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Strategic Policy and Co-ordination Division
Department for Regional Development
Room 301, Clarence Court
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5 April 2012

TO WHOM IT MAY CONCERN

Re: Accessible Transport Strategy Draft Action Plan 2012 – 2015

The Equality Commission for Northern Ireland¹ welcomes the opportunity to respond to the Department of Regional Development's Fourth Accessible Transport Strategy Draft Action Plan (ATS) 2012-2015.

The current ATS Action Plan offers an opportunity for the Department and transport providers in Northern Ireland more generally to look critically at accessible transport provision, benchmark good practice already undertaken by the Department and elsewhere in relation to previous action plans and make further improvements to ensure access for all to our transport system.

Summary of Key Issues

- In responding, the Commission sets out recommendations in the following areas:
- The need for legislative reform of the Disability Discrimination Act (DDA) to provide appropriate protection for disabled people using transport and other services.
- The need for ongoing engagement with disabled and older people.

▪ ¹ See Annex 1 for an overview of the Commission's role, remit and responsibilities

- The need for review and amendment of the concessionary fares policy.
- The need for review of the availability of seating for disabled and older passengers and the associated improvements to allocations and signage on various modes of transport, in particular, buses to ensure older and disabled people have access to appropriate seating.
- The need to take into account the impact of Government's proposals for Welfare Reform on access to transport.
- The need for regular disability equality and general equality awareness training for transport providers, including extension of this provision to taxi operators.
- The need for clear impact measures to ensure the effective delivery of the strategy.
- The need for a clear commitment to delivering accessible transport provision beyond the life time of the current action plan

The Commission considers that the Accessible Transport Strategy provides a key opportunity for Government and the Department to deliver on their obligations under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). An affordable accessible transport system in Northern Ireland will facilitate disabled people to overcome barriers to their fulfilment of their rights including access to services and information, education and employment and enjoy full independent socio-economic and cultural life within the wider community.

The Department should ensure that the ATS Action Plan effectively fulfils relevant obligations placed on Government under the UNCRPD.

Introduction

The Commission notes and welcomes the Department's range of achievements in delivering accessible transport provision in partnership with disabled people and older people in particular:

- The removal of the transport exemption from the protections and provisions of the Disability Discrimination Act 1995.
- The effective enforcement and maintenance arrangements for the Public Service Regulation 2003, the Rail Vehicle Accessibility Regulations 2001, and the Train Refurbishment Regulations referred to in the consultation paper. The continued investment in buses that are fully compliant with the PSV Accessibility Regulations.
- The introduction of the concessionary fares scheme for older and disabled people.
- The continued investment in an accessible transport infrastructure including the continuing commitment to develop a more inclusive accessible pedestrian environment.

While the Commission notes the positive developments which have occurred there remain a number of key gaps and issues for the Department to address towards the development of 'an integrated, fully accessible transport system'. These issues are highlighted in turn below.

ATS Strategic Objective Two: Ensure that the Disability Discrimination Act requirements are met...

Legislative Reform

The Department will be aware, from our previous responses on transport matters, that disabled people in Northern Ireland have less protection in relation to transport under the DDA compared to the employment and education provisions under the same legislation.

Currently, transport and service providers and others must consider making a reasonable adjustment whenever a failure to do

so would make it **‘impossible or unreasonably difficult’** for a disabled person to use the service.

Under the disability equality legislation, employers and educational providers have a duty to consider making a reasonable adjustment where a disabled person would be placed at a **‘substantial disadvantage’**, compared with other non-disabled people.

The Commission considers that legislative reform² is required in this area to ensure consistency of treatment of disabled people across all areas of the Disability Discrimination Act 1995 (DDA).

A single threshold for making reasonable adjustments

introduced across the scope of the disability legislation would also reflect legislative amendments which have already been implemented in Great Britain under the Equality Act 2010.

The Commission recommends that the Department, in partnership with the Office of the First and Deputy First Minister (OFMdFM), amend the DDA to provide for a single reasonable adjustment threshold (‘substantial disadvantage’) across all the different areas of this legislation. This would mean that transport and other service providers should provide reasonable adjustments for disabled people to enable full and inclusive access to services, including transport provision.

