

Disability Discrimination Act 1995

Access to Goods, Services and Facilities

**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**

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1 Introduction

In 1997 the Government set up the Disability Rights Task Force (DRTF) which brought together industry and disability interests under the chairmanship of the Minister for Disabled People. The DRTF was charged with bringing forward proposals to create a Disability Rights Commission (DRC) and with reviewing the existing legislative provision in the Disability Discrimination Act 1995 (DDA) with a view to making recommendations on future action. On the latter task the DRTF submitted a report to the Government, *“From Exclusion to Inclusion”*, at the end of 1999 which included a number of recommendations on transport.

The Government published its final response, *“Towards inclusion”*, in 2001 and accepted the transport recommendations, and alongside a number of others relating to employment, education, and service provision. The response made clear that further detailed consultation would be required, including a review of any financial consequences of the legislation.

This document is the first stage in delivering the Government’s commitment . A separate consultation – covering the DRTF recommendations on rail access will be carried out later this year.

Section 2 sets out the issues we would like you to consider.

Section 3 of this document describes the current transport provisions of the DDA and the changes that are proposed. It also covers guidance for the industries and implementation.

Sections 4 to 11 set out the Regulatory Impact Assessment, which estimates the additional costs that may arise from enacting the proposed legislation and the benefits that could accrue from disabled people using public transport.

2 Issues to consider and deadline for responses

The scope of this consultation is set out in Section 3. Within that context we would welcome comments on any aspect of the proposals but we would also like you, in particular, to address the following questions in relation to each of the transport modes or services covered by this document:

- Are there additional benefits and costs that could be attributed to removing the exemption from Part III of the DDA for operators/service providers and for their passengers and potential passengers or customers?
- Are there other measures that would complement those proposed?
- Are there other effects on the industry that we have not discussed, and, if so, what are their likely implications?
- What would be a reasonable timescale for bringing these provisions into effect after legislative changes have been introduced?

At this stage we do not propose to bring these provisions in for transport services mainly concerned with the tourism and leisure sectors. The legislative changes would, however, enable us to do so in the future without the need for further primary legislation. We would therefore be grateful for your views on:

- whether such services should be covered?
- if so, when?
- the costs/benefits of doing so?

A list of the organisations across the UK to which this paper is being circulated is set out in the Annex.

3 Current and proposed provisions of the DDA

3.1 Current provisions

Part III of the DDA deals with access to goods, facilities and services. The Act imposes specific duties on service providers and these duties have been introduced incrementally since 1996, with virtually all the remainder to come into force in 2004. Transport infrastructure (bus stations, railway stations, airports and ports) is already covered by these provisions. There is however a specific exemption for any service “so far as it consists of the use of a means of transport”.

Since December 1996 it has been unlawful for service providers to discriminate against a disabled person in refusing to provide, or deliberately not providing, a service which is provided to other members of the public. It has also been unlawful to provide a service of a lower

standard, or on less good terms than that available to other members of the public.

Since 1 October 1999 service providers have been required to take reasonable steps to change practices, policies or procedures that make it impossible or unreasonably difficult for disabled people to use a service. Also, where a physical feature makes it impossible or unreasonably difficult for a disabled person to use a service, the provider has been under a duty to provide a reasonable alternative way of making the service available.

From 1 October 2004 service providers will have to take reasonable steps to remove, alter, or provide means of avoiding physical features that make it impossible or unreasonably difficult for disabled people to use a service.

Part V of the Act deals with public transport vehicles. It provides for accessibility regulations to be made for public service vehicles (buses and coaches), rail vehicles (trains – including light rail, underground and trams) and taxis. The regulations set minimum technical requirements to ensure that, in future, public transport is accessible to disabled people, including those who need to travel in a wheelchair. Regulations have already been introduced for buses and coaches, and for rail vehicles. A package of proposals is being developed for taxis.

3.2 Proposed changes

We propose to extend the Part III civil rights provisions of the DDA to include the following services:

- Rail vehicles (including trains, trams and light rail)
- Buses and coaches
- Taxis

In addition, we propose to extend the Part III provisions to the following services to give full effect to DRTF recommendation on Part III, and to pick up on a number of other relevant recommendations made by the Task Force:

- Private hire vehicles
- Aviation
- Shipping
- Car hire services

- Breakdown services

In line with the DRTF recommendation we do not propose to make those services subject to the 2004 duties. Nor do we propose to apply the 1999 duty requiring operators to provide a reasonable alternative method of making the service available to those passenger transport services listed above – where that service consists of the use of a vehicle.

Specifically, we propose to:

- make it unlawful to discriminate against a disabled person in refusing to provide, or deliberately not providing, a service which is provided to other members of the public, or in providing a service of a lower standard or on less good terms than those available to other members of the public.
- require, where reasonable, changes to any “practice, policy or procedure” which makes it impossible or unreasonably difficult for a disabled person to make use of the service.
- require, where reasonable, the provision of an auxiliary aid or service which would enable a disabled person to make use of a service available to other members of the public.

The Government believes that applying these requirements to public transport services would make an important contribution to delivering the Government’s commitment to comprehensive and enforceable civil rights for disabled people.

Until the provisions set out above are applied, a public transport operator may comply fully with regulations made under Part V of the DDA, yet still lawfully deny a person access to a vehicle for no other reason than that person is disabled. In practice this sort of gratuitous discrimination seldom happens, but on some occasions it does. Such discrimination is not acceptable.

Many operators already behave as if Part III of the DDA applies to their services, but such good practice is not universal. Removing the exemption will give disabled people the right to challenge transport operators to improve their services.

3.3 Guidance

When these provisions are introduced we propose that there should be guidance available for the affected service providers to help them to meet the new statutory duties. We intend to ask the Disability Rights Commission to produce a Code of Practice to cover transport services along the lines of the others they have produced for service providers. We would expect the DRC to establish a project group involving central Government and industry representatives. In addition, and in compliance with their statutory duties, the DRC would also consult more widely on a draft of a Code of Practice before it is finalised.

3.4 Implementation

Given that these changes require primary legislation we will need to secure a suitable legislative slot to introduce them. We intend to use this consultation to inform the shape of that legislation.

