



BRIEFING PAPER

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Access to transport for disabled people

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Summary

This paper explains the legislative frameworks and policies that apply to public transport users with disabilities or reduced mobility.

The main UK legislation is consolidated in the *Equality Act 2010*, but much of the law as it relates to the treatment of disabled passengers and the services they can expect derives from various EU legislative instruments.

The UK is rapidly approaching the point where all buses, coaches and trains must be accessible to disabled people (January 2020) and in many cases these vehicles already meet the requirements. Taxis are also accessible in many parts of the country, though non-metropolitan urban areas and rural areas lag somewhat behind. There are also duties on air travel and sea travel providers to ensure that disabled people can access their services and expect a certain level of accommodation to their needs, though they can be denied travel on safety grounds.

Many day-to-day problems for disabled people stem from confusion over the rules, poor or insufficient communication, inadequate training, and/or a lack of enforcement. Issues where these concerns overlap include the provision of assistance on vehicles and at stations; the carriage of mobility scooters; and buggies and prams using wheelchair spaces on buses.

In August 2017 the Government published a draft *Transport Accessibility Action Plan* for consultation; followed in July 2018 by its *Inclusive Transport Strategy*, setting out how it wants the transport industry to move forwards in improving accessibility and how it intends to help the industry achieve this. It includes a number of actions to be achieved between 2018 and 2020.

There are a number of organisations working to improve transport provision for disabled people and seeking to influence government policy. The [Equality Advisory and Support Service \(EASS\)](#) can provide expert information, advice and support on discrimination and human rights issues and the applicable law.

Information on other transport issues affecting disabled people, such as the Blue Badge parking scheme and the Motability vehicle scheme, can be found on the [Transport Briefings Page](#) of the Parliament website.

1. Overview

The consolidated legislative framework on transport and disability is set out in Part 12 of the [Equality Act 2010](#). This covers taxis, buses and coaches, and trains. It is supplemented by Part 3 of the Act, which covers the equality duty for goods, services and facilities.¹

These measures were initially legislated for in the [Disability Discrimination Act 1995](#), as amended by the [Disability Discrimination Act 2005](#), and the Regulations made under it.

In rail, buses and coaches, aviation and sea travel, domestic legislation also implements EU legislation.

1.1 What do disabled people think about access to transport?

General findings

In November 2017 the Department for Transport (DfT) published the results of research into disabled people's travel behaviour and attitudes to travel.

The key findings were as follows, with regards to **travel behaviour**:

- It is well-established that people with disabilities **travel less and for different purposes** compared with people without disabilities. However, the population of people with disabilities is **far from homogenous** in its behaviour.
- The **nature and type of an individual's disability** links with their travel behaviour, often in ways which make logical sense. Having sight difficulties makes the possession of a driving licence less likely, while increasing the use of public transport, rather than driving. Similarly, those with disabilities which cause them difficulties with a greater number of transport modes tend to travel less (as would be expected – given they would have fewer travel options available).
- It is important to understand the relationship between disability and travel behaviour in the context of the distinct **age profile of people with disabilities**. The amount and purposes of travel undertaken change for all groups as they age – but the particular patterns of change mean that people with and without disabilities are most alike when aged under 50 (in terms of the amount of travel) but most alike when aged 70+ (in its purposes). It simply isn't the case that the behaviour of people with and without disabilities converge or diverge with age.²

On **factors that affect** travel behaviour:

- Disability is a key characteristic that links to and determines travel behaviour, even when its relationships with other characteristics have been controlled for. Being disabled

¹ further information on this can be found in HC Library briefing paper [SN1749](#)

² DfT, [Disabled people's travel behaviour and attitudes to travel](#), 13 November 2017, p9 [emphasis added]

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links with **more negative or problematic experiences of travel**, along with more limited perceptions of viable alternatives.

- Within this broad picture, it is important not to view people with disabilities and their experiences with different modes and aspects of transport, as homogenous.
- Specific **types or grades of disability** are associated with very different travel behaviour and experiences. Being disabled does not always lead to less frequent use (and more problems using) particular modes of transport; bus use stands out in this regard, with people with disabilities being more likely to travel by bus and more prone to view this as a viable alternative to car journeys (compared to other transport modes). Nevertheless, even with buses, the experience of having a disability limits or prohibits use of this mode for a significant minority.
- There is some evidence that people with disabilities' **experiences of travel impact on their wider daily lives**, although further research in this area would be valuable.³

And on the **effect of location and life-stage** on travel behaviour:

- **Travel behaviour varies substantially by area** and, to a lesser extent region, for people with and without disabilities. In most regards, travel behaviours also appear to change **across the life-course**.
- For people with disabilities, **location tends not to affect the impact** their disability has on their travel behaviour (for people without disabilities, the type of area in particular does tend to have an impact).
- The **process of ageing** appears to impact differently on the travel behaviour of people with and without disabilities. The process of ageing affects the public transport use of people with and without disabilities – leading to an increase for the latter group and a decrease for the former, while ageing leads to a reduction in miles driven annually for people with disabilities (but no significant change for people without disabilities).
- To ascertain whether these themes are applicable to all travel behaviour and attitudes, modes and contexts, further research, in relation to a broader range of travel behaviours, is recommended.⁴

In April 2017 the Equalities and Human Rights Commission (EHRC) published a report about how disabled people fair in the UK. On transport it said:

Transport options for disabled people are very limited because of the need to use only transport forms that are accessible, and these tend to be expensive. Disabled people report feeling 'trapped' by these high costs and limited options. Cuts to concessionary fares and local transport services have left some disabled people isolated (JCHR, 2012) [...]

There are also attitudinal or psychological barriers that prevent or discourage disabled people from using transport services. This

³ Ibid., p17 [emphasis added]

⁴ Ibid., p30 [emphasis added]

could involve the behaviour and attitudes of some transport staff or concerns that people have about using transport, such as fear of crime, abuse or attack (SATA, 2015).⁵

In October 2018 Scope published a report on the experiences of disabled people, one of the issues examined was inclusive public transport. It included data from research conducted with Britain Thinks, which found that one in four disabled people said that in the previous year they had been prevented from using public transport by other people's attitudes and that the unpredictability of transport – especially when partnered with unpredictable or fluctuating conditions – presented a major barrier.⁶

Individual experiences

The Guardian's Inequality Project 'Disability Diaries', published in November 2017, gave some qualitative evidence from disabled people about their transport experiences:

Hassles with public transport are a common theme – such as the extra half-hour Nina Grant has to set aside to reach any destination, as she navigates the London tube network. "I'm lucky I live just one bus ride away from an accessible tube station," writes Grant, 31, who has Ehlers-Danlos syndrome, another connective tissue disorder, and uses a power wheelchair [...]

In one diary entry, [Shona] Cobb chronicles a train journey from Leeds to Hull. It is the first time she has ever taken the train at night by herself: "My assistance didn't turn up so everyone rushed on the train and filled the wheelchair spaces while I hunted down the guard for the train," she writes. No one would move for her, so she ended up squeezing into a corner near the toilet for an hour: "It wasn't exactly a safe way for me to travel, but I had no choice."

For [Sam] Fowkes, overcrowding on our rail networks presents him with a painful predicament on his daily commute in the West Midlands. Because his cerebral palsy is largely "invisible" ("unless you were looking, you wouldn't know I was disabled"), he worries about asking commuters for a seat. "I'd have to try to explain my disability in front of a lot of people on the train, which would be massively uncomfortable – even forgetting the times I've been verbally and physically abused in the past," he writes [...]

Travelling around the country is little better for people with non-mobility-related disabilities. [Craig] Gilding uses public transport frequently, but describes it as "a nightmare" for those like him with hearing problems. "If you have to speak to someone on train stations, say, you have these big help buttons – ring if you need assistance ... I can't hear a thing."⁷

In February 2018 Transport for All published a blog by trustee Jeff Harvey, explaining problems accessing the London transport network:

I love to travel by train. Unfortunately, only 1 in 5 stations are fully accessible around the country. If I want to take a trip, I have to find the nearest accessible station, then find out how to get from

⁵ ECHR, *Being disabled in Britain: A journey less equal*, 3 April 2017, pp124-5

⁶ Scope, *Independent. Confident. Connected. Achieving equality for disabled people*, 11 October 2018, p20

⁷ "What is life really like for disabled people? The Disability Diaries reveal all", *The Guardian*, 15 November 2017

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that station to my destination. If it's a cab, I have to book well in advance to make sure my chair will fit in (I'm tall, and my electric chair is larger than average). If it's a bus, I have to make sure it's accessible. Most train companies also ask wheelchair users to book 48 hours in advance. It makes things so much more difficult. **"Turn up and Go" policies which don't require advance booking are essential**; without it, travelling can be too difficult and too much risk to get stuck somewhere. If a broken bus ramp makes me 10 minutes late for a train, it can have a knock on effect for every booked assistance for departure, changes and arrival. **Imagine it's a nice summer day and your friends decide to take a train to the coast for a quick fun trip and they invite you. You can't go because you didn't book assistance 24/48 hours earlier.**⁸

In its October 2018 report Scope recounted 'Steph's story':

As a wheelchair user, I use trains frequently to go to work and to socialise. But, of course, the one thing that I'm constantly aware of when travelling is accessibility.

I have to plan my journey before I go anywhere in ways that non-disabled people don't need to, and I rely on the services of train companies to get me to my destination without a hitch but this isn't always the reality.

There have been several times when I have booked assistance with a train company and a member of staff has failed to meet me at the station, leaving me panicked because I don't know whether they will come and take me off before the train departs.

The attitudes of staff towards disabled people who travel by train are important too. I'm not an object, so don't call me a 'wheelchair'. Instead, use the term 'wheelchair user', it's far more appropriate.

We want to feel empowered, respected and valued just like non-disabled people. There's progress that is being made, but there is so much more that needs to be done.⁹

1.2 Brexit

In EU legislation there has been a 'patchwork' approach across transport modes towards disabled people and 'persons of reduced mobility' (PRMs). The UK's long-established domestic rules have gradually been supplanted by European ones in rail, bus and coach, air and sea (ferries and cruise ships).

The Government has indicated during debates on specific mode-related parts of EU legislation in this area that this has no intention of diminishing the rights of disabled people. For example, in March 2017 with regards to bus driver training, the then Transport Minister, Andrew Jones, said that "even after we have left the European Union, our policy objective of ensuring that bus drivers are equipped with the knowledge

For information on Brexit and transport, see HC Library briefing paper [CBP 7633](#).