The Commission would remind the Department of the qualitative data it obtained during the Department’s initial consultation on the original ATS Strategy back in 2005. This data was referenced in the Commission’s previous public policy interventions, on this matter³, which highlights the experience of disabled people in

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² A full summary of the Commission’s Legislative Reform Proposals to the DDA is available on our website

³ Equality Commission for Northern Ireland Response to the Department of Regional Development and Department of the Environment’s consultation on the Government’s proposals to lift the exemption for transport services from some of the civil rights duties in Part III of the Disability Discrimination Act 1995, paragraph 17, October 2004.

http://www.equalityni.org/sections/default.asp?id=229&cmsid=7_33_229&cms=Publications_Disability_consultationresponses&pagesize=10&searchterm=&secid=8&pageoffset=2

Please see also our response to the Office of First Minister and Deputy First Minister consultation on the removal of the transport exemption from the Disability Discrimination Act 1995, February 2009 using the above link.

Northern Ireland with the lesser threshold of 'impossible' or 'unreasonably' difficult to properly access a range of transport services.

The above changes to the reasonable adjustment duty would ensure greater protection for disabled people in Northern Ireland. Although there will be an increased requirement on transport and other service providers and others to make reasonable adjustments, service providers will only be required to make adjustments that are 'reasonable'.

In addition, the Commission would like the scope of the Action Plan extended or clarified to include explicit consideration and remedy of the ongoing weaknesses in the level of protection provided to disabled passengers and service users of the transport system.

ATS Strategic Objective Three: To develop in partnership with key stakeholders, an integrated, fully accessible transport system...

Consultation and Engagement with Disabled People and Older People

The Department has made progress in developing accessible transport modes and infrastructure since the initial assessable transport strategy was drafted in 2005.

In particular, the Commission welcomes the Department's engagement with disabled people and older people in the development of accessible transport provision in Northern Ireland, including the face-to-face consultation exercises undertaken in respect of this current action plan. The Department's work with the Inclusion Mobility Transport Advisory Committee (IMTAC) not only contributes to fulfilling the Departments obligations under the disability duties but is also an example of the Government meeting

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obligations under Articles 4(3)⁴ and 29⁵ of the UNCRPD. Indeed, the Department has acknowledged in meeting with the Commission over the years that the success of the ATS has been underpinned by its engagement with disabled people and older people.

In seeking to continue and build upon past engagement, the Department should give specific consideration to the requirements of UNCRPD in this regard.

ATS Strategic Objective Five: To address attitudinal and psychological barriers that prevents or discourage older and disabled people from using transport/services available to them.

Disability Equality Training

The Commission has noted the ongoing measure to deliver disability equality training to transport providers. The Commission considers that the use of specific performance indicators and targets, including timeframes for the delivery of these training measures should be included and assessed in the context of the Department's Disability Action Plan.

This particular measure is of significant importance as it aligns with both the Departments obligation to promote positive attitudes towards disabled people and encourage their participation in public life. Disability Equality Training enables disabled people to engage directly with the public authority on policies, practices and procedures that promote proper etiquette and good practice towards disabled people by the relevant public authority.

ATS Strategic Objective Six: To ensure that information is in a range of formats including a full range of accessible services...

A Review of Allocation and Signage on Public Transport

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⁴ Active involvement of persons with disabilities

⁵ Participation in political and public life

The Commission would welcome a review of the availability of seating for disabled and older passengers, with associated improvements to allocations and signage, on various modes of transport. This would help ensure older and disabled people have access to appropriate seating.

For example, additional leg room may be important on longer journeys for those with mobility impairments. While there are a number of seats potentially more suited to disabled and older people's requirements on a number of Ulsterbus Goldliner's, these seats are not reserved, by way of appropriate signage, for older or disabled people.

Both IMTAC and the Commission have received feedback on this issue from disabled and older passengers requesting the Department review the current signage policy with this particular issue in mind.

ATS Strategic Objective Seven: To provide help with travel costs to enable older and disabled people to use transport modes and services available to them.

Extension and Amendments to the Concessionary Fares Scheme

While the Commission welcomes the introduction of door-to-door schemes to community transport, the Commission would welcome (as the Commission has highlighted previously in relation to earlier ATS action plans), an extension to the Concessionary Fares Scheme to include other modes of transport such as taxis.

In addition, the Commission would ask the Department to consider extending the half price concessionary fare to return rather than single ticket journeys.

It remains the case that judicious use of the general smart pass is more beneficial for collective journeys than that necessarily provided by the half price concessionary fare. The regular smart pass enables passengers to purchase up to numerous journeys at a time therefore making significant savings. This opportunity is

currently not available to those passengers who avail of the concessionary fares scheme.

