



Mandatory Travel Concession (England) Regulations 2011 Post Implementation Review

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

April 2016



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Executive summary

Introduction

- 1 In April 2008, a new England-wide bus concession was introduced, entitling eligible older and disabled people to travel for free throughout the country, unrestricted by local authority boundaries. Today almost ten million people use the national concession, enabling them to remain active in society without fearing the cost of doing so.
- 2 The Concessionary Bus Travel Act 2007, which introduced the extended concession, built upon existing legislation relating to statutory and discretionary schemes. This provided a degree of consistency between the existing and new concessions, although it also resulted in ambiguities in the legislative framework remaining.
- 3 The Mandatory Travel Concession (England) Regulations 2011 (the "MTC Regulations") (Annex A) were intended to clarify the law relating to the reimbursement of bus operators and their right to appeal to the Secretary of State. It confirmed that operators should be reimbursed so that they are left no better and no worse off as a result of their participation in statutory concessionary schemes, provided a framework for negotiating reimbursement rates with operators, and re-balanced reimbursement appeals to reduce the number of speculative applications received.
- 4 The MTC Regulations included review and sunset clauses, and will cease to take effect in May 2018 unless they are renewed. A Post Implementation Review (PIR) has been undertaken during 2015 and this report details its findings. This began with the Mandatory Travel Concession (England) Regulations 2011 PIR Discussion Document, which sought stakeholder's views on the impact of the regulations.
- 5 The PIR has led to a series of very positive findings. Survey respondents were very largely satisfied with each of the Regulations and with the Regulations as a whole. Responses (along with administrative data on appeal numbers) overwhelmingly showed that all three objectives outlined in the March 2011 Impact Assessment (IA) had been met, suggested mitigating actions taken at the IA stage were successful and the Regulations were delivering the intended financial and administrative savings. It should be noted a specific financial figure for these costs could not be calculated though. This is because not all survey respondents provided them, and because the respondents were not every organisation that has seen a change as a result of the introduction of the MTC Regulations.
- 6 As a result of the PIR, the Department wishes to maintain the Regulations as they are and does not see the need to amend or remove any of them.

1. Background to the review

Purpose

- 1.1 This report presents the results of the Post Implementation Review (PIR) of the Mandatory Travel Concession (England) Regulations 2011 ("the MTC Regulations"), consistent with its requirements for post legislative scrutiny.

Legislative context

Legislative history

- 1.2 In April 2008 the Concessionary Bus Travel Act 2007 came into force, introducing free off-peak bus travel throughout England for eligible older and disabled people. In common with the schemes which preceded the national concession, it was administered by local authorities, known as Travel Concession Authorities (TCAs), who were responsible for both the processing of applications and the reimbursement of bus operators.
- 1.3 The 2007 Act was the fifth piece of Primary Legislation governing the provision of concessionary travel which had been introduced since the mid-1980s, the preceding Acts being: the Transport Act 1985, the Greater London Authority Act 1999, the Transport Act 2000, and the Travel Concession (Eligibility) Act 2002.
- 1.4 The Transport Act 1985 set out provisions relating to discretionary travel concessions including at Section 94 provisions relating to the reimbursement of bus operators.
- 1.5 The Travel Concession Schemes Regulations 1986 were made using the Transport Act 1985 powers and provide further details about the calculation of reimbursement payments, including specifying that operators should be reimbursed on a 'no better and no worse off' basis.
- 1.6 The Transport Act 2000 set out provisions relating to the mandatory travel concession scheme outside London and includes at Section 150 provisions relating to the reimbursement of bus operators.¹ The 2000 Act also introduced, for the first time, a national minimum half fare concession for people who had reached state retirement age and those with an eligible category of disability. In 2006 the concession was extended to provide free off-peak travel within the respective authority's boundaries.
- 1.7 In 2008 the national concession was created, with a standard permit design indicating eligibility for free travel on any off-peak local bus service anywhere in England. TCAs also became responsible for reimbursing bus operators for carrying

¹ Provision for concessionary travel in London is provided in the Greater London Authority Act 1999.

any national concession permit holder who boarded an eligible service within their area.

- 1.8 The concession was updated again in 2010, with the harmonisation of eligibility ages for men and women. Men, who had hitherto become eligible for an older person's permit upon reaching state retirement age, were now able to access the concession upon reaching the state retirement age of a woman born on the same day as them.
- 1.9 Until this stage, and despite the creation of a standardised concession across England, authorities were still using the principles of in the 1986 Regulations when conducting their reimbursement activity, leading to a degree of uncertainty around the applicability of their requirements to mandatory concessions, rather than the discretionary ones they were originally intended to regulate. It was also felt that the appeals mechanism by which bus operators could challenge the level of reimbursement negotiated with authorities was disproportionately weighted, and that a more balanced approach, including an equal share of the involved risks, would be more appropriate.
- 1.10 Further, the cost of administering the concession, at this time through lower tier local authorities, was felt to be too high, with considerable duplication of effort across county council level areas.
- 1.11 The Concessionary Bus Travel Act 2007 (Variation of Reimbursement and Other Administrative Arrangements) Order 2010 moved responsibility for administering the concession from lower to upper tier authorities, and the Mandatory Travel Concession (England) (Regulations) 2011 introduced a framework for the reimbursement of bus operators. The latter specified the continued applicability of the "no better, no worse off" principle to mandatory as well as discretionary concessions, permitted authorities to request certain types of information from operators in order to more accurately calculate reimbursement rates, introduced protections for operators, and realigned the balance of risk inherent in the appeals mechanism. The amended legislation also supported revised reimbursement guidance issued in parallel, by defining types of information used to calculate reimbursement and providing legal remedies to obtain it.
- 1.12 European Regulation No 1191/69 (as recently amended by Regulation 1370/2007) also has relevance for concessionary travel schemes as it sets out rules for the calculation of 'compensation' in order to ensure both over, and under, compensation are avoided. The Regulation was considered in the Judicial Review hearing on reimbursement of bus operators in November 2009.²

Mandatory Travel Concession (England) Regulations 2011

- 1.13 In September 2010 the Department for Transport initiated a public consultation seeking views on changes to the standard methodology for calculating bus operator reimbursement, and on proposed amendments to secondary legislation, providing a framework for reimbursement negotiations and appeals. The legislative measures were taken forward as the Mandatory Travel Concession (England) (Regulations) 2011³ (the "MTC Regulations"), which were commenced on the 12th May 2011.
- 1.14 The MTC Regulations addressed three core policy issues:

² *First Essex Buses Ltd v Secretary of State for Transport*, [2009] EWHC 3024 (Admin) (<http://www.bailii.org/ew/cases/EWHC/Admin/2009/3024.html>)

³ Mandatory Travel Concession (England) Regulations 2011 (<http://www.legislation.gov.uk/ukSI/2011/1121/contents/made>)

- a. Ensuring that all concessionary travel schemes adhered to the reimbursement principles originally specified in the 1986 Regulations, whether mandatory or discretionary in nature, and ensuring that those provisions remained relevant;
 - b. Ensuring that operators were not incentivised to submit speculative reimbursement appeal applications by an imbalance of risk which meant that the rate already negotiated could not be reduced by the Secretary of State; and
 - c. Supporting the newly developed revised reimbursement guidance by ensuring that authorities had a legal basis to request certain types of information from operators, integral to the calculation of an accurate rate, whilst protecting certain categories of commercially sensitive information.
- 1.15 Regulation 1 of the MTC Regulations specifies that they will cease to have effect on the 12th May 2018, seven years after their commencement, whilst Regulation 2 requires the Secretary of State to undertake a review and publish a report on its conclusions by the 12th May 2016. This document is the Post Implementation Review report for the purposes of this requirement.

Review methodology

- 1.16 The Secretary of State is legally obliged to undertake a review of the MTC Regulations before its review period lapses in May 2016. The review has been conducted consistent with Regulation 2 of the MTC Regulations, and with applicable Government guidance on the conduct of post implementation reviews.
- 1.17 Regulation 2 of the MTC Regulations states:
- “Review*
- 2.—(1) Before the end of the review period, the Secretary of State must—
 carry out a review of these Regulations;
 set out the conclusions of the review in a report; and
 publish the report.
- (2) The report must in particular—
 set out the objectives intended to be achieved by the regulatory system established by these Regulations;
 assess the extent to which those objectives are achieved; and
 assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less Regulation.”
- 1.18 In addition to the above statutory provisions Government policy provides a framework for the undertaking of post implementation reviews which is described in Guide for Conducting Post Implementation Reviews (August 2015)⁴. Section 1.2 of the Guide describes the purpose of a Post Implementation Review (PIR) as follows:
- "A PIR, in the context of a regulation, is a process to assess the effectiveness of a regulation after it has been implemented and operational for a period of time. It

⁴ Due to the timings of this Review, an earlier version (9 October 2015) of the PIR Guidance was used.

addresses the extent to which a regulation is achieving its intended effects, whether there have been any unintended effects, how well it is working and the reasons why.

A PIR provides the analysis required for reviews of regulations, including reviews required under statutory review provision⁵. Those reviews seek to help manage the level of regulation and limit the burden on business. They seek to establish whether, and to what extent, the regulation:

- has achieved its original objectives,
- has objectives which are still valid,
- is still required and remains the best option for achieving those objectives; and
- can be improved to reduce the burden on business and its overall costs.

The statutory review report answers the questions set out in the review provision and the PIR provides the analysis to support decisions about the next steps with a regulation, which are:

- renewal,
- amendment,
- removal; or
- replacement.
- for a non-statutory review the PIR process can be tailored to the review's requirements."

1.19 Further, Section 2.2 provides advice on assessing the proportionality of reviews, stating:

"For PIRs, as for other Government activity, the need for good quality evidence should be balanced against other priorities to ensure value for money for the tax payer. This section provides guidance on factors to consider when assessing what level of evidence will be proportionate for a particular PIR.

The primary consideration should be whether the level of evidence collected is proportionate to the scale of the regulation and its expected impact. Where substantial impacts are expected to arise from regulations there may be a stronger case for substantial expenditure to ensure that evidence is captured robustly, so long as such expenditure will make an appreciable difference to the quality of the evidence collected.

Secondary considerations which may justify a stronger evidence base (and so more substantial resourcing) include:

- whether the regulation is high profile or contentious (so there is a need for robust evidence);
- whether the regulation it is particularly novel or risky or is based on untested assumptions;
- whether there is a lack of established data sources to provide evidence of its impact (so bespoke data collection will be required).

⁵ The Small Business, Enterprise and Employment Bill came into force in 2015, places a statutory duty on UK Government Ministers to include review provisions in secondary legislation that regulates business, except where it is not appropriate to do so.

- 1.20 It may also be helpful to refer back to the IA to see what level of analysis was then judged to be proportionate."
- 1.21 Given the Regulations and proportionality guidance indicated above, and the relatively constrained nature of the impact of the MTC Regulations it has been determined that a low impact review would be appropriate. The regulation is not highly contentious and the original Impact Assessment predicted relatively low costs and benefits.
- 1.22 As such the Review has been conducted internally by the Department for Transport, using a combination of existing data and expertise, and evidence collated from a small scale survey of stakeholders.
- 1.23 The three core themes specified at Regulation 2 of the MTC Regulations has provided a framework for the Review:
- a. What were the objectives and are they still relevant?
We have considered the original objectives of the intervention, as indicated in the 2010 public consultation and Impact Assessment, and the degree to which they remain relevant.
 - b. Did the Regulations achieve the objectives
We invited stakeholders to consider the degree to which the individual MTC Regulations achieved the policy aims identified. We have also sought to identify any unintended consequences of the Regulations.
 - c. How should the objectives be achieved in the future?
Considering views on the original objectives and the resulting Regulations we assessed how the current situation could be improved; how any unmet objectives should be achieved and whether this could be accomplished through non regulatory approaches.
- 1.24 Despite the low-impact approach determined to be appropriate for this Review it was felt that a small-scale survey of affected stakeholders would help us to understand the effect of the legislation within both local authorities and the bus industry, and in particular to confirm that no significant unintended consequences or unforeseen burdens had been created. The exercise took the form of a discussion document circulated to local authorities and bus industry representatives, with responses collected through an online survey. A total of 14 responses were received, providing us with an indication of the stakeholder perspective.
- 1.25 We also invited the Disabled Persons' Transport Advisory Committee (DPTAC), Government's statutory advisors on transport for disabled people, to comment however we were advised that the MTC Regulations had a minimal impact on the experience of national concession bus permit holders and that their input would not be necessary.
- 1.26 In all we received 14 responses via the online survey, out of around 95 organisations which were invited to participate. Of these:
- a. Eight were local authorities (five Unitary and three County Councils);
 - b. Three were Passenger Transport Executives (PTEs);
 - c. Two were contractors for local authorities; and
 - d. One was a trade organisation.
- 1.27 Whilst respondents represented a cross-section of affected stakeholders the sample size was relatively small. Nevertheless, both the quantitative and qualitative

responses provide a useful indication of the effect of the MTC Regulations, which has informed our overall assessment of their efficacy.

- 1.28 Each of the following sections will provide an overview and discussion of the results gained, before a Department for Transport ("DfT") perspective is offered on that section. A conclusion will then be reached that explains what changes, if any, will be made to the Regulations discussed in that section.

2. The original objectives and the corresponding regulations

Introduction

- 2.1 This section will provide an overview of the original objectives that the MTC Regulations intended to achieve. This will consist of the objective itself, followed by a discussion of that objective in greater detail, and clarification as to which parts of the MTC Regulations address that objective. Note that the Regulations are such that there may be overlap, with some Regulations addressing more than one objective. This will lay the foundations for the subsequent section, which will assess the extent to which that objective has been achieved.