⁸ "[TfA Trustee Jeff Harvey shares the issues he faces while travelling in London](#)", *TfA blog*, accessed 14 February 2018 [emphasis in original]

⁹ Op cit., [Independent. Confident. Connected. Achieving equality for disabled people](#), p21

and skills to assist disabled passengers will not change. That obligation will not be removed".¹⁰

In February 2018 the European Commission published a Notice to Stakeholders on consumer protection and passenger rights. This explains how EU passenger rights would apply after Brexit once the UK is a third country under the relevant legislation, for example, certain PRM rights, such as assistance by air carriers, would continue to apply to air passengers departing from an UK airport to an EU27 airport if the operating carrier is a Community air carrier.¹¹

1.3 Inclusive Transport Strategy, July 2018

Although there have been measures in individual transport Acts about ensuring or reinforcing the accessibility of public transport and/or the transport network, the bulk of the UK's legislation rests in the *Equality Act 2010*, which itself derived from older legislation.

The Government published a draft transport accessibility action plan for consultation in August 2017. The then Minister, Paul Maynard, said in his foreword to the draft plan that the overall strategy was to "address the gaps in existing provision of transport services which serve as a barrier to people with disabilities".¹²

In July 2018 the DfT published the result of the draft and the accompanying consultation, the *Inclusive Transport Strategy*, intended to "improve accessibility across all types of travel for those with both visible and less visible disabilities".¹³ It explained that the Government had:

... moved from an Accessibility Action Plan to a more holistic Inclusive Transport Strategy, encompassing a wide range of measures to support people with both visible and less visible impairments [...] the Strategy's five main themes [are]:

- Awareness and enforcement of passenger rights - raising awareness of the obligations on transport operators, the processes for raising concerns or complaints and working with regulators to hold operators to account.
- Staff training - ensuring that transport staff (frontline and managerial) understand the needs of disabled people with physical, mental, cognitive or sensory impairments, and can provide better assistance.
- Improving information - ensuring that transport operators provide travel information in formats that all passengers can easily access and understand, before and during a journey.

¹⁰ [PBC Deb 16 March 2017, c107](#)

¹¹ EC, [Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules on Consumer Protection and Passenger Rights](#), February 2018, pp5-6

¹² DfT, [Accessibility Action Plan Consultation: A Transport System that is open to everyone](#), 24 August 2017, p6

¹³ DfT press notice, ["Next steps towards a fully inclusive transport network"](#), 25 July 2018

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- Improving physical infrastructure - ensuring that vehicles, stations and streetscapes are designed, built and operated so that they are easy to use for all.
- The future of inclusive transport - ensuring that technological advances and new business models provide opportunities for all, and that disabled people are involved from the outset in their design.¹⁴

It also set out the Government's intention to launch a public awareness campaign in 2019 to "promote ways of positively interacting with disabled people in order to ensure a supportive travelling experience and reduce instances of disability related hate crime on transport".¹⁵

Individual action items are set out in the relevant sections, below.

1.4 Equality Act and the Disability Discrimination Acts

Part 12 and Schedule 20 to the [Equality Act 2010](#) replicate provisions in the 1995 Act, as amended, pertaining to taxis, public service vehicles and rail vehicles. Most of these provisions are straightforward replications (though in some cases in slightly different language) of the 1995 Act. They were included in the 2010 Act in order to bring together in one place the transport infrastructure and vehicle access provisions contained in Parts III and V of the 1995 Act.

There were two noteworthy changes related to taxis and maritime transport, both of which are touched on in the relevant sections below.

The original Bill that became the [Disability Discrimination Act 1995](#) did not contain any provisions for increased access to transport for disabled people. At Commons Third Reading and Report stage of the Bill on 28 March 1995, three new clauses were introduced which provided for disabled access to any new public transport systems:

- New Clause 11 gave power to the Secretary of State to amend the *Road Vehicles (Construction and Use) Regulations 1986* (SI 1986/1078) and other such regulations to provide for prescribed standards of accessibility for disabled people in all new public transport systems;
- New Clause 13 required door-to-door transport to be provided by local authorities for those unable to use other forms of public transport; and
- New Clause 18 related to public transport design.

The then Conservative Government did not accept the new clauses as drafted but during the debate, the then Minister for Social Security and Disabled People, William Hague, said that at a later stage in the passage of the Bill, the Government would include new requirements for access to transport for disabled people. He gave assurances that:

In the light of the representations that have been made and the arguments that have been advanced, the Government are

¹⁴ DfT, [The Inclusive Transport Strategy: Achieving Equal Access for Disabled People](#), 25 July 2018, p9

¹⁵ *Ibid.*, para 5.5

preparing to introduce provisions at a later stage in the discussion of the Bill, to amend existing legislation or, where necessary, to introduce new powers covering buses, trains, coaches, trams, taxis, and underground systems—even trolley buses, if such systems are introduced in future.¹⁶

Seven new clauses on taxi accessibility were added to the Bill during Committee stage in the House of Lords on 15 June 1995.¹⁷ On 27 June the Government put forward proposals for dealing with access to buses, coaches and rail services.¹⁸ These became sections 32-39 and 40-49 respectively of Part V of the 1995 Act. Some further amendments were introduced at Report stage to clarify points in the new clauses.¹⁹

The Bill that became the *Disability Discrimination Act 2005* was published in draft in December 2003. It was subject to pre-legislative scrutiny by a Joint Committee of both Houses of Parliament.²⁰ The Commons Transport Select Committee took evidence from various organisations in November 2003 before the draft Bill was published so that it could draw any matters which seemed noteworthy to the attention of the Joint Committee.²¹ It published a further report on disabled people's access to transport in March 2005.²²

The Bill was introduced in the House of Lords on 25 November 2004. Clauses 5 to 9 covered transport topics and included provisions that did not appear in the draft Bill, in particular clauses 6 to 8 (rail vehicles) and clause 9 (disabled parking badges). It received Royal Assent on 7 April 2005, just before the 2005 General Election. The Act provided that the exemption from sections 19 to 21 of the 1995 Act (which dealt with the provision of goods, facilities and services to the public) for transport services would extend only to transport vehicles themselves, and created a power to enable that exemption to be lifted for different vehicles at different times and to differing extents. It extended the provisions to other transport modes such as air and sea, and amended the provisions concerning rail vehicle accessibility.

¹⁶ [HC Deb 28 March 1995, cc852-869](#)

¹⁷ [HL Deb 15 June 1995, cc2034-54](#)

¹⁸ [HL Deb 27 June 1995, cc714-724](#)

¹⁹ [HL Deb 20 July 1995, cc440-476](#)

²⁰ Joint Committee, *Draft Disability Discrimination Bill*, HC 352, 27 May 2004; and *The Government's Response to the Report of the Joint Committee on the Draft Disability Discrimination Bill*, Cm 6276, 15 July 2004

²¹ Transport Committee, *Disabled people's Access to Transport* (sixth report of session 2003-04), HC 439, 23 March 2004; and *Government response to the sixth report of the Transport Committee*, Cm 6184, May 2004

²² Transport Committee, *Disabled People's Access to Transport: A year's worth of improvements?* (third report of session 2004-05), HC 93, 4 March 2005

2. Railways

Much of the law as it relates to railways derives from EU law, specifically [Directive 2008/164/EC](#), which applies Europe-wide standards of rail accessibility; and [Regulation 1371/2007/EC](#) on rail passenger rights and obligations. UK domestic law is scattered across primary and secondary legislation as set out below.

In September 2017 the European Commission published a proposal to update the EU rules in five areas. Specifically:

1. Uniform application of the rules: long distance domestic and cross-border urban, suburban and regional services can no longer be exempted from the application of passenger rights rules. Today, only 5 Member States fully apply the rules, while others have put in place varying degrees of exemptions. This significantly deprives passengers from their rights.

2. Information and non-discrimination: improved provision of information about passenger rights, e.g. by printing it on the ticket. Passengers who use connected services with separate tickets must be informed on whether their rights apply to the whole journey or only to the different segments. Discrimination on the basis of nationality or residence is prohibited.

3. Better rights for persons with disabilities or reduced mobility: mandatory right to assistance on all services and full compensation for loss or repair of mobility equipment. Relevant information has to be given in accessible formats and rail staff must receive disability awareness training.

4. Enforcement, complaint-handling procedures and sanctioning: clear deadlines and procedures for complaint handling and clear responsibilities and competencies of national authorities responsible for the application and enforcement of passenger rights.

5. Proportionality and legal fairness: a "force majeure" clause will exempt rail companies from having to pay compensation in the event of delays caused by natural catastrophes, which they could neither foresee nor prevent. Under the current rules, rail companies have to pay compensation even when faced with such events.²³

This is at a relatively early stage of consideration.²⁴ As set out in section 1.2, above, its status as far as the UK is concerned will depend at least to some degree on whether it comes into force before the UK leaves the EU in March 2019 or during any subsequent transition period. The Commons European Scrutiny Committee looked at the proposal in December 2017. It noted the Government's support for the proposal's objectives but stated that there was "a distinct lack of clarity regarding the impact that the proposed Regulation will have in the UK". The Committee asked for:

- clarification regarding whether, when the Regulation ceases to be directly applicable to the UK, there could

²³ EC press notice, "[Commission modernises European rail passenger rights](#)", IP/17/2009, 28 September 2017

²⁴ You can follow the progress of the proposal (2017/0237(COD)) on the [EU Legislative Observatory](#)

under any circumstances be a reduction in any of the protections the proposed Regulation would otherwise afford to UK citizens and/or their enforceability;

- clarification of whether, when the Regulation ceases to be directly applicable to the UK, UK railway undertakings will be subject to reduced legal obligations to EU citizens to whom they sell tickets and provide services, meaning that EU citizens would have reduced rail passenger rights in the UK; and
- an account of what impacts and implications exiting the EU raises specifically for stakeholders in Northern Ireland, given that a number of Northern Ireland-Republic of Ireland services are in operation, and (unlike the rest of the UK) Northern Ireland Ministers opted not to continue to apply the exemptions in 2014.²⁵

2.1 Disabled People's Protection Policies (DPPPs)

All licensed train and station operators are required to establish and comply with a Disabled People's Protection Policy (DPPP) which sets out how they will protect the interests of disabled users of their trains and stations.

