



**REPORT TO  
PROJECTS AND PARTNERSHIPS  
OVERVIEW AND SCUTINY  
COMMITTEE**

**27 SEPTEMBER 2010**

	<b>Topic</b>	<b>Partnership Review</b>
	<b>Task Group (if applicable)</b>	
<b>Corporate Priority: Creating Healthy and Vibrant Communities</b>	<b>Cabinet Portfolio Holder</b>	<b>Cllr A Backhouse</b>

**REPORT OF: Head of Finance & Asset Management – 10/544**

**WARDS AFFECTED: All**

**SUBJECT: REVIEW OF THE NORTH YORKSHIRE  
CONCESSIONARY FARES PARTNERSHIP**

**REASON(S) REPORT REQUESTED:**

To review the North Yorkshire Concessionary Fares Partnership and to ensure that there are sound, robust and verifiable governance and risk arrangements within the partnership.

**PURPOSE OF REPORT:**

To enable Members to undertake a review and comment on the partnership.

**RISK ISSUES:**

None identified.

**1. INTRODUCTION**

1.1 In their consideration of a report by the Head of Legal and Support Services in September 2009 (09/0962), Members of the Audit Committee agreed that the North Yorkshire Concessionary Fares Partnership was a “significant partnership” and as such should be subject to an annual review by the Projects and Partnerships Overview and Scrutiny Committee.

- 1.2 This is the first report presented to members in relation to the North Yorkshire Concessionary Fares Partnership.

## **2. CORPORATE OBJECTIVES AND THE COMMUNITY PLAN**

- 2.1 The North Yorkshire Concessionary Fares Partnership supports the Council's objective of 'Creating Healthy and Vibrant Communities' by enabling free bus travel to persons over 60 years of age and to certain categories of disabled people. This aids the reduction of community disadvantage and social exclusion, particularly in the rural areas.

## **3. BACKGROUND AND ISSUES**

- 3.1 The North Yorkshire Concessionary Fares Partnership is partnership between the seven North Yorkshire district councils and the City of York, which was set up in 2001 to administer the concessionary fares scheme on a county-wide basis. The scheme was introduced on 1 June 2001 in accordance with the Transport Act 2000. Harrogate Borough Council was appointed lead authority in the partnership.
- 3.2 The partnership operates in accordance with a formal agreement between the members, namely the "Participation Agreement", which sets out the roles and responsibilities of both the lead authority and the partners.
- 3.3 The purpose of the partnership is to facilitate provide a central administrative team at the lead authority with the suitable expertise and experience to undertake various duties on behalf of the partners and to secure economies of scale. The role of the lead authority and its administrative duties include: -
- The process for reimbursements of operators
  - The Scheme Account and scrutiny arrangements
  - The procedure for dealing with operator appeals
  - Meetings of the partnership
  - Liaison with the partnership's transport consultants, supplier and other stakeholders
- 3.4 The partners also know as "issuing authorities" (i.e. this Council) retain overall responsibility for the concessionary fares scheme in their area. Any policy or administrative decisions by the partnership must have the agreement of the partners, in accordance with the Participation Agreement. In the case of this Council, decisions on policy and substantive administrative matters are made by Members in accordance with the Council's Constitution. The partnership holds officer meetings quarterly, or more frequently if required, at which the Council is represented by the Revenues Manager.
- 3.5 The most significant issue currently affecting the partnership itself arises from central government's decision to transfer responsibility for the scheme from

district councils to upper tier councils (i.e. North Yorkshire County Council) as from April 2011.

- 3.6 As from 1 April 2010, the County Council will become responsible for all aspects of the concessionary fares scheme, including policy funding and service provision. This Council's role and responsibility along with the partnership will cease. Negotiations are currently ongoing between all three parties as to the practical aspects of service provision post April 2010, however any agreement reached would be between the individual district councils and the Councils and the County Council, as the partnership will then no longer be in place.
- 3.7 Until the cessation, routine scheme matters will continue to be handled by the partnership in the usual way. One major ongoing issue is the additional cost claims made by two of the larger bus operators in our area, which the partnership and its consultants are currently handling on behalf of the councils involved (including ourselves).

