



# **Travel Concession Scheme for older and disabled people**

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# 1. Legislation, Guidance 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 free of charge during the above periods of time. The TCA must not propose a scheme that requires pass holders to make any contribution and operators must under no circumstances seek to levy any charge on pass holders on eligible services covered by legislation.
- 1.6 It is an offence liable to summary conviction or fine under Section 148 of the Transport Act 2000 for an operator to fail to comply with his obligations under Section 145A (1) of the same Act:

***145A England: mandatory concessions for journeys not beginning on the London bus network***

***Any person to whom a current statutory travel concession permit has been issued and who travels on an eligible journey on an eligible service is entitled, on production of the permit, to a concession consisting of a waiver of the fare for the journey by the operator of the service.***

## Discretionary Enhancements

- 1.7 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 fulfil any obligation to ensure that the statutory minimum is provided.
- 1.8 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.

- 1.9 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

- 1.10 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

- 1.11 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)).
- 1.12 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 scheme. 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.
- 1.13 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.
- 1.14 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.
- 1.15 If there has been a very significant increase in bus patronage as a result of the 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.

1.16 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.

1.17 The Department for Transport provides guidance to local authorities and bus operators on how to calculate appropriate reimbursement. This has recently been reviewed and published. The guidance is available at:

[Calculate your concessionary bus travel reimbursement - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/calculate-your-concessionary-bus-travel-reimbursement)

and the calculator is available at:

[How to reimburse bus operators for concessionary travel - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/how-to-reimburse-bus-operators-for-concessionary-travel)

## Reimbursement of Discretionary Enhancements to a Scheme

1.18 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.

1.19 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.

## Treatment of infrequent services, community bus services, small operators and small route legs

1.20 The guidance suggests that TCA’s may wish to consider making special arrangements for the reimbursement of **infrequent bus services**. The reason for making this provision is that concessionary passengers using infrequent bus services may not have the same incentive or opportunity to increase the number of journeys with free fares compared to a situation of no concessionary scheme as would be the case with users of more frequent bus services. The users of infrequent bus services are relatively small in number so do not show up in national surveys or datasets. However such services are an important link for rural communities and can be an important part of the business of small bus operators.

1.21 Guidance recommends that the definition of infrequent services is a service of once a day or less.

1.22 The same principle applies to **community bus services** which are eligible for the national concessionary travel schemes.

- 1.23 The guidance does not recommend a particular elasticity or reimbursement rate for either of these types of service. It is recommended that operators and TCAs should consider appropriate local data or results of surveys to determine appropriate reimbursement.
- 1.24 Guidance suggests that TCAs may also wish to have regard to the recognition in the regulations governing concessionary travel reimbursement that the application of a standard method may prove unduly onerous in the case of some **small operators**. The operator and authority may reach an ad hoc agreement as to the agreement to be paid through negotiation but must have regard to the 'no better nor worse off' principle.
- 1.25 Similarly calculating reimbursement using the standard method may be burdensome in the case of services going through a local authority for just a **few stops**, irrespective of the size of the operator. Similarly ad hoc negotiations may be more suitable in this case.

## Notice of Participation or Variation

- 1.26 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.
- 1.27 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

- 1.28 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.
- 1.29 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.
- 1.30 Even after an appeal submission has been made, TCAs and bus operators are encouraged to continue negotiations with the aim of reaching a settlement.
- 1.31 The DfT has published separate guidance for TCAs and bus operators with regards to the appeals process which can be found on the Department's website.
- 1.32 The Secretary of State, or an 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

- 1.33 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. There is also an additional category for certain Service Personnel and War Veterans.
- 1.34 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.
- 1.35 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. The Act 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.
- 1.36 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 state pensionable age for women. The age of eligibility for concessionary travel is therefore:
- For women = state pensionable age
  - For men = state pensionable age of a woman born on the same day.
- 1.37 Initially it was proposed that the pensionable age for women would gradually increase from 60 to 65 over the ten-year period from 2010 to 2020. However, in 2012 further changes were announced to speed up and amend the changes. As a result, the precise pensionable dates over the coming years are complicated. Reference should be made to the DfT calculator to determine dates of eligibility for a bus pass:
- <https://www.gov.uk/calculate-state-pension>
- 1.38 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.
- 1.39 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.
- 1.40 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.

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

<http://webarchive.nationalarchives.gov.uk/20110504042334/http://www.dft.gov.uk/pgr/regional/buses/concessionary/informationlocalauthorities/guidancedisabled/>.

