All in pence 2009/10 prices

4.19 DfT guidance suggests that if there are local circumstances where one or more elements of the marginal operating costs is significantly higher or lower than the standard approach then the TCA and the operator may negotiate a different rate. Appendix 6a shows the elements of marginal operating costs underlying the DfT calculator. These are deemed to be robust and applicable in most cases, and it is important that component values should not be considered independently so as to avoid either party being selective. The guidance suggests that a change should only be agreed when **all** components have been reviewed and evidenced. .

## Marginal Capacity Costs

4.20 These are the costs to the bus operator of carrying additional passengers generated as a result of the existence of the concessionary travel scheme and allowing the capacity of bus services to increase by using the existing bus fleet more intensively to provide additional capacity through increased frequency.

4.21 Marginal capacity costs should be net of the additional revenue generated from commercial journeys that arise from increased frequency and **must not** reflect increased frequencies resultant from commercial or competitive activities. These costs are additional to marginal operating costs

4.22 The Herefordshire Scheme includes an allowance in the reimbursement factor to compensate for additional capacity. Operators who believe they have a clear case to use the calculator as an alternative to this enhanced rate must make a clearly evidenced claim demonstrating that additional capacity has been provided as a result of conveying concessionary passengers. Once a claim for additional capacity costs is filed all past reimbursement claims will be recalculated using the lower standard reimbursement rate.

4.23 The calculator published by the DfT makes provision for the calculation of Marginal Capacity Costs using specific data as detailed below. Where appropriate the preferred approach is to calculate these costs at aggregate network level. The calculator gives an estimate in pence per trip. However, it is recognised that it may be difficult to aggregate some of the inputs (e.g. route length and speed) at network level, hence marginal capacity costs may be assessed at route level. It is not expected that this will be a positive figure for all routes; on some routes the additional commercial revenues gained as a result of increased frequency could outweigh costs.

4.24 It is important that data is available for all routes and not a selected sample which could bias any results. In order that marginal capacity costs can be considered data is required on a route by route basis or for the network relating to:

- i) Speed
- ii) Route length
- iii) Average trip length
- iv) Average vehicle occupancy
- v) Commercial adult journeys as a percentage of total journeys
- vi) Average commercial adult fare

## Peak Vehicle Requirement Costs

- 4.25 If an operator wishes to claim additional peak vehicle requirement costs then the operator must supply data and analysis to support such a claim. The expectation is that additional peak vehicle requirement will be exceptional so that operators will have to demonstrate that exceptional or unusual circumstances are relevant.
- 4.26 Detailed data on passengers boarding by route on annual average weekday half hour intervals for all services covered by the claim will be required. As a minimum the time periods covered should be 0700 to 1900 weekdays.
- 4.27 Data will be required for the number of concessionary journeys under the statutory scheme, non statutory scheme (if appropriate) and an estimate made using the generation factor derived in the reimbursement part of the calculation of the number of journeys that would have been at the relevant average adult fare in the absence of a scheme.
- 4.28 Operators should demonstrate the criteria usually used to decide whether to put on an extra service to meet peaks in commercial journeys. The Travel Concession Authority or its Agent has the right to confirm that the stated criteria is applied in practice to ensure that there is a consistency of application between periods when the statutory scheme may or may not apply.

## Submission of Data

- 4.29 The JMP claims system is currently based on the use of Excel spreadsheets. The preferred method of submission is for operators to attach completed sheets to an email, however other methods of submission will be considered in exceptional circumstances.
- 4.30 Claims for each month or period should normally be submitted by the end of the following month or period unless otherwise agreed using forms supplied by the scheme administrators. Where agreement has been given for less frequent submissions, it is important to be able to identify separately data regarding each month or period of operation.
- 4.31 Claims submitted must be accompanied by documentary evidence as appropriate, and as agreed with the Authority or the administrators of the scheme.
- 4.32 It is important that operators provide claims for all services operated. This should include services operated on contract, both on a subsidy and cost basis as well as commercial services.
- 4.33 Unless by prior agreement, or in acceptable exceptional circumstances, operators are requested to submit claims within six weeks of the end of the monthly or quarterly period to which they relate. However, due to the requirements of Local Authority Accounts and Audit Regulations prompt claims for the last three months of the financial year are required. Actual claims or a reasonable assessment of likely claim amounts must be received by 15th April for claims up to and including 31<sup>st</sup> March each year.

