



Memorandum to the Transport Select Committee

Post Legislative Assessment of the Concessionary Bus Travel Act 2007

Presented to Parliament by the
Secretary of State for Transport,
by Command of Her Majesty
July 2012

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Introduction

1. This memorandum provides an assessment of the Concessionary Bus Travel Act 2007 and has been prepared by the Department for Transport (DfT) for submission to the Transport Select Committee. It will be published as part of the process set out in the document *Post Legislative Scrutiny – the Government's approach* (CM 7320).
2. The extent of the Concessionary Bus Travel Act 2007 is provided for in section 14 of the Act. The Act extends to England and Wales.

Objectives of the Concessionary Bus Travel Act 2007

3. The Concessionary Bus Travel Act 2007 ("**the Act**") received Royal Assent on 19 July 2007. The main purpose of the Act is to implement a mandatory England-wide bus travel concession for older and disabled residents of England.
4. The Act implements the then Government's announcement in the 2006 Budget that residents in England aged 60 and over and those who are disabled will get free off-peak travel on all local buses anywhere in England. The Act restates the definition of a local authority area which manages a travel concession scheme as a Travel Concession Authority ("**TCA**"). Each TCA reimburses bus operators in its area for providing the concession through public funds.
5. The Act provides a geographic enhancement to a pre-existing concession by amending existing statutes, giving eligible residents a bus travel concession of a waiver of the fare, at off-peak times in any part of England. The Act changes both the Transport Act 2000 (the "**2000 Act**") and the Greater London Authority Act 1999 (the "**1999 Act**") so that the free bus travel concession is available not just in the area local to a pass holder's residence, but also on local bus travel anywhere in England, including on the transport network in London and on London service permit bus services (those which operate across the Greater London boundary), which are within the definition of "eligible services".
6. The Act guarantees free local bus travel, for those people eligible, from 9.30am to 11pm on weekdays and all day on weekends and bank holidays anywhere in England. The Act sets a minimum standard for the travel concession, which is the minimum that each TCA provides. This is defined in the Act as the national concession. The Act does not define those who are eligible for the concession, as this is established in existing statutes in the 2000 Act and the 1999 Act.
7. The Act gives the Secretary of State a power to streamline the mechanisms for administering the national concession and for reimbursing bus operators who are required by the Act to waive the fare for carrying concessionary passengers. The Act provides that reimbursement could be carried out by another tier of local authority (TCAs could be moved to another tier of local government) or that the Secretary of State could carry out reimbursement centrally. Although the Act modifies existing statutes regarding the reimbursement of bus operators, it does not describe any particular mechanism regarding reimbursement.

8. The Act also allows the Secretary of State to change the administration of discretionary concessionary travel schemes made by local authorities under section 93 of the Transport Act 1985 (the "**1985 Act**"). It also extends the period of time during which applications by bus operators can be made to the Secretary of State, from 28 to 56 days, if they dispute reimbursement arrangements. It also extends the period of time during which applications can be made by bus operators in respect of new or varied reimbursement arrangements made by local authorities in England under the 2000 Act. It makes a similar change in relation to applications against notices given by local authorities in England requiring operators to participate in concessionary travel schemes under section 93 of the 1985 Act.
9. The Act allows the Secretary of State and Welsh Ministers to make changes to legislation applying in England and Wales respectively to facilitate mutual recognition of bus passes throughout the United Kingdom for passes issued in concessionary travel schemes in England, Scotland, Wales or Northern Ireland. If implemented, this would standardise the statutory minimum concession in England and Wales. The flexibility for the administrations in England and Wales to vary the scope of the concession in their respective territories is retained by the Act.

Implementation

10. The provisions in the Act came into effect on 17 October 2007, following Royal Assent on 19 July 2007. Commencement provisions permitted the Secretary of State for Transport to issue guidance and to make regulations, which were considered necessary to enable TCAs to prepare for and produce a standardised new design of travel permit (bus pass) to issue to their eligible residents in time for the start of the mandatory concession in the following year, which came into effect in England on 1 April 2008.