1.42 From August 2011, service personnel and veterans who have been awarded a lump sum payment under the Armed Forces Compensation Scheme (AFCS) and meet the existing disability criteria for the English National Concessionary Travel Scheme may be considered automatically for a disabled person's concessionary travel pass. Wherever possible local authorities should issue a concessionary travel pass to eligible service personnel and veterans on production of their AFCS award letter to avoid further assessment.

1.43 If the eligibility for statutory travel concessions is altered, the change shall automatically apply to this scheme unless the Council gives notice to the contrary.

## Eligible Services

1.44 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.

1.45 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.

1.46 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.

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

<http://webarchive.nationalarchives.gov.uk/20110504042220/http://www.dft.gov.uk/pgr/regional/buses/concessionary/informationlocalauthorities/eligibleservices/>



## Geographical Coverage

- 1.48 The Concessionary Travel Act 2007 entitles eligible people who are resident in England to travel on any eligible service within England.
- 1.49 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.

## Alternative Provision

- 1.50 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.
- 1.51 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.
- 1.52 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 Bracknell Forest Council Scheme

- 2.1 This published scheme will come into effect on 1 April 2024, and replaces the Bracknell Forest Council Concessionary Fares Scheme 2023-24.
- 2.2 The scheme may be amended at any time subject to the TCA following legislative requirements to provide four months' notice for the Statutory Scheme and 28 days notice for Discretionary elements.

### Statutory Minimum Requirement

- 2.3 The Bracknell Forest Council Scheme will follow the guidance provided by the DfT relating to the England National Concessionary Travel Scheme.
- 2.4 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.
- 2.5 A summary of the eligibility details for pass holders and services included within a statutory scheme is provided in Section 1 of this document.
- 2.6 The Bracknell Forest Concessionary Travel Scheme will reimburse operators following the principles of guidance provided by the DfT pertinent to the scheme in 2024-25. This guidance details calculations where appropriate 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.
  - **Marginal Capacity Costs** – the costs to a bus operator of carrying additional passengers and allowing the capacity of bus services to increase, by using the existing fleet more intensively to provide that additional capacity through increased frequency. These costs are net of the additional revenue generated from commercial journeys that arise from the increased frequency and are additional to Marginal Operating Costs. They are not payable on services operated on contract to Bracknell Council since capacity issues are incorporated within the tender price.
  - **Peak Vehicle Requirement Costs** – the costs associated with the requirement to run additional vehicles in the peak period due to generated concessionary travel.

## Enhancements and Alternatives to the Bracknell Forest Free Travel Scheme

- 2.7 In addition to the statutory minimum requirements to allow free travel between 0930 and 2300 Monday to Friday and at all times on weekends and at Bank Holidays, the Bracknell Forest Scheme also entitles:

### **TRAVEL OUTSIDE 'STATUTORY' HOURS –**

It provides free travel at any time outside the times referred to in paragraph 2.4 for any resident of England holding a valid Permit for journeys starting within the Bracknell Forest Council boundary, provided there is available capacity on the bus.

### **ALTERNATIVE TO SCHEME**

It should be noted that the Council offers residents an alternative to the Concessionary Travel Scheme in the form of a Senior / Disabled Person's Railcard at a subsidised price. This is offered as an alternative to, rather than in addition to the Scheme, and residents may not hold both a subsidised railcard and an ENCTS pass.

- 2.8 The Council does not issue 'companion' passes to disabled persons.
- 2.9 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 Bracknell Forest Scheme

- 2.10 Free off-peak travel in England is determined by statute. 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.
- 2.11 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 Council within 28 days of publication of either the scheme or any notice of variation to the scheme TCSR, reg. 36(3)(a)).
- 2.12 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

- 2.13 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.

- 2.14 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.
- 2.15 Prior to making any application under clause 2.14 to the Secretary of State, an operator should give 7 days notice in writing under the 1985 Act (Sections 98(3) and 99(3)) to the Transport Development Manager, Bracknell Forest Borough Council, Time Square, Market Street, Bracknell, RG12 1JD.

## **Details of Passes**

- 2.16 Since April 2008 anyone eligible for free travel should be in possession of an English National Concession Pass. 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 Examples of the English National Free Travel Pass are shown in Appendix 2. 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.
- 2.18 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.

