

Disability Rights Commission

Avoiding Disability Discrimination in Transport

A Practical Guide for Breakdown Recovery Operators

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1. Introduction

Access to transport is fundamental to full and independent participation in society as a whole. Yet, disabled people travel one third less than non-disabled people. In the context of an increasingly mobile society and an ageing population where there are likely to be higher levels of disability, it is essential that the transport industry develops to meet these challenges. Many improvements have already been made or are well under way, but there is still a significant way to go.

The DRC is therefore producing a series of good practice guides for transport providers. Each guide deals with a different transport sector and offers practical advice on good practice in serving disabled customers. The following sectors are covered:

- scheduled buses and coaches
- breakdown recovery services
- rail services
- rental vehicles
- taxis and private hire vehicles (PHVs)
- tour coaches.

2. Purpose and scope of the Guidance

This Guidance is aimed at breakdown recovery operators in England, Scotland and Wales. It is intended to be a practical guide, offering good practice advice to breakdown recovery operators in serving disabled customers and potential customers. It shows how the adoption of good practice can promote equal treatment of – and avoid discrimination against – disabled people.

However, the Guidance is not intended to offer a detailed explanation of the workings of the DDA as it applies to disabled people and transport. The DRC has already produced two Codes of Practice which are designed for this purpose, and more detail on these can be found in the following section 'What the law says' and in Appendix 1 to this Guide.

Rather than replicating these Codes, which are inevitably legalistic documents, this Guide takes a more practical and comprehensive approach. It covers the whole process of using breakdown recovery services, from the point at which a potential customer seeks information and takes out cover, to the recovery process in the event of a breakdown or accident.

It includes the arrangements when there is a group of people among whom there is more than one disabled person (for example, in the case of a minibus having broken down). It also addresses the arrangements for the supply of a suitable replacement vehicle if covered under the terms of a breakdown policy.

The scope of this publication is therefore not restricted to what is covered by the law, and it should not be treated as a legal interpretation, but rather as a guide to effective practice

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in serving disabled people. Nor is the guide a statement of best practice (a concept which is in any case difficult to define in a rapidly changing world), there may be occasions when rental firms may want to go beyond the advice given in this guide in order to effectively serve disabled customers.

The types of vehicle covered here are those deployed by a breakdown recovery operator, whether or not through a third party, the sole or partial purpose of which is to transport the driver and occupants of a broken down vehicle from the scene of an accident or breakdown.

3. Who are the operators?

A breakdown recovery operator is a provider of roadside assistance services for the purpose of recovering or repairing a broken vehicle. It is a company providing the services which has the legal responsibility for ensuring there is no discrimination against disabled people, not its individual employees. Thus, ensuring employees and those contracted on behalf of the operator are properly trained in understanding and responding to the needs of disabled customers is crucial.

A distinctive feature of the breakdown services industry is the extensive use of small sub-contractors by some of the large operators. It is important to remember that all parties bear some liability for ensuring that any disabled customers receive an acceptable level of service. This issue is discussed further in section 12.

4. What the law says

As stated before, this Guidance is not intended to provide an interpretation of the DDA, however a brief summary is provided below of its basic principles. A more detailed summary is also provided in the Appendix of this Guide.

The DDA makes it unlawful for organisations which provide services to the public to discriminate against disabled people in the way they provide or do not provide those services. This is much more than simply refusing or neglecting to provide a service, organisations must make 'reasonable adjustments' to remove or overcome elements in their services which present barriers to disabled people. The Act has been introduced in stages to allow businesses time to review the way in which they deliver their services and plan the changes they need to make to remove discriminatory aspects.

All transport providers have duties under the DDA. These duties will vary according to the type of vehicles and services they offer to the public.

Currently all transport providers have duties under Part 3 of the DDA in relation to transport infrastructure. For breakdown recovery operators this means things like information provided about services, the process of taking out an agreement and so on. Since December 2006 breakdown recovery operators also have duties in relation to the provision and use of the vehicles they provide.

Appendix 1 to this publication provides further information on the DDA duties. However, it is recommended that breakdown recovery operators refer to the relevant Codes of Practice for a full explanation of their legal duties. The DRC has produced a series of statutory Codes of Practice on various aspects of the DDA. These include two that relate specifically to transport:

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- the **Code of Practice on Rights of Access to Services and Premises** (known as the Part 3 Code), which covers duties in relation to the provision of transport infrastructure services, and
- the **Code of Practice on Provision and Use of Transport Vehicles** (supplementary to the Part 3 Code), which covers duties in relation to the provision and use of transport vehicles.

