

# **WEST MIDLANDS COMBINED AUTHORITY**

## **TRANSPORT ACT 2000**

### **Travel Concession Reimbursement Arrangements**

**To be valid**

**From 1<sup>st</sup> April 2022**

## **WEST MIDLANDS COMBINED AUTHORITY**

### **TRANSPORT ACT 2000 TRAVEL CONCESSION REIMBURSEMENT ARRANGEMENTS**

**1<sup>ST</sup> APRIL 2022**

#### **The Arrangements**

1. These Travel Concession reimbursement arrangements (subsequently referred to as “the Arrangements”) are made under the provisions of the Transport Act 2000 (“2000 Act”) by the West Midlands Combined Authority (“the Authority”);
2. These reimbursement arrangements are established (so far as applicable) in accordance with the principles set out in the Travel Concession Scheme Regulations 1986 (“TCSR”) and any subsequent applicable regulations and with full regard to relevant guidance issued by the Department for Transport (DfT). They also ensure that any reimbursement complies with the requirements of EU Regulation 1370/2007. It is likely that during the period that these Arrangements are operative new regulations will come in to force to replace TCSR. To the extent those new regulations require these Arrangements to be amended, such amendment will be notified to the operator in writing.
3. The Arrangements cover reimbursement arrangements for the mandatory concessions to be provided by operators under the 2000 Act as detailed in paragraph 9 below.
4. Unless otherwise defined in the Arrangements words or terms used in the Arrangements shall have the same meaning as given to such words or terms in the 2000 Act, and TCSR.

#### **Operative Date**

5. The Arrangements shall come into operation in their entirety on 1<sup>st</sup> April 2022 and be in operation until 31<sup>st</sup> March 2023 (inclusive).

#### **Principal Area**

6. The principal area covered by the Arrangements is the Passenger Transport Area of the West Midlands, which consists of the administrative areas of Birmingham City Council, Coventry City Council, Wolverhampton City Council and the Metropolitan District Councils of Dudley, Sandwell, Solihull and Walsall (“Principal Area”).

#### **Services to which the Arrangements Apply**

7. In respect of the mandatory travel concessions under the 2000 Act the Arrangements shall apply to each journey by an eligible person (as defined in Schedule 1) on a registered local eligible service (as defined in section 146 of the 2000 Act and as further defined in the Travel Concession (Eligible Services) Order 2002 and the Travel Concession (Eligible Services) (Amendment) Order 2009) beginning in the Principal Area.

8. For the purpose of the Arrangements “journey” means a single bus boarding without a change of vehicle or service.

#### **Eligible Persons and Nature of Concession**

9. In respect of the mandatory travel concessions under the 2000 Act operators participating in the Arrangements will be required to provide, on their eligible services, the travel concessions specified in Schedule 1 to any person with a valid travel concessions permit.
10. The Authority may from time to time vary the reimbursement arrangements by notice and where relevant such notice should comply with the provisions of section 150 of the 2000 Act.

#### **Payment Periods and Dates**

11. The “payment periods” under the Arrangements are as set out in Schedule 8 or as notified to the operators from time to time by the Authority in writing. Operators will be paid on a calendar month basis as shown in the Schedule.
12. The Authority will make a payment to operators not later than the day which is half-way between the first and last days of the first payment period of the financial year, equal to not less than 85% of the sum the Authority estimates to be due to the operator for an average payment period in that financial year. A deduction equal to the amount paid in the first period of the financial year will be deducted as part of the year end balance review as detailed in paragraph 23 below.
13. The Authority will make a full payment to operators for all concessionary passengers, by the later of 3 weeks after the end of the relevant payment period or 1 week after the operator’s submission of the relevant data.
14. If for any reason, the amount of reimbursement paid during the relevant period should have been higher, the Authority shall pay the difference to the operator within 1 month of the date of recalculation.
15. If for any reason, the amount of reimbursement paid during the relevant period should have been less, the Authority shall recover the over payment by deduction against the next period’s payment.

#### **Standard Method of Determining Reimbursement**

16. The standard method for assessing the total number of journeys made by eligible persons under the Arrangements is set out in Schedule 2. The standard method for assessing the fares value to be attributed to those journeys is set out in Schedule 3. The standard method for calculating the reimbursement for revenue forgone due to the operator will be on the basis of the formula and parameters set out in Schedule 4. The standard method for calculating any costs additional to basic operating costs is set out in Schedule 6.
17. The standard method of determining reimbursement will apply for eligible persons carried on subsidised service contracts which are awarded by the Authority for competitive tender unless otherwise stated within the conditions

of contract. In this case reimbursement will be made in accordance with arrangements as laid out in those conditions.