#### **4. ASSESSMENT**

- 4.1 The Participation Agreement was originally agreed in 2001. It was reviewed earlier this year, having been circulated to each partner by the lead authority, Harrogate Borough Council, for consideration and legal review. The agreement has been updated and amendments included the maintenance of a risk register, the requirement for five individual districts to be represented to make Partnership meetings quorum and the provision for scrutiny or audit of the Lead Authority by other Partners.
- 4.2 The revised agreement was approved by this Council following a report to Cabinet on 16 February 2010, and was adopted countywide from 1 April 2010. A copy of the participation Agreement is attached at Appendix A.
- 4.3 The cessation of the partnership and the transfer of responsibilities is being addressed by officers from the partnership, the County Council and district councils on an ongoing basis. A major area of concern for this Council is the transfer of funding of the concessionary fares scheme and how it will affect this Council's financial position. An announcement is expected later this year from central government on their decision on the future funding of the scheme.
- 4.4 The date on which the partnership will terminate is that on which responsibility passes to the County Council, according to the agreement. It has been acknowledged at the officer meetings that there will be some residual work to be completed after 1 April 2011 for the partnership (e.g. on operator claims and reimbursements, final accounts) and that this will be undertaken by the administrative team who will be transferring to the County Council. Any unresolved additional cost claims from bus operators will also need to be completed by the team in conjunction with ourselves after April 2011 if necessary.

## **5. IMPLICATIONS**

5.1 There are no implications from this report other than as indicated above.

*Nicholas Edwards*

**Nicholas Edwards**  
**Head of Finance & Asset Management**

**Author: Elaine Rhodes**

Telephone No: 01723 232377

Fax No:01723 500636

E-mail address: [Elaine.Rhodes@scarborough.gov.uk](mailto:Elaine.Rhodes@scarborough.gov.uk)

## NORTH YORKSHIRE CONCESSIONARY FARES SCHEME - PARTICIPATION AGREEMENT

**THIS AGREEMENT** is made on **1 April 2010**

**BETWEEN:-**

- (1) The Council of the Borough of Harrogate of Crescent Gardens, Harrogate HG1 2SG  
(an **"Issuing Authority"** and the **Lead Authority"**)
- (2) Craven District Council, Council Offices, Granville Street, Skipton, BD23 1PS  
(an **"Issuing Authority"**)
- (3) Hambleton District Council, Civic Centre, Stone Cross, Northallerton, DL6 2UU  
(an **"Issuing Authority"**)
- (4) Richmondshire District Council, Frenchgate House, Frenchgate, Richmond, DL10  
7AF (an **"Issuing Authority"**)
- (5) Ryedale District Council, Ryedale House, Old Maltongate, Malton, YO17 7HH (an  
**"Issuing Authority"**)
- (6) Scarborough Borough Council, Town Hall, St Nicholas Street, Scarborough, YO11  
2HG (an **"Issuing Authority"**)
- (7) Selby District Council, Civic Centre, Portholme Road, Selby, YO8 4SB  
(an **"Issuing Authority"**)
- (8) City of York Council, Directorate of City Strategy, 9 St Leonard's Place, York, YO1  
7ET (an **"Issuing Authority"**)

The Issuing Authorities are hereinafter together known as the "Partnership"

### **INTRODUCTION**

The North Yorkshire Concessionary Fares Scheme (referred to within this agreement as the Scheme) exists for the provision of travel concessions to elderly or disabled people resident within the administrative areas of the above listed authorities as mandated by the Transport

Act 2000 (the Act). The Particulars of the Scheme are set out in a document entitled Notice of Particulars of the Scheme dated 1 May 2009 (and any amendments thereto). Each of the Issuing Authorities is responsible for receiving and processing applications for concessionary travel passes and for issuing concessionary travel passes to eligible residents in its area.

The parties to this Agreement agree that Harrogate Borough Council as the Lead Authority is to have overall responsibility for the co-ordination and administration of the reimbursement of Operators on behalf of all of the Issuing Authorities. This is subject to one exception, namely that all operators who are based in and provide the majority of their services in the administrative area of the City of York are reimbursed by City of York Council directly.

**IT IS AGREED** as follows:-

## **1. DEFINITIONS**

**“Central Administration Costs”**

the costs incurred by the Lead Authority in running the Scheme. Such costs are to be met by the Issuing Authorities in accordance with the terms of this Agreement.

**“Fixed Costs”**

means those parts of the Central Administration Costs relating to administration and staffing costs, other than survey officer costs, that are recharged as an equal share to each Issuing Authority participating in the Scheme.

**“Variable Costs”**

means those parts of the Central Administration Costs relating to staffing and on-costs specifically related to survey officers, that are recharged as a proportionate share of the overall Variable Costs to each Issuing Authority participating in the Scheme. Each Issuing Authority's proportion is determined in accordance with the terms of clause 7.7.

**“Additional Costs Claim”**

means a claim made by an Operator in circumstances where, as a direct result of the provisions of the Scheme, that Operator can identify an increase in costs owing to the deployment of additional resources required to meet demand, or owing to a significantly increased burden of administration.