Network Rail owns almost all of the 2,500+ railway stations in Great Britain. However, it is only directly responsible for managing the 18 biggest and busiest stations: all other stations are managed by the main train company that operates services through that station.²⁶

DPPPs are prescribed by the rail regulator (the Office of Rail and Road, or ORR) in Condition 5 of the passenger and station licences issued under section 8 of the [Railways Act 1993](#), as amended.²⁷

ORR has published guidance to train companies on how to write their DPPPs.²⁸

In October 2014, ORR and the Open Data Institute hosted a workshop with industry stakeholders to investigate problems with the existing services, challenges faced by disabled rail passengers and how access to rail information could be improved.²⁹ In December 2014 ORR wrote to train companies asking them to review their DPPPs in light of revised guidance, to come into effect before the end of March 2015.³⁰

The July 2018 Inclusive Transport Strategy stated that the ORR was

... undertaking a review of the 2009 DPPP guidance and carefully considering the case for targeted changes to deliver improvements in assisted travel, including enhancing the current

²⁵ ESC, [Fourth Report of Session 2017–19](#), HC 301-iv, 12 December 2017, para 6.15

²⁶ a list of NR managed stations can be found at: NR, [Our Stations](#) [accessed 14 February 2018]; you can find the relevant manager for other stations on the [National Rail Enquiries website](#)

²⁷ model licences can be viewed on the [ORR website](#)

²⁸ ORR, [How to Write Your Disabled People's Protection Policy: A Guide for Train and Station Operators](#), November 2009

²⁹ ORR, [Improving access to rail information for disabled passengers](#), October 2014

³⁰ ORR, [Disabled People's Protection Policy compliance and approval process](#), 18 December 2014

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monitoring regime to ensure train and station operators continue to meet their obligations to passengers that require assistance.³¹

It further stated that a consultation on draft revised guidance was planned for September 2018, with the completed guidance to be published by the end of the year. The consultation has not yet emerged. However, the strategy also commits DfT by the end of 2019 to work with the ORR as it reviews the DPPP guidance and considers how the requirements it contains are to be monitored.³²

2.2 Rail vehicle design

Currently, 78% of all passenger rail vehicles in GB (a total of over 12,300 vehicles) have been built, or fully refurbished, to modern access standards, up from 42% in 2008.³³

For ten years the accessibility requirements for rail vehicles (trains) were subject to domestic regulations made further to the 1995 Act.³⁴ These required that all rail vehicles must be accessible by 1 January 2020.³⁵ These were superseded by EU [Directive 2008/164/EC](#), which applied Europe-wide standards of rail accessibility from 1 July 2008.³⁶

In order to ensure that this did not introduce “two accessibility regimes—domestic and European—with slightly different requirements, differing enforcement regimes and so on” the then Labour Government legislated to remove those vehicles covered by the EU rules from the existing domestic legislation.³⁷ The Government further said that the new EU rules were “based mainly” on the UK rules, which “demonstrate[s] how far in advance of mainland Europe we are in such matters”. The new EU standards would apply to trains operated for passenger services on the UK mainline railway system, while the existing domestic rules would remain as the accessibility standard for light rail, tram, metro and underground systems. The majority of the technical requirements under the EU standards were “equivalent or superior” to the UK’s domestic standards and “much that was previously considered only as best practice ... is now mandated under the new standards”.³⁸

In April 2009 the Department for Transport began a further consultation on changes for those light rail vehicles (metro, underground, tram and prescribed modes of guided transport) remaining under the UK’s domestic rules. Amongst the issues consulted on was whether there should be an end date by which they must be compliant with

³¹ Op cit., [The Inclusive Transport Strategy: Achieving Equal Access for Disabled People](#), para 4.4

³² Ibid., para 5.6

³³ Op cit., [The Inclusive Transport Strategy: Achieving Equal Access for Disabled People](#), para 3.4

³⁴ [Rail Vehicle Accessibility Regulations 1998 \(SI 1998/2456\)](#); preceded by DETR, [Railways consultation document](#), May 1998

³⁵ for discussion on the end date, see: [HC Deb 29 November 2004, 18WS](#); op. cit., [Draft Disability Discrimination Bill](#), para 167; and [HL Deb 13 January 2005, cc116-117GC](#)

³⁶ the UK Government consulted on this in: DfT, [Consultation on Draft Rail Vehicle Accessibility \(Interoperable Rail System\) Regulations](#), 29 February 2008

³⁷ [First DL Committee, 30 June 2008, cc3-4](#); via the [Rail Vehicle Accessibility \(Interoperable Rail System\) Regulations 2008 \(SI 2008/1746\)](#)

³⁸ [First DL Committee, 30 June 2008, cc3-4](#)

accessibility requirements.³⁹ The *Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010* ([SI 2010/432](#)) came into force in April 2010 and brought light rail into line with other rail vehicles, including an end date for compliance of 1 January 2020.

A number of heavy rail vehicles introduced between 1999 and 2006 were granted exemption orders from the domestic rules.⁴⁰

2.3 Carriage of mobility scooters on trains

Train operators must state in their Disabled People's Protection Policy (DPPP) (see above) what their policy is regarding the carriage on their trains of scooters for people with reduced mobility. Operators are expected to make the reasoning behind their policy clear in the DPPP, particularly with regard to any policy excluding the carriage of some or all mobility scooters.

Where operators do carry scooters on trains, the rail regulator (ORR) recommends that operators clearly indicate whether passengers are required to transfer to a seat, rather than remain seated on their scooter while on board the train.⁴¹

There is a variety of practice in terms of which operators will carry scooters and under what conditions. Transport Focus says:

Many companies will carry non-folded mobility scooters, generally the smaller, lighter and more manoeuvrable types. Even so, the company may not let you take them on all trains or all routes.

Some train companies will only carry your scooter if you hold a scooter permit issued by them. Other train operators will convey only your scooter if it is folded down and placed in the luggage rack. In many cases staff will not lift them into or out of the train; you or your companion will need to do this.

... The same rules on maximum weight and size as for wheelchairs apply to scooters: not longer than 120cm, not wider than 70cm and total weight of up to 300kg for scooter and rider. Some ramps can only carry up to 230kg.

In many cases train companies expect scooter users to reserve a space to accommodate the scooter - usually with at least 24 hours' notice. You may have to transfer to a fixed seat on the train; the company will advise you.⁴²

Campaign groups have been working for years to get train companies to allow scooters on trains.⁴³ As of October 2018 there is only one train company that bans on all scooters from trains unless they are folded: Northern Rail.⁴⁴

³⁹ DfT, [Disability Discrimination Act 1995: Consultation on improving rail vehicle accessibility](#), 8 April 2009

⁴⁰ a list, along with their respective exemption orders, is available at: DfT, [List of Rail Vehicle Accessibility Regulations exemption orders](#), 19 December 2017

⁴¹ ORR, [Passengers with disabilities](#) [accessed 14 February 2018]

⁴² E.g. Transport Focus, [Can I take my mobility scooter onto the train?](#), 30 March 2015

⁴³ see, e.g., Transport for All press notice, ["Scooter user takes legal action over rail ban on ALL scooters"](#), 2 December 2015

⁴⁴ Northern Rail, [Can I take my mobility scooter on the train?](#) [accessed 30 October 2018]

In December 2017 the rail industry published an updated good practice guide for passengers travelling with wheelchairs and mobility scooters.⁴⁵

2.4 Railway station infrastructure

Part III of the [Disability Discrimination Act 1995](#) established a general right of access to goods, facilities and services – including railway stations – from 1 October 2004, subject to a test of ‘reasonableness’.⁴⁶ The July 2018 *Inclusive Transport Strategy* stated that 75% of rail journeys are now through step-free stations, compared to 50% in 2005.⁴⁷

Under section 71B of the [Railways Act 1993](#) and Articles 19 and 20(1) of EU [Regulation 1371/2007/EC](#), both as amended, the Secretary of State must publish a Code of Practice on design standards for accessible rail stations. The current Code, published in March 2015, identifies European and national standards relevant for all passenger train and station operators in Great Britain. Licensed operators, including Network Rail, must follow the Code as a condition of their licence whenever they install, renew or replace infrastructure or facilities. This includes the requirement to establish and comply with a DPPP (see above), paying due regard to the Code.⁴⁸

The operators who do not hold licences and so are not required to produce a DPPP, or who are otherwise exempted from the licence condition to have regard to the Code of Practice, are: Heathrow Express; London Underground; Charter Trains; narrow and broad gauge railways; heritage railways; light railways; tramways; Northern Ireland; and international services.⁴⁹

In its draft transport accessibility action plan, published for consultation in August 2017, the Government stated that it:

... funds train operators, through their franchise agreements, to undertake accessibility improvements at their stations through a Minor Works Budget. This Minor Works Budget, worth in the region of £300,000 per year, must be used to fund improvements such as better signage, adapted waiting rooms, ticket halls and toilets, or tactile paving and handrails.⁵⁰

It also said that it would endeavour to “allocate funding to provide additional accessible toilet facilities at stations as part of the next rail funding period (from 2019 onwards)”.⁵¹

⁴⁵ RDG, [Working Together Good Practice Guide: Supporting passengers travelling with wheelchairs and mobility scooters: Information for passengers](#), issue 2, December 2017

⁴⁶ now Part 3 of the [Equality Act 2010](#)

⁴⁷ Op cit., [The Inclusive Transport Strategy: Achieving Equal Access for Disabled People](#), para 3.4

⁴⁸ DfT/Transport Scotland, [Design Standards for Accessible Railway Stations](#), 25 March 2015, p11

⁴⁹ *ibid.*, Annex II

⁵⁰ *ibid.*, p28

⁵¹ Op cit., [Accessibility Action Plan Consultation: A Transport System that is open to everyone](#), Action 9

Access for All funding

The major source of funding for improvements to railway stations to make them more accessible is the '[Access for All](#)' fund, announced by the Labour Government in 2006⁵² and supported by all Governments since then. The initial announcement said that the Government would spend £370 million on station improvements to 2015: the bulk of the funding would go to improving access to and within stations and to all platforms which would improve the accessible route and make the stations step-free, while the remainder would be made available to small schemes at less busy or rural stations where small improvements could go a long way to improving access.⁵³ This later developed into three tiers:

- small schemes (later allocated directly to train companies to decide how to spend it);
- mid-tier (which only [ran between 2011 and 2014](#)); and
- major schemes (decided by NR as part of its future planning programme).