18. In calculating the reimbursement due to the operator, the Authority will take into account any data supplied by the operator if it can be shown that the data supplied is more accurate than the standard method and is more likely to enable the Authority to meet the applicable, 'no better, no worse' objectives for reimbursement set out in the TCSR and EU Regulation 1370/2007.
19. By agreement between the operator and the Authority the standard method need not be applied in respect of calculating the reimbursement of that operator. For example, the standard method need not be applied in cases where the operator's vehicles are not equipped with ITSO standard smart ticketing machines.

### **Data**

20. When an operator commences the operation of eligible services within the principal area, it shall supply to the Authority, within 7 days:
  - a. a list of eligible services to be operated by that operator; and
  - b. all relevant fares and a list of the ticket types valid for travel on such services.
21. The operator shall inform the Authority of the introduction or cessation of any eligible services, changes to the times at which and routes on which eligible services operate and any circumstances leading to the temporary cessation or major disruptions to such services within 7 days of such event occurring.
22. In addition, the operator shall provide data to the Authority in accordance with the provisions of Schedule 5 in order to facilitate the calculation of appropriate average fare values.
23. If the operator fails to provide such information or data as is referred to above, then the Authority may in its discretion either defer all or part of any payment otherwise due to the operator until such omission is fully rectified or reimburse the operator on the basis of such estimated reimbursement as it considers appropriate in the absence of such data.

### **Review of Reimbursement**

24. At the end of each financial year, the Authority shall review the reimbursement calculations made in accordance with these reimbursement arrangements during the previous financial year. This review shall include consideration of any more accurate information that may have become available, which may result in a recalculation of reimbursement applicable to each operator. Any such information that the operator wishes to be taken into consideration in the review must be submitted to the Authority within 2 months of the end of the financial year, and such review shall be concluded within 3 months.
25. The review shall exclusively cover concessionary fares patronage, the calculation of the operator's average fare and applicable discount factor (not including a review of the method of calculation), the reimbursement factor

applicable at that average fare (again not including a review of the method of calculation) and any necessarily incurred additional costs and any deduction required relating to the on account payment paid in the first period of the financial year. The review will not incorporate any changes to the standard methods of determining reimbursement as defined in this document.

26. If following the review it is determined by the Authority that the amount of reimbursement paid during the previous financial year should have been higher, the Authority shall pay the difference to the operator within 3 months of the date of recalculation.
27. If following the review it is determined by the Authority that the amount of reimbursement paid during the previous financial year should have been less the Authority shall recover the overpayments from the operator within 3 months of the recalculation or at such time scale as agreed between the parties.

#### **Dispute Resolution Procedure**

28. If there is a dispute between an operator and the Authority in respect of the level of reimbursement paid to that operator then if such dispute relates to:-
  - a. the fares value to be attributed to journeys by persons eligible to receive concessions on the operators eligible services covered by the Arrangements;
  - b. the total number of journeys made by persons eligible to receive concessions on the operator's eligible services covered by the Arrangements;
  - c. the number of additional journeys generated in consequence of the availability on the operator's eligible services of such concessions; or
  - d. the reimbursement value for additional costs incurred by the operator;
  - e. then such dispute shall be the subject of the dispute resolution procedure set out in Schedule 7.

#### **Other Requirements of the Arrangements**

29. Any operator participating in the Arrangements shall display on his vehicle any sign, supplied by the Authority, for the purpose of showing that concessions are available on those vehicles.
30. Operators shall not discriminate against eligible persons or any class of eligible persons in the provision of eligible services or associated services and facilities.

### **Contact for Communications**

31. All notices, data and other information required to be given to the Authority under the Arrangements shall be provided to the following contact point (or such other contact point as may be nominated by the Authority to operators in writing from time to time):

Swift and Concessions Scheme Manager  
West Midlands Combined Authority  
16 Summer Lane  
Birmingham  
B19 3SD

telephone 0121 214 7006  
email paula.higgins@tfwm.org.uk

32. On commencing the provision of eligible services in the principal area, the operator shall provide to the Authority details of the name, postal address, email address and telephone number of its official contact for communications in relation to these arrangements, and shall by notice in writing inform the Authority of any changes to the same.
33. Any notice or communication sent to the last such address or e-mail address as is referred to above shall be deemed to be duly served on the recipient. If an operator has failed to give notice in writing to the Authority of such an official contact, then the Authority may send any notice or other communication to any address set out in the most recent correspondence from the operator concerned, which shall be deemed to be its address for service.

