

# Avoiding disability discrimination in transport

A short guide for taxi 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 taxi 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.

Taxi operators have duties under disability discrimination law in relation to transport infrastructure such as their buildings and information services.

Whether any less favourable treatment would be unlawful (e.g. like charging disabled people higher fares than non-disabled people) is likely to depend on who is providing the service and on whether there is any lawful justification for it and that will depend on the specific circumstances of each case.

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 taxis.

## **What does the law define as a taxi?**

For the purposes of this guidance the legislation covers taxis which seat not more than eight passengers in addition to the driver. This includes:

- public hire taxis which can stand at ranks, be hailed in the street or be pre-booked;
- private hire vehicles, commonly referred to as private hire taxis, which must be pre-booked; and
- taxi buses.

## **Who is protected?**

Any person who meets the definition of disability in the Disability Discrimination Act 1995 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 taxi operator. It is important that taxi operators do not make assumptions about whether or not someone is disabled or the extent of someone's disability.

The following suggestions may help to avoid discrimination:

- Do not assume that because a person's disability cannot be seen, that person is not disabled. Many disabilities are not obvious.
- Do not assume that a person's disability will prevent them from using your service, a simple adjustment may be all that is needed.
- Do not assume that most disabled people use wheelchairs.



- Do not assume that all blind people read Braille or have assistance dogs.
- Do not assume that all deaf people use sign language.

The taxi 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 will be different depending on the operator, so for example a large firm with 200 drivers might provide a service allowing people with hearing impairment to book a journey by email while a sole, self employed driver would be unlikely to provide this service.

Taxi operators should ensure that they have a range of equipment available to make their vehicles more accessible for disabled people and they should keep abreast of the full range of equipment that is on the market that may be requested by disabled customers. This could range from something quite small such as a pencil and paper or maps to help communicate with a person with hearing difficulties to a ramp to allow wheelchair users to board a wheelchair accessible taxi.

## 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. For example:

A taxi driver charges a disabled person more than a non disabled person for the same service. This is likely to be less favourable treatment. However, if the taxi driver charges more for an accessible taxi regardless of whether the person is disabled it is unlikely that this would be less favourable treatment as the operator is charging every customer the same regardless of disability.

Depending on the circumstances it may be possible to justify less favourable treatment, for example, if it is necessary for an accessible taxi to travel a long distance to a disabled person then a charge incorporating the actual cost could be justifiable.

## 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 taxi operator has a policy of not allowing animals in any of its vehicles. It waives this policy for a deaf passenger with an assistance dog. This is likely to be a reasonable adjustment. A driver with medical conditions that are aggravated by contact with dogs may apply to the Department of the Environment for an exemption from the duty to carry assistance dogs.

A person with a mobility impairment explains to a taxi driver that they need assistance from the vehicle to the door of their house. The driver tells the disabled passenger that they cannot do this as it is not normal practice. This is likely to be discrimination unless the taxi driver can show that the decision was justified. For example, that the driver also has a mobility difficulty or that the driver would have to leave the car empty at a busy junction which could be a health and safety risk. In such circumstances the driver should make decisions based on the information available to them and should explain the situation to the disabled passenger. They should consider any alternatives, allowing the passenger to phone a neighbour to come and help them to the door for example.



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

The driver of a public hire wheelchair accessible taxi in Belfast carries and uses a wheelchair ramp for disabled people to access the taxi. This would be an auxiliary aid.

A taxi driver has maps of the local area onboard for use by hearing impaired passengers so that he can show the passengers where they are going. He also carries a pen and paper to write down any messages for hearing impaired passengers. These would be auxiliary aids and services.

A disabled wheelchair user waits at a taxi rank. A taxi arrives which is accessible to wheelchair users via a portable manual ramp. However, when the driver takes the ramp out of the boot (where it is stored when not required) he discovers that it is damaged and cannot be used. Although the taxi driver has provided an auxiliary aid, his failure to check that the ramp is in working order means that the taxi may be found to have failed to take reasonable steps in all the circumstances.

In January 2009 an English court awarded £4500 to a deaf complainant after a taxi firm failed on three occasions to answer his Typetalk calls. The case was taken under provisions of the DDA applicable in Great Britain which are equivalent to those explained in this guidance<sup>1</sup>.

### **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.

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1. Gordon Waring v DCW Private Hire Cullingworth Taxis, reported by Simpson Millar LLP Solicitors

## What can taxi 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 all the services and think at every stage about the disabled customer's journey and possible barriers to disabled customers. Then, once barriers have been identified, the operator should look at what they can do to remove the barriers so that they can provide the optimum service to disabled passengers.
2. Below are examples that the operator may want to consider. It is not an exhaustive list and operators should think of every aspect of their service and how to make it more accessible.
  - Does the operator have leaflets or other marketing material to advertise their services and if so are these materials in an accessible format?
  - Does the operator allow SMS text or email booking which would make the service more accessible for people with hearing impairment?
  - Does the operator ask on the phone if there would be anyone travelling in the vehicle that might require assistance and if so does the operator consider how they can provide that assistance?
  - Have all staff received training in disability awareness?
3. The taxi operator should include a **review** of disability equality each time any of the organisation's services are reviewed or evaluated.



4. Taxi 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 the service.
5. Operators should listen to their customers. They should consult disabled customers to see how the services can be made more accessible and **listen** to customer complaints. If complaints are received about disability discrimination or services being difficult to access for disabled people a taxi operator should review these services. The operator should see how services can be changed and consider any reasonable adjustments that can be made.
6. The operator should ensure that it has a positive **policy** on the provision of services to ensure inclusion of disabled people and this should be communicated to staff. The operator should make sure that staff are aware of the consequences of potential breaches of this policy and it should address acts of disability discrimination by staff as part of disciplinary rules and procedures.
7. The implementation of all equality policies should be **monitored**.
8. As the taxi operator is responsible for the actions of its employees and workers 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.
  - Ensure that all staff members know how to communicate with passengers with learning difficulties or speech impairments and passengers with hearing impairments. For example telephone operators should be aware of Typetalk, a service that lets deaf and hard of hearing people use a textphone to communicate. The telephone operator acts as an intermediary between the callers.
  - Instruct staff on what to do in an emergency in terms of disabled passengers.
9. Taxi operators 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**

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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 bus and coach operators

A short guide for rail operators

A short guide for vehicles rental operators

A short guide for breakdown recovery operators

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