

Avoiding disability discrimination in transport

A short guide for bus and coach operators in Northern Ireland



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The Equality Commission for Northern Ireland is responsible for equality legislation and provides a wide range of services to the public, employers and service providers including information on all aspects of the law. Our contact details are provided at the back of this leaflet.

This publication gives general guidance for transport providers and disabled people and should not be treated as an authoritative statement of the law.

Disability Discrimination Act, as amended by the Disability Discrimination (Transport Vehicles) Regulations (Northern Ireland).



Introduction

This booklet is aimed at helping bus and coach operators to ensure that they are complying with their legal obligations under the Disability Discrimination Act, as amended by the Disability Discrimination (Transport Vehicles) Regulations (Northern Ireland) (DDA). However, it is recommended that the operators read the Equality Commission's Code of Practice on the Provision and Use of Transport Vehicles and Code of Practice on Rights of Access, Goods, Facilities, Services and Premises for a full explanation of the legal duties on transport providers.

Disability discrimination legislation makes it unlawful for organisations which provide services to the public to discriminate against disabled people in the way in which they provide or do not provide those services. This includes transport providers.

All transport providers have duties under disability discrimination law in relation to transport infrastructure such as their buildings, information services and the selling of tickets. They also have duties in relation to the provision and use of the vehicles they provide.

The legislation makes it unlawful for transport providers to refuse or deliberately fail to provide a service to a disabled person. They must also make "reasonable adjustments" to take away or overcome elements in their services which present barriers to disabled people.

This guide does not deal with the general meaning and operation of the provisions in Part 5 of the Act. Part 5 enables Regulations to be made setting access standards for buses and coaches.

What does the law define as a coach or a bus?

The law defines buses and coaches as vehicles which carry more than eight passengers and are used for hire and reward.

The DDA calls them Public Service Vehicles. This includes vehicles used for local and scheduled services, as well as those used for leisure and tourism purposes. It includes, for example, all public transport buses and coaches used for tours.

Who is protected?

Any person who meets the definition of disability in the DDA is covered by the legislation. That is someone who has a physical or mental impairment that has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities.

Some disabilities may be visible, but others may not be immediately obvious, such as mental ill health or epilepsy and this should be kept in mind by the bus or coach operator. It is important that bus and coach operators do not make assumptions about whether or not someone is disabled or the extent of someone's disability.

A disabled passenger with a heart complaint asks for assistance carrying his luggage from his car onto a coach and for assistance to get to the coach as he finds it difficult to walk for long periods. He explains that the reason for requiring assistance is related to a longstanding heart condition which affects his mobility and ability to lift heavy objects. As there are no physical signs of the passenger's disability the staff member tells the passenger that they are too busy to help. This is likely to be discrimination.

This example highlights the importance of ensuring that all staff are trained in recognising and dealing with disabled passengers.



The bus or coach operator should concentrate on the needs of disabled people and should consider the service they provide and determine how they could make it more accessible for disabled people. This should be done when planning the provision of a service to prevent disabled people being separated out from other passengers.

Examples:

Bus and coach drivers of vehicles with a kneeling suspension should make use of it at all stops as drivers do not know when a passenger has a hidden disability which may make it difficult for them to step up on to the vehicle.

A tour company that runs coach tours is printing new leaflets and timetables. It gets advice from a disability organisation and as a result it prints all of the materials in an accessible format and provides the timetable in Braille and audio compact disc upon request. This means that a passenger with a visual or hearing impairment can access this service.

A bus operator learns that several of its drivers regularly adopt the practice of pulling away sharply from bus stops before passengers have had the chance to sit down if they are able to do so. The effect of this practice is to make it unreasonably difficult for disabled people with mobility difficulties to use its buses, due to anxiety about falling. The bus operator instructs its drivers to wait, whenever possible, until passengers have found seats before pulling away from bus stops. Although it may not always be possible to achieve this, for example if the bus is crowded, if the bus operator ensures that its drivers adopt this practice as a matter of policy whenever it is possible to do so, this is likely to be a reasonable step for the bus operator to have to take.

As well as complying with the legislation, making services more accessible and marketing them as such is likely to increase an operator's attractiveness to disabled passengers, who represent a significant part of the population.

