

EXECUTIVE COUNCIL

PUBLIC

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Responsible Director:	Director of Policy & Economic Development
Report Author:	Statistician & Social Policy Adviser
Portfolio Holder:	MLA Roger Spink, MLA Roger Edwards, Government Services
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List of Documents:	Appendix A – Travel Credit Scheme Rules

1. Recommendations

Honourable Members are recommended to:

- (a) Approve the Travel Credit Scheme policy principles;
- (b) Approve the specific eligibility criteria for inclusion in the scheme;
- (c) Approve the rules governing the administration and operation of the scheme, described in Appendix A;
- (d) Authorise the Attorney General's office to develop the necessary legislation.

2. Additional Budgetary Implications

2.1 None. Provision for the Travel Credit scheme has been included in the budget for 2018/19.

3. Executive Summary

3.1 Honourable Members have requested the introduction of a Travel Credit Scheme and instructed the Policy & Economic Development Directorate to develop policies and operating guidance detailing how the scheme will be operated and administered.

- 3.2 This paper outlines the policy basis for the Travel Credit Scheme and details how the programme will be run. The proposed specific rules governing how the scheme will be operated and administered are provided in the attached Appendix A.
- 3.3 The policy objectives and specific eligibility criteria for the scheme were determined following extensive consultations with Members. The Attorney General, Registrar and Financial Secretary have advised on legislative requirements and the financial and administrative elements of the scheme
- 3.4 Honourable Members have instructed that the primary policy objective of the scheme is to make it more affordable for Falkland Island Status holders to travel both within the Islands and overseas. To facilitate this, eligible individuals will be invited to opt in to the scheme, which will allow them to accumulate travel credits at the rate of £1/day for adults and £0.50/day for children under the age of 16. Subject to several conditions, those credits can be applied against specific travel costs for trips originating in the Falkland Islands.
- 3.5 The principal eligibility criteria for entry into the scheme are that persons hold Falkland Islands Status; that they are registered on the Electoral Roll (if aged 18 years and older); and that they are ordinarily resident in the Falkland Islands.
- 3.6 There are no additional financial implications arising from this paper; resources have been allocated within the 2018/19 budget.

4. Background

- 4.1 The Falkland Islands Government (FIG) is committed to improving the quality of life of Falkland Islanders and has pledged, in the 2018-2022 Islands Plan, a range of key investments to support the social and economic development of the Islands. One element of that investment programme is the introduction of a Travel Credit Scheme.
- 4.2 It is widely recognised that holidays and access to travel bring about improvements in individuals' and families' physical and mental health, as well as broader educational and cultural advantages for wider society. However, travel costs, particularly for overseas travel, can be prohibitively high for families and for people at the lower end of the income scale.
- 4.3 The aim of the Travel Credit Scheme is to offset some of the costs associated with travel, by allowing eligible individuals to accumulate credits which can be redeemed against specific travel costs. As a result, it will be easier for Falkland Islanders to travel both within the Islands and further afield. Additional, less tangible, outcomes of the scheme may include improved social, health and integration benefits for individuals, families and the wider community.
- 4.4 The eligibility rules in relation to entry into the scheme are designed to support Government's strategic and policy objectives for population and economic development, by recognising those who have a long-term commitment to the Islands.
- 4.5 Thus, the scheme is restricted to adult persons holding Falkland Island Status who are also registered on the Electoral Roll, in addition to children and young people aged under 18 years who have Falkland Islands Status in their own right.

- 4.6 This is in line with government immigration policy; as well as with other civic and social benefits available to Falkland Islanders. The Travel Credit Scheme is considered an additional incentive to encourage immigrants on the path to Falkland Island Status, which rewards those seeking to establish a long-term future and to build a family in the Islands.
- 4.7 However, the intended eligibility criterion contradicts the protections afforded by section 16 of the Constitution, which provides that no law shall make any provision that is discriminatory nor shall any person be treated in a discriminatory manner.

The Falkland Islands Constitution Order 2008 (s16.1-3):

(1) Subject to subsections (4), (5) and (6), no law shall make any provision which is discriminatory either in itself or in its effect.

