

Regulatory Impact Assessment - Concessionary Bus Travel Act 2007

Title of proposal

- 1 The Concessionary Bus Travel Act 2007.

Purpose and intended effect

Objective

- 2 The main purpose of the Concessionary Bus Travel Act 2007 is to achieve social inclusion benefits for older and disabled people by allowing them greater freedom to travel, for free, by local bus. The Act introduces guaranteed free off-peak local bus travel anywhere in England (not just within a specific local authority area) for residents of England who are aged 60 and over and disabled people, from April 2008.
- 3 Concessionary travel is a devolved policy area and free local bus travel arrangements are administered by the devolved administrations across Wales, Scotland and Northern Ireland. The national bus travel concession therefore applies only to England. However, the Act extends to England and Wales because it amends legislative provisions which apply both to England and Wales and also, for clarity, restructures the provisions establishing the scheme in Wales. It does not, however, change the concessionary travel scheme as it applies in Wales.
- 4 The Act includes the power to facilitate, by order, mutual recognition of concessionary bus passes across the UK. This gives the option of allowing, at such a time in the future when all parties agree the administrative and practical arrangements, concessionary bus passes issued anywhere in the UK to be valid for travel anywhere in the UK.

Background

- 5 The Transport Act 2000 placed an obligation on travel concession authorities (district and unitary councils, or the Passenger Transport Executives (PTEs) in metropolitan areas) to issue statutory travel concession permits, on request and without charge, to older and disabled residents. That Act originally placed a statutory minimum requirement on bus operators to provide half-fare off-peak local bus travel to holders of such permits for travel within a travel concession authority area. The legislation also placed an obligation on travel concession authorities to reimburse operators for providing the concessions on journeys within their area.
- 6 Concessions were extended to men aged between 60 and 65 by The Travel Concessions (Eligibility) Act 2002. Furthermore, from 1 April 2006, The Travel Concessions (Extension of Entitlement) (England) Order 2005 extended the statutory half-fare concession for local bus travel within the pass issuing local authority area to a full concession.
- 7 In addition, local authorities can offer enhancements to the statutory entitlement to their eligible residents, such as travel before 9:30am on weekdays and concessions on other modes like trams, as well as alternative forms of travel scheme, like tokens for use on taxis or community transport. These schemes are possible by virtue of powers contained in the Transport Act 1985.

- 8 In London, under the Greater London Authority Act 1999, the London boroughs agree a concessionary fare scheme for older and disabled people annually with Transport for London (TfL). This scheme includes the statutory local bus concession.
- 9 It was announced in the 2006 Budget that the Government would extend the statutory concession to cover travel on off-peak local buses outside a concessionaire's travel concession authority area, in order to allow travel anywhere in England from April 2008. Implementation of the announcement required legislative changes, hence the need for the Concessionary Bus Travel Act.

Rationale for government intervention

- 10 The Government received numerous representations from MPs, pensioners' groups and members of the public, calling for free local bus travel arrangements to be extended to enable older and disabled people to travel free of charge across England.
- 11 Bus travel is the most widely used form of public transport for people of pensionable age. As local authorities vary in size and have the power to offer more generous schemes at their own discretion, including free travel in neighbouring districts following administrative agreements between local authorities, there has historically been variation in provision across the country. The Act reduces this disparity by allowing local bus travel by concessionaires outside the travel concession authority area in which they reside. Local authorities retain the ability to offer enhancements such as travel on other modes or at different times, as well as travel for additional categories of people (outside those eligible for the statutory national concession). In England, we estimate that around 11 million older and disabled people are eligible for the new national bus travel concession.
- 12 Without the measures in the Act, free travel across travel concession authority boundaries would have remained at the discretion of local authorities. Not all authorities chose to offer cross-boundary travel and those that did could have pared back this provision if they so wished. This would have had a negative impact on social inclusion for older and disabled people, for whom the nearest town or medical or leisure facilities may be in a neighbouring local authority area.

Consultation

- 13 The introduction of the national bus travel concession was widely anticipated and was been reported in the press following the announcement in the 2006 Budget. The Department for Transport (DfT) made use of a Concessionary Fares Working Group (CFWG) and also established a series of taskgroups to help assess and advise on the practicalities of implementation. The groups consist of representatives from English local authorities, the Passenger Transport Executives, London Councils and the Confederation of Public Transport (CPT). In addition, the Department's Stakeholder Group includes organisations such as Help the Aged, Age Concern, DPTAC, the National Pensioners Convention and Bus Users UK.
- 14 The analysis in this document is based on the current regime. However, the Act includes powers to make changes via secondary legislation to some of the details of the national concession in the future: for example, the mechanisms for reimbursement and administration. It also gives the option of mutual recognition of concessionary bus passes across the UK in future. There will be extensive public consultation on any secondary legislation made under powers in the Act before it can come into effect. As some of these orders or regulations could involve different options, where required these will be covered in the impact assessment that would accompany them.

