

WEST YORKSHIRE COMBINED AUTHORITY

TRANSPORT ACT 2000

Travel Concession Reimbursement Arrangements

To be valid

From 1st April 2017

WEST YORKSHIRE COMBINED AUTHORITY
TRANSPORT ACT 2000 TRAVEL CONCESSION REIMBURSEMENT
ARRANGEMENTS

1st APRIL 2017

The Arrangements

1. These Travel Concession reimbursement arrangements (subsequently referred to as the "**Arrangements**") are made under the provisions of the Transport Act 2000 ("**2000 Act**") by the West Yorkshire Combined Authority (the "**Combined Authority**").
2. These Arrangements are established (so far as applicable) in accordance with the principles set out in the Mandatory Travel Concession (England) Regulations 2011 ("**MTCR**") and any subsequent applicable regulations and with full regard to relevant guidance issued by the Department for Transport ("**DfT**") and the requirements of EU Regulation 1370/2007. In the event that the MTCR are amended and/or new regulations come into force during the period that these Arrangements are operative, to the extent those amendments and/or new regulations require these Arrangements to be amended, such amendment will be notified to the operator in writing.
3. The Arrangements govern reimbursement for the mandatory concessions to be provided by operators under the 2000 Act as detailed in paragraph 9 below.
4. Unless otherwise defined in the Arrangements words or terms used in the Arrangements shall have the same meaning as given to such words or terms in the 2000 Act and the MTCR.

Operative Date

5. The Arrangements shall operate in their entirety from 1st April 2017 until 31st March 2020.

Principal Area

6. The principal area covered by the Arrangements is the area of the West Yorkshire Combined Authority which consists of the administrative areas of the Metropolitan District Councils of Bradford, Calderdale, Kirklees, Leeds and Wakefield (the "**Principal Area**").

Services to which the Arrangements Apply

7. In respect of the mandatory travel concessions under the 2000 Act, the Arrangements shall apply to each eligible journey (as defined in section 145A(1) of the 2000 Act) made by a person to whom a current statutory travel concession permit (as defined in section 145A(3) of the 2000 Act) has been issued on an eligible service (as defined in section 146 of the 2000 Act) beginning in the Principal Area.
8. For the purpose of the Arrangements "journey" means a single trip between two points without a change of vehicle or service.

Eligible Persons and Nature of Concession

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

Payment Periods and Dates

11. The "payment periods" under the Arrangements shall be each calendar month during the term of the Arrangements, or such other periods as may be notified to the operators from time to time by the Combined Authority in writing.
12. Subject to paragraph 25, the Combined Authority will make a payment to operators not later than the day which is half-way between the first and last days of each payment period ("**Payment Date**"), equal to the sum the Combined Authority estimates to be due to the operator in that payment period, which shall be calculated by reference to the data and information provided in respect of the previous payment period. For example, in April 2017, payment shall be calculated in accordance with the Arrangements, based on the data and information provided in respect of March 2017.
13. Subject to paragraph 25, the Combined Authority will make a further payment to operators in respect of the first payment period in each financial year, on the Payment Date for the next payment period (or in the case of the last payment period of the Arrangements, within 15 days of the end of such Arrangements), equal to the difference (if any) between:
 - 13.1. the sum already paid to the operator for that first payment period as set out in paragraph 12; and
 - 13.2. the actual amount calculated as due to the operator for that first payment period, by reference to the information and data provided in respect of that payment period pursuant to the Arrangements.

