

Officer Decision Making

Thursday, 3rd February, 2022
at 4.30 pm

PLEASE NOTE TIME OF MEETING

Virtual Meetings - Virtual meeting

This meeting is not open to the public

Decision Maker

Executive Director of Place

Contacts

Democratic Support Officer

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AGENDA

Agendas and papers are available via the Council's website

1 **CONCESSIONARY FARES SCHEME 2022/23** (Pages 1 - 12)

Report of Head of Service for Green City & infrastructure seeking approval of the final scheme and the reimbursement rate calculation methodology for bus companies for the Concessionary Fares Scheme for 2022/23.

Wednesday, 26 January 2022

Service Director – Legal and Business Operations

Agenda Item 1

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| DECISION-MAKER: | Kate Martin – Executive Director of Place |
| SUBJECT: | Concessionary Fares Scheme 2022/23 |
| DATE OF DECISION: | 18 January 2022 |
| REPORT OF: | Head of Green City & Infrastructure - Pete Boustred |

| <u>CONTACT DETAILS</u> | | | |
|-------------------------------|---------------|--|--------------------|
| Executive Director | Title | Executive Director of Place | |
| | Name: | Kate Martin | Tel: 023 8083 4731 |
| | E-mail | Kate.Martin@Southampton.gov.uk | |
| Author: | Title | Senior Transport Planner – Public Transport | |
| | Name: | Orbay Keskin | Tel: 0 7799 698059 |
| | E-mail | Orbay.Keskin@Southampton.gov.uk | |

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| STATEMENT OF CONFIDENTIALITY |
| None |

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| BRIEF SUMMARY | | |
| To agree the final scheme and the reimbursement rate calculation methodology for bus companies for the Concessionary Fares Scheme for 2022/23 | | |
| RECOMMENDATIONS: Having complied with paragraph 15 of the Council's Access to Information Procedure Rules. | | |
| | (i) | To agree to reimburse bus operators in line with the Department for Transport Concessionary Fares Guidance and the calculation methodology as detailed in Appendix 1. This will use the Reimbursement Calculator published by the Department for Transport to determine the reimbursement rate for each operator. |
| | (ii) | To agree to continue the local enhancements above the statutory minimum, which is to allow concessionary travel from 0900 rather than 0930 and between 2300 and 0030 for Southampton residents. |
| | (iii) | To authorise the Head of Green City and Infrastructure to do anything necessary to give effect to and implement the Scheme for 2022/23 (including but not limited to service of notice on operators as required by legislation). |

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| REASONS FOR REPORT RECOMMENDATIONS | |
| 1. | To enable the Council to comply with the statutory requirement to approve and publish the Concessionary Fare Scheme details including the local enhancements and the reimbursement rate that the Council will use. |
| 2. | The Concessionary Fare Scheme for 2022/23 needs to be approved prior to the commencement of the Scheme on 1st April 2022. |