On implementation of the provisions we do not intend that they should be brought in immediately after Royal Assent. As with the service providers who are already covered by Part III we would propose that those in the transport sectors be given a reasonable lead in time . We would welcome views on the timeframe and in particular whether all of the duties should be brought in at the same time, or at different times in keeping with the approach adopted for existing services.

4 Regulatory Impact Assessment (RIA)

A Regulatory Impact Assessment (RIA) is a policy tool to assess the impact, in terms of costs and benefits, of any proposals that affect business. This section also explains how the proposals fit in with relevant Government policies.

4.1 Issues and Objectives

In December 1999 the Disability Rights Task Force published its report, “From Exclusion to Inclusion”. In the introduction to the chapter on travel, the report stated that:

“For disabled people to be able to travel, and to travel with confidence, all aspects of the “transport chain” must be accessible. The benefits of new vehicles and systems will be minimised, or lost altogether, if disabled people find that they cannot move easily and safely between transport modes. Disabled people also need accessible information on transport if they are to benefit from new vehicles and systems. The current legislation will ensure that certain of the links are fully accessible buses, coaches, trains and taxis. But we considered that there is a number of omissions, and areas where further refinement of the legislation would be necessary to achieve the fully accessible transport system to which the Government is committed.”

One of the Task Force’s key recommendations was that the exemption for the providers of transport services consisting of the use of any means of transport from the first and October 1999 phases of the DDA (Part III) access to services duties should be removed in civil rights legislation. The effects of doing this on public transport services are set out in the following paragraphs.

4.2 Rail Services: Trains, Underground and Light Rail

All passenger vehicles first brought into use after 31 December 1998 are required to comply with the Rail Vehicle Accessibility Regulations (RVAR)¹. Similar regulations are in force in Northern Ireland.² These regulations were made under powers in Part V of the DDA and cover the construction and use of vehicles in respect of disabled passengers.

¹ S.I. 1998/2456, amended by S.I. 2000/3215

² SI 2001/264(NI)

It is unlikely that preventing gratuitous discrimination will have a significant effect on the rail industry so far as services provided at stations (many services provided at stations are already covered by the provisions of Part III) and on trains are concerned. Most train operating companies (TOCs) already have training in disability awareness for their staff, though it is possible that some operators would wish to extend the scope of the training coverage.

The provision of alternative catering services to assist disabled people who are unable to get to the buffet car on trains may have some cost implications, as might the provision of assistance from staff for passengers with sensory or physical impairments, for example, escorting a blind person to and from their seat.

A more significant effect would occur if it were considered reasonable to remove the current 24-hour book-ahead requirement, which is needed to guarantee assistance particularly for wheelchair users. There are both cost and practical implications in doing this. There are, however, likely to be occasions when and locations at which, operators might be able reasonably to justify not providing access without notice or, at all, to some services. Examples might be where the stations served are unstaffed (and additional staff cannot be made available without significant cost), or lack level access.

For underground rail services the proposed change presents no obvious new issues. As with surface rail, the operators of these services have already established staff training programmes in disability awareness. Similarly, light rail/tram services are relatively modern and fully accessible, and are operated by staff with disability awareness training.

4.3 Buses and coaches

Other than outlawing gratuitous discrimination, the extension of Part III will have no significant effect on providers of bus and coach services. Regulations under Part V, covering the construction of buses and coaches, have already been introduced.

Further regulations³ came into effect in October 2002 covering the conduct of bus crew which set out, amongst other things, operational procedures that cover many of the duties which might otherwise be covered by Part III at least for new vehicles which are subject to Part V regulations. These include, for example, ensuring that a bus stops as close as practical to the kerb to make access easier for disabled passengers.

As in the rail industry, many bus and coach operators have introduced training programmes in disability awareness for their staff.

4.4 Taxis

A wide range of vehicles is used as taxis, some of which are reasonably accessible already. Powers under Part V enable accessibility regulations to be introduced for taxis and a package is currently being developed in discussion with the industry - that discussion is separate from this consultation.

Providing a service for disabled users is considered good practice by the majority of taxi drivers. Indeed, in a recent MORI survey (carried out for the Disabled Persons Transport Advisory Committee - DPTAC) disabled people were most satisfied with the service provided by taxis and private hire vehicles.⁴ However, complaints made to the Department about taxi drivers suggest that good practice is not universal. Under Part III when amended, where it is possible for a disabled person to travel safely in a taxi, the taxi driver would be required to take them unless there were good grounds for this being unreasonable. Such grounds might be expecting a driver who is not physically able to lift a folded wheelchair into the vehicle so as to transport a passenger who wishes to transfer to the taxi seat. However, the level of complaints referred to earlier suggest that there is a need for disability awareness training within some parts of the taxi industry.

³ The Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) (Amendment) Regulations 2002 SI 2002 No.1724

⁴ "Attitudes of Disabled People to Public Transport" MORI (2002)

4.5 Private Hire Vehicles (Minicabs)

Private hire vehicles (phvs) are not covered by Part V of the DDA and there are relatively few wheelchair accessible phvs in service. However, phvs are often the preferred mode of transport for many ambulant disabled people who consider them easier to access than some of the existing wheelchair accessible taxis.

The most common concern expressed by disabled people, which would be addressed by extending Part III of the Act to phvs, is the carriage of assistance dogs, including guide dogs. In many cases drivers refuse to take bookings which involve the carriage of assistance dogs. However, there is now more specific legislation in place to deal with such discrimination. The Private Hire Vehicles (Carriage of Guide Dogs etc) Act 2002 received Royal Assent on 7 November 2002. This legislation, which was introduced as a Private Member's Bill by Neil Gerrard MP, is UK wide and was fully supported by the Government.

As with taxis there will be no requirement under the Part III provisions for the vehicle to be modified to accommodate disabled people. These provisions will simply ensure that where it is possible for a disabled person to travel safely in a phv then they should not be refused carriage and additional charges should not be made for carrying them.

As with taxi operations, there will be a need to extend training in disability awareness to those phv drivers who have not yet received such tuition.

4.6 Aviation

Aviation was omitted from the DDA on the grounds that, as it is fundamentally an international mode of transport, it would be more appropriate to develop good practice and standards at international level. Indeed, since the DDA was introduced both the European Civil Aviation Conference and the International Civil Aviation Organisation have produced recommended practices and guidance for the industry.