In December 2014 the Coalition Government said that by the end of 2019, more than £520 million would have been spent on delivering step-free routes at more than 215 stations across the country, while a further 1,100 stations would have benefited from smaller-scale improvements.⁵⁴ By the end of 2015 Access for All had completed more than 150 step-free routes at rail stations against a target of 125 and more than 1,200 stations received smaller-scale improvements.⁵⁵

However, the updated Network Rail enhancements programme, published in March 2016, stated that the amount of money to be spent by 2019 had been reduced from £135 million (including a £32 million rollover) to £87.1 million in 2012/13 prices, with the remainder of the original fund value now planned to be spent between 2020 and 2024.⁵⁶ Further, it said that a number of schemes would be reviewed.⁵⁷ There were calls for this funding to be restored.⁵⁸

In its draft transport accessibility action plan, published for consultation in August 2017, the Government stated that it would “deliver the Access for All programme in full, building on the significant progress that the programme has already made [and] continue to seek to extend the Access for All programme further in the future.”⁵⁹

The July 2018 *Inclusive Transport Strategy* stated that the Government intends to:

⁵² DfT, [Railways for All](#), March 2006

⁵³ [HC Deb 23 March 2006, cc39-40WS](#)

⁵⁴ DfT press notice, “[Accessibility improvements for more stations after funding boost](#)”, 16 December 2014

⁵⁵ [HCWPO 13709](#), 4 November 2015

⁵⁶ Network Rail, [Enhancements Delivery Plan Update](#), March 2016, p138

⁵⁷ *ibid.*, p161

⁵⁸ See, e.g. Transport for All press notice, “[50 organisations demand the DfT to restore vital Access for All rail projects](#)”, 17 October 2017

⁵⁹ *Op cit.*, [Accessibility Action Plan Consultation: A Transport System that is open to everyone](#), Action 8

- Deliver the 'Access for All' rail accessibility programme to the stations which were deferred in 2015 following Sir Peter Hendy's review of Network Rail's investment programme, with work to start as soon as possible after 1 April 2019;
- Seek industry nominations for additional 'Access for All' projects in 2018 and announce the next tranche of stations in April 2019;
- Make a proportion of the next tranche of Access for All funding available for a new round of 'Access for All' Mid-Tier funding which will support station accessibility projects requiring between £250,000 and £1m of Government support. Previous projects included additional accessible toilets, platform humps to aid boarding and better customer information systems.⁶⁰

2.5 Assistance on trains and at stations

EU rules

European [Regulation 1371/2007/EC](#) on rail passenger rights and obligations came into force on 4 December 2009.

Chapter V of the Regulation contains the provisions related to disabled people or 'Persons with Reduced Mobility (PRMs)'.⁶¹ Articles 22, 23 and 24 relate to the provision of assistance at stations and on-board trains.

The rules on **assistance at railway stations**, set out in Article 22, provide that:

- On departure from, transit through or arrival at, a *staffed railway station* of a disabled person or a PRM, the station manager shall provide assistance free of charge in such a way that that person is able to board the departing service, or to disembark from the arriving service for which he or she purchased a ticket.
- Member States can disapply this provision for services provided via public service contract.
- At *unstaffed stations*, railway undertakings and station managers shall ensure that easily accessible information is displayed in accordance with the relevant access rules (i.e. where the nearest staffed stations are and what direct assistance is available).

The rules on **assistance on board trains**, set out in Article 23, provide that:

- Railway undertakings shall provide disabled persons and PRMs assistance free of charge on board a train and during boarding and disembarking from a train.
- This means "all reasonable efforts" to offer assistance to a disabled person or a PRM to allow that person to have access to the same services in the train as other passengers, should the

⁶⁰ Op cit., [The Inclusive Transport Strategy: Achieving Equal Access for Disabled People](#), para 8.48

⁶¹ both defined in Article 3(15) as: "any person whose mobility when using transport is reduced due to any physical disability (sensory or locomotory, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or as a result of age, and whose situation needs appropriate attention and adaptation to his or her particular needs of the service made available to all passengers"

extent of the person's disability or reduced mobility not allow him or her to have access to those services independently and in safety.

And the rules on **conditions on which assistance is provided**, set out in Article 24, provide that:

- Railway undertakings, station managers, ticket vendors and tour operators shall cooperate in order to provide assistance to disabled persons and PRMs in line with Articles 22 and 23 on condition that they are notified of the person's need for such assistance at least 48 hours before the assistance is needed.
- They must take all measures necessary for the reception of such notifications.
- If no notification is made the railway undertaking and the station manager shall make "all reasonable efforts" to provide assistance in such a way that the disabled person or PRM may travel.
- The station manager or any other authorised person shall designate points, within and outside the railway station, at which disabled persons and PRMs can announce their arrival at the railway station and, if need be, request assistance; assistance shall be provided on condition that they present themselves at the designated point at a time stipulated by the railway undertaking or station manager providing such assistance.
- Any time stipulated shall not be more than 60 minutes before the published departure time or the time at which all passengers are asked to check in.
- If no time is stipulated by which the passenger is required to present themselves at the designated point, they must do so at least 30 minutes before the published departure time or the time at which all passengers are asked to check in.

As stated at the beginning of section 2, above, in September 2017 the European Commission published a proposal to update the EU rules in this area. In particular, the proposed revisions to Articles 22 and 23 appear to require that assistance for PRMs be available **at all times** when rail services operate, both in station and on board.⁶²

Passenger Assist

Passenger Assist is a service provided by train companies to disabled passengers and others who require assistance with any part of their train journey. Staff can help with planning a journey, booking tickets and making reservations; they can also provide assistance at stations and on-board trains. The service is free and available to anyone who needs assistance due to a disability, temporary impairment, or older age. No railcard is required. Information can be found at local stations or on the individual train company websites.⁶³

In its draft transport accessibility action plan, published for consultation in August 2017, the Government stated that the provision of Passenger Assists has been steadily increasing:

⁶² EC, [COM\(2017\) 548 final](#), 27 September 2017, pp38-39

⁶³ further details and contact information on the [National Rail Enquiries website](#) [accessed 21 February 2018]

19 Access to transport for disabled people

Between 2012-13 and 2014-15 the numbers of assists grew from 948,019 to 1,064,267, an increase of 12%. During 2015-16 the number of Passenger Assists totalled 1,145,715. A new provision in franchise agreements requires train operators to publish figures on the number of Passenger Assist bookings, and those which have been completed.⁶⁴

It also stated that industry body the Rail Delivery Group (RDG) was working on a 'reservation replacement project' which would include new Passenger Assist capabilities, such as combining the two systems (i.e. booking a ticket and assistance) into one, "making reservations much simpler for customers".⁶⁵ The Passenger Assist part of that project was de-coupled in 2018 to run as a separate project which has now become the Passenger Assist app ([Transreport](#)).

In November 2017 the rail regulator (ORR) published a number of reports and a consultation on improving assisted travel. It found that:

Most of the explanations put forward by Passenger Assist users in the research for the failure of the assistance they had asked for cited frustrations with reliability. In particular, staff not meeting them as previously arranged, staff arriving late, and staff not being available to help them alight the train.⁶⁶

The July 2018 *Inclusive Transport Strategy* stated that by the end of 2018 the Government would use the tendering process for new rail franchises to "require a minimum target for the successful completion of booked assistance through the Passenger Assist scheme, to incentivise the provision of a more reliable service" and to ensure that train operators who fail to deliver the assistance booked provide financial compensation to passengers.⁶⁷

In September 2018 Greater Anglia launched a trial of a new Passenger Assist app to help ease train travel for disabled rail passengers. If successful it could be rolled out nationally in 2019.⁶⁸

Turn up and go

In May 2015 the Association of Train Operating Companies (now RDG) launched a six-month trial of 'turn up and go' at 36 London stations. In October 2015 the then Rail Minister, Claire Perry, said that if the trial was successful the Government would consider whether the service could be made permanent at the trial stations and whether it could be expanded further across the network.⁶⁹

In June 2017 RDG published a report on the future of accessible rail travel. The report was actually compiled in 2015 and was published in

⁶⁴ Op cit., [Accessibility Action Plan Consultation: A Transport System that is open to everyone](#), para 7.12

⁶⁵ Ibid., para 7.13

⁶⁶ ORR, [Improving Assisted Travel: a consultation](#), 15 November 2017, para 2.14; the consultation closed on 2 February 2018; for accompanying research and reports visit the [consultation website](#)

⁶⁷ Op cit., [The Inclusive Transport Strategy: Achieving Equal Access for Disabled People](#), para 5.6

⁶⁸ Greater Anglia press notice, "[New passenger assistance app trial will help disabled passengers in East Anglia travel more easily](#)", 28 September 2018

⁶⁹ [HCWPO 11013](#), 19 October 2015; further details in: National Rail, [London turn up and go](#) [archived 26 March 2016]

2017 after the rail campaign group Association of British Commuters published a copy on their website.⁷⁰ In its commentary on the publication of the report RDG said that as regards ‘turn up and go’:

Record numbers of disabled people are travelling by train and the vast majority simply turn up and go, but we know we can do better. We want to ensure that those who most require assistance get the help they need too; modernising the railway to ensure staff are deployed in roles that support all of our customers is an important part of this.

Since the report was commissioned we have made progress: improving the ability for customers to travel unassisted and extending our Turn Up and Go service; introducing a national freephone number and a SMS service for deaf and hard of hearing customers to make it easier for them to book assistance via their text phone unit; and improving the information we provide at stations regarding disabled facilities. We are also working to improve the information we offer online, making it easier for customers to plan their journey and seeking to reduce anxiety which can be a barrier to travelling.⁷¹

The November 2017 consultation on assisted travel published by the rail regulator stated that:

‘Turn up and go’ passengers ... were more successful in getting assistance in boarding the train than in receiving the assistance they had asked for in alighting it. In their case, it was often because staff at the destination station were not expecting them because either the destination station had not been informed by the departure station or they had received the information but did not act upon it.⁷²

Staffing on trains

As set out in section 1.1 and in the other parts of this section on Passenger Assist and ‘turn up and go’, one of the fundamental anxieties for disabled people travelling by train is whether the assistance they require will be available to them at stations and on trains, whether they have booked ahead or not.

One of the flashpoints which has brought these concerns into sharp focus has been the changes to staffing on Southern Trains. There are broader issues about the performance of the Thameslink, Southern and Great Northern (TSGN) franchise, operated by Govia Thameslink Railway (GTR), which are not discussed here, but one of the issues which has arisen is about the ability of disabled and PRM passengers to use services safely.

These concerns came about due to GTR’s proposals to remove guards from trains and replace them with on-board supervisors (OBS), which would not have the same ‘safety critical’ role as guards, meaning that trains could leave stations with no second member of staff on board. This ties in with the introduction of new trains where the driver could open and close the doors without a second member of staff (driver

⁷⁰ Read ABC’s account here: [“Exclusive: ABC reveals buried RDG report on disabled access, which strongly advises keeping the guard on the train”](#), 26 June 2017

⁷¹ RDG press notice, [“RDG publishes report on future of accessible rail travel”](#), 30 June 2017

⁷² Op cit., [Improving Assisted Travel: a consultation](#), para 2.14

controlled operation, or DCO). Critics are concerned that DCO would lead in increasing frequency to 'driver only operation' or DOO – where the driver would be the only member of staff on board, despite GTR's promises regarding OBS. In its October 2016 report on the rail passenger experience the Transport Select Committee explained:

Concerns have been raised in relation to DOO's potential effects on disabled people's access to the railway, as it could entail a greater proportion of trains running without a second member of staff, in addition to the driver, on board. This is problematic where a disabled person requires assistance getting on and off the train at unstaffed stations [...]