Preliminary assessment of the Act

Legislative background

11. In England, the provisions of the Act developed the geographic coverage of the mandatory national bus travel concession, firstly, for residents outside Greater London under sections 145 to 150 of the 2000 Act and, secondly, for residents of Greater London under sections 240 to 244 of the 1999 Act.
12. Prior to commencement of the Act, under the existing 2000 Act provisions, those persons resident in English local authorities outside London eligible for concessionary travel were entitled to free travel on local buses at off-peak times (defined in the 2000 Act as from 09:30 to 23:00 Monday to Friday and at all times at weekends and bank holidays) solely in the TCA in which they were resident. At the time of commencement of the Act, TCAs in the shire counties were lower tier authorities, i.e. district councils.
13. In the 2000 Act a TCA was defined as a local authority at the lower tier, a unitary authority or an Integrated Transport Authority. In the 1999 Act Greater London was defined as a single TCA, with residents eligible in Greater London entitled to a more generous concession throughout the capital provided by the London free travel scheme.
14. Section 2 of the Act sets out the scope of the national concession with reference to section 146 of the 2000 Act. It changed the definition of a TCA in Greater London to a "London authority" so that each London Borough and the Common Council of the City of London became a TCA. This was necessary to ensure that bus operators would be reimbursed for eligible services which began in an authority's area, run under "London service permits" by London authorities, along with journeys made on Transport for London's "London bus network" defined in section 242(3) of the 1999 Act.
15. The existing concession in London had characteristics which needed to be safeguarded by the Act. Section 240 of the 1999 Act enables TCAs to enter into arrangements under which travel concessions can be offered to certain categories of people and on certain modes of public transport, including the London bus network. If these voluntary arrangements do not fulfil particular criteria, including provision of the concessions set out in section 242(8) of the 1999 Act, then a "reserve free travel scheme" will come into effect in London, defined in section 241 of the 1999 Act.
16. So that persons resident in England outside London can obtain the concession when using buses in London, section 4 of the Act alters section 240 of the 1999 Act to ensure that those persons resident outside London and holding bus passes issued by TCAs under the 2000 Act can be recognised as an eligible category of persons. It also ensures that London authorities will issue passes only to those whose "sole or principal residence" is in their authority area and that London authorities must have regard to any guidance issued about eligibility regarding residence that may be issued by the Secretary of State.

17. Section 241 of the 1999 Act provides that if voluntary arrangements made between Transport for London and local authorities under section 240(1) of that Act do not provide certain minimum travel concessions to eligible London residents, then a "reserve free travel scheme" will come into effect to safeguard those concessions. The terms of the reserve free travel scheme are set out in Schedule 16 to the 1999 Act. Sections 5 and 6 of the Act add to the "minimum concessions" set out in section 242 of the 1999 Act which must be secured under the section 240(1) arrangements, so that they include the national concession for all eligible England residents travelling on journeys which begin on the London bus network, whether or not the journey ends on that network. As well as ensuring that the national concession continues to apply, the changes also ensure that eligible London residents continue to benefit from the enhanced concession guaranteed under section 242(8) of the 1999 Act, as the London concession remains more generous than the national concession.
18. To ensure recognition of bus permits (passes), section 7 of the Act amends section 243 of the 1999 Act to include bus passes issued by TCAs under section 145A(4) of the 2000 Act, to enable those eligible residents in England outside Greater London to travel free at off-peak times on London's buses, on condition that they present their pass on boarding. This section also confers a power for the Secretary of State to stipulate the form and validity of passes issued under section 240(1) arrangements, to bring about uniformity in the design of the pass used for the national concession so that passes are easily recognised by bus drivers.
19. As the concession in Greater London extends to rail modes for eligible London residents, section 8 of the Act secures that the Secretary of State can amend relevant parts of the 2000 Act and the 1999 Act by order to expand the scope of the national concession in various ways, for example to apply the national concession to travel on any public passenger transport service or to extend the national concession to any further categories of people who are eligible to be offered concessions under discretionary travel concession schemes set up under section 93 of the 1985 Act. If these powers were implemented, this could allow the national concession to expand in a way that would standardise it across TCAs, whether inside or outside Greater London.
20. The Act secures a power for the Secretary of State to provide a concession other than free travel (a discounted fare rather than a waiver of the fare) to be offered to any new class of person made eligible for the national concession by order under section 8. If implemented, this could broaden the national concession to other categories of person and make the concession available to them, and those currently eligible, at more generous times (e.g. giving free peak-time travel). It should be noted that section 8 is a provision for expansion – it does not provide for reductions in the scope or the available times for the national concession.
21. Section 9 of the Act allows the Secretary of State to amend the administrative tier or centralise the arrangements for the management of concessionary travel schemes and reimbursement, by means of an order. It also provides for changes to other administrative functions such as the issue of bus passes. The

changes to the administrative tier were implemented in 2011 and are described below in the section headed Secondary legislation.

