

Transport Select Committee

Accessible Transport: Legal Obligations

Submission by the Chartered Institute of Logistics and Transport (CILT UK)

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The Chartered Institute of Logistics and Transport (CILT UK) is a professional institution embracing all transport modes whose members are engaged in the provision of transport services for both passengers and freight, the management of logistics and the supply chain, transport planning, government and administration. Our principal concern is that transport policies and procedures should be effective and efficient, based on objective analysis of the issues and practical experience, and that good practice should be widely disseminated and adopted. The Institute has specialist forums, a nationwide structure of locally based groups and a Public Policies Committee which considers the broad canvass of transport policy. This submission was led by our Accessibility and Inclusion Forum, which comprises transport professionals, many of whom also have lived experience of disability, with contributions from our Strategic Rail, Bus and Coach and Aviation Policy Groups.

1 How effective is the current legislation aimed at ensuring accessible transport for all?

General comment

There are two major flaws:

- Most legislation affecting transport is through technical regulations. While effective when drafted – over 20 years ago – many areas now need updating eg, dimensions given for an occupied wheelchair in bus legislation are no longer representative of dimensions for modern wheelchairs and scooters and so effectively excludes many people.
- There has been limited enforcement of legislation in bus or rail. Greater enforcement occurs in connection with new build, where acceptance criteria require compliance with accessibility legislation. Upgrading existing infrastructure to meet accessibility requirements has been slow, limiting the benefits of the compliant parts. The intention was for inspection bodies to include accessibility features in both new build and routine inspections. This does not always happen. There been no significant enforcement actions brought by the EHRC so little case law has been established. In many cases people have lost sight of what the law requires.

Bus

Key legislation is the Public Service Vehicles Accessibility Regulations 2000 (Updated 2022). PSVAR applies to all new public service vehicles (buses or coaches). These regulations only apply to public service vehicles, but should be adopted for all buses.

Issues

- PSVAR legislation on bus accessibility standards is adequate for larger buses (>22 seats). Passenger vehicles with less than 22 seats used as community buses or on-

demand responsive services should also be fully accessible and brought within the PSVAR.

- Rail replacement services use coaches that may not be accessible to disabled people. Legislation needs strengthening so that only accessible buses should be used on rail replacement services.
- Potential improvements in terms of on-board facilities such as audio announcements of stops (trials in progress) and seating arrangements for people with limited mobility and those in wheelchairs. DfT commissioned Ricability to produce a guide (now very dated), "*Wheels within Wheels*", which outlines what wheelchair users can expect from newer trains, coaches, buses and taxis. It has information on how passengers can find out where accessible services are running and gives tips on travelling in a wheelchair. It also lists key dimensions of wheelchairs currently available in the UK, and which will fit onto public transport. Such guidance should be mandatory for bus operators.
- While many authorities try to ensure level access at bus stops, numerous bus stops do not comply with the guidelines, including in rural locations where stops may be on soft verges or without a pavement platform. Even where pavements are available the heights can vary, presenting a barrier to access for wheelchair users. There should be a uniform standard for pavement width and heights above the road surface at bus stops (TfL specifies these) including tactile paving surfaces to assist visually impaired people. Lack of authority budgets delays implementation.

Rail

Substantial progress has been achieved since 1995 due to legislation and regulatory and contractual obligations placed on the rail industry at all levels.

However, evidence shows continuing exclusion from rail in terms of both the 'demand' and 'supply' sides. Progress comes from a very low base and inconsistencies across the country means accessible transport is not available for all. Disabled people make fewer rail trips than non-disabled people. Major barriers to access remain e.g. station accessibility, awareness of accessible travel opportunities, and availability of assistance.

There is concern that a side effect of rail reform and changing staffing roles will reduce, or reverse the progress made to date. Changes may reduce availability of staff at stations and on trains depleting the provision of assistance. DfT has a Public Sector Equality Duty and where not being met, should be seen as a failure in the effectiveness of current legislation, or at least its enforcement.

Air

Current requirements for access to air travel have been taken into UK law from the European Regulation 1107/2006 which sets requirements both for airports and airlines to ensure disabled people are not denied access to flights and assistance is provided to enable them to get through the airport.