Defined minimum standards of care for disabled people (referred to in a European context as People with Reduced Mobility – PRMs) are included in the European Voluntary Commitments on Air Passenger Rights, which came into effect in February 2002. Both the Airline and Airport Commitments, to which the major airports and full-service carriers throughout the EU are signatories, contain a separate PRM protocol.

These protocols include an agreed definition of PRMs and their basic rights as travellers, and an agreement that they should not be charged direct for the assistance they receive. The rights of PRMs are also addressed in the European Commission's June 2002 consultation paper on airlines' contracts with passengers⁵.

In taking the ECAC and ICAO recommendations forward in the UK a voluntary code on access to air travel is being drawn up by the Department for Transport, in collaboration with industry and DPTAC. The Government has consulted on the Code which covers certain services which are already subject to the provisions of Part III, e.g. travel agencies and airports, but will also deal with the services provided by airlines and the design of aircraft. The Code applies only to UK registered aircraft and to UK airports. Under Part III of the DDA, the only aspects of the service that would be affected would be such things as booking arrangements, assistance from ground transport to check-in and from check-in to aircraft, help with luggage, appropriate assistance and information when on board the aircraft.

In line with the DRTF recommendation the Government intends that the voluntary code should be the standard to which the industry works but is committed to taking reserve powers to place it on a statutory footing should the voluntary route prove ineffective. To that end, it is proposed that provision should be made to lift the transport exemption for aviation but that it should be used only if the voluntary code does not deliver the Government's goals. The Department will be letting a research contract to benchmark the industry against the Code and then to follow that up two years later with a monitoring exercise to see whether the Code has been effective. If at that stage it is decided to invoke the legislative provisions it may be necessary to bring different sectors of the aviation industry within the scope of Part III at different times to reflect the very different operating conditions between, for example, operators of large and very small aircraft.

⁵ Airlines Contracts with Passengers. Consultation paper of Directorate-General for Energy and Transport, with Directorate-General for Health and Consumer Protection, European Commission

4.7 Shipping

Following publication of a Recommendation from the International Maritime Organisation⁶ on meeting the needs of disabled people in the design and operation of larger passenger vessels DPTAC produced complementary guidance⁷ which, if adhered to, is considered sufficient to meet Part III requirements for larger vessels. In terms of public transport the main impact will be on the Highlands and Islands ferries and the Isle of Wight services.

4.8 Car hire services

Discussions with car hire companies show that consideration is already being given to providing an effective service to disabled users as a matter of good practice. It would be for service providers to consider how, through their policies, practices and procedures, or through the provision of simple adaptations they could make their services more accessible.

For car hire firms it is possible to fit, without making any physical alteration to the vehicle, simple “push-pull” hand controls. These would greatly increase the number of disabled users who could hire vehicles.

4.9 Breakdown services

Again, discussions with the industry indicate that consideration is being given to meeting the needs of disabled members as part of general good customer practice.

Breakdown firms endeavour to fix by the roadside a higher proportion of vehicles used by disabled people where transferring to a recovery vehicle would be difficult or impossible. The inclusion of these services within Part III would place a duty on operators to put policies, practices and procedures in place to provide an alternative way of assisting a disabled person by, for example, arranging for an accessible vehicle to collect them from their car, should this be necessary

⁶ “Recommendation on the Design and Operation of Passenger Ships to Respond to Elderly and Disabled Persons’ Needs. IMO (1997)

⁷ The Design of Large Passenger Ships and Passenger Infrastructure: Guidance on meeting the needs of disabled people DPTAC(2000)

5 Risk assessment

These measures create new civil rights for disabled people. They introduce new requirements on transport operators to ensure that they do not unreasonably discriminate against disabled people. For example, they will deal with gratuitous discrimination where a bus driver refuses to allow a disabled person to board his vehicle for no other reason than their disability.

6 Options

The Government is committed to establishing comprehensive and enforceable civil rights for disabled people including, with respect to this paper, removing the anomalous exemption of transport services from some of the civil rights duties in Part III of the DDA.

Two options are available to the Government concerning discrimination against disabled people in the provision of services within public transport:

Option 1 - To rely on voluntary compliance by the transport sector with the measures relating to the provision of services in Part III of the Act

Option 2 - To legislate to remove the exemption for the transport sector.

A proportion of the bus, rail, air and maritime industries have voluntarily undertaken improvements to the services that they provide to disabled people, primarily through ensuring that their staff have disability awareness training. There is however room for improvement and for standards to be more consistent. This is particularly important if disabled people are to have the confidence to use transport services.

The major organisations providing vehicle breakdown and recovery services have also improved the level of service to disabled members, as have some car hire companies. It is likely however that improvements will not take place across the industry without further encouragement.

In the coach, taxi and private hire vehicle industries, however, disability awareness training and consequent improvements in services to disabled people are much less comprehensive.

The Government proposes that the best course of action to ensure a consistent level of service to disabled people across the full range of public transport services is to pursue Option 2 and to remove the current exemption from compliance with the Part III provisions (as set out in 3.2). For many providers, who are already following good practice, the effects will be minimal. For other providers, while there might be cost considerations these should, to some extent, be off set by the fact that more customers will be attracted to use the services provided. Such measures should also lead to an improvement in public relations.

7 Issues of equity or fairness

The following issues of fairness arise:

- Is the chosen option consistent with the Government's expressed policy of developing comprehensive and enforceable civil rights for disabled people
- Will the costs be borne fairly across all the public transport businesses?

7.1 Consistency with the Government's policy on civil rights for disabled people

The Government's 1997 manifesto commitment was:

“We will seek to end unjustifiable discrimination wherever it exists. For example, we support comprehensive, enforceable civil rights for disabled people against discrimination in society or at work, developed in partnership with all interested parties.”

This has been reinforced in the 2001 manifesto, which states:

“Our ambition is to enable people with disabilities to play a full part in the community...We are now committed to extending basic rights and opportunities, as indicated in our response to the Disability Rights Task Force.”

It also commits to:

“Change in our public services so that they better advance equality of opportunity”.

