

Business and Regulatory Impact Assessment

The National Bus Travel Concession Schemes (Miscellaneous Amendment) (Scotland) Order 2024

Purpose and Intended Effect

- **Background**

The National Bus Travel Concession Scheme for Older and Disabled Persons (“the ODPS”) was introduced on 1 April 2006 by the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Order 2006 (“the 2006 Order”). This followed an agreement reached by the then Scottish Executive and the Confederation of Passenger Transport (CPT), on behalf of bus operators, for the delivery of a free national bus travel scheme for eligible passengers at agreed levels of payment to the industry. The reimbursement arrangements were originally set out in SSI 2006/107. In 2010, new arrangements were agreed with CPT covering 2010-11 to 2012-13 and set out in SSI 2010/140. Arrangements for 2013-14 and 2014-15 were agreed with CPT in 2013 (set out in SSI 2013/114). A number of subsequent SSIs set out reimbursement terms for 2015-16 to 2023-24.

The National Bus Travel Concession Scheme for Young Persons (Scotland) Order 2021 (SSI 2021/175) (“the 2021 Order”) came into force on 1 April 2021. It enabled the Scottish Ministers to make the preparations necessary for a new National Bus Travel Concession Scheme for Young Persons (“the YPS”) and it set reimbursement terms for both the new YPS and the ODPS in 2021-22. The National Bus Travel Concession Schemes (Miscellaneous Amendment)s (Scotland) Order 2022 set the terms for both schemes in 2022-23 and the National Bus Travel Concession Schemes (Miscellaneous Amendment) (Scotland) Order 2023 set the terms for both schemes in 2023-24.

The National Bus Travel Concession Scheme for Young Persons (Scotland) Amendments Order 2021 (SSI 2021/381) came into force on 12 November 2021. It extended the scope of the YPS to include all young people resident in Scotland aged 21 and under and amended the YPS reimbursement terms accordingly.

In January 2024, it was agreed with CPT that the reimbursement rate for the ODPS for 2024-25 should be amended from 55.9% to 55.0% and the reimbursement rates for the YPS for 2024-25 should be retained at the 2023-24 levels (43.6% for journeys made by those aged 5 to 15 and 81.2% for journeys made by 16 to 21 year olds). The National Bus Travel Concession Schemes (Miscellaneous Amendment) (Scotland) Order 2024 provides for the reimbursement for the YPS and ODPS for 2024-25.

- **Objective**

The purpose of this Order (“the 2024 Amendment Order”) is to enable the ODPS and YPS to continue into 2024-25 by setting out the reimbursement terms for bus operators carrying concessionary passengers.

The rate of reimbursement for the ODPS will be amended from 55.9% to 55.0% (of the adult single fare) in 2024-25. Total payments will be capped at £203.5 million in 2024-25.

The reimbursement rates for the YPS will be retained at 43.6% (of the adult single fare) for journeys made by under 16s and 81.2% for journeys made by 16- 21 year olds in 2024-25. Due to insufficient ticketing data pre and post COVID particularly for the 16-21 year old age group, travel behaviours remain uncertain and therefore no clear patterns have emerged since the scheme was launched in January 2022. As a result, the reimbursement rates have not been altered. This allows the new modelling approach to be strengthened by a further year of data to ensure fairness for operators. As with 2023-24, a budget cap is not being set for the YPS. Continued growth of the scheme with no clear pattern having yet emerged regarding monthly journey numbers means it is difficult to provide a sufficiently accurate estimate on which a budgetary cap could be based.

- **Rationale for Government Intervention**

The schemes provide an entitlement to free bus travel for people resident in Scotland who are aged 60 or over or who meet certain disability related criteria or who are aged between 5 and 21 inclusive.

By enabling people more easily to access services and leisure facilities and interact with others, ODPS card holders tell us it delivers social and health benefits through reduced social isolation, greater independence and improved physical and mental wellbeing from increased activity. A recent evaluation has shown that the YPS is helping to improve access to education, leisure, and work, while enabling young people to travel sustainably early in their lives.

Through the Scottish Government National Performance Framework, concessionary travel contributes to the National Outcomes: “We are healthy and active”, “We value, enjoy protect and enhance our environment” and “We respect, protect and fulfil human rights and live free from discrimination”.

Concessionary travel aligns with the Scottish Government’s National Transport Strategy for the next 20 years, published in February 2020. This seeks to reduce inequalities and advance equality of opportunity and outcome, take climate action to make travel choices that minimise the long-term impacts on our climate, develop a transport system that will help deliver sustainable and inclusive economic growth and which will be safe and enable a healthy, active and fit nation.

