

Norfolk County Council

Record of Individual Cabinet Member Decision

Responsible Cabinet Member: Cllr Graham Plant (Cabinet Member for Highways, Infrastructure & Transport)

Background and Purpose:

The County Council has a statutory duty under the Concessionary Travel Act 2007 (as amended) to provide free travel to concessionary pass holders at any time on a Saturday, Sunday or bank holiday and from 0930-2300 hours on any other day.

In addition to this minimum statutory level, we also have within Norfolk's concessionary travel scheme a discretionary enhancement of free travel at any time for passholders who are blind or partially sighted.

Following a complaint, we have reviewed our application of discretionary enhancements to consider whether our they provide an appropriate level of support for disabled passholders need. The current discretionary enhancement for blind and partially sighted passholders has been in place since 2012, since which time the context and evidence available has changed.

This report sets out the findings of the review and a recommendation to extend the discretionary enhancement that allows free travel before 0930 to all eligible disabled passholders and companions, enabling more passholders to access free travel during this period to support them with access to work and critical services.

Extending the discretionary enhancement to all disabled passholders meets the Council's five priorities, is affordable and we have available funds in a ring-fenced public transport budget.

Decision: To extend the concessionary travel discretion of free travel at all times to all eligible disabled passholders, as set out in Appendix A, and their companions from 1 February 2024

Is it a key decision? Yes

Is it subject to call-in? Yes

If Yes – the deadline for call-in is: 4pm, Thursday 11 January 2024

Impact of the Decision: As set out in the attached report.

Evidence and reason for the decision: As set out in the attached report.

Alternative options considered and rejected: As set out in the attached report.

Financial, Resource or other implications considered: As set out in the attached report.

Record of any conflict of interest: None

Background documents:

- [Guidance for Travel Concession Authorities - The England National Concessionary Travel Scheme \(2010\)](#)

Date of Decision: 04/01/24

Publication Date of Decision: 04/01/24

Signed by Cabinet Member

I confirm that I have made the decision set out above, for the reasons also set out.

Signed: 

Print name: Graham Plant

Date: 5/12/2023

Accompanying documents:

- None

Once you have completed your internal department clearance process and obtained agreement of the Cabinet Member, send your completed decision notice together with the report and green form to committees@norfolk.gov.uk

Individual Cabinet Member Decision Report

Item No:

Report Title: Concessionary travel scheme – extending the discretion to allow 24/7 free travel to all disabled passholders and eligible companions

Date of Report: N/A

Responsible Cabinet Member: Cllr Graham Plant (Cabinet Member for Highways, Infrastructure & Transport)

Responsible Director: Grahame Bygrave (Interim Executive Director of Community & Environmental Services)

Is this a Key Decision? Yes

If this is a Key Decision, date added to the Forward Plan of Key Decisions: 5 October 2023

Executive Summary

The County Council has a statutory duty under the Concessionary Travel Act 2007 (as amended) to provide free travel to concessionary pass holders at any time on a Saturday, Sunday or bank holiday and from 0930-2300 hours on any other day.

In addition to this minimum statutory level, we also have within Norfolk's concessionary travel scheme a discretionary enhancement of free travel at any time for passholders who are blind or partially sighted.

Following a complaint, we have reviewed our application of discretionary enhancements to consider whether they provide an appropriate level of support for disabled passholders' need. The current discretionary enhancement for blind and partially sighted passholders has been in place since 2012, since which time the context and evidence available has changed.

This report sets out the findings of the review and a recommendation to extend the discretionary enhancement that allows free travel before 0930 to all eligible disabled passholders and eligible companions, enabling more passholders to access free travel during this period to support them with access to work and critical services.

Recommendations:

1. **To extend the concessionary travel discretion of free travel at all times to all eligible disabled passholders, as set out in Appendix A, and eligible companions from 1 February 2024**