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| ALTERNATIVE OPTIONS CONSIDERED AND REJECTED |
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| 3. | The Council could withdraw the local enhancements that are offered to City residents but this is likely to achieve little saving as most passengers would just travel 30 minutes later in the morning once free travel is allowed. |
| DETAIL (Including consultation carried out) | |
| 4. | The Council is required by law to give bus operators 28 days' notice of the Scheme that will operate and the proposed methodology for determining the reimbursement rate. This report will allow the Council to give the required notice. Should the bus operator refuse to participate in the concessionary fare scheme the Council would need to issue a participation notice requiring them to do so. For the Notices to be effective, final confirmation is necessary of the additional local enhancements to the statutory minimum i.e. travel from 0900 rather than 0930 and between 2300 and 0030 for Southampton residents. Non-Southampton residents will qualify for the statutory minimum. The proposed scheme for 2022/23 is the same as that which was agreed and operates in 2021/22. This offers residents greater opportunity to access health and other facilities so helping with well-being. |
| 5. | The Department for Transport provides local authorities with guidance each year on the reimbursement and a calculator to use. This takes various factors into account and the information on the scheme that the authority has submitted. The Council will apply the DfT Concessionary Fares Guidance including the Reimbursement Calculator to determine the reimbursement rates for each operator. This is the same methodology as applied for 2019/20 scheme year. |
| 6. | The Scheme details for 2022/23 outline what will happen in normal operating circumstances i.e. the methodology using DfT guidance that will be applied. This ensures SCC has a legal scheme that will reimburse the operator at no better no worse off principles, as it would in any normal year. The Scheme details approved as part of this paper is separate from any methodology that will be considered to support bus operators during the current Covid-19 pandemic and recovery period. |
| 7. | The Council also produces a claim form that operators are required to populate with data on concessionary fare use and average fares. As the bus network in Southampton has been subject to several changes, intensive competition and reductions in fares, the Council will continue to calculate the average fare and reimbursement as based on the DfT Concessionary Fares guidance as has been the case for the previous 2021/22 Scheme and will not be entering into a fixed arrangement with any of the larger operators. A fixed arrangement will continue with the smaller operators in the city who generate nominal levels of reimbursement. Once the scheme starts on 1st April 2022 bus operators then have 56 days to appeal to the Secretary of State on the proposed reimbursement rates. Appendix 1 shows details of the final |

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| | Scheme for 2022/23 |
| RESOURCE IMPLICATIONS | |
| <u>Capital/Revenue</u> | |
| 8. | The budget for concessionary fares in 2022/23 is £5,034,000 (but is subject to a proposed one year MTFS savings adjustment of £0.35M to be approved February 2022). This is forecast at this time, to be an appropriate level to fund the proposed scheme in 2022/23. This will be closely monitored as bus patronage levels adjust throughout the year and further guidance from Government emerges to support the longer-term recovery as part of the National Bus Strategy. |
| <u>Property/Other</u> | |
| 9. | There are no property or other implications |
| LEGAL IMPLICATIONS | |
| <u>Statutory power to undertake proposals in the report:</u> | |
| 10. | Concessionary Fares are governed by the Transport Acts of 1985 and 2000, and the Concessionary Fares Act of 2007. If it were to be agreed that the future that no enhancements over and above the statutory minimum will be offered, then the 1985 Act does not apply as all local enhancements are made under the Concessionary Fares Act 2007. |
| <u>Other Legal Implications:</u> | |
| 11. | The provision of a concessionary travel scheme in accordance with the national minimum is a statutory duty. A discretionary power exists to provide a scheme that extends the entitlement of services over and above the national minimum. Any scheme must be made having regard to the Human Rights Act 1998 (with any national minimum scheme will be deemed to comply) and the Equalities Act 2010, in particular the Public Sector Equalities duty. A comprehensive Equalities Impact assessment has been completed in order to inform the recommendations and scheme and scheme enhancements are offered in order to positively assist the elderly access essential services at earlier times in accordance with that duty. Statutory notice must have been given by 1st December 2021 and any representations received in accordance with the Notice considered and determined in accordance with the Act and Regulations. Operators who object to the inclusion of local enhancements may be served with a Participation Notice and guidance on the appeal route to be followed in the event they sustain any objection to the Scheme. |
| RISK MANAGEMENT IMPLICATIONS | |
| 12. | Once the scheme starts on 1st April bus operators then have 56 days to appeal to the Secretary of State on the proposed reimbursement rates. This could impact on the final reimbursement rates if the bus operators were to win an appeal. The risk of this is managed by the Council Scheme being consistent with the DfT Concessionary Fares guidance. |

| POLICY FRAMEWORK IMPLICATIONS | |
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| 13. | The provision of concessionary travel accords with the policy direction of the City's adopted Local Transport Plan (2019) and Bus Service Improvement Plan (2021) by helping the Council meet its targets for increasing the use of sustainable transport modes (and bus travel in particular) and also increasing accessibility and promoting social inclusion. |

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| KEY DECISION? | Yes |
| WARDS/COMMUNITIES AFFECTED: | Not applicable |
| <u>SUPPORTING DOCUMENTATION</u> | |
| Appendices | |
| 1. | Concessionary Fare Scheme 2022/23 |