If the amount paid under paragraph 12 above exceeds the amount calculated under paragraph 13.2 such that the Combined Authority has made an over payment for the relevant period it shall notify the operator accordingly in writing and either:

 - 13.3. deduct the level of such overpayment from reimbursement payments due to that operator in the next or any subsequent payment period; or
 - 13.4. where the relevant person is no longer an operator, and/or if no such further payment is likely to become due or if such further payment is unlikely to be sufficient from which to recover such overpayment, unless that person disputes the existence or amount of the overpayment (in which case paragraph 28 shall apply), the Combined Authority shall demand such overpayment by notice in writing from that person who shall repay the same within 30 days of receipt of such demand.
14. Subject to paragraphs 15 and 25, if any further payment required pursuant to paragraph 13 is not paid in accordance with that paragraph, the Combined Authority shall pay interest on the amount for the time being unpaid (at a rate not less than the lowest rate at which the Combined Authority is able to borrow at such time), for the period beginning with the last date on which the amount should have been paid in accordance with paragraph 13 and ending with the date of actual payment.
15. Interest will not be payable until a reimbursement arrangement has been in operation for 6 months, nor in respect of any period falling wholly or partly within the first 6 months of operation of a reimbursement arrangement.

Standard Method of Determining Passenger Journeys, Payment Rate and Reimbursement

16. The standard method for assessing the total number of journeys made by eligible persons under the Arrangements is set out in Schedule 2. The standard method for assessing the payment rate to be attributed to those journeys is set out in Schedule 3. The standard method for calculating the reimbursement due to the operator will be on the basis set out in Schedule 3. The standard method for calculating the

reimbursement for any costs additional to basic operating costs is set out in paragraph 5 of Schedule 3.

17. In calculating the reimbursement due to the operator, the Combined Authority will take into account any data supplied by the operator if it can be shown that the data supplied is more accurate than the standard method and is more likely to enable the Combined Authority to meet the applicable objectives for reimbursement set out in the MTCR and EU Regulation 1370/2007.
18. By agreement between the operator and the Combined Authority the standard method need not be applied in respect of calculating the reimbursement of that operator if any one of the following conditions is satisfied:
 - 18.1. the vehicles normally used by the operator in providing services on which concessions are available have 8 or less seats available for fare-paying passengers;
 - 18.2. the mileage run by vehicles is less than 150,000 miles per annum within the area covered by the Arrangements during the times at which concessions are available;
 - 18.3. except during the first 3 months of operation of the Arrangements, there has not expired a period of 3 months commencing with the date on which the operator commences participation in the Arrangements in respect of a service;
 - 18.4. the services run by the operator are infrequent bus services or community bus services as referred to in paragraphs 3.19 to 3.24 of the DfT's [September 2015] publication (as amended from time to time) entitled "Concessionary travel for older and disabled people: guidance on reimbursing bus operators (England)", (the "**Guidance**").
19. Where reimbursement payments are estimated or calculated otherwise than by reference to the standard method, the Combined Authority shall adjust such reimbursement payments accordingly if, and to the extent that, any information upon which they were based is shown to be inaccurate in any material respect.
20. The Combined Authority reserves the right in calculating the reimbursement of an operator to:
 - 20.1. divide the area covered by the scheme into a number of separate areas; and
 - 20.2. take into account the carrying capacity provided for passengers in different vehicles or classes of vehicles used by the operator,and, in each case, calculate reimbursement in accordance with the standard method, but by reference to each separate area and/or class of vehicle, where the Combined Authority considers this appropriate to ensure that it meets the objective that the operator is financially no better and no worse off as a result of participation in the scheme.
21. In order to ensure that the reimbursement paid to an operator accords with the general principle that operators both individually and collectively are no better and no worse off financially than they would be if they did not provide mandatory travel concessions, the Combined Authority reserves the right to apply the standard methodology for calculating reimbursement to any individual service where the Combined Authority, acting reasonably, believes that the nature of that service or the fares charged on that service do or could distort the general application of the standard methodology as applied to the operator's other services.