The 10 Year Plan for Transport sets out that the Government is committed to public transport that is accessible to disabled people. The plan states:

"Building in accessibility for disabled people in all new investment is a condition of public money being spent. Local authorities and transport operators should ensure that the transport needs of disabled people are factored into their plans and that the full benefits of improved public transport are accessible to all."

Public transport plays a major role in providing independent mobility for disabled people, while for those who rely on a private car, recovery from a breakdown and the ability when necessary to hire a vehicle they are able to drive are of importance. Within the public transport sector existing legislation requires (over time) the design and provision of fully accessible bus and rail vehicles with, in due course, similar requirements for the taxi industry.

To have mandatory requirements for accessible vehicles and related infrastructure, but not for the services provided with them, is an anomaly, which could lead to gratuitous discrimination, thereby, reducing the effectiveness of the vehicle design regulations made under Part V of the DDA. Removing the Part III exemptions should obviate this.

7.2 Fair distribution of costs

The legislation will apply to transport service providers of all sizes throughout the country. **The cost to individual service providers will be limited by the fact that the legislation requires them to do only what is reasonable in all the circumstances of the case.** Any cost incurred by the service provider in making reasonable adjustments to policies, practices and procedures will be spread across all customers as part of the service providers' general expenses.

8 Benefits

Many of the duties placed on the providers of transport services by the removal of the exemption from Part III can be met by ensuring that staff have good training in disability awareness. Such training should greatly reduce the discrimination, which is often caused by lack of awareness or ignorance rather than intention, which disabled travellers sometimes meet.

Disabled people form a very substantial proportion of the total population; a proportion that is likely to increase in the future because of the ageing of the population and the higher incidence of disability among older people. It has been estimated⁸ that approximately 20 per cent of the adult population⁹ is covered by the provisions of the DDA.

Benefits will arise from:

- Improved personal mobility for disabled people.
- Access to a wider range of facilities and activities (including employment) enabling disabled people to play a fuller role in the economy and in society.
- Improved legal rights of access to services. More transport services will become accessible in the fullest sense of the word. Service providers that are already doing much to help disabled travellers will be encouraged to do more.

While it is not possible to quantify these benefits accurately in financial terms, transport service providers could expect to see increasing numbers of disabled people using their services over time.

9 Costs

9.1 Business sectors affected

As set out in Section 3.2 (above) the following transport sectors will be affected:

- Rail
- Buses and coaches
- Taxis
- Private hire vehicles
- Aviation

⁸ "The Disability Discrimination Act: Analysis of Data from an Omnibus Survey; In-house report 30, Grahame Whitfield, DSS, 1997

⁹ Grundy, E., Ahlburg, D., Mohamed, A., Breeze, E. and Sloggett, A. (1999) Disability in Great Britain: Results from the 1996/97 Disability Follow-up to the Family Resources Survey, (Department of Social Security, Research Report No. 94)

- Shipping
- Car hire
- Breakdown services

As virtually all service providers in these sectors will be affected, it is impossible to identify a typical business. In part this is because there is such a wide diversity of service providers, but is also because the extent and consequent cost of any adjustments will vary considerably.

However, to illustrate the likely impact of the legislation, the following section considers each sector separately and estimates the order of costs expected for that sector.

10 Impact on the transport sector: costs

10.1 Rail services

There are three aspects of Part III legislation that could affect rail services. The first of these is the requirement to provide an alternative catering service where disabled people cannot get to the buffet or dining car and assistance from staff where passengers have a sensory or physical impairment.

Train operators have different policies on the provision of refreshments and varied styles of service, in some cases on the same train. On some services (a minority) a full dining service is offered. In these circumstances train staff could either assist the disabled passenger to the dining car or, if that is not possible, provide the service at the passenger's seat. This would, of course, only apply where the disabled person was travelling in the eligible class.

Trolley services, sometimes provided alone, sometimes with a buffet service should not be a problem as they come to the passenger. Where there is only a buffet service, train staff could be expected to bring any refreshments to disabled passengers if they were not able easily to get to the buffet car.

Essentially the provision of this kind of assistance is a management matter. Train staff will require clear instructions on what to do under the various circumstances and the train operators will need to make sure that the appropriate service is provided. There should not be any additional costs provided the service is efficiently managed.

The second requirement is for training train and platform staff in disability awareness. Training of this kind has been given for many years, starting some time before the privatisation of rail services. A recent check (April 2002) with the operators showed that all of those companies prepared to answer the request for information were providing disability awareness training. Eight out of the 16 who replied were using external consultants, the remainder used internal services.

The Strategic Rail Authority's Code of Practice on Train and Station Services for Disabled Passengers includes a section on staff training, which sets out the core components of training. The Code also recommends that the Association of Train Operating Companies (ATOC) "considers and adopts a standard format and content for disability awareness training and disability equality training and the use of associated equipment." With the widespread training already extant in the industry the requirements, so far as compliance with Part III is concerned, should not pose more than a marginal additional cost. The direct costs of training provided by external consultancies to one train company average just under £200 per staff member, but there are additional costs in providing cover for staff attending the course. These would take the full cost up to approximately £300 per staff member.

Newly appointed staff will be trained in disability awareness; it may be reasonable to take these recurring costs as a consequence of the application of Part III. Staff turnover on rail services is generally quite low - below that of the bus industry. Taking this at five per cent of the total staff of rail travel assistants, operatives and drivers would mean disability awareness training for 2250 staff each year at a total cost of some £6.75 million.

The third requirement is of more consequence: the possibility that the 24-hour book-ahead requirement to guarantee assistance particularly for wheelchair users will be removed. Were this to be considered reasonable there could be some significant implications.

Two major operators (Thameslink and WAGN) and parts of other services (e.g. Chiltern) use driver only trains. The Health and Safety Executive would not countenance drivers helping disabled passengers on and off trains. Therefore the disabled passenger would be wholly dependent on platform staff for assistance. However, out of a total of some 2500 stations across the network, approximately 1000 are unstaffed and a similar number are only staffed at certain times. Some of

the latter have only one staff member who operates the ticket office and who, again, may not be able to assist disabled passengers. Even where a member of staff is available, there are stations that have no access for disabled persons to one platform due to the fact that there is only one entrance to the station and no crossing over the line other than a footbridge only accessible by steps.