Background

- 2.2 The core objectives of the policy supported by the MTC Regulations can be found in the 2010 consultation document "Reimbursement arrangements for the concessionary bus travel scheme in England"⁶ and in the Impact Assessment (IA) for the MTC Regulations⁷.
- 2.3 The IA identifies three core policy problems which the MTC Regulations were intended to address. These are set out in detail below.

The original objectives

Objective one

Description and overview

- 2.4 The first objective was:
- "To improve the clarity of the existing legal framework covering reimbursement arrangements. This will lead to a reduction of administrative burden on TCAs and Operators."
- 2.5 This objective was set to address the problem of uncertainty about the status of reimbursement arrangements between Travel Concession Authorities (TCAs) and Operators for the mandatory English National Concession under the Transport Act 2000.
- 2.6 The core principle underpinning the reimbursement arrangements is "No Better and No Worse Off" ("NBNW"). This is the principle that when being reimbursed for

⁶ Document no longer available online.

⁷ <http://www.legislation.gov.uk/ukxi/2011/1121/impacts>

carrying concessionary permit holders for free bus operators should neither profit, nor be left out of pocket as a result. This requirement was first stated in the Travel Concession Schemes (Regulations) 1986, made under powers in the Transport Act 1985. The 1986 Regulations state:

4. It shall be an objective (but not a duty) of an authority when formulating reimbursement arrangements to provide that operators both individually and in the aggregate are financially no better and no worse off as a result of their participation in the scheme to which the arrangements relate.

- 2.7 The 1986 Regulations include a number of further provisions concerning the conduct of local authorities in reimbursing bus operators, in this case for carrying permit holders for discretionary concessionary schemes.
- 2.8 Whilst the NBNW has, in effect, been applied to all subsequent reimbursement arrangements for statutory, as well as discretionary, concessions legislation was not updated to require this until 2011, with the introduction of the MTC Regulations.
- 2.9 It was therefore a policy objective of the MTC Regulations that they should clarify the status of reimbursement arrangements between local authorities, including reasserting the principle of leaving operators "no better and no worse off" as a result of their participation in schemes.

Corresponding regulations

- 2.10 Clarification on reimbursement arrangements was a core policy aim of the Regulations, and as a consequence it is the one most covered by them.
- 2.11 Ensuring full clarification of the existing legal framework covering legal arrangements was achieved by regulations 4 through 12. They are then further clarified by Schedule 1 of the MTC Regulations, which provides guidelines to be followed by TCAs when publishing reimbursement arrangements.
- 2.12 Regulations 22 to 32 (*Applications to the Secretary of State*) provide further clarification on reimbursement arrangements should an application to the Secretary of State be necessary. However, these feed more directly into objective three, which is discussed below.

Objective two

Description and overview

- 2.13 The second objective was:

"To bring the legal framework in line with current reimbursement practices and revised reimbursement guidance. This will improve clarity and provide necessary legal powers for TCAs wishing to use revised DfT Reimbursement Guidance."
- 2.14 Prior to 2011 the types of information which TCAs could require bus operators to provide in order to calculate reimbursement appropriately were defined in terms of those categories which could not be requested. This resulted in it being difficult to calculate accurately the average fare in the absence of the concession.
- 2.15 It was intended that the amended Regulations would remove this ambiguity by specifically identifying types of information which operators had to provide, though balancing this with a duty for the respective authorities to treat the information in confidence, and not release it unless it was already in the public domain.

- 2.16 In order to allow this and to ensure fairness in the process for all, the Regulations tightened and provided clarity on what data was and was not required to inform reimbursement calculations. This is similar to objective one, which also included providing clarity vis-à-vis the Regulations, so there is some overlap in the Regulations contributing to this objective.

Corresponding Regulations

- 2.17 The third objective was achieved broadly through Part 2 of the Regulations (Regulations 5 through 17 - *Arrangements between Operators and Travel Concession Authorities*) through Regulations 6 and 8, which clarified arrangements between Operators and TCAs, and Regulations 13 and 14, which covered what information may not be required when making reimbursement calculations and what level of access Operators must provide to TCA staff if the TCA wishes to survey passenger numbers or obtain information on other matters relating to journeys.

Objective three

Description and overview

- 2.18 The third objective was:
- "To improve the balance of risk associated with operator appeals on reimbursement arrangements. This will reduce the number of appeals made."
- 2.19 Before the MTC Regulations were commenced the Secretary of State, or rather the Decision Maker acting on his behalf, had powers only to adjust upwards the rate of reimbursement received by a bus operator where it was believed that the scheme would leave them worse off.
- 2.20 It was proposed that the law should be amended to permit the Decision Maker to respond when it was assessed that a reimbursement scheme was overly generous, removing the existing imbalance of risk and potentially resulting in a reduction in speculative appeal applications.
- 2.21 It therefore became a policy objective to modify the regulations so that the independent decision maker could recommend lower reimbursement.

Corresponding regulations

- 2.22 The role of the decision maker comes into play when an appeal is lodged with the Secretary of State. This consequently means the second objective is covered in Regulations 5 to 17 (*Arrangements between Operators and Travel Concession Authorities*).

3. Achievement of the original objectives

Introduction

- 3.1 Building on the overview of the Post-Implementation Review and each of the policy objectives provided previously, this section will assess the extent to which those objectives have been achieved by the MTC Regulations.
- 3.2 As in the previous section, this will be done on an objective by objective basis, with the exception of the assessment of whether the objectives were relevant. This is because the questions asked relating to the relevance of the objectives grouped all objectives together, hence an objective-by-objective analysis cannot be completed for this section.
- 3.3 This chapter will therefore be structured in the following way:
 - An analysis of the relevance of the objectives as a group
 - An individual analysis of each of the three objectives, identifying and assessing:
 - Whether the objective was achieved.
 - Whether any unintended consequences were created by the Regulations relating to this objective.
- 3.4 An assessment of the wider impacts caused by the Regulations will then be provided in the next chapter. This will be done as a general analysis, as the questions relating to this were asked generally rather than objective or Regulation specifically.

Do the original objectives remain relevant?

- 3.5 Stakeholders were asked the following in relation to whether they felt the original objectives remained relevant:
 - a. Whether the background text provided a fair summary of the policy problem and intervention objectives; and
 - b. Whether the policy problem and intervention objectives remain valid.
- 3.6 Of the 14 survey respondents, all agreed that the summary was fair, whilst 13 felt that the objectives remained relevant.
- 3.7 These questions were intended to help us understand whether the original objectives remain sufficiently relevant to justify the continued effect of the MTC Regulations, however respondent comments suggest that some interpreted the questions differently, stating that the objectives were no longer relevant because the issue had been resolved by the Regulations.

- 3.8 General comments suggested that the "problem" being solved was a real one, and that it would likely remain in the absence of the MTC Regulations. One respondent stated, for instance:

"X County Council managed a X-wide scheme for most of the X district TCAs through the mandatory half fare local, free fare local and free fare national schemes. The absence of mandatory scheme Regulations made for lack of clarity about the status of the reimbursement arrangements mandatory scheme versus the discretionary elements particularly when bus operators wished to appeal against the reimbursement arrangements under the free local and free national schemes. The MTC Regulations largely removed that uncertainty." (County Council)

- 3.9 Another stated:

"As detailed a great deal of uncertainty regarding data provision and appeal consequences existed prior to these Regulations. The risk associated with submitting an appeal has been made consistent to all parties as reimbursement can be lowered, maintained or increased." (County Council)

- 3.10 No comments were received from the only respondent representing the bus industry.

Government position

- 3.11 DfT believes strongly that the original objectives of the MTC Regulations, as identified above, would remain relevant in the absence of the legislation, on the basis that none of the factors which made intervention necessary have changed during the intervening period. For instance, if the MTC Regulations were allowed to expire:
- c. A lack of clarity would exist regarding the applicability of the "no better, no worse off" principle to reimbursement negotiations, as no other legislation exists to provide this;
 - d. The legal basis for requesting data from bus operators vital to the calculation of a reimbursement rate which achieves the "no better, no worse off" principle would be doubtful as no other legislation exists to do this; and
 - e. Operators would once more be able to submit speculative appeal applications in the knowledge that the negotiated reimbursement rate could not be reduced by the Decision Maker, increasing respective local authority costs once more.
- 3.12 Further, we cannot foresee any change in the future which would mean that, in the absence of the MTC Regulations, the objectives would cease to be relevant.
- 3.13 On the basis that the overwhelming majority of survey respondents agree with the Department's position, that in the absence of the MTC Regulations, the original objectives would remain relevant, it is concluded that the rationale for intervening remains the same.

Achievement of the original objectives

As stated above, this section will analyse each objective and, based on the data provided, will assess whether that objective has been achieved. It will conclude by stating whether the Regulations will be renewed, amended, or withdrawn. If they are to be amended, the specific amendments will be discussed.

The survey sent out asked the same question for each of the MTC Regulations that merited survey evaluation. Some Regulations were not questioned, but these were the more factual or descriptive ones, for example the Interpretations section, which provides a definition of terms. The following questions were asked:

- Has this Regulation contributed to, detracted from, or had no impact on the achievement of the original policy objectives?
- Has this Regulation resulted in any unintended consequences, positive or otherwise?
- Please provide any comments on this Regulation.

Objective one

3.14 As a reminder, objective one was:

"To improve the clarity of the existing legal framework covering reimbursement arrangements. This will lead to a reduction of administrative burden on TCAs and Operators."

Was objective one achieved?

- 3.15 Objective one was addressed predominantly through Regulations 4 through 12. Questions that focused on these Regulations showed clear support for them, as all carried a majority of respondents saying they positively contributed to the Regulations. Furthermore, there was only one instance across these Regulations of a respondent saying the Regulation had detracted from policy objectives. Statistically, there was 69 instances of respondents stating these Regulations contributed to the achievement of the objective, compared to 27 'no impact' responses and only one instance of a respondent saying one of these Regulations had detracted from the achievement of policy objectives.
- 3.16 Qualitative feedback relating to the Regulations that cover objective one was also very positive. This can be seen on a Regulation by Regulation basis in Annex B. A high level summary of this is that these Regulations have positively contributed to the achievement of the original policy objectives, and have confirmed the NBNW principle.
- 3.17 Comments from respondents supported the view that these Regulations had no impact towards the achievement of objective one. Many respondents felt that either the NBNW principle was already enshrined in the Regulations, or worked in organisations whose corporate policy was sufficiently rigorous so as to not need the Regulation amendments being analysed here.
- 3.18 The only respondent indicating that the Regulation detracted from the policy objectives used similar rationale to those who felt it had no impact, stating that whilst they made a few payments consistent with the Regulation, this was not practicable in the majority of cases
- 3.19 It is difficult to assess the degree to which individual schemes are compliant with the "no better, no worse off" principle, however anecdotal evidence suggests that the inclusion of this Regulation provides a degree of certainty about its use, something that was not present before the MTC Regulations were commenced. It is important to reiterate that there was only one instance where a respondent felt the Regulations hampered this objective, and the qualitative comment supporting this suggested this

was due to their organisation already having sufficiently rigorous processes to calculate NBNW.

Did objective one create any unintended consequences?

- 3.20 An overview of survey respondents shows there were minimal unintended consequences created by Regulations 4 through 12. Statistically, there were 10 instances of an unintended consequence being suggested, significantly less than the 81 instances of respondents suggesting no unintended consequences were created. Seven respondents said they did not know when asked if any of these Regulations created an unintended consequence.
- 3.21 A few different suggestions were made for unintended consequences that were created as a result of these Regulations. These were varied, so it is not possible to provide an analytical overview of them.
- 3.22 In relation to Regulation 10, one respondent suggested the added layer of requirements meant more bureaucracy for his or her organisation. The Department understands this concern, though maintains it was very much an expected consequence of the Regulations.
- 3.23 Another suggested unintended consequence, in this instance relating to regulation 11, was that the benefits of the Regulations would be more easily realised by larger organisations than smaller ones.
- 3.24 The Department contends that this was always expected. As applications require more work in light of the new Regulations, it naturally follows that larger operators will have more resource capability in order to meet these requirements.
- 3.25 The Regulations mitigate against this in two ways, and consequently the Department believes the Regulation should be kept as it is. Firstly, small businesses do not have to provide fares and sales data, and secondly, if their annual mileage is under 150,000, they can negotiate their settlement rather than following the guidance.
- 3.26 Although some unintended consequences were identified in the Regulations relating to objective one, the Department intends to keep the Regulations as they are. This is because suggestions were few and far between, and considerably outweighed by the respondents that said no unintended consequences were created.
- 3.27 The Department is also concerned that amending the Regulations as a result of these comments might also lead to further unintended consequences being created.

Objective two

- 3.28 As a reminder, objective two was:

"To bring the legal framework in line with current reimbursement practices and revised reimbursement guidance. This will improve clarity and provide necessary legal powers for TCAs wishing to use revised DfT Reimbursement Guidance."

Was objective two achieved?

- 3.29 Objective two was covered by Regulations 5 to 17 (*Arrangements between Operators and Travel Concession Authorities*) of the MTC Regulations. An overview of respondent's views on whether Regulations 5 to 17 contributed to the achievement of this objective show convincingly that it did. There were 97 instances of respondents saying the Regulation contributed to the achievement of the objective,

contrasted with 52 saying it had no impact and only two cases where a respondent felt one of the Regulations did not contribute to the achievement of the objective.