Data

22. When an operator commences the operation of eligible services within the Principal Area, it shall supply to the Combined Authority, within 7 days:
 - 22.1. a list of eligible services to be operated by that operator;
 - 22.2. all relevant fares, fare stages and fare tables and a list of the ticket types valid for travel on such services;
 - 22.3. the running boards/drivers duties applicable to such eligible services; and
 - 22.4. ticket machine service codes in respect of smart ticket machines used on such eligible services,to enable the Combined Authority to assess the operator's entitlement to reimbursement.
23. Any information supplied by an operator to the Combined Authority pursuant to paragraph 22 shall only be used for and in connection with the calculation of reimbursement payments and such information shall not be disclosed by the Combined Authority except:
 - 23.1. the written consent of the operator; or
 - 23.2. to the extent to which such information has become public knowledge otherwise than by the act or omission of the Combined Authority.
24. The operator shall inform the Combined Authority of:
 - 24.1. the introduction or cessation of any eligible services;
 - 24.2. changes to the times at which and routes on which eligible services operate;
 - 24.3. changes to the fares, fare stages and/or fare tables applicable to any eligible services;
 - 24.4. changes to the ticket types valid for travel on any eligible services;
 - 24.5. changes to the running boards/drivers duties applicable to any eligible services;
 - 24.6. changes to the ticket machine service codes in respect of smart ticket machines used on any eligible services; and
 - 24.7. any circumstances leading to the temporary cessation of, or major disruptions to, any eligible services,within 7 days of such event occurring.
25. The operator shall provide data to the Combined Authority in accordance with the provisions of Schedule 4.
26. If the operator fails to provide such information or data as is referred to above, or to allow such access for surveys and to smart ticket machine data as is required pursuant to Schedule 5 either:
 - 26.1. in the case of a payment due in accordance with paragraph 12, in sufficient time to allow the Combined Authority to form a reasonable estimate of the amount of the payment; or
 - 26.2. in the case of a payment due in accordance with paragraph 13, in sufficient time to allow the Combined Authority to calculate the amount of the payment,then the Combined Authority may in its discretion either defer all or part of any payment otherwise due to the operator until such omission is fully rectified or reimburse the operator on the basis of such estimated reimbursement as it considers appropriate in the absence of such data or survey information.

27. Where it becomes apparent to the Combined Authority that any eligible service is or has been subject to material disruption, or has not been operated in accordance with the registered timetable, then the Combined Authority may, after giving the operator the opportunity to comment on the effects of the same on the journeys being taken by eligible persons on such services, make such adjustments to the reimbursement due to such operators as it considers necessary to reflect the effects of such disruption or non-operation.

Recalculation of Reimbursement

28. At the end of each financial year the Combined Authority shall review the reimbursement calculations made in accordance with the Arrangements during the previous financial year. Such review shall be concluded within 3 months.
29. If following the review it is determined by the Combined Authority that the amount of reimbursement paid during the previous financial year should have been higher, the Combined Authority shall pay the difference to the operator within 3 months of the date of recalculation.
30. If following the review it is determined by the Combined Authority that the amount of reimbursement paid during the previous financial year should have been less, the Combined Authority shall:
- 30.1. deduct by equal instalments the amount of over reimbursement from the next three payments to be made under paragraph 12 above; and/or
 - 30.2. if such next three payments are not or will not be sufficient to re-pay such over-reimbursement, demand such over-reimbursement from the operator by notice in writing, and the operator shall be obliged to make such repayment within 14 days of receiving such demand.
31. If, following the review of the reimbursement calculations in accordance with the provisions of paragraph 28 above, there is a dispute between an operator and the Combined Authority in respect of the level of reimbursement paid to that operator, then, if such dispute relates to either:
- 31.1. the payment rate to be attributed to journeys by persons eligible to receive concessions on the operator's eligible services covered by the Arrangements;
 - 31.2. the total number of journeys made by persons eligible to receive concessions on the operator's eligible services covered by the Arrangements; or
 - 31.3. the number of additional journeys generated in consequence of the availability on the operator's eligible services of such concessions,
- then such dispute shall be the subject of the dispute resolution procedure set out in Schedule 6.