## SCHEDULE 1

### ELIGIBLE PERSONS AND NATURE OF CONCESSIONS UNDER 2000 ACT

Class of Eligible Persons	Nature of Concession to be Provided (Bus only)
<p>(i) <u>Older Persons</u></p> <p>Women and men who have attained the age of entitlement as defined in the Statutory Instrument 459 Travel Concession (Eligibility) (England) Order 2010.</p>	<p>On production of a statutory travel concession permit issued in accordance with Statutory Instrument 2008 No 417 "The Concessionary Bus Travel (Permits) (England) Regulations 2008", or any other permit as agreed by the Authority, a person boarding within the West Midlands county shall be carried without charge on services to which the Arrangements apply, provided that the actual time of boarding falls between the following hours:</p> <p>(a) Monday to Friday (except when the day is a bank holiday) 09.30 to 23.00</p> <p>(b) Any time on Saturdays, Sundays and bank holidays.</p>
<p>(ii) <u>Disabled Persons</u></p> <p><i>A person who -</i></p> <ul style="list-style-type: none"> <li>• <i>is blind or partially sighted,</i></li> <li>• <i>is profoundly or severely deaf,</i></li> <li>• <i>is without speech,</i></li> <li>• <i>has a disability, or has suffered an injury, which has a substantial and long-term adverse effect on his ability to walk,</i></li> <li>• <i>does not have arms or has long-term loss of the use of both arms,</i></li> <li>• <i>has a learning disability, that is, a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning, or</i></li> <li>• <i>would be refused, if he applied for the grant of a licence to drive a motor vehicle under Part III of the Road Traffic Act</i></li> </ul>	

## SCHEDULE 2

### STANDARD METHOD OF DETERMINING PASSENGER JOURNEYS

1. The Authority will determine its reimbursement payments to the operator on the basis of the smartcard journey transactions reported to the Authority by the operator.
2. The Authority reserves the right to fully audit the smartcard transactions declared by the operator through its back office management systems. Where a difference occurs, the Authority will contact the operator to seek an explanation. If no suitable explanation can be given, the Authority will revert to the passenger journey data detailed in the Host Operating Processing System (HOPS).

### Non Smart Transactions

3. If the smartcard or smartcard reader fails when in use or the operator does not have the facility to read the card smartly, the respective journey should be recorded manually in an auditable manner<sup>1</sup>. Each period the operator must also submit to the Authority any manual transactions it has recorded for concessionary passholders (as defined in Schedule 1).
4. The Authority reserves the right to fully audit all manual recordings of concessionary passenger journeys. Submissions of manual recordings will be assessed against an average and all outliers will be investigated further.

### Estimates to be made in the absence of information from the operator

5. In the event that the operator fails to provide sufficient information, or, in the Authority's reasonable opinion, not sufficiently reliable information, the Authority may at its discretion make such estimates as it thinks fit of the concessionary journeys carried by the operator, subject to correction as and when better information becomes available.

---

<sup>1</sup> This should be an electronically time stamped transaction recorded on an ETM or any other method pre agreed with "the Authority"

## **SCHEDULE 3**

### **STANDARD METHOD OF DETERMINING THE AVERAGE FARE THAT WOULD BE PAID IN THE ABSENCE OF THE CONCESSION**

#### **1. The Average Fare Forgone**

- 1.1. This Schedule describes the method that will be used by the Authority to estimate the average fare that would be paid by eligible persons for each journey made using the relevant concession (as defined in Schedule 1) on the operator's eligible services.
- 1.2. This value, which is called here the Average Fare Forgone ("AFF"), will be calculated for the operator at least once in each period of 12 months that 'the scheme' is in operation or upon request. The true AFF applicable to the financial year will be calculated as part of the year end review and used when determining the balance calculation.
- 1.3. As recommended by the DfT, the default method which will be adopted uses the principles of the Discount Factor Method set out in its Reimbursement Guidance. Under this method, the AFF will be based on the application of a Discount Factor ("Discount Factor") to an estimate of the Average Cash Fare ("ACF") of the journeys made by non-concessionary passengers on the operator's services.