**“Administrative Decision”**

means a decision in relation to the operation of the Scheme which is not a Policy Decision.

**“Claim Period”**

means the number of weeks which the Lead Authority and the Operator agree that each claim for an Operator's reimbursement will cover.

**“Scheme”**

means the North Yorkshire Concessionary Fares Scheme as defined from time to time in the Notice of Particulars of the Scheme or amendments thereto.

**“Officer Representative”**

means an officer of the Issuing Authority or Lead Authority who is duly authorised by that Authority to take decisions on its behalf and includes authority to make decisions on policy affecting the Scheme.

**“Operator”**

means an operator of local transport services that has agreed or has been required by legislation or Scheme

conditions to offer concessionary fares in the Area pursuant to the Scheme and includes, without prejudice to the generality of this definition, all operators whose services are registered as 'local services' in the Area in accordance with Section 6 of the Transport Act 1985 with the exception of those services excluded under the Travel Concessions (Eligible Services) (Amendment) Order 2009.

**“Policy Decision”**

means a decision in relation to the operation of the Scheme which is one that is either likely (i) to result in an Issuing Authority incurring expenditure which is, or the makings of savings which are, in excess of £5,000; or (ii) to be significant in terms of its effects on communities living or working in an area comprising of two or more wards or electoral divisions in the area of the Issuing Authority; or (iii) to significantly impact on the development of the Scheme in so far as how the Scheme operates in future and/or the types of concession to be offered. A Policy Decision will include but not be limited to a decision by any of the Issuing Authorities to implement a fully integrated smart card system.

**“Published Arrangements for the Reimbursement of Operators”**

means the document dated 1 May 2009 and any amendments made to this document from time to time as agreed by the parties.

**“Scheme Account”**

means an account held by the Lead Authority with a separate ledger code for all transactions relating to the Scheme.

**“The Area”**

is the area covered by the administrative districts of all the Issuing Authorities including the Lead Authority.

## **2. SCOPE OF LEAD AUTHORITY'S ROLE**

- 2.1 The parties to this Agreement agree that Harrogate Borough Council as the Lead Authority is to have overall responsibility for the co-ordination and administration of the reimbursement of Operators on behalf of all of the Issuing Authorities. This is subject to one exception, namely that all Operators who are based in and provide the majority of their services in the administrative area of the City of York are reimbursed by City of York Council directly.
- 2.2 In accordance with the provisions of the Local Government Act 2000 and Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2000, in order for Harrogate Borough Council to act as Lead Authority pursuant to the terms of this Agreement, it has been necessary for each of the other above Issuing Authorities to formally delegate to Harrogate Borough Council this function.
- 2.3 The parties have agreed that this Agreement does not cover the delegation of the function of issuing of concessionary travel passes. Each of the Issuing Authorities therefore remain responsible for receiving and processing applications for concessionary travel passes and for issuing concessionary travel passes to eligible residents in their administrative area.

- 2.4 The Lead Authority will however carry out a limited number of functions as set out in this Agreement in relation to the production and management of concessionary travel card passes on behalf of the Issuing Authorities.

### **3. DURATION**

- 3.1 This Agreement will commence on 1 April 2010 and continue unless terminated in accordance with clause 13.1 below.

### **4. PROCESS FOR REIMBURSEMENT OF OPERATORS**

- 4.1 The Lead Authority and City of York Council agree to process all Operator claims that they each receive and are responsible for and reimburse those Operators in accordance with the methodology detailed in the Published Arrangements for the Reimbursement of Operators (as amended from time to time).
- 4.2 The Lead Authority will be responsible for responding to all claims and enquiries by the Operators in so far as they relate to the reimbursement arrangements. However, claims and enquiries by Operators based and providing services mainly within the area of the City of York Council should be addressed to Public Transport Planner, City of York Council.
- 4.3 The Published Arrangements for the Reimbursement of Operators provides that:
- (a) reimbursement arrangements may be varied by the Lead Authority where an Operator provides clear evidence that the standard method of reimbursement is not appropriate
  - (b) alternative methods of reimbursement may be agreed by the Lead Authority with any Operator whose mileage run on services eligible for concessionary fare passes and which run wholly or partly within the Scheme Area is less than 150,000 miles per annum. The alternative method of reimbursement may be based on the standard method, with an adjusted reimbursement factor, or using another method as determined appropriate by the Lead Authority, based on available evidence.