22. Although the Act establishes a national concession in England, in section 10 it provides for reciprocal arrangements so that passes from Wales, Scotland and Northern Ireland could be mutually recognised at an unspecified future date. This section allows the Secretary of State and Welsh Ministers flexibility in deciding which categories of concessionaire will receive which form of concession in England and Wales. There are differences in the national schemes and in bus pass design so before mutual recognition could be pursued there would need to be careful consideration of the practical arrangements with the devolved administrations, including finding a suitable mechanism for reimbursement of bus operators.

Secondary legislation

23. The Act gives enabling powers but much of the practical implementation is through secondary legislation. The effect of the provisions of the Act and the subsequent secondary legislation are summarised below.

Concessionary travel permits

24. Section 1(4) of the Act provides that local authorities in England which are TCAs must issue a travel permit (bus pass) free of charge to those people eligible for the statutory concession whose sole or principal residence is in the authority's area.
25. The standard design of a pass which is recognised for the national concession is defined in The Concessionary Bus Travel (Permits) (England) Regulations 2008 (SI 2008 No. 417). These came into force on 21 March 2008 to be in place for the start of the national concession in April. The regulations defined the dimensions, design and features of the pass including the name and photograph of the holder, the name of the issuing authority, the expiry date, security and "smartcard" features as well as other measures to mitigate against the use of fraudulent passes. They also made provision for transitional arrangements for London's Freedom Pass, which required a sticker to be overlaid on each Freedom Pass issued by authorities in Greater London until 31 March 2010.
26. The Act places an obligation on TCAs to provide the statutory concession to an eligible concessionaire at no charge for the bus pass. The Act made provision for passes to be to a standard specification so that each can be used as a "smart" pass. The standardised design also brings non-monetised benefits of quicker boarding times owing to easy recognition of the pass by bus drivers. It is also an incentive to operators to install to "smartcard" pass readers on buses to obtain accurate information about concessionary travel which can be used as an evidence base in making their reimbursement claims to TCAs.

Eligible services for the national concession

27. Following implementation of the Act, the bus industry and TCAs sought further clarity through the Department for Transport's Working Group as to what

constitutes an eligible service. In particular, operators considered that there was ambiguity about the scope of the mandatory concession and whether it applied to local journeys made within a longer route, such as an inter-urban service having a number of scheduled stops at each end.

28. The Act itself does not define the services eligible for the statutory concession. They were defined previously in secondary legislation, the Travel Concessions (Eligible Services) Order 2002 (SI 2002 No. 1016). The Order defines an “eligible service” under section 94 of the 1985 Act and section 146 of the 2000 Act as a local bus service which fulfils certain conditions.
29. Following a consultation in autumn 2008, the scope of the national concession was further clarified by The Travel Concessions (Eligible Services) (Amendment) Order 2009 (SI 2009 No. 575), which came into force on 1 April 2009. It amends SI 2002 No. 1016 and lists specific types of service which are not eligible services for the purposes of the mandatory concession, so that services which have reserved seating or provide an amenity which is more than providing travel (e.g. a route commentary) are not services eligible for the concession.
30. Excluded services are:
 - Services where more than half of the accommodation on the vehicle can be reserved in advance of travel;
 - Services intended to operate for less than six consecutive weeks;
 - Services operated primarily for the purposes of tourism or because of the historical interest of the vehicle;
 - Bus substitution services; and
 - Services where the fare for the service includes a special amenity element.

Administrative tier

31. The Act sets out powers in section 9 to allow the Secretary of State, by order, to change the mechanism for the administration of concessionary travel schemes. The Department for Transport consulted on proposed changes to the administrative tier in 2009.
32. Following the consultation, the power in section 9(2)(a), (b) and 9(6)(a) and section 11(3) of the Act was implemented to amend Part 2 of the 2000 Act. The change of administrative tier was brought about by The Concessionary Bus Travel Act 2007 (Variation of Reimbursement and Other Administrative Arrangements) Order 2010 (SI 2010 No. 1179) in which the provisions for the change of tier came into effect on 1 April 2011. By moving administration to the upper tier, this reduced the number of TCAs outside London from 291 to 89. There was no change to administration for the Freedom Pass in Greater London. London Boroughs and the City remained TCAs as defined by the Act.