UK airlines and airports generally take their duties very seriously and when problems arise they are mostly due to a breakdown in communication between the airline and airport contracted staff.

Greater emphasis on training of staff at all levels and greater awareness among disabled people of their rights would help improve the quality of service.

2 How can existing legislation be better enforced to make accessible transport a reality?

General comment

By ensuring that monitoring across all modes is routine and systematic and enforcement action is taken where needed.

Although training in accessibility awareness is a requirement across all sectors it varies significantly in quality and frequency. DfT has produced on-line training material for all modes but it is little known about or used. This could form the basis of a much stronger focus on training. <https://www.gov.uk/government/publications/real-training-introduction-and-all-transport-modes-modules>

It is unfair to expect individuals to assert the rights of disabled people more generally, especially in terms of the failure to make reasonable adjustments on an anticipatory basis. Enforcement should be the job of Government, as it is e.g. with most aspects of criminal law, and to a large extent with health and safety. This requires a proactive approach which does not rely on individual complainants and can protect people who may not even know they have been discriminated against.

Bus and coach

DfT provides the Driver and Vehicle Standards Agency with a specific fund to enforce the requirements outlined in the PSVAR. Non-compliance with PSVAR is a criminal offence (see Equality Act 2010) carrying a Level 4 maximum fine (currently £2,500).

With current spending restricted, auditing/inspection staff come low down on their list of priorities.

Rail

All rail operators are required to provide assistance and facilities for accessible travel. However, levels of information and ease of obtaining assistance varies greatly across the sector. For most passenger services, accessibility standards and applicable sanctions from the DfT for failing to meet them are set out in the National Rail Contracts. Limited enforcement is arguably a failing of contract management rather than a failing of the legislation.

Light rail has a high level of accessibility - most systems offer level boarding at all tram stops allowing direct access for wheelchairs and buggies without ramps.

Air

The CAA are undertaking this role with reasonable effectiveness for airlines and airports, they publish regular reviews of airport performance based on inspections and are introducing an equivalent process for airlines.

However, the performance measures used are too focussed on timeliness (important though that is) and not enough on quality of service.

3 Are operators and local licensing authorities fulfilling their legal obligations to disabled travellers and travellers with other accessibility needs? If not, why not?

General comment

Some are making real effort, but many are not. Reasons for failure include lack of training of key staff – from management level to front line, and general lack of awareness about legal requirements. Lack of available funds for both operators and authorities, is also an issue. Operators' legal requirements need to be more clearly documented – both for operators and passengers. Clarity is required on the role of the licensing authority or government department tasked with managing and enforcing accessibility.

Bus

Low-floor buses fitted with ramps for wheelchair access, has led to requirements for appropriate kerbside access at bus stops. Unless all stops along a bus route are equally accessible, passengers may be unable to board or alight a bus at their desired location. Potential benefits from low floor buses will be reduced, preventing the public transport network being fully inclusive.

Issues

- Are local highway authorities ensuring marked bus stops/bays are not blocked by parked vehicles, preventing level access boarding and alighting?
- Are operators making it clear that buggy/wheelchair spaces and priority seats should be kept clear for those who need them? It is the drivers in the firing line if people refuse to move.

Rail

The Association of British Commuters claim in uncovered evidence that GTR admitted in an internal document to breaking the law on accessibility, with respect to impacts of running driver-only trains to unstaffed stations. Five other train operators are allegedly in the same position according to ABC.

Issues

- Weaknesses revolve around station infrastructure and passenger assistance, including failures to make reasonable adjustments to physical features at stations.
- Legal requirements for train operators to independently identify and remove all barriers to access only apply where costs and benefits of doing so are reasonable.
- Inadequate service quality regime for accessibility and/or lack of enforcement under inspection regime.
- Inconsistent and unreliable assistance provision across the network.

Passenger operators often rely on externally-funded improvement schemes (e.g., Access for All) as evidence of ongoing compliance with legislation where adaption is required at existing stations.

New build, especially light rail schemes, have accessibility costs and legislation compliance built in.

Air

As noted above the CAA are making an effort but lack the resources and powers to really make a difference.

4 How well do complaints and compensation processes work when things go wrong?

General comment

Many people do not complain because they do not know their rights and/or they do not know how to complain.