Options

- 15 The proposal to extend the existing statutory concession for local bus travel to a national level was announced in the Budget on 22 March 2006. As the purpose of the Act is to implement this announcement, this Regulatory Impact Assessment does not examine any alternative options.

Costs and benefits

Costs to local authorities

- 16 The Act requires travel concession authorities to reimburse bus operators for providing non-local England residents (holding the appropriate pass to demonstrate entitlement to the national concession) free off-peak local bus travel within the area they are visiting. Authorities must reimburse the bus operators for any concessionary local bus travel, within the parameters of the national concession, which starts within their area. Authorities continue to have the discretion to offer local enhancements to their own eligible residents or to a wider group.
- 17 The main impact is on travel concession authorities, which need to revise and publicise their reimbursement schemes and issue new passes, free of charge. All travel concession authorities have been required to offer concessionary travel schemes since 2001, and most already had such schemes in place for a number of years before this. The task of issuing of passes is not therefore a new administrative burden. However, the scale and timing of this task has changed, with some eligible people who had previously not taken up the concession now doing so, and authorities need to ensure that new, nationally recognised, passes are issued in time for April 2008. Most authorities previously issued passes in non-smartcard form, and may need to upgrade their equipment or buy in new services. The Council of the Isles of Scilly is, for the first time, obliged to issue passes to its residents.
- 18 There is a cost for travel concession authorities arising from the reissuing of new passes to existing holders, some of which may not otherwise need to have been replaced for 2008. This may bring forward expenditure and change the consequent cost profile. To the extent to which this constitutes a new burden, the Department has indicated its intention to pay a grant to authorities to cover reasonable new costs. The Department has separately consulted on the specification of the pass, a process which included consultation on a draft Regulatory Impact Assessment.
- 19 The reissuing of passes - in some areas, on a large scale - involves considerable time and planning. For London, arrangements for the new concession tie in with pre-existing plans to "re-sticker" the Freedom Pass (held by people aged 60 and over and disabled people).
- 20 The administrative burden for local authorities and bus operators from negotiating reimbursement is likely to continue, although the Act does allow for potential changes in the future to the current funding and reimbursement mechanism. Such changes will not be made prior to April 2008, and would only come about following extensive consultation and the publication of a separate RIA.
- 21 It is estimated that extending the entitlement so as to encompass free off-peak local bus travel throughout England will cost up to £250m¹ a year. Local government should have

¹ Includes Barnett consequentials.

sufficient funds to reimburse operators for providing the concessions once these additional funds are distributed. Existing funding for concessionary travel has been distributed to local authorities through the formula grant system, consistent with the Government's approach to delivering freedom and flexibility at the local authority level. As with all local authority funding, this will not necessarily distribute money precisely in accordance with the requirement to increase spending at a local level. The Department, in conjunction with Communities and Local Government (CLG) and HMT, is actively considering what can be done to target the funding to where expenditure occurs. Any potential changes to local government funding to possibly recognise "hot spots" (where eligible people may be more likely to travel than in other areas) could be considered as part of the normal round of local authority funding consultation undertaken by CLG.

- 22 In London, the Act makes eligible London Service Permit routes (which are routes in London outside the Transport for London franchised London Bus Network) come within the scope of the national bus travel concession, with reimbursement by local authorities within London. It is difficult to gauge the impact on London authorities but we would expect that the impact will be reduced should London Councils act on their behalf in this instance, as they have for the pre-existing reimbursement process.
- 23 Any proposed change to the method of reimbursement would require consideration and analysis of the potential options and costs, followed by extensive consultation. As the powers contained in the Act keep options open, potential options are not covered in this RIA.

Costs to bus operators

- 24 The impact on bus operators is expected to vary with the local authority area in question, the quality of administration of each local scheme and the methodology used to calculate reimbursement. Travel concession authorities were already under an obligation to reimburse bus operators for providing the current mandatory (local authority area) concession on a "no better no worse off" basis. This objective remains. How they calculate reimbursement, if it cannot be agreed with bus operators, is ultimately up to these authorities. Any costs associated with increased passenger numbers should be taken into account in the reimbursement arrangements.
- 25 Under the pre-existing arrangements, bus operators already incurred costs for time taken in negotiations with travel concession authorities about reimbursement, administration and appeals. Some local schemes included some allowance for management costs of claiming reimbursement. We have not seen a reason to change the arrangements since we do not expect these costs to increase. Indeed, powers within the Act to change the methods of reimbursement in the future will offer the opportunity to streamline processes and save time, and could result in reduced administration costs to bus operators.
- 26 In assessing revenue foregone, operators and local authorities need to give consideration to the likely level of commercial fares that would have been charged by operators in the absence of the scheme. In addition, pre-existing arrangements generally provided some reimbursement for the costs of providing extra capacity as a result of the scheme, net of any additional fares from trips that were generated where extra capacity takes the form of increased frequency. Such reimbursements were based on official guidance and on negotiations between local authorities and bus operators over the level of trips generated and any extra costs incurred. This is expected to continue. Because the initial reimbursements are based on forecasts of extra trips, there is scope for some over or under reimbursement. There is an existing toolkit, developed by DfT, to help

authorities calculate how much to reimburse operators and this methodology is designed to assist in negotiations. Further guidance will also be issued as required and secondary legislation may also be made in the future.