#### **2. Average Cash Fare**

- 2.1. Average Cash Fare is intended to represent the average fare that non-concessionary passengers would have paid if they had purchased cash tickets (either Single tickets, Return tickets or Supplement tickets<sup>2</sup>) to make their journeys. The ACF will be calculated by the Authority using data provided by the operator where available.

#### **3. The Discount Factor**

- 3.1. The Discount Factor will be calculated in accordance with the Department for Transport Guidance.
- 3.2. The Discount Factor for the operator will be calculated at least once in each period of 12 months that 'the scheme' is in operation, but will be subject to review by the Authority to ensure that it remains appropriate, including as part of the recalculation of reimbursement using outturn values as specified in paragraph 23 of the Arrangements. The intention is that it should be estimated prior to the commencement of the financial year (1<sup>st</sup> April) to which it will be applied. The Operator may request that the Authority reviews the value of its discount factor if relevant considerations change significantly.

#### **4. Inputs into the Discount Factor calculation**

---

<sup>2</sup> For clarity, a Supplement ticket is a ticket that is sold by one operator at a significant discount (when measured against the standard cash fare) to the holder of another operator's season ticket.

- 4.1. The principal determinants of the Discount Factor are the relative prices of cash fares, daily tickets and weekly tickets, as described in the DfT Guidance.
- 4.2. To minimise data requirements from the operator, the Authority will agree a mapping of the different ticket products and price denominations offered by the operator onto generic ticket types. For those operators who participate in the multi-operator ticketing scheme, the mapping agreement will also include multi-operator tickets.
- 4.3. It is envisaged that each distinct product will be categorised into one of the categories summarised in Table 3.1. The operator is required to supply the Authority with an updated list of ticket products as and when old ticket products are withdrawn or new products are introduced, to enable the Authority to monitor the commercial offer and determine whether aspects of the Discount Factor calculation need to be reviewed.

**Table 3.1 Generic Ticket Types**

<b>Generic Ticket Type</b>	<b>Types of ticket product</b>	<b>Assumed to be relevant to concessionary passenger ticket choice in the absence of the concession?</b>
Cash fares	Single, return and supplements offering finite numbers of journeys for a given price, if offered	Yes (for boardings within the Principal only)
Daily tickets	Tickets offering unlimited journeys within a day	Yes (for tickets purchased within the Principal only)
Weekly tickets	Tickets offering unlimited journeys within a week	Yes (for tickets purchased within the Principal area only)
Child tickets	All tickets available only to children and young people	No
Period tickets for longer than a week	All	No

- 4.4. For those operators who do not offer daily or weekly tickets but participate in the multi-operator ticketing scheme, the Authority shall use the latest price applicable to multi-operator daily and weekly tickets.
- 4.5. For each of the first three ticket types, the operator is (without prejudice to its obligations to provide data specified elsewhere in the Arrangements) expected to provide the Authority with the following data on a quarterly basis:

- the total revenue obtained from sales of the ticket type, and
  - in the case of cash fares, the number of journeys made by passengers using these tickets;
  - in the case of daily tickets, the number of such tickets sold, the revenue from those sales, and the operator's estimates of the journeys made using these tickets;
  - in the case of weekly tickets, the number of such tickets sold, the revenue from those sales, and the operator's estimates of the journeys made using these tickets.
- 4.6. This information will be used to estimate the average cash fare paid by commercial passengers for each journey, and the average price per ticket of daily and weekly tickets respectively.

## **5. Calculation of the Discount Factor**

- 5.1. The four values derived above will be input into a spreadsheet which draws on the data included in the DfT model or other local data if more applicable ("the Look-up table") to populate the DfT Discount Factor calculation. The specific values in the Look-up table are locally derived from all smartcard concessionary journeys originating in the Principle Area over a representative time period.
- 5.2. The essence of this calculation is reproduced in Table 3.3 below, in which the input values are shown in grey cells. The table illustrates the Discount Factor that would be calculated from hypothetical values that otherwise have no particular significance.