Even on those services that have an additional crew member there could be difficulties if a disabled passenger who needs assistance travels without advance notice. On short trains (e.g. two or four carriages) it would be feasible for the train staff to provide assistance, particularly if as is the case with some, a lightweight wheelchair ramp is carried on board. On long trains (up to twelve carriages) calling at busy stations, it could be difficult for the staff member to identify the person needing assistance.

The provisions of the DDA make allowance for a test of reasonableness. Therefore a service provider must take such steps as are reasonable to change the practice, policy and procedure so that it no longer has the effect of making it impossible or unreasonably difficult for a disabled person to use the service. Whilst train operators might be able to justify not providing access without notice, or at all, to some services such as those at unstaffed stations or at stations where there is no level access they will need to satisfy themselves on a case by case basis that their actions are justified. Ultimately, such matters are for the courts to decide.

At present it is not known how many stations have level access. The costs of fully staffing previously unstaffed stations would be high. Depending on the time period over which trains call at any given station, there could be a requirement for up to three or four staff at each station. Those stations that are partly staffed would need one or two extra staff, again dependent on the period during which the station is used but no staff are present.

Any calculations of cost can only be indicative, but fully manning unstaffed and partly staffed stations is estimated to cost well in excess of £100 million per annum. If only 25 per cent of unstaffed stations and 50 per cent of part-staffed stations were fully manned, it is estimated that approximately 1,500 additional station staff would be needed at a total annual cost of approximately £45 million per annum.

In addition to this recurring cost, new or refurbished staff accommodation would have to be provided at unstaffed stations. It is not possible to

estimate how much this would amount to, except to say that it would be substantial.

A mail-back questionnaire survey of Disabled Persons Railcard holders has been carried out. The preliminary analysis of the first 400 questionnaires suggests that the requirement to book in advance if assistance is required is not seen as a problem.

The 400 respondents included 63 wheelchair users (15.8 per cent) and a further 16 (four per cent) who used a scooter. Almost 30 per cent (119 respondents) were blind or partially sighted but the commonest disability was walking difficulty, which applied to almost half the respondents (197, 49.3 per cent)¹⁰.

The Railcard holders make significant use of rail services. Almost two-thirds (260 respondents) had used rail services within the previous month, making an average of seven journeys per person over this time. Only four per cent had not made a rail journey in the previous year. Just over half of the respondents (54 per cent) usually travelled with a companion.

A question was asked about the time in advance that people usually booked their journey. Just over one-third (34 per cent) did not book in advance, a further 30 per cent booked from two to seven days in advance, 17.5 per cent booked two weeks in advance, just under 15 per cent booked three or four weeks ahead.

About 14 per cent of respondents were wheelchair users who are the group most likely to require assistance within stations and on trains. Of wheelchair users about 80% booked more than 24 hours in advance.

At the end of the questionnaire, respondents were given the opportunity to write about any aspect – good or bad – of rail services. In total almost 450 comments were made covering a very wide range of issues. Although critical comments outweighed positive views by about 7:2, a number of criticisms related to the general performance of the rail service. Those included poor timekeeping and unreliability, overcrowding and trains not being kept clean. Lack of staff to provide assistance at stations was mentioned by 32 (eight per cent) respondents, lack of staff help on trains was mentioned by 17 respondents; 16 said that there was still a need for further/better training in disability awareness.

¹⁰ percentages sum to over 100 per cent because some respondents recorded more than one impairment.

Notwithstanding these criticisms, about 10% commented that the rail services were generally good and about 10% said they found rail staff helpful. This emphasises the importance of comprehensive training in disability awareness. The other important, positive, issue with respect to this legislation is that there were only four respondents who mentioned difficulty in getting through to book assistance and there was no criticism of the requirement to book in advance.

As was said in Section 4.2 the proposed change presents no obvious new issues for underground and light rail/tram services. The main difficulty for the former is the station infrastructure and that is already covered by Part III of the Act and so must be addressed. Modern light rail and tram services are, for the most part, fully accessible and their staff, as well as those on the underground services, have had disability awareness training in place for some time. Similarly for systems like the Heathrow Express, where there is no book-ahead requirement, and the infrastructure and vehicles are accessible, there are no obvious new issues.

The operators of heritage railways will be included within the scope of Part III. A recent assessment of a selection of heritage operators carried out for the Department suggests that nearly all recognise the requirements of disabled passengers. For many heritage operators their passengers are usually also visitors to associated buildings and museums, which are already covered by the provisions of Part III. Many operators recognise the importance of providing facilities, which enable disabled visitors, together with their families and friends to visit their attractions. Most already provide detailed information for disabled people on the accessibility of their vehicles and sites and also train key staff in disability awareness. There is however scope for a more thorough approach based on shared good practice. The Department is considering working with heritage rail operators to develop a good practice guidance.

Costs to service providers : rail services

Item	Non-recurring costs (£m)	Recurring costs (£m pa)
Training in disability awareness	-	6.75
Full staffing of unstaffed and partly staffed stations	substantial	45 -135

10.2 Buses and coaches

Other than outlawing gratuitous discrimination the inclusion within Part III should not have a significant effect on the industry. The majority of bus operators, including the five largest operators, all have disability awareness training as part of their induction training and are also including existing drivers. Among small and medium sized bus operators, disability awareness training has tended to be given on a more ad hoc basis – for example when a company is entering into a Bus Quality Partnership or bidding for a contract – but it is becoming more widespread.

Within the coach sector, which employs approximately 25-30,000 out of a total of some 150,000 staff in the industry as a whole, disability awareness training is less well developed. However, it is increasing and will be further extended as more fully accessible vehicles come into operation.

The “Workforce Development Plan” for the Road Passenger Transport Industry produced by the Passenger Transport Forum for Employee Development (TRANSFED) shows that future skill needs include a requirement for training in disability awareness, referred to as “special needs training” in the recommended Employee Development Plans.

The Skills Foresight report¹¹ includes details from the TRANSFED survey 2000, which showed that nearly all those bus firms that responded to the survey had trained their staff in the preceding 12 months. Only a few had trained all their staff, but almost one quarter had trained at least 50 per cent of their staff. Thus the culture of training, including disability awareness, is well established in the sector.