A visually impaired passenger who has boarded a bus at a major staffed station asks for assistance in finding his seat. He has not let the bus company know in advance and for this reason his request is refused despite the fact that there are staff members available to help him. The refusal is likely to be unlawful in these circumstances.

What is disability discrimination?

Less favourable treatment

Disability discrimination occurs when a transport provider treats a disabled person less favourably because of their disability and cannot show that this treatment is justified. Even if it is unintentional, this behaviour can still amount to discrimination. For example:

A bus driver sees a passenger with mobility difficulties at a bus stop. There is only standing room available on the bus and the driver tells the passenger to wait for the next bus which will not be as busy. He then drives off. However the passenger is only going one stop on the bus and would have been able to stand for that time. The driver should have asked the passenger if they could stand on the bus and if not, they should have asked another, non disabled passenger if they would have been willing to stand and allow the disabled passenger to have their seat. This is an example of less favourable treatment.

A bus tour operator offers sightseeing bus tours to the public. However, one prospective passenger is refused access to the tour because he has cerebral palsy. Despite explaining that he has this condition, the bus tour operator will not allow him to join the tour. No other passenger is refused access. This would amount to less favourable treatment for a reason related to disability and, unless the bus tour operator can justify its actions, would be an unlawful refusal of service contrary to the Act.

A disabled person with a learning disability wishes to travel on an express coach. The coach driver pretends that all seats are taken in order to turn away the disabled passenger because he thinks that the disabled person will upset other passengers because of his disability. This is likely to be unlawful.



Reasonable adjustments

A transport provider can also discriminate if they fail to make a “reasonable adjustment” to make their services more accessible to a disabled person. Transport providers should not wait until a disabled person wants to use their services before they give consideration to their duty to make reasonable adjustments. Transport providers should be planning continually for the reasonable adjustments they need to make, whether or not they already have disabled customers or passengers. They should anticipate the requirements of disabled people and the adjustments that may have to be made for them.

An operator may have to make a reasonable adjustment in the following ways:

It may change a **policy, procedure or practice**, for example:

A tour company has a policy that wheelchair users must inform the company before the tour as some coaches have only one wheelchair accessible space. A wheelchair user turns up at a tour without informing the company in advance. The tour organiser will not allow the wheelchair user on the tour, although there are no other wheelchair users on the tour and the accessible seat is free. This policy has discriminated against the wheelchair user and the operator should look at the policy and see how they could change it to allow the wheelchair user to take part in the tour.

A bus is unable to pull up to the kerb of a scheduled stop in a rural area due to another vehicle blocking its path. This means that there is insufficient space in which to deploy the powered wheelchair ramp, and consequently a wheelchair user is unable to get off at his destination stop. As the route is in a rural area there is a substantial distance between scheduled stops. Other passengers are able to alight from the coach despite the vehicle blocking access to the kerb. So, although it is not the bus operator’s responsibility to keep stops clear, its policy of making no stops between its set route stops has made the service impossible or unreasonably difficult for the wheelchair user to use. The operator will need to consider how the stopping policy can be changed to accommodate such disabled passengers.

A coach tour operator which provides loudspeaker commentary during the course of its tours provides written versions of the commentary on request. A specific mention to this effect by staff when passengers are making a booking, together with a prominent note advertising the service on the booking confirmation literature sent to passengers, assists disabled passengers to access the service.

An operator may provide an **auxiliary aid or service** for example:

Disabled passengers with a visual impairment or a learning disability may need assistance in identifying their destination stop when travelling on a bus. The bus operator instructs its drivers to announce stops on request. The bus operator is providing an auxiliary service which makes its bus journeys accessible. This is likely to be a reasonable step for the bus operator to have to take.

An express coach operator instructs its drivers to assist in guiding passengers who have difficulty in getting to and from seats when boarding and alighting (for example, if they are visually impaired). This is the provision of an auxiliary service and is likely to be a reasonable step for the express coach operator to have to take.