5. Who is a disabled person?

There are officially upwards of 10 million disabled people in Britain. Many may not think of themselves as disabled, but will nevertheless be covered by the DDA definition of disability. Some people are obviously disabled, such as someone who uses a wheelchair or a white cane, others may have disabilities which are not immediately obvious, such as a serious heart condition, mental health issues or diabetes.

Breakdown recovery operators should avoid stereotypical assumptions as to whether or not someone is disabled, or as to the extent of someone's disability. For example, some people who use wheelchairs can transfer – say to a seat in a taxi – others cannot. People who can walk may only be able to do so with difficulty and with the help of a walking aid.

Rather than making such assumptions, the operator should be focusing on the individual's service requirements. The nature of someone's disability is only relevant when considering whether and at what point they might require assistance.

One issue which the range of different disabilities serves to emphasise is the importance of staff training in disability awareness and equality issues. Staff attitudes towards disabled customers are often cited as the single most important aspect determining satisfaction with a service. Staff training is dealt with in section 7.

6. Planning for disabled customers

The DRC recommends that the ultimate aim for all transport providers should be to integrate provision for disabled customers to the point where it is automatically planned into the provision of any service, vehicle or building and, ideally, mainstreamed within that provision. This is in order to prevent, wherever possible, a situation in which disabled people are separated out from other passengers as 'special cases'.

Building disability equality into all service monitoring, review, planning and implementation should help ensure that the operator is providing an optimum level of service for its disabled customers (and undoubtedly many of its other customers also).

Keeping up to date with improvements in technology and vehicle equipment will help provide future solutions to the problem of inaccessible services. What may be beyond the budget or technologically impossible today may well be possible in the future, especially with a positive approach and effective long-term planning and budgeting.

7. Positive attitudes, positive outcomes – the importance of staff training

Employees of breakdown recovery operators who attend call-outs need to be well qualified to diagnose the cause of motoring breakdowns and to undertake roadside repairs when appropriate. Being trained to care for the customer – the driver and other occupants of a broken-down vehicle – is equally important. This is true of all employees of course, from telephone helpline staff to patrols, from senior managers to junior staff. It follows that training all staff to understand how they can best meet the needs of disabled customers is absolutely essential. It is in any case worth considering that effective training of this kind can often reduce the need for general customer service training.

Support and commitment from management are crucial in achieving truly high standards and long term change. Planning for the future should incorporate disability issues from the outset. It is recommended that disability equality training should include everyone in the organisation.

7.1 Content of training programmes

Obviously, each breakdown recovery operator must develop and implement measures which are appropriate to its own business. A programme for staff training should vary as appropriate according to the level of detail required. The following are some basic pointers for reference. The programme should:

- Be based upon the principles of the 'Social Model' of disability; these ensure that the starting point for any training is the acceptance that disabled people are full members of society who are disabled by the poor design of the built environment, by a lack of clarity in information provided and by the inappropriate attitudes of others.
- Explain how to assist disabled people. This should cover the needs of people with all kinds of disability, not just those of people who are more obviously disabled, such as wheelchair users. Staff should be trained not to simply assume that a person needs a particular form of help, and to ask if help is required before giving it.
- Involve disabled people, preferably with a wide range of disabilities. They are the experts on their disability and should be able to indicate where potential barriers are likely to be.
- Explain how to communicate effectively, particularly with people with learning disabilities or speech impairments as well as people with hearing loss.
- Ensure that all staff are familiar with any special procedures for dealing with disabled customers, such as what to do if a driver or passenger cannot climb into the cab of a breakdown recovery vehicle.
- Give an overview of what the DDA legislation means in practice.
- Aid personal development, for example by encouraging staff to learn sign language.

Training of this kind is not a one-off activity. Operators should also provide refresher courses for their staff from time to time.

Where operating companies are too small to have the necessary resources to develop their own training programme, there are training specialists who can advise on the content of training for front-line and management staff. There are also some useful guides published on disability awareness training – see Appendix 2 at the end of this guide.

8. Information about services and taking out an agreement

For those breakdown recovery operators who operate a membership scheme, customers mostly make initial contact with the operator via the telephone or the web. It is essential that these methods of communication are as accessible as possible, so that the information-seeking and the process of taking out an agreement are made as straightforward as possible for all customers.

