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**CHANGES TO THE CONCESSIONARY TRAVEL  
(ENCTS) ASSESSMENT PROCESS**

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**Responsible Cabinet Member - Councillor Nick Wallis,  
Leisure and Local Environment Portfolio**

**Responsible Director - Ian Williams, Director of Economic Growth**

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**SUMMARY REPORT**

**Purpose of the Report**

1. To seek Members approval for the introduction of a new assessment process for the English National Concessionary Travel Scheme (ENCTS).

**Summary**

2. In order to receive a statutory concessionary bus pass, residents of the Borough must be eligible under one of two broad categories:-
  - (a) Men and women who have attained the state pension age for women; or
  - (b) Eligible disabled people of fare paying age, of which there are seven categories as set out in section 146 of the Transport Act 2000.
3. Applicants must provide the appropriate evidence in order to receive the bus pass. Some evidence provides automatic entitlement but for some applicants further assessment is required. This has usually been provided by GPs but this is not in line with Department for Transport guidance. Instead independent health professionals should be used.
4. It is proposed that for those that apply under category D – ability to walk – who do not have automatic entitlement, they will be assessed by an Occupational Therapist. For those that apply under Category G – would be refused a driving licence – and who do not have automatic entitlement, they will be asked to provide additional information from a health professional using a new template to assist with the provision of facts not opinions.
5. This new assessment process will be introduced for all new applications and applied to existing pass holders where no or insufficient information has been provided previously, or where their evidence is now out of date

6. If the applicant is not eligible a concessionary bus pass will not be issued and the applicant will need to wait 12 months before they apply again.
7. If the existing pass holder is no longer eligible the concessionary bus pass will either be destroyed or 'hotlisted' so it cannot be used.
8. Consultation by letter has been undertaken with 626 existing pass holders. Whilst 170 people responded to the letter, only 1 person made comments regarding the proposed change in the assessment process. This has been used to inform the Equalities Impact Assessment (EIA) and decision making process.

## **Recommendation**

9. It is recommended that :-
  - (a) From 1 April 2016 an assessment process, using the Occupational Therapy Team, is implemented for all new applicants for a concessionary bus pass for eligible disabled under Category D - has a disability, or has suffered an injury, which has a substantial and long term adverse effect on his or her ability to walk.
  - (b) From 1 April 2016 an assessment process, using Healthcare Professionals, is implemented for all new applicants for a concessionary bus pass for eligible disabled under Category G - would, if he or she applied for the grant of a licence to drive a motor vehicle under Part III of the Road Traffic Act 1988, have his/her application refused pursuant to section 92 of the Act (physical fitness) otherwise than on the ground of persistent misuse of drugs or alcohol.
  - (c) Existing pass holders that previously applied under Category D and G are recalled for further assessment if they have been unable to provide current evidence of automatic entitlement through the consultation process. The re-assessment either being through the health professional form or an assessment by the Occupational Therapy Team.
  - (d) Existing pass holders that are assessed as no longer eligible will either have their cards destroyed or 'hotlisted' and will not be able to apply again for a period of 12 months (in line with existing policy). An appeals process is in place.

## **Reasons**

10. The recommendations are supported by the following reasons :-
  - (a) This is in line with Department for Transport (DfT) guidance on Independent Medical Assessment, which states that 'in the case of the assessment of the inability to walk, occupational therapists or physiotherapists are often best placed to assess eligibility due to their professional knowledge of mobility'.
  - (b) This is in line with DfT guidance on Independent Medical Assessment, which states that 'using an applicant's GP to verify that an individual meets the

criteria for a concessionary travel pass is regarded as an unsatisfactory arrangement for both the GP and administrators of the scheme....it compromises the doctor/patient relationship.'

- (c) To ensure that everyone who has already been issued with a pass under Category D or G is still eligible for a pass.
- (d) Those that are not eligible should no longer be able to use the bus pass and benefit from the free travel entitlement that it provides.