We asked the Department whether it had conducted any equality analysis of the effects of DOO on disabled people's access to the railway. It told us that it had not, and that it was the TOC's [train operating company's] responsibility to ensure that it meets the needs of all passengers. It was aware that GTR was introducing a number of measures "to ensure their staff are more visible and available to assist passengers with accessibility needs." GTR sent us an update on the measures it was taking, including bringing staff out of ticket offices and onto concourses at 83 of its busiest stations. These stations would be staffed from the first to the last train, seven days a week. The new "Station Hosts" will receive disability awareness and ramp deployment training, and will be "proactive in assisting disabled passengers".⁷³

The Committee said that it was concerned that no official impact assessment had been made of the potential effects of DOO on disabled people's access to the railway and asked the DfT and the industry to do some research into this. On the back of such research the committee recommended that the Government:

... issue guidance to train operating companies on the measures that should be taken to mitigate potential detrimental effects on disabled people's access. It should ensure that actions are taken to guarantee that disabled rail passengers receive the support to which they are entitled.⁷⁴

As stated above, in June 2017 RDG published a report on the future of accessible rail travel, compiled in 2015. It stated that the extension of driver only operation "does have significant accessibility implications".⁷⁵ It continued:

Given the growing number of older passengers and the clear evidence of their need for the presence of staff both for reassurance and for assistance, it is hard to see how these further economies meets this imperative

It is difficult too, in legal terms, to see how trains with no staff to provide assistance running through unstaffed stations cannot come under the heading of a "provision, criterion or practice" that discriminates. (Section 20 of the Equality Act 2010).

⁷³ Transport Committee, [The future of rail: Improving the rail passenger experience](#) (Sixth Report of Session 2016–17), HC 64, 14 October 2016, paras 54-55

⁷⁴ *Ibid.*, para 56

⁷⁵ RDG, [On Track for 2020? The Future of Accessible Rail Travel: Final Report](#), May 2015 [released June 2017], p30

It is clearly not possible to obtain unbooked assisted travel to or from an unstaffed station unless there is some member of staff there to assist with the boarding or alighting.

Critically, it is Conductors who are in the front line in providing assisted boarding and alighting, including deploying platform-train ramps where appropriate, at the majority of platforms which are not staffed. It is Conductors who are best placed to ensure that assistance is delivered effectively and in accordance with the law. A key risk area is availability of help in getting off the train.

During disruption and in the event of an emergency, Conductors can also deliver the railway's duty of care to assisted passengers and other older and disabled people [...]

Staff visibility on the platform and the ability of on-train staff to hold departure at unstaffed stations to enable a disabled passenger to board or alight are vital for both access and safety reasons.

Before decisions are taken about routes and services on which further economies of staffing are envisaged, a full assessment of the likely impact on disabled and older travellers needs to be undertaken together with consideration of how legal and contractual obligations to provide assistance can continue to be met.⁷⁶

In light of this, the report recommended:

There should always be on-board staff available to assist passengers at unstaffed stations. These staff should have appropriate training in Rules and professional competence in this area. Urgent consideration should be given to how current policies on staffing levels can be modified to ensure that greater progress towards accessibility is maintained.⁷⁷

In November 2017 the rail regulator (ORR) said that it had concluded a review of GTR's customer service for passengers needing help using trains, and that this had led to changes in processes at Southern Rail.

ORR monitoring of Southern services once DCO/DOO had been introduced "identified where the availability of staff to provide assistance on trains was below what Southern had originally estimated". It found that this affected 48 passengers between February and May 2017, and that Southern had "made alternative arrangements so that all these passengers were able to complete their journey". In light of this, ORR stated that it was:

... satisfied that Southern has made changes to its processes to ensure continued compliance with its Disabled People's Protection Policy. These changes include introducing a shift coordinator to ensure there are sufficient staff available to provide assistance and reviewing agency staff training on the use of ramps. There is also a dedicated team now in place to assist passengers via help points in stations.⁷⁸

ORR concluded by stating its intention to continue to monitor the situation and to take action if there is evidence that passengers are not

⁷⁶ Ibid., pp31-2

⁷⁷ Ibid., recc. 11, p57

⁷⁸ ORR press notice, "[ORR review of Southern trains leads to travel assistance changes](#)", 10 November 2017

receiving the level of service that train companies have committed to provide.⁷⁹

In response to a Parliamentary Question in September 2017 the then Rail Minister, Paul Maynard, said:

As part of their licence to operate, each train operating company is required to have a Disabled Persons' Protection Policy (DPPP) in place. This sets out the level of services and facilities that disabled passengers can expect, how to get staff assistance, and how to get help if things do go wrong. Each operator is also required to participate in the Passenger Assist system which allows disabled passengers to book staff assistance when they require it.

In many instances across the country, staff on the platform are readily available to help disabled passengers. Train crew have a role too, however there is no link between accessibility and driver-only operation running of trains. For example on Southern Rail, 98% of trains that are operated by the driver retain a second member of staff on the train, who can help both able bodied and disabled passengers.⁸⁰

The July 2018 Inclusive Transport Strategy reiterated the Government's view that:

The Government fully recognises the importance of providing assistance to those who need support to travel and, as we modernise the network and new trains arrive, this can be delivered through a combination of staffing and infrastructure. The newest trains on our network no longer require crew to operate the doors, and this frees them up to allow more time to help passengers, including those with accessibility requirements.⁸¹

Technological innovations

In June 2018 the DfT announced the winners of an innovation competition run by the Rail Safety and Standards Board (RSSB) to find creative solutions to challenges faced by passengers with disabilities on the railways, and especially for those with less visible impairments. The list of projects to receive a share of £600,000 funding is:

- Accessibility Evaluation Survey for Stations (ACCESS): a tool to help those responsible for station accessibility to identify problems and prioritise improvements
- Less Visible Impairments (LVIS): a study to be carried out into increasing frontline staff's understanding about the difficulties faced by passengers with hidden disabilities, such as dementia
- Rail4All: an app to help station staff prioritise requests from disabled passengers and notify the user that their request for support has been received
- Accessible Journey Pocket Assistant: a journey planner giving passengers bespoke guidance for every step of their trip
- Nodality (navigating transport interchange): a website that provides disabled passengers, and carers with all the

⁷⁹ Ibid.

⁸⁰ [Railways: Disability: Written question – 5723](#), 5 September 2017

⁸¹ Op cit., [The Inclusive Transport Strategy: Achieving Equal Access for Disabled People](#), para 8.41

information they need to understand how accessible a specific station is

- Signly: an app that improves communication and passenger experience for people who use sign language
- Aubin: an app designed to improve rail journeys for people with autism by using stress related preferences, rather than time or cost, to help the user reach their destination⁸²

The July 2018 *Inclusive Transport Strategy* stated that DfT would support the following innovations across the rail sector in 2018-19:

- a digital map showing accessibility information for all stations on the rail network, available online and to download for customers to take with them on their journey (by August 2018);
- disabled people travelling on the majority of the rail network to have the choice of travelling on a smart ticket (i.e. paperless ticket) that can be bought online without having to queue at ticket machines or ticket barriers (by end 2018);
- real-time information for passengers on the availability of access facilities such as step-free access, accessible toilets and Changing Places facilities (initial scoping work to be completed by Spring 2019); and
- an online model of stations to enable passengers to familiarise themselves with the layout and environment before they travel.⁸³

⁸² DfT press notice, "[Government puts disabled passengers first by backing innovative projects to improve train journeys](#)", 26 June 2018

⁸³ Op cit., [The Inclusive Transport Strategy: Achieving Equal Access for Disabled People](#), para 7.12

3. Buses and coaches

3.1 Public service vehicle design

The accessibility requirements for buses and coaches are set out in the *Public Service Vehicles Accessibility Regulations 2000* ([SI 2000/1970](#)) (PSVAR), as amended, which came into force in August 2000.⁸⁴ Under this legislation, all buses had to be accessible by 1 January 2017 and all coaches must be accessible by 1 January 2020. The *Inclusive Transport Strategy* states that 98% of buses in England were compliant with the Regulations by end of financial year 2016/17.⁸⁵

The requirements do not apply to:

- off-road vehicles;
- vehicles used in accordance with section 19 of the *Transport Act 1985* (i.e. small buses used by community-based organisations on a not-for-profit basis for restricted groups of passengers);⁸⁶
- vehicles used for secure transport of persons (including prisoners);
- vehicles specifically designed for the carriage of injured or sick persons;
- vehicles used by or for purposes of a Minister of the Crown or Government Department or in the service of a visiting force or headquarters; and
- vehicles registered and first used on a road before 1980 which are not used to provide a local service or a scheduled service for more than 20 days in any calendar year.

The exact requirements are set out in Schedule 1 to the Regulations. These include the dimensions of the wheelchair space to be provided in the vehicle. The minimum size of the space specified in the Regulations is:

- 1,300 mm measured in the longitudinal plane of the vehicle;
- 750 mm measured in the transverse plane of the vehicle; and
- 1,500 mm measured vertically from any part of the floor of the wheelchair space.

Any gangway between a wheelchair space and an entrance or exit intended to provide access for a wheelchair user must not be less than 750 mm wide at any point.

This sized space may not always accommodate some of the larger mobility scooters in use. Some smaller models of mobility scooter are accepted on some public transport vehicles, but owners must contact the local transport operator to check. A mobility scooter may not have the same capacity as a wheelchair to manoeuvre into a wheelchair space. The Confederation of Passenger Transport has published a non-

⁸⁴ Following consultations in 1997 and 1999: DETR, [Disability Discrimination Act 1995: the government's proposals for buses and coaches](#), December 1997; and: DETR, [The public service accessibility regulations 1999 \(and others\) - a statutory consultation](#), September 1999

⁸⁵ Op cit., [The Inclusive Transport Strategy: Achieving Equal Access for Disabled People](#), para 3.4

⁸⁶ see [Section 19 Permit Regulations 2009 \(SI 2009/365\)](#)

statutory Voluntary Code of Best Practice for bus operators regarding the use and acceptance of Class 2 mobility scooters on low floor buses adapted to carry wheelchairs.⁸⁷ Mobility scooters cannot be carried on coaches fitted with wheelchair lifts.⁸⁸

3.2 Assistance on buses and coaches and at stations/terminals

EU [Regulation 181/2011/EU](#) on the rights of bus and coach passengers came into force in March 2013. Chapter III relates to disabled passengers and Persons with Reduced Mobility (PRMs). The UK legislated to provide certain exemptions from the requirements of the Regulation, including from the requirement under Article 16(2) for disability awareness training for personnel of carriers and terminal managing bodies.⁸⁹ This exemption would apply for five years.

