

Small Public Services Vehicles Fines Submission

September 2022

# Introduction

The Equal Status Acts 2000-2018 prohibit discrimination against people with disabilities when accessing goods and services. This means that a guide dog owner and people who require mobility aids such as a wheelchair or long cane, cannot be refused access in shops and other businesses and have the same rights to use services provided as everyone else. Guide dogs are permitted in all forms of transport including taxis.[[1]](#footnote-2)

Article 20 the UNCRPD speaks of Personal Mobility and states that parties shall take effective measures to ensure personal mobility for persons with disabilities with the greatest possible independence, supporting access of persons with disabilities to quality mobility aids including animal assistance.[[2]](#footnote-3)

The National Transport Authority (NTA) is aware that complaints have been made by people with disabilities including those who are blind, or vision impaired with guide dogs or mobility aids, who have been refused service by small public service vehicles (SPSV). The NTA has subsequently launched a public consultation: “SPSV Fines for the Non-Compliant – Focus on Safety, Consumer Protection and Services for Users with a Disability and SPSV Driver Licence Validity Period.” The NTA state the objective of this consultation is to ensure SPSV regulation is as effective as possible and is proposing an increase in the Fixed Penalties from the current €40 to €250, for breach of SPSV legislation as it pertains to guide dogs.

NCBI acknowledges the NTA recognition that it has an obligation to regulate the SPSV services, which are maintained at an appropriate level for safety, quality of service and consumer protection. NTA has also stated the importance of the development and operation of a standard framework that would be applied and maintained across the country.

The purpose of this NCBI submission is to provide the NCBI view on the new proposed schedule for fines for SPSVs.

# About NCBI

The National Council for the Blind of Ireland (NCBI) is the national sight loss agency for Ireland. NCBI works for people who are blind or vision impaired, to provide services to adults, young people, and children. NCBI believes that people who are blind or vision impaired should have the same opportunities, rights, and choices as others to participate fully in society. The purpose is to enable people with sight loss in their daily lives by providing support services and training. In 2021 the number of service users who required services from NCBI was 6917. Of this figure, those under 18 was 966, age 18-65 was 2012 and those who are 65+ was 3939. The number of new referrals has continued to grow and comprised 30% of all referrals into NCBI adult and children services. (This figure is up from 25% in 2020). 2016 Census figure indicated there were 54,810 people with sight loss in Ireland, however it is expected that this figure will rise from the 2022 Census due to the increase in aging population.

# The Problem: SPSV Non-Compliance.

SPSVs non-compliance with legislation has a significant impact on the people who are infringed upon. People with sight loss require various modes of transport to enable them to move independently. This includes hiring or hailing a taxi to get to work, attend a medical appointment, meet family or friends, just like everyone else. However, SPSV non-compliance prevents a person with disabilities such as those with sight loss to engage in everyday life as others do. Some NCBI Service Users and their guide dogs have been refused or had their trip cancelled by taxi drivers once they are aware of their mobility aid. The reason provided by taxi companies and drivers range from a driver having an allergy to dogs (which was not appropriately recorded) and fear of dogs right through to waiting on a different fare even though they are in a taxi rank. The outcome of scenarios like this can cause anxiety and fear in people with guide dogs, that if they register a complaint the taxi companies may no longer keep them as a customer. This offence therefore not only isolates a person with disabilities but affects their self-esteem and independence.

# International Fines for Breach of Accessible SPSV Legislation/Non-Compliance

In 2015, the European Guide Dog Federation made a petition to the European Parliament on access rights for persons who require assistance dogs within the European Union.

To identify if there are similar problems with SVSP service non-compliance in Europe for people with disabilities including people with sight loss, our research shows the problem appears to be common across countries. These problems include people with disabilities having difficulty reporting an infringement which results in underreporting, or persistent refusal to carry guide dogs, despite a majority of compliant SPSV drivers. Fines imposed across Europe seem to range between €200 to €500. However, in some countries, enforced fines up to €10,000 are implemented if the offence is driven by discrimination.

