

## PAYMENT FOR LOCAL BUS SERVICE AND SCHOOL TRANSPORT CONVEYANCE CONTRACTS DURING COVID-19

### 1. BACKGROUND

School and public transport were two of the earliest sectors to be impacted by the restrictions applied to control the spread of Covid-19, with recommendation to avoid public transport and the closure of schools announced on 16 and 18 March 2020 respectively. Schools were consequentially closed as of 23 March 2020 albeit subsequently re-purposed for care of key workers' and vulnerable children in the following days requiring some limited transport needs. The impact of these restrictions was dramatic and immediate. Passenger numbers on local bus services in Angus fell by 94% to 6% of their normal level.

The council has a total of 117 contracted school transport and 66 public, subsidised, bus services for which legal contracts are in place. There are 25 and 5 operators delivering these contracts respectively with responsibilities placed on the operator and the council through the contract conditions. In addition there are 10 commercial services operating in Angus which are not funded by the council and operate on the basis of fare income meeting running costs.

### 2. NATIONAL AND LOCAL POSITION

On 24 March 2020 Scottish Government and COSLA in conjunction with SOLACE and ADES issued a letter to Council Leaders and Chief Executives setting out an agreement "*in the interest of supporting local businesses and ensuring capacity when schools return, and that local authorities will continue to pay home to school transport providers through to the end of the summer term.*"

On 26 March 2020 Scottish Government issued SPPN5 which sets out general guidance for public bodies on options for payment to their suppliers to ensure service continuity during the Covid-19 outbreak. Two specific quotations from SPPN5 are:

- Public bodies should act now to support their suppliers so they are better able to cope with the current crisis and to resume normal service delivery and fulfil their contractual obligations when the outbreak is over.
- Continuing to make payments to suppliers will present risks including that, despite these exceptional actions, a supplier may still become insolvent. These risks will need to be managed by public bodies on a case by case basis.

It should be noted that although there was agreement at a national level in terms of a support scheme, it was for councils to determine if such schemes were to be provided at a local level and to ensure that they were legally compliant and in accordance with the principles of best value. At a local level, the Council started to look at establishing Key Supplier Support arrangements at an early stage (Report 123/20 refers) and confirmed arrangements were reported to the Special Arrangements Committee on 26 May 2020 in Report 144/20. Special Council on 3 April delegated authority to the Director of Finance, following consultation with the Director of Legal & Democratic Services, to design and amend as necessary an Angus Coronavirus Key Supplier Support Scheme based on national guidance and local requirements (Report 123/20). The Scheme went live on the council's website on 4 May 2020.

### 3. DETAILS

#### 3.1 School Transport

Transporting children, who meet certain criteria, to school and home again is a statutory duty on the council. In normal circumstance some 1,950 scholars, including 150 with Additional Support Needs (ASN), are transported to and from school on a daily basis in Angus during term time, equivalent to approximately 13% of the school intake. Contracts are in place for a minimum of 3 years

When pupils return to schools (now known to be 11 August 2020) the Council will immediately require services to be reinstated to meet the statutory duty and more importantly facilitate attendance at school to allow for children's education. With social distancing requirements additional transport provision is likely to be required to provide the necessary transport capacity and this is subject to ongoing discussions with the relevant parties. It was and is therefore imperative that transport operators are supported and retained through the Covid-19 crisis such that they can resume operations under the contracts in due course. Given the key nature of transport suppliers payment arrangements were put in place in accordance with delegated authority as follows:

<b>Period</b>	<b>Payment Level</b>	<b>Reasons</b>	<b>Delegation</b>
23 March to 3 April 2020 (Easter Holidays)	100%	Contractual requirement, variation requires 28 day notice	Delegated authority to the Director of Infrastructure in accordance with Standing Orders
20 April to 30 April 2020	87.1% maximum, reduced by staff costs where staff are furloughed	Reduction in contracted rate in accordance with SPPN5; in absence of Key Supplier Support process	Delegated authority to the Director of Infrastructure in accordance with Standing Orders
1 May to 26 June 2020 (end of summer term)	87.1% maximum, reduced by staff costs where staff are furloughed; subject to application via Key Supplier Support process	Reduction in contracted rate in accordance with SPPN5; in absence of Key Supplier Support process	Delegated authority to Director of Finance in accordance with Report 123/20 subject to application process and contract variation

In considering the level of support, a breakdown percentages of operating costs of provided transport services by the Confederation of Passenger Transport was utilised to take into account a deduction for fuel costs where services are suspended. Payment for the summer term is subject to the conditions in the Key Supplier Support and SPPN5 including accessing other support opportunities. It is noted that as school transport is only part (up to approximately 10 hours per week) of transport providers' operations, and other functions (taxi/coach operations) have continued to operate, the staff involved in service delivery to schools have not, in most cases, been furloughed. Confirmation of this is part of the Key Supplier Support process.

