

Business and Regulatory Impact Assessment

The National Bus Travel Concession Schemes (Miscellaneous Amendments) (Scotland) Order 2023

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 2022-23.

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 Amendments) (Scotland) Order 2022 set the terms for both schemes in 2022-23.

The National Bus Travel Concession Scheme for Young Persons (Scotland) Amendment 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 December 2022, it was agreed with CPT that the reimbursement rates for 2022-23 should be continued into 2023-24 for both the ODPS and the YPS. The National Bus Travel Concession Schemes (Miscellaneous Amendments) (Scotland) Order 2023 provides for the reimbursement for the YPS and ODPS for 2023-24.

- **Objective**

The purpose of this Order (“the 2023 Amendment Order”) is to enable the ODPS and YPS to continue into 2023-24 by setting out the reimbursement terms for bus operators carrying concessionary passengers.

The rate of reimbursement for the ODPS will be 55.9% (of the adult single fare) in 2023-24. Total payments will be capped at £216.2 million in 2023-24.

The reimbursement rates for the YPS will be 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 2023-24. As with 2022-23, a budget cap is not being set for the YPS. This reflects the uncertainties over likely usage of the new scheme and the lack of an existing evidence base as we do not yet have a full years' worth of data given the scheme commenced in January 2022. This makes it difficult to provide a sufficiently accurate estimate on which a 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. The YPS also seeks to embed positive sustainable travel behaviours.

In line with legislation establishing the schemes, operators are reimbursed for the costs of carrying concessionary passengers with the objective of leaving them financially no better or worse off as a result of their participation in the schemes. To ensure this, the reimbursement rates are informed by economic models and negotiations with the main trade body.

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 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 extends the current reimbursement rates for the schemes for a further year. It makes no changes to who is eligible for them or what benefits they 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 “no better and no worse off”.

- **Business**

Negotiations have taken place with the CPT, which represents approximately 90% of Scotland’s bus services.

The ODPS terms include a budget cap to limit the risk to Scottish Government budgets. The cap in the present Order is set at £216.2 million, this has been lowered from £226.1 million from the previous year. The cap is not welcomed 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 80% of pre-Covid levels during 2023-24.

All eligible bus operators in Scotland participating in the Schemes will be informed about the proposed reimbursement terms for 2023-24 when the legislation is laid.

Options

Option 1 –Update the economic model used to inform the setting of reimbursement terms in order to produce new reimbursement rates for both schemes and to allow a revised cap to be set for the ODPS and a cap for the YPS for financial year 2022-23.

This approach would require inputting assumptions about operator costs, journey numbers, fare levels and inflation under both schemes into the economic model that is usually used to calculate reimbursement rates for the schemes.

The economic model which has been used for the ODPS since 2013 depends on extrapolating figures on the basis of historical figures and forecasts of future costs, fares and journey numbers. The Covid-19 pandemic has significantly affected demand and made forecasting more difficult. Operating costs and inflation are also uncertain at this time, in part due to the ongoing impacts of Covid-19 and wider supply chain issues. These issues, along with the limited amount of scheme data for the YPS which became operational on 31 January 2022, means that the reimbursement models for the YPS and ODPS could not be used with confidence for 2023-24.

Benefit: Eligible people under the schemes will continue to benefit from free bus

travel as this option would extend their duration for a year. Updated modelling may result in saving to the public purse but it is not clear that this would be borne out in fact and in the current environment it would not allow a realistic reimbursement rate or cap to be set. Simply extrapolating the 2013 model for the ODPS and setting a rate and cap on the basis of extremely uncertain estimates could lead to the compromise of the schemes' objective to leave bus operators no better and no worse off.

Cost: Indicative modelling has not been carried out for the ODPS or YPS as uncertainties are too great to allow for the use of the model.

Option 2 – Set reimbursement rates for both schemes, and the cap for the ODPS, for 2023-24 at the same level as they have been during 2022-23.