8.1 Access to information by telephone

For most customers the telephone is likely to be a major point of contact. As with all customers, courtesy and a willingness to help are of paramount importance in creating a positive initial impression.

Members of staff dealing with a customer seeking to take out membership or to find out information about its services, should be aware that it may be via Typetalk. This is a service that can be used by a profoundly deaf person, in which the telephone operator acts as an intermediary between the caller and the staff receptionist taking the call. The telephone operator relays the receptionist's answers to the caller, which appear on their telephone as a written message.

An increasingly popular way for people who are deaf or hard of hearing to communicate is to use SMS text messaging, so operators should consider making this facility available. This could be particularly valuable for a deaf or hard of hearing customer who needs to ask for a call-out, and this is explored further in section 9.1.

Callers who have a learning disability, for example, may need extra time to make the call. Staff should use plain and simple language and allow plenty of time for the caller to process information and ask questions.

Similarly, for callers who have a speech impairment, staff should give the customer all the time they need, and should avoid interrupting by suggesting responses.

8.2 Websites

Using the internet to find out information and take out an agreement with an operator is increasingly popular. If the company has a website, it should be designed so that it is accessible for disabled people in terms of content and usability, for example, how a customer can progress through it to complete the agreement. Guidelines on the design of accessible websites are available. In conjunction with the DRC, the British Standards Institute (BSI) have developed guidance for web commissioners and designers. This guidance can be purchased from the BSI at:

www.bsi-global.com

The information on the company website should include brief details of any services and facilities that the operator can provide for disabled people. For example, if the operator offers an SMS service for its deaf or hard of hearing customers, it should list details of this service on the website.

8.3 Printed information

It is a good idea to produce all printed material for the public, such as brochures about services, in a minimum font size of 14 point print, with a simple typeface and good contrast between text/numbers and background (for example, black text on white background). This can help people with dyslexia, for example. By adopting this approach, an operator is enabling many more people to read the

information provided independently, without having to ask for a special adjustment.

Marketing the service is an important part of a company's activity. If promotional information is not accessible, a significant part of the market may be missed.

Example: A breakdown recovery operator that offers a membership programme includes, as part of its marketing, advertisements for its services in the local Disabled Drivers magazine. This ensures that these potential customers hear about what is on offer.

8.4 Taking out an agreement

Breakdown recovery operators and anyone representing them must remember that it is unlawful to discriminate against a disabled person in the way in which they provide or do not provide their services, for a disability-related reason (see Appendix 1). Thus, a company cannot refuse to accept a customer simply because they are disabled.

If a disabled person wishes to take out an agreement with a breakdown recovery operator, they should be assessed in the same way as any other member of the public. For example, if they possess a current driving licence there should be no further consideration as to whether they are able to drive.

9. In the event of a call-out

9.1 Contacting the service

When planning for the possibility of a call-out, breakdown recovery operators need to consider what provision they can make for communicating with customers who are deaf or hard of hearing, or who have other communication difficulties. The service provided may depend on the size and resources of the operator, but all operators should be aware of the advances in telecommunication technology. For example, textphones (such as Minicom) are rapidly being replaced by e-mail and SMS text messaging as the preferred option for telephone communication by people with communication difficulties.

9.2 What information to ask for

The disabled driver or occupant of a broken-down vehicle (or someone acting on their behalf) should ideally notify the breakdown recovery operator if one or more disabled people on board has any particular needs. This enables the operator to start making any necessary arrangements straightaway. If it is obvious from the information provided by the caller that the vehicle is irreparable on-site, meaning that he will require onward transportation, and if he explains that he uses a wheelchair, the operator could reduce his overall waiting time by searching for a local firm which provides a wheelchair accessible taxi.

It is good practice for the operator to prompt this type of information by asking a standard question to all callers for assistance, in order to find out if there are any disabled people

who may require special arrangements in the vehicle. This is important as it might save time in the long run for both the operator and customer/s, for example, if arrangements can be put in motion straightaway. It might also affect the prioritisation process, for example if someone on board requires regular medication which they do not have with them. Even if disabled motorists have pre-registered their particular needs with a breakdown recovery operator, this should not be relied on without checking, since their particular needs may be different at the time of the breakdown or accident, or a different or additional disabled person may be the driver or passenger in the vehicle.

A breakdown recovery operator also has to ensure that its representative communicates effectively with any disabled customers so that they understand what is happening.

