

**DERBYSHIRE COUNTY COUNCIL**

**CABINET MEETING**

**25 March 2014**

Report of the Strategic Director – Economy, Transport and Environment

**DEPARTMENT FOR TRANSPORT BUS SUBSIDY REFORMS  
BUS SERVICE OPERATORS GRANT DEVOLUTION (JOBS,  
ECONOMY AND TRANSPORT)**

(1) **Purpose of the Report** To advise Cabinet of the recent bus subsidy reforms implemented by the Department for Transport (DfT), devolving Bus Service Operators Grant (BSOG) funds to the Council, and to seek approval of a transitional mechanism to vary payments to contractors for the provision of existing Council supported local bus services to account for the loss of BSOG for these services.

(2) **Information and Analysis** Until 1 January 2014, bus operators and Community Transport providers in England received BSOG from the DfT for most of the services they provide. BSOG is a partial rebate of the fuel duty paid, with the basic BSOG rate being 34.57p per litre of fuel used. Additional uplifts to the basic BSOG rate of up to 10% are also available where operators' vehicles are fitted with compliant Smartcard ticket machines or Automatic Vehicle Location (AVL) equipment and for low carbon emission buses (LCEB).

Transport operators claim BSOG using a heavily audited process based on declarations of kilometres operated, fuel use and average kilometres per litre (kpl) for their fleet.

In 2013, the DfT announced plans to reform bus subsidy in England and these changes have now been implemented. Since 1 January 2014, bus operators are no longer eligible to claim the basic BSOG rate for any supported local bus services in England, although they will continue to receive the basic BSOG rate for commercial services they provide (including any partially supported by local authorities through de minimis contracts). Operators will also continue to receive BSOG uplifts for both commercial and contracted services. Community Transport operators will continue to be able to claim BSOG directly from the DfT.

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A sum equating to the basic BSOG formerly payable to operators for all eligible local authorities supported services has been devolved to each Transport Authority in England, effectively shifting responsibility for this funding stream from national to local government.

The amount has been calculated by the DfT using the most recent certified BSOG claim forms for each operator. For Derbyshire, the sum payable for the period from 1 January 2014 to 31 March 2014 is £224,147. For the full year from 1 April 2014 to 31 March 2015 (and subsequent years) the sum payable to the Council will be £896,586. It should be noted that these funds are ring-fenced until April 2017 and must therefore be used for expenditure on sustaining or improving bus services. The stated expectation of the DfT is that local authorities will take due account of the tendered BSOG foregone by bus companies operating non-commercial services in managing existing contractual arrangements with them for these services. It should also be noted that this is a one-off calculation of the sums to be devolved which will not be revisited in the subsequent event of fewer or additional contracted kilometres being operated.

As part of their existing contract with the Council for the provision of data analysis in relation to bus services, consultants EP Morris have provided support and knowledge transfer in order to validate the sums being devolved by the DfT and to determine appropriate compensatory payments to be made to operators for the remainder of the contract term for existing contracts. EP Morris currently certifies over 80% of the DfT's total expenditure on BSOG and is therefore the leading specialist in this area.

This work has confirmed that the sums devolved to the County Council are in line with the methodology adopted by the DfT and that there are no significant discrepancies. As a period of time has passed since the last certified claims were submitted by each operator, the supported network (and kilometres operated) has subsequently changed with reductions on some routes and additions to others. However, the total kilometres operated remains broadly comparable and, consequently, the funds required to compensate operators of the loss of BSOG for the remainder of existing contracts are in line with the sums devolved.

Although there is no obligation on the Council to specifically use the devolved funds to compensate operators for the loss of BSOG on existing contracts, as noted above, the expectation of the DfT is that local authorities will take account of this loss of funding in managing existing contractual arrangements. Indeed, the DfT "strongly encourages local authorities to work closely with bus operators in order to avoid potential disruption to the bus market by adjusting contracts to account for the loss of BSOG".