Survey Facilities

32. The provisions of Schedule 5 shall apply in respect of surveys.

Other Requirements of the Arrangements

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

Contact for Communications

35. All notices, data and other information required to be given to the Combined Authority under the Arrangements shall be provided to the following contact point (or such other contact point as may be nominated by the Combined Authority to operators in writing from time to time):
- Position: Director of Transport Services
Address: Wellington House, 40-50 Wellington Street, Leeds, LS1 2DE
E-mail: Dave.Pearson@westyorks-ca.gov.uk
Tel: 0113 251 7246
36. On commencing the provision of eligible services in the Principal Area, the operator shall provide to the Combined Authority details of the name, address, e-mail address, telephone number of its official contact for communications in relation to the Arrangements, and shall by notice in writing inform the Combined Authority of any changes to the same.
37. Any notice or communication sent to the last such address or e-mail address as is referred to above shall be deemed to be duly served on the recipient. If an operator has failed to give notice in writing to the Combined Authority of such an official contact, then the Combined Authority may send any notice or other communication to any address set out in the most recent correspondence from the operator concerned, which shall be deemed to be its address for service.

SCHEDULE 1

ELIGIBLE PERSONS AND NATURE OF CONCESSIONS UNDER 2000 Act (PARAGRAPH 9)

Class of Eligible Persons		Nature of Concession to be provided (bus only)
(i)	<p>Elderly Persons</p> <p>(as defined in section 146 of the Transport Act 2000 as amended in respect of England by the Travel Concessions (Eligibility) (England) Order 2010), presently:</p> <p>(a) in the case of a woman, her pensionable age;</p> <p>(b) in the case of a man, the pensionable age of a woman born on the same day.</p>	<p>On production of an English National Concessionary Travel Scheme pass a person shall be carried without charge on services to which the Arrangements apply, provided that the actual time of boarding is at a relevant time as defined in section 146 of the Transport Act 2000) currently being:</p> <p>(a) any time on Saturday or Sunday or on any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971; or</p> <p>(b) a time during the period from 09.30am to 11pm on any other day.</p>
(ii)	<p>Disabled Persons</p> <p>(as defined in section 146 of the Transport Act 2000), which currently means a person who:</p> <p>(a) is blind or partially sighted;</p> <p>(b) is profoundly or severely deaf;</p> <p>(c) is without speech;</p> <p>(d) has a disability, or has suffered an injury, which has a substantial and long term adverse effect on his ability to walk;</p> <p>(e) does not have arms or has long-term loss of the use of both arms;</p> <p>(f) has a learning disability, that is, a state of arrested development of mind which includes significant impairment of intelligence and social functioning; or</p> <p>(g) would, if he applied for the grant of a licence to drive a motor vehicle under Part III of the Road Traffic Act 1988, have his application refused pursuant to section 92 of that Act (physical fitness) otherwise than on the ground of persistent misuse of drugs or alcohol.</p> <p>For the avoidance of doubt, concessions for disabled persons are available at any age.</p>	

SCHEDULE 2

STANDARD METHOD OF DETERMINING CONCESSIONARY PASSENGER JOURNEYS (PARAGRAPH 16)

1. Operation of the Standard Method

- 1.1. The Combined Authority will determine its reimbursement payments to the operator on the basis of the estimates it makes of the total number of eligible journeys made by eligible persons listed in Schedule 1 subject to the relevant concession listed in Schedule 1 on the operator's eligible services as defined in section 146 of the 2000 Act.
- 1.2. For the purposes of such calculation the Combined Authority shall be entitled to use:
 - 1.2.1. the number of eligible journeys recorded using smart ticketing as determined from data in the NERO back office data store operated by the Combined Authority; and
 - 1.2.2. manual journey records recorded by the operator using the electronic ticketing machine (ETM) on the vehicle in respect of an eligible journey where such operator was unable to reasonably record such eligible journey using smart ticketing, which shall include:
 - 1.2.2.1. any eligible service operated using a vehicle without a smart ticket machine;
 - 1.2.2.2. for any eligible service operated using a vehicle with a smart ticket machine:
 - (A) any failure of the smart element of the statutory travel concession permit; or
 - (B) any failure of the smart ticket machine,provided that for each such eligible journey the operator identifies to the Combined Authority the reason for such failure to record the eligible journey using smart ticketing.
- 1.3. To enable the use of the NERO back office for the purposes of such calculation the operator shall provide the Combined Authority with full details of the eligible services on which eligible persons may use the relevant concession, as specified in paragraphs 22 to 27 of the Arrangements. The details of the information to be provided are set out in Schedule 4.
- 1.4. The operator shall allow surveyors employed by the Combined Authority or its agents access to all passengers using its eligible services in accordance with Schedule 5.