The processes are complex, arduous and often inaccessible, i.e., websites, which don't work well with assistive technology including smart phones or the requirement still to complete hard copy paper forms.

Bus

Complaints processes are in place leading from the bus operator to the Traffic Commissioner.

As with other modes, a significant problem is that disabled people do not know how to complain or find the process too complex.

Rail

Details of how to complain are generally available at stations and on trains but are not always obvious. When a claim is successful, some passengers are offered vouchers rather than cash refunds – limited benefits for occasional users.

As civil claims procedures encourage parties to try and settle out of court there is limited ability to establish useful legal precedents, and the proper assertion of rights. This may mean the causes of the complaint are not adequately addressed, and other disabled people experience the same issues.

Air

Although complaint mechanisms exist, they are not widely known or understood. Problems generally arise at the airport rather than on board and although assistance is booked through the airline it is provided by the airport (direct or under contract). This means that many complaints are misdirected and never properly dealt with.

5 Are there specific transport modes or kinds of journeys where compliance with legal obligations is especially patchy? Are there differences according to where in the country you are travelling? What difficulties does this cause for travellers with access needs?

General comment

This can only be examined by regular audit of services combined with surveys/feedback from users who must deal with variations in their journeys.

Disabled people are often forced to choose between making a journey on public transport with its challenges at lower financial cost, or opting for a more expensive taxi (with other problems i.e. refusal of drivers to take assistance dogs etc.).

Bus

The National Bus Strategy includes requirements for bus operators to commit to a clearer complaints procedure for poor service, but with many different bus operators there are differences across the country. Local authority funding for accessibility is subject to budget availability and vfm calculations.

Rail

Operators running DOO trains to unstaffed stations without level boarding facilities cannot provide staff to assist with boarding and alighting on a turn-up-and-go basis. At best staff can be pre-booked under a travel package and at worst no assistance is provided at all, even where the service is pre-booked. No one area with DOO trains is worse than others. The platform - train relationship is a key design point as all tram systems with level boarding and minimal tram-platform gaps can provide accessible boarding without staff needing to assist. Where trains run with on-train staff, they can provide boarding/ alighting assistance on a 'turn up and go' basis. However, staff on-board trains do not change any lack of accessibility for station infrastructure away from the platform-train interface.

Air

One particular issue to highlight is wet leasing where the disabled person has booked with a particular airline believing that they will meet their needs and then find that the flight has been contracted out to a different carrier whose practice may be unacceptable.

6 How effective are the relevant regulators at enforcing accessibility in transport? These include the Equality and Human Rights Commission, the Office of Rail and Road, Local Licensing Authorities and the Civil Aviation Authority.

General comment

EHRC has taken very little interest in transport issues since it replaced the Disability Rights Commission (DRC). Many instances of practices discriminate (as set out in the Equality Act 2010) e.g. reliance on online only systems for booking and ticketing discriminates against those unable to access the internet, use touch screen technology etc. EHRC has, however, taken some initial steps to press the rail industry on the issue of DOO and unstaffed stations.

The dilution of equality issues has seen a downgrading of focus and expertise on disability which, particularly in a transport context is about actual barriers and not just discrimination. The DRC took some very effective action in establishing case law.

Bus

Enforcement needs the audit/inspection staff to be available and trained. This is not generally the case at present.

Rail

ORR has powers to enforce breaches of operators' Accessible Travel Policies' but cannot act unless a complaint is received. A more proactive approach, suitably resourced, would be beneficial, although would require a revision of ORR's powers.

As national regulator ORR has a number of duties which it must balance and may effectively limit its ability to enforce accessibility requirements. Were breaches of equality law treated similarly to criminal or health and safety laws (i.e., with greater emphasis on rules as opposed to cost implications), this would prompt DfT to focus greater resource to deliver an accessible railway meeting all requirements under equality law.

Air

CAA lack the powers and resources to monitor and enforce effectively – although they are doing more than most countries in Europe on that score.

7 Do current legal obligations or guidance need to be strengthened?

General comment

As noted above, current legislation needs to be reviewed and updated where appropriate to meet modern standards. Any changes should be tested for unintended consequences.