In general, the Regulation provides that:

- carriers and terminal managing bodies shall establish, or have in place, non-discriminatory access conditions for the transport of disabled persons and PRMs (Article 11);
- Member States must designate bus and coach terminals where assistance for disabled persons and PRMs shall be provided (in the UK this is *London Victoria and Birmingham coach stations only*)⁹⁰ (Article 12); and
- carriers and terminal managing bodies must, within their respective areas of competence, at terminals designated by Member States and on board buses and coaches provide assistance free of charge to disabled persons and PRMs (including but not limited to assistance boarding, handling luggage, and providing information about the journey in accessible formats) (Article 13 and Annex I).

Article 14 provides for the conditions under which assistance should be provided:

- The person's need for such assistance is notified to carriers, terminal managing bodies, travel agents or tour operators at the latest 36 hours before the assistance is needed and the persons concerned present themselves at the designated point at the time stipulated in advance by the carrier (no more than 60 minutes before the published departure time, unless a shorter period is agreed between the carrier and the passenger) or if no time is stipulated, no later than 30 minutes before the published departure time;

⁸⁷ CPT, [CPT Mobility Scooter Code](#), 22 January 2014

⁸⁸ DfT, [Mobility scooters and powered wheelchairs on the road – some guidance for users](#), March 2015, p6

⁸⁹ via *Rights of Passengers in Bus and Coach Transport (Exemptions) Regulations 2013 (SI 2013/228)*; later repealed and replaced by the *Rights of Passengers in Bus and Coach Transport (Exemptions and Enforcement) Regulations 2013 (SI 2013/1865)*; following a consultation: DfT, [Public Consultation on how EU Regulation 181/2011 concerning the rights of passengers in bus and coach transport will be applied in Great Britain](#), July 2012

⁹⁰ Regulation 6 of SI 2013/1865

- This obligation shall apply at all designated terminals and their points of sale including sale by telephone and via the Internet;
- If no notification is made the relevant body must make “every reasonable effort” to ensure that the assistance is provided in such a way that the disabled person or PRM is able to travel; and
- The terminal managing body must designate a point inside or outside the terminal at which disabled persons or PRMs can announce their arrival and request assistance. It must be clearly signposted and offer basic information about the terminal and assistance provided, in accessible formats.

In 2014 the Government reviewed the exemption under Article 16(2) in order to assess whether drivers were receiving adequate disability training. The responses it published in January 2015 showed that overall the bus industry thought it was doing enough and disabled people thought that it was not.⁹¹

In debates on the *Bus Services Act 2017* the then Transport Minister, Andrew Jones, confirmed that disability awareness training would be a legal requirement from 1 March 2018 and that “even after we have left the European Union, our policy objective of ensuring that bus drivers are equipped with the knowledge and skills to assist disabled passengers will not change. That obligation will not be removed”.⁹²

The July 2018 *Inclusive Transport Strategy* stated that by spring 2019 DfT would:

... develop a monitoring and enforcement framework for mandatory bus driver disability awareness training, which will include identifying a body to ensure compliance by bus operators with legal requirements.⁹³

Further, it stated that during 2019 DfT would publish best practice guidance for delivering training across the bus sector. This guidance is intended to assist operators in complying with the new mandatory disability equality and awareness training requirement which came into force across the sector in March 2018.⁹⁴

3.3 Audio-visual equipment

[Section 17](#) of the *Bus Services Act 2017* sets out an accessible information requirement which would ultimately require bus operators to provide accessible information, using both audible and visible media, on board local bus services in England, Scotland and Wales.⁹⁵ A scoping note gives further information, specifically who would be obliged to comply, what information they would be obliged to provide and in what format. It also speculates that the order-making power which would bring this into force could also include exemptions for small operators.

⁹¹ DfT, [Summary of responses to the Department for Transport’s review of the mandatory disability awareness training exemption applied under EU Regulation 181/2011 \(concerning bus and coach passenger rights\)](#), 28 January 2015

⁹² [PBC Deb 16 March 2017, c107](#)

⁹³ Op cit., [The Inclusive Transport Strategy: Achieving Equal Access for Disabled People](#), para 5.6

⁹⁴ Ibid., para 6.8

⁹⁵ [HL Deb 24 October 2016, c54](#)

The Government's initial anticipated timetable for introduction was to launch a consultation in spring 2017 (sometime after the June General Election), with a view to publishing finalised secondary legislation in April 2018.⁹⁶

On 5 July 2018 the DfT published a consultation on the provision of accessible information under section 17.⁹⁷ It closed on 16 September. The consultation set out the DfT's plans to introduce regulations that require bus operators to provide audible and visible information on local bus services to help people identify:

- the route and direction of services;
- each upcoming stop; and
- points at which diversions start or end.

It intends to specify when this information must be made available and to what standard, leaving it up to operators to select equipment or process that works for them. The intention is to introduce phased implementation between 2021 and 2025.⁹⁸

The July 2018 *Inclusive Transport Strategy* states that by the end of 2018 DfT intends to launch a new £2 million fund for bus operators to aid the rollout of audible and visual announcements across the sector.⁹⁹

The introduction of this requirement followed an effective external lobbying campaign and extensive debate. It reflects the successful [Talking Buses](#) campaign, supported by Guide Dogs for the Blind and others, to persuade the Government to require bus operators to fit audio-visual equipment to all buses. The Government had long been reluctant to mandate this sort of thing, instead preferring to let the market provide a solution.¹⁰⁰

3.4 Buggies and prams using wheelchair spaces

The duty under Part 3 of the *Equality Act 2010* to make reasonable adjustments for disabled people should, as far as bus services are concerned, be read in conjunction with the *Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) Regulations 1990* (SI 1990/1020), as amended. Regulations 11-17 outline the extent of responsibilities for drivers and conductors in respect of wheelchair users and disabled passengers.¹⁰¹

Specifically, Regulation 12(2) and 12(3) states that if there is an unoccupied wheelchair space on the vehicle, a driver and a conductor shall allow a wheelchair user to board. A wheelchair space is occupied if

⁹⁶ DfT, [Accessible information regulations – scoping note](#), 12 October 2016

⁹⁷ DfT press notice, "[Real time information to transform bus travel in England](#)", 5 July 2018

⁹⁸ DfT, [Bus Services Act 2017: accessible information](#), 5 July 2018, p35

⁹⁹ Op cit., [The Inclusive Transport Strategy: Achieving Equal Access for Disabled People](#), para 7.12

¹⁰⁰ [HC Deb 11 June 2015, c1309](#)

¹⁰¹ inserted by Regulation 6 of the *Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) (Amendment) Regulations 2002* (SI [2002/1724](#))

there is a wheelchair user in that space, or “passengers or their effects are in that space and they or their effects cannot readily and reasonably vacate it by moving to another part of the vehicle”. This latter sentence has caused much concern amongst disability rights groups and uncertainty as to the circumstances under which, for example, a driver should require someone with a child’s buggy or pram to fold it and/or remove it from the wheelchair space.

In March 2018 DfT announced its intention to introduce new measures to ensure that wheelchair users can safely access on-board wheelchair spaces on buses.¹⁰² This followed a report from a stakeholder ‘Task and Finish Group on the Use of Wheelchair Spaces on Buses’. The group made four specific recommendations:

1. That the Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) Regulations 1990 (the Conduct Regulations) are amended to enable drivers to remove passengers from the bus who unreasonably refuse to move when requested from the wheelchair space
2. The associated guidance is amended to better reflect the behaviours expected from drivers and passengers with respect to use of the wheelchair space
3. Further work is conducted to consider how best to raise public awareness of the behaviours expected from passengers with respect to the wheelchair space, for example a public awareness campaign, or improved signage on buses
4. That conditions of carriage and disability awareness training best practice guidance are updated to reflect the fact that passengers will be required to move from the wheelchair space should it be required by a passenger in a wheelchair¹⁰³

The July 2018 *Inclusive Transport Strategy* stated that by the end of 2018 and after engagement with affected stakeholders, DfT will “announce the specific actions we intend to take to secure access to the wheelchair space for those who need it”.¹⁰⁴

The key legal case on this is FirstGroup Plc v Paulley, see box on following page.

¹⁰² DfT press notice, “[Government signals commitment to improving bus access for wheelchair users](#)”, 8 March 2018

¹⁰³ [Response to advice on the use of wheelchair spaces onboard buses: Written statement - HCWS523](#), 8 March 2018

¹⁰⁴ Op cit., [The Inclusive Transport Strategy: Achieving Equal Access for Disabled People](#), para 5.6

Use of wheelchair spaces on buses: FirstGroup Plc v Paulley [2017] UKSC 4

There has long been concern amongst disability rights groups about the requirements for wheelchair spaces on buses to be vacated if occupied and the circumstances under which, for example, a driver should require someone with a child's buggy or pram to fold it and/or remove it from the wheelchair space.

Doug Paulley took his case against FirstGroup on this issue to the Supreme Court. In its [judgement of 18 January 2017](#) the court held that FirstGroup's rules for their drivers failed to do enough to ensure that wheelchair spaces on buses are reserved for wheelchair users.

The basic legal principle is that, under [section 29\(7\)](#) and [20](#) of the *Equality Act 2010*, service providers must make "reasonable adjustments" for disabled service users. This can include adjustments to physical features of buildings/vehicles (e.g. the provision of a wheelchair space on a bus) and adjustments to policies and procedures (e.g. the rules determining what drivers must do to ensure those spaces are usable by disabled passengers).

In *FirstGroup v Paulley* the Supreme Court held that FirstGroup's rules for drivers failed to make sufficient adjustments for the needs of disabled service users. The rule being challenged was one which, broadly, required drivers to ask a person occupying the space to move for the wheelchair user, but to do nothing more if the person refused. The Court held that this fell just short of what the law required. The law requires that the policy should stipulate that drivers must ask the occupant to move, and if they don't, to ask them again, be more insistent and judge what further action (e.g. stopping the bus) should be required on a case-by-case basis.

