

## PORTFOLIO HOLDER DECISION RECORD

<b>Portfolio Holders:</b> Councillor Mrs Laws, Portfolio Holder for Planning and Flooding, Councillor Seaton, Portfolio Holder for Transport, Heritage & Culture	<b>Service:</b> Transport and Infrastructure
<b>CMT Officers:</b> Amy Brown, Assistant Director and Acting Monitoring Officer, Peter Catchpole, Corporate Director and Chief Finance Officer	<b>Delegated Power Being Exercised:</b> Part 3, Table 5, paragraph 8 of Fenland District Council's Constitution provides all portfolio holders with delegated authority to approve any action within their functional area up to a value of £250,000.  Councillor Seaton is the portfolio holder for Transport, Heritage and Culture. However, Councillor Seaton is also a Trustee of FACT and the Leader has therefore delegated this decision to the Cabinet Member for Planning and Flooding.
<b>Subject of Decision:</b> FACT Community Transport  Councillor Laws, Cabinet Member and Portfolio Holder for Planning and Flooding is requested to consider and approve the following proposals effective for the 2024-25 financial year:  <ol style="list-style-type: none"><li>1. To authorise officers to enter into a side agreement to operate alongside the 2024-25 Concessionary Travel Service Level Agreement enabling the Council to make payments to FACT Community Transport in line with guidance published in October 2021 by the Department of Transport entitled <i>Covid-19 Recovery Guidance: Concessionary Fares Funding</i>. The side agreement shall operate on the basis explained below.</li><li>2. To authorise officers to pay FACT Community Transport a fee calculated with reference to the side agreement which shall not exceed £50,000 for the period 1 April 2024 – 31 March 2025. This provision shall apply for so long as the aforementioned Department of Transport guidance remains in place and is not otherwise superseded or revoked. A new decision notice shall be produced and approved by the Cabinet Member and Portfolio Holder for Planning and Flooding if the guidance changes.</li><li>3. To authorise officers to clawback the value of any overpayment against payments made where, following appropriate post-payment assurance work, it is determined that the payment described at paragraph 2 above exceeds the value of the operational running costs attributable to concessionary travel service provided in Fenland during the 2024-25 financial year.</li></ol>	

### Decision Taken:

Historically, the Council has had a Concessionary Travel service level agreement in place with FACT Community Transport whereby FDC funds 50% of the fare for Dial a Ride journeys on FACT Community Transport minibuses for members of FACT up to a capped budget of £50,000. The Council intends to enter into a Concessionary Travel Service Level Agreement (SLA) for the 2024-25 financial year which is prepared on the same basis.

During the period when the UK was subject to restrictions linked to Covid-19 FACT experienced a reduction in demand for its Dial a Ride services. Recognising that many of its members were

reluctant or unable to travel FACT varied its services to deliver shopping to FACT members who had previously used its buses to travel to local shops. The Council agreed two decision notices in November 2020 and August 2021. These notices enabled payments to be made to FACT over and above the terms of the SLA on the following basis:

- (i) to cover the cost of providing a shopping service for local residents whereby essential food and medicine supplies are delivered to residents' homes; and
- (ii) to cover the additional costs borne by FACT, not reflected in the normal operating budget, which arose due to FACT being required to reduce the number of passengers using its vehicles at any one time. Such reductions reduced the income FACT could draw down from the Council as, under the original SLA, income is based on a 'fares foregone' principle which is determined based on the number of passengers entitled to concessionary travel.

Payment made under the terms of the revised SLA were subject to a clawback principle which would be applied if financial information provided by FACT indicated that the payments made to FACT by the Council exceeded the cost FACT had incurred in delivering the services referred to at (i) and (ii) above.

Central government has recognised the significant contribution that effective and efficient provision of bus services could make to its levelling-up agenda. Against this backdrop, the Department for Transport ('DfT') publication *Covid-19 Recovery Guidance: Concessionary Fares Funding* ('the guidance') acknowledges that if existing transport operators are not adequately supported the ability of government to achieve broader policy objectives in the medium-term through providing funding for enhanced public transport might be impeded. This is because if patronage levels do not return to pre Covid 19 levels quickly, without adequate financial support, pre Covid-19 services are at risk of being withdrawn, curtailed and ultimately bus operators may exit the market.

Fenland District Council is not bound by the guidance which is aimed at Local Transport Authorities ('LTAs'). In Cambridgeshire the Cambridgeshire and Peterborough Combined Authority ('the CPCA') is the statutory LTA. The funding FACT receives from the CPCA will be determined by reference to the guidance. The Council is satisfied that using this guidance provides a fair and transparent method to determine amounts payable to FACT recognising that challenges associated with recovering from Covid 19 identified by the DfT will apply to FACT.

