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Edward Mountain MSP
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Net Zero, Energy and Transport Committee
The Scottish Parliament
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28 January 2026

Dear Convener,

Further to the evidence session of 20 January 2026 on the National Bus Travel Concession Schemes (Miscellaneous Amendment) (Scotland) Order 2026, I can confirm that the instrument has been withdrawn, and it will be re-laid on 29 January 2026. As requested by the Committee, I have appended the draft of the Code of Conduct to aid your scrutiny of the instrument.

As I set out to the Committee on 20 January, this SSI is the first key step to deliver this policy, which has been requested by members of the Scottish Parliament, the public, and stakeholders in the bus industry. It secures the enabling power for the policy, providing a strong foundation for Transport Scotland to continue to work with operators and partners to finalise the supporting administrative procedures and ensure that a fair and robust process is established that considers business impacts, child wellbeing and poverty considerations, data implications, and options to phase in the policy to ensure the policy is known to users and address any operational issues.

The draft Code of Conduct sets out the kinds of behaviours which may result in suspension of concessionary travel. To be clear, only incidents that occur while a National Entitlement Card is being used will be subject to this policy, i.e. only incidents that happen on the bus and where someone has used their National Entitlement Card to travel.

The definition of antisocial behaviour in section 143 of the Antisocial Behaviour etc. (Scotland) Act 2004¹ is deliberately broad, reflecting that an exhaustive list of behaviour considered antisocial by government would be unworkable and anomalous. For similar reasons, the draft Code of Conduct also does not include an exhaustive list of behaviours, but does broadly outline behaviours that have a significant impact on bus drivers or other

¹ “a person (“A”) engages in antisocial behaviour if A (a) acts in a manner that causes or is likely to cause alarm or distress; or (b) pursues a course of conduct that causes or is likely to cause alarm or distress, to at least one person who is not of the same household as A”

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passengers will be covered. This high threshold also ensures that withdrawal or suspension of free travel is only considered by exception and is proportionate given the impact the suspension may have on the cardholder.

The draft Code of Conduct has been developed with feedback from a range of stakeholders. This includes the Confederation of Passenger Transport's Antisocial Behaviour Stakeholder Group with membership of this group involving CPT, bus operators, Police Scotland, Transport Scotland, local authorities, YoungScot, and Unite. As part of this feedback, YoungScot provided Transport Scotland and the Stakeholder Group a suggested revised draft of the Code with more accessible terminology which has been incorporated into the current version. Transport Scotland discussed previous drafts of the code with other stakeholders including the Mobility and Access Committee for Scotland, the Scottish Youth Parliament, Transport Focus, Bus Users, and the Young Womens Movement.

To support enforcement of the Code of Conduct, my officials are also developing supporting policies relating to reporting, suspension and review of any decisions to suspend. Our approach of close collaboration with stakeholders will continue as the detail these policies develop, however I can provide a high level overview of what is being considered regarding these procedures.

Reporting

It is anticipated that reporting of incidents of antisocial behaviour will primarily come from bus operators (based on reports from drivers), police officers, or community safety officers.

Transport Scotland intend to develop a standard reporting template which reporters may use to provide the relevant information for Transport Scotland to consider, and discourage the sharing of more information than necessary, particularly when that information may relate to children or special category information (i.e. health information). Engagement will continue with these partners to ensure all data sharing between parties complies with UK data protection laws.

Suspension

The legislation sets out that before any decision to suspend concessionary travel, the scheme user must be given notice including the grounds for potential suspension and also provided with an opportunity to make representations.

Once the report is received regarding an incident, Transport Scotland will consider the report and make an initial assessment whether the code of conduct has been breached. If it is believed a breach has occurred, then the cardholder or their parent/guardian will be asked to provide an explanation of the incident, and any potential relevant mitigating circumstances. Mitigating circumstances that may be appropriate to consider could include unintentional behaviour due to a particular disability, as raised by some members of the Committee. During the development of this policy, my officials heard from the Mobility and Access Committee for Scotland on the importance of being aware of unintentional behaviours.

Transport Scotland will then decide whether there will be no further action, a warning issued or if access to concessionary travel will be suspended. In each case the cardholder or their parent/guardian will be informed. An internal decision-making framework is being developed to ensure that decisions are consistent and fair, and based on the evidence available of the

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incident (e.g. a statement from a witness or a report from Police Scotland, CCTV reports, etc).

Further consideration is being given to the most appropriate lengths of any suspension which will act as an effective deterrent against antisocial behaviour, without being unduly long and disproportionate.

A process to allow cardholders who have had their concessionary travel suspended to request a review of that decision is also being developed.

Bus Operators Conditions of Carriage

I would also like to take this opportunity to respond further to the questions raised by the Committee in the evidence session on operators existing conditions of carriage, and which I have not already addressed above.

The Committee asked why the Government is pursuing this policy when bus operators can already restrict access to their services in line with their own conditions of carriage. Suspension of concessionary travel via the National Entitlement Card would provide a standard suspension across all bus operators within the concessionary travel schemes, and would avoid the need for multiple operators to make decisions on whether to restrict travel. To be clear, however, the policy to suspend or withdraw concessionary travel is completely separate to any action operators may take in relation to their conditions of carriage.

I am grateful for the Committee's consideration of this additional information and welcome further questions.

Yours sincerely,



JIM FAIRLIE

ANNEX

Draft Code of Conduct – January 2026

Everyone - passengers and staff - deserves to feel safe when using public transport. That means treating others with respect and behaving in a responsible way. If you're using your National Entitlement Card (NEC) for free travel, you could lose that right if you:

Act in a way that hurts or threatens others: Some examples of this are:

- *Hurting someone physically*
- *Using abusive, threatening, or indecent language*
- *any kind of harassment*

Damage or disrupt the bus: Some examples of this are:

- *Breaking seats, windows, safety equipment, or other parts of the bus*
- *Doing things that make it hard for the bus to run safely (like trying to open doors or distracting the driver)*

If a bus company or Police Scotland thinks you've broken these rules, they can report it to Transport Scotland. You'll get a chance to explain your side. Then Transport Scotland will decide what happens next. They might:

- *Do nothing*
- *Send you a warning letter*
- *Suspend your free travel (especially if it's serious or happens more than once)*

If your travel gets suspended, you'll be told in advance and given information on how to ask for a review of the decision.

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