Documents In Members' Rooms

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| 1. | None |
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Equality Impact Assessment

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| Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out. | No YES |
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Data Protection Impact Assessment

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| Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out. | No |
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Other Background Documents

Other Background documents available for inspection at:

| Title of Background Paper(s) | Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable) |
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| 1. | None |

Scheme Conditions

SOUTHAMPTON CITY COUNCIL CONCESSIONARY FARES SCHEME 2022/2023 ('the Scheme')

Introduction

The Concessionary Fares Scheme agreed by Southampton City Council will come into effect on 1 April 2022 and continues until 31st March 2023. This Notice and Scheme replaces the Southampton Concessionary fares Scheme 2022/22 and supersedes all previous Schemes and Notices

Legislation

The scheme is made in accordance with the Concessionary Bus Travel Act 2007, the Transport Act 2000, the Travel Concessions (Eligibility) Act 2002 and the discretionary powers contained in the Transport Act 1985 ('the Acts').

Responsible Authority

The responsible authority for the Scheme shall be Southampton City Council. The Scheme shall be funded by Southampton City Council. The Scheme shall be administered by either Southampton City Council or its appointed agent(s).

All enquiries regarding the Scheme and all Notices required to be served upon the responsible authority under the Acts should be addressed to:

Pete Boustred, Head of Green City & Infrastructure, Civic Centre, Southampton, SO14 7LY.

A copy of the Scheme will be supplied to any person on request by post from the person specified above and is available on the Council website at www.southampton.gov.uk.

Operator Eligibility

Operators of registered bus services running within the City which is in receipt of Bus Service Operators Grant or contracted by the Local Public Transport team of Southampton City Council or a neighbouring local authority, unless excluded

Service Eligibility

The ENCTS 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 – unless excluded by the 2009 Amendment Order.

User Eligibility

Residents of Southampton who meet any of the following criteria will be eligible for a free concessionary fares pass:

- Men and women who have reached the female state pension age (you can calculate if you are eligible here: <https://www.gov.uk/state-pension-age/y>)
- blind people;
- partially sighted people;

- deaf people;
- people without speech (in any language);
- people with a disability, or who have suffered an injury, which, in the opinion of a qualified medical practitioner, seriously impairs their ability to walk;
- people without the use of both arms;
- people with a learning difficulty;
- people who would be refused the grant of a driving licence to drive a motor vehicle under Section 92 of Part III the Road Traffic Act 1988;
- people with a long term mental health problem; and
- travelling companions/escorts of disabled people.

For those under the female state pension age, applicants must provide confirmation that:

- i) They are in receipt of Disability Living Allowance (higher mobility component); or
- ii) They have been awarded 8 or more points Personnel Independent Payment for Moving Around or Communicating verbally
- iii) They are in receipt of War Pensions Mobility Supplement; or
- iv) They have a valid registration card for their disability; or
- v) Certification of Vision impairment; or
- vi) Have learning difficulties and attend Southampton Day Services or registered with Southampton Learning Disabilities team; or
- vi) They have a signed form (MQ14) from their doctor confirming eligibility.

Hours of Operation

The Southampton concessionary fares scheme will be based on bus travel alone. Concessionary travel available all day on Saturdays, Sundays, Bank Holidays and declared public holidays; and between 09:00 and 00:30 on other days for residents of Southampton; and between 0930 and 2300 for all other English national passholders. Blind persons will be permitted to travel at any time.

Area of Travel

Any journey that starts within the boundary of Southampton (NOTE: funding of such travel shall be subject to any inter-authority boundary/funding agreements which may be entered into and shall be deemed to be part of this Scheme. This will not affect user eligibility or operator reimbursement).

Level of Concession

The proposed scheme provides free travel on presentation of a valid pass.

Administration

The administration of the issue of concessionary fares scheme passes will be carried out by the Strategic Transport Team. A database of all people who are issued with a bus pass will be kept. The City Council will be responsible for meeting the statutory requirements for data protection.

