

CONCESSIONARY TRAVEL SCHEME - OPERATOR REIMBURSEMENT

Cabinet Date	20 December 2019
Environment and Planning	Cllr Nigel Moor
Key Decision	Yes
Background Documents	<ul style="list-style-type: none"> • DfT issued guidance for local authorities on the ENCTS scheme • The GCC ENCTS travel scheme for operators 2020/21 (to be released in draft form on 1 December 2019) • Cabinet report and decision of 14/12/2016 for the current 3 year fixed price deal with Stagecoach West
Location/Contact for inspection of Background Documents	<p>Web links above or</p> <p>Tom Main – Integrated Transport Manager Email: tom.main@gloucestershire.gov.uk</p>
Main Consultees	All public bus operators in Gloucestershire
Planned Dates	<p>Consultation with all bus operators between December 2019 and February 2020.</p> <p>New scheme and contract in place for 1 April 2020</p>
Divisional Councillor	All
Officer	<p>Tom Main – Integrated Transport Manager 01453 425343 tom.main@gloucestershire.gov.uk</p>
Purpose of Report	To seek the consent of Cabinet to negotiate and, if successful, enter into a 3 year fixed rate agreement with Stagecoach West Ltd under which it shall receive statutory reimbursements for fares that would otherwise be payable in respect of passengers carried by it holding an English National Concessionary Travel Scheme (ENTCS) pass
Recommendations	<p>That Cabinet delegates authority to the Lead Commissioner – Communities and Infrastructure, in consultation with the Cabinet Member for Environment and Planning, to:</p> <ol style="list-style-type: none"> 1. Negotiate the terms of a 3 year fixed rate agreement with Stagecoach West Ltd commencing on 1 April 2020 under which Stagecoach shall receive the statutory reimbursement of fares that would otherwise be payable in respect of passengers it carries holding an English National Concessionary Travel Scheme (ENTCS) pass; and 2. Enter into such agreement provided the above-mentioned negotiations are successful, it meets core requirements and is within budget

Reasons for recommendations	The reimbursement of public transport operators by the council under the English National Concessionary Travel Scheme (the “ENCTS Scheme”) is a statutory obligation on the council. The proposed fixed term agreement is with the operator (namely Stagecoach) who provide over 95% of all bus passenger trips in Gloucestershire. This will provide both parties with budgetary certainty over the next 3 years, substantially reduce scheme administration costs and will likely reduce the total sum that would otherwise have been payable under the ENCTS Scheme during that period.
Resource Implications	The forecasted cost of the contract to be funded from within existing revenue budgets are expected to be up to a maximum of £5.53 million in years 1 and 2 and then up to a maximum of £5.63 million in the third year.

MAIN REPORT CONTENTS

1. Background

- 1.1. In Gloucestershire the county council (GCC) and local bus companies are required under the Transport Act 1985 and 2000 and Concessionary Bus Pass Act 2007 to work together to deliver the English National Concessionary Travel Scheme (ENCTS). In broad terms this entitles older and disabled people to travel on local bus services free of charge between 09.30 and 23.00 hours on Mondays to Fridays and any time at weekends provided they hold a valid concessionary bus pass.
- 1.2. In Gloucestershire we have approximately 100,000 pass holders who qualify on the grounds of age, and 10,000 who qualify on the grounds of disability. DfT statistics tell us that 70% of Gloucestershire residents who are eligible for a pass on the ground of age already have one. Similar statistics are not available for those eligible on the grounds of disability.
- 1.3. It is clear that the ENCTS Scheme has a significant role in the lives of many older and disabled people, helping them to access essential services, take an active role in their communities and live independent lives. The physical and mental health benefits from walking to and from bus stops and greater social contact may also help to reduce demand for health and social care services.
- 1.4. Approximately 5.5 million trips are made a year in Gloucestershire by ENCTS pass holders. The majority of these journeys are made on Stagecoach buses as they are the dominant operator in the county.
- 1.5. GCC is responsible for administering the scheme in Gloucestershire, publishing details, issuing concessionary bus passes and reimbursing bus operators. Under the law, operators should be “neither better nor worse off” as a consequence of participating in the scheme. The Department for Transport (DfT) publishes guidance on reimbursement, including a calculator which is used as the basis for calculating reimbursement levels in Gloucestershire.
- 1.6. For the past three years (under an arrangement agreed by Cabinet in 2016), Stagecoach has been paid a fixed sum of £15.8m, profiled at £5.5m in 2017/18; £5.5m 2018/19 and £5.6m in 2019/20. This contract ends on 31 March 2020. Our partners at Systra Ltd have calculated that we could pay more if we did not have a fixed rate agreement, as the scheme would cost more to administer and short term volatility would pose a greater financial risk to both the council and the bus operator. This would also undermine efforts to ensure that communities have a stable bus network. More detail on this can be found in section 2.
- 1.7. Should any operator consider that they have been underpaid under the ENCTS Scheme, the law allows them to challenge councils by appealing to the Department for Transport (DfT). The DfT has powers to direct authorities to make additional retrospective reimbursement payments to bus operators or to direct bus operators to accept a lower reimbursement rate. Challenges have