## 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>(1)</sup>. Operators who consider that the terms of the Bracknell Forest scheme prejudicially affect them may exercise their right of appeal, but must not detriment the travel of any eligible concessionary pass holder.

<sup>(1)</sup> 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 Council.

- 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 pass holders 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 cause for concern about a particular pass holder they are asked to provide specific details of their concern to the Council. 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 fraudulently to use a pass which does not belong to them.
- 3.7 Where any pass has expired operators are asked to deal with the situation sensitively and bring the fact that the pass has expired to the attention of the holder reminding them that they should contact the authority about renewal.
- 3.8 Where Smartcard readers are in use failure to read the card should not prevent the passenger from travelling, nor should the pass be confiscated unless the driver has cause to suspect fraudulent use. In such cases a manual record should be made of the journey and the pass holder should be informed to report a fault with their card to the issuing authority. This fault may include an expiry date having been reached.

### Obligations of Operators to the Travel Concession Authority

- 3.9 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. Standard spreadsheets / forms may be provided to assist in this process which must be supported as appropriate with evidence of travel.

- 3.10 Operators must supply the Council 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.
- 3.11 Where services cross boundaries of TCAs, operators must supply all the relevant authorities with a copy of the relevant fare chart/s, and agreement must be reached between all the authorities involved regarding which fare stages shall constitute the TCA boundaries on those routes.
- 3.12 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. Presentation of inappropriate invoices may result in payment delays.
- 3.13 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 Council. Under normal circumstances, claims should be quarterly.
- 3.14 Smaller claims may be accrued and paid by the authority in accordance with their terms of payment (de-minimis terms).
- 3.15 Unless by prior agreement, or in acceptable exceptional circumstances, operators are requested to submit claims no more than three months after 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 31st March each year.
- 3.16 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.
- 3.17 Operators must ensure that claims are submitted for carriage of all eligible pass holders, including those travelling on services operated under any contract. The Council's current contracts for local bus service operation are all 'subsidy based' contracts, and therefore the operator is entitled to retain all revenue, including concessionary travel reimbursement. Should any future contracts be awarded on the basis of being 'Cost Based' (also known as Revenue Guaranteed) contracts, 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.
- 3.18 Where a commercial or contracted service extends into another TCA's area, the operator is responsible for claiming reimbursement from the other TCA/s concerned, and such reimbursement is subject to that TCA's Concessionary Travel Scheme.
- 3.19 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 if so required. Where a contract is operated on a 'cost based' arrangement, the contracting transport authority may act as the 'operator' in respect of reimbursement. Operators are advised that without prejudice to matters of commercial confidentiality, if requested the Council will provide details to anyone with a financial interest in a service of any reimbursement payments made in respect of that service.

- 3.20 Operators are obliged to note that the Council reserves the right to correct any errors in payments either by invoice or by the adjustment of future reimbursement payments.
- 3.21 Any operator who has reason to believe that erroneous data has been submitted must bring this to the attention of the Council as soon as possible. The Council reserves 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.
- 3.22 Operators are advised to note that re-submission of claims made in error will only be considered on merit at the discretion of the Council. Resubmissions will not be considered beyond the end of the financial year to which they relate unless extreme circumstances dictate otherwise.
- 3.23 Operators must permit representatives of the Council 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
- 3.24 All participating operators may be required to display any notices required by the Council (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.
- 3.25 Operators must notify the Council 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**

- 3.26 The Council 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.
- 3.27 The Council 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.
- 3.28 Where an operator has notified their unwillingness to participate in any non-statutory element of the scheme, the Council may serve a participation notice to commence no earlier than 28 days after serving notice of participation. Therefore, the Council may 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.
- 3.29 The proposed arrangements should be published in the form the Council 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.
- 3.30 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.

- 3.31 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.
- 3.32 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.
- 3.33 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.
- 3.34 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.
- 3.35 The authority shall ensure that any information obtained from the operator shall be confidential. This does not apply to information which the authority publishes as part of the Transparency Agenda.
- 3.36 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.



## 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 Council to facilitate them in the provision of data associated with the carriage of concessionary fare passengers.