4.34 Any claims for Additional Capacity Costs or Peak Vehicle Costs should be notified as soon as possible by operators and must in all cases be initiated prior to 31<sup>st</sup> March in respect of the twelve months ending on that date.

4.35 Operators are required to provide regular data:

- detailing the number of concessionary passengers carried on all services including subsidy and costs based contracts as well as commercial services.
- providing the authority and/or their agents the ability to undertake an effective assessment of appropriate average fares to be calculated on a service by service basis taking account of discounted tickets where available.

4.36 Average fare calculations used to determine the appropriate revenue foregone should include an assessment of the average fare which may have been paid in the absence of the scheme. DfT guidance suggests that this can be based on various assessments including discounted fares or a basket of fares. An appropriate determination of a suitable average will be taken for each operator.

4.37 Average fares may be determined by the operator on a regular or periodic basis in agreement with the scheme administrators. All calculations must be transparent and in accordance with available DfT guidance. All calculations should consider that concessionary fare reimbursement is based on boarding points for journeys and take appropriate consideration of authority boundaries. The Authority reserves the right to request evidence that fares used in calculations are appropriate.

4.38 The Herefordshire Concessionary Fares Scheme **does not** pay an administration charge for the supply of statistical information. Operators are obliged to provide information to enable the Authority to make reimbursements in line with their statutory responsibilities to offer concessionary fares in Herefordshire.

4.39 **JMP Consultants has been commissioned to manage the scheme. Claims forms and supporting documentation should be addressed to**

Concessionary Fares Team  
JMP Consultants Ltd  
85-89 Colmore Row  
Birmingham  
B3 2BB

Please note that reimbursement is based on a Claims system, using the appropriate documentation. Claims will be processed by JMP who will instruct relevant authorities of the amounts payable to individual operators. **Invoices should not be submitted.**

Any queries to JMP should be directed to the above address or

by telephone to : 0121 230 1434  
by fax to : 0121 230 6011  
by email to : [concessions@jmp.co.uk](mailto:concessions@jmp.co.uk)

## Payments

- 4.40 Once passed, relevant payments will be made direct to the operator by the authority to meet their obligation for reimbursement. All payments will be under the terms of the standing orders and agreements of the authority.
- 4.41 Whilst JMP will deal with any query regarding payments and undertake to investigate thoroughly all claims and transactions, no responsibility can be taken for the actual payment or non-payment of accounts.
- 4.42 In exceptional circumstances operators may request an advance payment, against which actual claims will be discounted. The authority reserves the right to refuse claims for payment in advance where it is deemed inappropriate.
- 4.43 The authority reserves the right to impose a minimum amount payable at any one time, subject to negotiation and notification in writing with individual operators. An accrual of small payments may be made at the discretion of the authority until the minimum amount payable in accordance with their standing orders is reached. Operators likely to submit small claims may wish to request for quarterly claims to be accepted.

## Appendix 1: Principles of Generation explained

In the absence of a scheme where the only option for the customer is to pay a commercial fare there would be a level of core demand and the operator would have received the fares income.

The existence of a scheme offering free travel will generate additional demand referred to as generated journeys.

By applying the principle of the operator being no better or no worse off the operator is entitled to the fares that would have been paid by those passengers who would have used the service had the concessions scheme not existed. This is referred to as 'revenue forgone'

The operator is also entitled to compensation for the costs of conveying those additional passengers who are only travelling because of the existence of the concessionary travel scheme.

As concessions schemes have been in existence for many years, there is no direct evidence upon which to measure the level of generated journeys that have resulted from the existence of a concessions scheme therefore a calculation must be used based on the a generation factor.

The generation factor (GF) is a measure of the increase in trips, relative to the previous level of trips, as a result of a reduction in fares. For example, a generation factor of 50% at half fare means that trips have increased by 50% (as a proportion of the original number of trips) as a result of moving from full fare to half fare. Thus the definition of generation depends upon the starting point. In the DfT guidance, other than where stated, generation is based on the patronage that would have occurred with commercial fares having been charged (i.e. in the absence of any concessionary fares scheme).