A small number of operators are providing transport for pupils required to attend the Angus Council Childcare Hubs; in such instances payment is made in accordance with the existing contract.

### **3.2 Local Bus Services**

The commercial network, which consists of 10 routes, in Angus is solely provided by Stagecoach East Scotland and, on the whole, provides the peak time transport used by the main passenger categories such as workers.

Stagecoach East Scotland also accounts for 53% of the Angus Council subsidised local bus service network. Smith and Sons Coaches, JP Minicoaches, Wisharts (Frickheim) Ltd, Moffat and Williamson provide the remaining 47% of services between them. There are 58 services subsidised by Angus Council, with a further 2 routes funded by Aberdeenshire and 6 routes jointly funded by Angus and Perth & Kinross Councils.

Following the reduction in patronage, dropping to 6% of pre-Covid-19 use, Stagecoach East Scotland suspended or varied all services, whether they are commercial or subsidised, in early April 2020, which reduced their overall operation to approximately 30% of its previous level. Stagecoach East Scotland operates a business model whereby fare revenue is their main income source. In normal circumstances Angus Council subsidy is used to cover the operating costs associated with a particular service during off peak times, when fare revenue is limited. This provides the public with fuller services, whilst reducing the cost impact on the operator and also results in a lower subsidy being paid by Angus Council.

Despite operating at 30%, Stagecoach East Scotland still require administration staff, supervisors, maintenance staff, cleaners and depot operatives to work, over and above the bus service driver. They are further required to have additional vehicles and drivers on stand-by should any vehicles breakdown or drivers be unable to continue working.

Smith and Sons Coaches, JP Minicoaches, Moffat and Williamson and Wisharts (Frickheim) Ltd, continued to operate all their subsidised local bus services (with the exception of one Wisharts (Frickheim) Ltd service) at pre-Covid-19 levels. For the smaller, local operators, who have secured subsidised routes with low patronage (during times that can be considered normal), and then consequently tendered on the basis of little fare revenue being ascertained. As a result, they are able

to cope better with the climate of little or no passengers, as the subsidy provided by Angus Council covers their costs supported by the limited fare revenue available. This also means that their vital income source is the council subsidy and removal of it would put the future of these businesses at risk.

Feedback during the Covid-19 restrictions from the public and key employment sectors was that the network was delivering well for the most part for those who required it. There were some gaps shortly after the introductions of changes notably for essential workers (NHS and retail) in Kirriemuir travelling to Forfar and Stagecoach readjusted their service to suit.

It is relevant to note that whilst the advice remains to avoid using public transport for many, including essential workers it remains the only means of travelling to work. Some 23% of households in Angus do not have access to a car or van. It is therefore important to retain the existing commercial and council subsidized routes. Transport Scotland have committed to continuing their Bus Service Operators Grant to all operators in full and will also continue to pay concessionary fare reimbursements at a rate of operators' average monthly payments.

In consideration of the above, local bus service contracts payment has been as follows;

<b>Period</b>	<b>Payment Level</b>	<b>Reasons</b>	<b>Delegation</b>
23 March onwards	100% where services are still operating including those at reduced levels.	Contractual requirement where operating to timetable; support to maintain vital transport where reduced services.	Delegated authority to the Director of Infrastructure in accordance with Standing Orders
23 March to 30 April 2020	87.1% maximum, reduced by staff costs where staff are furloughed; subject to application via Key Supplier Support process	Reduction in contracted rate in accordance with SPPN5; in absence of Key Supplier Support process	Delegated authority to the Director of Infrastructure in accordance with Standing Orders
1 May 2020 onwards	87.1% maximum, reduced by staff costs where staff are furloughed; subject to application via Key Supplier Support process	Reduction in contracted rate in accordance with SPPN5; in absence of Key Supplier Support process	Delegated authority to Director of Finance in accordance with Report 123/20 subject to application process and contract variation