4. Taxis

There is no national requirement to make a proportion of taxi or private hire vehicle (PHV) fleets accessible. This is a matter for individual local licensing authorities. Individual councils can – and do – require all or a proportion of vehicles licensed by that authority to be accessible. For example, since 1 January 2000 every taxi operating in London has been required to take wheelchairs and all taxis operating in Edinburgh have been required to be wheelchair accessible since 1 January 1997. In 2017 62% of all licensing authorities in England required wheelchair accessible vehicles in all or part of their taxi fleet.¹⁰⁵

The latest figures show that in England 58% of all taxis were wheelchair accessible in 2017. This has remained the same from 2015. In comparison 2.2% of PHVs were wheelchair accessible in 2017, similar to the proportion in 2015.¹⁰⁶ There is a significant difference in the availability of accessible vehicles between London and other metropolitan areas on the one hand and the rest of the country on the other. In England outside London, metropolitan areas had 83% wheelchair accessible taxis. In other urban areas 36% of taxis were wheelchair accessible, while in rural areas only 15% of taxis were wheelchair accessible.¹⁰⁷

However, questions of accessibility are not only limited to vehicles, but also relate to issues such as taking bookings, ensuring drivers are properly trained and treat disabled people equally, carrying guide dogs and not making extra charges.

4.1 Legislation

The 2010 Act made some fundamental changes to the service that disabled passengers can expect from taxi and PHV drivers. There was a long delay by successive governments about bringing some of these provisions (which date back to earlier legislation) into force.¹⁰⁸

Finally, in April 2017 the Government brought into force sections 165 and 167 of the 2010 Act (via the *Equality Act 2010 (Commencement No. 12) Order 2017* ([SI 2017/107](#))). Together, these sections provide that drivers of 'designated' taxis and PHVs, which are hired by or for a disabled person who is in a wheelchair, or by another person who wishes to be accompanied by a disabled person who is in a wheelchair, must:

- carry the passenger while in the wheelchair;
- not to make any additional charge for doing so;

¹⁰⁵ DfT, [Taxi and Private Hire Vehicle Statistics: England 2017](#), 7 September 2017, p3

¹⁰⁶ Ibid., p3

¹⁰⁷ Ibid., p3

¹⁰⁸ See, in particular as it relates to section 165, which was a replication of section 36 of the 1995 Act: DfT, [Consultation on Improving Access to Taxis](#), February 2009; DfT, [Equality Act 2010 – Taxis and Private Hire Vehicles: Provisions coming into effect in October 2010](#), September 2010 [HC DEP 2010-1717] and [HC Deb 16 July 2012, c495W](#)

- if the passenger chooses to sit in a passenger seat, to carry the wheelchair;
- to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- to give the passenger such mobility assistance as is reasonably required.

A driver of a designated taxi or PHV commits an offence by failing to comply with a duty imposed on the driver by this legislation and is liable on summary conviction to a fine not exceeding £1,000.

The Government issued guidance on the implementation of sections 165 and 167 in February 2017. The guidance is intended to help licensing authorities to:

- maintain lists of vehicles designated as wheelchair accessible;
- handle applications from drivers who are medically unfit to perform the duties required of them; and
- enforce the requirements.¹⁰⁹

Under sections 168-171 of the 2010 Act taxis and PHVs have a duty to accept bookings for and to carry passengers with assistance dogs, and not make an extra charge for doing so.¹¹⁰ However, research published by Guide Dogs for the Blind in May 2016 found that prosecutions are rare and fines are low, with some licensing authorities reporting fines as low as £50 to £100.¹¹¹ They are currently running a campaign based on survey findings that 42% of assistance dog owners were turned away by a taxi or minicab in the last year because of their dog.¹¹²

Finally, section 29 of the 2010 Act prohibits discrimination in the provision of services. Section 29(2)(a) states that a service provider must not discriminate against a person “as to the terms on which” a service is provided. Discrimination may be either direct or indirect. Direct discrimination is defined in section 13 as a person treating another less favourably than others “because of” a protected characteristic. Disability is a protected characteristic (section 6).¹¹³

4.2 Future changes

In May 2014 the Law Commission published the outcome of its review into taxi and PHV licensing law. One of the areas it looked at was accessibility. It made the following recommendations:

- taxi and private hire drivers be required to undergo **disability awareness training** of a standard set by the Secretary of State;
- the Secretary of State require information on how to **complain** about taxi and PHV services to be displayed in taxi and PHVs;

¹⁰⁹ DfT, [Access for wheelchair users to taxis and private hire vehicles](#), February 2017

¹¹⁰ For more information see section 2 of HC Library briefing paper [CBP 7668](#)

¹¹¹ Guide Dogs press notice, “[Guide Dog owners driven to despair by taxi and minicab drivers who illegally say no to their dog](#)”, 21 May 2016

¹¹² Guide Dogs, [Access All Areas](#) [accessed 14 February 2018]

¹¹³ Individuals can pursue these issues further with regards to specific local cases by obtaining further advice from the Equality Advisory and Support Service (EASS): its website has [an overview of the assistance it provides](#), and [contact details](#)

- local licensing authorities should **display complaint information** in offices, libraries and on websites;
- licensing authorities conduct an **accessibility review** at three year intervals;
- the Secretary of State require holders of taxi and private hire driver licences and dispatcher licences to **comply with the Equality Act 2010 as a condition of the licence** [to make enforcement easier];
- licensing authorities should reconsider **rank design** to ensure compliance with the 2010 Act;
- licensing conditions should provide that information about the licensing authority and local operators should be provided in **alternative formats**, as well as information about the types of vehicle available in their area; and
- the Secretary of State should have the power to impose **accessibility requirements on large operator/dispatchers**. In particular, the power should permit the setting of quotas of accessible vehicles which must be available to such dispatchers.¹¹⁴

The July 2018 *Inclusive Transport Strategy* stated that by end of 2019 the DfT would:

... publish for consultation revised best practice guidance to support local licensing authorities (LLAs) to use their existing powers more effectively. In particular we will recommend that authorities require taxi and private hire vehicle (PHV) drivers to complete disability awareness and equality training, make it simple to report discrimination and take robust action against drivers alleged to have discriminated against disabled passengers [... and]

Take steps to understand why taxi and PHV drivers continue to refuse to transport assistance dogs [...] We will undertake research to identify why the risk of fines and the loss of a driver's licence appear insufficient in some circumstances to prevent them from discriminating against assistance dog owners. We will use evidence from this work to support any further action that we may take in this area to ensure that assistance dog owners are able to travel by taxi and PHV free from the fear of discrimination.¹¹⁵

It also said that by autumn 2018 it would write to all local licensing authorities "stressing the importance of supporting an inclusive taxi and PHV fleet" and asking those authorities who had not already done so to publish lists of vehicles designated as wheelchair accessible under section 167 of the 2010 Act (see section 4.1, above).¹¹⁶

In 2017 the Government set up a working group to consider any regulatory issues and remedies on taxi policy generally, including accessibility.¹¹⁷ The group's report was published in September 2018. It recommended that:

¹¹⁴ Law Commission, *Taxi and Private Hire Services* (Law Com No 347), Cm 8864, May 2014, chapter 12

¹¹⁵ Op cit., *The Inclusive Transport Strategy: Achieving Equal Access for Disabled People*, para 5.6

¹¹⁶ Ibid., para 8.36

¹¹⁷ [HC Deb 18 July 2017, cc271-2WH](#) and [Taxis: Written question – 108783](#), 24 October 2017

Licensing authorities that have low levels of wheelchair accessible vehicles (WAVs) in their taxi and PHV fleet should ascertain if there is unmet demand for these vehicles. In areas with unmet demand licensing authorities should consider how existing powers could be used to address this, including making it mandatory to have a minimum number of their fleet that are WAVs. As a matter of urgency, the Government's Best Practice Guidance should be revised to make appropriate recommendations to support this objective ...

Licensing authorities which have not already done so should set up lists of wheelchair accessible vehicles (WAVs) in compliance with s.167 of the Equality Act 2010, to ensure that passengers receive the protections which this provides ...

Licensing authorities should use their existing enforcement powers to take strong action where disability access refusals are reported, to deter future cases. They should also ensure their systems and processes make it as easy as possible to report disability access refusals.¹¹⁸

The Government has yet to respond.

¹¹⁸ DfT, [Taxi and Private Hire Vehicle Licensing: Steps towards a safer and more robust system](#), 24 September 2018, reccs 30-32

5. Air travel

5.1 Legislation

The law in this area derives from the EU, particularly Articles 3, 4 and 10 and Annex II of [EU Regulation 1107/2006](#).¹¹⁹ On 1 December 2014 the *Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2014* ([SI 2014/2833](#)) came into effect, giving the CAA full legal authority to ensure airlines or airports comply with the EU Regulation.¹²⁰

The Regulation provides that an air carrier or its agent or a tour operator shall not refuse, on the grounds of disability or of reduced mobility, to accept a reservation for a flight departing from or arriving at an EU airport, or to embark a disabled person or a Person with Reduced Mobility (PRM) at such an airport, provided that the person concerned has a valid ticket and reservation [Article 3].

Notwithstanding the above, an air carrier etc. may refuse, on the grounds of disability or of reduced mobility, to accept a reservation from or to embark a disabled person or a person with reduced mobility on the following grounds:

- in order to meet applicable safety requirements; or
- if the size of the aircraft or its doors makes the embarkation or carriage of that disabled person or person with reduced mobility physically impossible.

The process for determining who or what might constitute a 'safety concern' is a matter for individual airlines, but they would have to be able to justify these conditions were they to be taken to court on the grounds of discrimination in the provision of goods and services.

Article 4 provides that in the event of refusal to accept a reservation on the grounds referred to above, the air carrier etc. must "make reasonable efforts to propose an acceptable alternative" to the person in question. A disabled person or a PRM who has been denied boarding on the grounds of his or her disability or reduced mobility and any person accompanying this person (as defined in Article 2) shall be offered the right to reimbursement or rerouting.

In order to satisfy themselves that a passenger is 'safe', an air carrier etc. may require that a disabled person or PRM be accompanied by another person who is capable of providing the assistance required by that person.

Air carriers etc. must make publicly available, in accessible formats and in at least the same languages as the information made available to other passengers, the safety rules that they apply to the carriage of

¹¹⁹ implemented in the UK via the *Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2007* ([SI 2007/1895](#)).

¹²⁰ further information can be found in [guides](#) available from the Equality and Human Rights Commission [accessed 23 February 2018]

disabled persons and PRMs, as well as any restrictions on their carriage or on that of mobility equipment due to the size of aircraft.

When an air carrier etc. refuses to carry a disabled person or PRM, it must immediately inform them of the reasons therefor. On request they must communicate these reasons in writing within five working days of the request.

