

POLICY NOTE

THE NATIONAL BUS TRAVEL CONCESSION SCHEME FOR YOUNG PERSONS (SCOTLAND) ORDER 2021

SSI 2021/175

The above instrument was made in exercise of the powers conferred by section 40(1), (3), (4), (7) and 52(4) of the Transport (Scotland) Act 2005. The instrument is subject to the affirmative procedure.

This instrument creates a concessionary travel scheme for Young Persons. The scheme is to operate throughout Scotland and will provide free bus travel, on eligible services, to people aged 5-18 who obtain a travel card and use it to make an eligible journey.

It also extends eligibility for companion cards under the current Older and Disabled Persons Scheme to children aged under 5 who would become eligible under current provisions on reaching age 5. (Children under 5 generally travel for free but are not currently eligible to apply for companion cards to enable their companions to do so.)

It makes some other minor changes to the definitions and timescales in that Scheme and also sets the reimbursement terms for bus operators carrying concessionary passengers under it in the coming year. The rate of reimbursement in 2021-22 will be 55.9% with total payments capped at £226.1 million.

Policy Objectives

What the instrument does

This instrument will allow the Scottish Ministers to create and operate a statutory National Concessionary Travel Scheme for Young Persons aged 18 and under (Young Persons Scheme). The Young Persons Scheme will provide free bus travel, on eligible services, to all people of fare-paying age under the age of 19 who are resident in Scotland who have applied for and present a valid travel card under the scheme to undertake an eligible journey.

The instrument will also make amendments to the Older and Disabled Persons Scheme. It amends the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Order 2006 to put in place a reimbursement rate for 2021-22 of 55.9% of the adult single fare with a budget cap of £226.1 million. It also amends the National Bus Travel Concession Scheme for Older and Disabled Persons (Eligible Persons and Eligible Services) (Scotland) Order 2006 in order to extend companion cards to disabled children aged under 5 who would have been eligible under current provisions had they been aged 5 or over; update the visual impairment eligibility criteria to bring these into line with current registration arrangements; reduce the time limit for bus operators to make reimbursement claims from three years to one year; and update the definition of “Northern England services” which can be covered by the scheme.

The provisions of this instrument will come into force on 1 April 2021. The new Young Persons scheme will not become operational on this date but Ministers will be able to

formally admit operators to the scheme and put in place the necessary administrative arrangements to bring it into operation at a later date of their choosing.

To minimise burdens on the bus industry, Local Authorities, the National Entitlement Card Programme Office (NECPO) and the Scottish Government, the Young Persons Scheme, though legislatively distinct from the Older and Disabled Persons Scheme, has been designed to operate administratively in as similar a way as possible to it.

The eligible services and eligible journeys are the same in both schemes, as is the information required from operators and the process for operators to make reimbursement claims for eligible journeys that have been taken. The administrative process for admitting operators to the schemes, and for appeals or disputes against any decisions by the Scottish Ministers relating to the schemes are also the same.

Further shared characteristics of the schemes are the way in which reimbursement is to be calculated, and the way in which payments are made to operators. Both schemes will be based on the same information from operators and calculations will be undertaken to meet the objective of ensuring that bus operators are no better or worse off as a result of their participation in the scheme.

A separate reimbursement rate of 60.3% of the adult single fare is put in place for the Young Persons Scheme by this instrument since young people's travel patterns differ from those of current Older and Disabled Persons Scheme users. The Business and Regulatory Impact Assessment (BRIA) provides further information on the rate setting process.

As with the statutory Older and Disabled Persons Scheme, the new Young Persons Scheme created by this instrument applies only to bus services and not to other modes. However, recognising the concerns of non-mainland communities, Transport Scotland will undertake an Island Communities Impact Assessment (ICIA), in line with the Islands (Scotland) Act 2018, on the new Young Persons Scheme prior to the scheme becoming operational.

As with the Older and Disabled Persons Scheme, the instrument does not detail administrative matters such as how residency is to be established or the process for obtaining travel cards or evidencing entitlement. These administrative elements will be addressed in consultation with relevant stakeholders and delivery partners prior to the new Young Persons Scheme commencing.

Why is it required

Provision of free bus travel to around 770,000 young people across Scotland is designed to encourage Scotland's younger generations to use low-emission and lower carbon public transport with a view to embedding that behaviour from a young age, to tackle the climate emergency and to improve air quality in towns and cities by reducing the number of car journeys. In addition to the core transport and environmental aims, potential further benefits of the scheme are the promotion of social inclusion (by improving access to education, healthcare, training and employment etc.) and reduction in child poverty.