**Table 3.3 Illustration of Discount Factor Calculation**

		Cash fare	Daily ticket	Weekly Ticket	Totals/ average
(a)	Average Cash Fare (non-concessionary journeys)	<b>£1.60</b>			
(b)	Discount ticket prices per ticket		<b>£2.90</b>	<b>£16.00</b>	
(c)	Initial price ratio relative to Average Equivalent Cash Fare	1	1.81	10.00	
(d)	Interim results - Ticket sales	1,817,389	4,627,425	1,208,511	
(e)	Interim results - Journeys	1,817,389	10,258,459	20,143,086	32,218,934
(f)	Average fare paid per journey, daily and weekly tickets	£1.60	£1.308	£0.960	
(g)	Reimbursement Factor	49.1%	54.1%	61.2%	
(h)	Final price ratio relative to average fare paid	1	2.79	16.12	
(i)	Final results - Ticket sales	11,028,344	3,109,618	496,525	
(j)	Final results - Journeys	11,028,344	9,779,026	11,411,564	32,218,934
(k)	Journeys after removing generated trips	10,135,787	9,779,026	11,411,564	31,326,376
(l)	Share of journeys	32.4%	31.2%	36.4%	100.0%
(m)	Average Fare Forgone				£1.37
(n)	Discount Factor				14.38%

- 5.3. The table shows three of the four inputs in rows (a) and (b). These allow the price ratios to be calculated in row (c). The ACF is assumed to represent the average price that would be paid by non-concessionary passengers if they purchased cash fares. The price ratios therefore reflect the cost of purchasing daily or weekly tickets relative to the cost of making the same journeys using cash fares.
- 5.4. The price ratios allow the number of ticket sales and the associated journeys to be looked-up (in the case of weekly tickets and weekly journeys) or derived (in the case of daily tickets, daily journeys and cash fare journeys) from the data table, giving the result shown in rows (d) and (e). To be clear, these represent hypotheses about how many of the passholders whose data populate the model would use each type of ticket, if their choice was governed by the cheapest way of making the observed journeys. The average fare per journey can now be calculated from the interim ticket and journey estimates for users of each of the daily and weekly tickets, as in row (f).
- 5.5. The relative numbers of journeys allocated to each ticket type reflect the frequencies with which journeys are made using the free concession contained within or derived from the data table. If the free concession was not available, then fewer journeys would be made. The non-concessionary cost per journey for more frequent travellers will be less than that for less frequent travellers, because of the greater discount offered on daily and weekly tickets. Consequently, the reduction in journeys (in the counter-factual) by more

frequent travellers will be less than that for less frequent travellers, changing the distribution of journeys between ticket types to reduce the proportion of cash fares.

- 5.6. This rebalancing of the journey distribution (which the DfT draft Guidance labels de-generation) is carried out by applying Reimbursement Factors calculated for each Ticket Type, based on the average fare per journey by each Ticket Type. Each Reimbursement Factor represents the reduction in journeys associated with a change from zero fare to the relevant average fare per journey. The Reimbursement Factors are calculated using the ITS single demand curve. The calculated values are shown in row (g).
- 5.7. The resulting Reimbursement Factors are then used to derive new price ratios, as in row (h), and journey and ticket amounts are reallocated, giving the result shown in rows (i) and (j).
- 5.8. Row (k) shows the number of journeys made by each ticket type after the application of the Reimbursement Factors, and row (l) the resulting proportions of journeys assumed to be made using each ticket type.
- 5.9. The overall estimate of the AFF is in row (m). It is the weighted average of the average cash fare paid, and the average fare per journey using daily and weekly tickets, weighted by the proportions shown in row (l).
- 5.10. The value shown in row (m) is regarded as the best estimate of the average fare that would be paid by concessionary passholders in the absence of the concession, on the basis of the fare levels and ticket prices of the Reference Period. It would be the average fare used to calculate the overall Reimbursement Factor, and hence Revenue Forgone, to compensate the operator for revenue forgone associated with concessionary passengers carried on the operator's services in the payment period.

## **6. The Average Fare Forgone Calculation**

- 6.1. In calculating the Reimbursement Factor and Revenue Forgone for any particular payment period in accordance with Schedule 4, the Authority will estimate the AFF by applying the Discount Factor ("D" in the formula below) calculated as above to the best estimate of the ACF for the payment period, as follows:

$$\text{AFF} = \text{ACF} * (1 - \text{D})$$

## **SCHEDULE 4**

### **STANDARD METHOD OF DETERMINING REVENUE FORGONE**

#### **1. Calculation of Reimbursement for Revenue Forgone**

- 1.1. The Authority will calculate reimbursement payments so as to satisfy the objectives as set out in Paragraph 2 of the Arrangements.
- 1.2. Calculation of the reimbursement due will be made in accordance with the payment periods and dates set out in Schedule 8.
- 1.3. Reimbursement for revenue forgone is taken to mean the Authority's estimate of the revenue by way of fares that the operator would have earned if the concession did not exist.
- 1.4. The revenue forgone will be calculated using a formula in which the variables are defined as follows:
  - the total number of passenger journeys made by eligible persons using the relevant concession on the operator's eligible services as defined in section 146 of the 2000 Act, as estimated by the Authority using the procedures described in Schedule 2. The quantity of concessionary journeys is represented in the formulae below by J;
  - the AFF represents the average commercial adult fare that eligible persons would pay on the operator's eligible services in the absence of the scheme, as estimated by the Authority using the procedures described in Schedule 3. The average adult fare is represented in the formulae below by AFF.
  - the Reimbursement Factor, which is the ratio of the estimated concessionary journeys that would be made if commercial adult fares had to be paid, to the actual number of passenger journeys made using the concession. The Reimbursement Factor is represented by RF.
- 1.5. For a given payment period, the reimbursement due to the operator for revenue forgone will be calculated using the formula:

$$\text{Revenue Forgone} = J * \text{RF} * \text{AFF}$$

or in other words, the revenue forgone is the product of the number of concessionary journeys, the Reimbursement Factor, and the Average fare Forgone.

#### **2. Default Reimbursement Factor calculation**

- 2.1. The Reimbursement Factor will be calculated in accordance with the Department for Transport Guidance using the DfT Reimbursement Calculator spreadsheet as circulated by DfT on 22nd November 2021.
- 2.2. The Area Type selected will be "PTE".
- 2.3. The Authority, for the year end review of the Average Fare Forgone ("AFF") applicable for the financial year, will recalculate reimbursement with updated

CPI and GDP deflator figures when these become available from the Office for National Statistics and HM Treasury, respectively.

- 2.4. The Authority will estimate the change in the operator's average fare between 2005/6 and the equivalent fare in the payment period from the most appropriate data it has available. The Authority will take into account any data supplied by the operator for the purposes of calculating the change in fare if it can be shown that the data supplied is more likely to lead to reimbursement that satisfies the Authority's "no better off and no worse off" objective.
- 2.5. In the circumstances where an operator has either significantly changed the nature of its services since the 2005/06 financial year or where an operator was not in operation during the 2005/06 financial year the Authority will apply a best estimate of the TCA-wide average change in nominal fare measured from 2005/06 to 2010/11 plus the operators actual change in fare from 2010/11 to 2022/23. This method is consistent with 'option 2' as detailed in the 'RF model' tab of the 'DfT Reimbursement Calculator'.

## **SCHEDULE 5**

### **DATA PROVISION**

1. Every operator claiming reimbursement under the Arrangements is required to submit to the Authority, within 14 working days of the end of each payment period, a statement containing the following:-
  - i. the total number of smartcard concessionary journeys from passengers boarding within the principal area on the operators services on which concessions are at any time available during the preceding payment period.
  - ii. the total number of non-smartcard (manually recorded) concessionary journeys from passengers boarding within the principal area on the operators services on which concessions are at any time available during the preceding payment period.
2. Every operator claiming reimbursement shall provide in a timely manner such additional information as the Authority may require in order to allow the Authority to calculate the revenue forgone in accordance with the provisions of Schedules 3 and 4.
3. If required by the Authority, each such statement must be certified in accordance with Regulation 16 of the Travel Concession Scheme Regulations 1986, by a member of the Institute of Chartered Accountants in England and Wales, the Institute of Chartered Accountants of Scotland or the Chartered Association of Certified Accountants and be provided in the form from time to time specified by the Authority.

## **SCHEDULE 6**

### **ADDITIONAL COSTS**

#### **1. Reimbursement for Additional Costs**

- 1.1. An operator shall be entitled to additional reimbursement payments in accordance with Regulation 5 of TCSR.
- 1.2. As recommended by DfT's Guidance, the Authority will calculate reimbursement for marginal operating costs and marginal capacity costs using the DfT Calculator to estimate the respective marginal cost rates per generated concessionary passenger. In some circumstances the marginal capacity cost per generated passenger will be calculated to be zero, in which case no capacity costs will be payable, although marginal operating costs would be paid.
- 1.3. The marginal cost rates will be calculated for a Reference Period which will be determined by the Authority (after consultation with the operator) relative to the year to which the discount factor will be applied. The Reference Period will be such as to enable the marginal cost rates to be determined prior to the commencement of the financial year (1st April) to which they will be applied. Note that the Reference Period for calculating additional cost rates may not be identical to the reference period used for estimating average fare discount factors as described in Schedule 3.
- 1.4. The calculation of the marginal operating and capacity cost rates will be as follows.