Reimbursement Arrangements

Operators will submit monthly returns to the City Council unless otherwise agreed in advance. Payment of 85% of the estimated figure for the month will be agreed with the operator and be made on the 15th of the month. The outstanding figure will be paid once exact figures are known from verified operator returns.

The City Council will require all information produced in support of claims to be certified as accurate by a “responsible person”.

The returns will be subject to periodic audit by the City Council or its nominated representatives. Bus operators will be expected to provide information reasonably required for this purpose.

The standard method of operator reimbursement will be the method used in the Reimbursement Calculator published by the Department for Transport¹, in line with Department for Transport guidance on operator reimbursement².

Due to the current COVID-19 pandemic, Southampton City Council reserves the right to amend the scheme in line with any further DfT guidance released after the 1st December 2021. The Council will notify operators of any proposed changes with the correct notice period, as defined by the DfT.

Calculating reimbursement

Reimbursement for any period is the aggregate of the sum of Revenue Reimbursement (Net Revenue Foregone), Marginal Operating Costs, Marginal Capacity Costs, Peak Vehicle Requirement Costs and Scheme Administration Costs for the same period in respect of each service/route operated by each operator during that period.

Revenue Reimbursement

Under the standard method Revenue Reimbursement will be calculated for each operator as follows:

$$R = J \times F \times f_r$$

Where:

R is Revenue Reimbursement
J is the validated number of eligible passenger journeys made starting in the scheme area
F is the average fare forgone
f_r is the Reimbursement Factor which takes account of generated travel. This factor will be determined individually for each operator.

The validated number of passenger journeys will be the number of bus boardings recorded by the participating operator commencing from a boarding stage within the scheme area, checked and validated as necessary by the City Council or its agent.

The average fare forgone will be calculated using the DfT’s Reimbursement Calculator. In line with DfT Guidance, it is intended that the “Discount Factor” method will be used for all operators

¹ <https://www.gov.uk/government/publications/concessionary-bus-travel-reimbursement-calculator>

² <https://www.gov.uk/government/publications/guidance-on-reimbursing-bus-operators-for-concessionary-travel>

except where any of the following criteria are met, in which case the “Basket of Fares” approach will be used:

- Operators with cash fares only
- Operators with only cash fares and weekly tickets
- Operators with no cash fares
- Operators with atypical ticket price combinations such that the daily ticket to average cash fare price ratio is greater than 5 (before or after degeneration)
- Operators with ticket price ratios such that the Discount Factor method would lead to the proportion of daily or period tickets to cash fare ticket sales being higher than the corresponding proportion for current fare paying passengers
- Where 60 per cent or more of an operator's concessionary passenger boardings (on services serving a TCA's area) are carried on buses where the average weekday daytime frequency (09.30 to 18.00) is one bus per hour or less

The Reimbursement Factor value for each individual operator will be calculated using the Department for Transport's Reimbursement Calculator. The DfT Reimbursement Calculator uses two Single Demand Curves – one for “PTE-like” areas and one for “non-PTE-like” areas. For concessionary journeys on routes that run wholly within the Southampton scheme area the appropriate Reimbursement Factor will be determined using the “PTE-like” Single Demand Curve. For concessionary journeys on routes that run across an administrative boundary from “PTE-like” into “non-PTE-like” areas (as defined by DfT Guidance), a proportion of concessionary journeys will be reimbursed using a Reimbursement Factor based on the “non-PTE-like” Single Demand Curve, with the remainder being reimbursed using a Reimbursement Factor based on the “PTE-like” Single Demand Curve. The appropriate proportions of concessionary journeys for the “PTE-like / non-PTE-like” split will be estimated by the Council based on best available information on residency of concessionary passengers boarding the cross-boundary services within the scheme Principal Area. The default estimate is that half of such concessionary journeys will be reimbursed using a Reimbursement Factor based on the “non-PTE-like” Single Demand Curve, with the other half being reimbursed using a Reimbursement Factor based on the “PTE-like” Single Demand Curve.”