### Calculation of Reimbursement and Additional Costs

- 4.5 Participation Operators shall be reimbursed on the terms set out herein in respect of all Passenger Journeys made under the terms of the Statutory Minimum Travel Concession by holders of ENCTS Passes which commence from a Boarding Stage defined as being within the Principal Area of the Scheme.
- 4.6 Participating Operators shall also be reimbursed on the terms set out herein in respect of all Passenger Journeys made under the terms of local Discretionary Entitlements by holders of ENCTS Passes and which commence from a Boarding Stage defined as being within the Principal Area of the Scheme.
- 4.7 Throughout 2023 the Department for Transport has been undertaking an extensive review of its guidance and methodologies for reimbursing operators for concessionary travel.
- 4.8 The TCA will be using the DfT’s 2024/25 published guidance and associated calculator as the basis for calculating operator reimbursement and rates, including additional costs where relevant.
- 4.9 Links to the latest published version of guidance and calculator can be found at 1.17.
- 4.10 The TCA reserves the right to amend the scheme in line with any further DfT guidance released. The TCA will notify operators of any proposed changes with the correct notice period, as defined by the DfT.

## Revenue Foregone for non-generated passengers

- 4.11 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.
- 4.12 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.
- 4.13 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.
- 4.14 Hence the reimbursement calculation in Bracknell Forest 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 Bracknell Forest will be in accordance with guidance published by the DfT.
- 4.15 Operators will be reimbursed for the carriage of pass holders on each service (global or aggregated figures may be used if more suitable) using the appropriate factor determined by the average fare for that service. A methodology will be agreed with each operator to calculate average fares to be used.
- 4.16 Any operator who believes that the use of the authority-wide reimbursement rate will be inappropriate for their organisation may request that an operator specific reimbursement factor is determined. This request should be made to the scheme administrators by 1<sup>st</sup> May.

## Marginal Operating Cost

- 4.17 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.
- 4.18 Marginal Operating Costs are applicable to all eligible services and all eligible operators without the need for further information. Hence this element will automatically be paid to all claimants in accordance with DfT guidance.
- 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.
- 4.20 The elements of Marginal Operating Costs underlying the DfT calculator 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

- 4.21 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.
- 4.22 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.
- 4.23 The DfT guidance states that there is a presumption that Marginal Capacity Costs would only apply to commercial routes within a network.
- 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) Cost per vehicle hour
  - ii) Cost per vehicle mile
  - iii) Speed
  - iv) Mean vehicle occupancy
  - v) Mean Journey Length
  - vi) Mean Route Length
  - vii) Average Commercial Fare <sup>(5)</sup>
  - viii) Commercial (non-concession) journeys <sup>(5)</sup> as percentage of total journeys

<sup>(5)</sup> Please note that in a change to DfT guidance from 2012, the calculator required that commercial journeys were no longer restricted to adults but must include children

## 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 passenger boardings 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. Bracknell Forest will follow the methodology prescribed in the DfT guidance.
- 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 Council has the right to confirm

that the stated criteria are 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 preferred method of submission is for operators to attach the completed excel spreadsheets, supplied by Bracknell Forest, to an email; however other methods of submission will be considered in exceptional circumstances.
- 4.30 Claims for each quarter should normally be submitted by the end of the following month or unless otherwise agreed using forms supplied by the Council. 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 Council.

### 4.32 Claims forms and supporting documentation should be addressed to:

Phillip Burke  
Senior Transport Co-ordinator  
Transport Development  
Place, Planning & Regeneration  
Bracknell Forest Council

Please note that reimbursement is based on a Claims system, using the appropriate documentation. Claims will be processed by Bracknell Forest Council before paying to individual operators. **Invoices should not be submitted.**

Any queries should be directed to the above address or

by telephone to : 01344 351266  
by email to : [Phillip.Burke@bracknell-forest.gov.uk](mailto:Phillip.Burke@bracknell-forest.gov.uk)

### 4.33 Any enquiries about cards should be addressed to the Council:

Head of Highways and Transport  
Bracknell Forest Council  
Time Square  
Market Street  
BRACKNELL RG12 1JD

Or any address for the Council or its agents subsequently notified in writing to operators.

- 4.34 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.
- 4.35 Unless by prior agreement, or in acceptable exceptional circumstances, operators are requested to submit claims within a month 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 15<sup>th</sup> April for claims up to and including 31<sup>st</sup> March each year.
- 4.36 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.
- 4.37 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.
- 4.38 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.
- 4.39 Average fares may be determined by the operator on a regular or periodic basis in agreement with the Council. 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 Council reserves the right to request evidence that fares used in calculations are appropriate.
- 4.40 The Bracknell Forest 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 Bracknell Forest.
- 4.41 Under the terms of the 1986 Regulations, operators with mileage in the Borough of less than 150,000 miles per year may, by agreement with the operator concerned, be outside the standard scheme. In these circumstances, an annual lump sum (payable monthly) may be agreed. This will be in line with payment that would otherwise be due under the Scheme, but based on average use by pass-holders over the previous year.