(2) Subject to subsections (6) and (7), no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(3) In this section, the expression “discriminatory” means affording different treatment to different persons on any grounds such as sex, sexual orientation, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

- 4.8 Notwithstanding, section 16, subsection (6) of the Constitution does recognise that some discriminatory provisions may be consistent with these protections in law, provided that there is a reasonable justification provided:

S16.(6) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that it has an objective and reasonable justification and there is a reasonable proportion between the provision of law in question or, as the case may be, the thing done under it and the aim which that provision or the thing done under it seeks to realise.

- 4.9 Therefore, in order to implement the Travel Credit Scheme; achieve the policy objectives of the scheme outlined at points 4.4 and 4.5 above; and ensure that the scheme does not contravene Constitutional protections; it is the advice of the Attorney General that the Travel Credit Scheme must be put into law by means of an Ordinance setting out the framework of the scheme, including eligibility and entitlements.
- 4.10 In addition to setting out eligibility requirements, it is proposed that the Ordinance and Regulations include details of how the Travel Credit Scheme will operate, including eligible travel expenses, transferability and liquidity of credits, maximum accruals, and other details. This will provide clarity and fairness and will minimise the potential for individuals to request special consideration or use of credits outside of what the programme is intended to support.
- 4.11 To transform the scheme into law will require the preparation and submitting of drafting instructions to the Government Legal Service.

5. Options and Reasons for Recommending Relevant Option

- 5.1 Option 1 - Do nothing.
- Travel Credit Scheme is not implemented.

- Honourable Members' policy objectives are not realised

5.2 Option 2: **Recommended.** Approve the Travel Credit Scheme policy and its associated rules, regulations and administrative guidelines.

- The scheme is put into law by means of an Ordinance
- The scheme is implemented and Members' policy objectives are achieved
- The Travel Credit Scheme is available for Falkland Islanders to access as of 01 January 2019 (credits be treated as having started to accrue, for those eligible at that time, as of 01 July 2018).

6 Travel Credit Scheme Administration

Eligibility

6.1 Start date: The scheme will be established when the legislation comes into effect. Travel credits will be treated as having started to accrue from 1 July 2018 (the beginning of the current financial year) or the date on which an individual becomes eligible (see 6.4 and 6.5, below), whichever is later.

6.2 End date: No end date is established. It is intended that the scheme will run for a minimum of three years; however, the scheme and its operation will be reviewed each year as part of the budget cycle and power for Executive Council to suspend the scheme will be included in the Ordinance.

6.3 Drawdown of credits under the scheme will be allowed from 1 January 2019.

6.4 Scheme eligibility criteria

- Eligibility is restricted to those who have Falkland Islands Status
- In order to qualify for the scheme, eligible individuals aged 18 years and over must also be registered on the Electoral Roll.
- Eligible children under the age of 16 must be registered in the scheme by their parent(s) or legal guardian
- Eligible individuals between the age of 16 and 18 are considered adults under the scheme, and may register themselves or be registered by their parent(s) or legal guardian.
- Individuals must be ordinarily resident in the Falkland Islands

6.5 Residency rules: Eligible persons must satisfy the same residency conditions that apply for registration in the Register of Electors.

Therefore, a person must, on the qualifying date¹, be ordinarily resident in the Falkland Islands. While 'ordinarily resident' is not defined in legislation, the established meaning of the term is that a person is ordinarily resident if:

- (a) they normally live in the Falkland Islands, other than during temporary or occasional absences, and;

¹ For all persons who fulfil the eligibility criteria on the date the scheme is launched i.e. 1 July 2018, the qualifying date is that same date. For all others, the qualifying date is the date of registration on the Register of Electors, date of birth in the case of newborns, or date of receipt of Falkland Islands Status (children under the age of 18).

Registration on the scheme is subject to the cut-off periods detailed in paras. 6.10 and 6.13.

- (b) they live in the Falkland Islands voluntarily and for settled purposes, as part of the regular order of their life for the time being.

