



# Sheffield Citizens Advice & Law Centre

## Legal Services Unit

The Circle, 33 Rockingham Lane, Sheffield, S1 4FW

Tel: (0114) 253 6665 [www.advicesheffield.org.uk](http://www.advicesheffield.org.uk)

The Clerk to South Yorkshire Integrated Transport Authority  
18 Regent Street  
Barnsley  
South Yorkshire  
S70 2HG

Date: 5th March 2014

Dear Sir,

### Reduction of concessionary travel

We are writing on behalf of two clients in relation to the Authority's decision to reduce the existing level of concessionary travel. As disabled people, they are concerned the decision fails to comply with the public sector equality duty and may therefore be fundamentally flawed.

We are currently instructed by  and  although we reserve the right to include other clients affected by the Authority's decisions at a later date.

1.

2.



Law

Centres

Network

Registered Office: Ground Floor, The Old Dairy, Broadfield Road, Sheffield, S8 0XQ

Charity no: 1153277 Company Registration no: 08616847

VAT Registration no: 169 9524 53

Our clients currently hold English National Concession passes, allowing them to travel free of charge by bus, tram and train at any time of day. This is an important factor in overcoming barriers in society linked to their disabilities and it significantly increases their ability to live independent lives.

Our clients are therefore concerned that Members of the Authority took decisions on 6<sup>th</sup> February 2014 without the required level of consideration of their statutory duties under section 149 of the Equality Act 2010. Our clients seek urgent clarification of the matters in this letter and, in view of the fact that the reductions in concessionary travel take effect from 1<sup>st</sup> April 2014, consideration of a temporary postponement of the date of implementation until such fuller and proper consideration can be given to the issues raised.

### **Decisions of the Authority**

The changes to the Travel Concession Scheme are not spelled out at any point in the reports – causing obvious difficulties for Members faced with taking the decision – but appear to be as follows:

- Older and disabled people will lose the right to free travel on all trains within south Yorkshire at any time of day.
- Older and disabled people will also lose the right to free travel on Northern Rail trains between South Yorkshire and West Yorkshire (e.g. Sheffield to Leeds).
- Disabled people will lose the right to free travel on buses and trams before 0930 and after 2300.
- Older people will lose the right to free travel on buses and trams for journeys starting between 0900 and 0930
- Older people will also lose the right to free travel on buses and trams after 2300.
- The most severely disabled people with a "plus carer" pass will lose the right to free travel for their carer on any train or for buses and trams within the times above.

It is obvious these decisions will have a significant and disproportionate impact on disabled and older people, both of whom are protected groups of people in the Equality Act 2010. We note the Authority was advised that *“the changes to travel concessions will have a negative impact on the travel opportunities of elderly and disabled people.”* We understand the decision will have particular impact on:

- Disabled and older people in volunteering positions
- Disabled (and older) people who study or train, whether for work or otherwise
- Disabled school-age children who travel independently
- Disabled and older people with medical appointments between 8-10am
- Disabled commuters, especially those who rely on train travel and who work part-time

## **Our clients' concerns**

### **1. Costs**

Our clients and many others will both be affected by increased travel costs. Their activities require them to travel before 9.30am. This is an additional cost to be met. Although they need to travel for voluntary work or training placements, neither of them is currently remunerated so the additional cost is significant.

### **2. Barriers to disabled people**

Of more significance still is the prospect of increased barriers to travel in practice. Many disabled people, especially those with visual impairments, hearing impairments, learning disabilities and those on the autistic spectrum, rely on access to the bus or train without having to handle cash, discuss the precise fare or check tickets or change. This is likely to cause embarrassment, inconvenience and loss of dignity. It is likely to make disabled people feel less inclined to travel at these times, compared to people without disabilities. In the worst cases, it may well lead to abuse by other passengers, particularly at rush hour periods.

The minutes of the meeting of 6<sup>th</sup> February 2014 state that Members “expressed sympathy” for both sides of the argument. This is quite different from complying with the legal duty.

### **Public sector equality duty**

The duty is set out in section 149 of the Equality Act 2010. When the Authority carries out its functions, it must have due regard to the need to:

- (a) eliminate discrimination and harassment that is unlawful;
- (b) advance equality of opportunity between disabled people and people without disabilities, as well as between people of different age groups;
- (c) foster good relations between disabled people and people without disabilities, as well as between people of different age groups;
- (d) remove or minimise the disadvantages connected to disability or age that are suffered by disabled or older people;
- (e) take steps to meet the needs of disabled people that are different from the needs of people without disabilities;
- (f) encourage disabled or older people to participate in public life or other activity in which participation by such persons is disproportionately low;
- (g) take account of disabled persons' disabilities; and
- (h) tackle prejudice and promote understanding.