From discussions with the industry, disability awareness training typically lasts one day. The costs associated with the training include driver’s pay, instructors’ costs (including any external trainers) materials and room hire. Classroom training is normally done for groups of drivers, which reduces per capita costs; a similar approach has been used by First when training drivers in the use of the wheelchair passenger lift on their new National Express London-Heathrow-Bath coach service. The actual costs vary from company to company depending on pay rates, number of members undergoing training at any one time, use of external instructors etc. Figures provided by the industry range from around £200 to £500

¹¹ “Skills Foresight for the Road Passenger Transport Industry” TRANSFED, July 2000

per driver trained; for the purposes of this analysis a mid-point cost of £350 is taken.

Ignoring for the moment the large numbers of staff who have already received training, the industry has two aspects to deal with; training existing staff and training new entrants. As a whole the industry employs approximately 120,000 bus and coach drivers. TRANSFED found that there were wide variations in staff turnover, but as a whole the rates were quite low; on average 9.5 per cent for bus companies and 5 per cent for coach companies. Of the 120,000 drivers, it is estimated that approximately 25,000 are coach drivers.

If the size of the industry remains constant, then training in disability awareness would be needed for some 9000 bus drivers each year (9.5 per cent of 95,000) and for about 1250 coach drivers (5 per cent of 25,000). At the cost quoted earlier (£350 per trainee) the total cost to the industry would amount to between £3.5 and £3.6 million per annum. To put this in context, the CPT estimates that the total costs for the whole induction training process are £45 million per annum.

The other aspect is that of completing the disability awareness training of existing staff. The proportion who have already received this training is not known, but the TRANSFED survey found that the majority of bus companies (particularly the larger ones) had trained their staff in the preceding year: a few had trained their whole staff in this period, nearly one quarter had trained at least 50 per cent of their staff. The content of this training is not specified but given the industry's increasing awareness of the importance of customer care, including disabled people, it is reasonable to assume that much of the training given will include disability awareness.

Training programmes are not as widespread in the coach sector. The TRANSFED survey found that just under half of the responding coach companies had been involved in training during the previous year. Of these one third (i.e. 15-16 per cent of all) had trained at least 50 per cent of their staff.

Given that these figures refer to training over a twelve-month period, it could be argued that the industry – certainly the bus sector – has already absorbed the costs of training in disability awareness for its staff. However, some allowance should be made, as non-recurring costs, to cover those companies that have not yet introduced disability awareness training for their existing staff. The survey returns suggest that about half

the coach sector may not have done this training, plus a small proportion of bus companies – mostly small operators. For the purpose of this assessment, this proportion is taken as ten per cent of the bus sector. Thus the costs associated with existing staff are estimated to be £4.38 million for the coach sector (£350 x 12,500 – 50% of coach staff) and £3.33 million for the bus sector (£350 x 9500 – 10% of bus staff).

Costs to service providers – bus and coach industry

Item	Non-recurring costs (£m)	Recurring costs (£m pa)
Training in disability awareness	7.7	3.6

10.3 Taxis and Private Hire Vehicles

As with the bus and coach sector, the costs associated with applying Part III of the DDA to the taxi and private hire vehicles (phv) sector are those of providing disability awareness training. Recent DfT surveys show that there are approximately 185,000 licensed taxi/phv drivers in England and Wales. Unlicensed phv ("minicab") drivers in London are estimated by the Public Carriage Office to amount to some 40,000. There are a further 20,000 licensed taxi drivers in Scotland, some of whom hold dual taxi/phv licences; there are no recent figures for the number of licensed phv only drivers. In Northern Ireland, again, there are no recent figures available, but it is estimated that the number of licensed drivers is around 8000. Thus in total it is estimated that there are about 255,000 licensed taxi and licensed and (pro tem) unlicensed phv drivers.

The TRANSFED survey referred to earlier found that training for taxi and phvs is much less common than in the bus and coach sector. In their survey, 57 per cent of the responding firms said that no training was required for their staff; training being on any aspect of providing the service. It is also the case that many drivers are self-employed and would not be subject to training of this kind unless it was a condition of licence. Some local authorities have introduced training in disability awareness, usually for new drivers, but they are a minority. A review of Local Transport Plans in England showed that one-third of the unitary authorities (who are licensing authorities) either had or were planning to introduce disability awareness training for taxi drivers - covering approximately 23,000 drivers. Although they are not taxi licensing authorities, five County Councils and three Metropolitan authorities also

mentioned policies of encouraging (or in one case, requiring) disability awareness training for taxi drivers.

In London the Public Carriage Office (PCO) requires taxi drivers to demonstrate that they can use the wheelchair access equipment (ramp and securement) correctly but, at present, does not have any further training. The London based radio-circuit company, ComCab have a short session on disability awareness in the training given to their drivers. The PCO which, when licensing requirements are in place have responsibility for 40,000 private hire (minicab) drivers as well as 24,000 taxi drivers, is looking at additional skills training in disability awareness. The course is planned to include recognising and responding to passengers with additional needs including the use of appropriate means of communication, offering appropriate assistance when necessary, adopting a driving technique in accordance with the passenger's needs and awareness of relevant legislation.

Any authority providing the training will have costs to bear, which would be charged (wholly or partly) to the participating drivers. Current or planned charges are typically £30 to £50, but the main cost will be loss of earnings over the period of training. Taxi driver earnings vary considerably from area to area. An analysis carried out in 1999 for the Government estimated that in larger cities the average gross earnings from full-time taxi work were around £25,000 and elsewhere approximately £17,500. The more comprehensive training programmes take one to two days: if an average of one-and-a-half days is taken then loss of earnings would be about £135 in larger cities and £95 elsewhere (based on 270 working days a year).

There are no figures available nationally for staff turnover in the taxi and private hire trade. Entry into the trade is still relatively low cost in most parts of the country and turnover depends to a considerable extent on the state of the local economy. However, the generally low levels of unemployment and the, albeit modest, increases in costs of entry are thought to have reduced turnover in recent years. For the purposes of this assessment an annual turnover rate of 12 per cent has been assumed.