- 3.30 Several respondents commented directly that Regulations 5 to 17 had contributed to the achievement of policy objectives, often stating they had improved clarity surrounding reimbursement and the NBNW principle. A good example of this is one of the respondents to Regulation 8, who stated they were having difficulties with data requests from Operators, but thanks to Regulation 8 their requests had much more weight behind them.
- 3.31 One of the difficulties identified when creating the Regulations was how making it easier for TCAs to access commercially sensitive information, which can be essential in the fair calculation of reimbursement, from Operators would be handled. For instance, it needed to be ensured that information would be safeguarded and kept private (unless the information was already public). This was treated by Regulation 12 in particular. It was therefore very positive to see one respondent comment that Regulation 12 had reduced the reluctance of Operators to provide commercially sensitive information by ensuring they had some control over its use. That respondent also stated this was to the benefit of both parties.
- 3.32 The number of respondents saying Regulations 5 to 17 had no impact on the achievement of objective two was certainly not insignificant, though it is important to remember that the number of respondents saying a Regulation positively contributed did outweigh the 'no impact' responses in the vast majority of cases.
- 3.33 Many of the respondents that said a Regulation had 'no impact' on the achievement of the policy objective declined to leave a qualitative comment. Of those that did, in multiple instances (Regulations 6, 7, 9, and 10) this was because their organisations either used such practices already or had enshrined them into internal regulations. It therefore makes sense that the MTC Regulations would have no impact for them, as they were already operating in such a way.
- 3.34 Regulation 16 proved to be an outlier in that a strong majority felt that it had no impact (10) versus those that felt it did (three). However, analysis of the qualitative comments show that this was because many organisations had never needed to utilise this Regulation, hence why they felt it had no impact. The Department however still believes the Regulation is worthwhile and necessary, evidenced by the three respondents that felt it contributed to the achievement of objective two.
- 3.35 It is critical to remember that the Regulations are all interlinked. Whilst each must be assessed individually in order to make sure they function correctly and to zoom in on potential amendments, a judgement on whether the objective has been achieved can only come from an evaluation of them as a whole. It seems clear from both the qualitative and quantitative data above that Regulations 5 to 17 contributed very successfully to the achievement of objective two. The Department therefore wishes to keep these Regulations as they are.
- 3.36 Where Regulations were seen to have no impact, this was often because the respondents either already had such Regulations written down in internal rulebooks, or had not needed to utilise the Regulation (e.g. Regulation 16, which concerns the use of a PSV license holder). The Department feels such responses, though valid, cannot be taken into account when judging the utility of the Regulations. In fact, that an organisation already mimics the Regulation in their internal framework suggests the necessity of that Regulation.

Did objective two create any unintended consequences?

- 3.37 Analysis of the statistical data relating to questions that asked whether the Regulations related to objective two suggests overwhelmingly that it did not. Of the 13 Regulations that make up objective two, there were only 16 instances where an unintended consequence was suggested. This is in comparison to 160 instances where no unintended consequences were identified, and 14 'don't know' responses.
- 3.38 Many of the instances where an unintended consequence was suggested, positive or negative, were not backed up with qualitative explanations. An overview of the comments that were provided also does not suggest a theme across the Regulations relating to objective two. Consequently, this section must analyse the responses on a Regulation by Regulation basis, and will focus on the Regulations that contain the majority of suggested unintended consequences.
- 3.39 Regulation 7 contained nearly one third of suggested unintended consequences (five), but this was still outweighed by nearly twice as many respondents stating no unintended consequences were created (nine). Regulation 7 has flexibility built into it, such as when or at what level payments can be made, so unintended consequences would always have occurred. The Department acknowledges those mentioned for this Regulation, but also notes the same respondent says the Regulations achieve policy objectives.
- 3.40 One theme that was suggested in relation to other objectives, though not repeatedly for objective two, was that the Regulations disproportionately affect smaller businesses. The Department contends that this was always expected. As applications require more work in light of the new Regulations, it naturally follows that larger operators will have more resource capability in order to meet these requirements. The Regulations also mitigate against this in two ways (as discussed in paragraph 3.25).
- 3.41 Regulations 8, 12, 13 and 14 all focussed on what data may and may not be provided by Operators at the request of TCAs. Suggestions of an unintended consequence in relation to these regarded concerns about the appropriate handling of this data. The Department evaluated which data may or may not be required when developing the MTC Regulations. The Department acknowledges the suggestion that disputes may arise over what data should be incorporated in the calculation of reimbursements, but ultimately feels these are necessary exclusions that protect operators. This is shown in the fact that a strong majority of respondents in all of these Regulations said no unintended consequences were created.
- 3.42 In conclusion, as each Regulation boasts a strong majority of respondents saying no unintended consequences were created, and that many suggestions of an unintended consequence were not backed up with qualitative statements, the Department does not believe there is enough evidence to merit amending the Regulations. Some qualitative statements were made, and these have been addressed above. The Department does not believe these, which remain a small minority of overall responses, merit amending the Regulations.

Objective three

- 3.43 As a reminder, objective three was:

"To improve the balance of risk associated with operator appeals on reimbursement arrangements. This will reduce the number of appeals made."

3.44 Prior to analysing the survey responses to this Regulation, it is important to note whether the number of appeals has actually decreased. The table and corresponding chart below shows the number of appeals received, which has been broken down firstly the number of appeals upheld, and secondly the number of appeals withdrawn, dismissed or deemed not valid:

Appeals Year	Number of Appeals Upheld	Number of Appeals Withdrawn, Dismissed or Deemed Not Valid
2006/7	38	31
2007/8	34	70
2008/9	22	78
2009/10	33	16
2010/11	9	17
2011/12	5	23
2012/13	1	12
2013/14	0	6
2014/15	5	10

Table 1: Number Of Appeals By Year, Pre & Post-MTC Regulations (Summary Of Responses)

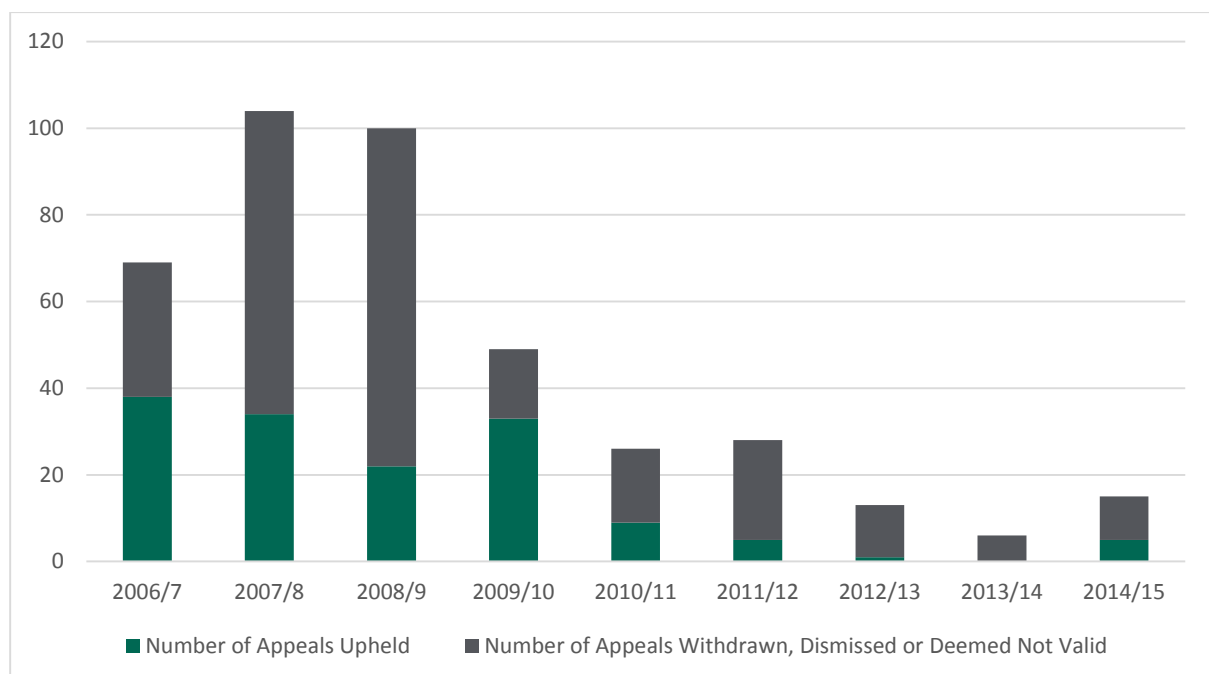


Figure 1: Number Of Appeals By Year, Pre & Post-MTC Regulations (Summary Of Responses)

3.45 When the concessionary travel scheme was first implemented, there was much uncertainty over the level of reimbursement that bus operators were meant to receive as well as some thinking they were undermining the NBNW principle. Given this,

there was a sharp rise in the number of appeals received, sometimes going considerably over 100. This peak in the number of appeals continued until the new MTC Regulations were introduced in 2011. Apart from a small increase post the introduction of the Regulations, the number of appeals has fallen year on year to below 20. In terms of number of appeals upheld, this has fallen, with a small increase in 2014/15. This was due to a major change in the reimbursement calculator and guidance. In comparison, the number of appeals withdrawn, dismissed or deemed not valid has also decreased continuously apart from a small increase in 2014/15.

Was objective three achieved?

- 3.46 Objective three is covered by Regulations 22 to 32, the section titled *Application to the Secretary of State*. The questions focussing on these Regulations yielded very interesting results. All but one of the Regulations was viewed to have had 'No Impact' on the achievement of the objective. Statistically, there were 141 instances of respondents citing a Regulation had 'no impact' in the achievement of the objective, compared with 53 instances of Regulations contributing to the achievement of the objective, and only three instances of the Regulation detracting from the achievement of the objective.
- 3.47 When asked whether objective three had been met (in a separate part of the questionnaire), responses showed clearly that survey participants felt it had. Similarly, when asked to what degree the Regulations had helped achieve objective three, participants responded overwhelmingly that they had fully helped. Very few comments were left on the value of Regulations 22 to 32 in achieving objective three, however of those that were, it becomes clear that many of the respondents had not interacted with these Regulations as the number of appeals has sharply fallen since the Regulations were implemented.
- 3.48 It therefore seems that participants responded that the Regulations themselves had no impact on the achievement of objective three, but that the change in Regulations (most likely the alteration that reimbursement claims can now be reduced) caused the sharp decline in appeals and therefore for the objective to overwhelmingly be achieved.
- 3.49 As objective three has been achieved, the Department does not intend to alter the Regulations for this purpose. Furthermore, the Department does not feel there is enough evidence to warrant altering the applications procedure, as there are only a minimal number of claims to base such a change on.

Did objective three create any unintended consequences?

- 3.50 The responses to whether objective three created any unintended consequences followed the same lines as the two previous objectives. Overwhelmingly the answer is no, but some suggestions were made. Statistically, there were 113 instances of respondents saying no unintended consequences were created, versus 15 instances of yes, and 26 cases where respondents did not know.
- 3.51 Three core themes can be deduced from the suggestions that unintended consequences were created, though these are Regulation specific rather than related to objective three generally.
- 3.52 Relating to Regulation 24, one respondent noted that "the process has become more formalised, which has helped with focussing on the core issues and their resolution".

The Department acknowledges this as an unintended consequence, but sees it as a positive and therefore something worth keeping.

- 3.53 The suggestion of an unintended consequence created by Regulation 26 was followed by a qualitative description that was more to do with Regulation 25. This was the suggestion that 14 days to comply with data requests from the secretary of State was insufficient. The Department notes the suggestion of an unintended consequence and does not wish to set a deadline that is insufficient. However, the Department does not feel this is the case. It is important to maintain efficiency in decision making, but also to allow enough time for further statements and documents to be prepared to a high enough standard to help that decision making. The Department feels 14 days is the appropriate mid-point between these two.
- 3.54 It should also be noted that one respondent provided the same qualitative statement as an explanation for many of the unintended consequences they suggested. This statement expressed difficulties encountered in the appeals procedure, but acknowledged that the Regulations were not followed. The Department does not believe the Regulation should be altered as a result of an unintended consequence when the Regulations are not followed.

Conclusion

- 3.55 Based on the responses to the survey and the analysis of this provided immediately above, the Department intends to keep the Regulations as they are. For both objectives 1 and 2, a majority of respondents stated the Regulations had contributed to the achievement of policy objectives. Although for objective three a majority said the Regulations had no impact, upon further analysis this was because many respondents had not needed to utilise the Regulations relating to an appeal to the Secretary of State. In all instances a clear majority stated that no unintended consequences were created. Though some suggestions were made, these have been discussed above, and on the balance of evidence and the achievement of all three policy objectives, the Department does not wish to amend the Regulations (and risk creating more significant unintended consequences).
- 3.56 A full breakdown of survey responses, a Regulation by Regulation summary of whether each Regulation has contributed to policy objectives and a DfT perspective on each of these, can be found in Annex B. A similar breakdown, summary of responses and DfT perspective, though this time relating to whether any unintended consequences have been created, can be found in Annex C.

4. Assessment of wider impacts

Introduction

- 4.1 Respondents were also asked to assess the wider impact of the MTC Regulations on their business and those around them that they interact with. This took the form of eight questions that covered the impact on small and micro businesses that the respondent's organisation interact with, burdens on any other business that was not considered in the Impact Assessment, whether the Regulations have created and other costs or benefits for the respondent's organisation, and the cost and evidence underpinning these. The following questions were asked, with respondents expected to comment in relation to the Regulations as a whole:
- Have these Regulations created any problem for small or micro businesses (up to 50 employees) beyond those anticipated in the Impact Assessment?
 - If yes, please explain your response.
 - Have these Regulations created any burdens for any other businesses or organisations other than those anticipated in the original Impact Assessment?
 - If yes, please explain your response.
 - Have the Regulations resulted in any new costs or benefits for your organisation?
 - Please state the average annual value of any benefit to your organisation as a result of the Regulations.
 - Please state the average annual value of any costs to your organisation as a result of the Regulations.
 - Please provide evidence to support your response to questions 52.2 and 52.3 [the two questions immediately prior to this one] including any non-monetised costs or benefits.
- 4.2 This chapter will group these questions into two themes, 'Impacts on Other Businesses' and 'The Generation of Wider Costs or Benefits'. The responses to each will be discussed, before a Departmental perspective and conclusion is provided.