Bus

As above, greater emphasis and resources for audit and inspection of compliance are key.

Rail

A key weakness of ORR's Accessible Travel Policy Guidance is that it does not comprehensively specify what assistance must be provided and where. Operators feel free to use alternative accessible transport, or simply not to provide certain forms of assistance. Its inconsistency means passengers cannot know what to expect. Guidance could be amended to state that assistance must always be available, and specify types of assistance, where, and at what times. Any change would need to be made in conjunction with the DfT as ultimate funder.

Additional guidance could be issued by Ministers regarding the reasonableness or otherwise of certain adjustments to improve accessibility. This could help bring clarity to the industry for both operators and passengers and form obligations within the National Rail Contracts.

Air

More effort is needed to ensure that passengers are aware of their rights and what they need to do to ensure their needs are met.

8 What best practices should transport operators be following to improve their performance on access and inclusion for users?

General comment

Key improvements would be better engagement with disabled people on planning and monitoring compliance with the law and best practice and with delivering training. While some operators – notably in the rail and aviation sectors - do have forums of disabled people who have a clear role in planning and advising many do not.

Key issues include ensuring:

- The 2hr rail booking time is available at any station and that the type of assistance provided is clear.
- Accessible toilets on trains are in working order.
- Bus and rail companies make it clear that buggy/wheelchair spaces and priority seats are to be kept for those users.

Bus

Service providers should ensure more staff are trained in the needs of all users, particularly those with impairments. Operators should work with highway authorities to ensure all bus stops are fully accessible.

Rail

Operators should apply the 'fail-safe' approach of operational safety to the provision of assistance.

An inclusive approach to staffing is needed which ensures disabled people can access the network on the same terms as other passengers.

Applying 'turn up and go' – best practice for disabled people needing assistance as demonstrated by TfL and the light rail systems.

9 How effective is the Government's Inclusive Transport Strategy, and how well does it influence decision-making across transport policy? How could it be improved?

General comment

The DfT published the Inclusive Transport Strategy (ITS) in 2018 (last updated in November 2020). The Vision for the ITS was defined as:

- For disabled people to have the same access to transport as everyone else. They will travel confidently, easily and without extra cost.
- By 2030 we envisage equal access for disabled people using the transport system, with assistance if physical infrastructure remains a barrier.

Commitments in the ITS all fall under the heading 'Actions to deliver our objectives'.

Unfortunately, many contain no element of commitment in terms of improving travel for disabled people. Phrases like 'Continue to work...', 'Consider...', and 'Explore ...', effectively say, either they will continue doing what they already do, or they will think about the issue. No new action is involved.

Has the ITS contributed to making progress in achieving its vision? The document 'The Inclusive Transport Strategy – summary of progress' reports on what has been done on selected commitments but provides no overall evidence that progress is being made in achieving the Vision.

The National Travel Survey shows the number of trips per year made by people with mobility difficulties compared to those who do not decreased slightly between 2018 and 2021 from 60.1% to 60.0%. Thus people with mobility difficulties made 60.1% of the number of trips that a person without mobility difficulties did in 2018. A small increase in the number of trips by people with disabilities compared with other people between 2018 and 2021 were recorded, but mainly because of a relative shift to car.

Overall, there is no sound evidence that the ITS has been effective in making progress towards achieving its Vision. A major cause is very poor definition of the commitments meaning that, generally they simply involved talking about an issue without any actions. The commitments should all have contained a clear statement of what would be achieved and when it would be achieved.

There is no evidence how well the ITS has influenced decision-making across transport policy. The discussions implied in some commitments may have increased the level of interaction between the various bodies involved, but it is not clear how much this has contributed towards improving access for disabled people.

There needs to be a complete overhaul of the ITS with better specification of each commitment in terms of what will be achieved, who will be responsible for delivering it, when it will be achieved and how it will contribute to achieving the Vision.

None of the items cover the social and economic effects if any service is not accessible to everyone.

One approach would be to develop a threshold for accessibility that analyses accessibility as a social indicator. As well as specifying a minimum threshold it would allow the relative accessibility of different groups to be compared, e.g., car users vs bus users, disabled vs non-disabled travellers, etc., and measure the gap in accessibility opportunities.

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