



The Government's Response
to the Transport Committee's
Report on Disabled People's
Access to Transport



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Presented to Parliament by the
Secretary of State for Transport
by Command of Her Majesty
May 2004

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THE GOVERNMENT'S RESPONSE TO THE TRANSPORT COMMITTEE'S REPORT ON DISABLED PEOPLE'S ACCESS TO TRANSPORT

INTRODUCTION

1. This memorandum provides the Government's response to the Sixth Report of the Transport Committee (HC 439). The Committee's report was based on evidence taken from Tony McNulty MP, Parliamentary Under Secretary of State for Transport, the Disabled Persons Transport Advisory Committee, the Disability Rights Commission and the Leonard Cheshire Foundation on 19 November 2003.
2. We welcome the Committee's report and their acknowledgement of what the Department for Transport has achieved to date.
3. The following responds to the conclusions and recommendations in the Committee's report, which are quoted in bold type.

RESPONSE TO RECOMMENDATIONS

4. We welcome the fact that **"there is quite a lot going right in the UK", in terms of ensuring an accessible transport system. However, it is clear that it will take some time before we have a fully accessible system; we should recognise the United Kingdom's achievements in this area, but should not use that as an excuse for complacency. (Paragraph 11)**

The Committee's acknowledgement of the significant progress already made in relation to the provision of accessible public transport is welcome. Whilst recognising that much has already been achieved, the Government is certainly not complacent and remains committed to delivering a transport system in which disabled people have the same opportunities to travel as other members of society.

More needs to be done and the proposals included in the draft Disability Discrimination Bill are aimed at addressing the remaining legislative shortcomings in the provision of accessible transport services.

5. We consider that it is **vital that transport services are brought within the scope of Part 3 of the Disability Discrimination Act 1995. It is repellent that it is currently permissible for transport providers to discriminate against someone solely because of disability, and this should be changed. We were told that people in wheelchairs could be refused entry to an accessible bus, and that this did happen. It should be clear that this is not permissible. We also support the Government's intention to bring aviation and shipping within the scope of the law if voluntary codes of practice are ineffective in securing disabled people their rights. (Paragraph 13)**

We fully support the Committee's view that transport services should be brought under the scope of Part 3 of the Disability Discrimination Act 1995 (DDA) and the draft Disability Discrimination Bill includes a regulation making power to enable us to remove the exemption. This would allow us to apply particular provisions from Part 3 relating to the provision of goods, services and facilities to different types of transport services at different times.

The provisions in the draft Disability Discrimination Bill would also enable us to bring aviation and shipping within the scope of Part 3 should the current voluntary approach prove ineffective. Work to monitor compliance with those codes is already underway and reports are expected during 2005.

6. We need to remember that measures which help disabled people actually make life easier for everyone. The challenge is how to manage the transition to a fully inclusive system. (Paragraph 14)

We fully recognise the benefits of inclusive design to society as a whole. The introduction of the final access duties under Part 3 of the DDA in October this year (2004), which will require adjustments to be made to physical features, will further mainstream inclusive design in transport infrastructure and, through that, contribute to social inclusion. The technical requirements contained in the regulations made under Part 5 of the DDA, in respect of public service vehicles and rail vehicles, also mean that more and more vehicles are now accessible to disabled people, and are therefore providing improved access to public transport for all members of society.

7. It was clear when the Government gave evidence to us that their intention was to use the regulation making power to gradually remove particular services, or particular types of transport, from the exemption. We have no problem with this approach. However, we have not been able to examine:

- exactly what will be achieved by the wording on the face of the draft Bill itself;
- which services will be made subject to the general law about discrimination by regulations; and
- the order in which services will be brought within the scope of Part 3 of the DDA.

We think the Explanatory Notes and Regulatory Impact Assessment should have been clearer on this point. We urge our colleagues on the Joint Committee to explore the Department's plans to remove the new exemption; in particular, it would be useful to know which services are to have the exemption lifted in the near future, and the likely timescale for such changes. (Paragraph 20)

Clause 3 of the draft Disability Discrimination Bill would amend the existing transport exemption to make it clear that it only applies to transport vehicles and not to transport infrastructure. The clause would also create a flexible regulation making power to enable the new exemption to be lifted in whole or in part for different transport vehicles at different times. In particular, it is the Department's policy to apply the provisions dealing with gratuitous discrimination, policies, procedures and practices, and those auxiliary aids which do not require physical alteration (Part 5 of the DDA already allows for the provision of accessibility regulations) to particular transport vehicles.

In evidence to the Joint Scrutiny Committee, we affirmed our proposal to lift the transport exemption for public transport (buses, coaches, rail vehicles, taxis and private hire vehicles) and for car hire and breakdown services as soon as practicable following Royal Assent. To that end, we propose to consult on draft regulations covering those transport modes when the Disability Discrimination Bill is formally introduced.

8. We fully support the aims of the legislation, but when changes of this sort are to be made by regulations, it is important that those directly affected are given sufficient notice of the changes to adapt. This does not mean simply delaying change, but actively publicising proposed changes to the law, and raising awareness of what they mean. (Paragraph 21)

We would propose that the Disability Rights Commission (DRC) produce a Code of Practice on the new legislation for the transport sector as it has done for service providers more generally. Although it would be for the DRC to determine how the Code would be produced, we would expect industry representatives to be involved and that consultation on the draft Code would include major stakeholders.