33. From 1 April 2011 the obligation to reimburse operators for providing concessions where it had been imposed on a non-unitary district council is instead imposed on the county council for the area in which the district is situated, moving the management of concessionary travel schemes to upper tier authorities.
34. In order to deliver the full benefits of administrative change the Department considered that responsibility for the statutory concession and discretionary concessions should be kept together. Initial engagement with authorities and the bus industry did not establish a clear consensus as to the tier which should administer discretionary concessions.
35. The Department's consultation responses were less indicative on this aspect but further engagement established the majority view in favour of upper tier administration for both elements. Therefore, the change of tier combined moving responsibility for administering both the statutory concession and discretionary concessions, the latter established under powers in the 1985 Act, to be managed jointly by upper tier authorities.
36. The change of tier does not change the discretion of authorities to offer additional concessions under section 93 of the 1985 Act. The Order amended section 93(8) of the 1985 Act so that its definition of a local authority is consistent with that of a TCA under the 2000 Act, so the same tier of authority administers concessionary travel arrangements for both the mandatory concession and any discretionary concessions.

Reimbursement of bus operators

37. The Act makes provision for the Secretary of State to amend by order the 2000 Act regarding the obligation of TCAs to reimburse bus operators. Under powers in the 2000 Act, on 12 May 2011, The Mandatory Travel Concession (England) Regulations 2011 (SI 2011 No. 1121) (the "**2011 Regulations**") came into force to clarify the arrangements for reimbursement and specify the procedure for applications by bus operators to the Secretary of State for Transport regarding the statutory concession.
38. Each TCA must reimburse bus operators which provide eligible local bus services in its area for carrying concessionary passengers. Although no mechanism for the calculation of reimbursement is specified in the Act, it makes provision for the Secretary of State to issue guidance, along with regulations, to set out the means by which TCAs can achieve their objective to reimburse bus operators so that, in regulations, operators are left "no better and no worse off" as a result of carrying concessionary travellers.
39. Operators must not be over-reimbursed as this would constitute State Aid, contrary to obligations under EU law in Regulation (EC) No. 1370/2007. However, Article 3 and the Annex to Regulation 1370/2007 make provision for "reasonable profit" on the obligation imposed on operators. The Act itself does not make provision for this but subsequent reimbursement guidance issued by the Department takes account of "reasonable profit" in calculating appropriate reimbursement.

40. The Act provides a power in section 9(3)(f) to make regulations with regard to the reimbursement of local bus operators, although those powers were not used, and it was not until 2011 that specific regulations governed the management of disputes about the reimbursement for the mandatory concession. As an interim measure, The Department for Transport, TCAs and the bus industry adopted, by convention, the procedures set out in the existing regulations, The Travel Concession Schemes Regulations 1986 (SI 1986 No.77) (the "**1986 Regulations**"), made under powers contained in the 1985 Act, that govern disputes regarding the discretionary travel concession, as a means to manage disputes about reimbursement for providing the mandatory concession (and applications by bus operators to the Secretary of State in connection therewith). The 1986 Regulations remain in effect relevant to discretionary travel concessions under the 1985 Act.
41. Following implementation of the mandatory concession it was considered necessary to make new regulations following implementation of the Act to take account of the obligation placed on bus operators to provide free off-peak travel, and to provide a mechanism for operators to challenge a TCA's reimbursement arrangements, similar to those regarding mandatory participation in a concessionary travel scheme under the 1985 Act. It was also an opportunity to update and clarify the process for applications to the Secretary of State for Transport by bus operators unsatisfied with reimbursement in a TCA's concessionary travel scheme. The 2011 Regulations were made under powers in the 2000 Act in section 149(3) and sections 150(6) and (7). They came into effect on 12 May 2011.
42. Existing legislation in the 1985 Act provides that bus operators have a right of appeal to the Secretary of State for Transport if they consider that reimbursement is insufficient. This right remains but section 3 of the Act increases the period for bus operators to lodge applications to the Secretary of State from 28 days to 56 days from the date a concessionary travel scheme comes into effect. This gives operators and TCAs more time to settle any disputes about the local reimbursement arrangements by negotiation.
43. Statute does not specify a timetable for determination of an application made to the Secretary of State but in recent years the aim has been to complete determination before the next year's concessionary travel scheme is published by the TCA in the following March.
44. The provision of the statutory free off-peak bus travel concession increased the number of disputes between operators and TCAs about reimbursement. The number of applications by bus operators increased to over 100 per year but in recent years this has reduced to around a fifth of that. Through improved reimbursement guidance, changes to the administrative arrangements for schemes and the introduction of the 2011 Regulations, it has been possible to reduce the number of disputes. In 2011/12, in many cases where operators had lodged applications within the 56 day period, negotiations continued and the disputes were settled locally, so that in 21 cases out of 28 it was not necessary for the Secretary of State to reach a determination.