Consultation

- **Within Government**

We have consulted colleagues in Transport Scotland (TS) who administer the schemes and who are in regular contact with bus operators. Transport Analytical Services colleagues supported negotiations with the industry and provided forecasts used to set the reimbursements terms. Finance colleagues have been consulted about budgets for reimbursement and administrative costs of the schemes.

- **Public Consultation**

The proposal amends the reimbursement rate for the ODPS from 55.9% to 55.0% and extends the current (2023-24) reimbursement rates for the YPS for a further year (into 2024-25). It makes no changes to who is eligible for the schemes or what benefits the schemes confer. The potential for changes in reimbursement rates to have a wider impact on bus companies and their commercial services has been taken into account in setting reimbursement rates aimed at leaving bus operators financially “no better and no worse off”.

- **Business**

TS and CPT, who represent approximately 90% of Scotland’s bus services, have been working together ahead of 2024-25 to review and update the model used to inform reimbursement rates for the ODPS given changes in travel patterns following the Covid-19 pandemic. It was also agreed between Transport Scotland and CPT that a model setting reimbursement rates would be developed for YPS, which does not have an established process given its relatively recent introduction. TS appointed independent consultants to review the approach to setting reimbursement rates. The consultants have undertaken a review of the latest available data and evidence to develop new reimbursement models for the ODPS and YPS.

The ODPS terms include a budget cap to limit the risk to Scottish Government budgets. The cap in the present Order is set at £203.5 million, this has been lowered from £216.2 million from the previous year. The cap is not supported by the bus industry but is set at a realistic level which takes into account patronage levels and recovery since Covid-19. Using the best available evidence, this assumes that ODPS patronage will average around 80% of pre-Covid levels during 2024-25.

All eligible bus operators in Scotland participating in the Schemes will be informed about the proposed reimbursement terms for 2024-25 when the legislation is laid.

Options

Option 1 – Set reimbursement rates for both schemes, and the cap for the ODPS, for 2024-25 at the same level as they have been during 2023-24.

The evidence required to produce a refreshed YPS model is still emerging, as the scheme is still in its relative infancy and travel behaviours are continuing to develop. Whilst TS have a higher degree of confidence in the rate produced for 5-15 year olds

because of available commercial ticketing data on pre-scheme travel behaviours, the estimated baseline of travel behaviours of 16-21 year olds, and therefore the reimbursement rate, remains very uncertain. Patronage in the YPS continues to grow, and the eventual level of demand and outturn spend on the scheme in 2024-25 is uncertain. By retaining rates as they currently are and not applying a budgetary cap we aim to ensure that there is sufficient flexibility in the YPS to meet the objectives of the scheme.

Benefit: Eligible people under the schemes will continue to benefit from free bus travel as this option would extend the duration of the rates set for the schemes for a further year.

Cost: Up to a maximum of £216.2 million for the ODPS, with an estimated indicative claims figure of £206.8 million, and an estimated indicative figure of around £200 million in claims for the YPS in 2024-25.

Patronage in the ODPS scheme remains significantly below pre-covid levels.

The ODPS budget cap is set taking by considering the forecast level of journey demand and the expected fare increases in 2024/25, based on information provided by the bus industry.

Patronage in the YPS continues to grow, and the eventual level of demand and outturn spend on the scheme in 2024-25 is uncertain.

Option 2 – Update reimbursement rates for the ODPS according to the revised model but retain the YPS rates at the same level they have been during 2023-24.

A new model has now been developed for ODPS which considers the latest available evidence on industry costs, passenger demand and travel behaviours. Due to the impact of Covid-19 on bus passenger numbers over the past few years it was necessary to review the analysis and forecasting that underpins the annual revision of the reimbursement rate and the cap. TS are content that this revised model more closely meets the aim of leaving bus operators “no better or worse off” compared to rolling over the same terms as 2023-24. The revised model also takes into account the latest available evidence on operating costs and fare levels from the market. Amending the ODPS rates and cap would ensure the rates more closely meets the aim of leaving bus operators “no better and no worse off” and amending the cap from £216.2 million to £203.5 million which takes into account patronage and fares predictions and reduces the risk to the public purse.

As with option 1 rolling over the same terms for YPS that exist for the current financial year into 2024-25 would ensure that there is sufficient flexibility in the YPS to meet the scheme objectives of providing free bus travel to eligible people under 22 years of age.

Benefit: Eligible people under the schemes will continue to benefit from free bus travel as this option would extend the duration of the Schemes for a further year. It allows for agreed reimbursement rates for YPS to be carried forward during a period

of great uncertainty relating to journey numbers and likely costs. Reducing the ODPS cap is likely to provide greater value to the public purse.