**Ian Williams - Director of Economic Growth**

**Background Papers**

Department for Transport; Guidance to local authorities on assessing eligibility of disabled people in England for concessionary bus travel; Version 1.2; April 2013

Sue Dobson : Extension 6207

S17 Crime and Disorder	This report has no implications for Crime & Disorder
Health and Well Being	The change to the assessment process should not have an adverse effect on health or wellbeing.
Carbon Impact	There are no carbon impact implications in this report
Diversity	An Equalities Impact Assessment has been completed.
Wards Affected	All wards are affected.
Groups Affected	Those who have applied for, or will apply for, a concessionary bus pass under the following eligibility criteria:  (a) Category D - has a disability, or has suffered an injury, which has a substantial and long term adverse effect on his or her ability to walk. (b) Category G - would, if he or she applied for the grant of a licence to drive a motor vehicle under Part III of the Road Traffic Act 1988, have his/her application refused pursuant to section 92 of the Act (physical fitness) otherwise than on the ground of persistent misuse of drugs or alcohol.
Budget and Policy Framework	This decision does not represent a change to the budget and policy framework.
Key Decision	This is not a key decision
Urgent Decision	This is not an urgent decision
One Darlington: Perfectly Placed	This report does not adversely impact on the Strategy.

Efficiency	<p>The process for new applications under category G will assist healthcare professionals in providing the required information at the start of the process. This should reduce the amount of time spent on individual complex applications.</p> <p>The process for new applications under category D where there is no automatic entitlement will be implemented by the OT Team. This is a robust approach already used for Blue Badge assessments and should reduce the amount of time spent on individual complex applications.</p> <p>The new CMS system has been set up to store all the evidence and decision making process for audit purposes.</p>
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## MAIN REPORT

### Information and Analysis

11. The Concessionary Bus Travel Act 2007 provides for a statutory guarantee of free off-peak travel for eligible older and disabled people on local bus services anywhere in England.
12. ENCTS was introduced in April 2008 to provide free travel for eligible people on local bus services in England from 09:30 to 23:00 Monday to Friday and all day on weekends and bank holidays.
13. There are two broad categories of people eligible for the statutory concession:
  - (a) Men and women who have attained the state pension age for women; and
  - (b) Eligible disabled people of fare paying age, of which there are seven categories as set out in section 146 of the Transport Act 2000. An eligible disabled person for the purposes of ENCTS is someone who:-

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| <ol style="list-style-type: none"> <li>A. Is blind or partially sighted</li> <li>B. Is profoundly or severely deaf</li> <li>C. Is without speech</li> <li>D. Has a disability, or has suffered an injury, which has a substantial and long term adverse effect on his or her ability to walk</li> <li>E. Does not have arms or has long-term loss of the use of both arms</li> </ol> |
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- F. Has a learning disability, that is, a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning.
- G. Would, if he or she applied for the grant of a licence to drive a motor vehicle under Part III of the Road Traffic Act 1988, have his/her application refused pursuant to section 92 of the Act (physical fitness) otherwise than on the ground of persistent misuse of drugs or alcohol.

### **Disabled Pass Eligibility**

- 14. Under the terms of the Transport Act 2000, it is for a local authority to determine whether someone is a 'disabled person' or not, based on the definitions in the Act and guidance issued by the Department for Transport.
- 15. There are automatic qualifications of entitlement (not requiring further assessment), such as the following state benefits:
  - (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).
  - (d) And where a person has a disabled person's parking badge (Blue Badge).
- 16. Outside of the above, local authority registers for those who are blind, partially sighted, profoundly or severely deaf or have a significant learning disability are used to verify eligibility. A mental health qualification is also verified with Social Services.