happened many times in the past, including in Gloucestershire prior to 2011. In 2013 Stagecoach successfully challenged reimbursement rates in Hampshire and the county council has had to increase funding for concessionary travel retrospectively. This has also occurred in Devon and Somerset.

- 1.8. The proposed fixed rate agreement with Stagecoach would see the current public bus network fixed in place for the duration of the agreement (1 April 2020 – 31 March 2023) at an agreed reimbursement rate. Such agreement would establish the benchmark rate for the network at the commencement date (1 April 2020), against which the reimbursement figure for (1 April 2020 – 31 March 2023) would be fixed. Any future reductions by Stagecoach to such network (which they are legally allowed to do with no input from GCC), would result in a proportional reduction of the reimbursement figure (the actual reduction figure to be determined by the use of the bus pass on the service to be withdrawn) by the council. Any increase by Stagecoach to such network (ie, due to the introduction of new bus services by them) would need to be agreed outside of the proposed fixed rate agreement, possibly paid at cost until the next reimbursement agreement with Stagecoach is negotiated. This is to incentivise stability in the network which is a major benefit of the proposed fixed rate agreement.

2. Comparison

- 2.1. The ITU has worked closely with our partners at Systra Ltd (a company that specialises in the ENCTS reimbursement process) to monitor the current fixed rate agreement with Stagecoach West Ltd over its duration. We have also worked with them recently to assess the value for money of another agreement going forward.
- 2.2. Their analysis of other local authorities that they work with reveals that they pay an average reimbursement rate of 55% (this is a percentage of the average cash fare taken on a route, this figure is then paid to the operator for every ENCTS pass holder they carry).

3. Options

- 3.1. Reimbursement of an operator for the ENCTS scheme is a statutory obligation for all councils. As a result the only two compliant options are:
 - Do nothing – Stagecoach will be reimbursed via the standard monthly process as provided for under ENCTS Scheme legislation on the same basis as other operators in Gloucestershire. There are several downsides for the council if it were to pursue this option:
 - Network stability will be lost.