1. Background and Purpose

- 1.1 A statutory travel concession for older and disabled people has been in place since 2001, as per the Transport Act 2000, which gives free off-peak travel anywhere in England. This is known as the English National Concessionary Travel Scheme (ENCTS). The eligibility for a disabled travel pass is set out in Appendix A.
- 1.2 Under ENCTS, Travel Concession Authorities (TCAs), in this case the County Council, must allow free travel to concessionary pass holders at any time on a Saturday, Sunday or bank holiday and from 0930-2300 hours on any other day – this is the statutory minimum concession – and the TCA must reimburse local bus operators for this.
- 1.3 In addition to this, TCAs are able to offer enhancements to the statutory scheme on a discretionary basis, for example free travel before 0930 or free travel for anyone travelling as the companion of a disabled person, and to reimburse bus operators for this as required. The guidance is clear that the TCA is not under an obligation to offer enhancements, nor are their residents able to require TCAs to offer these.
- 1.4 In Norfolk we currently offer the statutory minimum concession for all passholders plus three discretionary enhancements:
 - free travel for a companion of a disabled passholder subject to evidence that they require one in order to be able to travel;
 - free travel for all passholders after 2300 hours; and
 - free travel at any time for those who are blind or partially sighted.This report is about the latter discretionary enhancement.
- 1.5 There are currently 1,555 blind or partially sighted concessionary passholders, and 13,345 passholders who have a different disability.
- 1.6 In **2012**, concerns were raised by Norfolk & Norwich Association for the Blind (NNAB) that a decision to remove the discretionary enhancement could adversely impact Blind/partially sighted service users. At this time, it was identified by the Council that it was permissible to positively discriminate one group above another *“if a case can be made that a particular group faces more disadvantages and has been disproportionately affected by a decision, than another group”*. The Council then took the decision to maintain the discretionary enhancement for Blind/partially sighted people on the basis that:

- There had been “historic dependency within the blind community on this type of support”, with concessionary travel having been available to them since after the First World War.
- There had been some inequality in state benefit provision for people with sight impairment in comparison with other disabled groups (albeit the criteria for the higher rate DLA was changed in 2010) and there was a concern expressed that people with sight impairments may greater difficulty in claiming the additional enhanced mobility rate payment within PIP.

- 1.7 A complaint has now been received, via local MPs, that a young person with complex learning disabilities, who is entitled to a concessionary travel pass, could not access free travel before 0930 to enable them to attend therapeutic and community appointments, whereas they would not be denied this if they were blind or partially sighted. This was described by the complainant as discriminatory as their view was that we were in effect giving priority to disabled people who are blind over disabled people who are not blind, thus favouring one particular disability. In light of this feedback we agreed it would be appropriate to review this policy and undertake a new Equality Impact Assessment.
- 1.8 The new Equality Impact Assessment has concluded that there is now insufficient justification for offering a discretionary enhancement to people solely on the basis that they are blind or partially sighted. It has also been concluded that the continuation of this discretionary enhancement leaves the Council open to legal challenge that, as an unintended consequence, it has created an unfair hierarchy of disabled people, which the Council may not be able to reasonably justify at this time. It could therefore be perceived that the Council considers some disabled people as being more worthy of support than others which would likely not be found to be in accordance with the Council’s own equality, diversity and inclusion policies.

2. Proposal

- 2.1 To extend the discretionary enhancement within Norfolk’s concessionary travel scheme, that currently only allows free travel at all times to those who are blind or partially sighted, to all people who have a concessionary pass on the grounds of disability and to their eligible companions. This would mean that all eligible disabled pass holders, as set out in Appendix A, and their companions can travel for free with their pass at any time.

3. Impact of the Proposal

- 3.1 Allowing disabled people (including those who are aged under 18), and eligible companions, to travel for free before 09:30 opens up a wealth of opportunities for them – work (disabled people are often in the lowest paid jobs), education,

leisure, social inclusion – this meets with all five of the Council's priorities.

- 3.2 Enabling people to use public transport more leads to a greener future and helps towards the Council's net zero commitments.

4. Evidence and Reasons for Decision

- 4.1 This proposal removes the inequality of the current concessionary travel scheme.
- 4.2 The extension of the scheme supports the County Council's agreed equality, diversity and inclusion priorities, in particular the objective to "Provide services, information and environments that can be accessed, understood and used to the greatest extent possible by all disabled people".

5. Alternative Options

- 5.1 Do nothing and keep the scheme as it is, with 24/7 free travel only for the blind and partially sighted. The review carried out identifies that the unintended consequence of the existing concession for blind and partially sighted passholders means that the current scheme is inequitable and as a result leaves the Council open to legal challenge on the basis of discrimination. Therefore, this is not considered to be a viable option.
- 5.2 Withdraw the 24/7 discretion from the blind and partially sighted to bring in line with all other disabled passholders. This option would require a public consultation and in practice would mean withdrawing a long-standing arrangement from 1,555 people who are already disadvantaged. Therefore, this option is not recommended.
- 5.3 Withdraw the 24/7 discretion from any new blind and partially sighted applicants but keep it in place for current passholders. This would avoid having to withdraw something from people who already have the benefit of free travel at all times but would not be in line with the Council's agreed equality objectives and there would still be inequity as some blind and partially sighted residents would be able to access something that others are not able to.

6. Financial Implications

- 6.1 Bus operators currently charge a reduced fare for concessionary passholders who travel before 0930. An increase in the number of passengers accessing free transport through the concessionary travel scheme before 0930 will impact on operators' ability to generate income. Norfolk's main bus operators offer reduced fares for concessionary pass holders before 0930 and therefore the cost of the change is less than a normal full fare; the total cost is estimated to

be a total of £50,000 per year. This cost needs to be reimbursed to bus operators.