Example: The representative of a breakdown recovery operator is responding to a call for assistance from the driver of a broken-down car who is profoundly deaf, but who is able to lipread. The representative knows from his disability awareness training that he should face the driver when speaking and speak clearly; he also uses a notepad and pen to explain technical terms which are difficult to lip-read and ensure that the driver understands the arrangements which have been put in place.

9.3 Priority attendance

A breakdown recovery operator should have a policy for determining when a request for assistance should be treated as a priority.

There are some cases where priority should be given to attending a breakdown or accident involving a vehicle in which a disabled person is the driver or an occupant. These include:

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- When the motorist's health is at risk if attendance is not as prompt as possible.
- If, as a result of the incident, the operator decides that transfer to an alternative accessible vehicle is likely to be required and knows that obtaining such a vehicle may take longer than would normally be the case.

Example: A motorist whose car has broken down telephones the breakdown recovery service of which she is a member for assistance and explains that she is diabetic: it is important that she has food at regular intervals during the day. She is worried that if her car is not attended to promptly she may not be able to reach home in time for her next scheduled meal and will suffer serious medical consequences. The breakdown or recovery operator arranges for the call to receive priority.

Just because assistance is requested from a disabled driver or occupant of a broken-down vehicle does not necessarily mean the call should automatically receive priority treatment. Where an operator has a policy of assessing priority, for example on the grounds of vulnerability, a disabled customer may or may not receive priority treatment, depending on the individual circumstances.

Example: A wheelchair user is one of three people in a car which has broken down late at night on a main road in a town centre and the driver has sought assistance from a breakdown recovery service. The three are all adult men with no particular concerns for their own health or welfare. The breakdown recovery operator knows that if the car cannot be repaired at the roadside, wheelchair accessible taxis are available in the town to be called to provide onward transport for the wheelchair user. The operator taking the call for assistance assesses that the

disabled person is less vulnerable than a non-disabled young woman travelling alone in a car which has broken down at the same time on the other side of the town in a run down area and who is therefore given priority over the disabled motorist.

10. At the scene of a breakdown or accident

On arriving to provide assistance to a vehicle breakdown or accident, breakdown recovery operators should avoid making stereotypical assumptions about whether or not someone is disabled, nor as to the extent of their disability. As the following examples show, every situation should be assessed on its particular circumstances:

Example: A breakdown recovery operator is called to attend a breakdown of a car which was being driven by a man. The car cannot be repaired at the roadside and, in accordance with the driver's breakdown insurance, the operator arranges for the car and driver to be taken to their onward destination. The driver appears to be fit. However, when the operator asks him if he will be able to climb into the passenger compartment of the breakdown recovery vehicle, the driver explains that he has arthritis in his knees, which severely restricts his ability to climb steps and makes it impossible to get up to the passenger compartment. Therefore, the operator arranges for an alternative vehicle to take the driver to his onward destination.

Example: A breakdown recovery operator is called to attend a breakdown of a car which was being driven by an elderly woman. The car cannot be repaired at the roadside and, in accordance with the driver's breakdown insurance, the operator's representative arranges for the

car and driver to be taken to their onward destination. The driver appears to be quite frail and the representative asks her whether she will be able to climb into the passenger compartment of the breakdown recovery vehicle. The driver replies that being taken to her destination in a breakdown recovery vehicle would be an exciting experience and that she might be old, but that she was certainly quite capable of managing the steps on her own. It is clear to the representative that the degree of assistance needed would not create a risk for the individual driver or the representative and offers her the same assistance anyone else might expect to receive when getting safely into and out of the breakdown recovery vehicle.

In the first example the man does not have a visible disability which requires a change to the way in which the service is normally delivered, while in the second example the elderly woman may be disabled, but she does not need a change to the service. By asking the driver about his or her ability in each case, the operator's representative ensures the best possible outcome and avoids the task of having to rely solely on his own assessment of each driver's capability.

10.1 Transfer from the scene of a breakdown or accident

When roadside repair is not possible, the driver and any other occupants may need to transfer to another vehicle to be transported away from the scene, while the broken-down vehicle is towed or carried away.

Although it may be standard practice for the driver and occupants of a broken-down vehicle to be transported away from the scene of a breakdown in the passenger accommodation of a breakdown recovery vehicle, it may be difficult or impossible for a disabled driver or occupant to get into or out of such a vehicle.