2. Output from the Standard method

The Combined Authority will access via the NERO back office and manual journey records, for each of the payment periods and dates referred to in paragraphs 11 to 13 of these Arrangements, the total number of eligible journeys made by eligible persons using the relevant concession on the operator's eligible services.

3. Estimates to be made in the absence of information from the operator and manual journey records

3.1. In the event that:

3.1.1. the operator fails to provide sufficient information to enable the Combined Authority to determine the number of concessionary journeys made during a particular period; or

3.1.2. the percentage of manual journey records is greater than 0.5% of the total eligible journeys for that period, the number of manual journey records shall be capped at 0.5% of the total eligible journeys for that period for the purposes of calculating reimbursement,

and the Combined Authority may at its discretion make such estimates as it thinks fit of the concessionary journeys made by eligible persons carried by the operator on eligible services, subject to correction when, and to the extent that, better information is made available to the Combined Authority.

3.2. In the event that any operator with smart ticket machines fitted to their vehicles provides a materially greater proportion of manual journey records in accordance with paragraph 1.2 in respect of eligible journeys made on such vehicles than other operators with smart ticket machines, then the Combined Authority shall be entitled to request further information from such operator(s) in respect of such returns, to identify whether such manual journey records properly relate to eligible journeys. For the avoidance of doubt, where the Combined Authority believes that such manual journey records do not reflect the actual number of eligible journeys, then the Combined Authority shall be entitled to make an estimate as it thinks fit, subject to correction when, and to the extent that, better information is made available to the Combined Authority, and any dispute between the Combined Authority and the operator in respect of such returns shall be referred to the Dispute Resolution Procedure in Schedule 6.

SCHEDULE 3
STANDARD METHOD OF DETERMINING PAYMENT RATE
(PARAGRAPH 16)

1. Determination of Payment Rate

- 1.1. Subject to paragraph 1.2, the Combined Authority will use version 3.4 of the DfT Reimbursement Calculator spreadsheet published by the DfT on 22 September 2015 ("**DfT Reimbursement Calculator**") in accordance with paragraphs 2 to 5 (inclusive) below to determine the payment rate which will be used to calculate the reimbursement due to an operator under the Arrangements (the "**Payment Rate**").
- 1.2. The DfT Reimbursement Calculator shall be updated by the Combined Authority as necessary to reflect the date of calculation. Notwithstanding the generality of the foregoing, the Combined Authority shall update the "Update Inflation" tab of the DfT Reimbursement Calculator each year to reflect the year of calculation.

2. Start Page

- 2.1. In calculating reimbursement, the Combined Authority shall complete the "Start Page" tab of the DfT Reimbursement Calculator as follows:
 - 2.1.1. the Area Type at Cell G3 shall be set to "PTE";
 - 2.1.2. the Year at Cell G4 shall be set to the period being calculated; and
 - 2.1.3. the Observed Concessionary Journeys at Cell G6 shall be the total number of eligible journeys made by eligible persons as determined in accordance with Schedule 2 (Standard Method of Determining Concessionary Passenger Journeys).

