

# Avoiding disability discrimination in transport

A short guide for rail 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 rail 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 trains.

## **What does the law define as a rail vehicle?**

The Regulations defines a rail vehicle as all rail vehicles (including those operating underground) that run on a railway with a gauge of at least 350 millimetres, and all trams.

## **Who is protected?**

Any person who meets the definition of disability in the DDA is protected 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 rail service provider. It is important that rail operators do not make assumptions about whether or not someone is disabled or the extent of someone's disability.

A passenger with a heart complaint asks a rail company for assistance carrying his luggage from his car onto the train and for assistance to get to the train as he finds it difficult to walk for long periods. 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 rail service provider 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.



A rail company 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 upon request. This means that a passenger with a visual or hearing impairment can access this service.

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.

## 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 train manager tells a person with a severe facial disfigurement that he must sit in an empty part of the train, away from other passengers. 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.

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

A rail operator may have to change a **policy, procedure or practice**, for example:

A train company offers a seat in first class (which has more legroom) without extra charge to a person with a hearing impairment who is accompanied by an assistance dog on a crowded train. This is to allow more room for the dog. This is a reasonable adjustment and is within the law.

A rail operator may have to provide an **auxiliary aid or service** for example:

As part of general customer service information on its train services, a train operator indicates that if a passenger cannot access the cafe bar for a disability-related reason, they are welcome to an at-seat service and should ask a member of the on-board staff for assistance. This helps to ensure that the train buffet services are accessible to disabled people.

A rail service provider instructs its staff to assist in guiding passengers who have difficulty in getting to and from seats when boarding and alighting (for example, if they have visual impairments). This is the provision of an auxiliary service and is likely to be a reasonable step for the provider to take.

There is almost always a gap between a train and a platform. A train operator provides a suitably chosen portable ramp which helps disabled people with a mobility impairment to board and alight from its trains safely. This is the provision of an auxiliary aid and is likely to be a reasonable step for the train 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 rail service provider:

- A person with a visual or hearing disability cannot access the services because the timetable and written information is not in an accessible format.
- When trying to make a telephone enquiry with a rail service provider, a person with 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 their wheelchair or for carriage of their assistance dog.

## 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 rail 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. A provider 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 provider 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 include a **review** of 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 trains.
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. Rail 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. Disability awareness and disability equality **training** should be provided for all staff. As the rail provider is responsible for the actions of its employees in the course of their

## **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)  
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**Website:** [www.equalityni.org](http://www.equalityni.org)

You can also use Typetalk to contact us.



employment, it is important that it ensures that staff 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.
  - Ensure that all staff members know how to communicate with passengers with learning difficulties or speech impairments and passengers with hearing impairment.
  - Instruct staff on what to do in an emergency in terms of disabled passengers.
7. Rail 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.

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 bus and coach 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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