Impacts on other businesses

- 4.3 Two questions covered the impact the Regulations have had on small and micro businesses and on other businesses not covered in the Impact Assessment. The statistical responses to these were identical, with three respondents stating the Regulations had an impact on small and micro businesses or on those not covered in

the Impact Assessment, three saying they did not know, and eight saying the Regulations had not had a wider impact.

- 4.4 The three that answered yes to these questions also offered similar supporting statements. Broadly speaking, they felt the Regulations were more detrimental to smaller and micro businesses and smaller businesses not included in the Impact Assessment because the Regulations meant more work needed to be done, which carries a greater impact on smaller businesses because they have less administrative resources at their disposal.
- 4.5 The majority of those that answered no to these questions did not provide further evidence supporting this, which is to be expected. Those that did provided a counterweight argument to the respondents that said yes, identifying that different options and reimbursement methodologies are in place for smaller operators, which alleviates the administrative burden discussion in immediately above.

Government perspective

- 4.6 In the Impact Assessment conducted for the MTC Regulations, the Department stated that the majority of appeals come from the major groups, in other words those who might be expected to have the resources to assign to speculative applications. Even the smaller operators who do appeal tend to have other operations such as excursions, and hence not all would come under the auspices of smaller businesses.
- 4.7 The Regulations also mitigated the impact that additional work would have on smaller businesses by not requiring them to supply detailed fares and sales data. Furthermore, operators whose mileage is annually less than 150,000 are allowed to negotiate reimbursement rather than follow the guidance. One of the respondents acknowledged this.
- 4.8 Overall, the Department believes the mitigations within the Regulations for smaller businesses is sufficient. Though valid concerns were raised, on the balance of evidence and the situation before and after the Regulations were brought into place, the Department believes that the Regulations have had a very positive effect, and that acceptable mitigating actions are in place for smaller businesses.

The generation of wider costs or benefits

- 4.9 One question determined whether the Regulations have brought any additional costs or benefits to respondent's organisations. Three supplementary questions allowed respondents to provide further information on this, one focusing on the financial costs incurred annually as a result of the Regulations, one on the financial benefits realised annually, and one allowing a greater explanation of either, for instance if the cost/benefit cannot be quantified.
- 4.10 A strong majority (over 70%) of respondents said they had incurred an additional cost or benefit as a result of the Regulations. Only three were able to quantify this, though nine of the 10-strong majority provided supporting evidence.
- 4.11 This evidence was broadly positive, stating that the sharp reduction in speculative appeals meant considerably less work, and as a consequence staff were able to be reassigned to other core elements of the business. The Department was very pleased to hear this, as it shows a direct consequence of the rationale for

intervention with the MTC Regulations. Organisations found quantitative estimates of this saving very difficult to provide, though by way of an example, one said they believed the saving to be around £10,000 per application. The respondent also stated they used to receive multiple speculative applications.

- 4.12 The Department was also pleased to see the additional benefits that were realised matched those anticipated in the original Impact Assessment. These were a reduction in appeal costs for government and TCAs, a reduction in appeal costs for bus operators, reduced administrative costs for TCAs (due to the simplification of regulations) and lower reimbursement being paid by TCAs.

Government perspective

- 4.13 Broadly speaking, respondents realised financial and administrative benefits as a result of the MTC Regulations because of the sharp decline in appeals. As a result of this, respondent's organisations now spend considerably less of their administrative resources working through speculative appeals.
- 4.14 The Impact Assessment made clear its expectations that cost savings would be realised by Central Government and TCAs as a result of effectively removing speculative appeals. The Impact Assessment also made clear this would be very difficult to quantify financially, but estimated in the region of £675,000.
- 4.15 Based on the responses to the questions discussed in this section, the Department is content with the Regulations and believes they support the prediction made in the Impact Assessment. Enough data is not present from respondents to be able to quantify this financially, however the Department believes that on the balance of evidence, the Regulations have delivered a worthwhile financial and administrative saving to both Central Government and TCAs. The Department therefore wishes to renew the Regulations as they are in relation to the wider benefits.

Conclusion

- 4.16 This chapter has discussed the wider impact of the Regulations, firstly on small businesses and those not covered in the Impact Assessment, and secondly the wider costs/benefits realised by TCAs.
- 4.17 The Regulations already contain mitigation for smaller businesses in respect of some requirements, such as the information that has to be provided, in recognition that they have less capacity and resources than larger operators. The Department believes that the mitigations for smaller businesses are satisfactory, and in light of the overwhelming support for the Regulations, does not wish to amend them.
- 4.18 The Department's view is also to keep the Regulations as they are given the results of the analysis relating to the wider costs/benefits created. Again, a majority of respondents realised administrative savings (translating into financial savings) as a result of having far fewer applications to process. This is due to the effective removal of speculative applications as a result of the Regulations reducing the asymmetry of risk.

5. How should the objectives be achieved in the future?

Introduction

- 5.1 In addition to the Regulation-by-Regulation questions stakeholders were also asked to comment on the degree to which each of the policy objectives had been achieved by the Regulations, and how we should ensure they continue to be met in the future. Specifically, the following questions were asked of each of the three objectives:
- To what degree did the Regulations achieve objective [one, two or three]?
 - How should we respond to this objective in the future?
 - Please comment on your responses.

Objective one

- 5.2 Objective one is:

"To improve the clarity of the existing legal framework covering reimbursement arrangements. This will lead to a reduction of administrative burden on TCAs and Operators."

- 5.3 The policy objective here was to clarify the status of reimbursement arrangements between local authorities, including reasserting the principle of leaving operators "no better and no worse off" as a result of their participation in schemes.
- 5.4 The first table below shows to what extent the Regulations as a whole achieved objective one, and the second how the Department should respond to this objective vis-à-vis the Regulations in the future:

Answer	Number of responses
Not at all	0
Partly	3
Fully	11
Objective exceeded	0

Table 2: Degree to which MTC Regulations achieved objective one (summary of responses)

Maintain legislation as it stands	13
Amend legislation to improve solution	1
Repeal legislation and use non-regulatory solution	0
Repeal legislation without alternative solution	0

Table 3: How should the Department respond to the legislation vis-à-vis objective one (summary of responses)

- 5.5 These results are very convincing. In addition to being asked whether the Regulations achieved objective one, respondents also provided information on whether they felt the legislation should be renewed or amended for the purposes of achieving objective one, and to provide further qualitative comment on their opinion and experience of it. The overwhelming majority felt the legislation should be maintained as is, and provided very positive feedback. These comments include:
- "The objective has been met, evidenced by the lack of issues experienced."
 - "The established system is understood, and should be retained."
 - "Clarity that NBNW applies to the 2000 Act concessions has provided a firm basis for operation of concessionary schemes. We see no requirement to adjust the legislation in any way that might bring unforeseen consequences."
- 5.6 In conclusion, the Department is satisfied that the Regulations meet objective one, and does not seek to make amendments to it.

Objective two

- 5.7 Objective two is:

"To bring the legal framework in line with current reimbursement practices and revised reimbursement guidance. This will improve clarity and provide necessary legal powers for TCAs wishing to use revised DfT Reimbursement Guidance."

- 5.8 The policy objective here was to permit the Decision Maker to respond when it was assessed that a reimbursement scheme was overly generous, removing the existing imbalance of risk and potentially resulting in a reduction in speculative appeal applications.
- 5.9 The first table below shows to what extent the Regulations as a whole achieved objective two, and the second how the Department should respond to this objective vis-à-vis the Regulations in the future:

Answer	Number of responses
Not at all	0
Partly	1
Fully	12
Objective exceeded	1

Table 4: Degree to which MTC Regulations achieved objective two (summary of responses)

Maintain legislation as it stands	12
Amend legislation to improve solution	2
Repeal legislation and use non-regulatory solution	0
Repeal legislation without alternative solution	0

Table 5: How should the Department respond to the legislation vis-à-vis objective two (summary of responses)

- 5.10 As with objective one immediately above, the Department is very satisfied with the responses relating to whether the legislation met objective two. The one respondent that said objective two was only partly met went on to comment that they had not experienced the situation directly, but also stated there had been no vexatious appeals in their region since the legislation was introduced. This, they presumed, was a result of legislative changes.
- 5.11 When asked to provide a view on whether the legislation should be renewed or amended for the purpose of achieving objective two, an overwhelming majority again felt it should be maintained. Qualitative feedback was again exceptionally positive, including:
- "We believe current legislation meets objectives provided and it is followed in practice."
 - "The Regulations provide clarity of requirements and processes."
 - "The established system is understood and accepted, and should be retained."
 - "This works well for operators and council."
- 5.12 The Department is ultimately very satisfied with the Regulations and the meeting of objective two, and does not seek to make further amendments.

Objective three

- 5.13 Objective three is:
- "To improve the balance of risk associated with operator appeals on reimbursement arrangements. This will reduce the number of appeals made."
- 5.14 The policy objective here was to amend the Regulations to remove the legal ambiguity by specifically identifying types of information which operators had to provide, though balancing this with a duty for the respective authorities to treat information in confidence, and to not release it unless it was already in the public domain.
- 5.15 The first table below shows to what extent the Regulations as a whole achieved objective three, and the second how the Department should respond to this objective vis-à-vis the Regulations in the future:

Answer	Number of Responses
Not at all	0
Partly	2

Fully	12
Objective exceeded	0

Table 6: Degree to which MTC Regulations achieved objective three (summary of responses)

Maintain legislation as it stands	13
Amend legislation to improve solution	1
Repeal legislation and use non-regulatory solution	0
Repeal legislation without alternative solution	0

Table 7: How should the Department respond to the legislation vis-à-vis objective three (summary of responses)

- 5.16 The Department is pleased that a very strong majority of respondents feel the Regulations have fully met objective three. As with the two previously discussed objectives, the overwhelming majority of respondents felt the legislation should also be renewed as it is, including one of those that said it had only partly met objective three.
- 5.17 Qualitative feedback was again exceptionally positive, including comments such as:
- "We believe current legislation meets objectives."
 - "[User] has not had any issues with said legislation."
 - "Regulations provide clarity of requirements and processes."
 - "The objective has been met, evidenced by the lack of issues experienced."
- 5.18 In light of such strong feedback that objective three has been met, that the legislation should be maintained as is and the encouraging qualitative responses received, the Department is satisfied that objective three has been overwhelmingly met, and does not seek to amend the Regulations any further to this extent.

Government perspective

- 5.19 It is clear from the overwhelmingly positive responses that the three objectives the MTC Regulations set out to meet have all been met. 11 of 14 respondents felt objective one had been fully met whilst 12 of 14 respondents felt objectives two and three had been fully met. When asked whether and which of the Regulations should be maintained or amended to help meet the objectives, feedback was equally positive with an overwhelming majority for all three objectives declaring that no further work was needed.
- 5.20 In light of this, the Department is wholly content to renew the MTC Regulations as they are and to not make any further changes.

6. Conclusions and next steps

Introduction

- 6.1 The PIR set out to answer whether the Mandatory Travel Concession (England) Regulations 2011 successfully met three objectives:
- To improve the clarity of the existing legal framework covering reimbursement arrangements. This will lead to a reduction of administrative burden on TCAs and Operators.
 - To bring the legal framework in line with current reimbursement practices and revised reimbursement guidance. This will improve clarity and provide necessary legal powers for TCAs wishing to use revised DfT Reimbursement Guidance.
 - To improve the balance of risk associated with operator appeals on reimbursement arrangements. This will reduce the number of appeals made.
- 6.2 It also aimed to generate user feedback on each of the Regulations that make up the MTC Regulations, with a view to amending or removing them if necessary.
- 6.3 This chapter will break down into two core sections. Firstly, it will provide a summary conclusion to chapters three, four and five, before providing a final conclusion to the PIR. The second section will explain the next steps, based on the conclusions reached.

Conclusions

Conclusion to chapter three: do the original objectives remain relevant?

- 6.4 The first Review Findings section provided an overview of the initial objectives and discussed whether they had been achieved by the MTC Regulations. The objectives focused on solving three core policy problems:
- Uncertainty about the status of reimbursement arrangements
 - Asymmetry of risk to operators in appeals
 - Uncertainty about the legal basis for requiring bus operators to provide certain types of information
- 6.5 Stakeholders were asked to comment on whether a background text provided on each of the objectives was a fair summary of the problem and whether the policy problem and intervention objectives remained valid. As discussed in this document, this was to help the Department understand whether the initial objectives remained sufficiently relevant to justify the continuation of the MTC Regulations.
- 6.6 All respondents felt the summary was fair, and all but one believe the policy problem and intervention objectives remained valid. The Department has therefore concluded

that in the absence of the MTC Regulations, the original objective would remain relevant, and that the rationale for intervention remains the same. Consequently, the Department has concluded that the original objectives remain relevant.

Conclusion to chapter three: achievement of the original objectives & the creation of unintended consequences

Achievement of the original objectives

- 6.7 The second section set out to answer the question "Were the objectives achieved?" After concluding the problem, objectives and rationale for intervention were correct, the Department wished to understand whether these objectives had been achieved.
- 6.8 To answer this section survey participants were asked to answer a questionnaire discussing each of the Regulations and rating whether they contributed to achieving policy objectives, and no impact on achieving policy objectives or detracted from achieving them. Participants were also able to answer "Don't know".
- 6.9 Survey results and the subsequent analysis showed that policy objectives had very much been achieved by the Regulations. Regulations 3 to 20 were all seen to contribute to policy objectives, some overwhelmingly (with the exception of Regulation 16, though the respondents that left a comment noted they had not interacted with this Regulation). A majority of respondents stated that Regulations 21 onwards (the appeals procedure) had no impact on the achievement of policy objectives, however analysis of the comments shows that many had not interacted with these Regulations due to the sharp decline in appeals.
- 6.10 The Department has concluded that each of the three original objectives has been achieved, and therefore that the Regulations should not be amended or withdrawn.