Under part (a) above, when determining if a person is ordinarily resident, absences are not taken into account if that person is absent from the Islands for one or more of the following purposes:

- (i) to receive medical treatment;
- (ii) to undertake a course of education or training;
- (iii) to support a dependent or relative whose principal reason for being absent from the Falkland Islands is to receive medical treatment or to undertake a course of education or training;
- (iv) to undertake work or to conduct business outside of the Falkland Islands in connection with their employment or business which is based in the Falkland Islands;
- (v) or other temporary absences;

Provided that the person intends to resume actual residence within the Islands, and that their home in the Islands is their permanent place of residence where they would ordinarily reside but for their temporary absence.

Administration and initial set-up

6.6 The Travel Credit Scheme will be administered within the FIG Finance Unit by a Scheme Administrator, who will be supported in carrying out that function by staff in the Finance Department.

6.7 It will be necessary to register in order to access the Travel Credit Scheme.

6.8 While there is no existing database of all resident Falkland Islands Status Holders, the Electoral Register provides the most complete record of Status Holders aged 18 years and over. That register will be used to provide information for compiling the initial database of eligible residents.

Currently the electoral register is published after the annual canvass of electors, at the beginning of May each year, and then again when required (usually for an election or referendum). In order to facilitate the operation of the Travel Credit Scheme, there will be a need to move to publish the register more regularly. It is suggested that it be published each month in which applications to be added to the register are made. The Registrar General will consider how this will be done.

6.9 During the initial registration period, proposed to commence 01 October 2018, all eligible residents will be invited to opt-in to the Travel Credit Scheme for themselves and any dependents under the age of 18. Individuals aged 16 to 18 years can choose to opt in to the scheme themselves.

6.10 For individuals who fulfil all of the eligibility criteria on 1 July 2018 i.e. they hold Falkland Islands Status; are ordinarily resident in the Islands; and are registered on the Electoral Roll; the cut-off date for the initial registration period is 31 December 2018. Eligible individuals who register after that date accrue credits from the date of registration.

6.11 To register in the scheme, people will be required to submit a completed application form providing their demographic details in addition to proof they are ordinarily resident and

registered on the Electoral Roll, if they are aged 18 years and over. Proof of Falkland Islands Status will be required for individuals under 18 years.

The following documents are acceptable evidence of the above:

- Copy of utility bill or bank statement dated not more than 6 months prior to the date of registration, which shows the individual's Falkland Islands address
- Copy of Falkland Islands Status Certificate
- Copy of Passport displaying FI Status number
- Copy of birth certificate with at least one named parent a Falkland Islands Status, PRP or PRR holder

6.12 Infants born on or after 1 July 2018 will accrue credits from their date of birth, provided they meet the eligibility requirements and their parents register them for the scheme. In order for the Scheme Administrator to determine whether infants and children who do not hold a passport are Falkland Islands Status Holders, the parent or guardian is required to submit a copy of the infant's/child's birth certificate with at least one named parent who holds Falkland Islands Status/Permanent Residence Permit/Permanent Right to Remain.

6.13 Individuals who are awarded Falkland Islands Status after 1 July 2018 will have 30 days from the date they were awarded Status to opt in to the scheme, once they have fulfilled all of the eligibility criteria, and credits will begin to accumulate from the date they were awarded Status.

6.14 All applications will be verified by the Scheme Administrator against existing FIG administrative databases to ensure that all eligibility requirements are met. In the case of ambiguity with regards to Status, referral will be made to the Principal Immigration Officer.

Accumulation of credits

6.15 Travel credits accumulate at different rates under the scheme; the full rate of £1.00 per day for adults and at the half rate of £0.50 per day for children; subject to the rules of the scheme with respect to eligibility and residence. This rate differential reflects the reduced travel fares that are generally available to children.

6.16 For the purposes of this scheme, children are defined as all persons aged 16 years and under.

6.17 Once individuals are registered on the scheme, credits will automatically be added to their account, provided they continue to fulfil the eligibility criteria. People will be able to utilise their travel credits as of 1 January 2019.

6.18 It is proposed that a maximum credit balance of £1,826 (£913 for children)² can be accrued by each individual in the scheme, equivalent to a person remaining in the scheme for five years without having drawn down any credits over that time. This cap will allow the accumulation of sufficient credits to pay for a round trip airfare from the Falkland Islands to an international destination.