Such people are likely to include wheelchair users, those who cannot walk without assistance, people who cannot climb steps unaided, people with visual impairment and, in some circumstances, people with learning disabilities (these are just some examples). While the breakdown recovery operator in attendance may consider such a transfer to be feasible, the disabled person or, if they are unable to make that decision for themselves, an accompanying carer must make the final decision as to whether they are able to transfer into the breakdown recovery vehicle.

The disabled customer should expect the same assistance in transferring from the vehicle as would be offered to a non-disabled person. However, the operator should not be expected to have to lift a disabled person as part of this process, for the safety of both the disabled person and the operator. Where no alternative means is available, the assistance of the emergency services should be sought.

10.2 Transport by alternative means

The Disability Discrimination Act does not require breakdown recovery vehicles to be physically altered in order to make them accessible to disabled people. Instead, where a disabled driver or occupant is to be transported from the scene of an accident or breakdown, and is unable to transfer into the recovery vehicle, they should be provided with an alternative vehicle, such as a taxi (wheelchair accessible if necessary). Such a vehicle must meet the particular needs of the disabled driver or occupants of the broken-down vehicle, for example they must be able to get easily and safely into and out of the alternative vehicle.

If a disabled person and their carer are among several people travelling in the broken-down vehicle, it is important that the disabled person should not be separated from the carer during the onward journey, whether a breakdown recovery vehicle or alternative transport is supplied.

10.3 Charging

If the operator makes no standard additional charge for conveying someone from the scene of a breakdown or accident in a recovery vehicle, then they should not make an additional charge for providing alternative transport to convey a disabled customer in similar circumstances. On the other hand, if a motorist (whether disabled or not) does not have cover, or if their agreement terms do not include cover for onward travel, they would have to pay the cost of such transport themselves.

10.4 Carriage of mobility aids

For a wheelchair user who had been travelling in their wheelchair, the alternative transport needs to be wheelchair accessible, for example an accessible taxi or minibus. For a wheelchair user who had been travelling in the seat of a vehicle accompanied by his wheelchair (whether folded or unfolded), the alternative vehicle may be a saloon car, so long as it is large enough to convey the disabled person and their wheelchair together in safety and comfort. A disabled wheelchair user should not be separated from their wheelchair during transport because a wheelchair is usually an essential component of an individual's personal mobility, rather than just a helpful aid. The same applies to walking aids such as sticks or frames for ambulant disabled people.

Occasionally a disabled person's accompanying mobility aid may be too large to be conveyed with them in the alternative transport provided (for example, if it is an exceptionally large or heavy powered wheelchair or a pavement scooter). In such instances every effort should be made to convey the mobility equipment to the same destination at the same time as the disabled person so that they may be reunited with the minimum possible delay.

When a disabled person is accompanied by an assistance dog, other than in exceptional circumstances, (and then only with the agreement of the blind person), the dog must be permitted to travel with the disabled person, whether in the breakdown recovery vehicle or the alternative transport supplied.

Example: A blind woman travelling with her guide dog is a passenger in a broken-down car, for which the driver has requested assistance. When the breakdown recovery operator's representative arrives he finds he is unable to repair the car at the roadside and offers to take the vehicle and its occupants to their onward destination in the recovery vehicle. The driver and blind passenger are both capable and willing to climb the steps up into the cab of the recovery vehicle. However, there is insufficient space in the vehicle for the guide dog. The operator arranges for a taxi to be used for the onward transport of the driver, passenger and guide dog, while he uses the breakdown recovery vehicle to convey the broken-down car from the scene of the breakdown.

Licensed taxi (and private hire vehicle) drivers are under a duty to carry assistance dogs. However, since some drivers may be allergic to dogs (and in these circumstances will carry medical certificates of exemption from carrying them), it would be a good idea for the operator, when ordering the taxi, to inform the taxi firm if an assistance dog is also to be conveyed.

10.5 Safety

Safety of all the occupants of the broken-down vehicle, whether disabled or not, as well as that of the breakdown recovery operator's representative(s) attending the breakdown, is paramount. The requirements within PAS 43

have been agreed by the major organisations within the breakdown / recovery industry and adherence to its principles contributes to the safety of employees and customers in breakdown and recovery situations.

In some circumstances the breakdown recovery operator may decide that the location of the accident or breakdown is too dangerous for a disabled driver or occupants to be transferred safely to another vehicle. Such a location might be the hard shoulder of a motorway. The operator might then request the police or Highways Agency Traffic Officers to cordon off part of the road while transfer to another vehicle is safely made.