3. Determination of Average Fare Foregone

- 3.1. The Combined Authority will use the 'Average Fare Calculator' set out at the "AF model" tab in the DfT Reimbursement Calculator to estimate the average fare that would be paid by eligible persons for each journey made using the relevant concession (as defined in in Schedule 1) on the operator's eligible services (as defined in Section 146 of the 2000 Act) beginning in the Principal Area, in the absence of the Scheme (the "**Average Fare Foregone**") as follows:
 - 3.1.1. the Average Fare Foregone shall be calculated using the Discount Factor Method. In accordance with note 5 on the "Instructions" tab to the DfT Reimbursement Calculator, the Combined Authority shall use option 2 to enter average ticket prices directly into the Average Fare Calculator, as calculated in accordance with paragraph 3.1.2; and
 - 3.1.2. the average ticket prices shall be calculated by entering the data items specified in respect of Average Fare in Schedule 6 into the Combined Authority's look-up table WYCA 2016 Average Fare Look-up Table, (which can be made available in electronic form upon request by an operator, as updated with annual inflation, to provide average cash fare, average daily ticket price and average weekly ticket price figures for entry into cells C21, C22 and C23 of the Average Fare Calculator.
- 3.2. The Average Fare Foregone will be calculated for the operator for each of the payment periods or such other period as may be reasonably determined by the Combined Authority.

4. Determination of Reimbursement Factor

- 4.1. The Combined Authority will use the 'Reimbursement Factor Calculator' set out at tab "RF model" in the DfT Reimbursement Calculator to determine the proportion of total eligible journeys made at zero fare that are estimated to be made if the eligible persons were to pay full fare (the "**Reimbursement Factor**") as follows:
 - 4.1.1. the Combined Authority will use "Option (1)" where it has data available to calculate the percentage change in operator-specific nominal fares between 2005/6 and the current reimbursement period. Where such information is not available the Combined Authority shall calculate the percentage increase by reference to Combined Authority wide data until the point that operator specific data is available, and then by reference to operator specific data in accordance with paragraphs 6.37 to 6.42 of the Guidance;
 - 4.1.2. the Combined Authority shall use the "New Operator" option for any operator who commenced operation during the period of the Arrangements; and
 - 4.1.3. for the purposes of this standard method of calculation, the Combined Authority shall make use of its data sets for the purposes of completing the Reimbursement Factor Calculator.
- 4.2. The Reimbursement Factor will be calculated for the operator for each of the payment periods as referred to in paragraph 11 of the Arrangements or such other period as may be reasonably determined by the Combined Authority.

5. Determination of Additional Costs

- 5.1. The Combined Authority will use the 'Additional Costs Calculator' set out in tab "AC model" of the DfT Reimbursement Calculator to estimate the marginal cost rates per generated concessionary passenger in order to calculate reimbursement for an operator's additional marginal operating costs and marginal capacity costs (the "**Additional Costs**") as follows:
 - 5.1.1. "Administration Costs" shall be £0 at cell D9;
 - 5.1.2. the Journey Length shall be the Default Trip Length of 3.9 miles specified at Cell D15 or such other average concessionary journey length as may have been provided by the operator pursuant to Schedule 4 and validated by the Combined Authority pursuant to paragraph 17 of the Arrangements;
 - 5.1.3. Peak Vehicle Requirements Costs shall be zero (0); and
 - 5.1.4. Marginal Capacity Costs shall be calculated in accordance with paragraph 5.2.
- 5.2. The Combined Authority will use the 'Marginal Capacity Costs calculator set out in tab "MCC model" of the DfT Reimbursement Calculator to estimate the marginal capacity costs generated by the scheme ("**Marginal Capacity Costs**"), as follows:
 - 5.2.1. Marginal Capacity Costs shall be calculated on a network wide basis;
 - 5.2.2. the Mohring Power shall be the default specified in the DfT Reimbursement Calculator;
 - 5.2.3. the Generation Factor shall be the value derived from the Reimbursement Factor as specified in the Results Page tab of the DfT Reimbursement Calculator;
 - 5.2.4. the Cost/Vehicle Hour (£) shall be the default specified in the DfT Reimbursement Calculator;