The actual value of the Reimbursement Factor used for each operator is determined by the appropriate Single Demand Curve, together with the percentage change in average commercial fares (in real terms, taking account of inflation as measured by Government Consumer Price Index (CPI) figures) on the operator's routes that serve the scheme area between 2005-6 and 2022-23. This will be calculated by the City Council using the best available information, including data provided by the operator concerned. Care will be taken to use comparable data sets in calculating this change, to the extent possible. Where operator-specific data on the change in average commercial fares between 2005-6 and 2022-23 is not available, the City Council will use either: (a) a scheme-wide figure for average percentage change in commercial fares; or (b) the National Bus Index up to 2010-11 and the percentage change in average commercial fares between 2010-11 and 2022-23.

Marginal Operating Costs

Marginal Operating Costs will be calculated in accordance with the Department for Transport's Reimbursement Calculator. Each operator will receive Marginal Operating Costs for each generated concessionary journey. Marginal Operating Costs will be calculated in two parts for each operator; the “Fixed” and “Variable” elements, using the DfT Reimbursement Calculator. The “Fixed Element” of operating costs equates to £0.069 per generated concessionary journey (according to the latest DfT Calculator published November 2019). The “Variable Element” relates directly to the average concessionary journey length for an operator. The average journey length will be taken to be the default value in the DfT Reimbursement Calculator unless the City Council can determine an alternative value based on local evidence from the operator.

The number of generated journeys to be used in the calculation of the Marginal Operating Costs will be calculated as follows:

$$J_g = J \times (1 - f_r)$$

Where:

J_g is the number of generated journeys
 J is the validated number of passenger journeys
 f_r is the Reimbursement Factor which takes account of generated travel, expressed as a decimal fraction.

Marginal Capacity Costs

Marginal Capacity Costs are the costs to a bus operator of necessarily providing increased capacity on a bus route to accommodate generated travel resulting from the concessionary travel scheme, by using the existing bus fleet more intensively through increased frequency. Marginal Capacity Costs payable are net of the estimated additional revenue generated from commercial journeys that arise from increased frequency.

It is recognised that a possible alternative response to the increase in demand from generated concessionary travel would be to increase seating capacity rather than increase frequency of service. However, the costs payable to operators making this operating choice will not exceed the net costs of increasing frequency (including revenue effects) of using existing buses, as set out below.

The City Council will adopt the Marginal Capacity Cost (MCC) calculator of the DfT Reimbursement Calculator for determining the level of Marginal Capacity Costs payable to each operator. This requires the following input parameters for each operator's network of services that serve Southampton:

- Average bus speed
- Mean vehicle occupancy
- Mean journey length
- Mean route length
- Commercial journeys (including adults, young people and children) as a percentage of total journeys
- Average commercial fare (including adults, young people and children) per journey

Where an operator can provide (in the reasonable judgement of the City Council) a properly evidenced full set of local inputs on all of these parameters, they will be used for calculating Marginal Capacity Costs due using the DfT MCC Calculator. Where an operator does not provide such a properly evidenced full set of local inputs on all these parameters, the set of default values contained within the DfT MCC calculator will be used for calculating Marginal Capacity Costs due to that operator.

Peak Vehicle Requirement Costs

The City Council recognises that in exceptional circumstances an operator may have to operate additional vehicles in the peak period due to generated concessionary travel. If an operator wishes to claim additional Peak Vehicle Requirement (PVR) Costs then the operator must supply data and analysis to support such a claim. If an operator wishes to submit a claim, the evidence that is required to be provided is set out in the DfT Guidance on reimbursing bus operators (as published in November 2019) at paragraphs 7.61 to 7.63. The calculation of any PVR costs due to an operator submitting a valid claim will follow the calculation process set out in the DfT Guidance on reimbursing bus operators (as published in November 2019) at paragraphs 7.64 to

7.74. Settlement of claims agreed as reasonable by the City Council will be made without undue delay.

Scheme Administration Costs

The City Council recognises that operators are subject to administration costs for which they should be reimbursed. These costs include publicity, ticketing, software changes and management time relating to special requests for information. The council will pay administration costs at a rate of £0.002 for each trip made under the scheme.