Article 10 and Annex II state that an air carrier must provide the following assistance *without additional charge* to a disabled person or PRM departing from, arriving at or transiting through an EU airport:

- Carriage of recognised **assistance dogs** in the cabin, subject to national regulations;
- In addition to **medical equipment**, transport of up to two pieces of mobility equipment per disabled person or person with reduced mobility, including electric wheelchairs (subject to advance warning of 48 hours and to possible limitations of space on board the aircraft, and subject to the application of relevant legislation concerning dangerous goods);
- Communication of essential **information** concerning a flight in accessible formats;
- The making of all reasonable efforts to arrange **seating** to meet the needs of individuals with a disability or reduced mobility on request and subject to safety requirements and availability;
- Assistance in moving to **toilet facilities** if required; and
- Where a disabled person or PRM is assisted by an **accompanying person**, the air carrier will make all reasonable efforts to give such person a seat next to the disabled person or person with reduced mobility.¹²¹

5.2 UK policy

In June 2014 the UK aviation regulator (the Civil Aviation Authority, or CAA) announced that it had decided to use new powers available to it to require airlines and airports to display specified information about policies and services for PRMs in a comparable and accessible format on their websites.¹²² In December 2016 the CAA issued new guidance to UK airports on the minimum compliance standards under the EU Regulation.¹²³

In its draft transport accessibility action plan, published for consultation in August 2017, the Government sought views on whether there was enough information available regarding the rights of disabled or less mobile passengers when travelling by air and the existing information and guidance is clear and understandable.¹²⁴

¹²¹ on this point, a court case in 2014 brought to light problems with the Montreal Convention when seeking compensation for distress etc. caused by a breach of any of these rules; see: *Stott v Thomas Cook*, [2014] UKSC 15, 5 March 2014

¹²² CAA, *Revised CAA proposal on information for PRM passengers*, 13 June 2014; powers under sections 83-93 of the *Civil Aviation Act 2012*

¹²³ CAA, *CAA guidance for airports on providing assistance to people with hidden disabilities*, CAP 1411, 8 December 2016

¹²⁴ Op cit., *Accessibility Action Plan Consultation: A Transport System that is open to everyone*, p30

In July 2018 the CAA reported that the number of people with a disability requesting extra help when travelling by air had reached over three million journeys – a rise of almost 80 per cent since 2010. Sixteen UK airports were rated 'very good', up from six airports in the 2017 review. However, three airports – Birmingham, Gatwick and Stansted – did not meet the CAA's expectations and were told to improve. Manchester Airport received a 'poor' rating for the second year in a row; the only airport to receive this rating in 2018.¹²⁵

The July 2018 *Inclusive Transport Strategy* stated that by 2019 DfT would review the powers the CAA has to “enforce regulations and strengthen them if evidence suggests this is required” and consider how passenger assistance could be improved by providing assistance via a single member of staff throughout the journey (airside and landside). By 2020 it stated that it intends “to put in place a robust framework for measuring airlines' provision of assistance services, and to have strengthened the current performance standards for airports”.¹²⁶

The DfT intends to publish its *Aviation Strategy* for consultation by the end of 2018. The *Inclusive Transport Strategy* stated that it will contain policy proposals to improve disabled people's access to, and experience of, using aviation. Some of the measures under consideration include:

- Working with industry to offer better on-board wheelchair and disabled toilet facilities;
- Examining how aircraft manufacturers can better design aircraft to make them more accessible, for example by removing seats to accommodate wheelchairs and prioritising wheelchair storage for quick access on arrival;
- Reducing the distance disabled passengers have to walk within airports by encouraging the installation of travellators when building refurbishment or expansion of terminals are taking place.¹²⁷

In October 2018 the CAA issued new guidance to airports on assisting passengers with hidden disabilities.¹²⁸

¹²⁵ CAA press notice, “[UK airports show big rise in help for disabled passengers](#)”, 13 July 2018

¹²⁶ Op cit., *The Inclusive Transport Strategy: Achieving Equal Access for Disabled People*, para 5.6

¹²⁷ Ibid., para 8.47

¹²⁸ CAA press notice, “[Airlines given guidance on assisting passengers with hidden disabilities](#)”, 15 October 2018

6. Ferries and cruises

The law in this area derives from the EU, particularly Chapter III and Annex II of EU [Regulation 1177/2010](#) concerning the rights of passengers when travelling by sea and inland waterway. It came into force in December 2012. Enforcement of the rights and entitlements set out in the Regulation was provided for under the *Merchant Shipping (Passengers' Rights) Regulations 2013* ([SI 2013/425](#)), which came into force on 27 March 2013.

The Regulation aims to provide disabled persons and persons with reduced mobility (PRMs) with the same opportunities to travel by ferry and cruise ship as they have in other transport sectors across the EU. It applies to:

- passengers travelling on a ferry departing from, or arriving in, the UK or any other EU Member State, or who have booked and paid for such a journey; and
- passengers travelling or booked on a cruise ship departing from the UK or any other EU Member State.

It applies to almost all international voyages and to many domestic ferry services that operate in the UK.

It provides that disabled people and PRMs are entitled to make a booking for, buy a ticket for, and travel by ship on the same basis as other passengers.¹²⁹ There are only two circumstances in which an operator of a ship (or travel agent or tour operator on its behalf) can refuse to accept a reservation from or to embark a disabled person or a PRM for reasons related to their disability or reduced mobility:

- Where carrying the person would conflict with safety requirements as established by international, EU or national law or in order to meet safety requirements established by the competent authorities;¹³⁰ or
- Where the design of the passenger ship or port infrastructure and terminals make it impossible to carry out the embarkation, disembarkation or carriage of the person in a safe or operationally feasible manner.

Operators of ships and of port terminals also have a duty to provide clear information to would-be passengers and to have documented procedures in place for the carriage of disabled passengers. Clear information should be provided about equipment that cannot be carried on board the vessel, such as oxygen cylinders, and about any restrictions on the size or weight of equipment that may be taken on board (or into the passenger areas on board).

¹²⁹ however, it is concerned only with disability and with mobility – it does not, for example, prohibit an operator from refusing to carry a passenger who is fully mobile but has a health condition that may require medical attention that will be unavailable during the voyage

¹³⁰ the primary requirements relating to the safety of the ship are those set out in, and derived from, the [International Convention for the Safety of Life at Sea \(SOLAS\)](#) and the related [Safety Management Codes](#)

The circumstances in which a disabled passenger may be required to be accompanied by a companion also need to be clearly set out, together with, in relation to ferry services, the arrangements for obtaining a ticket for such a companion free of charge.

Where a cruise or ferry operator (or a travel agent) refuses to accept a booking from or to sell a ticket to a passenger for a particular sailing for reasons related to the passenger's disability or reduced mobility, the operator (or travel agent) must try to identify an alternative sailing operated by the ferry/cruise operator that may be acceptable to the passenger. Where no such alternatives are available and the would-be passenger is therefore unable to make a booking, the operator must then and there explain the reasons why and be ready to provide the explanation in writing within five working days, and must do so if the individual so requests.

Where a disabled person or a PRM has a booking or a ticket for a sailing and when making the booking or buying the ticket *had provided information about their specific requirements for accommodation or need to bring medical equipment for reasons related to their disability or mobility and is nonetheless refused embarkation at the port*, the ferry or cruise operator must either, at the discretion of the passenger:

- provide a full refund within seven days and, if all safety requirements can be met, arrange free travel for the person back to their first point of departure; or
- arrange, similarly if all safety requirements can be met, for the person to be taken to their destination by a different route (or on a later sailing, if that suits the passenger) at no additional cost and under comparable conditions.

Operators of port terminals must provide such assistance as a passenger may need:

- **At staffed terminals:** this includes designating and signposting a place where a disabled passenger can report on arrival in the port; assisting the passenger to proceed physically through the port and the terminal building; presenting the passenger for any security and border control formalities; and (if necessary) assisting the passenger to proceed to any toilet facilities.
- **At unstaffed departure points:** there is no obligation to provide assistance, though the needs of disabled passengers should nonetheless be taken into account as and when such slipways or quays are designed or extensively refurbished.
- **On board ships:** operators of ferries and cruise ships must provide such assistance as a passenger may need in order to proceed to an appropriate seat or cabin on embarkation, to stow and retrieve any luggage, to proceed (if necessary) to any toilet facilities, and to proceed to the ship's exit for disembarkation at the end of the voyage. Operators must also carry any medical or mobility equipment belonging to the passenger that is needed for the voyage, *subject to such equipment being permitted on board the vessel*.

The obligations at staffed terminals and on board ships are conditional upon receiving 48 hours' notice from the passenger and the passenger

arriving in sufficient time; if that notice is not given, the operator must 'make all reasonable effort' to provide assistance.¹³¹

There is a power in section 30 of the [Equality Act 2010](#) to apply section 29 of that Act (relating to equality in the provision of goods and services) to ships and hovercraft, whether in UK waters or not. Despite a public consultation in 2011 no further action was taken, largely because the EU Regulation (above) superseded it. The Government said:

Introducing a workable national regime ahead of the application of the EU Regulation is not considered to be deliverable given the range of operations affected. Simplifying and clarifying existing legislation in relation to disability discrimination, harassment and victimisation at the same time that the EU Regulation comes into force will ensure that UK operators are not placed at a commercial disadvantage to their European-based counterparts. Moreover, an EU rather than a domestic approach is considered appropriate as a large proportion of journeys on ships and hovercraft from the UK are international in nature.¹³²

Guidance notes on the application of the EU Regulation can be found on the Gov.uk archived website.¹³³

In its draft transport accessibility action plan, published for consultation in August 2017, the Government said that it "would encourage all bodies responsible for designing new ports and terminals or major refurbishments to give full consideration to the accessibility needs of passengers with disabilities and reduced mobility, and to design facilities that can be used by all passengers".¹³⁴

The July 2018 *Inclusive Transport Strategy* stated that from autumn 2018 the Maritime and Coastguard Agency (MCA) would undertake a survey of disabled passengers using ferries and cruise ships in order to effectively measure the services provided; and that by the end of 2019 DfT would review the MCA's enforcement of regulation, particularly around staff training and "work with them to strengthen procedures where areas for improvement are identified".¹³⁵ It also set out its intention in 2019 to publish a toolkit for the maritime industry highlighting key challenges disabled people can face in travelling by sea as well as recommendations on how they can make maritime infrastructure more accessible.¹³⁶

¹³¹ further details in: DfT/MCA, [Guidance for carriers, tour operators and travel agents on the carriage of disabled passengers and others with reduced mobility](#) (Guidance Note No 2), 13 May 2013

¹³² DfT, [Consultation on the application of Part 3 of the Equality Act to Ships and Hovercraft](#), 13 January 2011, pp6-7

¹³³ DfT/MCA, [Guidance notes relating to EU Regulation 1177/2010 on maritime passenger rights](#), 13 May 2013

¹³⁴ Op cit., [Accessibility Action Plan Consultation: A Transport System that is open to everyone](#), para 4.77

¹³⁵ Op cit., [The Inclusive Transport Strategy: Achieving Equal Access for Disabled People](#), para 5.6

¹³⁶ Ibid., para 8.48

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