

# Avoiding disability discrimination in transport

A short guide for vehicle rental operators in Northern Ireland



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## **Contents**

Introduction	2
What does the law define as a hire or rental vehicle?	2
Who is protected?	3
What is disability discrimination?	4
Less favourable treatment	4
Reasonable adjustments	4
When can a transport provider justify less favourable treatment or a failure to make reasonable adjustments?	7
What can vehicle rental operators do to avoid discrimination?	7
How can we help?	10

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 vehicle rental 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 and information services. 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.

## What does the law define as a hire or rental vehicle?

The law defines hire or rental vehicles as vehicles up to a certain size which are hired out by a person who does so in the course of a business. They include:

- Vehicles constructed to carry passengers, with no more than eight seats in addition to the driver's seat;

- Vehicles constructed to carry passengers, with more than eight seats in addition to the driver's seat, and with a maximum weight of 5 tonnes; and
- Vehicles constructed to carry goods, with a maximum weight of 3.5 tonnes

### 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 vehicle rental operator. It is important that vehicle rental operators do not make assumptions about whether or not someone is disabled or the extent of someone's disability. For example:

A disabled person with restricted growth asks for pedal extensions to drive a car. The vehicle rental company refuse to rent a car to the disabled person, despite having a suitable car free, because they decide that the person does not look capable of driving. That would be discrimination. A disabled person should be assessed in the same way as any other customer and if the person has a driving licence this should be sufficient proof that they are able to drive. However, if the vehicle rental company deem that a disabled driver is under the influence of alcohol and the company decides not to allow the disabled driver to rent a vehicle, this would not be discrimination as they would not allow any driver to drive under the influence of alcohol. In other words, the reason for the refusal is not related to the person's disability.

The vehicle rental 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. For example, do they have accessible vehicles that they can hire and do they have equipment that can be added to their vehicles to make them more accessible, such as a wide angle rear view mirror or pedal extensions? These are



relatively easy additions to vehicles that may help a disabled person access the vehicle.

Vehicle rental 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.

## **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 can not show that this treatment is justified. For example:

A vehicle rental operator charges a disabled person more than a non disabled person for hiring a car as they assume that the disabled person is more likely to have a car accident. The vehicle rental operator is treating a disabled person less favourably because of their disability. If, however, the operator can show that they are charging the disabled person extra because the person has had a number of accidents in a short period of time, they may be able to justify charging more. This would not be discrimination as the operator is levying an extra cost because of the person's driving record and not their disability.

### **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.

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

As part of the vehicle hire process a rental operator at an airport sends all of their customers from the booking desk to find their car themselves in the car park, accompanied by a map. The car park at the airport is not wheelchair accessible and as a result a wheelchair user can not access their hire car. The staff at the desk arrange for the car to be brought to the front of the airport building which is accessible so that a wheelchair user can access the car. This would be a reasonable adjustment.

A deaf customer with an assistance dog phones a vehicle rental company to rent a car. The vehicle rental operator has a policy of adding additional charges to clean a car if a dog has been on board. The customer tries to explain to the company that they have an assistance dog because they are deaf but the charge is added regardless. The vehicle rental operator has failed to make a reasonable adjustment for the disabled customer which may amount to discrimination.

The operator may have to provide an **auxiliary aid or service**, for example:

A disabled driver who has difficulty turning her head wishes to hire a car. However, the nature of her disability means that she requires a wider rear-view mirror than the standard model used by the vehicle rental operator. The vehicle rental operator clips a wider (panoramic) model over the standard mirror in one of its cars. This is likely to be a reasonable step for the vehicle rental operator to have to take.

A vehicle rental operator provides a service on request of fitting pedal extensions to its vehicles, for example, for people with restricted growth who require them in order to drive. This is the provision of an auxiliary aid, and is likely to be a reasonable step for the vehicle rental operator to have to take.

For vehicles constructed to carry passengers, with no more than eight seats in addition to the driver's seat (the DDA calls these M1 vehicles), the operator has to:



1. **remove or alter a physical feature** which makes it either impossible or unreasonably difficult for a disabled person to use the service;
2. provide a means to **avoid this physical feature**, or;
3. **provide an alternative** to it.

- what does physical feature mean?

The Act defines a physical feature as any part of the vehicle that requires alteration in order to allow for hand controls to enable a disabled person to operate braking and accelerator systems for the vehicle; or an alteration to allow for facilities for stowing a wheelchair.

- what is not included in the definition of a physical feature?

Fixed seating is not treated as a physical feature when altering a vehicle to:

- a) install hand controls or;
- b) allow for storage of a wheelchair.

In-built electrical systems are also not treated as a physical feature when altering a vehicle to install hand controls. So there is no obligation to alter these features in these circumstances.

A disabled driver wishes to hire a rental car. He requires hand controls to be fitted in the vehicle. The vehicle rental operator alters the braking and accelerator controls in one of its cars by installing a set of hand controls which the driver can use. This is likely to be a reasonable step for the vehicle rental operator to take. If, however, to install the hand controls the operator would have to remove the front passenger seat or alter the in-built electrical system, the operator would not be under an obligation to do this.

A disabled wheelchair user wishes to hire a car. She does not need to drive from her wheelchair, but she does need to take it with her. The vehicle rental operator fits one of its vehicles with a wheelchair hoist mounted in the boot, which enables the wheelchair user to stow her wheelchair in the vehicle. She can then use her wheelchair on reaching her destination. This is likely to be a reasonable step for the vehicle rental operator to have to take. However, if in order to allow room for the wheelchair the vehicle rental operator would have had to remove the back seating, the operator would not have had to do this as this does not fall under the definition of a physical feature.

### **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 rental 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, from contacting the operator on the telephone or via the website, marketing materials, requests for adapted vehicles, accessing any premises and the actual pick up and drop off of a vehicle. Then, once barriers have been identified, the organisation should look at what they can do to remove the barriers so that they can provide the optimum service to disabled passengers.



2. An operator must **review** disability equality each time any of the organisation's services are reviewed or evaluated.
3. Vehicle 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 rental service.
4. It is important to **listen** to customers. 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 rental operator should review these services and see how they can be changed and consider any reasonable adjustments that can be made.
5. The operator should ensure that they have a positive **policy** on the provision of services to ensure the inclusion of disabled people and communicate it to staff. The operator 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.
6. In terms of **charges**, generally the law makes it unlawful to charge a disabled person extra to make adjustments to enable disabled people to access services. For example, if the vehicle rental operator has to fit a wide angle mirror they should not charge the disabled person extra. However, if, for example, the vehicle needs specialist equipment which has to be individually calibrated to suit the needs of the disabled person, charging extra may be justified if this requires substantial changes to the vehicle to meet the needs of this disabled customer.
7. The implementation of all equality policies should be **monitored**.

8. Disability awareness and disability equality **training** should be provided for all staff. As the vehicle rental operator is responsible for the actions of its employees in the course of their employment, it is important that it ensures that all staff members 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.
  - The operator should 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.
  - Staff should be instructed on what to do in an emergency in terms of disabled passengers.
9. Vehicle rental 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**

Equality House  
7 – 9 Shaftesbury Square  
Belfast  
BT2 7DP

**Telephone:** 028 90 890 890 (enquiry line)  
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You can also use Tynetalk to contact us.

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 taxi operators

A short guide for breakdown recovery operators

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