## Payments

### 4.42 *Interim Payments*

Payment will be made by the Council to each Operator every month. At the mid-point of each month, Bracknell Forest Council will pay to each Operator 90% of the amount that the Council estimates to be due to the operator for that month (based on the most recently calculated average fare). Monthly figures will be calculated, and revised where necessary, on a quarterly basis.

### 4.43 *Reconciliation Payments*

The balance will be paid following recalculation of the average fare and receipt of invoice at the end of each quarter.

4.44 Alternatively, by arrangement with the Council, the Operator may choose to receive full payment only on receipt of the invoice for the quarter to which that invoice relates.

4.45 Following receipt by Bracknell Forest Council of the information provided by an operator, the Council shall either:

- a. within a calendar month pay the operator the balance of the amount the operator is due or;
- b. if it believes the Operator's data to be significantly incorrect, within 15 days provide a replacement estimate including its basis of calculation and within a further 15 days pay the operator the balance of the amount due in accordance with the replacement estimate. Prior to payment the replacement estimate may be further altered following discussion between the administering authority and the operator and the 15 further days may be extended by the agreement of the administering authority and operator to enable these discussions to proceed.

4.46 Bracknell Forest Council will withhold the balance of the amount the operator is due if the information to be provided by the operator is not submitted within 12 months of the end of the period to which they refer.

## 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 if the concessions scheme did not exist. This is referred to as 'revenue forgone'

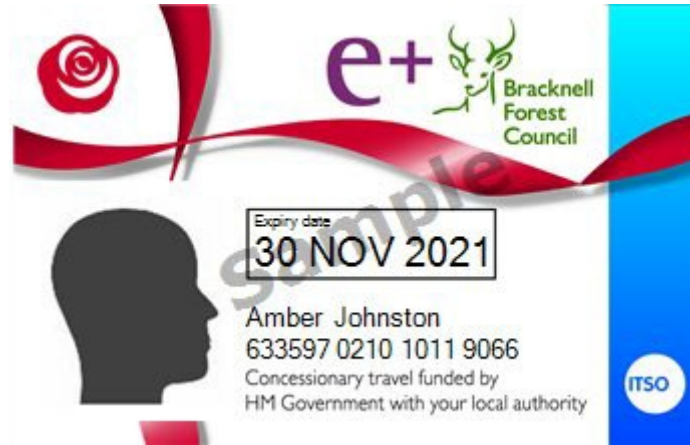
The operator is also entitled to compensation for the costs of conveying those additional passengers who are only travelling because of the existence of the concessionary travel scheme.

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 generation factor.

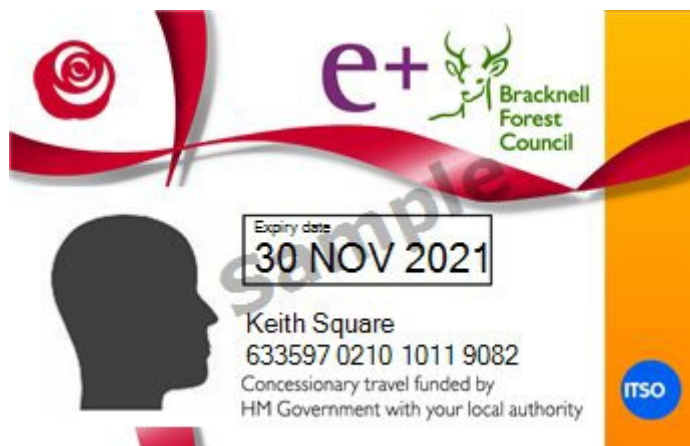
The generation factor (GF) is a measure of the increase in trips, relative to the previous level of trips, as a result of a reduction in fares. For example, a generation factor of 50% at half fare means that trips have increased by 50% (as a proportion of the original number of trips) as a result of 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 2 – Samples of the English National Pass

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



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



**NOTE :** Bracknell Forest Council also issues “e+ cards” with a purple stripe, for purposes including library and leisure centre membership. These **do not** offer any form of travel concession, either for free or reduced rate travel by bus. Operating staff should only accept blue / gold band passes that include the ENCTS ‘red rose’ symbol and hologram.