## Examples of the varied enforcement across Europe

In Spain, refusal of access for guide dogs in taxis is evident, despite the long-established regulations. However, Regional Laws considering three degrees of severity can result in fines up to €10,000.[[3]](#footnote-4)

In Italy, a person with sight loss is protected by state law, which guarantees that guide dogs are permitted everywhere and without limitation. Refusal of allowing a guide dog in public places and on transport results in the enforcement of fines from €500 to €2500.[[4]](#footnote-5)

In France, the refusal of permitting accessibility of an assistance or guide dog is an offence with a fine of €450. According to the French Federation of the Association of Guide Dogs, there were 88 cases reported in 2017.[[5]](#footnote-6)

In Germany, the Assistance Dog Act came into law in July 2021. Taxi drivers are obliged to carry an assistance or guide dog. Refusal results in a fine of €450.[[6]](#footnote-7)

In the UK under the Equality Act 2010, it is illegal for a taxi to refuse to take a disabled person because they have an assistance dog, nor can they charge more. Anyone found guilty of an offence against the Act is liable to a fine of £1,000 (Level 3 of the standard scale). [[7]](#footnote-8) In 2018 a private hire taxi company was fined £200 and a compensation of £1000, after refusing a passenger travelling with a guide dog. [[8]](#footnote-9)

# NTA Proposed Fines Increase

NCBI agrees with the view expressed by the NTA which indicates that a review of the effectiveness of fines for SPSV operators is necessary. The proposal includes an increase in fines from €40 to €250, for SPSV legislation non-compliance.

Referring to the impact of increased fines as a deterrent, NTA states that the increase of fines to €250, highlights the significance of non-compliance and therefore emphasises that providing service to passenger with access needs is crucial.

Although the proposed increase of fine for SPSV non-compliance is positive, refusal to carry a person with a guide dog or who requires mobility aids, is discriminatory. Therefore, NCBI question the proposed increase of fines to €250 will be an effective deterrent. An effective increase in fines would address the severity of the offence on SPSV legislation non-compliance as discriminatory, which is in breach of the Equal Status Acts. Consequently, NCBI would recommend an increase in the fine to bring it in line with the fines imposed under the Equal Status Act.

Recongising the NTA are currently limited in the maximum fine possible, NCBI recommends that the current legislation under the Taxi Regulations Acts 2013 & 2016, Taxi Regulation (Small Public Services Vehicle) Regulation 2015, Section 73 Schedule 8, would be amended. This amendment would allow NTA to impose a maximum fine up to €2,500, as this offence is a breach of the Equal Status Acts, and in line with European evidence for the implementation of fines for the same offence.

In addition, An Garda Siochana has recommended NTA to amend the Taxi Registration for SPSV licence to include the revocation of the licence or the disqualification of the licence pursuant to section 30 or 38 of the Principal Act. In the current regulation a licence is issued for five years. The amendment requested would allow An Garda Siochana to consider all parts of the application when issuing a licence, and if required to issue a licence for less than five years or revoke or disqualify the licence of the applicant in question. A licence application should therefore be considered in the context of all the information available to An Garda Siochana including the fines issued.

# Expansion of Category for SPSV Non-Compliance

The acknowledgement by the NTA of the specific needs of people who require assistance or guide dogs and of people who use wheelchairs, is welcomed by NCBI.

However, NCBI would consider the category for failure to adhere to SPSV regulations should be expanded. It should include people with sight loss who require mobility aids such as long canes, and those in a taxi rank queue with disabilities, such as sight loss or problems of balance.

It is often difficult for those with sight loss at a taxi rank to identify the presence of the taxi. Those who have problems with balance have been mistakenly deemed intoxicated and bypassed by the SPSV driver.

Finding themselves anxious and stranded on a busy street or isolated area is very upsetting for this specific group of people, and therefore the category should expand to recognise their specific needs.

# SPSV Non-Compliance vs Discrimination: Registration of Complaint.

Refusal to carry a person with an assistance or guide dog or a wheelchair user is not only illegal, but it is very disconcerting and demoralising for people with disabilities.

The issue of SPSV Regulations indicates there are two levels of infringement potentially involved: non-compliance with SPSV regulation, and discrimination. This dual approach is observed in the legislation in several European countries, with a graduated system of fines.