The scheme is expected to open up social, education, employment and leisure opportunities, reduce household outgoings to aid children, particularly those living in poverty and to embed positive sustainable travel behaviours.

The delivery of these benefits demonstrates alignment with the Scottish Government's National Transport Strategy (NTS). Published in February 2020, the NTS 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.

The amendments made to the Older and Disabled Persons Scheme Orders by this instrument will allow the Scheme to continue for a further year by setting reimbursement terms and providing a budget cap.

In addition, the extension of free bus travel to companions of eligible disabled children under 5 from 1 April 2021 delivers a commitment by the Scottish Government to bring this forward, following consultation in 2017. The amendments to the definition of visual impairment and to Northern England services reflect current practice and terminology. The reduction in the time limit for operators to make claims, from three years to one year, after the end of the financial year, reflects actual practice and simplifies administration of the Scheme.

Consultation

Public consultation

A public consultation on the proposals to extend eligibility for free bus travel to people aged 18 and under in Scotland was published on 26 October 2020 and completed on 7 December 2020. The consultation attracted over 3,000 responses, of which 596 (19%) respondents identified themselves as under 19, 1,700 (55%) identified themselves as a parent or carer, and 424 (14%) identified themselves as someone who works with children or young people.

The Scottish Youth Parliament and Children's Parliament were also engaged, as well as a number of third-sector organisations which work with children and young people, and officials with expertise in children and young people within the Scottish Government.

Key delivery partners

Negotiations have taken place with the Confederation of Passenger Transport (CPT), which represents about 80% of the bus industry in Scotland in terms of numbers of journeys, to agree the reimbursement rates for the Older and Disabled Persons Scheme and the Young Persons Scheme. It is our intention that all eligible bus operators in Scotland will participate in both Schemes and that they are informed about the proposed reimbursement terms for 2021-22.

The Improvement Service (IS) is the national improvement organisation for Local Government in Scotland. Its members include the Convention of Scottish Local Authorities (COSLA), the Society of Local Authority Chief Executives (Solace) and Scotland's 32 local authorities, and it is the accountable body for the National Entitlement Card Scheme. The IS is responsible for the management and operation of an online card application portal, getyournec.scot.

NECPO manages the National Entitlement Card (NEC) scheme, including procuring core components necessary for Scheme delivery: a national card management system, card production and fulfilment services, and smartcard supplies. The IS, Young Scot and NECPO are also members of the Programme Board overseeing the development of the Young Persons Scheme.

Early and regular engagement with NECPO and IS has been undertaken and is ongoing as the administrative arrangements for the Young Persons Scheme are designed and implemented.

Local Authorities and in some cases regional transport partnerships are responsible for the application and cardholder management process for the NEC, and also operate and tender school bus transport and socially necessary services. In addition to local authority responses

to the public consultation, a working group has been established to engage local transport authorities.

Themes arising from consultation activity

Over 90% of respondents to the public consultation felt that extending free bus travel to people aged 18 and under would contribute towards improving opportunities and reducing inequalities for children and young people. Climate change and health and wellbeing benefits were also recognised, but there were concerns from bus operators and local authorities that the scheme be properly funded. Concerns were also raised regarding potential safety issues relating to provision of free travel.

Funding concerns have been taken into account in determining the reimbursement rates for both the Older and Disabled Persons Scheme and the new Young Persons Scheme, which have been agreed following negotiations with CPT. The uncertainties around demand for the Young Persons Scheme will be addressed by active monitoring once the scheme is operational.

Issues relating to potential safety issues have been considered and addressed through a Children's Rights and Wellbeing Impact Assessment (CRWIA), which is discussed further below.

A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Transport Scotland website.

Impact Assessments

A number of impact assessments have been completed relating to the policies contained within the instrument. They are listed below along with a summary of issues identified and mitigations taken.

A BRIA on the National Bus Travel Concession Scheme for Young Persons (Scotland) Order 2021 has been completed. The findings of the BRIA are summarised in the Financial Effects section below.