### **5. ADMINISTRATIVE WORK BY LEAD AUTHORITY IN RELATION TO CONCESSIONARY TRAVEL PASSES**

#### **Pass Issuing - System Administration**

- 5.1 The parties have agreed that the Lead Authority will be responsible on behalf of itself and the Issuing Authorities for the following tasks:
- (a) Acting as the system administrator in relation to the Partnership's chosen software/bureau card production system; liaising with the system supplier on behalf of the Issuing Authorities; processing monthly supplier invoices; advising on required system improvements/upgrades, and ensuring each Issuing Authority has the required access to their own respective data sets.
  - (b) Providing advice to the Issuing Authorities on applicant eligibility criteria, and the evidence required to support applications for concessionary travel passes.



- (c) Processing and monitoring system reports, maintaining statistical records of pass issuing and providing summary data to the Issuing Authorities and/or other relevant government bodies including the Department for Transport and North Yorkshire County Council as and when required.

### **Survey and Reimbursement Work**

- 5.2 The Lead Authority will advise the Partnership on suitable staffing levels and will employ an appropriate number of survey officers and reimbursement officers on behalf of the Partnership, subject to Partnership agreement. The costs of employing these staff will form part of the Central Administration Costs to the Scheme.
- 5.3 The survey officers will carry out survey work on a selected range of bus services across the Area, collating information on concessionary passenger journeys. The Lead Authority will then analyse the survey data and use it to support its assessment of the accuracy of Operator's claims for reimbursement.
- 5.4 The reimbursement officers will process Operator's claims for reimbursement submitted to the Scheme, ensuring that all claims are checked for accuracy, validated against available data, and reimbursed in accordance with the Published Arrangements for the Reimbursement of Operators. Each Issuing Authority's liability for Operator reimbursements will be determined by the point of passenger boarding. The point of passenger boarding will be determined by ETM data or in the absence of such data from the results of sample surveys.

### **Scheme Administration**

- 5.5 The parties have agreed that the Lead Authority will be responsible for:
  - (a) All aspects of Scheme administration including co-ordinating regular meetings with the Issuing Authorities, producing master documentation for each Issuing Authority to personalise e.g. consultation responses and pass holder mail shots, and referring enquiries regarding applications for and the issuing of concessionary travel passes to the relevant Issuing Authority.
  - (b) Liaising with the Partnership's appointed consultants to ensure compliance with all appropriate legislation and to provide the Issuing Authorities with appropriate advice on any legislative changes affecting the Scheme.
  - (c) With the Partnership's appointed consultant, conducting periodic review of the continuing appropriateness of Scheme Reimbursement Arrangements taking into account changes in factors affecting reimbursement levels.
  - (d) Producing and publishing the Scheme documents including the Particulars of the Scheme and the Arrangements for Reimbursement of Operators.
  - (e) Liaising with and attending meetings with other Travel Concession Authorities, regional offices, local and national Government.
  - (f) Liaising with Operators on all aspects of the Scheme including applications to join the Scheme, claims for reimbursement, service changes, additional cost claims, appeals, scheme exceptions etc subject to the exception set out in clause 2.1 above.
  - (g) Making arrangements for regular external audits of the Scheme administration, in particular the arrangements for reimbursement of Operators and allocation of recharge costs to each of the appropriate Partner Authorities.

- (h) Maintaining a risk register appropriate to the Scheme and Partnership arrangements.

### **Procurement**

- 5.6 Save where the Partnership bodies expressly agree to the contrary, the Lead Authority will be responsible for procuring all goods and services required in relation to the operation of the Scheme.
- 5.7 The parties agree that when carrying out any procurement the Lead Authority will act as sole procurement authority in accordance with its own standing orders and the other parties agree that their own standing orders will permit this.

## **6. ISSUING AUTHORITY RESPONSIBILITIES**

- 6.1 Each Issuing Authority agrees to:
  - (a) abide by the terms of the agreed Partnership Scheme and not make unilateral changes.
  - (b) ensure sufficient budgetary provision and funds to meet the expected costs of the reimbursement to the Operators in respect of the concessionary fares granted to pass holders using the Operators' services within the Area of the Scheme, and its share of the Central Administration Costs.
  - (c) make payments of any and all sums requested by the Lead Authority and properly due in connection with the Scheme by the due dates.
  - (d) make arrangements for the issue and renewal of concessionary travel passes to those persons determined by each Issuing Authority as being entitled to receive them within the general provisions of the Scheme as defined in the Notice of Particulars of the Scheme from time to time and who are resident within their administrative areas.
  - (e) make arrangements to handle all enquiries regarding the issue, use of and eligibility for concessionary travel passes; and to refer enquiries regarding the reimbursement of Operators to the Lead Authority.
  - (f) observe the terms and conditions of any service supply contracts and all licences to use computer software acquired by the Lead Authority, or other Partner Authority, on the Scheme's behalf of which it has written notice, in addition to the requirements of the Data Protection Act 1998.

