

Purpose of Guidance: determining disabled people's entitlement under the Act

7. The Transport Act 1985 gives local authorities outside London power, at their discretion, to offer any level of concession they wish to disabled people in any or all of the categories defined in section 93(7) of that Act. That power has been modified by the Act to permit concessions to be given to people within any of the seven categories (these categories are broadly similar to those originally specified under the 1985 Act but there are some changes of detail). The statutory minimum does not extend to companions of pass-holders, but authorities remain free to offer them concessions under their discretionary powers under the 1985 Act.

8. The Greater London Authority Act 1999 originally empowered London local authorities to arrange with Transport for London for the grant of such concessions as they thought fit to pensioners, blind people and those with serious walking difficulties. That discretionary power has also been extended by the Act to enable concessions to be granted to disabled people in the seven categories.

9. This Guidance is not concerned with the exercise of those discretionary powers but with the determination of entitlement of disabled people to the statutory minimum. Under the terms of the Act, it is for a local authority to determine whether someone is a 'disabled person' for that purpose. But sections 145(4) and 151(5) also provide for the Secretary of State to issue to local authorities guidance to which they must have regard in reaching a decision. In doing so, the Secretary of State is obliged to consult with the Disabled Persons Transport Advisory Committee (DPTAC - the Government's statutory advisers on the mobility needs of disabled people) and with local authority interests.

10. This statutory guidance, which has been subject to the required consultation applies only to England⁴. Implementation of these provisions in Wales is a matter for the National Assembly for Wales.

General criteria to be taken into account in determining entitlement

11. The Disability Discrimination Act 1995 (DDA) provides a definition of disability⁵ which has received some judicial attention since it was passed. The seven categories of disabled person listed in the Transport Act 2000 do not cover the full range of disabled people included within that definition.

12. However, the Department is of the opinion that, in line with the central principle of the DDA definition, the types of disability which should enable people to claim the statutory minimum are those which are permanent or which have lasted at least 12 months, or which are likely to last at least 12 months - and which have a substantial effect on a person's ability to carry out normal day-to-day activities.

13. It should not be necessary for the effect of the impairment to be the same throughout the period - it may worsen or diminish at different times - but local authorities should nevertheless satisfy themselves that it will have (or be likely to have) such an effect throughout the period.

14. A person may have more than one disability which would cause them to be eligible for the concession.

15. The 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 of fare-paying age.

⁴ It has been modified on xx November 2005 to reflect the improvement in the statutory minimum requirement to free off-peak local bus travel. It does not amend the interpretation of the seven eligible categories.

⁵ "A physical or mental impairment which has a substantial and long term adverse effect on his ability to carry out normal day-to-day activities": see section 1(1).