- 5.2.5. the Cost/Vehicle Mile (£) shall be the default specified in the DfT Reimbursement Calculator;
 - 5.2.6. the Speed shall be the default specified in the DfT Reimbursement Calculator or the figure provided pursuant to Schedule 4 and validated by the Combined Authority pursuant to paragraph 17 of the Arrangements;
 - 5.2.7. the Mean vehicle occupancy shall be the default specified in the DfT Reimbursement Calculator or the figure provided pursuant to Schedule 4 and validated by the Combined Authority pursuant to paragraph 17 of the Arrangements;
 - 5.2.8. the Mean journey length shall be the default specified in the DfT Reimbursement Calculator or the figure provided pursuant to Schedule 4 and validated by the Combined Authority pursuant to paragraph 17 of the Arrangements;
 - 5.2.9. the Mean route length shall be the default specified in the DfT Reimbursement Calculator or the figure provided pursuant to Schedule 4 and validated by the Combined Authority pursuant to paragraph 17 of the Arrangements;
 - 5.2.10. the Average commercial fare shall be the figure provided pursuant to Schedule 4 and validated by the Combined Authority pursuant to paragraph 17 of the Arrangements;
 - 5.2.11. the Commercial journeys as a % of total shall be derived by the Combined Authority from existing survey data, or where such data is not available shall be the default specified in the DfT Reimbursement Calculator; and
 - 5.2.12. the Service elasticity shall be the default specified in the DfT Reimbursement Calculator.
- 5.3. The Additional Costs will be calculated for the operator for each of the payment periods as referred to in paragraph 11 of the Arrangements or such other period as may be reasonably determined by the Combined Authority.

6. Alternative Method

Following consultation with the operator as an alternative to determining the applicable Payment Rate in accordance with this Schedule 3 and the DfT Reimbursement Calculator, the Combined Authority reserves the right to use an alternative method for calculating the reimbursement due to an operator where the Combined Authority, acting reasonably, believes that the application of such alternative method will be more consistent with “no better off and no worse off” principles.

SCHEDULE 4

DATA PROVISION (PARAGRAPH 25)

1. Annex F of the Guidance lists the data required by the Combined Authority to use the DfT Reimbursement Calculator. Every operator claiming reimbursement under the Arrangements is required to submit to the Combined Authority within 7 working days of each payment period, statements containing the following data, save that where an operator does not provide information marked [optional] the Combined Authority shall be entitled to rely upon the default data specified in Schedule 3:

Table 4.1 Data items required to use DfT Reimbursement Calculator	
Component of reimbursement	Data items
Journeys	Total concessionary journeys (older/disabled people), such data provision to be satisfied by the operator providing or allowing the provision of the information required pursuant to Schedule 2 (Standard Method of Determining Concessionary Passenger Journeys)
Average Fare	For each product within the cash fare, daily ticket and weekly ticket categories: <ul style="list-style-type: none"> - Total revenue - Total number of tickets sold The data should cover the payment period being calculated and exclude child tickets
Reimbursement Factor	Percentage increase in nominal fares between 2005/06 and the year of calculation, save that where such information is not provided or not validated by the Combined Authority, the Combined Authority may rely upon its own data
Marginal Operating Costs	Average concessionary journey length [optional]
Marginal Operating Costs	All components of marginal operating costs (per concessionary passenger) [optional]: <ul style="list-style-type: none"> - Fuel, tyres and oil - Maintenance and cleaning - Insurance - Information - Additional time costs
Marginal Capacity Costs	<ul style="list-style-type: none"> - Average commercial fare - Average speed [optional] - Average route length [optional]

	<ul style="list-style-type: none">- Average journey length [optional]- Average occupancy [optional]- Commercial journeys as a % of total [optional]
--	---

2. For the avoidance of doubt, every operator claiming reimbursement under the Arrangements is required to submit to the Combined Authority within 7 working days of the end of each payment period, the total amount of fares received by the operator for the passenger journeys made on all eligible services (on bus revenue only)..
3. If required by the Combined Authority, each such statement must be certified by a member of the Institute of Chartered Accountants in England and Wales, the Institute of Chartered Accountants of Scotland or the Chartered Association of Certified Accountants consistent with the requirements of Regulation 16 of the Travel Concession Scheme Regulations 1986, and be provided in the form from time to time specified by the Combined Authority.

