

Our Ref: NR/mb

1 August 2008

PRAMS/PUSHCHAIRS/BUGGIES POLICY

Contrary to assertions being made in the media, our policy on this matter has never changed. Ever since we introduced the first wheelchair accessible buses in 1999, our policy has been the same.

There are clear legal requirements (detailed in Appendix 1) placed on bus operators regarding the carriage of wheelchairs. The law requires all new buses (since 1999) to be wheelchair accessible, and lays down precise details of the dimensions and features of bus construction to allow wheelchairs, up to a certain size to be carried on buses.

There is no legal mention of, or requirements, regarding buses providing for the carriage of prams, buggies, or any “baby or toddler transport device”.

Our policy has always been that the primary purpose of the wheelchair space is to accommodate wheelchairs. That is why the law requires the wheelchair space be there.

Equally our policy has been that when the wheelchair space is not required for a wheelchair, we are perfectly happy for any other traveller with any other “encumbrance”, be it buggy, pushchair, large packages, suitcases, bulky shopping or the like, to occupy the wheelchair space on the clear understanding that if a wheelchair user subsequently wishes to board the bus, whoever or whatever is occupying the wheelchair space, will vacate the space to allow the wheelchair to use it. In the case of a “baby or toddler transport device” (BTTD), fold it up and place it in the luggage rack, under the seat, or elsewhere.

Thus the key issue is that whatever occupies the wheelchair space, if it is not a wheelchair, must be capable of being (folded up if necessary and) put away safely elsewhere on the bus, to allow a wheelchair user to use the space.

The primary reason for the wheelchair space being there is to allow a wheelchair user to travel on the bus.

Our policy can therefore be summarised as –

- wheelchairs have priority;
- if the wheelchair space is not required for a wheelchair, anything/one else can occupy the space;
- but only on the understanding that they vacate the space if it is subsequently required for a wheelchair.

Clearly, this policy requires that whatever is occupying the wheelchair space, be it standing passengers, passengers sitting on the “tip-up” seats located in the wheelchair space, a BTTD, etc, is capable of moving out of the space to make way for a wheelchair if a wheelchair user subsequently wishes to board.

As mentioned above, this policy has been in place unchanged since the advent of wheelchair accessible buses and all wheelchair accessible buses clearly display 3 signs (copies attached 1, 2 & 3) –

- on the entrance platform clearly stating **only 1 unfolded baby buggy is allowed** (there is no limit to the number of additional folded buggies that are carried on);
- 2 signs in the wheelchair space clearly stating that **this space must be vacated for a wheelchair**.

I trust the above clarifies what our policy is and that there has been no change in our policy.

Attached (4, 5 & 6) are copies of the illustrated guidance given to our drivers to assist them in applying the policy. This differentiates between different types of BTTD to show what is welcome, which is prohibited, and what falls into the sphere of “driver’s discretion”.

Our current policy relies, in certain areas, upon the individual drivers’ judgement and discretion since, at one end of the spectrum, there is the small, collapsible “McLaren” baby buggy and, at the other end of the spectrum, the large “Silver Cross” pram, and our policy to ensure wheelchairs can be accommodated requires that only foldable BTTD’s are allowed onto the bus.

There are a multitude of different types and versions of BTTD and, whilst both extremities of the spectrum are clear, there is inevitably a grey area in the middle, therefore a driver may well have to ask a potential passenger whether the “device” is collapsible/foldable.

What has raised the profile of this issue dramatically in recent weeks (it has never been particularly contentious over the past 9 years) is the emergence of a number of “activist mothers”, who dispute the basic principle that wheelchairs should have priority. They believe that the space should be allocated on a “first come-first served basis”, and that once in occupation of the space, it is theirs for the duration of their journey – and any wheelchair user will have to wait for the next bus to come along on which the space is unoccupied.

This would result in a wheelchair user possibly having to let 3 or 4 buses go past until a “free space” arrived.

The “activist mothers” contend that our current policy is unfair, illegal and discriminatory, as it discriminates against mothers and discriminates in favour of wheelchair users when there is no statutory basis for so doing.

Were we to change our policy to adopt the “first come-first served” principle, then there would be no need to have a “folding buggies only” rule, as anything that would fit in the space, folded or rigid, could be accommodated (including also bicycles, luggage, suitcases, bulky shopping, etc).

However, to change our policy would doubtless not meet with the approval of the disabled lobby, and the following situations would arise –

- 1) on low frequency services, e.g. every half hour or every hour, if a wheelchair user is denied access to the bus, they would have a very long wait for the next bus. The current rules (barring a refusal to vacate the space) ensure this situation does not arise;
- 2) exactly the same point would apply to the last bus of the day when the wheelchair user could be left completely stranded;

- 3) even on more frequent services, if there is no requirement to vacate the space, its use by persons for example with bulky luggage, suitcases etc, would increase the chances of wheelchair users being unable to be accommodated on successive buses.

Ultimately, the law requires Lothian Buses to have on our buses a space for the carriage of a wheelchair, and requires our staff to request non-wheelchair occupants in that space to vacate the space in the event of a wheelchair wishing to use the space.

There is nothing legally to prevent us converting to a policy of “first come-first served”, washing our hands of any attempt to prioritise wheelchair users, and removing the signs stating that the space must be vacated for a wheelchair.

I have attempted to explain above the implications, which would be that wheelchair users would be far less certain of being able to travel on our buses, as much more frequently the space would be occupied by either immovable BTDD's, items of luggage, etc.

I apologise for writing at such length on the above subject, but it is not simple and straightforward – there are always grey areas – such as

- we can never guarantee a wheelchair will be able to travel on any bus as, even with the strictest enforcement of the current rules, another wheelchair may already be occupying the wheelchair space;
- There have always been occasional instances where a mother with baby in a foldable buggy occupies the wheelchair space, and a wheelchair user subsequently wishes to board the bus. The parent then refuses, despite clear signs saying that the space must be vacated for a wheelchair, to vacate the space. Incidents such as this were a rarity, but have become very much more commonplace recently with the emergence of the “mothers rights campaigners”. There is nothing we can do in this situation, since the driver has no legal power to force the buggy to be folded, or to evict the mother and buggy from the space to make way for the wheelchair.
- As regards the “driver discretion” cases, one driver’s view of a certain device may be different to another driver’s view.

This whole matter is in many ways not a decision for the bus company, but a decision for “society at large” to take as to whether wheelchairs should have priority over BTDD's, luggage, bicycles or other large items in having use of the wheelchair space, or whether it should be “first come-first served”.

However, at present, and pending any change in the law, our policy remains as it always has been, and we will endeavour to comply with the letter of the law and the spirit of the law, which is clearly that wheelchairs have priority for the use of the wheelchair space.

If you have any queries on this matter, please get back in touch with me.

Yours sincerely,

Neil Renilson
Chief Executive

APPENDIX 1

Relevant legislation, regulations, guidance and policies.

Disability Discrimination Act 1995 (DDA)

PSV (Accessibility) Regulations 2000 as amended by EC Directive 2001/85

Public Service Vehicles (Conditions of Fitness, Equipment, Use and Certification) (Amendment) Regulations 2002

Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) (Amendment) Regulations 2002

Disability Rights Commission (DRC)'s 'DDA 1995: Provision and Use of Transport Vehicles: Statutory Code of Practice'

Lothian Buses Conditions of Carriage

Lothian Buses DDA Staff Guidance Policy

(DRC subsequently reformed as 'Equality and Human Rights Commission')