### **Applicants Requiring Further Assessment**

- 17. Assessment of applicant's without an automatic state benefit and who are not registered or known to the Council require further assessment to determine if they are eligible for an ENCTS pass.
- 18. Applicants who require further assessment broadly apply under the following categories:
  - (a) Category D - has a disability, or has suffered an injury, which has a substantial and long term adverse effect on his or her ability to walk.
  - (b) Category G - would, if he or she applied for the grant of a licence to drive a motor vehicle under Part III of the Road Traffic Act 1988, have his/her application refused pursuant to section 92 of the Act (physical fitness)

otherwise than on the ground of persistent misuse of drugs or alcohol.

19. An applicant's GP is currently relied upon to provide sufficient evidence of their eligibility, however, the DfT regard this practice as unsatisfactory. The main argument against this approach is that it compromises the doctor/patient relationship. There is also disparity depending on a GP's willingness to provide evidence that may grant their patient a pass.
20. The DfT strongly recommend that independent health professionals should undertake independent medical assessments in place of GPs. In the case of assessment of the inability to walk, Occupational Therapists (OT's) are best placed to assess eligibility due to their professional knowledge of mobility, rather than the emphasis being on the medical condition.
21. It is therefore proposed that from 1 April 2016 all new applications made under category D that do not have evidence of automatic entitlement must be assessed by an Occupational Therapist. In Darlington OT assessments are already in place for Blue Badge applications requiring further assessment. The customer would not be charged for this assessment, in line with DfT guidance.
22. It is also proposed that from 1 April 2016 all new applications made under category G that do not have evidence of automatic entitlement would require evidence from a healthcare professional. A form has been developed with the Local Medical Committee to ensure that healthcare professionals are able to provide the required information as quickly and easily as possible. There may be a charge for the provision of this evidence by the healthcare professional and this would be payable by the applicant, in line with DfT guidance and Darlington's current policy.
23. The Council has a duty to consult on proposed changes to policy, and whilst the ENCTS scheme itself is not changing, nor the criteria, the change to the assessment process is significant. Therefore a consultation exercise was undertaken with those pass holders who had applied under Category D or G.
24. In order to minimise the numbers of people who would be affected by the proposed change, and to minimise the cost of the consultation exercise, the 2,333 pass holders were analysed further and we excluded those who:
  - (a) would qualify on the basis of age within one year of March 2016 (832 people);
  - (b) have a Blue Badge and therefore an automatic qualification (480); or
  - (c) have evidence of automatic entitlement through information held in the Customer Management System for bus passes, CareFirst record or Social Services verified that they would meet eligibility criteria under a different category (395).
25. A total of 534 letters were sent to those in category D and a further 92 letters to those in category G.

26. At most there would be 626 people who would require reassessment. The letter explained the proposed change in the assessment process, and asked people for their views, but also gave people the opportunity to provide further evidence in advance of the decision. It is clear from the 170 responses received during the consultation that some people will forego their pass as they know they no longer qualify; some have evidence of automatic entitlement and would not require an assessment; some have evidence that is not automatic and so they may not be eligible; and some will need clarification from Social Services based on information provided. These have not yet been followed up, pending this decision. A further 456 people did not respond.
27. As part of the bulk reissue of bus passes that has just taken place those these 626 people would have been included unless we have received information that a) they no longer wanted/needed the pass or b) if they have been removed from the database as part of the data cleanse (deceased, moved address etc.). Therefore pass holders have not had their pass removed in advance of a reassessment.
28. Processes have been developed in conjunction with the Customer Contact Centre, Technical Services and Occupational Therapy Team Manager to ensure that the new applicant and existing pass holder assessments are carried out as efficiently as possible.