- 27 Under the previous legislation, an operator could appeal to the Secretary of State if he believed that he may be prejudicially affected by the proposed reimbursement arrangements offered by a travel concession authority. The Secretary of State can require the arrangements to be modified and financial redress to be made. The Act maintains this approach to appeals but should there be any change in the future, via secondary legislation, to the existing funding and reimbursement mechanisms, further consideration of how best to alter the appeals mechanism would be required. There is also a power in the 2000 Act for the Secretary of State to make secondary legislation regarding the determination and mechanisms of reimbursement.
- 28 In addition, the Act extends the deadline by which appeals could be made against reimbursement arrangements from 28 to 56 days after such arrangements come into effect. This may mean that local authorities face a greater period of financial uncertainty, but it is also likely that the greater period for gathering data for both sides will reduce the number of speculative claims.
- 29 Guidance issued by DfT in relation to authorities' provision of additional concessionary travel benefits under the 1985 Act has emphasised that operators must be left financially no better and no worse off as a result of having provided these concessions. The industry is aware that a similar approach is to be taken in respect of the 2000 Act reimbursement arrangements. However, operators covered by local schemes that make payments in the midpoint of a quarterly accounting period still have to pay their staff and suppliers for the first half of the first period, with significantly less cash available. On the other hand, payment ahead of costs being incurred in the second half should offset this impact.
- 30 In some areas the costs could be higher with the national concession but only if additional capacity is provided to meet demand, as opposed to "new" users in an area making use of space that is already available on existing local bus services. In general it remains appropriate for the moment for existing impacts on operators' cost bases - such as changes in trip patterns including generated farebox revenue, insurance claims, changes in boarding times and reduced cash handling costs - to be dealt with locally as part of the assessment of additional costs. Further consideration will be given to the issue as part of considering any change to reimbursement mechanisms.

Small bus operators and other public transport operators

- 31 If small operators have less information about the changes in patronage that result from non-local area concessionaires making use of their services, they could lose out in negotiations compared to larger operators. We anticipate that local authorities will take this into account, for example by making different arrangements for smaller operators. Updated guidance issued by DfT should be particularly useful to these operators.
- 32 As operators were already being reimbursed by the travel concession authority for concessionaires' journeys, rather than receiving such revenue immediately in cash, it is not expected that the cash flow implications will be any more significant for small bus operators than they were previously. However, consideration needs to be given to this point in "hot spot" areas, as part of consideration of the distribution of the extra funding.

- 33 Operators not covered by Bus Service Operators Grant, such as those providing demand responsive transport which is not available to the public at large, continue to be exempt from providing the national concession. However, authorities continue to have the discretion to offer concessions on these sorts of transport services to their residents.
- 34 The previous statutory concessionary entitlement did not extend to other forms of public transport such as trams, trains and taxis, and the Act maintains this approach. As described above, it is for the local authority to decide whether local travel needs are best served by offering concessions on other modes, depending on local policy and financial priorities, and whether all people eligible for the national concession should receive such benefits or just their local residents. As before, local authorities will receive no additional funding for such discretionary enhancements.

Sectors and groups affected

- 35 According to 2005 population estimates, 10.6m people in England are aged 60 years and over. Before April 2006, it was estimated that approximately three quarters of these were able to claim passes only for the then statutory minimum of half-fare travel, around 15% were offered a local enhancement providing free fares and the remainder were offered flat fares (by rate). Average take-up of concessionary fare passes among people aged 60 and over in England was 53% in 2005, ranging from 32% in rural areas to 84% in London.
- 36 There are some marked variations in travel patterns among people aged 60 and over according to whether or not they have a concessionary fare pass. According to 2005 figures, those who do have a pass make on average about 7 times as many trips by bus or rail and around 40 per cent more trips on foot than those without a pass. They also make about a quarter fewer car trips. In London and other metropolitan areas, people aged 60 and over with a concessionary fare pass make 32 per cent and 23 per cent more trips respectively than those without a pass but this pattern is less evident in other parts of the country.²
- 37 When the move to free local bus fares was being prepared for, the information on the number of disabled people was fairly limited. One estimate was that there were around 2m people under the age of 60 outside London who would be entitled to concessionary travel (with variation in the proportion of disabled residents between local authority areas) but there is no information on take-up or trip rates.
- 38 If car ownership continues to increase, the cohort effect will mean that car ownership and use will rise faster among the over 60s. This will dampen the overall effect of the improved concessionary fare entitlement. There has been a large increase in the proportion of older people who hold a driving licence, particularly among women, and this trend will continue as people in younger age groups keep their licences as they grow older. In 2005, 74% of people aged 60-69 and 51% of people aged 70 and over held a driving licence compared with 63% and 38% respectively in 1995/97.³
- 39 People aged 60 or over who do not have access to a car will benefit more from the measures in the Act than those who do as they make significantly more trips by bus. Also women, disabled people and minority ethnic groups tend to use buses significantly

