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September 2017

Dear Ministers,

Task and Finish Group on the Use of the Wheelchair Space on Buses

On 18th January 2017, the Supreme Court handed down its judgment in the case of *Paulley vs FirstGroup Plc*. The case concerned a wheelchair user who was unable to board a bus because the wheelchair space was already occupied by a pushchair and child. Andrew Jones MP, in his previous role as Minister responsible for this issue, convened a 'Task and Finish Group', with representation from the bus industry, and groups representing disabled people and other passengers, to consider the implications of the judgment and identify potential actions that Government and other organisations should take.

We, the Group, met several times over the summer, and a report summarising our findings is attached to this letter. In the course of our meetings, we acknowledged that in the majority of cases, passengers and drivers work together to resolve issues where there are competing needs for the wheelchair space. However, we are in full agreement that more needs to be done to overcome the difficulties faced by many passengers in wheelchairs travelling by bus, and that further clarity, guidance and consistency is needed to help deal with situations where conflicts do arise.

Turning to the key issue – use of the wheelchair space - we are in agreement that the space should be made available for passengers in wheelchairs to use, and that other passengers need to be ready to vacate the space if required. However, we are also in agreement that other passengers could also have need for the space, for example where they have mobility issues themselves, and there will always be an element of judgement required by the driver in resolving issues that arise.

Our view is that drivers need to play an active role in ensuring that the wheelchair space is made available for passengers in wheelchairs, which includes requiring other passengers to move from the space where necessary, but that drivers also need more powers than they have currently to enable them to do this effectively.

During the course of the meetings, we discussed a range of potential interventions aimed at both better equipping drivers to deal with difficult circumstances, and also at helping to raise awareness amongst other passengers of the behaviours expected of them, and the need to move from the wheelchair space to enable passengers in wheelchair to travel. We therefore recommend that the following actions are taken:

- The Conduct Regulations are amended to enable drivers to remove passengers from the bus who refuse to move when reasonably requested from the wheelchair space;
- The associated guidance is amended to better reflect the behaviours expected from drivers and passengers with respect to use of the wheelchair space;
- Government, industry, passenger and disabled people's groups work together to determine how best to raise public awareness of the behaviours expected from passengers with respect to the wheelchair space, for example through a public awareness campaign, or improved signage on buses; and
- 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 wheelchair.

We recommend that Government continues to engage with representatives of the bus industry, groups representing disabled people, and groups representing passengers in implementing any interventions proposed in light of the judgment, and that Government commits to engage more broadly with a wider range of stakeholders, including groups representing buggy users, on the package of measures it determines should be taken forward.

Yours sincerely,

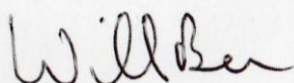


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Association of Local Bus Company Managers



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Task and Finish Group on the Use of the Wheelchair Space on Buses

Report to Government – September 2017

Introduction and background

1. On 18th January 2017, the Supreme Court handed down its judgment in the case of *Paulley vs FirstGroup Plc*. The case concerned a wheelchair user who was unable to board a bus because the wheelchair space was already occupied by a pushchair and child. The judgment stated that the bus company's policy of requiring bus drivers to simply request passengers to vacate the wheelchair space was insufficient to meet the requirements of the Equality Act 2010.
2. A 'Task and Finish Group on the Use of Wheelchair Spaces on Buses' (the Group) was formed in the light of the Supreme Court's judgment with the task of:
 - Considering the implications of the judgment for bus operators, drivers, wheelchair users and other passengers; and
 - Identifying potential actions that the Department for Transport and other organisations should take in light of the judgment, and their pros and cons.
3. The Group met three times between May and August 2017. The Group was made up of representatives from the bus industry, and groups representing disabled people and passengers more generally.
4. This report summarises the implications the Group has identified from the judgment, the range of interventions considered, and the recommendations that the Group wishes to make to the Department.