## Appendix 7 : Example Calculations

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### Using Standard Reimbursement factor

**200** pass holders carried on a service with a frequency of more than one journey per day with an average fare of **£1.25** would attract reimbursement of

$$\begin{aligned} 200 \times 1.25 \times 0.553 &= \text{£ } 138.25 \text{ (Reimbursement)} \\ + 200 \times (1 - 0.553) \times 0.0755 &= \text{£ } 6.75 \text{ (Marginal Operating Cost)} \end{aligned}$$

Giving a Total Reimbursement to operator of **£145**  
This equates to **58%** of the average commercial fare

### Using Infrequent services Reimbursement factor

**200** pass holders carried on a service with a frequency of less than one journey per day with an average fare of **£1.25** would attract reimbursement of

$$\begin{aligned} 200 \times 1.25 \times 0.673 &= \text{£ } 168.25 \text{ (Reimbursement)} \\ + 200 \times (1 - 0.673) \times 0.0755 &= \text{£ } 4.94 \text{ (Marginal Operating Cost)} \end{aligned}$$

Giving a Total Reimbursement to operator of **£173.19**  
This equates to **69.28%** of the average commercial fare

## Appendix 3 – Samples of the English National Pass

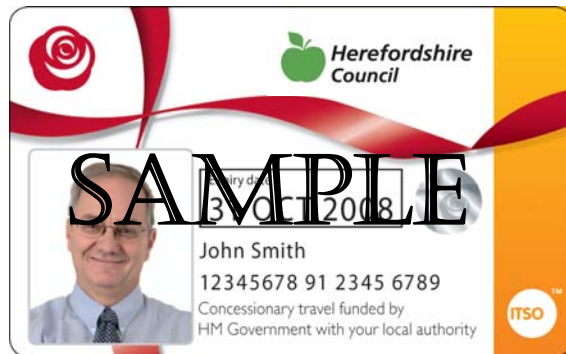
In April 2008 all eligible residents of the 291\* English Travel Concession Authorities which existed at the time were issued with a pass to the standard design shown below. The name and/or logo of the issuing authority indicated in the top right hand sector on the front of the pass will vary. All other details should be consistent.

(\*Number of TCA's may vary over time – local government changes in 2009 significantly reduced this number of authorities. And from 2011 the number of TCAs reduces substantially with the new changes. However, existing passes are not being replaced such that until 2016 a large number of variations to these passes will remain in circulation).

### Example 1: Pass issued to someone meeting age criteria (BLUE BAND)



### Example 2: Pass issued to someone meeting disabled criteria (GOLD BAND)



### Example 3: Pass issued to someone meeting disabled criteria with whom a companions should be allowed to travel (GOLD OR BLUE BAND PLUS 'C' in BLUE CIRCLE).



## Appendix 4 – Submissions Timetable

Unless by prior agreement reimbursement claims should be submitted to JMP within six weeks of the end of the period to which they relate. However claims for the final months of the financial year up to and including March must be made by mid April. The table below is a helpful guide to the dates by which submission should be received:

Monthly Claims Submissions:		Quarterly Claims Submissions:	
Claims for:	Must be submitted before:	Claims for:	Must be submitted before:
April	15 <sup>th</sup> June	April, May & June	15 <sup>th</sup> August
May	15 <sup>th</sup> July	May, June & July	15 <sup>th</sup> September
June	15 <sup>th</sup> August	June, July & Aug	15 <sup>th</sup> October
July	15 <sup>th</sup> September	July, Aug & Sept	15 <sup>th</sup> November
August	15 <sup>th</sup> October	Aug, Sept & Oct	15 <sup>th</sup> December
September	15 <sup>th</sup> November	Sept, Oct & Nov	15 <sup>th</sup> January
October	15 <sup>th</sup> December	Oct, Nov & Dec	15 <sup>th</sup> February
November	15 <sup>th</sup> January	Nov, Dec & Jan	15 <sup>th</sup> March
December	15 <sup>th</sup> February	Dec, Jan & Feb	15 <sup>th</sup> April
January	15 <sup>th</sup> March	Jan, Feb & Mar	15 <sup>th</sup> April
February	15 <sup>th</sup> March		
March	15 <sup>th</sup> April		

Please note that these dates are not the suggested dates for submission, they are the latest dates by which submissions should be made unless specific arrangements have been made and agreed with the appropriate TCA.

Failure to submit claims by these dates may result in non-payment.