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BSOG, and its predecessors, is a long established funding stream for the provision of local bus services and will have formed an integral part of operators' overall assessment of income and costs when tendering for services in the past. If the Authority does not compensate operators of existing contracts for the loss of BSOG, the reduction in income arising would severely impact on their financial viability, resulting in contracts being handed back by their operators, and creating instability in the tendered bus network for service users. The re-tendering process that would have to be undertaken would result in the loss of BSOG income being added to the tender prices submitted by each tenderer so, other factors aside, the contract cost of maintaining individual services can be expected to increase to offset this.

Operators are aware that ring-fenced funding has been made available to local authorities. Whilst recognising that the County Council is entitled to exercise its discretion in making compensatory payments, it is acknowledged that without these operators will be unable to sustain existing contracts for the remainder of their term. Given the current severe budget pressures it is important to ensure stability prior to any wider discussion of the future funding for public transport. It may well be that, in future years, this funding can be used in effective and innovative ways to provide support for public transport in the County.

This compensation approach is consistent with that being adopted by many other councils, including neighbouring authorities

It is therefore recommended that, as a transitional arrangement, the Council compensates each operator of existing contracts for the BSOG forgone by way of a supplementary payment for the remainder of the life of each contract. Through the work undertaken by EP Morris, the payment for each contract will be determined by the Authority based on the actual kilometres operated and the existing BSOG rate of 34.57p per litre of fuel used. This will therefore closely match the payment operators would otherwise have received had BSOG reform not occurred. Payments will be made in arrears on receipt of invoice and supporting data evidencing the kilometres operated.

The cost of this will be fully funded using the ring fenced BSOG funds devolved to the Council from the DfT. As contracts expire and are retendered, the replacement contracts would cease to be eligible for any compensatory BSOG payment and operators will need to include an equivalent amount within their total tender price.

Over time, the total value of compensatory payments will therefore gradually diminish (and ultimately cease) as contracts expire. All things being equal, the cost of replacement tender prices will conversely rise and some, if not all, of the funds devolved from the DfT would therefore continue to be required to meet this increase in cost. Other factors will also influence tender prices,

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including the likely increase in demand for more fuel efficient vehicles from manufacturers.

The longer term implications of these new arrangements will only become fully apparent over time and it will be important for the County Council to keep the situation under review, particularly in the light of current financial pressures. It is recommended therefore that these transitional arrangements should initially be agreed for the period 1 January 2014 to 31 March 2015. Continuation of transitional funding beyond 31 March 2015 will be considered as part of a wider review of public transport by the Authority.

(3) **Financial Considerations** A sum of £224,147 has been devolved by the DfT to the Council for the period 1 January 2014 to 31 March 2014. For the financial year 1 April 2014 to 31 March 2015 (and subsequent years), the sum payable to the Council will be £896,586. These funds are ring-fenced until April 2017 for expenditure on sustaining or improving bus services.

Through the forecasts done by specialist consultants EP Morris, it has been confirmed that the full funds devolved will initially be required to sustain existing contracts. There are therefore no net implications to existing budgets as the transitional arrangements are fully funded by the devolved funds.

In the event that overall savings are subsequently accrued through the tender process as contracts are renewed then this could open the way for the devolved funds to be used more generally to sustain or improve bus services, in line with Government expectations.

(4) **Transport Considerations** The provision of these transport services is vital for the local economy and for maintaining and improving access to many essential services, including employment, education, health, leisure and shopping.

In preparing this report the relevance of the following factors has been considered: legal, prevention of crime and disorder, equality and diversity, human resources, environmental, health, and property considerations.

(5) **Key Decision** Yes.

(6) **Call-In** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

(7) **Background Papers** Held on file in the Public Transport Unit of the Economy, Transport and Environment Department. Officer contact details - Anthony Crompton, extension 36733.

## **Public**

### **(8) OFFICER'S RECOMMENDATIONS**      That Cabinet:

- 8.1 Notes the content of the report and the implications of Bus Service Operators Grant devolution for supported local bus services.
- 8.2 Approves the transitional arrangements to revise contract payments to operators of current Council supported bus service contracts in 2013/14 and 2014/15 to reflect the loss of Bus Service Operators Grant for these contracts and the Council's use of the devolved Bus Service Operators Grant funds for this purpose.
- 8.3 Agrees to monitor the situation and review the arrangements for 2015/16 and subsequent years.

**Mike Ashworth**  
**Strategic Director – Economy, Transport and Environment**