## **7. PAYMENT BY ISSUING AUTHORITIES**

### **Issuing Authority Payments**

- 7.1 In advance of the beginning of each financial year the Lead Authority will issue to each Issuing Authority a payment timetable (the "Issuing Authority Payment Timetable"). The Issuing Authority Payment Timetable will detail the date by which an Issuing Authority is to make a monthly payment to the Lead Authority in respect of its contribution to the reimbursement costs of the Operators and the Central Administration Costs of the Scheme.

- 7.2 The amount of the monthly payments for each Issuing Authority will be based on the Lead Authority's estimate, using the best available information, of the likely Operator payments for that Issuing Authority's area for the year and the Central Administration Costs for the year.

### **Ongoing Reconciliation and Changes to Payment Plan**

- 7.3 The monthly payment information in the Issuing Authority Payment Timetable is provided as an estimate of each Issuing Authority's liability to assist in budget setting. For the avoidance of doubt, each Issuing Authority will be liable to pay the actual Operator payments for that Issuing Authority's area for the year and their share of the actual Central Administration Costs for the year.
- 7.4 The Lead Authority will monitor the actual reimbursements paid to each Issuing Authority's Operators and the actual Central Administration Costs as against the estimated amounts as stated in the Issuing Authority Payment Timetable at regular intervals and provide the Issuing Authority with a quarterly monitoring report. If there is a difference between the actual amounts and the estimated amounts then the following terms apply:
- (a) The Lead Authority will provide 30 days written notice to the relevant Issuing Authority of the difference between the actual amounts and the estimated amounts and that going forwards it intends to amend the monthly payments by that Issuing Authority in order to reconcile this difference.
  - (b) Upon the expiration of the 30 days notice the Lead Authority may amend the estimated amounts in the Issuing Authority Payment Timetable to reconcile the difference by adjusting the amount of future monthly payments by the Issuing Authority accordingly.
  - (c) The Issuing Authority agrees to make the monthly payments in accordance with any reconciled Issuing Authority Payment Timetable that is duly notified to it in accordance with this clause.

### **Additional Costs Claims**

- 7.5 In the event that an Operator makes an Additional Cost Claim, the Lead Authority will establish liability for the additional costs and if appropriate, issue to the relevant Issuing Authority a separate invoice in accordance with the current additional costs protocol (as amended from time to time).

### **Liability for Central Administration Costs**

- 7.6 At the end of each financial year (31 March), the Lead Authority will calculate the costs incurred in administering the Scheme on behalf of itself and the Issuing Authorities. Costs will include but not be limited to salaries and associated costs, internal recharges for overheads including IT, building management and business support, and miscellaneous costs associated with the Scheme including consultants fees, audit fees and Operator meetings.
- 7.7 Liability for Central Administration Costs will be sub-divided into fixed costs and variable costs. Each Issuing Authority will be liable for an equal share of the Fixed Costs and for a proportionate share of the Variable Costs. The proportion of the Variable Costs, which each Issuing Authority is liable for, is determined by the proportion of the Operator reimbursement paid by each Issuing Authority as against the total reimbursements paid by all of the Issuing Authorities including the Lead Authority, in the previous financial year.

### **Year End Reconciliation**

- 7.8 Following the end of each financial year (31 March), and before 30 April, the Lead Authority will provide each Issuing Authority with a statement setting out summary details of the overall Partnership expenditure, their own Issuing Authority's individual Operator payments and financial contributions received. Together with this statement the Lead Authority will provide each Issuing Authority with an invoice balancing expenditure against income received, or providing a credit note in the event of overpayment.
- 7.9 Within 28 days of the commencement of the new financial year the Lead Authority will provide each Issuing Authority with a separate statement setting out an estimated accrual for those Operator payments to be made in the new financial year that relate to the balance due to be reimbursed to operators for concessionary journeys undertaken in the previous financial year.

#### **Failure to make Payments**

- 7.10 The Issuing Authority Payment Timetable sets out the deadline for each Issuing Authority to make payment to the Lead Authority. The time for payment set out in the Issuing Authority Payment Timetable shall be of the essence of this Agreement.
- 7.11 Further if any Issuing Authority fails to pay the amounts stated in the Issuing Authority Payment Timetable or any amendments made to it in accordance with clause 7.4 by the due date the same shall become a debt and may bear interest till payment at the rate of 2% per centum per annum in excess of the base lending rate of the Bank of England during the period in respect of which the payment of the said amount is in arrears.