However, it is possible for a breakdown recovery vehicle to tow or carry a broken-down vehicle while someone is inside it. In circumstances when it would be considered dangerous to try to transfer a disabled driver or occupant at the roadside, and with the consent of the disabled person, it could be safer for a properly equipped vehicle to tow or carry the broken-down vehicle, with the disabled driver or occupant inside it, to the nearest place where it is safe to undertake the transfer (for example, a motorway service area, rest area or car park). The decision as to the safest and most appropriate course of action must rest with the breakdown recovery operator's representative attending the scene of the breakdown. With their knowledge of the road and traffic conditions, they are best placed to make an assessment based upon the particular circumstances.

10.6 When there are groups including one or more disabled people

Where the disabled driver or occupant of a broken-down vehicle is accompanied by other people, every effort should be made to transport them together in the same vehicle. This may not always be possible if, for example, it is a full coach which has broken down. In such circumstances it would be

acceptable for the breakdown or recovery service to provide one or more appropriately accessible vehicles (for example, taxis) to transport the disabled driver or occupants from the scene as well as the breakdown recovery vehicle for those who are able to get into and out of it.

Example: A broken-down minibus has on board two wheelchair users travelling in their wheelchairs, together with seven other occupants, two of whom have impaired walking ability. The representative of the breakdown recovery operator attending the breakdown tries to secure the services of another accessible minibus to take the passengers to their onward destination together, but discovers that none is available in the area. The nearest organisation that can supply one is a considerable distance away and is unable to supply the vehicle for at least five hours. The operator decides that instead of a long wait, it would be preferable for several accessible taxis to be used as they could be provided more quickly.

10.7 Locating alternative transport

Any lack of availability of alternative accessible vehicles to the scene of a breakdown may lead to a longer waiting time than would otherwise be expected. This is likely to be the case in areas remote from urban centres. It is not likely that such a wait would be considered discriminatory, so long as everything was done to make the disabled customer as comfortable as possible in the meantime (for example, ensuring they have the means of keeping themselves warm enough).

It is acknowledged that the supply of accessible vehicles for hire, such as taxis and minibuses, is uneven across the UK. Although the total number of such vehicles is increasing, their distribution is likely to continue to vary. It would

minimise the time taken to locate and supply alternative accessible transport if breakdown recovery operators maintained an up to date list of the contact details of accessible transport operators who were willing to provide such an 'on-call' onward transport service. There might be an advantage in an arrangement whereby such information is held centrally for the benefit of all breakdown recovery operators.

11. Provision of a replacement vehicle

Some drivers may have breakdown cover which provides for a replacement car while their own is being repaired or replaced in the period immediately following the accident or breakdown, typically for up to 48 hours. For a disabled driver it may be crucial that such a replacement vehicle is provided on a 'like-for-like' basis. For example, a wheelchair user may need an estate car with automatic controls and with sufficient space to accommodate their wheelchair. Some delay in providing the vehicles under such circumstances would be understandable.

In some circumstances it may be impossible to provide a suitable vehicle (if for example the driver requires it to be fitted with hand controls) within the time period specified by the agreement and failure to do so may not be a breach of the DDA. Nevertheless, having entered into an agreement which involves the supply of a loan vehicle it would constitute good customer care to endeavour to deliver the agreed service.

For example it would be sensible for breakdown recovery operators to keep a list of rental firms who can supply adapted cars. In the case of larger breakdown operators who have many disabled drivers as members, it may be possible to set up some kind of agreement with appropriate rental firms in order to ensure supply of suitable vehicles as quickly as possible.

In the event that it is not possible to provide a suitable car an operator could consider an alternative arrangement. Such alternatives might be the provision of an accessible taxi for a

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limited number of journeys (eg to work and back), or an arrangement whereby the driver may nominate an alternative driver if the replacement car is not suitable for them to drive themselves. Another option might be to start the 48 hour time period from the point at which the disabled driver takes delivery of the replacement vehicle.

12. Liability

As mentioned in Section 3 above, it does not matter whether the person attending the scene of an accident or breakdown is an independent breakdown recovery operator, or acting on behalf of a large breakdown recovery operation, they will still bear some liability for ensuring that any disabled customers receive an acceptable level of service.