Other relevant secondary legislation

45. The Act does not define the age of entitlement. The Travel Concessions (Eligibility) (England) Order 2010 (SI 2010 No. 459) changed the age of eligibility for the statutory concession defined in the 2000 Act and the 1999 Act at age 60. This change came into effect on 6 April 2010.
46. The Order modifies section 93(7)(a) of the 1985 Act, section 240(5)(a)(i) of the 1999 Act and the definition of "elderly person" in section 146 of the 2000 Act which make reference to the age of 60 years, substituting a reference to "in the case of a woman, her pensionable age, in the case of a man, the pensionable age of a woman born on the same day". This change does not affect anyone already in receipt of the concession but those born on or after 6 April 1950 become eligible beyond age 60 on a rising scale as they approach pensionable age.

Legal issues

47. The Act recognises the potential for disputes between bus operators and TCAs as a result of obliging operators to take part in the mandatory England-wide concession. Initially, although not directly as a consequence of the Act itself, with the introduction of a mandatory free travel concession, bus operators made large numbers of applications to the Secretary of State on the grounds that there were "special reasons" why the reimbursement offered was not appropriate to their services. A common ground of appeal was that operators should be fully reimbursed for all concessionary trips, including trips made by passengers who would otherwise not have travelled if the concession had not existed. These trips are known as "generated travel" as those passengers are only travelling because the journey is free. The Department's reimbursement guidance states that operators should not receive revenue reimbursement for generated passengers (as, if no concession existed, those passengers would not use the bus) but instead operators should receive a smaller portion of reimbursement regarding the additional costs incurred, such as wear and tear, as a result those generated trips.
48. In 2008, several bus operators applied to the High Court for judicial review of decisions made on behalf of the Secretary of State. These determinations were made in 2007/08 and rejected claims by operators for full fare reimbursement for generated trips. The High Court Judicially Reviewed those determinations jointly in November 2009. The Court did not accept the operators' argument about reimbursement for generated travel and found in favour of the Secretary of State. Notwithstanding the fact that the High Court ruled in favour of the Secretary of State, the Department for Transport deemed it advisable in recent years when updating the Department's reimbursement guidance to add much more detail to give greater clarity about the calculation of reimbursement for additional costs.
49. In 2011, TCAs in one scheme area challenged the powers of the decision maker appointed on behalf of the Secretary of State to determine particular aspects of a bus operator's application regarding reimbursement arrangements. The TCAs considered that the decision maker had acted beyond the scope of his powers regarding an application made by a bus operator. The TCAs

considered that the determination made in 2010/11 had specified a remedy which was not appropriate to the grounds of the appeal as lodged by the operator.

50. Section 150 of the 2000 Act does not actually confer any power on the Secretary of State. It is therefore inferred that the Secretary of State or an appointed decision maker have the power to deal with applications made to him. In the above case the 2011 judicial review claim was withdrawn before permission for a hearing could be granted, as both sides settled the outstanding reimbursement claim. As a consequence, the Department has clarified its guidance on the role and scope of a decision maker appointed to determine bus operators' applications.

Post-legislative reviews

51. In summer 2011, The Transport Select Committee in its report *Bus Services after the Spending Review – Eighth Report of Session 2010–12* (HC 750) considered the role of the statutory concession and community transport services. Currently those services operated under a section 19 permit are not eligible for the statutory concession, as they are for the use of members only. Community bus services operated under a section 22 permit which are sufficiently open to the general public are eligible services. The Government considered that extending the statutory concession to a wider range of community transport services would be prohibitively expensive, and TCAs already have discretionary powers that allow them to extend their schemes to other services locally, so this could form part of a wider transport strategy ensuring that the most vulnerable still have access to transport.
52. It was considered that, where an authority has proposed a reduction of supported bus services in off-peak hours, it could exercise its discretionary powers to extend the concessionary travel scheme to community transport during these times, and this targeted subsidy would enable community transport to replace off-peak bus services for those who most need them. However, the Government's view is that extending the statutory concession to a wider range of community transport services would result in large numbers of passengers moving from local bus services to community transport, as the sector, with its more flexible, personal service, becomes the mode of choice for concessionary pass holders. It could lead to a reduction in regular bus services, with less fare revenue and subsidy for commercial operators, reducing the availability of public transport that is accessible to all.
53. The Transport Select Committee recommended that if the Government genuinely wants to encourage the growth of the community transport sector, it should legislate to permit the use of the concessionary pass on a wider range of community transport services.
54. It also concluded that there is likely to be scope for further cost savings in the management and administration of the concession, particularly with advancements in "smartcard" ticketing technology, and it considered that there may be a case for a one-off payment for the bus pass (although it should be noted that the Act does not permit TCAs to charge an eligible person for a bus

pass). It concluded that the provision of free bus travel for older and disabled people is to be valued and it endorsed the Government's commitment to protecting the entitlement.

