

Code of Practice: an introductory outline

**Supplement to Part 3 Code of
Practice**

**Provision and use of transport
vehicles**

Introduction

The Disability Discrimination Act 2005 and regulations made under it makes a number of changes to the Disability Discrimination Act 1995 (DDA). In particular it extends the law to the use of transport vehicles – buses, trains, taxis, and more.

The Disability Rights Commission (DRC) is writing a Code of Practice to help explain the effect of this change. A draft of the Code has been published for consultation and the DRC is asking for comments about it. This summary provides a simple introduction to the issues in the draft Code of Practice.

What is the Disability Discrimination Act (DDA)?

The DDA is legislation which protects the rights of disabled people. Although the Act was passed by Parliament in 1995, different sections of it have been implemented and added at later dates.

The DDA has five parts:

1. Definition of disability
2. Employment and occupation
3. Access to goods, facilities, services and premises
4. Education
5. Access standards for public transport
- 5A. Disability equality duty on the public sector

The DDA requires people who provide services not to discriminate against disabled people, and to make 'reasonable adjustments' to make their services accessible to disabled people.

The law is complicated and the DRC has published Codes of Practice to help interpret Parts 2, 3, 4 and 5A of the Act.

Transport and the DDA

Transport services fall within Part 3 of the DDA. However, in 1995 there were very few public transport vehicles which were accessible to disabled people, especially wheelchair users. So Parliament excluded transport vehicles from this Part of the Act.

Regulations passed under Part 5 since 1995, have led to growing numbers of new accessible vehicles coming into service on Britain's roads and railways. The DDA 2005 therefore enables the Government to pass regulations to lift the exemption for certain vehicles. These will probably come into effect at the end of 2006.

The Transport Code

The DRC has published a Code of Practice to Part 3 which covers goods, facilities and services. The DRC's Transport Code is a supplement to this and helps to explain the effect of including transport vehicles within the DDA.

However, because those parts of transport services which are not about the use of a vehicle are already covered by Part 3 of the DDA it is necessary to read the original Code as well as the Transport supplement.

Transport services already covered by Part 3 of the DDA

The DDA covers what is generally described as 'transport infrastructure'. The sorts of activities covered by this are likely to include:

- the sale of tickets (including ticket machines)
- transport information in all forms (including timetables, station announcement systems and screens, information phone lines and websites)

- the physical environment of stations from entrance to the platform or bus stop
- the services of transport staff at the station or at a travel information centre.

What additional transport services will now be covered by Part 3 of the DDA?

The change to the law will mean that from the end of 2006 the DDA will now cover the use of the vehicle itself. This will include getting on and off and the service received while travelling on it. It will also cover the provision of car hire vehicles and breakdown services.

These duties will apply to the following vehicles:

- Buses and coaches
- Taxis and private hire vehicles
- Trains
- Trams and light railways
- Rental cars
- Breakdown recovery vehicles

At present there are no plans to include planes and ferries within the new duties, although the power to do so at a later date is included in the DDA 2005. However, the service infrastructure, such as airports and ferry ports, is already covered by existing Part 3 duties. The Government has published voluntary Codes of Practice for airlines and ferry operators.

What is discrimination under the DDA?

Under the DDA it is unlawful to discriminate against a disabled person. Discrimination is defined by Part 3 of the DDA as:

- refusing or deliberately not providing a service to a disabled person because they are disabled

- offering a service at a lower standard to a disabled person because of their disability
- offering a service on different terms to a disabled person because of their disability
- failing to make a reasonable adjustment for a disabled person.

The DRC's Transport Code gives practical examples of what this means in transport situations.

It is important to remember that many impairments covered by the definition of disability within the DDA are hidden impairments. Transport staff should be made aware that many disabilities may not be obviously visible.

What are reasonable adjustments?

Part 3 of the DDA says that people providing transport services must make reasonable adjustments to their services so that they are accessible to disabled people. This duty is 'anticipatory' and transport providers should expect that disabled people will be getting on, travelling on and getting off their vehicles. They should consider what adjustments might be needed and put the necessary arrangements in place without waiting to be asked.

The DDA requires transport providers to take reasonable steps to:

- change a policy, practice or procedure which makes it impossible or very difficult for a disabled person to get on or off a vehicle, or to use any services on the vehicle (for example, a buffet car)
- provide an auxiliary aid or service (broadly, any kind of extra help) to a disabled person so that they can get on, travel on and get off a vehicle or use any services on the vehicle.

In addition providers of rental cars and breakdown services may be expected to make changes relating to physical barriers preventing disabled people from using their vehicles.

Rental vehicles: companies providing rental vehicles will have to take reasonable steps to remove, alter or avoid a physical feature which prevents a disabled person using a vehicle, or find a reasonable and different way of offering their service.

Breakdown recovery vehicles: breakdown recovery companies will have to overcome physical features which present barriers to disabled people by providing the service in a reasonable alternative way.

How does a transport provider identify where an adjustment is needed?

There are some adjustments which will be quite obvious and in many cases are already being provided for disabled customers. Transport providers should also draw on their knowledge and experience of how the DDA affects the parts of their service that are already covered.

Transport providers should ask disabled passengers what they think about their services and ask for their suggestions. They can also consult the many organisations which represent disabled people.

It is important to remember that a transport provider is expected to make only those adjustments which are 'reasonable'. Deciding what is reasonable means taking account of the type of service being provided, how far the adjustment will benefit the disabled customer and the size and resources of the company.

The DRC's draft Code contains several examples to illustrate 'reasonable adjustments'.

Who must observe the DDA?

The duties under the DDA apply to all levels of staff within transport services. All staff – from senior managers to the drivers and information staff – must be aware of their duties. The duties of the DDA will also apply to sub-contractors and agents acting on behalf of the transport provider.

How the new duties will affect transport providers

Transport providers will have to look at the way they offer services to disabled people when they are getting on and off vehicles and while they are travelling. They will need to consider whether these services are accessible for disabled people and what adjustments they could reasonably make so that vehicles are accessible. The cost of such adjustments cannot be charged to disabled people alone; they must be spread across the business.

What steps should transport providers take?

All companies providing transport vehicles should:

- draw up a policy on including disabled people in their services, and regularly review it
- make staff aware of their responsibilities under the DDA and provide them with training in serving disabled customers and how the DDA relates to their role
- adopt a complaints procedure which is accessible to disabled people
- consult disabled customers and staff about their experiences and ask how they would like the service improved.

When can a transport provider justify less favourable treatment or declining to make an adjustment?

Under certain circumstances it is lawful for a transport provider to treat a disabled person less favourably or fail to make an adjustment.

A transport provider can justify less favourable treatment or refusing to make an adjustment when the result would endanger the health and safety of anyone. It may also be lawful if the disabled person is unable to enter into a contract with the service provider.

The DRC Transport Code contains examples of where it may be possible to justify discrimination.

The Disability Rights Commission (DRC) is an independent body, established by an Act of Parliament to work towards the elimination of discrimination faced by disabled people and to promote the equalisation of opportunity for disabled persons.

The full text of the draft supplementary Code and a Questionnaire about its contents are available online at the DRC website: www.drc-gb.org

For copies of the draft Code/Questionnaire or copies in accessible formats please contact the DRC Helpline:

Telephone: 08457 622 633

Textphone: 08457 622 644

DRC website: www.drc-gb.org

Please respond to the consultation by 19 August 2005.

If you require this publication in an alternative format and/or language please contact the Helpline to discuss your needs. It is also available on the DRC website:
www.drc-gb.org

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