The precise boundaries of responsibility will depend on the contract between the large operator and those sub-contracted to it. However, wherever the boundary may be set, neither party will be completely free of obligation to ensure that disabled customers receive a good service. In many instances the responsibility for paying for an alternative means of transport (such as a taxi) when someone cannot climb into the cab of a breakdown vehicle will rest with the national organisation with whom the driver of the vehicle has an agreement. However, responsibility for the quality of service at the roadside will in most circumstances lie with the sub-contracted service provider. It is important to remember that for many disabled people the crucial aspect is the quality of the interaction with the person providing the service at the roadside.

Example: A large breakdown company is reviewing its policy on serving disabled customers, and issues clear instructions to all its staff and sub-contractors that where a passenger is accompanied by a guide dog they must not be separated from the animal at any time. They receive a call for breakdown assistance from a member who is accompanied by a passenger who has a guide dog. They sub-contract the job of providing assistance to a local operator. This operator, having determined at the scene that the car cannot be repaired straightaway,

decides that the occupants must be transported in the breakdown recovery vehicle, with the car being towed behind. However, he insists that the guide dog must travel in the towed car, so that although there is plenty of room in the cab, the blind person has to travel without their dog in the cab of the recovery vehicle. This results in considerable distress to both the disabled person and their dog. In these circumstances it is probable that the sub-contractor rather than the breakdown company would be considered to have failed to provide a satisfactory service for the blind person.

The appropriate steps for an operator to take to make its service accessible to disabled customers will vary according to the size and resources of the operation. What a small, local and independent operator would be expected to do will be very different to what a large national operation, with many representatives acting on its behalf would be expected to provide, both to their own employees and to their customers.

Example: A large breakdown recovery operator provides disability awareness training for its staff as part of its policy towards its disabled customers. It monitors the effectiveness of its policy, partly by undertaking surveys of customers (including disabled customers) whom it has assisted following breakdowns, to assess their satisfaction with the service provided. It also advises customers of its complaints procedure encourages them to feed back their comments. Feedback from disabled customers is regularly analysed to assess whether any change of policy is needed to improve the service.

Example: A small local breakdown recovery operator acts as an agent for a larger motoring organisation. Its staff have all undertaken disability awareness and equality training. The company has produced a policy for dealing with disabled customers which has been communicated to all staff, and this policy is regularly monitored to check its effectiveness.

Both these examples indicate that the organisations, though different in size, and with different levels of resources available, have anticipated how they will respond to the needs of their disabled customers.

13. Customer feedback

In order to achieve and maintain good levels of service, a breakdown recovery operator would be well advised to set up an effective system for obtaining, monitoring and acting on customer feedback. A complaints procedure, for example, which encourages customers to explain what the problem was and how things could have been handled better, and which ensures a prompt response to every complaint, is likely to provide a useful basis for future service planning.

Encouraging customers to be forthcoming about their requirements both when joining as members and when requesting a call-out, is another way of ensuring the most effective response.

Disclaimer

Every effort has been made to make sure that the information in this booklet is correct. However, it is not intended to be an authoritative statement of the law, and the DRC cannot accept any legal responsibility or liability. In addition, the focus of this booklet is on what would be the most effective practice for disabled customers, and as a result, what is or is not compliance with the law has rarely been set out. This means that where something is not referred to as 'discrimination' a failure to follow the particular course of action advocated may still amount to discrimination. Equally, a particular course of action advocated could be above and beyond the strict confines of the law. Ultimately it will be for the courts to decide where the exact boundaries lie. The relevant Codes of Practice (see Appendix 2) provide further guidance on the workings of the law.

Appendix 1

Legislative background

There are two Parts of the Disability Discrimination Act (DDA) which have a particular relevance to transport: Part 3, which deals with access to services and premises, and Part 5, which allows access standards to be set for certain types of vehicle.

As far as breakdown recovery services are concerned, the provisions of Part 5 are not relevant. This is because there are no access standards or provisions within the Act itself which relate to breakdown recovery vehicles under Part 5. These apply only to providers of scheduled buses and coaches, rail vehicles and taxis/private hire vehicles. Brief details on these provisions can be found in the DRC Guidance for each of these modes of transport, or by contacting the Department for Transport.

Part 3: Access to services and premises

This section sets out the bare bones of the law. For further information on these duties, their scope and how they apply, transport providers should refer to the **Code of Practice on Rights of Access to Services and Premises** (known as the Part 3 Code) for issues relating to transport infrastructure services, and to the **Code of Practice on Provision and Use of Transport Vehicles** (supplementary to the Part 3 Code) in respect of duties relating specifically to the provision and use of transport vehicles.