² 5 years from 1 July 2018 is equal to 1,826 days. At £1.00 per day (adult rate), that equates to £1,826 in accumulated credits. For children, it amounts to £913; at £0.50 per day.

6.19 Should the scheme be suspended or terminated at some future date, all accumulated credits will be frozen on the date the scheme ends. Those persons registered on the scheme at that time will be allowed to use their remaining credits for a defined period of time to be specified later.

Use of credits

6.20 Only travel originating within the Falkland Islands will be eligible for payment or reimbursement through travel credits. Eligible travel will include:

- Concordia Bay Ferry passage (including accompanied vehicle fares)
- FIGAS flights
- MoD Airbridge flights
- Any commercial flights e.g. LATAM originating in the Falkland Islands

Credits may only be used to offset the cost of passage and may not be used to pay for any other charges associated with travelling. For clarity, this means that only the cost of the air fare or ferry passage can be claimed; no other costs, charges, fees or taxes are covered under the scheme.

6.21 Multi-leg flights are permitted under the scheme, provided they originate in the Falklands and all flight elements are booked as part of the same journey. e.g. a return flight from the Falklands to the UK via Santiago is allowed, as long as the flights are booked at the same time on the same ticket.

6.22 It is proposed that there be two methods by which people can use their travel credits:

- a. Request a voucher from the Scheme Administrator to present to an eligible travel provider e.g. FIC Airbridge Travel or FIGAS
- b. Book and pay for air travel online or with an eligible travel provider and submit a refund request to the Scheme Administrator once travel has taken place.

6.23 Prior to implementing the TCS, it is proposed that the FIG Scheme Administrator develop procedures with each eligible travel provider for acceptance of vouchers as part or full payment for travel and invoicing FIG on an agreed schedule for reimbursement.

6.24 Vouchers will be issued for up to the amount of credit accumulated as of the date the voucher is requested.

6.25 While individuals may request that a paper voucher be issued to them, preference will be given for the issuing of electronic vouchers i.e. via email to the individual or direct to the travel provider.

6.26 Should a person not have sufficient credits accumulated to cover the total cost of the travel fare, they can submit a voucher to their eligible travel provider for the credits available to them as part payment, with the understanding that the fare difference will be covered from their own funds (method a above).

Alternately, individuals may make their own travel arrangements via internet for travel from the Falkland Islands and then request a refund of up to the value of the credits they have accumulated as of the date of departure (method b above).

- 6.27 While there are no restrictions on the number of times per year a person may drawdown from their accumulated credits, the minimum value per claim is set at £50. This minimum value is set in order to reduce the administrative burden of processing numerous small claims under the scheme, yet still reflects the lower costs of eligible domestic travel within the scheme.
- 6.28 In the case where the cost of travel is less than £50 e.g. if an individual books passage on the ferry without an accompanying vehicle (currently £20 per return adult passage), there are two options available for how travel credits may be used:
1. a person may pay for the passenger fare themselves and any subsequent eligible travel they may take, and then request a refund from the scheme once they have met the £50 threshold;
 2. provided they have accumulated sufficient credits, a person may request a voucher to the value of £50, which they can then 'bank' with the travel provider and use for future travel with them.

Service standards

- 6.29 Upon receipt of an email from a registered individual, the Scheme Administrator will endeavour to provide credit balances within 5 working days. Vouchers confirming credit balances must be requested by email and will be issued within 10 working days. While contact via email is the preferred means of communication with the Scheme Administrator, telephone service or mail will also be available.
- 6.30 It is proposed that where possible, all communications between the Scheme Administrator, travel companies, and persons registered in the scheme will be conducted via electronic means, i.e. that all claims, vouchers and balance requests and other communications are sent by email.

This will promote faster turnaround times for all involved; enable quick access to individual records; and significantly reduce the storage requirements for all paperwork associated with the scheme.

7. Resource Implications

7.1 Financial Implications

- 7.1.1 It is not possible at this stage to provide definitive information on the total annual cost of the scheme, as it is dependent upon the number of individuals who opt-in.
- 7.1.2 Budget 2018/19 includes a total of £760,140 for the scheme, including administration costs. Based on revised assumptions of the number of individuals who will be eligible for the travel credit (1,535 adults and 477 children reported in the 2016 Census), this budget allocation is expected to be sufficient for the 2018/19 fiscal year.