## Appendix 5 : Extract from DfT Guidance published November 2010

Extract commencing at section 6.22 on page 35

**6.22** Assuming no change in real fares, the reimbursement factor would be as follows:

Table 6.1 2010/11 Reimbursement Factor with no change in fares		
Single Demand Curve	PTE	NPTE
2010/11 Reimbursement Factor with no change in real fares since 2005/6	51.2%	43.4%

**6.23** However, if there has been an increase in real fares since 2005/06 the reimbursement factor for 2010/11 will be lower, and if the real fare has decreased since 2005/06 the reimbursement factor will be higher.

*Estimating the growth in fares between 2005/06 and 2010/11*

**6.24** There are three options to calculate the growth in fares required to estimate the reimbursement factor in the Calculator, the first one being the preferred option.

*Option 1 – Comparing the 2005/06 fare and the current year fare*

**6.25** If the appropriate data are available, TCAs can produce a best estimate of the fare that concessionary passengers would have paid in the absence of a concessionary fare scheme in 2005/06 for a specific operator.

**6.26** TCAs and operators may have a record of this fare because it is likely to have been used in the previous reimbursement methodology, including the Revenue Analysis Tool (RAT), and it is also used in the Appeals pro forma.

**6.27** It is acknowledged that the precise methodology for estimating the average fare forgone in 2005/06 will not necessarily be the same as the methodology used to estimate the average fare in the current reimbursement period. This guidance does not require TCAs or operators to undertake a full re-calculation of the 2005/06 fare using the discount fare method, where a discount fare method was used as the basis for calculating reimbursement in 2010/11.

**6.28** The comparison of the 2005/06 fare and 2010/11, however, should as far as possible cover the same range of services. If operators have either taken over other operators or run new routes, or have closed routes, then these changes should be factored out as far as possible so that the comparison of fares is on a like-for-like basis.

**6.29** Where a comparable 2005/6 fare is not available authorities can consider the following next best options outlined below.

## **Option 2 – Using TCA-wide average fares**

**6.30** If like-for-like comparisons of fares cannot be made at the operator level, for example if the operator did not run services in 2005/06, or there has been a radical change in the services run by the operator or records of fares do not exist in 2005/06, then the next best approach is to compare the TCA-wide average fare in 2005/06 and 2010/11 (in nominal prices). This should be a reasonable proxy for local changes in fares over that period.

## **Option 3 – Using the National Bus Index**

**6.31** If operator or TCA data are not available then this guidance suggests that the national bus index should be used to estimate the change in average fare. The national bus index is currently only available up to 2009/10 and as a result the change in fares between 2009/10 and 2010/11 in the Calculator is based on the GDP deflator.

### *Fare changes from 2010/11 forwards*

**6.32** Using one of the methods described above will give a fare change from 2005/06 to 2010/11. In order to get the full change in fares from 2005/06 to years beyond 2010/11, TCAs should use the change in the average fare calculated as described in Section 5 between 2010/11 and for the relevant year beyond 2010/11 for the relevant operator, provided it is on a like-with-like basis (see above). If a fare change is not available (e.g. in the case of new operators or those with significantly different networks), a TCA-wide change in fares can be used between 2010/11 and subsequent years.

## Appendix 6a – Components of Marginal Operating Costs

Table 7.1 extracted from DfT Guidance – November 2010

Table 7.1 Elements of marginal operating costs		
Item	Marginal cost per generated concessionary passenger (pence, 2009/10 prices)	Percentage of total
Fuel, tyres & oil	1.6	23.9
<i>Of which fuel</i>	1.5	
Maintenance & cleaning	1.2	17.9
Insurance	2.7	40.3
Information	0.5	7.5
Additional time costs	0.7	10.4
<b>Total</b>	<b>6.7*</b>	<b>100</b>

\* Note: ITS have identified a bottom up component approach to marginal costs. The total of these identified components comes to 6.7 pence. This is different from the recommended composite marginal operating costs of 7.2 pence. However in making any adjustment local variations to marginal operating costs they should be justified by reference to the components. If a change to any of the components is agreed then this change is scaled by the difference between 7.2 and 6.7. Thus if the agreed change in an increase of 0.5p in one of the components the recommended value is increased by  $7.2 \times 0.5 / 6.7 = 0.54$  or to 7.74.



The Herefordshire Concessionary Travel Scheme

Administered by



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