POLICY NOTE

THE NATIONAL BUS TRAVEL CONCESSION SCHEMES (MISCELLANEOUS AMENDMENT) (SCOTLAND) ORDER 2026

SSI 2026/XXX

The above instrument was made in exercise of the powers conferred by sections 40 (1), (3), and (4) of the Transport (Scotland) Act 2005. The instrument is subject to the affirmative procedure.

Summary

This instrument amends the National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Order 2006 ("the 2006 Order") and the National Bus Travel Concession Scheme for Young Persons (Scotland) Order 2021 (the "2021 Order") to give Scottish Ministers the power to withdraw or suspend concessionary travel where an individual is found to be in breach of the standards of conduct determined by the Scottish Ministers while using the scheme. The instrument also sets out the procedural requirements that must be followed before withdrawing or suspending concessionary travel.

Policy Objectives

The National Concessionary Travel Schemes (NCTS) provide free bus travel across Scotland to young people aged 5-21, adults aged 60+, and individuals with qualifying disabilities. The scheme plays a vital role in supporting access to education, employment, healthcare, and social opportunities, particularly for those who may face financial or mobility barriers. In 2024, there were over 2.3 million NCTS cardholders in Scotland. Over half of the 334 million bus journeys made in 2023-24 were made under the NCTS[1].

In recent years, concerns have been raised about passenger safety and anti-social behaviour on public transport. These concerns have been echoed by transport operators, groups representing passengers, and members of the public.

In response, the Scottish Government is developing a multi-faceted approach to encourage behaviour change on the bus network, including introducing a code of conduct for all NCTS users, developing educational materials outlining responsible behaviour on buses, and exploring additional visible safety measures. A code of conduct will be published and will set out clear standards for respectful and responsible conduct when travelling by bus when using the NCTS. Taken together, these policies aim to foster an environment which encourages bus use and contributes to the success of the NCTS by helping passengers to feel safe.

This instrument will give Scottish Ministers the power to suspend or withdraw concessionary travel for users who breach these standards when using the scheme.

[1] https://www.transport.gov.scot/publication/scottish-transport-statistics-2024/chapter-2-bus-and-coach-travel/

The instrument also sets out procedural requirements to ensure that before Scottish Ministers make a decision on whether to suspend or withdraw access to concessionary travel, the scheme user is given notice including the grounds for potential suspension, and also provided with an opportunity to make representations.

These requirements will ensure that any processes to suspend travel are fair and balanced, and provide sufficient notice to ensure that the person can make alternative travel arrangements during the period of suspension. It is important to note that suspension of concessionary travel does not prevent a person from paying to travel on the bus service, however bus operators do have the right to refuse service to a person that has breached their conditions of carriage.

Work on a code of conduct as well as the processes and procedures for suspension is progressing. The code of conduct and suspension policy are part of a package of measures to deter antisocial behaviour, encouraging better behaviour by all bus users, rather than relying on enforcement.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the National Bus Travel Concession Schemes (Miscellaneous Amendment) (Scotland) Order 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

To support the development of the NCTS code of conduct and associated legislation, Transport Scotland has undertaken engagement with both internal and external stakeholders. Internally, teams covering concessionary travel operations, youth and justice policy, ASB, accessibility, and data protection contributed to shaping the policy. Externally, engagement included bus operators, Police Scotland, local authorities, youth organisations, accessibility groups, and the Department for Transport, Transport for London and Transport for West Midlands.

As a result of that consultation the general themes that emerged were in relation to fairness and stigmatisation particularly towards young people, and recommendations such as restorative approaches, youth involvement in policy design, and safeguards to protect scheme users rights.

Stakeholders, including bus operators and youth organisations, raised concerns about the clarity and fairness and consistency of the suspension process. Some feedback was based on misunderstandings, such as fears of physical card removal, which remove access to other services such as the Proof of Age Standard Scheme (PASS), while others offered suggestions like behaviour awareness sessions and improved communication. These discussions emphasised the importance of ensuring that the policy is clearly understood and implemented in a way that respects the rights of all scheme users including children and young people.

Impact Assessments
The following impact assessments have been completed on the draft SSI and policy and are attached:

- Business and Regulatory Impact Assessment (Partial)
- Child Rights and Wellbeing Impact Assessment
- Data Protection Impact Assessment
- Equality Impact Assessment and Consumer Duty
- Fairer Scotland Duty

As a result of the EQIA and CRWIA, when further developing the processes and procedures of the policy, the following will be included:

- A commitment to an accessible and inclusive code of conduct and communication materials, such as Easy Read, BSL, translated formats and youth- friendly versions. This will ensure that all scheme users, regardless of age, disability, or communication needs, can understand the code of conduct.
- A review and refinement of the suspension criteria, to ensure they are fair, proportionate, and take account of key considerations from all protected characteristics.
- The possibility of issuing of warning letters before suspension where appropriate, to raise awareness of the consequences of repeated similar breaches of the code of conduct.
- Ongoing monitoring and evaluation of the impact of suspensions, to identify and address any unintended consequences.

The code of conduct and suspension policy, alongside the complementary policies being developed on education and visible safety measures, aim to make bus services safer by acting as a deterrent to those engaging in antisocial behaviour while ensuring the rights of all scheme users are protected. This in turn should reduce inequalities of outcome, support social inclusion, and ensure that the scheme continues to deliver benefits equitably across Scotland's diverse communities by making bus travel a safer and therefore more attractive mode of travel.

The DPIA has identified the high level data protection risks of the policy, as well as the expected data flows between organisations such as Transport Scotland, bus operators, Police Scotland and Local Authorities. As the processes are developed, a standard template for reporting breaches of the code of conduct will be produced to discourage unnecessary or excessive personal data being shared. Transport Scotland will also seek to ensure that all parties review their transparency information ahead of the policy being implemented, with particular attention paid to data relating to children and young people to support their safeguarding. Further engagement with the Information Commissioner's Office will take place as processes are developed.

Financial Effects
A partial Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. At this stage of the policy development, quantified costs to businesses cannot be precisely estimated, as they will depend on the final design of the code of conduct and associated procedures. However, anticipated cost areas include staff training, time spent completing and submitting incident reports and evidence to Transport Scotland, and communicating the code of conduct to passengers. Operators may lose some revenue from a

suspended NCTS user, although these individuals could still travel as fare-paying passengers unless banned by the operator.

Despite these potential costs, operators have been strong advocates for the policy, viewing the costs as marginal compared to the expected benefits. These benefits include reduced damage and repair costs, increased patronage due to improved safety perceptions, fewer service disruptions from ASB incidents, and enhanced driver recruitment and retention. For small operators, the relative cost impact per incident may be higher due to limited administrative resources.

Bus operators and potentially Police Scotland will be key in identifying and reporting breaches to Transport Scotland. Local Authorities and the National Entitlement Card Programme Office (NECPO) may experience slight increases in administrative workload due to card reapplications post-suspension.

Transport Scotland will manage escalated reports and enforcement, likely facing moderate resource demands. Passengers will benefit from enhanced safety on buses, but those passengers breaching the code may have their free travel suspended. With 2.3 million NCTS cardholders in Scotland, the policy's reach is significant, and further impact analysis will be refined through the full BRIA process following the secondary legislation.

Scottish Government
Transport Scotland – Bus, Concessionary and Active Travel Directorate

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