7.2 Human Resource Implications

- 7.2.1 The FIG Finance Unit will administer the scheme. This will be achieved by a realignment of roles and responsibilities to best deliver the service outcomes and the introduction of one additional finance post. A Scheme Administrator (1 x FTE) post was requested and subsequently approved in the 2018/19 budget process. Having reviewed the draft Job Description for the new post it has been evaluated at Grade E1.

7.2.2 Funding for this position was included in the 2018/19 budget.

7.3 Other Resource Implications

7.3.1 The Scheme Administrator will require a work station to be set up within the Treasury. This will require the standard IT and administrative resources to be put in place.

7.3.2 If the decision is made to develop a custom-built database to manage the scheme e.g. using MS Access, there may be additional costs associated with getting a third party to deliver this.

8 Legal Implications

8.1 As described in section 4 of this paper, it will be necessary for the Travel Credit Scheme to be put into law by means of an Ordinance, to ensure that the policy objective of the scheme are not contrary to Constitutional protections.

8.2 This will require drafting instructions to be prepared and submitted to the Government Legal Service.

9 Environmental & Sustainability Implications

9.1 None

10 Significant Risks

10.1 The key risk associated with implementing the Travel Credit Scheme is that FIG could be vulnerable to criticism and legal challenge that the scheme is discriminatory by fact of its eligibility criteria; explicitly because the scheme is restricted to Falkland Islands Status holders. However, the policy objectives for the scheme are clear and provide reasonable justification, as provided for in the Constitution, for the eligibility criteria to stand.

11 Consultation

11.1 Extensive consultation and discussion with Members regarding the policy objectives, eligibility criteria and operation of the scheme took place prior to drafting this paper.

12 Communication

12.1 Once the Travel Credit Scheme is approved and put into law, a communications strategy informing the public about the scheme and registration requirements will be launched, currently expected no later than the end of October 2018.

Appendix A: Travel Credit Scheme Rules

1. These rules govern the Falkland Islands Government's Travel Credit Scheme (TCS). They may be altered or added to at any time without notice by the Head of Finance, in the case of minor administrative changes, and by decision of Executive Council in the case of substantive change to the scheme.
2. The TCS may be discontinued by Executive Council at any time and for any reason, after the initial three year scheme period. It is intended that if the TCS is discontinued or suspended, any outstanding credits will be honoured within a time period to be specified.
3. Notwithstanding para 3, the TCS will be reviewed annually as part of the budget process, and may be suspended by Executive Council due to budget constraints.
4. The Scheme will be administered by the "Scheme Administrator". The Scheme Administrator has the authority to query, access, and maintain such information as is necessary in order to determine entitlement under the scheme.
5. Persons eligible for credits are those who –
 - a. Are ordinarily resident in the Falkland Islands on or after 01 July 2018; and
 - b. Are Falkland Islands Status Holders; and
 - c. Are registered on the Electoral Roll; or
 - d. Are children or young people under 18 years of age who are qualified under (a) and (b) above
6. Once an individual has registered for the scheme within the applicable registration period, credits will accrue from 01 July 2018; or from the date an individual registers on the Electoral Roll; or from the date they were awarded Falkland Islands Status; whichever is later.
7. An eligible person who is temporarily absent from the Islands will continue to accrue credits, provided that the person continues to remain on the Register of Electors, intends to resume actual residence within the Islands, and that their home in the Islands is their permanent place of residence where they would ordinarily reside but for their temporary absence. Such temporary absences include:
 - (a) receiving medical treatment;
 - (b) undertaking a course of education or training;
 - (c) supporting a dependent or relative whose principal reason for being absent from the Falkland Islands is to receive medical treatment or to undertake a course of education or training;
 - (d) undertaking work or conducting business outside of the Falkland Islands in connection with their employment or business which is based in the Falkland Islands; or
 - (e) other temporary absences such as holidays.
8. Once registered into the scheme by their parent or guardian, eligible infants who are born while the scheme is in operation will have credits applied to their account from their date of birth.
9. Individuals who are awarded Falkland Islands Status during the life of the scheme, and once they have fulfilled all the eligibility criteria, will have 30 days to opt in to the scheme. Credits will then be applied to their account from the date they were awarded Status.

