

TONBRIDGE & MALLING BOROUGH COUNCIL

FINANCE and PROPERTY ADVISORY BOARD

5 January 2011

Joint Report of Central Services Director and Director of Finance

Part 1- Public

Matters for Recommendation to Cabinet - Key Decision

1 CONCESSIONARY FARES – RAIL CONCESSIONS

To consider the future of the discretionary rail concession option offered by the Council

1.1 Introduction

- 1.1.1 As reported to the last meeting of the Advisory Board on 29 September 2010, Kent County Council (KCC) has indicated that it will not be offering any discretions beyond those currently applying to the concessionary bus pass when responsibility for concessionary fares transfers from district to county level authorities on 1 April 2011.
- 1.1.2 At the last meeting Members referred to a local campaign for the extension of the concessionary fares scheme to include rail travel which, it was believed, had received indications of support from KCC. On the recommendation of the Advisory Board the Cabinet resolved that clarification of KCC's position regarding rail concessions be sought and the Borough Council's approach to offering rail vouchers as an alternative to the bus pass, whilst it had statutory duties to administer concessionary travel, be commended to KCC (Decision No D100127CAB).
- 1.1.3 Written confirmation has now been received from KCC that it does not intend to offer a rail concession option as an alternative to the English National Concessionary Travel Scheme (ENCTS) bus pass. It states that it is essential that the scheme be consistent across the County in order to aid administration and allow the scheme to be as comprehensible as possible for residents. With significant financial pressures expected when the funding for ENCTS is announced, KCC is not in a position to be able to provide the discretion across the County and therefore it is planned only to offer companion passes and extended operating hours as discretionary concessions. The County Council has offered support to the campaign to provide free rail travel for those eligible for an ENCTS pass but only as long as any such scheme were funded centrally by the Government.

1.2 Discretionary Rail Concessions

- 1.2.1 As an alternative to the statutory free bus pass the Borough Council, in its capacity as the travel concession authority, currently offers a £10 voucher towards the purchase of the £26 Senior Railcard or the £25 Network Card or a reimbursement of £10 towards the £18 Disabled Persons Railcard. The number of rail concessions issued annually has been reducing since the period before the national free bus pass became available. In 2009/10 just over 890 rail concessions were issued, seven of which were for the Disabled Persons Railcard. There is a budget of £8,700 for rail concessions in this financial year.
- 1.2.2 Advice from the Department for Transport indicates that district authorities would not be precluded from offering alternative concessions to the bus pass by using their well-being powers under the Local Government Act 2000. However, they would no longer be able to finance the issue of such concessions by agreeing with eligible residents that they waive their right to a bus pass. If rail concessions were to be offered by a district council in the future and were not able to be offered as an 'alternative' to the free bus pass, there is the possibility that the numbers of applications could increase and the Council's current budget could prove to be insufficient

1.3 Legal Implications

- 1.3.1 From 1 April 2011 the Council will have no specific power to provide a travel concession scheme as the current powers are being transferred to the County.
- 1.3.2 It will however have the ability, at its discretion, to use the well being powers in section 2 of the Local Government Act 2000 to either establish a concessionary travel scheme for some or all residents within its area or to provide financial payment to KCC to operate such a scheme. The requirement for the exercise of the well-being powers is that the Council believes that such a scheme will "promote or improve the social well being of the relevant area" and has considered its community strategy when deciding whether or not to exercise the well-being powers. Members should note that if it were decided that well-being powers should be exercised in this case, this would fall to the Full Council to determine.
- 1.3.3 In addition all public bodies must consider their public equality duties in respect of race, gender and disability. The most relevant of these to this decision is under the Disability Discrimination Act 1995 ("DDA") to have regard to:
- "(a) the need to eliminate discrimination that is unlawful under this Act;*
(b) the need to eliminate harassment of disabled persons that is related to their disabilities;
(c) the need to promote equality of opportunity between disabled persons and other persons;
(d) the need to take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons;

*(e) the need to promote positive attitudes towards disabled persons; and
(f) the need to encourage participation by disabled persons in public life”.*

- 1.3.4 The duty is “to have due regard” to the effect on disabled persons and not necessarily to provide a service if disabled persons are affected as cost will be an important consideration especially when another authority is primarily responsible for the provision of the service.
- 1.3.5 The information contained in the Equality Impact Assessment (attached at the Annex) will assist Members in considering their duties when taking the decision whether or not to exercise the well-being powers to establish a travel concession scheme.

1.4 Financial and Value for Money Considerations

- 1.4.1 As previously reported to Members, the whole funding issue regarding concessionary bus fares is complicated. Part of the concessionary fares grant is specific and part is included within the formula (revenue support) grant. As we have previously mentioned to Members, whilst it is easy to identify exactly how much the Council receives by way of specific grant for the concessionary fares function, it is not easy to identify exactly how much is contained within the formula grant.
- 1.4.2 What we do know now since the announcement of the provisional settlement on 13 December is that, for 2011/12, £647,000 is to be removed from our base formula grant in respect of concessionary bus fares. By comparison, the current net cost reflected in the Council’s budget in respect of concessionary fares is in the order of £575,000.
- 1.4.3 Members will note from the Estimates elsewhere on the agenda that we have made no budget provision in 2011/12 for rail vouchers. If Members decide that they do wish to exercise their well being powers (section 2 of the Local Government Act 2000) and offer discretionary rail concessions, then this cost will need to be found from within the budget.

1.5 Risk Assessment

- 1.5.1 The transfer of the function to County in due course will need to be carefully managed to ensure both the security of data and the ongoing support and assistance to customers.

1.6 Equality Impact Assessment

- 1.6.1 Attached at the Annex.

1.7 Recommendations

- 1.7.1 It is RECOMMENDED that the Cabinet:

- 1) accept the Equality Impact Assessment as attached at the Annex to the report; and
- 2) endorse the position that discretionary rail concessions will not be offered from 1 April 2011 when the transfer of concessionary travel responsibilities to the County Council takes place.

Background papers:

Nil

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Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	Yes	The Equality Impact Assessment attached at the Annex has identified an impact on disabled rail pass holders as it will remove the option to obtain the pass at a reduced rate.
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	As above
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		<p>TMBC has lobbied KCC to explore the possibility of retaining the rail pass option but KCC Members have rejected this option due to budgetary constraints.</p> <p>Subject to the response of TMBC Members to the recommendations in this report, the equality impact assessment has identified that disabled rail pass holders be advised in advance of the withdrawal of the scheme and that we continue to monitor any complaints and refer these to KCC after April 2011.</p>

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.