The creation of unintended consequences

- 6.11 In assessing the MTC Regulations it was important to understand and outcomes or impacts (positive or negative) that were not included in the original Impact Assessment because they were not anticipated or intended. This includes any effects that may have arisen due to a change in the external environment.
- 6.12 When survey respondents were asked to rate whether Regulations had contributed to the achievement of policy objectives, they were also asked to answer whether this Regulation had caused any unintended consequences for them or the people they deal with.
- 6.13 A variety of unintended consequences were suggested by participants, but none of these were deemed sufficient enough to warrant a change to the Regulations. Examples include an additional level of bureaucracy as a result of the more formal Regulations, and hypothetical situations that could arise as a result of the Regulations. Whilst the Department does not intend to add levels of bureaucracy, this was an anticipated and justified consequence of implementing the Regulations. Numerous other responses suggested an unintended consequence had occurred, but this was not developed on.
- 6.14 Some respondents also offered positive unintended consequences as a result of the Regulations. For example, two noted that the formal appeals procedure and deadlines had led those involved to focus on communicating with one another and coming to a resolution without central government intervention.

- 6.15 In conclusion, the number and severity of unintended consequences (both positive and negative) were limited, and consequently the Department does not believe there is any amendments or withdrawals required in order to alleviate and negative unintended consequences or indeed to exacerbate any positive ones.

Conclusion to chapter four: assessment of wider impacts

- 6.16 Closely linked to the unintended consequences section, participants were asked in the final section to provide responses on their perception of the impact of the MTC Regulations on other businesses they deal with, to discuss any potential wider costs or benefits that have been generated by the Regulations, and to provide an indication (quantitative or qualitative) of what these are.
- 6.17 Several respondents noted that they felt the additional work required as a result of the Regulations would be disproportionately felt by smaller organisations that simply did not have the resource capability. The Department had foreseen this in the Impact Assessment and took mitigating actions as a result. Smaller businesses are not required to provide detailed fares and sales data, and those whose annual mileage is less than 150,000 can negotiate a settlement rather than following the Regulations.
- 6.18 Several respondents noted key benefits to their organisation as a result of the Regulations. Core amongst these was that speculative appeals had all but disappeared, which had generated considerable cost/administrative savings to organisations. As staff no longer had to be concerned with the paperwork relating to speculative appeals, they could be reassigned other work. Most organisations found this saving difficult to estimate quantitatively, though as an example, one thought the Regulations were delivering an efficiency saving of approximately £10,000 per speculative application.
- 6.19 The Department was pleased with responses to this section. Though genuine concerns were raised for smaller businesses, the MTC Regulations have mitigating actions in place for these. Beyond this, the benefits and cost efficiencies generated for organisations were very promising. Consequently, the Department does not wish to make any changes to the legislations with regards to this section.

Conclusion to chapter five: how should objectives be achieved in the future?

- 6.20 Survey respondents were also asked to comment on the extent to which each objective should be achieved in the future. This involved ranking to what degree the Regulations achieved each objective (the answers were "not at all", "partly", "fully" or "objective exceeded"). Each objective was discussed individually, and participants were also asked to comment on how they believe the objective should be achieved in the future, or whether it should simply be maintained as is.
- 6.21 Results overwhelmingly showed participants felt the objectives had been met in full. Participants also overwhelmingly felt the Regulations should be renewed as they are because they had solved the policy problems.

Overall conclusion to the PIR

- 6.22 It would be unusual to score 100% in all sections, so some complaints or issues were expected. However, on the balance of evidence, these were minimal in comparison to the strong support the MTC Regulations received.

- 6.23 Based on the findings of this document, the Department believes the objectives and rationale for intervention were correct, that the Regulations have achieved the objectives they set out to, that no significant unintended consequences have been generated, and that the MTC Regulations have generated positive wider benefits. In light of the responses, the Department wishes to renew the MTC Regulations as they are.
- 6.24 The Department contends that any attempt to amend or withdraw the Regulations to correct the small minority of issues could create larger problems and move the Regulations away from their initial objectives.

Next steps

- 6.25 Based on the conclusions reached in the PIR, the Department wishes to renew and continue with the MTC Regulations as they are. The Department does not seek to amend or alter them in any way.

7. Annexes

Annex A: The Mandatory Travel Concession (England) Regulations 2011

Statutory Instruments

2011 No. 1121

Public Passenger Transport, England

The Mandatory Travel Concession (England) Regulations 2011

Made, 13th April 2011

Laid before Parliament, 18th April 2011

Coming into force, 12th May 2011

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 149(3), 150(6), (7) and 160(1) of the Transport Act 2000⁸:

Citation, commencement and cessation

1.—(1) These Regulations may be cited as the Mandatory Travel Concession (England) Regulations 2011.

(2) They come into force on 12th May 2011.

(3) They cease to have effect on 12th May 2018.

Review

2.—(1) Before the end of the review period, the Secretary of State must—

(d) carry out a review of these Regulations;

(e) set out the conclusions of the review in a report; and

(f) publish the report.

(2) The report must in particular—

(d) set out the objectives intended to be achieved by the regulatory system established by these Regulations;

(e) assess the extent to which those objectives are achieved; and

⁸ 2000 c.38

(f) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) “Review period” means the period of five years beginning with the day on which these Regulations come into force.

(a) 2000 c.38

Interpretation

3.—(1) In these Regulations—

(a) “the Act” means the Transport Act 2000;

(b) “applicant” means a person making an application to which Part 5 of these Regulations applies;

(c) “average commercial adult fare” means the average fare paid by adult non-concessionary passengers on any particular route or service of an operator;

(d) “commercial ticket sales” means the number of tickets of any given ticket type sold by an operator to fare paying passengers on any route or service on which the concession is available;

(e) “commercial ticket revenue” means the revenue received by an operator from its commercial ticket sales on any route or service on which the concession is available;

(f) “concession” means any travel concession provided or to be provided in accordance with section 145A(1)(a) of the Act;

(g) “concessionary journeys” means the total number of eligible journeys(b) made on eligible services(c) by persons entitled to receive a concession;

(h) “operator” means an operator of an eligible service on which a concession is claimed;

(i) “payment day” means any day on which a reimbursement payment is due to be made;

(j) “payment period” means the period to which a reimbursement payment relates;

(k) “reimbursement arrangements” include the method of determination and manner of payment of reimbursement by travel concession authorities to operators in respect of concessions to be provided;

(l) “reimbursement payment” means any payment falling to be made in accordance with section 149(d) of the Act;

(m) “standard method” means the method for calculating the amount of reimbursement payments due to operators of eligible services adopted by a travel concession authority in accordance with regulation 9(1).

(2) References in these Regulations to the date on which a notice is given are, in relation to notices sent by post, references to the date on which the notice is, in accordance with regulation 20(3), deemed to be received at the address to which it is sent.

(3) Any reference in these Regulations to estimates or calculations made by a travel concession authority in relation to reimbursement payments is a reference to

estimates or calculations made by the best practical method available to the travel concession authority.

Application

4. These Regulations relate to the concession established under section 145A of the Act and apply in relation to England.

(a) Section 145A(1) of the Act was substituted by section 1 of the Concessionary Bus Travel Act 2007 (2007 c.13).

(b) The term “eligible journey” is defined in section 145A(2) of the Transport Act 2000.

(c) The term “eligible service” is defined in section 146 of the Transport Act 2000.

(d) Section 149(1) of the Act was substituted by section 3(1) and (2) of the Concessionary Bus Travel Act 2007. Section 149(2)(a)(i) and (ii) were substituted by Section 3(1) and (3) of the Concessionary Bus Travel Act 2007.

Part 2

Arrangements between Operators and Travel Concession Authorities Reimbursement arrangements

5. Regulations 6 to 17 apply to the provisions to be included in reimbursement arrangements.

6. It must be an objective of a travel concession authority when formulating reimbursement arrangements for an operator to provide that such operator—

(a) is financially no better and no worse off as a result of providing a concession; and

(b) receives appropriate reimbursement for providing concessions to the persons eligible to receive those concessions.

7.—(1) The payment periods and payment days must be specified in the reimbursement arrangements and—

(a) payment periods must not be longer than three months; and

(b) in relation to each payment period, the payment day must not be later than the day which is half way between the first and last days of the payment period (and, in ascertaining the payment day, no account is to be taken of half days).

(2) Each initial reimbursement in respect of a payment period must not be less than 85% of the amount estimated by the travel concession authority to be due to the operator in respect of the relevant payment period.

(3) The balance of each reimbursement in respect of a payment period must be paid, subject to any adjustments shown to be necessary in the light of information available to the travel concession authority pursuant to arrangements giving effect to

these Regulations, not later than three months after the end of the relevant payment period.

(4) Subject to paragraph (5), if any such balance as is mentioned in paragraph (3) is not paid in accordance with that paragraph, provision must be made for the travel concession authority to pay interest (at a rate not less than the lowest rate at which the travel concession authority is able to borrow at the time) on the amount for the time being unpaid for the period beginning with the last date on which the balance should have been paid in accordance with paragraph (3) and ending with the date of actual payment.

(5) Interest is not to be payable until a reimbursement arrangement has been in operation for six months nor in respect of any period falling wholly or partly within the first six months of operation of a reimbursement arrangement.

(6) If the amount of any reimbursement payment made in accordance with paragraph (2) in respect of any payment period exceeds the total amount of that payment found to be payable in respect of that period, provision must be made for the travel concession authority to notify the operator in writing accordingly and deduct the amount of the excess from the reimbursement payments due to that operator in respect of any subsequent payment period.

(7) If the circumstances described in paragraph (6) arise in relation to a person who is no longer an operator, the travel concession authority must notify that person accordingly and, unless that person disputes the existence or amount of the excess, that person must pay the amount of the excess to the travel concession authority within 30 days of the date of receipt of the notification.

(8) Provision may be made for any reimbursement payment due in accordance with paragraphs (2) and (3) to be made otherwise than in accordance with this regulation in any case where an operator fails to supply information in accordance with reimbursement arrangements giving effect to these Regulations—

(a) in the case of a payment due in accordance with paragraph (2), in sufficient time to allow the travel concession authority to form a reasonable estimate of the amount of the payment; or

(b) in the case of a payment due in accordance with paragraph (3), in sufficient time to allow the travel concession authority to calculate the amount of the payment.

8. Subject to regulation 13, when formulating reimbursement arrangements, a travel concession authority may request information from operators which it reasonably considers relevant to assisting it in the formulation and operation of those arrangements, including—

(a) commercial ticket sales;

(b) commercial ticket revenue;

(c) concessionary journeys; and

(d) average commercial adult fare.

9.—(1) Subject to paragraph (4), in relation to each reimbursement arrangement, the travel concession authority must adopt a standard method to be used.

(2) The standard method must provide for the travel concession authority to take into account any data supplied by an operator who shows that the method by which such data was derived is more appropriate for the calculation of reimbursement payments.

(3) Where the amounts of reimbursement payments are estimated or calculated otherwise than by reference to a standard method, the estimates or calculations must be adjusted if the information upon which they were based is shown to be inaccurate in any material respect.

(4) A travel concession authority that has reason to believe that the standard method used by it is inappropriate in relation to the reimbursement of any particular operator may, at its own cost and expense, make provision for a more accurate calculation of the reimbursement in respect of that operator.

10. Provision must be made for a travel concession authority to review the calculations made in accordance with the standard method at least once in each period of 12 months that the relevant reimbursement arrangement is in operation.

11.—(1) Provision must be made for additional reimbursement payments in any case where the operator demonstrates to the travel concession authority—

(a) that that operator has necessarily incurred costs in providing services on which concessions are available in order to meet the extra demand created by the availability of those concessions additional to those costs that had been taken into account in the standard method; and

(b) that those costs are such that they will not be met by reimbursement payments made in accordance with the standard method during the year in which the costs are incurred or during the three months immediately following the end of that year.

(2) Provision must be made for additional reimbursement payments in any case where the operator demonstrates to the travel concession authority—

(a) that the operator has supplied any information required in accordance with reimbursement arrangements; and

(b) that in doing so it has incurred expenditure which it would not otherwise have incurred.

12. Any information supplied by an operator to a travel concession authority pursuant to regulation 8 or to reimbursement arrangements must only be used for and in connection with the calculation of reimbursement payments and such information must not be disclosed by the travel concession authority except—

(a) with the consent in writing of the operator; or

(b) to the extent to which the information in question has become public knowledge otherwise than by the act or omission of the travel concession authority.

13. Information may not be required on any of the following subjects—

- (a) the cost to the operator of providing any service or services on which concessions are available;
- (b) the total turnover of the business, or of any part of the business, of an operator; and
- (c) the annual rate or amount of the profit or loss of that business, or of any part of it.

14. A travel concession authority may require an operator to allow the officers, servants or agents of that travel concession authority to have access with reasonable frequency to (including the right to travel free of charge on) the vehicles of the operator on which concessions are available for the purpose of—

- (a) surveying or counting or estimating the number of passengers (whether generally or of any particular description) and the fares paid by those passengers; and
- (b) obtaining information on other matters relating to the journeys made by passengers who are eligible to receive concessions and necessary to the calculation by the travel concession authority of reimbursement payments.