Initial (non-recurrent) costs will apply to the training of existing drivers, thereafter there will be recurring costs of training new entrants. Because of the relatively low proportion of training currently in place, it is estimated that the initial costs will apply to some 80 per cent of the trade. It is further estimated that approximately 40 per cent of the trade operate

in the conurbations/large cities with the higher level of gross earnings and that future new entrants will reflect this 40:60 split between these areas and elsewhere in the country. Based on the figure of 255,000, training of existing drivers would be needed for 204,000 (80 percent of the trade) of whom approximately 82,000 will be from the higher earning areas. Thus the cost in lost earnings for these drivers will amount to approximately £11,000,000 (82,000 x £135) and for the others £11,600,000 (122,000 x £95). The charges made for the course are taken as £40, amounting in total to £8,160,000 (204,000 x £40).

The recurring costs are those for training new entrants of whom there would be 30,600 each year (12 per cent of 255,000) with an annual earnings loss of just under £3.4 million (assuming a continued 40:60 split between higher and lower earnings areas) and a cost in course charges of just over £1,200,000.

Costs to service providers: taxi and private hire

Item	Non-recurring costs (£m)	Recurring costs (£m pa)
Loss of earnings during training	22.6	3.4
Charges for training	8.2	1.2
Totals	30.8	4.6

10.4 Aviation

A voluntary code of practice, “Access to Air Travel For Disabled People”, is being prepared by the Department for Transport, working with the British Air Transport Association (BATA), the Airport Operators Association (AOA), the Association of British Travel Agents (ABTA) and the Disabled Persons Transport Advisory Committee (DPTAC). The Code covers all aspects of air travel; from accessing information through to arriving at the final destination. Several aspects are already covered by Part III i.e. access to travel agents and airports, but the Code goes beyond those to include airlines and the design of aircraft.

The Code includes those activities that would fall within the scope of Part III of the DDA; such as the provision of travel information in accessible formats, booking arrangements for passengers who may require

assistance, providing assistance at the airport and on-board the aircraft. The Code also makes clear that disability awareness and equality training should be provided for all staff involved in the air transport service; travel agents, airport and aircraft cabin staff.

If the Part III requirements are extended to air carriers, the consequent training would be based on the content of the draft code. British Airways has provided an estimate of the costs associated with ensuring that all their staff are trained in their responsibilities to customers. The training would be based on classroom teaching with the following learning objective: "Provide staff skills and confidence they need to ensure that all stages of the journey, from booking to travel, are as easy as possible for all concerned." Specific topics included in the training would be:

- Barriers faced by disabled people, including attitude, environment and organisation
- Principles of access audits
- Suggestions for removing barriers faced by disabled passengers
- Information on the range of disabilities, including hidden disabilities
- The skills needed for escorting, lifting or searching disabled passengers
- Enabling staff to deal with unexpected occurrences
- Communication and interpersonal skills for dealing with disabled people, particularly those with sensory impairments.

The training would need to be tailored according to job function. Thus customer facing and operational staff involved in providing services directly to disabled people would require more detailed training than office based/support staff, where the emphasis would be on understanding the impact that their decisions have on disabled people. On estimating the costs it is assumed that customer facing and operational staff would require a half day programme, and the remaining staff a shorter briefing of approximately two and a half hours. However, most operational and customer facing staff are rostered for a minimum

period of one day; this has been factored into the cost estimate made by British Airways.

The majority items of cost are staff time: approximately £5.4 million for operational and customer facing staff and £0.4 million for office based/support staff, plus the cost of back fill for cabin and flight crew, estimated to be just over £2.5 million. The development and implementation of the training programme over a two year period is estimated to add a further £0.5 million, giving an overall total of approximately £8.8 million, if training costs incurred by other UK air operators are (pro rata) broadly similar to those estimated for British Airways, the total costs of staff training would amount to approximately £22 million.

Staff turnover in air operations is estimated to be seven percent, which would mean a continuing cost, once current staff have been trained of approximately £1.5 million per annum.

Costs To Service Providers: Air Operators

Item	Non-recurring costs (£m)	Recurring costs (£m per annum)
Training of operational, customer facing and office staff	22.0	1.5

This proposed approach would enable the Government to bring air services into the scope of Part III of the DDA if it is found that compliance with the voluntary code of practice is ineffective and the levels of service provided for disabled people are unsatisfactory and lead to discrimination against them.

10.5 Shipping

The requirements under Part III for shipping, particularly ferries, largely mirror those that will apply to air transport. Thus travel information, booking arrangements, assistance at ports and on-board ship should all be available to meet the needs of disabled passengers, and again as with air services there is need for staff training in disability awareness. In 1997 the International Maritime Organisation (IMO) published its

“Recommendation on the Design and Operation of Passenger Ships to Respond to Elderly and Disabled Persons’ Needs”. This document gave basic advice on how the needs of disabled people should be met, including provision of information in appropriate formats and training for crews. In November 2000 DPTAC published its complimentary Guidance on meeting the needs of disabled people on large passenger ships, particularly ferries. This covers the areas mentioned at the start of this section (information, booking etc) including disability awareness training.

Maritime Services will only be brought into the scope of Part III if, following a review of the industry, it is found that the standards of service set out in the DPTAC guidance are not provided and that there is discrimination against disabled travellers. The indications are that the ferry services are complying with the voluntary code as part of their wider customer care services and that there are no significant additional costs arising as a consequence of this.

10.6 Car hire services

The principal way in which these services could assist disabled drivers is by providing cars fitted with simple devices such as push-pull hand controls, foot pedal extenders or steering wheel spinners. The purchase costs of these devices are low, ranging from £28 for a spinner to £265 for push-pull hand controls. They can be fitted and removed quickly and do not require any engineering modifications to be made to the standard car controls.

Major care hire services are already making vehicles available with these controls, though take-up of them has been low to date. Further publicity and making corporate hirers of vehicles aware of this service (for example for any of their staff who may have a permanent or temporary disability) should lead to better utilisation.

A survey carried out by the British Vehicle Rental and Leasing Association (BVRLA) found that the period of advance notice required to make an adapted vehicle available ranged from 48 hours up to (in one case) seven days. Requests for other non-standard items, for example a ski rack, also require 24 to 48 hours notice. It would seem reasonable to expect that the period of notice required for an adapted car should be comparable to that needed for other non-standard items: 48 hours should be sufficient to allow for the controls to be sent and fitted at the location requested or for the vehicle to be taken to a specialist sub-contractor for the fitting.