Examples of discrimination

Disabled people can encounter unfair treatment in transport in many ways. Here are a few examples of how a disabled person may be discriminated against by a bus or coach operator:

- A disabled person cannot get on a bus because the driver cannot or will not deploy the ramp.
- A person with a visual or hearing disability cannot access the services because the timetable and written information is not available in an accessible format, where it is reasonable to do so.
- When trying to make a telephone enquiry with a tour company a person with a speech impairment is told to hurry up and the telephone operator terminates the call because the person is taking too long.



- A disabled person is charged more than a non disabled person due to the storage of his or her wheelchair or for his or her assistance dog.
- A blind person with a white stick misses his or her bus because the driver, despite noticing their white stick, does not tell the passenger the destination of the bus.

When can a transport provider justify less favourable treatment or a failure to make reasonable adjustments?

In limited and specified circumstances, a transport provider can justify less favourable treatment or a failure to make reasonable adjustments. However, this cannot be used as a reason for a general exclusion of disabled people from access to services. They include, for example, health and safety. Please see the Code of Practice for further details.

What can bus and coach operators do to avoid discrimination?

Chapter 2 of the Code of Practice on the Provision and Use of Transport Vehicles gives more detail on how an operator can minimise the risk of disability discrimination. This Chapter, as well as the whole Code, should be read in order to minimise the incidence of expensive and time-consuming litigation.

1. An operator must **plan** for disabled customers. They should audit their services and think at every stage about the disabled passenger's journey and possible barriers to their journey, from booking a journey, contacting the operator on the telephone or via a website, premises and the actual journey. Then, once these have been identified, the operator should look at what they can do to take away this barrier so that they can provide the optimum service to disabled passengers.

2. Operators should review disability equality each time they **review** or evaluate their services.
3. Operators should keep up to date with **technological developments** to ensure that they are providing all of the solutions possible to prevent barriers to disabled people using buses or coaches.
4. Operators should **listen** to their customers. They should consult disabled customers to see how their services can be made more accessible and listen to customer complaints. If they receive complaints about disability discrimination or services being difficult to access for disabled people they should review these services and see how they can be changed and consider any reasonable adjustments that can be made.
5. Bus and coach operators should ensure that they have a positive **policy** on the provision of services to ensure inclusion of disabled people and communicate it to staff. They should make sure that staff are aware of the consequences of potential breaches of this policy and address acts of disability discrimination by staff as part of disciplinary rules and procedures and monitor the implementation of the policy.
6. As the bus or coach provider is responsible for the actions of its employees in the course of their employment, it is important that it ensures that all employees receive disability awareness and disability equality **training** and are trained to assist disabled passengers. All training should be relevant, up-to-date and provided on a regular basis.
 - Staff members should be given an overview of their obligations to disabled passengers.
 - They should be trained on how to assist disabled people, this should include training on how to assist people who may not be obviously disabled, who may have epilepsy or a heart condition.
 - Staff members should be trained not to assume that people need help but to ask if a passenger requires help before giving it.



- Staff should be trained in the safe operation of any equipment, such as a wheelchair lift.
 - The operator must ensure that all staff members know how to communicate with passengers with learning difficulties or speech impairments and passengers with hearing impairments.
 - Staff must be instructed by the operator on what to do in an emergency in terms of disabled passengers.
7. Bus and coach providers must have a customer complaints procedure which is easy for disabled people to use. It is essential that transport providers deal effectively with all complaints of disability discrimination. Disability discrimination complaints should be dealt with promptly, seriously, sympathetically, confidentially and effectively. By dealing with complaints in this way, transport providers are reinforcing their message that they consider complaints of disability discrimination a serious matter.

How can we help?

The Equality Commission can provide advice, guidance and training on complying with the legislation. For more information please contact:

The Equality Commission for Northern Ireland

Equality House
7 – 9 Shaftesbury Square
Belfast
BT2 7DP

Telephone: 028 90 890 890 (enquiry line)
Fax: 028 90 248 687
Textphone: 028 90 500 589
Email: information@equalityni.org
Website: www.equalityni.org

You can also use Typetalk to contact us.

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This guidance is part of a series relating to disability discrimination and the provision and use of transport vehicles comprising:

Your rights when accessing transport services in Northern Ireland

A short guide for rail operators

A short guide for taxi operators

A short guide for vehicles rental operators

A short guide for breakdown recovery operators

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