To allow sufficient time for industry to prepare for the new duties, we might reasonably expect the Code to be issued around 12 months in advance of the exemption being lifted. It is important to note that the majority of transport service providers advise us that they already act as though Part 3 of the DDA applies to them. We do not therefore envisage that these new duties will represent a significant additional burden.

9. We hope that the Joint Committee will consider what is the best way to increase certainty. We can see two options:

- **Ministers could use the existing powers in the Disability Discrimination Act to define in regulations what differences in the treatment between the disabled and able-bodied are justified;**
- **any Code of Practice relating to transport (and possibly in other circumstances where significant expenditure might be incurred) should be subject to the affirmative rather than the negative procedure.**

Other, better, solutions may occur to our colleagues. (Paragraph 25)

We have noted the Committee's recommendations and await the Joint Scrutiny Committee's views on this proposal.

10. We hope that the Joint Committee will consider how best to handle the phasing in of training for those already employed in the transport industry. (Paragraph 29)

Training will not be an explicit requirement of the draft Disability Discrimination Bill but we expect the sector will recognise that disability awareness training will help them to meet their duties under Part 3 of the Act when the exemption is lifted. For that reason, training was identified as a critical element in the Regulatory Impact Assessment.

11. The RNIB and Mencap drew attention to the need for disabled people themselves to receive travel training, and the difficulties of ensuring this within an integrated school system. This goes wider than our remit, but we hope that the Department and organisations involved will work together to ensure that disabled people get the training they need. (Paragraph 30)

We recognise the importance of travel training and encourage transport industries to provide familiarisation sessions for disabled people.

We have been supporting a travel-training programme for children with learning disabilities. A seminar was held in March for central and local government, transport providers, disability organisations and others involved in the sector to share its findings and provide a discussion forum on the issues. A leaflet is also being produced to be disseminated to a wider audience.

12. It is easier and cheaper for everyone if accessibility is built in to services from their design and inception, rather than being added in expensively later. If this is to happen, management needs to be aware of accessibility issues, and those responsible for designing buildings, vehicles and infrastructure should be trained to ensure that their designs do not inadvertently exclude disabled people. (Paragraph 31)

We recognise the importance of training the architects, designers and engineers of the future in meeting the needs of disabled people. To that end, we have supported the Disabled Persons Transport Advisory Committee's 'Future Inclusive' competition which is aimed at under-graduate students and lecturers, rewarding those who display a clear knowledge of, and who promote, inclusive design.

We have also published 'Inclusive Mobility' a best practice guide on access to pedestrian and transport infrastructure to provide advice and solutions to access difficulties in existing transport infrastructure, such as railway and bus stations, and the pedestrian environment which are already covered by Part 3 of the DDA.

13. Whether or not it is reasonable to expect all rail passengers who need assistance to book in advance, and whether or not it is reasonable to expect assistance to be given at all stations, is precisely the sort of matter which should be made clear by the Government, and not left to the discretion of the courts. (Paragraph 35)

Part 3 of the DDA already covers access to railway stations and we would expect the issue of advanced booking to be covered in the Disability Rights Commission's Code of Practice.

14. The rail system should be made accessible as soon as practicable; it is not acceptable for disabled people to have to wait for 20 or 30 years for this to happen. We recommend that our colleagues on the Joint Committee ask Ministers about the relationship between their consultation on an end date for rail accessibility and the SRA's own policy. (Paragraph 36)

All new trains since 1 January 1999 have had to comply with the Rail Vehicle Accessibility Regulations 1998 (RVAR). These Regulations specify a high standard of access for disabled people. Over 1,400 compliant carriages have been introduced in the last 2½ years with another 1,000 becoming available over the next 18 months. In addition, we should not lose sight of the fact that many older trains, while not meeting full RVAR standards, already have wheelchair accommodation and other features to assist disabled people.

The proposals on which we have recently consulted concern not only an "end date" by which time all rail vehicles must comply with the RVAR but also the introduction of accessibility regulations which would apply to vehicles which are being refurbished. We have considered the responses to the consultation but have not yet taken a final decision on the "end date". We are currently looking at the costs and benefits of a range of options. Subject to the outcome of that exercise, we intend to include the necessary measures in the Disability Discrimination Bill when it is formally introduced and to consult on the draft regulations needed to implement the proposals at that time.

15. We believe that the accessibility of the rail system itself is what needs to be secured. In the short to medium term, the suitability of the rolling stock on particular lines will be more important than the accessibility of the stock throughout the system. We recommend that all those responsible for the railway industry should take steps to ensure that, if a station itself is accessible, it is served by accessible trains. (Paragraph 37)

We have noted the Committee's position but suggest that it is not always possible, or indeed practicable, to ensure such alignment of access provision. For example, a station might be served by a number of companies each operating a range of rail vehicles of varying ages and levels of accessibility. It might not, therefore, be economically viable to introduce RVAR compliant rolling stock in line with the improvements to the station.



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