55. The Transport Select Committee recommended that the Department for Transport commission further detailed research into the benefits, and usage, of concessionary fares schemes. On a regular basis the Department has carried out surveys to monitor the take-up and scope of travel concession schemes managed by TCAs and further research is proposed to support the Department's guidance regarding the reimbursement of bus operators.
56. In December 2011, the Competition Commission report *Local bus services market investigation* identified certain circumstances in which the arrangements for the administration of reimbursement payments under the concession may distort competition. However, the Commission was satisfied that there are adequate mechanisms to avoid this – in particular, new guidance to transport authorities in England and controls on fare levels used for reimbursement in the schemes in Scotland and Wales. It found that the arrangements for the administration of reimbursement to operators for the concessionary travel schemes in its reference area did not in practice result in a prevention, restriction or distortion to competition. Its finding relies on the new guidance being taken up in England and the continued application of the controls on fare levels used for reimbursement in Scotland and Wales.

Conclusions

57. The following summarises the measures that the Act has delivered and its impacts following implementation.
- The Act has been successful in delivering a national concession which encourages greater use of buses by those people eligible. Recent surveys indicate that the entitlement to free off-peak travel on local buses has generated significant additional passenger journeys, in contrast to the long term trend of bus patronage decline. As a consequence of the Act, the take-up of the concession – there are estimated to be nearly ten million bus passes in circulation in England – has resulted in around a third of bus passenger journeys being made for free.
 - The Act is clear in establishing eligibility for the concession by age but it did not address the difficulty of establishing eligibility by residency, as it does not define an eligible resident. Existing statutes set out the criteria for an eligible disabled person. However, assessment of a person's entitlement for the national concession remains at a local level with each TCA. TCAs therefore have to consider applications for a bus pass from second home owners, boat residents, prisoners, and homeless people registered in their local authority area and also assess their disabled residents who apply in order to ensure that they meet the eligibility criteria.
 - An indirect consequence of the Act, by introducing a national concession to a minimum standard, is the potential loss of discretionary enhancements by individual TCAs. Those enhancements under the 1985 Act, such as concessions for other groups of people or free peak-time travel, are provided by individual TCAs and funded locally. It remains for TCAs to decide whether to retain or withdraw any discretionary elements.
 - The Act retains the flexibility of the administrations in England and Wales to vary the scope of the statutory concession in their respective territories. A consequence of this is that the level of concession differs between England and Wales regarding the eligible age and free travel times, and the different bus passes are not accepted across national boundaries. However, local cross-border concessionary travel arrangements can be established, and some are in place, at the discretion of local authorities in the border areas. Mutual recognition provided by the Act has not been pursued, although discussions have taken place at official level with the Devolved Administrations about how reciprocal arrangements for cross-border concessionary travel could work. There are no plans to introduce such an arrangement at present as the Government is focusing its efforts on finding efficiencies in the management of the existing England-wide concession.
 - An indirect consequence of the Act is the increased potential for disputes between bus operators and TCAs about reimbursement, as a result of introducing a national concession. The management of schemes and reimbursement negotiations remain at local level with individual TCAs, so there is no national reimbursement rate for the England-wide concession. The

number of disputes has reduced substantially in the last two years, and the change in administrative tier to upper tier authorities has brought about economies of scale. New regulations and guidance in 2011 have also contributed to a reduced number of disputes. However, TCAs and the bus industry continue to express concern about the longer term sustainability of the national concession.

- The Act does not set out any mechanism to reimburse bus operators or fund the national concession. Funding to TCAs is unhypothecated in a block grant provided by the Department for Communities and Local Government's (DCLG) formula grant. While a centrally administered reimbursement mechanism, for example by direct payment from the Department for Transport to bus operators, would be welcomed by local authorities and bus operators, it would transfer significant financial risk to the Department and would undermine the current incentive for TCAs to negotiate efficient and appropriate reimbursement arrangements with the operators in their areas. Therefore, the Department has no plans to change the funding mechanism in this way.

Department for Transport

July 2012