- 6.2 We will continue to work with bus operators to put arrangements in place to enable this to happen, with the additional cost of this being funded by the Council's ring-fenced public transport budget (Bus Service Operator's Grant provided by the Department for Transport). Therefore, no new funding needs to be found.

7. Resource Implications

7.1 **Staff:** None identified.

7.2 **Property:** None identified.

7.3 **IT:** None identified.

8. Other Implications

8.1 **Legal Implications:** We have a statutory duty under the Concessionary Travel Act 2007 (as amended) to provide free travel to a statutory minimum level. This proposal keeps us in line with this legal requirement.
If this proposal is not accepted, we are open to a legal challenge that we are being discriminatory to people with other disabilities.

8.2 **Human Rights Implications:** If this proposal is not accepted, we could be in breach of a disabled person's basic human right of fair treatment.

8.3 Equality Impact Assessment (EqIA):

The current level of provision and the recommendations in this report have been impact assessed in line with the Council's statutory obligations under the Equality Act.

The EqIA recognises that the current level of provision for blind and partially sighted service users (over and above the statutory minimum) may not be in line with the EA because it has created an apparently unfair hierarchy of need where some disabled people will benefit over and above others. This is difficult to objectively justify because there is evidence to show that it is likely that other disabled people, e.g. people with significant or profound learning or other physical disabilities, also experience significant barriers to travel in addition to blind / partially sighted people.

Disabled people are able to access a range of financial support, based on evidence of need, in order to mitigate this impact, including the statutory disabled travel pass offered by the Council. The Council is not obliged to provide more than the statutory minimum scheme and this recommendation

has been made in order to promote equality of opportunity for all disabled service users whilst not adversely impacting on those who may have come to rely on the discretionary enhanced concession of free travel 24/7.

8.4 Data Protection Impact Assessments (DPIA): None required.

8.5 Health and Safety implications (where appropriate): None identified.

8.6 Sustainability implications (where appropriate): Enabling people to use public transport more leads to a greener future and helps towards the Council's net zero commitments. Therefore, the proposal will have a positive impact on sustainability.

8.7 Any Other Implications: None identified.

9. Risk Implications / Assessment

9.1 If the Council does not adopt this proposal there is a risk that we will be challenged that we have created an unfair hierarchy of disabled people, which we may not be able to reasonably justify at this time. It could be perceived that the Council considers some disabled people as being more worthy of support than others (based on outdated information) which would likely not be in accordance with the Council's own equality, diversity & inclusion policies.

10. Select Committee Comments

10.1 Not applicable.

11. Recommendations

- 1. To extend the concessionary travel discretion of free travel at all times to all eligible disabled passholders and eligible companions, as set out in Appendix A, from 1 February 2024**

12. Background Papers

12.1 [Guidance for Travel Concession Authorities - The England National Concessionary Travel Scheme \(2010\)](#)

Officer Contact

If you have any questions about matters contained within this paper, please get in touch with:

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If you need this report in large print, audio, braille, alternative format or in a different language please contact 0344 800 8020 or 0344 800 8011 (textphone) and we will do our best to help.

Eligibility for a Disabled Travel Pass

You are entitled to a disabled concessionary travel pass from Norfolk County Council if you are a Norfolk resident of bus fare paying age (five years old+) and have a permanent disability or one lasting at least 12 months, as below.

Your eligibility for a disability-related travel pass is considered 'automatic' if you have been issued with a 'Blue Badge' or are in receipt of the following benefits:

- Higher Rate Mobility Component of the Disability Living Allowance
- War Pensioner's Mobility Supplement
- Personal Independence Payment (PIP) with an award of eight points or more for the "Moving around" or "Communicating" activities

You are also eligible if your disability falls into one of the following seven categories:

- People who are blind or partially sighted you are eligible for a disabled pass with an enhancement allowing you to travel at all times
- People who are profoundly or severely deaf in both ears
- People who cannot speak
- People who have a disability, or have suffered an injury, which has a long-term effect on their ability to walk
- People who are without use of both arms
- People who have a learning disability, that is, a state of arrested or incomplete development of mind that includes significant impairment of intelligence and social functioning. These disabilities must have started before adulthood and have a lasting effect on development. Note that conditions such as Autism, Asperger's and learning difficulties (e.g dyslexia, ADHD etc) are not covered by this definition.
- People who if they applied for a driving licence under Part III of the Road Traffic Act 1988, have this application refused under section 92 of the Act for a reason other than on the grounds of persistent misuse of drugs or alcohol

For further details, see the [Department for Transport's guidance to Local Authorities on assessing eligibility](#) (pdf 75.6k).