- Expenditure is likely to rise above what the fixed rate agreement would have cost as the council will lose any discounts it may negotiate under the proposed three year fixed agreement.
- Commercial viability of services will be seriously affected by seasonal and even monthly fluctuations in passenger numbers. Without the security of a fixed rate agreement a drop in numbers even for a few weeks or months can seriously damage a service, some of which operate with very fine profit margins. Major roadworks, extreme weather and other relatively common occurrences can all have significant negative impact on bus services.
- Cost of the reimbursement contract with the company we use to administer the ENCTS reimbursement scheme, namely Systra Ltd, will rise significantly (currently £40k p.a.) due to the large amount of extra work that will be required in order to process Stagecoach claims on a monthly basis.
- Stagecoach West Ltd could challenge any month-to-month payment, many operators nationwide have been challenging their County Council over low payments made through the ENCTS scheme in recent years, and we are seeing these challenges be increasingly successful with the Council having to pay significant extra sums.
- Accept the recommendations contained in this report by Cabinet granting its authority for a fixed rate agreement to be negotiated and entered into with Stagecoach West Ltd on that basis that, if implemented:
 - The public bus network operated by Stagecoach will remain stable as fluctuations in monthly passenger numbers will not affect the overall viability of the service.
 - In growth areas we are not at risk of increased payments to Stagecoach West Ltd. For example if patronage on a bus service increased 25%, GCC would not pay anything extra by way of reimbursements under the ENCTS reimbursement scheme. Growth is significant on some of the busiest services in the county.
 - Commercial viability of bus services will be protected to a greater degree. If Stagecoach removed a service as it was not viable the pressure would immediately come on to the Council to fund a replacement service. This will be extremely hard to do from an already allocated public transport subsidy budget.
 - There would be a low administrative burden on GCC as no Stagecoach monthly calculations would be made.

4. Risk Assessment

- 4.1. Failure to negotiate a new fixed rate agreement with Stagecoach West Ltd would result in financial risk for the Council in the form of a significant rise on its current spend of over £6m p.a. on ENCTS Scheme reimbursements on the basis described in paragraph 2 of this report.
- 4.2. This could subsequently have a significant reputational risk for the council as we spend more public money and lose the network stability that we gain through the fixed rate agreement.
- 4.3. If the commercial bus network is less stable (see 3.1) the likelihood of commercial de-registrations by Stagecoach rises, in such events when commercial viability is not there the council then comes under pressure to reinstate the removed services either entirely or to some extent. There is no capacity within the current GCC bus subsidy budget to pick up these costs.
- 4.4. The DfT's guidance on reimbursement and concessionary travel legislation allows Travel Concession Authorities and bus operators to negotiate reimbursement arrangements which honour the 'no better, no worse off' principle. All bus operators in Gloucestershire have been given this opportunity.
- 4.5. As detailed in the report, the proposed reimbursement agreement with Stagecoach West Ltd will help the Council manage risks of budget uncertainty, the withdrawal of routes from the public transport network and enable accurate financial planning whilst we plan our budget for the next 3 years.
- 4.6. With an ageing population and the fact that the rise of the eligible age for ENCTS passes, which has been rising over the last few years after a central government decision, is now fixed to the age a person is eligible for a state pension, we expect use of the pass to grow and for the numbers of pass holders to grow as well in the next 3 years. A fixed rate agreement removes the exposure we have to this as a council.
- 4.7. By entering into a reimbursement agreement with Stagecoach West Ltd on the proposed basis, the risk of them appealing against the Gloucestershire reimbursement scheme (as they are entitled to do and have done successfully in other areas) is significantly reduced.

5. Officer Advice

- 5.1. It is recommended that Cabinet grants its authority to proceed on the basis recommended in this report by granting its authority for a fixed rate agreement to be negotiated and entered into with Stagecoach West Ltd given that the alternative, namely a monthly reimbursement procedure with Stagecoach, would increase expenditure and adversely effect the viability of commercial bus services in Gloucestershire.

5.2. An agreement with Stagecoach on the proposed basis will give the council much needed financial stability by fixing a large proportion of the ENCTS scheme fare reimbursement budget that totals over £6m p.a. The proposed fixed rate agreement will lock over 90% of this budget (the proportion paid to Stagecoach) in place until 2023, provided GCC is able to reach an acceptable arrangement with Stagecoach that provides GCC with good value for money.

5.3. Should an agreement not be reached we will fall back to monthly reimbursement to Stagecoach West Ltd, this is unlikely and if it does happen the ITU will perform a full options appraisal due to the negative nature on its financial outlook.

6. Equalities Consideration

6.1. The agreement proposed in this report will be a direct financial arrangement between Stagecoach and the council. There are no equalities considerations to consider, none of the protected characteristics can be affected in any way by this decision.