Implications of the Judgment

5. The Group discussed the implications of the judgment for passengers. The Group agrees that:
 - The wheelchair space should be made available for passengers in wheelchairs to use, but other passengers could also have legitimate calls on the space; and
 - Other passengers should be expected to vacate the space if required by a passenger in a wheelchair unless it is unreasonable for them to do so, for example because they themselves have mobility issues which means they have need of the space.

6. In considering the implications of the judgment for drivers and bus companies, the Group agrees that:
 - Drivers should play an active role, where necessary, in ensuring that the wheelchair space is made available for passengers in a wheelchairs; and
 - Drivers should be provided with powers to take action where necessary.
7. The Group also recognised that drivers will need to exercise their judgement in determining whether passengers are unreasonably occupying the wheelchair space, and that Government or industry guidance will not be able to cater for all the potential situations which could arise.

Range of interventions considered

8. Following discussion of the implications of the judgment, the Group considered a range of potential interventions which could help ensure that the wheelchair space is used appropriately. Group members agreed that in the majority of cases, passengers and drivers work together to ensure the space is made available, but acknowledged that there was a need to provide clearer guidance, and a more effective set of tools to deal with conflicts when they do arise.

The Conduct Regulations and associated guidance

9. The Group discussed the Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) Regulations 1990 (the Conduct Regulations), and the associated guidance. The Conduct Regulations deal with the conduct of bus drivers, and provide that a driver should allow a wheelchair user to board a bus if there is an unoccupied wheelchair space, the wheelchair can be safely located in that space and the seating or standing capacity of the bus would not be exceeded.
10. The Group considered whether the Conduct Regulations and associated guidance provided a clear and effective framework to enable drivers to determine when a passenger in a wheelchair should be able to board a bus. The Group concluded that the Conduct Regulations dealt appropriately with the issue of when a passenger in a wheelchair should be able to board a bus, and that changes were not required in that respect. However, the Group concluded that the guidance that accompanies the Conduct Regulations should be updated to reflect the fact that the driver should take a more active role, consistent with operator procedures, in ensuring the passengers and belongings are moved from the wheelchair space when it is needed by a passenger in a wheelchair, and to better reflect the behaviours expected from other passengers.
11. The Group has suggested some potential text to replace the existing guidance.
12. The Group also discussed whether the guidance should deal with the issue of further adjustments to be made by bus drivers and operators should a passenger in a wheelchair not be able to board a bus, for example because another

passenger had a reasonable need for the wheelchair space, or because it was already occupied by another passenger in a wheelchair. The Group did not come to a consensus on this point, but recommend that it is considered further as work on the guidance is progressed.

13. The Conduct Regulations also provide drivers with the powers to remove passengers from a bus in certain circumstances, including where passengers are travelling without a valid ticket or where they are smoking. The Group also considered whether the Conduct Regulations gave drivers the tools necessary to take action when passengers are using the wheelchair space inappropriately. The Group concluded that drivers should be given more powers to remove passengers from the bus when the driver deems that they, or their belongings, are occupying the wheelchair space unreasonably – for example, when a passenger refuses to move their belongings to another part of the bus. The Group therefore recommends that the Conduct Regulations are amended to enable bus drivers to remove passengers from the vehicle if they unreasonably refuse to move from the wheelchair space when requested. The Group also recommends that the associated guidance is updated to reflect the change.