The Authority must have “due regard” to these objectives at the time the proposal is formulated, as well as on the date the final decision is taken. We note the Members Working Group of 23<sup>rd</sup> September 2013 already referred to “the need for” cuts to discretionary concessions, community transport and supported bus services. At the following meeting, on 23<sup>rd</sup> October 2013, the minutes conclude that:

“The meeting agreed the savings should be made by withdrawing

- Elderly / disabled train concession (post-meeting - saving confirms as £329k)
- The SY concessions beyond the ENCTS times”

It appears there was never any active consideration as to **whether** cuts to these areas of activity should be made. By contrast, Appendix D to the budget-setting report of the PTE lists areas exempted from savings, including:

- Operating and running main Interchanges
- Operating and running mini Interchanges
- Operating and running Park & Ride sites (Bus/Tram/Train)
- Sales of tickets
- Concessionary pass validation and issue
- Work on delivering and developing Smart ticketing
- Work on transformational projects (e.g. Tram/Train)
- Planning and bidding for future public transport enhancements.

In any event, whilst the equality considerations by officers may be criticised, there is simply no evidence that Members of SYITA, who were charged with the decision-making, were advised of the statutory equality duties. The evidence demonstrates that the reports on which the decision was based are wholly inadequate at setting out the equality implications in terms of the statutory duties. In particular,

- In the report of the Clerk and Treasurer on the ITA levy and PTE grant, paragraph 5 (Statutory duties of the Authority and the Executive) fails to advise Members of their duty under s.149 Equality Act 2010
- In the same report, paragraph 9.2 (Legal and Freedom of Information implications) also fails to advise of the statutory duty under section 149
- In the same report, under paragraph 9.4 (Diversity implications), the report advises – inaccurately and irrationally - “none arising”
- In the report of the PTE (appended to the report above), paragraph 4.2 (Legal and Freedom of Information implications) again fails to advise of the Members’ legal duty to comply with s.149 Equality Act 2010.
- In the same report, paragraph 4.3 (Diversity Implications) merely states that “all diversity implications have been fully considered and reported as part of this process. An Equality Impact Assessment has been prepared and has influenced the decision-making on ITA policy cuts (in particular) a copy is available on request.” Neither the EIA nor a summary of the significant

equality issues was presented to Members to assist with decision-making or discharge of the statutory requirements.

- In the report of the PTE on the Travel Concessions Scheme amendments, paragraph 4.2 (Legal and Freedom of Information implications) describes to Members the power to make discretionary concessions (s93-101 Transport Act 1985) and other powers but is completely silent on the Members' duties under s.149 Equality Act 2010.
- Far from the correct advice on equality considerations and the use of discretion, paragraph 3.2 of this report advises Members – inaccurately - that it is “necessary” to reduce travel concessions “to bring South Yorkshire more closely into line with the national standard for these travel concessions.”
- Finally, the minutes of the meeting of 6<sup>th</sup> February 2014 record no discussion or consideration of the statutory duty in connection with either item 11 or item 18.

### **Action sought**

In view of this evidenced lack of consideration of the statutory equality duties, we request that:

- (a) the Authority reconsider its decision in light of an up-to-date assessment of the impact on equality issues and with appropriate advice on their statutory duties;
- (b) the Authority postpone implementation of the changes to the concessionary travel scheme until such time as reconsideration of the issue is complete;
- (c) the Authority confirms its position in writing in respect of (a) and (b) above within the next 7 days, i.e. by 4pm on 12<sup>th</sup> March 2014;

## Information requested

Please also provide:

- (a) in the event the response to (a) and (b) above is negative, a full response to the detail of the complaint in this letter in the same timescale;
- (b) details of the current numbers of holders of each type of pass available, broken down by District;
- (c) in the event the Authority considers that it has complied fully with the statutory duty under s.149 Equality Act 2010, full details of how it considers it has done so and copies of all documents relied on to demonstrate this;
- (d) full details of any consultation carried out, including the consultation responses from the organisations listed at Appendix A to Appendix 5 of the Equality Impact Assessment for the SYPTE Budget 2014/15; and
- (e) details of the analysis of costs savings listed at Appendix D to the report for item 11 (savings considered but not proposed) on the agenda of 6<sup>th</sup> February 2014.

Should you wish to discuss this letter, I am more than happy to do so. I am available on 0114 253 6759 or at [douglas.johnson@slc.org.uk](mailto:douglas.johnson@slc.org.uk).

I look forward to hearing from you.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Douglas Johnson', followed by a long, horizontal, wavy line.

Douglas Johnson  
Equality Rights Supervisor  
Sheffield Citizens Advice and Law Centre