SCHEDULE 5
SURVEY FACILITIES
(PARAGRAPH 32)

1. An operator shall allow the Combined Authority's officers servants or agents to have access to (including the right to travel free of charge on) the vehicles of the operator on which concessions are available for the purpose of:
 - 1.1. surveying passengers and the ticket types used by those passengers;
 - 1.2. validating the length of eligible journeys;
 - 1.3. validating trends in vehicle occupancy;
 - 1.4. 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 Combined Authority of reimbursement payments.
2. The survey data will be utilised by the Combined Authority in validating the smart ticketing data and/or other data supplied by the operator for the purpose of enabling the Combined Authority to calculate the reimbursement due to the operator.
3. Without prejudice to the generality of paragraph 1 above, the information to be obtained from passengers may include the following:
 - 3.1. whether or not the passenger is a concessionary passenger;
 - 3.2. if the passenger is a concessionary passenger, what category of concessionary passenger he or she is;
 - 3.3. if the passenger is not a concessionary passenger, the type of ticket being used;
 - 3.4. the stage or stop at which the passenger boarded the bus and the stage or stop at which the passenger is to alight from the bus;
 - 3.5. permit or ticket fraud or misuse on the relevant services; and
 - 3.6. such other information as the Combined Authority may from time to time reasonably consider it necessary or desirable to obtain in order to enable the Combined Authority to validate the smart ticketing data and/or other data supplied by the operator for the purpose of enabling the Combined Authority to calculate the reimbursement due to each operator in accordance with these Arrangements.
4. Each operator shall procure that each driver of its vehicles shall make available to any survey staff who request the same, the total number of passengers shown, on the relevant vehicle's electronic ticketing machine, to have undertaken any journey surveyed by such surveyor.

SCHEDULE 6
DISPUTE RESOLUTION PROCEDURE
(PARAGRAPH 31)

1. In the event of any dispute arising in connection with any matter arising from paragraph 28 of these Arrangements or paragraph 3.2 of Schedule 2 of these Arrangements which cannot be resolved by agreement between the parties representatives within 5 working days of the dispute arising, senior representatives of the parties shall, within 5 working days of a written request from either party to the other, meet in good faith to attempt to resolve the dispute.
2. If the dispute is not resolved as a result of such meeting, either the Combined Authority or the operator may (at such meeting or within 5 working days of its conclusion) propose to the other in writing that the dispute be referred to an independent expert ("**Independent Expert**")
3. If the parties are unable to agree on an Independent Expert or if the Independent Expert agreed upon is unable or unwilling to act then any party may within 5 working days from the date of the proposal to appoint an Independent Expert or within a further 5 working days of notice to either party that he or she is unable or unwilling to act, apply to the President of the Law Society to appoint an Independent Expert.
4. If any matter is referred to the Independent Expert for determination in accordance with paragraph 3 above, then:
 - 4.1. the Independent Expert shall determine the matter, subject to the remaining provisions of this paragraph 4, on a basis that is fair and reasonable in all respects as between the operator and the Combined Authority and that takes into account all relevant factors and circumstances;
 - 4.2. the Independent Expert shall act as an expert and not as an arbitrator and its determination of the dispute shall be final and binding on the parties (save in the case of manifest error);
 - 4.3. the Combined Authority and the operator shall ensure that the Independent Expert has full access to all books, information and records in their possession or in the possession of their auditors and accountants that are relevant to the dispute and to his determination thereon; and
 - 4.4. the Independent Expert's fees shall be borne equally by the parties unless he or she shall decide that one party has acted unreasonably (in which case his or her fees shall be borne as he or she shall direct).

NTBR/NTBR/41994/120166/UKM/78940264.2