Change in services and fares

15. Provision may be made for an operator to inform the travel concession authority of any changes in the services of that operator on which concessions are available, and of any changes in the fares payable by passengers on those services, in either case not later than the day on which the change takes effect.

Employment of administering agents

16. A travel concession authority may not employ as its agent for the purposes of the administration of reimbursement arrangements any person who is a holder of a PSV operator's licence (a).

General restriction on interference with the manner of providing services

17. Except where done to give effect to this Part, reimbursement arrangements may not include provisions compliance with which would require the operator to alter the manner in which that operator provides the services on which concessions are available.

Part 3

Notices

Content of Notices

18. Notices under section 150(4) of the Act must contain the particulars set out in Schedule 1.

19. Notices under section 150(5) of the Act must contain the particulars set out in Schedule 2. Service of notices

20.—(1) Notices required to be given under sections 150(4) and 150(5) of the Act must be—

- (a) delivered by hand;
- (b) sent by prepaid registered or recorded delivery post;
- (c) transmitted, subject to paragraph (2), in electronic format to the proper address of the intended recipient; or
- (d) given by any other means as may be agreed in writing between the person giving notice and the intended recipient.

(2) Written notice may be transmitted in electronic format only where the intended recipient—

(a) The term “PSV operator’s licence” means a PSV operator’s licence issued under Part 2 of the Public Passenger Vehicles Act 1981 (1981 c.14)(see section 82(1) of that Act and section 162(2) of the Transport Act 2000).

(a) has indicated to the person giving notice, and has not subsequently withdrawn the indication, that receipt of notices in electronic format will be accepted; and

(b) has provided the person giving notice with the fax number, e-mail address or other electronic address to which such notices may be sent.

(3) Any notice sent by post in accordance with paragraph (1)(b) is to be deemed to be received when it ought in due course of post to be delivered at the address to which it is sent.

Part 4

Periods of Notice

Prescribed notice period

21. For the purposes of section 150(5) of the Act, the period for giving prior notice of intention to apply to the Secretary of State must not be less than seven days.

Part 5

Applications to the Secretary of State

Application

22. Regulations 23 to 32 apply to applications to the Secretary of State under section 150(3) of the Act for the modification of reimbursement arrangements.

Written Statements

23.—(1) The applicant must, with the notice required to be given under section 150(4) of the Act, submit to the Secretary of State a written statement of—

- (a) the grounds for the application; and
- (b) any reasons or other matters which that person considers to be relevant to the application.

(2) The applicant must, at the same time as submitting the notice and statement to the Secretary of State, send a copy of that notice and of that statement to the travel concession authority.

24.—(1) The Secretary of State may request from the travel concession authority a written statement of any matters which it considers to be relevant to the application.

(2) Subject to regulation 30, the travel concession authority must within 28 days of it having received a request under paragraph (1) submit the written statement to the Secretary of State.

(3) At the same time as it submits the written statement to the Secretary of State, the travel concession authority must send a copy of it to the applicant.

25.—(1) Subject to regulation 30, the Secretary of State may, after the travel concession authority has submitted its written statement, request the applicant or the travel concession authority, or both of them, to submit to the Secretary of State such further written statements and documents as the Secretary of State may direct.

(2) Any such further statements and documents must be submitted within such time as the Secretary of State may direct, but such time must not, unless the applicant and the travel concession authority otherwise agree, be less than 14 days commencing with the date of the Secretary of State's request.

(3) The applicant or the travel concession authority (as the case may be) submitting any further statement or document to the Secretary of State must at the same time send a copy of it to (as appropriate) the travel concession authority or the applicant.

Hearings and Procedure

26.—(1) The Secretary of State may, after the submission of the last written statement or document required under regulations 23 to 25, invite the applicant or the travel concession authority to appear before the Secretary of State.

(2) When the Secretary of State makes an invitation under paragraph (1), the Secretary of State must also invite the applicant or the travel concession authority not invited under that subparagraph to be present.

(3) The hearing pursuant to an invitation from the Secretary of State under this regulation must take place not less than 14 days after the date of that invitation (or, if invitations were given on separate dates, the date of the last of those invitations).

(4) The applicant may appear in person or be represented by counsel, solicitor or any other person.

(5) A travel concession authority may appear by any officer appointed for that purpose, or be represented by counsel, solicitor or any other person.

27. If the applicant or the travel concession authority fails—

- (a) to submit any statement or documents within the time specified by the Secretary of State; or
- (b) to appear before the Secretary of State in response to an invitation from the Secretary of State, the Secretary of State may nevertheless proceed with the determination of the application.

28.—(1) Subject to regulation 27, at any hearing the Secretary of State must give to the applicant and the travel concession authority an opportunity—

- (a) to address the Secretary of State and to amplify the written statement submitted under this Part, to give evidence, to call witnesses, and to put questions to any person giving evidence before the Secretary of State; and
 - (b) to make representations on the evidence (if any) and on the subject matter of the application generally but, where evidence is taken, such opportunity is not to be given before the completion of the taking of the evidence.
- (2) The Secretary of State may receive in evidence any document or information notwithstanding that such document or information would be inadmissible in a court of law.
- (3) Except as otherwise provided in this Part, the procedure at any hearing is to be determined at the discretion of the Secretary of State.

29.—(1) The decision of the Secretary of State, including any decision to increase, decrease or leave unchanged the amount to be paid to an applicant by way of reimbursement, must be recorded in a document signed by or on behalf of the Secretary of State and dated when so signed.

- (2) Such document must contain a summary of the reasons for the decision of the Secretary of State.
- (3) A copy of the document recording the decision of the Secretary of State must be sent to the applicant and the travel concession authority.
- (4) Except where a decision has been announced at the conclusion of a hearing, the decision is to be treated as having been made on the date on which the copy of the document is sent to the applicant.

30.—(1) In this regulation a reference to a “third party” is a reference to a person who is or was an operator but is not the person making the application in question.

- (2) Any statement or document submitted by a travel concession authority, and any statement made on behalf of a travel concession authority appearing before the Secretary of State, must not contain any information relating to the reimbursement of a third party where that information was received by the authority from that third party pursuant to reimbursement arrangements.
- (3) Paragraph (2) does not apply where the third party has given consent in writing to the inclusion of the information.

31. When the Secretary of State determines an application, the Secretary of State may, after giving them an opportunity to make representations, require the applicant

or the travel concession authority, or both of them, to pay such a sum as the Secretary of State may determine towards the expenses incurred by the Secretary of State in connection with the determination of the application.

32.—(1) If the Secretary of State appoints a person to determine an application on behalf of the Secretary of State, the Secretary of State must give notice in writing of the appointment to the applicant and the travel concession authority.

(2) If the Secretary of State appoints a person to determine an application on behalf of the Secretary of State, references in regulations 23 to 30 to the Secretary of State must be read, with effect from the date of the appointment, as references to the person so appointed.

SCHEDULE 1 Regulation 18

Particulars to be contained in notices given under section 150(4) of the Act

1. The date on which the notice is given.
2. A statement giving the date on which notice was given to the travel concession authority under section 150(5) of the Act together with a copy of that notice.
3. A statement giving the date on which the proposed reimbursement arrangements or proposed variation to the reimbursement arrangements was published by the travel concession authority.
4. A statement giving the date on which the proposed reimbursement arrangements (or proposed variation to the reimbursement arrangements) come into operation.
5. As applicable, a copy of the proposed reimbursement arrangements, or proposed variation to the reimbursement arrangements, published by the travel concession authority.
6. The provision of the Act under which the notice is given.
7. A statement giving the grounds of the operator for making the application.
8. If those grounds include a financial loss, an estimate of that loss.

SCHEDULE 2 Regulation 19

Particulars to be contained in notices given under section 150(5) of the Act

1. The name and address of the operator of the service or services to which the notice refers.
2. The name and address of the travel concession authority.
3. The provision of the Act under which the notice is given.
4. The details of each of the services to which the notice refers including—
 - (a) the origin and terminal points; and
 - (b) a description of the route or routes by reference to the principal places served.

The MTC Regulations Impact Assessment referenced in the following questions can be found at: <http://www.legislation.gov.uk/uksi/2011/1121/impacts>

Annex B: Data supporting the question "Were the objectives achieved?"

7.1 Survey Responses

Regulation	Contributed to objective	No impact	Detracted from objective	Don't know
3	11	3	0	0
6	10	4	0	0
7	9	4	1	0
8	12	2	0	0
9	11	2	0	1
10	10	4	0	0
11	8	6	0	0
12	9	5	0	0
13	6	7	1	0
14	11	3	0	0
15	8	5	0	1
16	3	10	0	1
17	5	9	0	0
20	8	5	0	1
21	6	7	0	1
22	2	11	0	1
23	5	8	0	1
24	6	7	0	1
25	6	7	0	1
26	4	5	1	3
27	5	7	0	2
28	4	6	0	4
29	5	7	0	2
30	4	8	0	2
31	6	4	2	2
32	6	8	0	0
Schedule 1	9	4	0	1
Schedule 2	7	6	0	1

7.2 Summary of Qualitative Responses

Regulation	Response summary
3	The majority of respondents indicated that Regulation 3 had contributed to the achievement of the policy objectives. Comments suggested that they felt it successfully clarified the objective of reimbursement negotiations.

Regulation Response summary

One local authority respondent stated:
"The legal definitions have provided greater clarity of the objective of "no better no worse" reimbursement".
Of the three respondents who indicated that Regulation 3 has had no impact none provided comments.

6 The majority of respondents felt that this Regulation had contributed to the achievement of the policy objectives.
One local authority commented: "Regulation 6 has positively contributed to the achievement of the original policy objectives to confirm the principle that the operator should be no better or no worse off as a result of providing the concession and receives appropriate reimbursement for providing the mandatory concession. It is difficult to assess but it provides clarity as to the objective."
Of the four respondents who felt the Regulation had not had any impact only one provided a comment, suggesting that the principle of "no better no worse" was already provided for in law, whilst acknowledging that it was beneficial to restate it in the MTC Regulations in order to provide a single reference for concessionary travel reimbursement:
"It simply restates the original objective, but is necessary to be included in the single comprehensive documents."

7 The majority of respondents felt that this Regulation had contributed to the achievement of the policy objective, with four stating that it had no impact, and one that it detracted from the objectives.
Some respondents who felt that the Regulations contributed to the objectives said that the prescribed processes fitted with their own established practice.
"It clearly states the method by which the objective will be achieved and forms the basis of all X methods, with the exception of C07.2 below. It has therefore contributed to the achievement of the original policy objectives." (Concessionary Travel contractor).
Reasons for indicating that the Regulation has had no impact include existing Council processes being sufficiently rigorous and the Regulations introducing a level of complication which is difficult for some staff to follow. Other comments indicate disconnect between the legislative requirements and the priorities of bus operators. One respondent stated, for instance:
"Requirement to make mid-point payment makes it less clear what individual payments represent. More difficult for operators and those concerned with budgetary control at the authority to understand. The question "how much did we spend on concessionary travel in July" is now ambiguous. It can mean either the reimbursement due for journeys taken in July, or monies paid out in July (which most likely consists of an advance for August and a reconciliation for June). Bus companies generally seem to be concerned with receiving regular payments rather than the niceties of mid-point payment. Therefore a payment can be made in advance of the statutory mid-point deadline but still regarded by the recipient as "late" if after the usual time of month."
The only respondent indicating that the Regulation detracted from the policy objectives used similar rationale to those who felt it had no impact, stating that whilst they made a few payments consistent with the Regulation, this was not practicable in the majority of cases.

8 The majority of respondents agreed that this Regulation contributed to the achievement of the policy objectives, with two indicating that it had no impact.
Respondents indicating a positive effect generally pointed to the difficulty in obtaining the information before the MTC Regulations, and the difference that they had made. One local authority stated:
"This Regulation is essential for the fair administration of the schemes.
"With some operators it is a battle to extract the information from them, but the existence of the Regulation gives weight to our requests."
The two respondents indicating the Regulation has had no impact suggested that they did not have any problem obtaining information required for calculating reimbursement in the absence of the Regulations. A PTE stated:
"X has not experienced any difficulty obtaining the relevant information from operators."
In earlier years this information was difficult to obtain under the operator "commercially Sensitive information" this Regulation ensured that this information must be made available when requested.