As mentioned above, due to the impact of Covid-19 on bus passenger numbers over the past year and the ongoing uncertainty over the foreseeable future, it has not been possible to undertake the usual analysis and forecasting that underpins the annual revision of the reimbursement rate and the cap. By rolling over the same terms that exist for the current financial year into 2023-24 we hope to ensure that there is sufficient flexibility in the schemes to address any eventuality.

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. It allows for agreed reimbursement rates to be carried forward during a period of great uncertainty relating to journey numbers and likely costs.

Cost: Up to a maximum of £226.1 million for the ODPS, with an estimated indicative claims figure of £216.2 million, and up to an estimated £189.5 million in claims for the YPS in 2023-24.

Patronage in the ODPS scheme remains flat and significantly below pre-covid levels. While steps will be taken to promote bus travel further in 2023-24, even with patronage increases it is likely that the current cap is higher than required and would not provide suitable value for the public purse.

Patronage in the YPS continues to grow, and the eventual level of demand and outturn spend on the scheme in 2023-24 is very uncertain.

Option 3 – Set reimbursement rates for both schemes at the same level as they have been during 2022-23 but update the ODPS cap to take account of patronage changes.

As with option 2 rolling over the same terms that exist for the current financial year into 2022-23 would ensure that there is sufficient flexibility in the scheme to address any eventuality. However, reducing the ODPS cap would ensure it is more closely aligned with expected patronage changes and reduce the risk to the public purse.

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 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 £216.2 million for the ODPS, and up to an estimated £189.5 million in claims for the YPS in 2023-24.

Patronage in the ODPS scheme remains flat and significantly below pre-covid levels, adjusting the cap to £216.2 million is in line with expected patronage in 2023-24.

Patronage in the YPS continues to grow, and the eventual level of demand and outturn spend on the scheme in 2023-24 is very uncertain.

Sectors and Groups Affected

The sectors most affected by the changes in the 2022 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

	2023/24	
Option 1	n/a	It is not possible to run the normal modelling given the ongoing uncertainty over bus passenger numbers.
Option 2	Up to £226.1m for ODPS, with indicative cost of claims of £216.2m £189.5m for YPS	Likely to leave bus operators “no-better and no-worse off” through their participation in the scheme but ODPS cap may be unnecessarily high.
Option 3	Up to £216.2m for ODPS £189.5m for YPS	Preferred option most likely to leave bus operators “no-better and no-worse off” through their participation in the scheme while providing best value for money.

Scottish Firms Impact Test

There are around 190 bus operators in Scotland participating in the concessionary

travel schemes. Transport Scotland 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 2023 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 2023 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 2023 Amendment Order is subject to affirmative resolution procedure and so will require to be approved by the Scottish Parliament. The 2023 Amendment Order will detail the capped level of funding for the ODPS, namely £216.2 million in 2023-24, and provide for a reimbursement rate of 55.9% 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 2022-23. The amendment will be effective from 1 April 2023.

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 3) 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. - Risk due to applying the agreed terms of the economic model when forecasting of inputs is so uncertain due to ongoing impacts of COVID-19. 	N/A - Uncertainties are too great to allow for costings
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. 	<ul style="list-style-type: none"> - Up to £226.1m for ODPS, with indicative cost of claims of £216.2m - Indicative claims of £189.5m for YPS
Option 3	<ul style="list-style-type: none"> - Agreement reached with CPT regarding approach to reimbursement arrangements. - Most likely to meet aim of schemes to leave operators no better and no worse off from participation in the scheme. - Lowering the ODPS cap is likely to provide greater value to the public purse. 	<ul style="list-style-type: none"> - Up to £216.2m for ODPS, with indicative cost of claims of £216.2m - Indicative claims of £189.5m for YPS

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: Jenny Gilruth

Date: 26/1/2023

**Jenny Gilruth
Minister for Transport**