Currently the payment of any fine administered by NTA is voluntary. An alleged offender does not have to pay the fine and can choose to have his/her case decided by the Judge of the District Court where a prosecution is taken by NTA.

Implementation of the fines is determined by a complaint registered by the person infringed upon. The severity of the infringement should also determine the outcome. If a person was clearly discriminated against this would be a breach of the Equal Status Acts which would require adjudication through the Workplace Relations Commission and result in a fine of €2500.

NCBI believe that refusing a person with a guide dog, or who requires a mobility aid is an act of discrimination, as this is breach of the Equal Status Acts. Accordingly, this should be recognised as a severe offence by the NTA and reflected in the fine imposed.

Registering a complaint is difficult for people with sight loss if the format or platform is inaccessible. Difficulty of access in reporting and potentially the fear of registering a complaint, which might impact their ability to use the SPSV service in the future, has resulted in underreporting of this offence.

The provision of an appropriate accessible means to register a complaint is necessary. This must be specifically designed in an accessible format to ensure that complaint registration facility is accessible for people who are blind or vision impaired.

NTA-TFI provide a complaints section on their website and a Driver Check app is also available. However, the website complaint section does not meet the WCAG 2.1 AA standards and is inaccessible to many people who are blind or vision impaired. The App does not seem to offer a specific area to input a complaint where a passenger has been refused by a SPSV driver.

The website and app provided by NTA-TFI should be designed so that they are accessible to everyone, and their purpose realised, in the context of the SPSV regulations. This would ensure a greater level of safety and customer service to those with disabilities in our society.

# Conclusion and recommendations

NCBI recommend the following to ensure that people with sight loss and access needs are protected within SPSV legislation:

1. NCBI believe that refusing a person with a guide dog, or who requires a mobility aid is an act of discrimination. Therefore, the deterrent issued by NTA should reflect the severity of this offence. NCBI recommends that the current legislation under the Taxi Regulations Acts 2013 & 2016, Taxi Regulation (Small Public Services Vehicle) Regulation 2015, Section 73 Schedule 8, would be amended. This amendment would allow NTA to impose a maximum fine up to €2,500, as this offence is a breach of the Equal Status Acts, and in line with European evidence for the implementation of fines for the same offence.
2. Expand the category for SPSV non-compliance to include people with access needs such as those using mobility aids (canes), and those with problems with balance.
3. Provision of facilities to register a complaint in accessible formats that are in keeping with the European Web Accessibility Directive and include an option that refers to a person with disabilities being refused access.
4. Provision of alternative methods to register a complaint such as a designated telephone number and email address for people with disabilities.
5. Collaboration of NTA with NCBI, Irish Guide Dogs, to include mandatory training for SPSV providers and drivers, to inform and improve legislation compliance.
1. https://www.guidedogs.ie [↑](#footnote-ref-2)
2. UNCRPD Article 20: Personal Mobility. May 2008. [↑](#footnote-ref-3)
3. hitps://perrosguia.once.es/es/legislacion/leyes-autonomicas. [↑](#footnote-ref-4)
4. htthttps://informations.handicap.fr/a-taxi-chien-guide-refus-pau-11194.php/trueps://www.orbolandia.it/page/dirittiedoveri. [↑](#footnote-ref-5)
5. hhttps://www.welt.de/regionales/hamburg/article125916581/Taxifahrer-lehnt-Fahrgast-mit-Blindenhund-ab. https://www.welt.de/regionales/hamburg/article125916581/Taxifahrer-lehnt-Fahrgast-mit-Blindenhund-ab.htmlhtmlttps://informations.handicap.fr/a-taxi-chien-guide-refus-pau-11194.php/true. [↑](#footnote-ref-6)
6. https://www.welt.de/regionales/hamburg/article125916581/Taxifahrer-lehnt-Fahrgast-mit-Blindenhund-ab.html. [↑](#footnote-ref-7)
7. https://www.oxford.gov.uk/download/downloads/id/1105/access\_to\_taxis\_information\_leaflet.pdf. [↑](#footnote-ref-8)
8. https://www.bbc.com/news/uk-england-leicestershire-38745910`. [↑](#footnote-ref-9)