Regulation Response summary

9	<p>The majority of respondents indicated that this Regulation contributed to the achievement of the original policy objectives, with two stating that it had no impact.</p> <p>Respondents responding positively generally felt that the Regulations provided them with the flexibility to use the most appropriate method to calculate reimbursement, depending upon the nature of the respective operators. It was however suggested by one respondent that the requirement for TCAs to fund the use of a different method if they deem it appropriate to be balanced with a similar provision for operators requesting the use of a different method.</p> <p>One respondent, whilst agreeing that the Regulation contributed to the achievement of the policy objectives, indicated their concern about the degree of transparency required of TCAs determining the calculation method to be used:</p> <p>"I do not know if it has been an issue in practice, but this Regulation appears to allow an authority to adopt a non-standard reimbursement model for an operator without telling them, which is unsatisfactory." (Trade Organisation)</p> <p>Of the two respondents indicating the Regulation has had no impact one suggested that the standard method and DfT calculator was sufficient for the majority of circumstances.</p>
10	<p>The majority of respondents (10) indicated that the Regulation contributed to the achievement of the policy objectives, whilst four felt that it had no impact.</p> <p>Some respondents noted that regular reviews were already built into their schemes however others felt that the Regulation provided an important safeguard to ensure that the "no better, no worse off" principle was adhered to.</p> <p>One TCA stated that it used a more sophisticated approach to triggering reviews and suggested that the Regulation should be updated to reflect this:</p> <p>"Scheme documents include standard review triggers based on network change, fare revision and patronage variations.</p> <p>"Current Regulation needs to expand on these requirements."</p> <p>Of those who felt the Regulation had no impact one, a PTE, commented that an annual review is built into their scheme.</p>
11	<p>A small majority (eight) of respondents indicated that this Regulation contributed to achieving the policy objectives, whilst six felt that it had not had any impact.</p>
12	<p>The majority of respondents (nine) felt that the Regulation had contributed to the achievement of the policy objectives, whilst five felt that it had not had an impact.</p> <p>All respondents providing comments acknowledged the importance of treating commercially sensitive information carefully. For instance, a local authority contractor noted:</p> <p>"It reduces operators' reluctance to provide commercially sensitive data, by enabling them to retain some control over its use, which ultimately benefits both parties."</p> <p>Some felt that the Regulation served to clarify what information would not be subject to the Freedom of Information Act, whilst others felt that it merely duplicated procedures already in place in their organisation.</p> <p>Whilst noting that the Regulation had contributed to the achievement of the policy objectives one TCA suggested that similar provisions might already exist in other legislation:</p> <p>"X complies with Regulation 12 and it is helpful that it is in force. However it is assumed that Regulation 12 is supported by similar Regulations under the Transport Act 2000 whereby the Transport Authority can require data from operators but this information can only be used for the purposes for which it was intended. Should there be some reference to the 2000 Act Regulations? There is also some protection under the Data Protection Act."</p>
13	<p>A small majority of respondents (seven) felt that this Regulation had had no impact, whilst six felt it contributed to achieving the policy objectives and one felt it detracted from them.</p> <p>Respondents responding positively noted that it was important to safeguard certain types of operator information, whilst noting that it was not always possible to comply with this requirement.</p> <p>Others felt that it was unrealistic to prevent authorities from requesting such data, either because it was in the public domain anyway, or because it was necessary for calculating reimbursement rates accurately.</p>
14	<p>The majority of respondents (11) agreed that this Regulation contributed to the achievement of the policy objectives, whilst three felt that it had no impact.</p>

Regulation Response summary

	<p>Respondents responding positively noted that surveying bus passengers was an important part of their audit processes and that this Regulation clarified their right to do it. It was however suggested that the power should be extended to include auditing records at bus operators' premises.</p> <p>One respondent noted that whilst this Regulation had contributed to the achievement of the policy objectives it would become less relevant as greater use was made of smart data:</p> <p>"We have taken advantage of this in the past, but in the future this will largely be unnecessary as we will have our HOPS system in place, and this will provide us with relevant data." (County Council)</p> <p>Of those who felt that the Regulation had not had an impact, those providing a comment felt that they were able to undertake related audit activity without the powers conferred by the Regulation.</p>
15	<p>The majority (eight) of respondents felt that the Regulation contributed to the achievement of the policy objectives, whilst five felt that it had no impact.</p> <p>Those responding positively generally felt that the Regulation gave weight to existing policies and aided the enforcement of a requirement essential to the maintenance of accurate reimbursement rates.</p> <p>One respondent felt that the requirement was too onerous and that a more pragmatic approach with operators was required.</p> <p>Two of those who felt that the Regulation had not had any impact indicated that the legislation made little difference to processes which were already built into their schemes.</p> <p>One respondent indicating that they did not know the impact of the Regulation indicated that it could usefully be made stronger:</p> <p>"The word "may" should be replaced by "must if requested". It is essential for the efficient reimbursement of operators that the administrator has advance knowledge of such changes."</p>
16	<p>The majority of respondents (10) felt that this Regulation had not had an impact on the policy objectives, whilst three thought that it had contributed to their achievement.</p> <p>Two of those responding positively felt that this was an important aspect of ensuring that the "no better no worse off" principle is upheld, but did not elaborate further.</p> <p>Those who felt that the Regulation had not impacted on the achievement of the policy objectives noted that they did not use contractors, questioned why this provision would be required, or left no comment at all.</p> <p>One respondent who felt that the Regulation had not had an effect questioned its impact on certain categories of contractor:</p> <p>"This does raise a question about the legality of administration of schemes by outsourced suppliers who also provide PSV-licensed services on behalf of that (or other) authorities. I am not aware of any specific case, however."</p>
17	<p>The majority of respondents (nine) felt that this Regulation had not had an impact on the achievement of the policy objectives, whilst five thought that it had.</p> <p>Those respondents indicating that the Regulation contributed to the achievement of the policy objectives and who provided comments acknowledged that it was important for maintaining the independence of bus operators.</p> <p>Most respondents who did not think it had had an impact left no comment. Those that did suggested that this would be an important principle regardless of the presence of the Regulation.</p>
20	<p>The majority of respondents (eight) felt that this Regulation had contributed to the achievement of the policy objectives, whilst five felt that it had not had an impact.</p> <p>11 of the respondents felt the Regulation had not resulted in any unintended consequences.</p>
21	<p>21 respondents said that the Regulation had no impact whilst only six respondents felt that it had contributed in some way.</p> <p>The Regulation had no unintended consequences with only one respondent saying that they did not know.</p> <p>Many felt the Regulation had improve communications between TCAs and bus operators and as a result they had seen fewer appeals.</p> <p>However, it is worth noting that many that answered the Regulation had no impact didn't leave a comment or simply acknowledged that it had 'little impact'.</p>

Regulation	Response summary
	One respondent felt that it 'focusses attention on the need for communication between operators and authorities, and may stimulate negotiation'.
22	Nearly 80% of those that answered felt it had had no impact whilst only two respondents felt it had impacted and contributed in some way. Apart from two respondents answering 'don't know' to whether it had any unintended consequences, the rest had replied saying that it had no unintended impact. It should be noted that one of the respondents has replied 'don't know' too many of the Regulations and has had no explanation to follow it up.
23	There is uncertainty between respondents to whether it had contributed or had no impact to the original objectives. The majority felt that like the changes in other Regulations it had no unintended consequences.
24	Six respondents indicated that it had contributed to the achievement of the original policy objectives compared to seven that felt it had no impact at all. This was reflected when most respondents felt it had no unintended consequences.
25	The same proportion of respondents answered that it had contributed and had no impact as answers to Regulation 24. However, compared to Regulation 24, more felt that it had no unintended impact whilst fewer felt it had contributed. A few commented making note that 14 days isn't long to answer complex data requests.
26	50% of the respondents felt that it had no impact on the original objectives, whilst four felt that it had a contributed. One respondent felt however that it had detracted from the original policy objectives. The reason why many had said that it had no impact is that they either have not come across the Regulation or have not had to use it.
27	36% of respondents felt that it had contributed to the original objectives in comparison to 50% that felt it had no impact at all. 92% agreed that the change in Regulation had no unintended consequences or they didn't know what the impact had been.
28	In line with many of the other Regulations, most felt that the Regulation had had no impact at all on the original objectives and none answered that it had detracted from its original objectives
29	The distribution between those who thought the Regulation had contributed and had no impact at all was fairly equal, with only one more person agreeing it had no impact. None of the respondents felt that it had detracted the original policy objectives. The common response between those who agreed that it had contributed to the Regulations original objectives felt that it improved clarity regarding reimbursement arrangements. One of the respondents stated that 'they would support a deadline for the Secretary of State to make and communicate a decision' whilst another felt 'it had the effect of reducing speculative appeals'.
30	Two thirds felt that the change had no impact whilst only a third felt that it had contributed. In the appeal referred to in our response to C23.3 we were specifically requested to supply information relating to third parties (although not relating to the reimbursement of such); in such instances we believe a formal process should be adopted to ensure that such data is appropriately protected in all instances where an authority must disclose information that could be commercially sensitive.
31	80% felt that the change in Regulation had had an impact on the achievement of the original objectives. Of the 80%, 40% felt that it had detracted in some way with the rest answering it had contracted. Those that felt that it detracted felt this because if it was too applied it would undermine the original policy objectives because the cost of the appeal would be greater than the additional payment secured.

Regulation	Response summary
32	Eight out of 14 felt that the policy change had no impact on the original objectives whilst just under half (six) felt that it had contributed in some way.
Schedule 1	Respondents broadly acknowledged the clarity and necessity of the Schedule.
Schedule 2	Respondents broadly acknowledged the clarity and necessity of the Schedule. One respondent suggested the list was unnecessarily stringent.

7.3 Summary of the Government perspective of the summary of qualitative responses

Regulation	Government perspective
3	The Department intends to keep this Regulation and is confident that all of the definitions serve their intended purpose and that this Regulation contributes to the achievement of the policy objectives. This is evident as the overwhelming majority of respondents stated this, as seen in Table 1.
6	The Department intends to keep this Regulation and is confident that it contributes to the achievement of the policy objective. It is difficult to assess the degree to which individual schemes are compliant with the "no better, no worse off" principle, however anecdotal evidence suggests that the inclusion of this Regulation provides a degree of certainty about its use, something that was not present before the MTC Regulations were commenced. IT is important to reiterate that zero respondents felt this Regulation hampered policy objectives.
7	The Department intends to keep this Regulation. The majority of responses felt the Regulation contributes to the policy objective, and only one felt it actively detracted from the objective. This sole objection provided a very similar reason to the four respondents that stated the Regulation had no impact.
8	The Department intends to keep this Regulation. The majority said the Regulation contributed to policy objectives, whilst two stated it had no impact. As zero respondents felt it detracted from policy objectives, there is no reason for further comment.
9	The Department intends to keep this Regulation, and reiterates that an overwhelming majority feel it contributes to policy objectives. The Department also wishes to reiterate that multiple responses indicated that this Regulation allows for flexibility and for operators to find the most appropriate method to calculate reimbursement.
10	The Department intends to keep this Regulation. Zero responses felt it detracted from objectives and of those that suggested it had no impact, one said this because an annual review was already built into their scheme.
11	The Department intends to keep this Regulation. Although the number of responses stating this Regulation contributed to objectives (eight) only marginally outweighs those saying it had no impact (six), respondents tended to interpret 'contributed to' and 'no impact' as referring to their own circumstances rather than the overall policy objectives. Therefore some of those indicating that the Regulation had no impact commented that they had not needed to use the powers available. That said, the majority of respondents felt that this was an important Regulation, even if ultimately it is rarely used. Overall, the Departmental perspective is that there is no cause or reason to widen or lessen the provisions outlined.
12	The Department intends to keep this Regulation. The majority of responses (nine) felt this Regulation contributed to objectives. Of those that cited 'no impact', some felt this Regulation duplicated procedures already in place within their organisation. Whilst duplication can be frustrating, as these Regulations are not universally duplicated within respondent's organisational frameworks, the Department ultimately believes this Regulation is a necessity.
13	The Department intends to keep this Regulation. Although a small majority (seven) felt the Regulation had no impact, the Department takes the view that this Regulation is a positive and

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	contributes to objectives by safeguarding certain types of operator information. This was the view felt by the six respondents that said the Regulation contributed to objectives.
14	The Department intends to keep this Regulation, noting that an overwhelming majority of responses (11) felt that this Regulation contributed to objectives, whilst a minority (three) felt it had no impact and zero responded saying it detracted.
15	The Department intends to keep this Regulation. A majority felt the Regulation contributed to policy objectives, often citing its value in maintaining accurate reimbursement rates. Just under half of those that felt the Regulation had no impact stated this because their own internal processes had similar Regulations. The Department sees this as a positive, and something that reinforces the validity of the Regulation.
16	Although a majority of respondents stated this Regulation had 'no impact' on policy objectives (10) and only a minority (three) said it contributed, the Department intends to keep it. This is because comments taken from the majority include respondents who do not employ contractors for the purpose of calculating or administering reimbursement arrangements. This distorts the statistical data. To alleviate this, in future surveys of this nature, a 'not applicable' option will be included in questions where this scenario could emerge.
17	The Department intends to keep this Regulation. Although a majority (nine) of respondents stated this Regulation had no impact towards the achievement of policy objectives, no additional comments were left in support of this viewpoint. Conversely, the five respondents that felt this Regulation contributed to objectives and left further comment stated that this Regulation was important in maintaining the independence of bus operators.
20	The Department intends to keep this Regulation. It is a necessary Regulation to make clear how notices of the Act can be delivered, hence the Department will not seek to retract this Regulation. Two respondents suggested the Regulation could be modernised due to the widespread use of electronic communications. The Department acknowledged this, and wishes to reiterate the allowance of electronic submission as indicated in Regulation 20, Clause C.
21	The Department intends to keep this Regulation. Although a small majority (seven) felt the Regulation had no impact, the Department believes it is a necessity and good practice to make clear the notice period for giving prior notice of intention to apply to the Secretary of State. The Department also wishes to reiterate the view that such Regulation may have a positive and contributory impact of focusing attention on communications between TCAs and bus operators if there is a possible forthcoming application to the Secretary of State.
22	Although an overwhelming majority (11) of respondents felt this Regulation had no impact, the Department intends to keep it because it is necessary to make clear which Regulations apply in the event of an application to the Secretary of State.
23	Although the responses indicate confusion between whether this Regulation contributed to (five) or has had no effect (eight) on the achievement of policy objectives, the Department intends to keep it and will not seek to amend or retract the Regulation. This is because the Department believes it is essential to make clear what written statements to the Secretary of State must include. After undertaking further examination of the information outlined in this Regulation, the Department also does not believe this Regulation requires updating or clarifying.
24	Although responses were nearly equal between those that feel this Regulation contributed to (six) and those that feel it had no effect (seven) on policy objectives, the Department intends to keep the Regulation. This is because the Department feels it is important to outline in the Regulations what information may be requested from the Travel Concession Authority in the event of an application to the Secretary of State, and the time frame within which this request must be delivered. The Department feels this contributes towards the achievement of policy objectives by providing such clarity to all authorities in advance of any application to the Secretary of State.
25	Responses to this Regulation were the same as above, with six feeling the Regulation contributed towards objectives, seven feeling it had no impact and zero indicating their belief that it detracted from the achievement of objectives. The Department intends to keep this Regulation. This is because it is essential to outline prior to an application to the Secretary of State what could be required of bodies in the event of an application. The Department also feels this may focus

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attention on communication between both parties and thus help minimise the number of applications to the Secretary of State.