### **Financial Implications**

29. The OT assessments carried out for Blue Badges cost £11,888 per annum, which is a flat rate agreement. The cost assumes 22 assessments are carried out per month, with an assessment lasting two hours on average.
30. Discussions are continuing with the OT team to determine whether existing OT provision could be used for the assessments, or whether a locum OT would be required to deal with the additional workload. It may be that a joint agreement can be made with Blue Badges for OT services.
31. Any additional cost of assessing existing pass holders would have to be funded from the bulk replacement funding in the MTFP and it has been requested that the balance of this funding (£45k approximately) is carried forward to 2016/17.
32. Currently a pass holder is charged £5 for the replacement of a lost or stolen pass, where a Crime Reference Number is not provided. In 2014/15 this generated an income of £4,030 which was used to offset the annual cost of producing ENCTS passes (£4,727).
33. The cost of providing a replacement pass comprises of £2.31 for pass production, plus an additional £7.40<sup>1</sup> which is the face to face enquiry cost applicable to the Customer Contact Centre.

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<sup>1</sup> *Socitm's channel value benchmarking service regarding enquiry handling.*

34. It is proposed within the MTFP that the charge for replacement passes is increased from £5 to £10, which is in line with DfT recommendations, being roughly the cost of producing the pass. Middlesbrough, Redcar and Cleveland and Stockton all charge £10 or above for a replacement bus pass. The likely additional income generated (£4,030) would be used to partially offset the cost of OT assessments.
35. This increase in charge is a Council Decision and would need to be added to the Schedule of Charges reported annually.
36. Under this proposal some current pass holders may lose their bus pass as they are not entitled to it under the terms of the ENCTS. Over time this would reduce the number of concessionary trips made and this would result in reducing the concessionary fares payments to bus operators. However this is difficult to estimate and the number of passes that will be withdrawn is an unknown.

## **Consultation**

37. Consultation has taken place with those whom would potentially be directly affected by this proposal .i.e. those that have already been issued with a bus pass under category D or G. In addition the Local Medical Council has been consulted with regard to the ongoing involvement of GPs and other healthcare professionals. Gordon Pybus, Darlington Association on Disability was consulted on the proposal in August 2015 at the start of the EIA process and again in November 2015 for specific advice on the wording of the consultation letters. Officers in the Mental Health Team were also consulted.

## **Outcome of Consultation**

38. A total of 170 people responded to the consultation letter. Of these only one person provided any feedback on the proposal itself. This person felt that a GP was the best person to be consulted as they would know a patients illnesses and limitations.
39. The remainder of the responses related to people forgoing their pass as they knew they were no longer eligible; some provided evidence but it did not comply with the requirements for automatic entitlement; and some sent evidence or information that needs further clarification from Social Services subject to this proposal being approved.

## **Equalities Considerations**

40. When making its decision, Members will be aware of the requirement to have 'due regard' to the Public Sector Equality Duty under section 149 Equality Act 2010. This duty requires the Council, when exercising its functions to have 'due regard' to the need to:-
  - (a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited under the Act;

- (b) advance quality of opportunity between those who share a 'protected characteristic' and those who do not share that protected characteristic, and
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (this involves having due regard, in particular, to the need to (a) tackle prejudice, and (b) promote understanding).
41. Section 149 (3) of the Act states in general terms that having 'due regard' to advancing equality of opportunity involves having due regard to:-
- (a) the need to remove or minimise disadvantages;
  - (b) taking steps to meet the needs of people from protected groups;
  - (c) encouraging people from protected groups to participate in public life or other activities where their participation is disproportionately low.
42. An Equalities Impact Assessment (EIA) (**Appendix 1**) has been undertaken. It should be noted that members are required to read the EIA attached before making any decision.
43. The EIA has not identified any negative impacts of implementing the new assessment process. The new process will help to help to eliminate discrimination as:-
- (a) All applicants who require an assessment by the Occupational Therapy team will receive a consistent assessment.
  - (b) The level of proof will now be consistent and in line with DfT guidance.
44. The new assessment process will help to foster good relations as all healthcare professionals that are required to provide information will now only provide facts not opinions. This should support doctor/patient relationships.
45. The existing appeals process for the implementation for the Concessionary Bus Travel scheme in Darlington will include this new assessment process. This will be used to identify any other issues for the EIA as part of the ongoing monitoring and review.