Cost: Up to a maximum of £203.5 million for the ODPS, and an estimated indicative claims figure of around £200 million in claims for the YPS in 2024-25.

Patronage in the ODPS scheme remains significantly below pre-covid levels, adjusting the cap to £203.5 million is in line with expected patronage and fare growth in 2024-25.

Patronage in the YPS continues to grow, and the eventual level of demand and outturn spend on the scheme in 2024-25 is very uncertain.

Sectors and Groups Affected

The sectors most affected by the changes in the 2024 Amendment Order are the bus industry and bus passengers (both concessionary and fare paying).

Benefits

The scheme is intended to leave bus operators financially no better and no worse off as a result of their participation in it.

Costs

| | 2024/25 | |
|-----------------|---|---|
| Option 1 | Up to a maximum of £216.2 million for the ODPS, with an estimated indicative claims figure of £206.8 million, and an estimated indicative figure of around £200 million in claims for the YPS. | Less likely to leave bus operators “no-better and worse off” through their participation in the ODPS scheme. Neither model based on latest available evidence. Poorer value for money. |
| Option 2 | Up to £203.5 million for the ODPS, and an estimated indicative | More likely to leave bus operators “no better and no worse off” through their participation in the ODPS scheme. ODPS model based on latest available evidence. |

| | | |
|--|---|--|
| | claims figure of around £200 million in claims for the YPS. | |
|--|---|--|

Scottish Firms Impact Test

TS has had regular contact with participating bus operators since the outset of the ODPS in 2006 and consideration of potential impacts on the bus industry is a key part of any discussions. Therefore the Scottish Firms Impact Test was not carried out. This would have been impractical given the agreement reached following confidential negotiations with CPT, the trade industry body. CPT acts on behalf of their member operators, in Scotland, and information has been shared with all participant operators.

Competition Assessment

The Scottish Government does not consider that the proposed changes in the 2024 Amendment Order will have any impact on competition. It is not considered likely that the proposals will directly or indirectly limit the range of suppliers, limit the ability of suppliers to compete, or reduce suppliers’ incentives to compete vigorously. Furthermore, given the local nature of services being supplied by the bus industry, there will be no impact on competition within the UK or elsewhere.

Test Run of Business Forms

No changes will be made to forms as a result of the 2024 Amendment Order.

Legal Aid Impact Test

Legal Aid does not apply to these regulations.

Enforcement, Sanctions and Monitoring

Transport Scotland is responsible for the administration of the scheme and compliance with the requirements as detailed within the 2006 and 2021 Orders (as amended).

Implementation and Delivery Plan

The 2024 Amendment Order is subject to affirmative resolution procedure and so will require to be approved by the Scottish Parliament. The 2024 Amendment Order will detail the capped level of funding for the ODPS, namely £203.5 million in 2024-25,

and provide for a reimbursement rate of 55.0% for the ODPS, and reimbursement rates of 43.6% for journeys made by under 16s and 81.2% for journeys made by 16-21 year olds in the YPS in 2024-25. The amendment will be effective from 1 April 2024.

Post-implementation Review

The operation of both schemes will be kept under review and discussions will take place with CPT and key stakeholders to ensure any future reimbursement rate can be agreed with industry representatives to sustain the benefits of the schemes.

Summary and Recommendation

In summary, the preferred option (Option 2) provides for a continuing capped level of funding underpinning the ODPS as outlined above. This will enable the schemes to continue to provide free bus travel for the next year.

- **Summary costs and benefits table**

| Option | Total benefit per annum: - economic, environmental, social | Total cost per annum: - economic, environmental, social - policy and administrative |
|--------|---|---|
| 1 | <ul style="list-style-type: none"> - Risk of failing to meet the aim of the scheme to leave bus operators no better and no worse off for carrying concessionary passengers. - Maintains sustainable benefit to older and disabled people and under 22s. | <p>Up to a maximum of £216.2 million for the ODPS, with an estimated indicative claims figure of £206.8 million</p> <p>An estimated indicative figure of around £200 million in claims for the YPS.</p> |
| 2 | <ul style="list-style-type: none"> - Agreement reached with CPT regarding approach to reimbursement arrangements. - Meets aim of schemes to leave operators no better and no worse off from participation in the scheme. - Maintains sustainable benefit to older and disabled people and under 22s. | <p>Up to £203.5m for ODPS.</p> <p>An estimated indicative figure of around £200 million in claims for the YPS.</p> |

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: Fiona Hyslop

Date: 23rd January 2024

**Fiona Hyslop
Minister for Transport**