In considering the level of support, a breakdown percentages of operating costs of provided transport services by the Confederation of Passenger Transport was utilised to take into account a deduction for fuel costs where services are suspended. Payment is subject to the conditions in the Council's Key Supplier Support arrangements including accessing other support opportunities. It is noted that where reduced transport provision is in place transport providers' staff involved cannot, in most cases, have been furloughed. Confirmation of this is part of the Key Supplier Support process

This level of funding is to compensate for the lack of fare revenue and help stabilise these businesses in the short, medium and long term. Operators may use the subsidised service payments from Angus Council to cover costs and therefore preserve their businesses. Without reimbursement operators may be forced to completely suspend all services; with the loss of transport for key workers and for wider passenger base as we move to recovery as well as potential job losses and the operators overall business continuity would be at risk.

## **6. FINANCIAL IMPLICATIONS**

Local bus service contracts, and school transport conveyance contracts, are currently allowed for in their respective revenue budgets, and therefore funding at the level of 100% is available.

The costs of the school transport service for the summer term is circa £783.5k. Payment at 87.1% releases circa £100k for other priorities during Covid-19. Payments to transport providers will be reduced further if alternative Government funding is accessed (i.e. furloughing staff) so these figures may be subject to change.

The budget provided for subsidised bus services is £487,657 for the 3 months April to June 2020. Noting the number of services which are continuing the estimated payments including the reduced

services would be £474,968 releasing circa £12.7k for other priorities during Covid-19. Payments to transport providers will be reduced further if alternative Government funding is accessed (i.e. furloughing staff) so these figures may be subject to change.

Support to sustain transport providers will also support Tayside businesses and Angus jobs in accordance with the council plan. The support in this manner can be funded within the existing budget provisions set aside for school and public transport. In the event of the loss of a supplier there would most likely be financial implications of providing emergency and longer term provision.

## **7. RISK IMPLICATIONS**

The risks of the council's Support Arrangements for Key Suppliers is set out in Report 144/20 and apply to this situation most notably:

### **2. Supplier failure**

Risk - there is a risk that the Council's support will be insufficient to prevent supplier failure. In a worst case scenario the Council may have made significant support payments to a supplier with the aim of that supplier being able to resume service provision only for that supplier to cease trading later resulting in public funds being wasted.

Mitigation Measures - this is a very difficult risk to manage in the current circumstances because despite financial due diligence measures historic accounting records may not accurately reflect the supplier's financial stability and there are few if any precedents for the current trading environment for businesses. Officers will seek to mitigate this risk by considering, as far as possible suppliers' current financial stability as part of the assessment process. Resource constraints in the finance and procurement teams mean a detailed check on every supplier will not be possible but checks will be carried out where required based on our knowledge and assessment of risk. It also should be noted that any support is time limited and currently applies only until the end of June 2020 when school contract payments cease for the summer break, with any further assistance for public transport subject to the national initiatives and our local circumstances.

For transport the risk of financial loss must be weighed against the risk that without support companies are much more likely to become insolvent, and the impact of failure to be able to provide school and public transport in the future. This impact will be on school pupils particularly ASN pupils who cannot access education and the council who would fail to deliver statutory duties. For public transport the impact would be wider for all public transport users, notably essential employees during the crisis as well as wider society post the pandemic. There would also be an environmental impact in the case of lost public transport services. The economic impact of the loss of service to the wider society as well as the potential job losses within the transport sector is considered to substantially outweigh the council's financial input, which is already budgeted for, as set out in this report.

### **4. Contractual disputes**

Risk - there is a risk that contractual disputes with suppliers will arise due to current circumstances caused by COVID-19

Mitigation Measures – the main mitigation to this risk is that any changes / support provided will be captured through formal contract variations to formalise any support provided and will be carried out in conjunction with the Council's legal team. Among other things the national guidance requires suppliers to apply for support outlining their support request and why it is necessary.

As noted above the services are subject to contracts which place conditions on the council as well as the operator. Any contractual issues raised by operators will be sought to be dealt with as part of the variation arrangements and negotiations.

## **8. EQUALITIES IMPLICATIONS**

There are no direct implications from this report, although it is noted that any loss of ASN transport for scholars, and any loss of public transport in general is likely to have an impact on the citizens we serve and would affect people differently due to their protected characteristic notably age; disability; and pregnancy/maternity.

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