6.2. The ENCTS is designed for the elderly and disabled who are two of the protected characteristics. This paper does not recommend a decision to remove the scheme, reduce its usefulness or change its eligibility criteria: this is all protected by the DfT. Officers are in the process of discussing the reimbursement mechanism with Stagecoach, however it should be noted that a fixed rate agreement will secure the majority of the bus network and allow people eligible for the scheme greater access to the many services they use in the county, and for the social appointments that are vital to healthy, independent lives.

7. Consultation Feedback

7.1. Public Service Vehicle (bus) operators will be consulted on the 2020/21 GCC ENCTS Scheme which will contain details of the options available to all regarding a fixed rate agreement. This will also be their opportunity to make any comments about the scheme in general. This timeline is given by the DfT, we must release our proposed draft scheme, give operators a month to review and comment, then have the finalised scheme published on our website prior to the 2020/21 financial year.

8. Performance Management/Follow Up

8.1. Detailed monthly passenger figures are supplied by all operators, this is a requirement mandated by the council. Regular assessment will be carried out to ensure that the fixed rate agreement continues to provide financial benefits (as well as operational ones) to the council. This will be done in accordance with standard budget monitoring requirements, ticket machine data from the operator can be requested on demand.

8.2. A part of this fixed rate agreement would be to lock the public transport network in place as it is at the time of agreement. Monitoring of this service level will take place, any reductions to the network are reflected by significant reductions in the reimbursement figure to the operator.

Report Title	Concessionary Travel Scheme - Operator Reimbursement
Statutory Authority	<ul style="list-style-type: none"> • DfT issued guidance for local authorities on the ENCTS scheme • Transport Act 2000 • Concessionary Bus Travel Act 2007
Relevant County Council policy	<ul style="list-style-type: none"> • The GCC ENCTS travel scheme for operators 2019/20 (due to be updated for 2020/21)
Resource Implications	<p>Year 1 and 2 – maximum of £5.53m</p> <p>Year 3 – maximum of £5.63m</p>
Sustainability checklist:	
Partnerships	We work very closely with all bus operators to make sure the scheme is fit for purpose, that they are left 'no better and no worse off' when accepting passes (as per the DfT scheme intention). The national scheme (ENCTS) requires all operators of local bus services in the county to participate.
Decision Making and Involvement	Consultation with passenger transport operators takes place each year prior to publishing the final Gloucestershire concessionary travel scheme. There is an appeal mechanism to the Department for Transport.
Economy and Employment	Under the ENCTS Local Transport Authorities must offer a free travel scheme to eligible people between 09.30 and 23.00hrs on Monday to Friday and any time at weekends. In Gloucestershire locally agreed exemptions allow concessionary card holders to travel before 9.30hrs from communities with very limited journey options, thereby opening up employment opportunities. The ENCTS also requires councils to reimburse for travel made by visitors, helping to support tourism.
Caring for people	A local enhancement to the Gloucestershire scheme provides for free travel by the companion of a person with severe disabilities.
Social Value	All operators we work with have a 'social value' score as part of a tender bid, this means many take part in local community activities and support them financially.
Built Environment	Effective public transport is key to reducing congestion on our roads.
Natural Environment' including Ecology (Biodiversity)	The bus offers an alternative to the car, increased bus use will reduce the carbon emissions of the county and contribute towards protecting our natural environment.

Education and Information	The concessionary travel scheme helps eligible people to access education and training, for example, reducing the cost of travel for young people with disabilities who live within the statutory distances for home to school transport.
Tackling Climate Change	Carbon Emissions Implications? Positive Vulnerable to climate change? Yes (costs may increase in a severe weather event, operational issues will occur)
Due Regard Statement	Has a Due Regard Statement been completed? No, see report text.
Human rights Implications	None.
Consultation Arrangements	All bus operators will be contacted with the proposed draft scheme in January 2020.