### **8. SCHEME ACCOUNT AND SCRUTINY ARRANGEMENTS**

- 8.1 The Lead Authority will keep a separate record of all payments into and out of the Scheme Account and report on these annually to each of the Issuing Authorities.
- 8.2 The Lead Authority will hold the Scheme Account without charge and any interest earned on the Scheme Account shall be collected and retained by the Lead Authority.
- 8.3 The Issuing Authorities and Lead Authority all agree to contribute to a contingency sum in the Scheme Account. The Lead Authority will make payments from the contingency sum as agreed from time to time by the Lead Authority and the Issuing Authorities.
- 8.4 The parties shall grant to each other's internal and statutory auditors and their respective agents the rights of reasonable access to any records used in connection with the Scheme and shall provide reasonable assistance at any time for the purpose of carrying out an audit.

### **9. OPERATOR APPEALS**

- 9.1 If an Operator appeals in accordance with the Transport Acts 1985 and 2000 (and any subsequent legislation) then the parties have agreed the following:
- (a) The Lead Authority will notify in writing each of the Issuing Authorities that are likely to be affected by the Operator appeal the fact of the appeal.
  - (b) The Lead Authority will be responsible for administering the appeal which may include but not be limited to instructing an external consultant, obtaining legal advice and representation.

- (c) The cost of administering the appeal (including any external consultant's fees or legal costs) will be borne by the Issuing Authority or Issuing Authorities in whose district(s) the particular Operator service(s) which is the subject of the appeal operates. These Issuing Authorities will be responsible for agreeing between themselves how they wish to contribute to the cost of administering the appeal. In the absence of any such agreement each relevant Issuing

Authority's contribution will be calculated on the basis of the proportion of the level of its reimbursement in respect of the Operator service(s), which is the subject of the appeal.

## **10. MEETINGS**

### **Frequency**

- 10.1 At least two meetings of Officer Representatives of all Issuing Authorities will be held annually. The first shall be within two months of the start of each financial year (April) and the second shall be between 1 October and 30 November each year (the autumn meeting).
- 10.2 The Lead Authority will also have the power to call additional meetings giving at least 14 days notice where possible through circulation of an additional agenda. Any one of the Issuing Authorities may request that the Lead Authority call such a meeting by notifying the Lead Authority of the purpose of the meeting and tabling an agenda. In the event of such a request, the Lead Authority will decide if the item requires an additional meeting to be held or if it should be deferred to the next scheduled meeting.

### **Notice**

- 10.3 Notification of the date of these meetings will be given at the previous meeting where possible.
- 10.4 The Lead Authority will circulate a preliminary agenda at least 14 days prior to the meeting. However, if the agenda includes matters requiring Policy Decisions affecting the Scheme then, save for cases where the Lead Authority considers there are special circumstances which require it to be dealt with urgently, 60 days notice must be given. In cases where the Lead Authority considers there are special circumstances which require it to be dealt with urgently, then in addition to circulating a written agenda, a representative of the Lead Authority will telephone a representative of each Issuing Authority to inform them of the meeting and the subject matter of the potential Policy Decision requiring urgent consideration.
- 10.5 Additional items for discussion at the meetings (not covered by the draft agenda) should be notified in writing to the Lead Authority at least 14 days before the meeting. The final agenda, which may include such additional matters, will be circulated at the meeting.
- 10.6 Minutes will be circulated as soon as possible after each meeting and not later than 30 days thereafter.

### **Authorisation and Attendance**

- 10.7 The parties acknowledge that there is a requirement for Officer Representatives to attend these meetings. Each party to this Agreement will ensure and warrants that its Officer Representative has power to undertake Administrative Decisions at all Partnership meetings.

- 10.8 Where Policy Decisions are likely to be required at a Partnership meeting, and the notice requirements of clause 10.4 above have been complied with, each Issuing Authority agrees to use its best endeavours to make arrangements for an officer who has authority to take Policy Decisions on behalf of the Issuing Authority to attend the Partnership meeting. Where authority to take a policy decision does not rest with an individual officer, but instead rests with a committee of the Issuing Authority, that Issuing Authority agrees to use its best endeavours to obtain a decision by that committee in advance of the Partnership meeting.
- 10.9 In circumstances where it is not possible for an officer with authority to take Policy Decisions to attend, or obtain a decision of the relevant committee of the Issuing Authority in advance of the Partnership meeting then each Issuing Authority agrees that it will either (i) refer the subject matter of the Policy Decision to the authorised officer or committee of the Issuing Authority and revert to the Lead Authority in writing within 7 days of the meeting at which the subject matter of the Policy Decision was discussed with that Issuing Authority's duly authorised decision on the matter; or (ii) provide written authority from the officer or committee with authority to take policy decisions on behalf of that Issuing Authority to one of the other Issuing Authorities or the Lead Authority to exercise a proxy vote on its behalf at the meeting.

