

**COFNOD O BENDERFYNIAD BRYG GAN O'R ARWEINYDD Y
CYNGOR, Y CYNGHORYDD A MORGAN**
RECORD OF URGENT DECISION OF THE LEADER OF THE
COUNCIL, COUNCILLOR A MORGAN.

Yn unol ag Adran 3A Ran 3 (paragraff 3) o Gyfansoddiad y Cyngor.
In accordance with Section 3A of Part 3 (paragraph 3) of the Council's
Constitution.

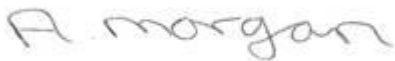
**PWNC | SUBJECT:
COVID – 19 RETAINED OPERATOR PAYMENTS**

PENDERFYNIAD | DECISION:

The report sets out steps to protect transport operators from the financial impacts of COVID-19, to support their resilience with the intent that they survive the ongoing crisis and continue to be viable operations that are able to deliver contracted services when the crisis abates.

AGREED:

- To proceed with Retained Operator Payments



**Llofnod yr Aelod o'r Cabinet /
Cabinet Member's Signature**

Andrew Morgan

Priflythrennau /Print Name

02/04/20

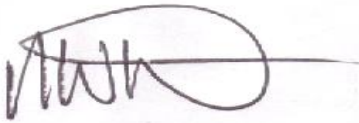
**Dyddiad /
Date**

M. Webber.

02/04/20

LLOFNOD YR AELOD YMGYNGHOROL O'R CABINET
CONSULTEE CABINET MEMBER SIGNATURE

DYDDIAD | DATE



02/04/20

LLOFNOD YR UWCH SWYDDOG YR YMGYNGHORWYD AG – N WHEELER
SENIOR OFFICER CONSULTEE SIGNATURE – N WHEELER

DYDDIAD | DATE



02/04/20

CYFARWYDDWR Y GWASANAETHAU CYLLID A DIGIDOL
DIRECTOR OF FINANCE AND DIGITAL SERVICES

DYDDIAD | DATE

RHEOLAU'R WEITHDREFN GALW-I-MEWN | CALL IN PROCEDURE RULES.

A YW'R PENDERFYNIAD YN UN BRYD A HEB FOD YN DESTUN PROSES GALW-I-MEWN GAN Y PWYLLGOR TROSOLWG A CHRAFFU?:

IS THE DECISION DEEMED URGENT AND NOT SUBJECT TO CALL-IN BY THE OVERVIEW AND SCRUTINY COMMITTEE:

YDY | YES ✓ NAC YDY | NO

Rheswm dros fod yn fater brys | Reason for Urgency:

To provide immediate protection to transport operators from the financial impacts of COVID - 19

Os yw'n cael ei ystyried yn fater brys - llofnod y Llywydd, y Dirprwy Lywydd neu Bennaeth y Gwasanaeth Cyflogedig yn cadarnhau cytundeb fod y penderfyniad arfaethedig yn rhesymol yn yr holl amgylchiadau iddo gael ei drin fel mater brys, yn unol â rheol gweithdrefn trosolwg a chraffu 17.2:

If deemed urgent - signature of Presiding Member or Deputy Presiding Member or Head of Paid Service confirming agreement that the proposed decision is reasonable in all the circumstances for it being treated as a matter of urgency, in accordance with the overview and scrutiny procedure rule 17.2:



02/04/20

.....
(Llywydd | Presiding Member)

.....
(Dyddiad | Date)

DS - Os yw hwn yn benderfyniad sy'n cael ei ail-ystyried yna does dim modd galw'r penderfyniad i mewn a bydd y penderfyniad yn dod i rym o'r dyddiad mae'r penderfyniad wedi'i lofnodi.

NB - If this is a reconsidered decision then the decision Cannot be Called In and the decision will take effect from the date the decision is signed.

AT DDEFNYDD Y SWYDDFA YN UNIG | FOR OFFICE USE ONLY

DYDDIADAU CYHOEDDI A GWEITHREDU | PUBLICATION & IMPLEMENTATION DATES

CYHOEDDI | PUBLICATION

Cyhoeddi ar Wefan y Cyngor | Publication on the Councils Website:- _____02/04/20_____

DYDDIAD | DATE

GWEITHREDU'R PENDERFYNIAD | IMPLEMENTATION OF THE DECISION

Nodwch: Fydd y penderfyniad hwn ddim yn dod i rym nac yn cael ei weithredu'n llawn nes cyn pen 3 diwrnod gwaith ar ôl ei gyhoeddi. Nod hyn yw ei alluogi i gael ei "Alw i Mewn" yn unol â Rheol 17.1, Rheolau Gweithdrefn Trosolwg a Chraffu.

Note: This decision will not come into force and may not be implemented until the expiry of 3 clear working days after its publication to enable it to be the subject to the Call-In Procedure in Rule 17.1 of the Overview and Scrutiny Procedure Rules.

