

1 July 2016



Concessionary travel arrangements for disabled residents and their carers

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Background

1. The English National Concessionary Travel Scheme (ENCTS) provides free travel on local bus services for older and disabled people between 0930 and 2300 Monday to Friday and all day at weekends and Bank Holidays.
2. Older people are entitled to a concessionary pass when they reach the state pension age for women (which is gradually being increased from 60 to 66). Disabled people are entitled to a concessionary pass if they meet any of the following criteria, set out in legislation by the Department for Transport:
 - Blind or partially sighted
 - Profoundly or severely deaf
 - Without speech
 - Has a disability or has suffered an injury which has substantial and long-term effect on ability to walk
 - Does not have arms or have long-term loss of both arms
 - Has a learning disability, that is, a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning"
 - Would if applied for a licence to drive a motor vehicle under Part III of the Road Traffic Act 1988, have the application refused under Section 92 of the Act (physical fitness) on grounds other than misuse of drugs or alcohol

Government Guidance on ENCTS

3. The government have issued a number of guidance notes to local authorities relating to various aspects of the ENCTS scheme. The general guidance on implementing the concessionary fares scheme ([Guidance for Travel Concession Authorities on the England National Concessionary Travel Scheme](#)) issued Dec 2010, makes a clear distinction between two groups, older people (entitled by age limits) and disabled people (without age limits).

"There are two broad categories of people eligible for a statutory concession: men and women who have attained the state pension age for women and eligible disabled people (where no age limits apply)."

4. This would imply that a disabled person of any age would be entitled to a concessionary bus pass, provided that they meet the eligibility criteria. However, further guidance on assessing the eligibility of disabled people as set out below makes a clear reference to concessions applying to persons of “fare paying age”.

Assessment of eligibility of disabled people

5. The guidance on assessing eligibility of disabled people for concessionary travel ([Guidance to Local Authorities on assessing Eligibility of Disabled People in England for Concessionary Bus Travel](#)) issued April 2013, indicates the government’s intention is that the concession should be taken to apply to adults and to all disabled children and young people of fare-paying age.

Para 15: *“The 2007 Act provides an entitlement to a concession against a full adult fare. It does not set age limits for recipients of this concession. **It should therefore be taken to apply the concession to adults and to all disabled children and young people of fare-paying age.**”*

6. The guidance recommends that, where available, the most robust way of assessing eligibility is likely to be via other relevant state benefits. Paragraph 18 of this guidance sets out the benefits and makes further reference to the age limit:

*“Eligibility for a concessionary travel pass may be considered “automatic” (not requiring further assessment) where a person is in receipt of any of the following state benefits, which link eligibility to receive the benefit to the ability to walk or, in the case of PIP, to communicate orally, **provided that the person is of fare paying age** and that the award of the benefit has been for at least 12 months or is expected to be for at least 12 months.*

- a. Higher Rate Mobility Component of Disability Living Allowance (HRMCDLA);
- b. Personal Independence Payment (PIP), where the applicant has been awarded at least eight points against either the PIP “Moving around” and/or “Communicating verbally” activities 34;
- c. War Pensioner’s Mobility Supplement (WPMS).”

Disabled pass with carer

7. In addition to the statutory requirements of the ENCTS scheme, local authorities are able to offer additional discretionary concessions, such as the provision of a “disabled bus pass with carer”.
8. Durham’s discretionary travel scheme includes this provision, which allows a pass holder who is unable to travel independently to be accompanied on the journey by a companion who is also able to travel for free (provided that the companion boards and alights at the same stops).
9. The ‘carer’ is not issued with a separate pass; this element of travel is shown by the addition of a symbol in the top right hand corner of the disabled person’s bus pass.

Carers pass for a disabled child

10. Legal advice has been sought in relation to the issue of a 'carer' pass for a disabled child who has not reached the age of becoming a 'fare-payer'. The legal view is that if the child is not entitled to a pass, then we are under no obligation to issue a pass to allow a carer to travel for free.
11. Whilst it is clear that a child with severe disability is unlikely to be able to travel independently whether they are under or over five years of age (the age at which a child becomes a fare-payer), it could also be said that any child, of say two years of age, would be unable to travel independently. Clearly it was not the intention of this legislation to allow parents of every very young child the entitlement to free concessionary travel.

Conclusion

12. It would seem clear that the government's intention of introducing the ENCTS scheme was to provide a concession against the cost of travel for eligible people. The DfT guidance on eligibility of disabled people clearly states that the concession should be taken to apply to people of fare paying age. The logic being that those under the age of five do not have to pay a fare and therefore cannot be given a further concession in relation to the cost of travel.
13. The "with carer" element of travel is a local discretionary enhancement to the statutory ENCTS. This enhancement is considered to be an additional entitlement for the pass holder, where they would otherwise be unable to travel independently.
14. Legal services have considered the government's guidance on ENCTS together with our local enhancement and have advised that if the disabled child is not entitled to a pass, then under our current policy, we are under no obligation to issue a pass for the carer.

Appendix 1: Implications

Finance – None

Staffing - None

Risk - None

Equality and Diversity / Public Sector Equality Duty - None

Accommodation - None

Crime and Disorder – None

Human Rights - None

Consultation – None

Procurement - None

Disability Issues – None

Legal Implications – None