The current DfT guidance indicates the proportion of pre-covid funding that should be paid over to concessionary transport officers is at 65%. Fenland District Council have determined that it is reasonable to use this figure for the entire 2024-25 financial year.

Pre-Covid concessionary travel payments are to be determined based on the highest monthly amount in the three financial years prior to the pandemic, i.e., 2017/18, 2018/19, 2020/21. This provides for the following payment levels:

<b>Month</b>	<b>Highest Pre Covid 19 Support (£)</b>	<b>DFT %</b>	<b>2024/25 FDC Payment Due (£)</b>
April	4,482	65	2,913
May	5,038	65	3,275
June	4,791	65	3,114
July	4,454	65	2,895
August	4,773	65	3,103
September	4,689	65	3,048
October	4,736	65	3,078
November	5,073	65	3,298
December	3,646	65	2,370

January	4,216	65	2,740
February	3,993	65	2,595
March*	4,188	65	2,722
		<b>TOTAL</b>	<b>£35,151</b>

\*March figures adjusted to reflect actual patronage levels and not amount paid by Fenland DC as this was adjusted in 2017/18 and 2018/19 to ensure the budgetary cap of £50,000 was not exceeded.

The Council has determined that making payments on the basis set out above strikes an appropriate balance providing financial security to FACT whilst encouraging it to review its service provision and engage with its membership to ensure it is able to draw down the income it requires to ensure its services are sustainable.

**Portfolio Holder’s Decision:**

Councillor Laws, Cabinet Member and Portfolio Holder for Planning and Flooding is requested to consider and approve the following proposals effective for the 2024-25 financial year:

1. To authorise officers to enter into a side agreement to operate alongside the 2024/25 Service Level Agreement enabling the Council to make payments to FACT in line with guidance published in October 2021 by the Department of Transport entitled *Covid-19 Recovery Guidance: Concessionary Fares Funding*.
2. To authorise officers to pay FACT a fee calculated with reference to the side agreement which shall not exceed £50,000 for the period 1 April 2024 – 31 March 2025. This provision shall apply for so long as the aforementioned Department of Transport guidance remains in place and is not otherwise superseded or revoked. A new decision notice shall be produced and approved by the cabinet Member and Portfolio Holder for Planning and Flooding if the guidance changes.
3. To authorise officers to clawback the value of any overpayment against payments made where, following appropriate post-payment assurance work, it is determined that the payment described at paragraph 2 above exceeds the value of the operational running costs for the period.

**Reason for the Decision:**

Through its ordinary operating arrangements, FACT provide a valuable, demand led community service. Fenland District Council has a longstanding commitment to contribute a capped sum of £50,000 per year on concessionary travel. This is to support our local residents and enable them to travel for essential journeys. As the only dial a ride operator currently in Fenland District this funding supports FACT’s operating costs which is delivered at a variable monthly rate depending on the actual number of fares. The prolonged impact of Covid restrictions has led the DfT to conclude that additional financial support may need to be provided to enable concessionary travel operators to recover from the pandemic. This is because patronage levels may take several months to return to levels seen prior to the pandemic. Whilst remaining within its budgeted allowance for concessionary travel of £50,000, the Council has proposed an arrangement for the 2024/25 financial year which strikes a balance between providing financial security whilst allowing FACT to determine what provision is sustainable and cost-effective based on the needs of the local community.

**Alternative Options Considered:** (if appropriate):

As an alternative to the option being proposed Fenland District Council could maintain the status quo. This would mean that FACT might experience financial difficulties in 2024/25 due to passenger levels being lower than levels seen prior to Covid. This could impact service delivery which might in turn restrict access to community transport in the District due to a shortage of alternative providers who could enter the market in the short to medium-term.

**Background/Reports/Information** considered and attached:

Fenland District Council Concessionary Travel policy

Department for Transport, Covid-19 Recovery Guidance: Concessionary Fares Funding

Fenland District Council Decision Notices in respect of FACT – November 2020

**Portfolio Holder's Signature:**

Councillor Dee Laws  
Cabinet Member and Portfolio Holder for  
Planning and Flooding

**Date:**

21 March 2024

**Please forward to Democratic Services upon completion**

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**Date copy passed to  
Democratic Services**

**Implementation Date: 29 March 2024  
(if not called-in)  
(Allow 5 clear working days after publication  
of decision)**

Circulation: Democratic Services, Portfolio Holder, Officer and Accountancy.