Yn amodol ar y drefn "Galw i Mewn", caiff y penderfyniad ei roi ar waith ar / Subject to Call In the implementation date will be

N/A

DYDDIAD / DATE

WEDI'I GYMERADWYO I'W GYHOEDDI: ✓ | APPROVED FOR PUBLICATION :✓



DELEGATED DECISION

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

REPORT TO ACCOMPANY A DECISION OF THE LEADER OF THE COUNCIL

1st April 2020

COVID-19 RETAINED OPERATOR PAYMENTS

AUTHOR(s): RJ Waters, C Nelson

1. PURPOSE OF THE REPORT

- 1.1 The report sets out steps to protect transport operators from the financial impacts of COVID-19, to support their resilience with the intent that they survive the ongoing crisis and continue to be viable operations that are able to deliver contracted services when the crisis abates.

2. RECOMMENDATIONS

- 2.1 It is recommended:

Where transport operators sign letters of indemnity, retained operator payments will be paid to operators of Council transport contracts.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To ensure that there is a viable supply chain to undertake Council passenger transport contracts when the COVID-19 crisis abates.

4. BACKGROUND

- 4.1 Further to the closure of schools for educational purposes, and the subsequent significant restrictions on personal movement as a result of the COVID-19 Pandemic, the Welsh Government and the Welsh Local Government Association (WLGA) have recognised the unprecedented challenge facing its contracted local bus service, home to school, social care and other passenger transport providers.
- 4.2 A joint letter from the Minister for the Economy, Transport and North Wales, and the Leader of the WLGA has been circulated to all councils. A copy of the letter is included at Appendix A.

- 4.3 The Council proposes to pay transport operators 75% of their normal daily contracted rate for the next 3 months or until such time as travel restrictions have lifted and normal travel patterns return; termed – Retained Operator Payments. Where contracts continue on a reduced mileage basis, payment will continue to be made in full in accordance with the contracted rate.
- 4.4 Details of these conditional payments are set out in an Indemnity Letter, which will be legally binding, a copy of which is included at Appendix B.
- 4.5 These payments will commence from 1 April 2020, with operators having already been paid in full for March 2020.

5. EQUALITY AND DIVERSITY IMPLICATIONS

- 5.1 An Equality Impact Assessment (EqIA) screening form has been prepared for the purpose of this report. It has been found that a full report is not required at this time. The screening form can be accessed by contacting the author of the report or the Cabinet Business officer.

6. CONSULTATION

- 6.1 No consultation has been undertaken, though individual council actions have been coordinated via the Welsh Local Government Association (WLGA) in liaison with Welsh Government.

7. FINANCIAL IMPLICATION(S)

- 7.1 The report details activity within the existing budget.

8. LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED

- 8.1 The Council has a statutory duty to provide schools transport in accordance with set criteria. The proposed actions detailed in this report aim to ensure that transport operators survive the current crisis and are able to fulfil their contractual obligations (thereby discharging the Council's statutory duties) when the crisis abates.

9. LINKS TO THE COUNCILS CORPORATE PLAN / OTHER CORPORATE PRIORITIES/ SIP.

- 9.1 The Council's Corporate Plan is committed to delivering three main priorities:
- Ensuring **People**: *are independent, healthy and successful;*
 - Creating **Places**: *where people are proud to live, work and play;*
 - Enabling **Prosperity**: *creating the opportunity for people and businesses to: be innovative; be entrepreneurial; and fulfil their potential and prosper.*
- 9.2 Sitting underneath each core priority is the detail of how the Council intends to deliver these priorities, including “*Keeping the County Borough moving, including*

improvements to roads and pavements and public transport, whilst also improving air quality”.

- 9.3 A sustainable body of innovative providers is essential moving forward and the proposals contained in this report look beyond the current crisis and seek to safeguard essential services that will continue to be needed after the crisis. These services provide the public with essential and sustainable forms of transport meeting educational, employment, health and social needs.
- 9.4 Lack of action at this time could directly jeopardise the viability of many transport operators and result in hundreds of job losses, which will indirectly impact on the viability and wellbeing of our communities.

10. CONCLUSION

- 10.1 The Council faces unprecedented challenges arising from the COVID-19 pandemic. This report sets out proposals to safeguard the transport supply chain from the immense financial challenges arising so that the Council can discharge its statutory duties on home to school transport when the crisis abates and society returns to business as usual.
- 10.2 The financial package will also support transport suppliers delivering contracts in the fields of local bus services, social care and other passenger transport contracts, including those carried out by community transport organisations.
- 10.3 The exceptional nature of the change in travel patterns means that transport operators on local bus services are also feeling the financial pressure in the fare box and further parallel financial packages are being developed at government level to ensure such services can endure beyond the current crisis.