Two respondents felt the 14 day deadline set in Regulation 25 was too short. After further consideration, the Department does not feel this is the case. It is important to maintain efficiency in decision making, but also to allow enough time for further statements and documents to be prepared to a high enough standard to help that decision making. The Department feels 14 days is the appropriate mid-point between these two.

26 Although a slim majority of respondents said the Regulation had no impact, this was because they had not come across or had not had to interact with the Regulation. This distorts the data and the impression one may gain from it. In future surveys of this nature, a 'not applicable' option will be included in order to prevent this.

One respondent said this Regulation detracted from policy objectives. They stated they had never heard of a hearing being heard after an application to the Secretary of State, even if one side had requested it. The Department will not comment on the number of cases that have progressed to hearing, but stands by the decision to progress to hearing being at the Secretary of State's discretion.

Discounting the abovementioned instances, the Department is satisfied with responses to this Regulation and does not wish to make any amendments to it.

27 Although a majority of respondents felt this Regulation had no impact, the Department intends to keep the Regulation. As with Regulation 26, many of the responses stating the Regulation has had no impact also acknowledged they had never or had not for a long time come into contact with this Regulation. A 'not applicable' option will be included in future surveys to account for this.

28 Responses to this Regulation were broadly similar to those above, with a majority feeling it had no impact, but also acknowledging they had not come into contact with this Regulation. The Department therefore intends to keep the Regulation and maintain the process of appealing to the Secretary of State outlined in the Regulations.

29 Responses to this Regulation were broadly similar to those above, with a majority feeling it had no impact, but also acknowledging they had not come into contact with this Regulation. The Department therefore intends to keep the Regulation and maintain the process of appealing to the Secretary of State outlined in the Regulations.

30 Responses to this Regulation were broadly similar to those above, with a majority feeling it had no impact, but also acknowledging they had not come into contact with this Regulation. The Department therefore intends to keep the Regulation and maintain the process of appealing to the Secretary of State outlined in the Regulations.

31 Responses to this Regulation were broadly similar to those above, with a majority feeling it had no impact, but also acknowledging they had not come into contact with this Regulation. The Department therefore intends to keep the Regulation and maintain the process of appealing to the Secretary of State outlined in the Regulations.

Two respondents felt this Regulation detracted from the achievement of policy objectives. One explained this by stating "If this had been applied it would have detracted from the original policy objectives. We are not aware of any situation where it has been applied". The Department cannot make a decision on the basis of this, as the evidence underpinning the response is speculative.

The other felt that if the Secretary of State took the decision to ask one side to pay costs, it may make the cost of appeal greater than the additional payment secured. The Department feels this Regulation ultimately contributes to achieving policy objectives because it discourages speculative applications. It notes the nature of this objection, but wishes to make clear the decision to ask for costs is not automatic, but rather at the Secretary of State's discretion. The Secretary of State would take the possibility of this objection actually occurring into account before making his decision. The Secretary of State also notes that should this objection actually occur, it may have the negative impact of discouraging future genuine applications.

32 Responses to this Regulation were broadly similar to those above, with a majority feeling it had no impact, but also acknowledging they had not come into contact with this Regulation. The Department therefore intends to keep the Regulation and maintain the process of appealing to the Secretary of State outlined in the Regulations.

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The Department further stands by this Regulation in that it makes clear to all the requirements that the Secretary of State places upon himself.

Schedule 1 The Department intends to keep the Schedule, due to the broad support for the Schedule and the positive role it plays.

Schedule 2 The Department intends to keep the Schedule, due to the broad support for the Schedule and the positive role it plays.

Annex C: data supporting the question "Were any unintended consequences created?"

7.4 Survey Responses

Regulation	Yes	No	Don't know
3	1	11	2
6	0	13	1
7	5	9	0
8	1	11	2
9	0	11	3
10	2	12	0
11	1	13	0
12	1	12	1
13	2	11	1
14	1	12	1
15	1	11	2
16	2	11	0
17	0	11	3
20	2	11	1
21	0	12	2
22	0	12	2
23	3	10	1
24	4	9	1
25	2	10	2
26	1	10	3
27	1	9	4
28	1	10	3
29	1	11	2
30	1	9	4
31	0	10	4
32	1	13	0
Schedule 1	1	11	2
Schedule 2	0	12	2

7.5 Summary of qualitative responses

Regulation	Response summary
3	Time consuming gathering information, Intervention with toolkit has helped and the challenges to the reimbursement is now fairer to all parties.
6	No unintended consequences were identified.

Regulation	Response summary
7	Some respondents felt that some aspects were more workable than others, stating they had agreed different arrangements with operators, including payments made at the beginning of each month, and initial payments set at 95% rather than 85%.
8	In earlier years this information was difficult to obtain under the operator "commercially Sensitive information" this Regulation ensured that this information must be made available when requested.
9	No unintended consequences were identified
10	One respondent noted an overly-bureaucratic aspect to this Regulation: "We now have to write to operators to confirm of continuation of using the same reimbursement Toolkit."
11	The only unintended consequence suggested in relation to this Regulation concerned benefits more easily realised by large operators than smaller ones: "This Regulation presumably refers to the ability of an operator to submit an Additional Capacity Cost Claim. This does enable the policy objectives to be realised. The ability to submit such claims normally rests with large group operators. Smaller independent operators do not normally have the resources to provide such information and therefore may lose out on the opportunity to increase their "bottom line".
12	One respondent suggested this Regulation might "prevent the use of information acquired as part of managing in aggregated information where nothing of significance can be deduced about an individual operator's activities. Through Freedom of Information or requests from Government, TCAs may be asked to supply details of numbers of bus journeys by different categories of passengers, average bus fare in their area or the overall cost of providing concessionary travel. Information received in connection with reimbursement will help answer such questions."
13	A potential unintended consequence relating to Regulation 13(a) specifically, was whether it could lead to disputes regarding data elements required to use in the reimbursement calculator e.g. MPG.
14	One respondent stated there were unintended consequences in relation to this Regulation, but this was not developed upon.
15	The unintended consequence suggested for this Regulation was that if a cancellation or service change was announced on the day on which the change takes effect, it can result in the operator being better off financially as a result. However, the underpinning rationale for this was not provided.
16	The one unintended consequence identified here stated that if PSV license holders were allowed to be employed as agents for the purpose of the administration of reimbursements, they may be in a position to take advantage of the scheme.
17	No unintended consequences were identified.
20	Although two respondents suggested unintended consequences for this Regulation, both discussed that the Regulation may need updating due to the mainstream acceptance of electronic communication nowadays.
21	No unintended consequences were identified
22	No unintended consequences were identified
23	Two of the respondents that felt this Regulation had unintended consequences commented that the method by which such notice is served has changed with DfT supplying templates for this purpose.
24	Of those that replied saying that this Regulation had an unintended consequence, they answered by referring to their answer from Regulation 23 (above). However, one respondent noted "the process has become more formalised, which has helped with focussing on the core issues and their resolution". The same respondent also notes that "the ability to enforce time limits also helps the process".

Regulation	Response summary
25	One respondent felt this Regulation had an unintended consequence, stating "the change in Regulation makes it impossible to be sure that an appeal will be confined to factors that either party feels to be unfair and introduces the risk of burden for information provision on both parties".
26	One respondent, following on from Regulation 25, felt that 14 days was insufficient to arrange attendance at a hearing by relevant persons.
27	The respondent that answered that this Regulation had unintended consequences provided the same answer for a number of Regulations between 23 and 32, and noted this was because of a recent experience in which the application process was not followed, which resulted in difficulty for the authority.
28	The respondent that answered that this Regulation had unintended consequences provided the same answer for a number of Regulations between 23 and 32, and noted this was because of a recent experience in which the application process was not followed, which resulted in difficulty for the authority.
29	The respondent that answered that this Regulation had unintended consequences provided the same answer for a number of Regulations between 23 and 32, and noted this was because of a recent experience in which the application process was not followed, which resulted in difficulty for the authority.
30	In the appeal referred to in our response to C23.3 we were specifically requested to supply information relating to third parties (although not relating to the reimbursement of such); in such instances we believe a formal process should be adopted to ensure that such data is appropriately protected in all instances where an authority must disclose information that could be commercially sensitive.
31	No unintended consequences were identified.
32	93% respondents felt this Regulation had no unintended consequences. One respondent stated there was an unidentified consequence, however this was not developed.
Schedule 1	The respondent that answered that this Schedule had unintended consequences provided the same answer for a number of Regulations between 23 and 32, and noted this was because of a recent experience in which the application process was not followed, which resulted in difficulty for the authority.
Schedule 2	No unintended consequences were identified.

7.6 Government perspective on the summary of qualitative responses

Regulation	Government perspective
3	The Department expected but did not intend for information gathering to be time consuming. It acknowledges this, but on the balance of things feels this is a worthwhile consequence. This is furthered by the same respondent acknowledging the new system is fairer to all parties.
6	No unintended consequences were identified.
7	This Regulation has flexibility built into in such as when or at what level payments can be made, so unintended consequences would always have occurred. The Department acknowledges those mentioned for this Regulation, but also notes the same respondent says the Regulations achieve policy objectives.
8	The unintended consequence for this Regulation was not further developed, and as a consequence the Department cannot comment on it.
9	No unintended consequences were identified
10	One respondent noted an overly-bureaucratic aspect to this Regulation. The Department has considered this, and this unintended consequence is not deemed too negative as to warrant amending or withdrawing the Regulation.

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11	<p>The Department contends that this was always expected. As applications require more work in light of the new Regulations, it naturally follows that larger operators will have more resource capability in order to meet these requirements.</p> <p>The Regulations mitigate against this in two ways, and consequently the Department wishes to keep the Regulation as it is. Firstly, small businesses do not have to provide fares and sales data, and secondly, if their annual mileage is under 150,000, they can negotiate their settlement rather than following the guidance.</p>
12	<p>The unintended consequence offered for this Regulation was ultimately speculative in nature, and as a result the Department cannot comment on it.</p>
13	<p>The Department evaluated which data may or may not be required when developing the MTC Regulations. The Department acknowledges the suggestion that disputes may arise over what data should be incorporated in the calculation of reimbursements, but ultimately feels these are necessary exclusions that protect operators.</p>
14	<p>One respondent stated there were unintended consequences in relation to this Regulation, but this was not developed upon.</p>
15	<p>The underpinning rationale for suggested unintended consequence, which offered a specific situation whereby an operator may benefit, was not provided. Consequently, and because the suggestion is a hypothetical one, the Department does not feel it is in a position to comment.</p>
16	<p>The one unintended consequence identified here stated that if PSV license holders were allowed to be employed as agents for the purpose of the administration of reimbursements, they may be in a position to take advantage of the scheme.</p> <p>The Department cannot comment on this as it is a hypothetical outcome of a situation the Regulation acts to prevent.</p>
17	<p>No unintended consequences were identified.</p>
20	<p>Although two respondents suggested unintended consequences for this Regulation, both discussed that the Regulation may need updating due to the mainstream acceptance of electronic communication nowadays. The unintended consequence was not developed and therefore the Department cannot comment on it.</p>
21	<p>No unintended consequences were identified</p>
22	<p>No unintended consequences were identified</p>
23	<p>Two of the respondents that felt this Regulation had unintended consequences commented that the method by which such notice is served has changed with DfT supplying templates for this purpose.</p> <p>The Department acknowledges the suggestion, but notes that the Departmental supplied template act to help make sure the correct information is provided. The Regulation making this clear acts in addition to ensure that the correct information is provided.</p>
24	<p>Of those that replied saying that this Regulation had an unintended consequence, they answered by referring to their answer from Regulation 23 (above).</p> <p>One respondent noted that "the process has become more formalised, which has helped with focussing on the core issues and their resolution". The Department acknowledges this as an unintended consequence, but sees it as a positive and therefore something worth keeping.</p>
25	<p>The Department notes the suggestion of an unintended consequence, but maintains that the burden of information provision is a necessity in order to allow the appeal to reach an evidence based judgement.</p>
26	<p>The suggestion of an unintended consequence was more to do with Regulation 25 than 26, and suggested that 14 days was insufficient.</p> <p>The Department notes the suggestion of an unintended consequence and does not wish to set a deadline that is insufficient. However, the Department does not feel this is the case. It is important to maintain efficiency in decision making, but also to allow enough time for further statements and documents to be prepared to a high enough standard to help that decision making. The Department feels 14 days is the appropriate mid-point between these two.</p>

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27 The respondent that provided an unintended consequence here also provided a narrative of a recent experience in which the application process was not followed. The Department cannot comment on unintended consequences that may arise as a result of not following the MTC Regulations.

28 The respondent that provided an unintended consequence here also provided a narrative of a recent experience in which the application process was not followed. The Department cannot comment on unintended consequences that may arise as a result of not following the MTC Regulations.

29 The respondent that provided an unintended consequence here also provided a narrative of a recent experience in which the application process was not followed. The Department cannot comment on unintended consequences that may arise as a result of not following the MTC Regulations.

30 The respondent that suggested an unintended consequence did not develop this.

31 No unintended consequences were identified.

32 The respondent that suggested an unintended consequence did not develop this.

Schedule 1 The respondent that provided an unintended consequence here also provided a narrative of a recent experience in which the application process was not followed. The Department cannot comment on unintended consequences that may arise as a result of not following the MTC Regulations.

Schedule 2 No unintended consequences were identified.