Public awareness and signage

14. The Group also discussed public awareness of the purpose of the wheelchair space, whether signage on buses and in the wheelchair space in particular is clear enough, and whether more could be done to encourage passengers to move from the wheelchair space when it is required by a passenger in a wheelchair.
15. Operators are already required to display signage indicating that the space is suitable for a wheelchair user, and setting out safety instructions. However, there are some industry examples of operators going further, and including signage which states that other passengers should move from the wheelchair space when it is required by a passenger in a wheelchair, or more clearly delineating the wheelchair space from the rest of the bus, for example through markings on the floor.
16. The Group considered that more could be done to raise awareness of the needs of passengers in wheelchairs, and disabled passengers more generally, when using public transport, and to educate passengers about the behaviours expected of them when using the wheelchair space. Transport for London have run similar public awareness campaigns in the past, displaying posters on buses and at bus stops explaining that other passengers will be expected to move from the wheelchair space if it is required by a passenger in a wheelchair.
17. In addition, there is the potential to work with buggy and pushchair manufacturers, retailers and consumer organisations to raise awareness of more 'bus-friendly' models – those that can be folded quickly and easily.
18. The Group recommends that Government, industry, passenger groups and groups representing disabled people work together to determine how best to raise public awareness of the behaviours expected from passengers with respect

to the wheelchair space, for example through a public awareness campaign, or improved signage on buses.

Driver training and conditions of carriage

19. From March 2018 all bus drivers will need to complete disability awareness training. In 2016 the Department commissioned Mott MacDonald to develop best practice guidance in providing disability awareness training, informed in part by the perspectives of bus operators and disabled passengers. The Group recommends that this best practice guidance is updated to reflect the fact that drivers will be expected to require passengers to move from the wheelchair space if required by a passenger in a wheelchair unless it is unreasonable for them to do so.
20. Bus operators' 'conditions of carriage' set out the legal obligations of both the operator and passenger in relation to the bus service. These conditions of carriage set out the operator's requirements of passengers with respect to their conduct, and also set out how the company's policy with respect to use of the wheelchair space. Each individual bus company will have its own conditions of carriage, and will need to consider it carefully in light of the Supreme Court judgment, but it may be sensible for the bus industry to take the lead in developing 'best practice' which can be shared amongst operators to ensure that all passengers are aware of the expectations on them to move from the wheelchair space where it is required by a passenger in a wheelchair.
21. The Group therefore recommends that the bus industry develop common 'best practice' wording to be incorporated in bus company conditions of carriage.

Other interventions

22. The Group also discussed a range of other actions that could be taken by bus operators, passenger groups and other organisations to help improve the situation following the judgment. These included changes by manufacturers to improve the accessibility of vehicles, such as the use of more flexible space to allow wheelchair users and passengers with buggies or luggage to travel, and potential technological innovations to provide passengers in wheelchairs with advance warning of the availability of wheelchair spaces on board buses.
23. A number of operators have trialled providing an additional flexible, or PSVAR-compliant wheelchair space, and it is possible that the wider adoption of such approaches could help to alleviate pressure on single wheelchair spaces and increase the likelihood of wheelchair users being able to board and travel.
24. The Group also concluded that technological approaches predicting or communicating wheelchair space availability, whilst potentially useful in the longer-term, would be unlikely to help resolve issues that arise following the judgment or provide clarity for drivers or passengers.

Conclusions and recommended actions

25. The Group agrees that the wheelchair space should be made available for passengers in wheelchairs to use, but that other passengers may have legitimate calls on the space. The Group considers that drivers should take a more active role in ensuring that the space is used appropriately, which includes requiring passengers to move from the space where necessary.
26. The Group considers that there is more that could be done by Government, the bus industry, passenger groups and other organisations to help raise awareness of the behaviours expected of passengers with respect to the wheelchair space, and that changes to the law could provide drivers and bus operator representatives with more powers to enforce the correct use of the space.
- 27. The Group therefore recommends that:**
- i. The Conduct Regulations are amended to enable drivers to remove passengers from the bus who refuse to move when requested from the wheelchair space;**
 - ii. The associated guidance is amended to better reflect the behaviours expected from drivers and passengers with respect to use of the wheelchair space;**
 - iii. 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; and**
 - iv. 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 wheelchair.**
28. The Group recommends that Government continues to engage with representatives of the bus industry, groups representing disabled people, and groups representing passengers in implementing any interventions proposed in light of the judgment, and that Government engages more broadly with stakeholders, including vehicle manufacturers, on the package of measures it determines should be taken forward.