The CRWIA concluded that free bus travel for children and young people aged 18 and under will have broadly positive effects on children's rights and wellbeing, facilitating access to educational, leisure, and work opportunities. For a small number of children, removing the cost of travel could pose a small but indeterminate increase in risk to their safety or wellbeing. The benefits will be maximised and the risks mitigated by seeking parent/legal guardian approval for children under age 16, extensive communications to parents/legal guardians and children and driver awareness training made available to bus operators.

An Equalities Impact Assessment (EQIA) has been completed. It found that, overall, free bus travel for people aged 18 and under will advance equality of opportunities for young people with protected characteristics. The EQIA exercise has identified certain risks, such as the application process acting as a barrier for certain groups, increased risk to safety for certain groups, and the travel card potentially negatively impacting transgender people.

Consideration has been given on how to mitigate these risks, such as ensuring the application process is provided in accessible formats, allowing cardholder details to be easily updated, and taking steps to protect children's safety through bus driver awareness training. Some age groups over 19 years may also benefit from free bus travel, but are outside the scope of this policy. While the age criteria for eligibility could potentially generate inequality with young people over the age of 19, evidence suggests that people under 19 are generally more reliant on public transport, more likely to be in education, and more likely to be in low-paid or insecure work than persons aged 19 and over.

A Strategic Environmental Assessment screening exercise was undertaken and submitted to the consultation authorities. In the light of their comments, it was determined that an SEA would not be required as the proposal would not have significant environmental effects. The screening determination will be published in the Transport Scotland website.

An assessment under the Fairer Scotland Duty has been completed and the results published on the Transport Scotland website. It found that overall, this policy is expected to have a positive impact on reducing socio-economic disadvantage and inequalities of outcome.

A Data Protection Impact Assessment (DPIA) on the policy has been completed and will feed into the development of the administrative arrangements that will underpin the Young Persons Scheme.

An Islands Communities Impact Assessment, in line with the Islands (Scotland) Act 2018, will be carried out prior to the Young Persons Scheme becoming operational to ensure that the needs of island communities are considered when developing and implementing the scheme and to determine if mitigating actions will need to be put in place.

Financial Effects

As noted above a Business and Regulatory Impact Assessment (BRIA) has been completed. The impact of this policy on business is set out below.

Both Schemes – the Older and Disabled Persons Scheme and the new Young Persons Scheme – are intended to leave bus operators no better and no worse off as a result of their participation.

Young Persons Scheme

The Young Persons Scheme may increase burdens for Local Authorities. If the level of reimbursement is too low, bus operators may seek additional funding from Local Authorities for local bus service contracts as revenue will drop due to the reimbursement rate being reduced.

The reimbursement rate for the new Young Persons Scheme, agreed with the CPT, will be 60.3% of the adult single fare. Transport Scotland estimates there will be up to 67.6 million journeys per year under the Young Persons Scheme at an estimated total annual reimbursement cost of up to £89.4 million in the first full year of operation. Actual usage will be closely monitored to refine the reimbursement model and identify any significant adverse impacts on operators' finances.

A budget cap has not been set for the new Young Persons Scheme in 2021-22. This reflects considerable uncertainties over likely usage which make it difficult to provide an accurate estimate, and the risk that too low a cap, in conjunction with the potential continuing impacts of the Covid-19 pandemic on patronage, could threaten the viability of bus services in the first year of the scheme.

NECPO estimates one-off set up costs for the Young Persons Scheme of up to £2 million in 2021-22, a further £1.5 million for additional NEC cards and recurring annual costs of around £800,000.

Transport Scotland estimates that around £1 million will be required for a marketing and educational campaign for the new scheme, including bus driver awareness training, information on how to use bus services responsibly, branding, materials, promotion and advertising. In addition, it will cost an estimated £0.5 million to reconfigure the electronic ticket machines used on buses.

Local Authorities could face increased costs to administer the anticipated increase in applications. While the majority of Local Authorities process bulk applications for the Young Scot-branded National Entitlement Card (NEC) at the beginning of secondary school, this is not universal.

Transport Scotland is working with delivery partners including Local Authorities, NECPO, and the Improvement Service to consider how the increased applications can be managed.

Older and Disabled Persons Scheme

Extending the coverage under the Older and Disabled Persons Scheme to provide companion cards to eligible disabled children aged under 5, based on current eligibility criteria, would add around £520,000 to the cost of the Scheme annually for an estimated 4,000 additional bus pass holders.

Scottish Government

Transport Scotland – Bus, Accessibility and Active Travel Directorate

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