#### **2. Marginal Operating Cost**

- 2.1. The Marginal Operating Cost Rate per generated passenger will be calculated using the DfT Calculator, which provides for a local estimate of the Average Passenger Journey Length. In this context it is assumed that the relevant measure is the average journey length of concessionary passengers, since it is the additional operating cost associated with carrying concessionary passengers that is of interest.
- 2.2. The average concessionary journey length will be estimated by the Authority from available data, following consultation with the operator, which may include but will not be limited to survey data.
- 2.3. The Authority will use the Additional Marginal Cost per generated passenger calculated by the DfT spreadsheet to estimate the reimbursement due to the operator for additional marginal operating costs for each period, as described in Section 4.

#### **3. Marginal Capacity Costs**

- 3.1. The Marginal Capacity Cost Rate per generated passenger travelling on commercial services will be calculated using the DfT Calculator, which provides for local estimates of a number of input variables. These will be estimated by the Authority from available data, following consultation with the operator, and are as follows:

- (a) Average vehicle speed (including layover times) in mph;
  - (b) Average route length in miles;
  - (c) Average passenger trip length in miles – in this context, it is thought that the most relevant definition is the average trip length of all passengers (concessionary and non-concessionary);
  - (d) Average bus occupancy – in other words, the average load on board. This can be calculated as the ratio of passenger miles to bus miles;
  - (e) Commercial journeys as % of total;
  - (f) Average commercial fare – the Authority will use the concessionary Average Fare Forgone as a proxy for this value in the absence of any other available data that allows for the calculation of an actual average commercial fare.
- 3.2. No Marginal Capacity Costs will be paid on subsidised services, as these costs are reimbursed through the contract so additional capacity costs do not apply.
- 3.3. The Authority will take account of operator-supplied data where it can be demonstrated to be more appropriate or accurate.
- 3.4. By default, the DfT Calculator will be used to make a single calculation of the marginal capacity cost per generated passenger, with inputs based on network-wide values. In consultation with operators, the Authority may calculate marginal capacity costs on a more disaggregate basis if this appears likely to lead to a result that is closer to the Authority’s “No better, no worse off” objective.
- 3.5. Operators should be aware that the DfT’s calculator may lead to the conclusion that no marginal capacity costs are payable, depending upon local circumstances as defined by the local values of input variables.

#### **4. Calculation of Reimbursement for Additional Operating and Capacity Costs**

- 4.1. The marginal cost rates per generated passenger for Operating and Capacity costs calculated for a given Reference Period by the DfT Calculator will be added together to give a combined Marginal Cost (MC) rate per generated passenger for the Reference Period.
- 4.2. Reimbursement for marginal costs for individual payment periods will then be calculated using the formula:

$$\text{Reimbursement} = \text{MC} * \text{J} * ( 1 - \text{RF} )$$

where MC is the Marginal Cost Rate per generated passenger for the Reference Period, J is the total number of concessionary journeys made on the operator’s eligible services in the payment period (as estimated according to Schedule 2), and RF is the Reimbursement Factor calculated for the payment period (calculated according to Schedule 4).

## 5. Other Additional Costs

- 5.1. The Authority will consider claims for reimbursement for additional costs where these would not otherwise be reimbursed, potentially including administration costs and peak vehicle costs.
- 5.2. Any operator claiming additional reimbursement payments shall, in making such a claim, provide the Authority with sufficient information supporting their claim.
- 5.3. For claims involving additional costs for increases in the capacity or number of vehicles, the information required includes, but is not limited to:
  - (a) details of the additional number or capacity of vehicles used in providing eligible services as a result of concessions being available;
  - (b) information demonstrating that the additional capacity was required on those services, and is not spare capacity, and showing the extent to which the reason for requiring such additional capacity was due to the availability of concessionary travel;
  - (c) details of the cost of additional vehicles deployed (or provision of additional capacity) and details of how these have been utilised less any benefit realised by the operator from disposal (or other use) of vehicles previously used to provide such services and any other benefits e.g. generated commercial patronage; and
  - (d) any other information that the operator believes is relevant to its claim for additional reimbursement payments arising from providing additional vehicles or capacity to meet demand created by the availability of the concessions;
- 5.4. Should an operator seek reimbursement for administration costs, above and beyond that which is paid as part of the Marginal Operating Cost, their claim must meet the following criteria to be considered by The Authority:
  - (a) in accordance with Regulation 5 of the TCSR, consideration of claims will only be accepted if they are 'necessarily incurred' by the operator due to the existence of the scheme. Costs which did not have to be incurred as a direct result of the scheme are not admissible;
  - (b) costs which would still have been incurred in the absence of the scheme are not admissible;
  - (c) evidence must be provided demonstrating that costs increase above those that would exist in the absence of the scheme.
- 5.5. The Authority shall use all data provided by the operator in conjunction with any further information that the Authority may itself have (including, but not