Current situation

All transport providers have duties under Part 3 in respect of any transport infrastructure they provide to the public. In the case of breakdown recovery operators this means things like

information services and procedures for taking out agreements.

Since 4 December 2006, providers of certain types of vehicle (including breakdown recovery vehicles) have similar duties in respect of the provision and use of those vehicles.

These duties are briefly set out below. For the most part, the duties relating to the provision and use of vehicles are the same as those relating to the provision of infrastructure services. In some instances, however, the duties relating to provision and use of vehicles are more limited, and where this is the case, it is also explained below.

What the law says

Less favourable treatment

It is unlawful for a transport provider to discriminate against a disabled person:

- In **refusing** to provide a service offered to members of the public.
- In the **standard** or **manner** of service.
- In the **terms** on which the service is offered to the disabled person.

Reasonable adjustments

It is also unlawful for a transport provider to fail to make **reasonable adjustments** if that failure makes it impossible or unreasonably difficult for them to access a service.

This duty to make reasonable adjustments is considered to be the cornerstone of the DDA. It requires the transport provider to plan ahead, anticipating where the barriers to disabled people are in accessing a particular service, and what adjustments could reasonably be made to prevent or remove such barriers.

Reasonable adjustments are divided into three broad categories. The first two set out below apply both to providers of transport infrastructure and to providers of transport vehicles (including breakdown recovery vehicles):

- **Policies, practices and procedures** – breakdown recovery operators have a duty to take reasonable steps to amend any policies, practices or procedures which make it impossible or unreasonably difficult for disabled people to use their services.
- **Auxiliary aids or services** – breakdown recovery operators have a duty to take reasonable steps to provide auxiliary aids or services where these would enable or facilitate disabled people's access to a service.

The third category of reasonable adjustment applies in its entirety to providers of infrastructure services **only**:

- **Physical features** – providers of transport infrastructure services have a duty to overcome a physical barrier which makes it impossible or unreasonably difficult for disabled people to access a service by removing it, altering it, providing a reasonable means of avoiding it or providing a reasonable alternative method of making the service available.

In terms of the provision and use of a breakdown recovery vehicle, the above duty is limited as follows:

- Providers of breakdown recovery vehicles have a duty to overcome a physical barrier which makes it impossible or unreasonably difficult for disabled people to access a service by providing a reasonable alternative method of making the service available.

This means that breakdown recovery operators are only subject to the physical features duty in relation to the infrastructure they provide, for example if they operate from premises which are open to the public. Operators are under no obligation to alter breakdown recovery vehicles in order to comply with this part of the DDA.

Where disabled people would find it impossible or unreasonably difficult to use the breakdown recovery vehicle (for example, in being transferred from the scene of a breakdown), the operator might be required to provide a reasonable alternative (such as an accessible taxi). Situations in which this might be reasonable are explored further in the Code of Practice on Provision and Use of Transport Vehicles. Further guidance on effective practice is given in this guide.

Appendix 2

Further reading

'Code of Practice: Rights of Access: Services and Premises'

copies of this publication can be downloaded from the Disability Rights Commission website www.drc-gb.org or in hard copy from The Stationery Office

Telephone: 0870 600 5522

Fax: 0870 600 5533

'Code of Practice: Provision and Use of Transport Vehicles'

copies of this publication can be downloaded from the Disability Rights Commission website www.drc-gb.org or in hard copy from The Stationery Office

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The DRC has been unable to identify any publication on serving disabled customers aimed specifically at the breakdown recovery industry. Relevant material may be found from GoSkills the sector skills council for passenger transport, www.goskills.org The following general publication may be useful:

'Respect the Difference Value the Mix' available from

GoSkills, Concord House, Trinity Park, Solihull,
West Midlands B37 7QU

Telephone: 0121 635 5520

Fax: 0121 635 5521

The Disability Rights Commission (DRC) was created by the Disability Rights Commission Act 1999. The DRC's mission is to achieve a society in which all disabled people can participate fully as equal citizens. It has the following duties:

- To work towards the elimination of discrimination against disabled people;
- To promote the equalisation of opportunities for disabled people;
- To encourage good practice in the treatment of disabled people; and
- To keep under review the workings of the Disability Discrimination Act (DDA).

For information and advice from the Disability Rights Commission visit the DRC website at: **www.drc-gb.org**


You can also contact the DRC Helpline between 08:00 and 20:00, Monday to Friday.

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