Operators claiming reimbursement from the scheme above a level of £10,000 per annum must have suitable, auditable, Electronic Ticket Machine (ETM) data that will be required each month, except in circumstances that have been agreed with the Authority. Claims submitted with inadequate data may need to be validated through surveys. In these cases, the Scheme reserves the right to reclaim the cost of this validation.

Operators claiming reimbursement from the scheme above a level of £10,000 per annum must have ITSO-compliant smart readers with fully-functioning Class 2 messaging (including hot listing), and that are compatible with the Southampton HOPS, in active operation and must use the output of those readers to arrive at the claim. If smart readers are not in use or if they are not being used with full functionality as above, the Council reserves the right to make a proportionate deduction of 3% from the number of journeys claimed each month to account for the level of undetected fraudulent travel that is assumed to be taking place. The relevant reimbursement rate will be applied to the number of journeys after deduction unless the operator can provide verifiable evidence that all the journeys claimed for were made by holders of valid passes.

On request, the operator must make available historic boarding data for affected services; this will normally be in the form of unprocessed data from electronic ticket machine systems.

To enable the timely and efficient operation of the scheme and consideration of claims, claims should be submitted by the end of the calendar year to which they relate and relate to the preceding 12 months operation of the scheme. Additional claims submitted in accordance with the Limitation Act 1980 will be considered on a case by case basis.

Any challenge to any decision by the Authority in relation to any claim for additional capacity costs must be brought in accordance with the paragraph below headed "Operator Representations and Complaints".

Right to Survey

The City Council has the right to carry out surveys on vehicles on which concessions are given. Bus operators will be consulted as to how and when the survey will be carried out and operators will be given reasonable prior notice of the City Council's intention.

Variations

Southampton City Council reserves the right to vary the Scheme or to offer discretionary enhancements to the Scheme in accordance with the provisions of the Transport Act 1985 and any reimbursement arrangements relating to and forming part of the Scheme at any time in accordance with the provisions of the Acts, upon relevant Notice. Southampton City Council shall give 28 days notice in writing to Operators of any proposed variations or changes to the Scheme, save where changes relate to reimbursement arrangements in relation to which the Authority shall give 4 months notice of any proposed changes reimbursement arrangements, but the period of such notice may be shortened by mutual agreement or variations to the scheme required to give effect to a decision of the Secretary of State for Transport's determination of any application

under the Transport Acts in relation to which the Authority shall give notice in writing to apply with immediate effect .

Right of Participation

Notwithstanding the mandatory participation of Operators in accordance with the Transport Act 2000 and the Concessionary Bus Travel Act 2007, Southampton City Council may require and notify any Operator to participate in the Scheme or any variation of the Scheme in accordance with the Transport Act 1985, and such participation will commence not less than 28 days after receipt of such written notification. At the date of notification the Operator will be supplied with a copy of this Scheme and any Variations thereto.

Operator Representations and Complaints:

If an Operator in this Scheme wishes to make any representations in relation to this scheme or reimbursement under this scheme (including any challenge, complaint, concern or grievance in relation to the Scheme) such a representation should be made in writing to the Responsible Authority at the address set out above. Representations will be considered by the Council on their merits and without prejudice to the Operators rights of Appeal under the Acts. Operators also have the right to avail themselves of the Authority's Corporate Complaints Policy, details of which may be found on the Authority's website at www.southampton.gov.uk

Right of Appeal

Any Operator has a right of appeal to the Secretary of State against the terms of reimbursement of the Scheme under the Transport Acts 1985 and 2000 or against participation in any discretionary element of the Scheme under the Transport Act 1985 on the grounds that:-

(a) There are special reasons why their company's participation in the scheme in respect of any of the services to which the notice applies would be inappropriate (under both the 2000 Act and the 1985 Act); or

(b) Any provision of the scheme or of any of the scheme arrangements are inappropriate for application in relation to any operators who are not voluntarily participating in the scheme (1985 Act only).

Prior to making such an application, notice in writing must be given to the person and at the address specified under the 'Responsible Authority Heading above.

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