limited to survey data) to assess the additional costs incurred by the operator and assess the additional reimbursement payments to be made.

- 5.6. Payment of additional reimbursement under this Schedule shall be paid as agreed by the Authority and operator, or in the absence of agreement, on a calendar month basis starting from the payment date following the date of calculation of the costs additional to the basic operating costs carried out by the Authority in accordance with Regulation 5 of TCSR.

## SCHEDULE 7

### DISPUTE RESOLUTION PROCEDURE

1. In the event of any dispute, formally notified to the Authority in writing, in connection with any matter arising from this agreement which cannot be resolved by agreement between the parties representatives within 20 working days of the notification, senior representatives of the parties shall, within 20 working days of a further written request from either party to the other, meet in good faith to attempt to resolve the dispute.
2. If the dispute is not resolved as a result of such meeting, either the Authority or the Operator may propose to the other in writing that the dispute be referred to an independent expert (“Independent Expert”)
3. If the parties are unable to agree on an Independent Expert, or if the Independent Expert agreed upon is unable or unwilling to act then any party may apply to the President of the Law Society to appoint an Independent Expert.
4. If any matter is referred to the Independent Expert for determination in accordance with paragraph 3 above, then:
  - (a) the Independent Expert shall determine the matter, subject to the remaining provisions of this paragraph 4, on a basis that is fair and reasonable in all respects as between the Operator and the Authority and that takes into account all relevant factors and circumstances;
  - (b) the Independent Expert shall act as an expert and not as an arbitrator and its determination of the dispute shall be final and binding on the parties (save in the case of manifest error);
  - (c) the Authority and the Operator shall ensure that the Independent Expert has full access to all books, information and records in their possession or in the possession of their auditors and accountants that are relevant to the dispute and to his determination thereon; and
  - (d) the Independent Expert’s fees shall be borne equally by the parties unless they shall decide that one party has acted unreasonably (in which case their fees shall be borne as they shall direct).

**SCHEDULE 8**

**PAYMENT PERIODS**

**FINANCE YEAR 1<sup>st</sup> APRIL 2022 – 31<sup>st</sup> MARCH 2023**

<b><u>Month</u></b>	<b>OP1 Submission Date</b>		<b>Payment Date</b>
<b>On Account</b>			11-May-22
<b>April</b>	<b>Fri 13-05-2022</b>	<b>Fri</b>	20-May-22
<b>May</b>	<b>Tues 14-06-2022</b>	<b>Tues</b>	21-Jun-22
<b>June</b>	<b>Thurs 14-07-2022</b>	<b>Thurs</b>	21-Jul-22
<b>July</b>	<b>Mon 15-08-2022</b>	<b>Mon</b>	22-Aug-22
<b>August</b>	<b>Wed 14-09-2022</b>	<b>Wed</b>	21-Sep-22
<b>September</b>	<b>Fri 14-10-2022</b>	<b>Fri</b>	21-Oct-22
<b>October</b>	<b>Mon 14-11-2022</b>	<b>Mon</b>	22-Nov-22
<b>November</b>	<b>Wed 14-12-2022</b>	<b>Wed</b>	21-Dec-22
<b>December</b>	<b>Fri 13-01-2023</b>	<b>Fri</b>	20-Jan-23
<b>January</b>	<b>Tues 14-02-2023</b>	<b>Tues</b>	21-Feb-23
<b>February</b>	<b>Tues 14-03-2023</b>	<b>Tues</b>	21-Mar-23
<b>March</b>	<b>Fri 14-04-2023</b>	<b>Fri</b>	21-Apr-23
<b>Off-Account</b>			10-May-23