APPENDIX A – Joint Letter from WG and WLGA



2020.03.20 KS 167
20 - Letter to LA Chi

APENDIX B – Text of Operator Indemnity Letter and Agreement

Dear Operator

LETTER OF INDEMNITY – CONTRACTED LOCAL BUS SERVICE, HOME TO SCHOOL, SOCIAL CARE AND OTHER PASSENGER TRANSPORT - THIS LETTER IS LEGALLY BINDING

Further to the closure of schools for educational purposes, and the subsequent significant restrictions on personal movement as a result of the COVID-19 Pandemic, the local authority recognises the unprecedented challenge facing its contracted local bus service, home to school, social care and other passenger transport providers. It will therefore continue to make contracted payments in the form of a retainer subject to the Operator's agreement to this letter of indemnity. This agreement does not apply to those contracts which continue on a reduced mileage basis, in which case payment will be made in full in accordance with the agreed rate.

From 1 April 2020, Rhondda Cynon Taf County Borough Council ('the Council') will make a payment of **75%** of the daily rate of its local bus service, home to school, social care and other passenger transport contracts for up to three months, until these restrictions are lifted and normal patterns of travel return ('Retained Operator Payment'). Should these restrictions remain in place and operations remain limited or suspended for a longer period, the payment mechanism will be reviewed and operators informed. In order to receive the Retained Operator Payment the operator must sign and return the Retained Operator Payment Agreement.

On signing the Retained Operator Payment Agreement, the Operator agrees to:

- Maintain all staff and vehicle levels for all local bus service, home to school, social care and other passenger transport contracts.
- Continue to pay staff the wages in conjunction with the operation of these contracts.
- Release contracted resources (appropriately licensed vehicles and DBS cleared staff) to provide re-purposed transport on request of the Council. Payment for re-purposed transport will be made at 100% of the existing daily contract rate and not in addition to any Retained Operator Payment.
- Any additional costs incurred by the Operator in providing re-purposed transport will be paid in conjunction with the Variation of Contract clause within the Council's Conditions of Contract for

the Provision of Passenger Transport Services or the operator will enter into a new contract for the re-purposed transport.

- Adhere to the Council's Conditions of Contract for the Provision of Passenger Transport Services.
- Provide copies of employee wage slips, National Insurance Numbers, Tax Identification Numbers or evidence of PAYE to the Council within 72 hours of request.
- Immediately declare to the Council any Indemnity Insurance received for loss of earnings in relation to local bus service, home to school, social care and other passenger transport contracts and return any Retained Operator Payments received.
- Disclose to the Council full details of payments made to operators as a result of Covid – 19.
- Inform the Council immediately where any change in their circumstances has occurred or is likely to occur. These include (but are not limited to):
 - Any petition is presented or resolution passed or other action taken for an operator's bankruptcy or winding-up or a petition is presented for an administration order against an operator;
 - A receiver or an administrative receiver is appointed in respect of an operator or in respect of all or any part of an operator's assets;
 - A moratorium in respect of all or any of an operator's debts or a composition or an agreement with an operator's creditors is agreed, applied for, ordered or declared;
 - Operators are unable, or admit in writing their inability, to pay their debts as they fall due;
 - Any distress, execution, attachment or other process affects any of an operator's assets;
 - A statutory demand is issued against an operator;
 - An operator ceases, or threatens to cease, to carry on all or a substantial part of their business;
 - Vehicles are decommissioned for any reason and are no longer at the disposal of the operator.

Should the Operator default on any of the above terms the Council reserves the right to:

- Withhold any Retained Operator Payment.
- Recover any monies paid under the Retained Operator Payment Agreement.
- Recover from the Operator any additional costs incurred by the Council for a period not exceeding six months, or until the expiry or termination of the Contract if earlier, for providing the contracted service if the Operator fails to perform the Contract on resumption of the schools reopening and restrictions being lifted.

The Council reserves the right to recover any monies paid under the Retained Operator Payment Agreement, where payments have been made to the Operator as a result of Covid – 19 from another party that duplicates the purpose of the Retained Operator Payment.

The Council will inform operators of any further announcements relating to contractual payments and Retained Operator Payments will be reviewed with any over or under payment reconciled in-line with these announcements.

The Council is committed to complying with data protection law and any personal information collected under the terms of Retained Operator Payment Agreement will be kept safe and secure, and only be used for the purposes of its management.

The Council and the Operator agree that the terms and obligations set out in this letter are legally binding.

Should you agree to the terms and obligations set out above please retain one copy of this letter and sign the duplicate Retained Operator Payment Agreement enclosed and return to the to the Council..

Yours sincerely

Chris Bradshaw
Chief Executive – Rhondda Cynon Taf CBC

Home to School Transport Contract - Retained Operator Payment Agreement

In consideration of the terms and obligations set out in the above letter we agree to the variation of the Contract as set out in that letter dated ___April 2020 and the variation shall be effective from 1 April 2020.

The parties have signed this Retained Operator Payment Agreement this _____ day of _____ (month) 2020.

Signed for Rhondda Cynon County Borough Council:

.....

Authorised Signatory

SIGNED by the Operator

.....

Authorised Signatory