The BVRLA survey also showed that the insurance position for the rental of adapted vehicles is not consistent from one company to another. In some cases there is no difference to the insurance, but in others there may be an excess charge. However, insurers cannot discriminate against a driver simply because he is disabled; any excess charged should be on the basis of risk category assessment. Disabled drivers using appropriate controls are not known to constitute such a category.

There is very little evidence of the extent to which cars adapted for use by disabled drivers are supplied. Information supplied by DVLA shows that last year 11,500 restricted driving licences were issued out of a total of 5.5 million; approximately 0.2 per cent. Some of these will be for drivers who need vehicles with substantial adaptations, which could not reasonably be required from the vehicle rental industry. BVRLA estimates that approximately ten million vehicle rentals are provided per annum by their members. The Association represents about 85 per cent of the total industry, which would imply total rentals of around 11,750,000. At a rate of 0.2 per cent, this would mean about 23,500 rentals to disabled drivers per annum. What little evidence is available suggests that actual rentals are much lower than this. One of the largest companies in the sector has one adapted vehicle available but this is not fully utilised. This experience is reflected elsewhere in Europe with the best utilisation, again of one vehicle, being 70 per cent in the Netherlands.

It appears to be usual in the UK, though not elsewhere, to charge extra for a vehicle fitted with modified controls, to cover the fitting and rental or purchase of the controls. This could be regarded as discriminatory.

The BVRLA has estimated that on average the additional costs of hiring an adapted vehicle amount to £117, this figure including hiring, arranging carriage of, and fitting the controls. At a take-up rate of 0.2 per cent this would amount to an additional cost per annum of £2,750,000 across the industry as a whole, though for the reasons given above actual take-up is likely to be considerably lower than this, at least in the shorter/medium term.

Cost to service provider – car hire

Item	Non-recurring costs (£m)	Recurring costs (£m pa)
Provision of vehicle with adapted	-	2.0 - 2.8

10.7 Breakdown services

From discussions with the principal national breakdown services, there is already provision made to meet the needs of a disabled driver whose car breaks down. Those services that directly employ their own patrol staff (AA and RAC) give them training in disability awareness and in handling wheelchair users. Green Flag operates through an independent network of recovery operators, rather than with patrols employed direct. Although these operators do not receive disability awareness training from Green Flag, they have experience of dealing with the needs of disabled car users. The organisation is not aware of any case, over the last 30 years, where the recovery operators have been unable to resolve any problems associated with assisting a disabled person whose vehicle has broken down.

In general, approximately 80% of all breakdowns can be repaired at the roadside, so it is only a minority who need onward mobility. Most disabled people can be accommodated in standard recovery vehicles, but there are occasions when this is not possible, usually where the person concerned cannot transfer from their wheelchair. When this happens the breakdown services have special procedures in place. These can include getting the police to cordon off the vehicle so that the wheelchair user can be safely assisted out of his vehicle or, with the customer's consent, recovering the vehicle with him still in it - for example when the vehicle has broken down in a dangerous place.

Where onward transport is required this will be arranged, often by using fully accessible taxis or other appropriate vehicles. Although recoveries of this kind are relatively few in number there are extra costs incurred but these are covered by the breakdown services even where the additional service is outside the terms of the policy held by the customer.

It is not considered that applying Part III requirements would result in any appreciable increase in the costs of breakdown services as most providers already make satisfactory arrangements for meeting the needs of disabled motorists whether they are the driver or the passenger.

11 Impact on small businesses

The majority of taxi, private hire, car rental and hire services companies are small businesses. A substantial number of coach and bus operators are also small, though the industry is dominated by a small number of

very large companies. The other industries (rail, with the exception of heritage operators, breakdown services, aviation and maritime) are mainly composed of large companies with the exception of the travel agency business.

With the exception of the car hire services sector, the requirements placed by the proposed legislation largely concern the provision of appropriate training in disability awareness. The additional costs of this are modest. In the taxi and private hire sector, which has the highest number of small businesses (often just a single person) the costs of attending a training session, including allowance for lost earnings, would be of the order of £140-£180 (approximately), estimated to be around one per cent of gross annual earnings (see 10.3 for cumulative effect on sector). The impact on small businesses in other transport sectors is not expected to be any greater than this.

There could also be benefits to small businesses on the basis that they should be able to increase their potential pool of customers by providing services which are accessible to a greater number of disabled people, together with their friends and families.

12 Replying to the consultation and further information

12 weeks have been allowed for consideration of this consultation, please return your comments by **28 February 2003**

by post to:

Mobility and Inclusion Unit (Part III Consultation)
Department for Transport
1/18 Great Minster House
76 Marsham Street
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SW1P 4DR

or by e-mail to: miu@dft.gov.uk

For further information or to request a copy of this document in an alternative format please contact:

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Consultation List - summary list

Air Operators Association
Airport Forum
Association of British Travel Agents
Association of Train Operating Companies
Association of Transport Co-ordinating Officers
Automobile Association
British Air Transport Association
British Council of Organisations of Disabled People
Chamber of British Shipping
Civil Aviation Authority
Community Transport Association
Confederation of Passenger Transport
Dial-a-Ride and Taxicard Users' Association
Disability Action
Disability Rights Commission
Disabled Persons Transport Advisory Committee
Domestic Passenger Ship Steering Group
Equality Commission (NI)
Her Majesty's Railway Inspectorate
Heritage Railway Association
Joint Committee on Mobility for Blind and Partially Sighted People
Joint Committee on Mobility for Disabled People
London Transport Users Committee
Maritime Coastguard Agency
MENCAP
National Association of Taxi and Private Hire Licensing &
Enforcement Officers
National Federation of Bus Users
National Private Hire Association
National Taxi Association
National Union of Rail, Maritime and Transport Workers
Passenger Transport Executives
People First
Rail Passenger Council
Network Rail
Royal Automobile Club
Society of Motor Manufacturers and Traders
Strategic Rail Authority
The Royal Association for Disability and Rehabilitation

Train Operating Companies
Transport & General Union