



Department  
for Transport



Explanatory note to clarify the status  
of Department for Transport

“Guidance to local authorities on  
assessing eligibility of disabled people  
in England for concessionary bus  
travel Version 1.2” and to provide  
clarity of the section relating to  
“automatic” eligibility

This explanatory note aims to provide clarification over the status of the guidance ([www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/181507/eligibility-review.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/181507/eligibility-review.pdf)) and in particular to provide clarity in respect of paragraphs 17 to 18 in the section on “automatic” eligibility. This explanatory note does not replace the guidance but seeks to clarify, for the avoidance of doubt, that the decision as to whether someone is a 'disabled person' for the purposes of concessionary travel is the responsibility of the relevant travel concession authority (TCA).

Section 145A(6) of the Transport Act 2000, as amended, and Section 240(5A) of the Greater London Authority Act 1999, provides that the Secretary of State... may issue guidance to TCAs to which they must have regard in determining whether a person is a disabled person. Whilst the TCA must have regard to the guidance, TCAs are not bound by it. The decision as to whether a person is eligible for a concessionary travel pass rests with the TCA.

The guidance is intended to assist TCAs in their assessment of an applicant's eligibility for a concessionary bus pass. It aims to make the process of assessing whether an applicant is a 'disabled person' and therefore eligible for a pass easier by suggesting circumstances where a further assessment of an applicant's eligibility may not be needed, thereby reducing the burden on the TCA and the applicant.

Paragraphs 17 and 18 of the Guidance states the following:

- “17: The Department recommends that, where available, the most robust way of assessing eligibility is likely to be via other relevant state benefits.
- 18: 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;
  - c. War Pensioner's Mobility Supplement (WPMS).”

The term “other relevant state benefits” in paragraph 17 was intended to refer to the specific state benefit awards listed at paragraph 18 (a), (b) and (c). In the Department's view only the specific benefit awards listed have eligibility criteria which is sufficiently consistent with the recommended eligibility criteria for the national concession to justify granting respective applicants access to it without further assessment. It is however also the Department's view that proof of receipt of any state benefit, even where it is unsuitable for demonstrating “automatic” entitlement may still be relevant to applications alongside other evidence. In either case this is only the Department's view and it is for TCAs to determine what action is appropriate.

Paragraph 18 sets out the Department's view that where a person is receiving the state benefits listed in bullet points a) to c) of paragraph 18 that eligibility may be considered “automatic” and so no further assessment is required. The Department recommended

these three state benefits because the criteria that someone has to meet in order to be eligible for those benefits is closely aligned to the criteria that a person has to meet to be eligible for a concessionary travel pass. Therefore, the Department recommends that in these cases the TCA does not need to carry out a further assessment of an applicant's eligibility.

There is no requirement in the Transport Act 2000 or the Greater London Authority Act 1999 that eligibility should be "automatic" and so paragraph 18 does not provide that eligibility "must" or "should" be considered "automatic". A TCA may decide that none of the state benefits listed should give rise to "automatic" eligibility. Similarly, paragraph 18 does not provide that eligibility "may only" be considered "automatic" where a person is in receipt of the benefits listed in that paragraph. A decision to consider an applicant automatically eligible for a concessionary travel pass comes at the discretion of the relevant TCA, based on their own consideration of the evidence provided and any legal advice they seek.

The Department will clarify the guidance along these lines when it is next revised.

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