### **Voting and Quorum**

- 10.10 No business shall be transacted at a meeting of the Partnership unless five Authorities are present.
- 10.11 Each Authority is entitled to one vote regardless of the number of Officer Representatives attending the meeting.
- 10.12 In respect of Administrative Decisions, a majority decision at the meeting will be binding on all Authorities whether present at the meeting or not. However, a majority decision shall not be binding where it can be shown that such a decision would involve an individual Issuing Authority in expenditure which is unlawful or for which no formal authority has been granted.
- 10.13 In respect of Policy Decisions unanimous decisions of those present is required. A decision shall not be binding where it can be shown that such a decision would involve an individual Issuing Authority in expenditure which is unlawful or for which no formal authority has been granted.

### **Chair**

- 10.14 A chairperson for all Partnership meetings will be elected by way of unanimous decision of those Authorities present at the first Partnership meeting of each financial year. That chairperson will remain in post until he/she either resigns or all of the other Authorities vote unanimously to dismiss the chairperson.
- 10.15 Officer Representatives of the Lead Authority cannot be appointed as chairperson.
- 10.16 The chairperson shall have the casting vote for the purpose of enabling a majority decision to be reached.

### **Miscellaneous**

- 10.17 A failure to comply with any of the time limits referred to in this clause may be waived by a majority decision of the Issuing Authorities in attendance at any meeting so long as the Lead Authority also agrees.
- 10.18 All meetings will be held at Hambleton District Council unless otherwise agreed in advance.

## **11. INDEMNITY**

- 11.1 Each of the Issuing Authorities will contribute towards any costs, claims, expenses, losses, or damages incurred by the Lead Authority in connection with the performance of its role provided it acts in good faith.
- 11.2 Each Issuing Authority's contribution will be in accordance with the proportion of the Variable Costs for which they are responsible.

## **12. USE OF EXTERNAL RESOURCES**

- 12.1 The Lead Authority reserves the right to fulfil its responsibilities in connection with the Scheme by whatever means it thinks fit and proper and subject to consultation with the Issuing Authorities may contract any and/or all such work to an appropriate agent, provided the costs of doing so are reasonable. The costs borne by the Lead Authority and/or any external costs it incurs shall be part of the Fixed Costs.
- 12.2 The Lead Authority shall be empowered by this Agreement to enter into appropriate arrangements to procure or obtain licensed permission to use appropriate software systems for use in connection with the Scheme and to pay support/training costs. The costs of any such arrangements shall be part of the Fixed Costs. This shall only be undertaken in consultation with the Issuing Authorities and subject to reasonable efforts to obtain agreement in respect of the expenditure to be incurred.
- 12.3 The Issuing Authorities each agree to cooperate with any requests from the Lead Authority to provide their own resources including employees to assist in the operation of the Scheme subject to those resources being available and being charged at a reasonable cost to the Partnership.

## **13. TERMINATION**

- 13.1 This Agreement will automatically terminate if there is a change in legislation which means that the Lead Authority is no longer empowered by statute to carry out its functions under this Agreement. The date of termination in these circumstances will be the date of the loss of empowerment. In the event of termination in these circumstances all of the Authorities will use reasonable endeavours to consult with each other and put in place the most appropriate arrangements for the handover of the operation of the concessionary fares function to a successor body and the processing of Operator claims received prior to the date of the loss of empowerment.
- 13.2 Subject to clause 13.4 below should any individual Issuing Authority wish to withdraw from the Scheme; 6 months' notice must be given in writing to the Lead Authority and all other Issuing Authorities.
- 13.3 Subject to clause 13.4 below should the Lead Authority wish to cease to act as the Lead Authority and/or to withdraw from the Scheme, 12 months' notice must be given in writing to the Issuing Authorities.
- 13.4 Notwithstanding anything stated elsewhere in this agreement, no participating Authority shall withdraw from the Scheme with effect from any date other than 1 April in any year unless agreed in writing by all the Issuing Authorities and the Lead Authority.
- 13.5 Harrogate Borough Council agrees to serve as Lead Authority for the Scheme subject to there remaining at least one other Issuing Authority willing to participate.

- 13.6 Issuing Authorities may by unanimous agreement require a defaulting Issuing Authority to withdraw from the Scheme on 6 months notice if the defaulting Issuing Authority makes substantial changes to the concessionary fare scheme which operates in its district and the other Issuing Authorities are of the view that such changes have a significant detrimental impact on the operation of the Scheme generally. (For the avoidance of doubt the defaulting Issuing Authority is not included in the requirement for unanimity).
- 13.7 In the event of termination in accordance with clause 13.6 the provisions of clause 14.1 apply as if the Issuing Authority had served notice to withdraw from the Scheme.