10. Registered individuals who leave the Falkland Islands to take up residence overseas and who do not return and qualify to appear on the Electoral Roll will have their credit balances frozen at the date of their departure. These balances will become forfeit after one year has passed.
11. Where persons have been absent overseas long enough to have their names removed from the Electoral Roll; they will be able to reinstate their eligibility and both accrue and utilise their non-forfeited credits as soon as they appear on the Electoral Roll again.
12. Subject to the above rules, credits will accrue for adults at the full rate of £1.00 per day of ordinary residence in the Falkland Islands on or after 1 July 2018. Children and young people aged under 16 years will accrue credits at the rate of £0.50 per day of ordinary residence.
13. Drawdown of credits under the scheme is first permitted on 1 January 2019.
14. Credits cannot be paid out in advance of having been earned.
15. Credits accruing to a child or young person under the age of 16 years will only be disbursed upon the request of a parent or guardian and only for travel by the child. However, it is not required that the child be accompanied by a parent or guardian when travelling under the scheme; subject to existing service provider rules in place regarding minors travelling unaccompanied.
16. When a young person reaches the age of 16 years, and even if he or she continues to live with a parent or guardian, credits may only be expended at the request of the young person.
17. Any credits accrued by a person may only be drawn down and used by that person for their own travel. That is to say, no transfer of credits to another individual is permitted under the scheme. Additionally, no pooling of credits is permitted e.g. within a family or between individuals travelling together.
18. Any balance of credits outstanding upon a person's death is automatically extinguished.
19. No person may accrue more than £1,826 in credits (£913 for children under the age of 16), which is the equivalent of five years in the scheme without drawdown. This means that once a balance of £1,826 (£913 for children under the age of 16) has been reached, no further credits will accrue until the balance has been reduced below £1,826 (£913 for children under the age of 16).
20. Credits can only be expended on travel originating in the Falkland Islands or on travel within the Falkland Islands. Thus, credits may only be applied against the cost of air travel on FIGAS flights, MoD Airbridge flights, or commercial flights originating in the Islands e.g. LATAM, as well as against the cost of passage (including accompanied vehicle fares) on the Concordia Bay Ferry.
21. Only the cost of air or ferry fares are permitted. Credits cannot be applied against embarkation taxes; shipping or cargo costs; transfers to or from the point of travel; excess baggage charges; travel insurance costs; or any charges other than the passage fare.
22. Multi-leg air travel is permitted, provided that all flights are booked on the same ticket and that the travel originates in the Falkland Islands.

23. There are no restrictions on the number of times credits can be drawn from a person's account throughout the year. However, the minimum drawdown value per transaction is £50.
24. Drawdown from the scheme and payment for travel can be by one of two methods, at the preference of the individual:
 - a. Request a voucher from the Scheme Administrator to present to an Eligible Travel Provider³ prior to, or at the time of, booking.
 - b. Book and pay for commercial air travel online or with an Eligible Travel Provider and submit a reimbursement request, along with proof of payment and boarding passes, to the Scheme Administrator once travel has taken place.
25. Credits cannot be claimed in advance. Vouchers will only be issued for the credit balance accumulated by an individual as of the date the voucher is requested from the Scheme Administrator.
26. In the case of reimbursement requests, the amount of the refund available will be equivalent to the credit balance as of the date of ticket purchase.
27. Having used their credits to pay for travel, either in part or in full, and should the service be cancelled or the person decides not to travel, any refund issued by the travel provider (less any penalties or forfeits) will be to the person's scheme account and not to the individual. Travel providers will inform the Scheme Administrator of the cancelled travel and the credits will revert to the individual's account.
28. Any disputes related to the administration of the Travel Credit Scheme may be referred through the FIG Complaints procedures.

³ Eligible travel providers include: Falkland Islands Company (for Airbridge travel); ITT (for travel via commercial carriers); FIGAS; Workboat Services.