² P. 41 National Travel Survey 2005.

³ P. 11 National Travel Survey 2005.

more than other groups and, as a result, could be expected to benefit more from the improved statutory minimum entitlement.

Analysis of costs and benefits

- 40 The Government is making available up to £250m⁴ per year to cover the extra cost of the national bus travel concession. This money should ensure that overall there is no net new financial burden placed on local government for reimbursing bus operators. It also includes an adequate contingency.
- 41 No allowance has been made for the impact on boarding and alighting times as a result of the potential increase in trips after 9.30am. This could have an effect on fare paying passengers but it is not considered to be significant, except in some areas - for example, London or tourist/holiday hotspots where "high season" could see more usage of local bus services by non-resident concessionaires exercising their ability to use their passes outside their local area.
- 42 Reducing transport-related social exclusion is the key rationale behind the Act. The provision of free cross-local authority boundary and non-local travel removes the cost barrier to travel for vulnerable groups. The other non-monetised benefits are expected to be slight congestion and environmental benefits as some people switch from car to bus travel in both rural and urban areas as a result of the more generous offering.
- 43 Given uncertainty about the take-up and usage of passes, and therefore the magnitude of the benefits (much of which will be non-monetised), it is difficult to reach a conclusion about value for money. If, as expected, the costs are closer to the lower end of range and if the benefits are at the higher end, the move from local to national travel could offer value for money even excluding non-monetised benefits.

Small Firms Impact Test

- 44 Although there is a legal requirement for travel concession authorities to try to agree reimbursement arrangements with operators providing the national concession in their area, there is no change in the expectation that smaller operators may be less likely to be invited to negotiate reimbursement arrangements with authorities. They may also be less able to engage consultants to argue against financial arrangements made by concession authorities if there is unlikely to be a net gain.
- 45 Small firms running "niche" services that are designed to appeal to older or disabled people may be at risk of severe cash flow penalties unless the schemes include "on account" cash payments from the outset. In some cases operators may deregister services, leading to increased public authority costs for secured, socially necessary services or lost travel opportunities for the public.
- 46 Smaller firms may find it more difficult to raise funds to provide extra capacity such as more frequent services and larger buses, and may find that "full fare" passengers are displaced by concessionary riders from outside the local area (or those within it who have not previously taken up their entitlement), for whom they receive less revenue per trip. However, smaller firms are often active in the second-hand market for buses and may therefore be able to continue to expand services.

⁴ Includes Barnett consequentials.

Competition assessment

47 Within the bus industry there is unlikely to be any significant impact on market structure generally, although there may be significant impact at a local level. There may be a slight impact on other public transport modes (e.g. local rail and trams) if there are no concessionary fares for other modes, rather more so than under previous concessionary arrangements because of the new cross-boundary eligibility. However, there could be more users of local bus services in “hot spots” as opposed to their making use, as they may have done previously, of other modes for which they would have had to pay. It is unlikely that any such switch from other modes to local buses would be in sufficient numbers to have a significant effect on the general viability of other modes and the willingness of the private sector to take on revenue risk in future. However in specific local circumstances, there may be a withdrawal of other public transport services or a greater requirement for public subsidy where abstraction onto local bus services takes place. Around 40% of travel concession authorities (including all the metropolitan areas) already offer discretionary concessions on other modes, although some of these are not as generous as the free fares that are required on bus services.

Enforcement, sanctions and monitoring

48 Outside London, and on cross-border journeys into London, enforcement is dealt with under the 2000 Act which stipulates that it is a criminal offence for an operator systematically to fail to comply with an obligation under that Act to provide concessionary travel. Any person found guilty of such an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

49 In London, and on cross-border journeys out of London, if immediately before 1 January in any year, boroughs have not entered into an arrangement with Transport for London (TfL) for the provision of travel concessions, a “reserve free travel scheme” will come into force at the beginning of the next financial year. Under the reserve scheme TfL have a legal duty to provide the travel concessions for eligible London residents required by the free travel scheme.

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Declaration and publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed

Date

**Rt Hon Rosie Winterton MP, Minister of State,
Department for Transport**