Furthermore, concessionary fare passengers have the added burden of having to purchase tickets for both parts of the journey as opposed to only once. If the return ticket option was available, it would avoid the stress of additional queues at the ticket office, and an additional pressure associated with each journey.

Welfare Reform and Qualification Criteria for Transport Provision

The Department should include a review of the 'automatic eligibility criteria' for those disabled people who avail of the 'Blue Badge Scheme', Concessionary Fares and Door-to-Door Schemes in light of the Government's welfare reform proposals.

Such a review would ensure those who may lose entitlement to the relevant components of the Personal Independence Payment (PIP) which will replace the existing Disability Living Allowance (DLA) will not be adversely affected if they clearly demonstrate a continuing need for the above service.

The Future of Accessible Transport

The Commission would welcome a commitment from the Department to include follow up measures beyond 2015. It is currently not clear what will happen beyond 2015 with respect to the ongoing implementation of accessible transport provision in Northern Ireland. The action plan should include a strong commitment to the allocation of resources both within mainstream and specialist provision.

Other Points: Monitoring and Evaluation, including the specific impact on Equality of Opportunity

The Department should consider developing clear impact and outcome performance indicators and targets for the proposed action measures outlined in the action plan.

This approach is particularly important for 'ongoing' actions where an explicit linking of actions to target outcomes/ impacts would provide a coherence that should facilitate the delivery of the Department's intended impacts and would enable the Department to better monitor in a transparent way the effectiveness of their delivery.

The Department may consider it beneficial to include relevant measures within the content of its Disability / Section 75 Action Plans.

Conclusion

The Commission note that the Department has made progress towards the delivery of a fully inclusive and accessible transport system in Northern Ireland.

Much of the progress has been facilitated by the partnership working with older and disabled people, through IMTAC and others, and is to be fully commended.

However, much more work is needed to fulfil the goals and objectives set by Government almost a decade ago.ⁱ In responding to this consultation, the Commission has set out a number of recommendations towards the effective development and delivery of the ATS Strategy and action plan:

- The need for legislative reform of the Disability Discrimination Act (DDA) to provide appropriate protection for disabled people using transport and other services.
- The need for ongoing engagement with disabled and older people.
- The need for review and amendment of the concessionary fares policy.
- The need for review of the availability of seating for disabled and older passengers and the associated improvements to allocations and signage on various modes of transport, in particular, buses to ensure older and disabled people have access to appropriate seating.

- The need to take into account the impact of Government's proposals for Welfare Reform on access to transport.
- The need for regular disability equality and general equality awareness training for transport providers, including extension of this provision to taxi operators.
- The need for clear impact measures to ensure the effective delivery of the strategy.
- The need for a clear commitment to delivering accessible transport provision beyond the life time of the current action plan

Annex 1:

The Commission is an independent public body established under the Northern Ireland Act 1998.

The Commission is responsible for implementing the legislation on fair employment, sex discrimination, equal pay, race, sexual orientation, age and disability.

The Commission's remit also includes overseeing the statutory duties on public authorities to promote equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998⁶ ("Section 75"), and to promote positive attitudes towards disabled people and encourage participation of disabled in public life, under the Disability Discrimination Act 1995 (as amended by the Disability

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⁶ Section 75 of the Northern Ireland Act 1998 places a statutory duty on public authorities in relation to how they carry out their functions and deal with the general public. Specifically these duties require public authorities in Northern Ireland when forming and developing their policies practices and procedures to consider how they promote equality of opportunity on a number of equality grounds. Public authorities are required to produce and keep under review equality schemes, conduct equality impact assessments on proposed and existing policies and include consultation with affected groups.

[http://www.equalityni.org/sections/default.asp?cms=Publications_Statutory duty&cmsid=7_43&id=43&secid=8](http://www.equalityni.org/sections/default.asp?cms=Publications_Statutory%20duty&cmsid=7_43&id=43&secid=8)

Discrimination (Northern Ireland) Order 2006) (“Disability Equality Duty”).

The Commission and the Northern Ireland Human Rights Commission are jointly designated as the “Independent Mechanism” in Northern Ireland to promote, protect and monitor the implementation the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

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ⁱ Department of Regional Development Accessible Transport Strategy April 2005 objectives
http://www.drdni.gov.uk/accessible_transport_strategy_for_northern_ireland_equality_impact_assessment.pdf