## **14. CONSEQUENCES OF WITHDRAWING FROM SCHEME / TERMINATION**

- 14.1 Any Issuing Authority withdrawing its participation from the Scheme will be subject to the following obligations:
- (a) it will continue to remain financially committed to the Scheme in terms of paying its share of the Central Administration Costs and Operator reimbursements up to and including the termination date.
  - (b) it will write to each and every eligible resident in its area who holds a concessionary travel pass notifying them that their existing concessionary travel pass is no longer valid whilst at the same time reissuing them with a new concessionary pass that does not contain the Partnership brand or logo.
  - (c) it will be solely responsible and indemnify the Lead Authority in respect of the reasonable cost of dismissing any employees of the Lead Authority (whether by redundancy or otherwise) or costs as are reasonably associated with staff restructuring which arise as a result of the Issuing Authority's decision to withdraw from the Scheme. The Lead authority will take reasonable steps to mitigate this loss.
- 14.2 In the event of more than one Issuing Authority withdrawing from the Scheme at the same time or within 6 months of each other, then the withdrawing authorities will be jointly responsible in equal shares in respect of the cost of dismissing any employees of the Lead Authority (whether by redundancy or otherwise) or costs associated with staff restructuring which arise as a direct result of their decision to withdraw. Such costs will not include any costs incurred by the Lead Authority in relation to dealing with any employment tribunal claims of the employees where the Lead Authority has acted negligently or otherwise unlawfully. The Lead Authority will take reasonable steps to mitigate this loss.
- 14.3 In the event of the Agreement terminating in accordance with clause 13.1 (disempowerment of Lead Authority) or the Lead Authority's responsibilities under this Agreement being transferred to another authority or organisation by operation of law, and to the extent that the Lead Authority incurs liability and/or any losses in respect thereof the Issuing Authorities undertake to fully indemnify the Lead Authority in respect of such liability and/or losses. Each Issuing Authority's share of these liabilities and/or losses will be determined in accordance with their proportion of the Variable Costs.
- 14.4 After an Issuing Authority has left the Scheme the remaining Issuing Authorities and Lead Authority agree to cover the exiting Issuing Authority's share of the remaining Central Administration Costs, net of any savings identified. The exiting Issuing Authority's share of the Central Administration Costs will be split amongst the remaining partners in accordance with their original proportion of the Central Administration Costs.



## **15. DATA PROTECTION**

- 15.1 Each Issuing Authority is responsible for processing applications for concessionary travel passes from residents in their administrative district. The Issuing Authorities are therefore acting as Data Processors for the purpose of the Data Protection Act 1998 and all subordinate legislation. Each Issuing Authority shall comply in full with the provisions and obligations imposed by the Data Protection Act 1998 and all subordinate legislation.
- 15.2 For the purposes of monitoring the operation of the Scheme and supporting Issuing Authorities 3 designated officers employed by the Lead Authority will have access to each Issuing Authority's data. However, this does not make the Lead Authority a Data Processor in respect of that data and therefore all responsibility and liability for data processing and protection remains with the Issuing Authority who processes that data.

## **16. RELATIONSHIP OF THE PARTIES**

- 16.1 Nothing in this Agreement shall create a relationship of agency or partnership and accordingly none of the parties shall be able to bind the other save as permitted by the terms of this Agreement.

## **17. DISPUTES**

- 17.1 In the event of any dispute or difference arising between the Parties as to the construction or application of this Agreement or as to any issue arising thereunder the Parties shall take all reasonable steps as shall lie within their power to conciliate and resolve such dispute or difference by negotiation via their respective Officer Representatives.
- 17.2 If a dispute cannot be resolved using the method set out in clause 17.1 it will be referred to the Chief Officer with responsibility for concessionary fares in each Authority involved in the dispute.
- 17.3 If a dispute cannot be resolved by negotiation under clauses 17.1 and 17.2 the matter will be referred to an independent arbitrator to be agreed between the Parties or in default of agreement, nominated on the application of the Lead Authority, by the President for the time being of the Institute of Arbitrators; the costs of any such arbitration to be borne by the Parties in dispute. Any decision of such arbitrator shall be final and binding on the Parties.

Signed By:

Position:

Fully Authorised on Behalf of:

(Name of Issuing Authority)

Date:

Signed By:

Position: Director of Development Services on behalf of Harrogate Borough Council

Date: ..... 2010