

Briefing for the Public Petitions Committee

Petition Number: [PE01792](#)

Main Petitioner: Thomas Butler

Subject: Access to Scottish piers and harbours

Calls on the Parliament to urge the Scottish Government to ensure that local authorities and service providers provide access for those with disabilities at public facilities such as piers and harbours.

Introduction

The petitioner wants to ensure that piers and harbours are accessible to disabled people.

All service providers have a duty make reasonable adjustments for disabled people under the Equality Act 2010. The 2010 Act is mainly reserved, but the Scottish Parliament can encourage equal opportunities and impose duties on Scottish public bodies with regard to carrying out their functions with due regard to meeting equal opportunity requirements.

Public authorities also have a general duty under the 2010 Act to eliminate discrimination, advance equality, and foster good relations between different groups of people.

Background

The petitioner owns and operates a small wildlife cruise company in Uig on the Isle of Skye. [Highland Council plan to make infrastructure improvements to the port at Uig](#). These improvements are necessary to accommodate a new dual fuel vessel which will be owned by CMAL and operated by CalMac Ferries Ltd (CFL) on "Skye Triangle" routes from Summer 2022. The vessel, known as Hull 802, is currently being built at the Ferguson Marine shipyard in Port Glasgow.

The Skye triangle routes serve three ports:

- Uig (owned by Highland Council)
- Lochmaddy (owned by Comhairle nan Eilean Siar)

- Tarbert (Harris) (owned by CMAL)

The petitioner says he has been writing to and attending meetings with Highland Council for two years to discuss disabled access to the water at the local harbour. The petitioner states:

“Since the first public consultation meeting for the project two years ago, I and many others have been trying our hardest to have ramped access to the water included in the new designs. Sadly, the council have stated that, as the pier development is not covered by legislation in DDA [now replaced by the Equality Act 2010] and BS 8300 2018, the provision of steps will meet the minimum requirement. Accordingly, they say that they are not in breach of the equalities act (sic) 2010.”

CMAL have a webpage setting out the [Skye Triangle Infrastructure Programme](#), including programme updates and progress, as well as stakeholder events held at the three ports.

Construction works at Uig are expected to begin in Spring 2020 and be complete by Spring 2022, “subject to consenting timescales and funding from Transport Scotland.”¹

Stakeholder meetings

A [Stakeholder meeting Q&A document from 2018](#) includes the following questions which are relevant to the petition:

At Uig

Q: “Can you please include the local disability access group in any discussions regarding the design and access to the building?”

A: “Noted and will be passed on to Council Architect for consideration”

Update at Sept 2018 “The proposed layout of the terminal building has recently been agreed with THC and CFL and these drawings will be issued to the access groups”.

At Tarbert/Uig/Lochmaddy

Q: “Concerned about passenger access at all 3 facilities, especially for elderly, disabled passengers, how will they be accommodated?”

A: “Access to the vessel will continue to be provided by a gangway. New gangways will however be provided which will reduce the maximum slope up to the vessel from the pier (to a maximum of 20

¹ Sky Triangle Infrastructure Programme Newsletter (November 2019) Available at: <https://www.cmassets.co.uk/wp-content/uploads/2019/12/Skye-Triangle-November-Newsletters.pdf>

degrees at high tide compared with a maximum angle of approaching 30 degrees if the current gangways were used).

The provision of facilities similar to those at Ullapool and Stornoway has been considered. However, the foot passenger numbers on the 'Skye Triangle' routes are very low compared to the Ullapool/Stornoway route and the cost of provision of similar passenger access arrangements on the Skye Triangle is therefore prohibitively high.

Passengers that cannot use the gangways will continue to be given assistance via the car deck.”

Equality Act 2010

Reasonable adjustments

The [Equality Act 2010](#) requires service providers² to make reasonable adjustments for disabled people (s.20). Where a disabled person is at a substantial disadvantage compared with a person who is not disabled, there is a duty to take reasonable steps to remove that disadvantage by:

- changing provisions, criteria or practices
- changing or removing a physical feature or providing a reasonable alternative way to avoid that feature
- providing auxiliary aids

The duty is anticipatory and applies to disabled people generally.

What is reasonable depends on a range of factors, such as how effective the adjustment would be, whether it can be done, the costs, and the organisation's size and resources.

Failure to comply with the duty is disability discrimination.

Schedule 2 of the Equality Act 2010 provides that some transport providers are not required to make adjustments to the physical features of vehicles³:

3 (1) This paragraph applies where A is concerned with the provision of a service which involves transporting people by land, air or water.

(2) It is never reasonable for A to have to take a step which would—

(a) involve the alteration or removal of a physical feature of a vehicle used in providing the service;

² Service providers includes anyone who provides goods, services, or facilities to the public, whether paid for or not. Includes the public, private and voluntary sector providers

³ Explanatory Notes to the Equality Act 2010:

<http://www.legislation.gov.uk/ukpga/2010/15/notes/division/3/16/19>

- (b) affect whether vehicles are provided;
- (c) affect what vehicles are provided;
- (d) affect what happens in the vehicle while someone is travelling in it.

Public sector equality duty

The general equality duty (s.149) places a duty on public authorities, and any body when exercising public functions, to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Certain public authorities in Scotland, listed under the [Equality Act 2010 \(Specific Duties\) \(Scotland\) Regulations 2012 \(as amended\)](#), are required to meet the specific equality duty. The aim of the specific duty is to help public authorities meet the general equality duty.

One of the requirements of the specific duty is to assess the impact of new or revised policies or practices against the general equality duty. The Equality and Human Rights Commission in Scotland provides [guidance on how to conduct Equality Impact Assessments](#).

The [Highland Council webpage on the Uig Harbour redevelopment](#) includes links to several public documents on the redevelopment, but there is no evidence of an Equality Impact Assessment (EQIA). It may be worth enquiring if an EQIA has been undertaken.

Building Regulations and Planning Guidance

The petitioner refers to British Standard BS8300. Scottish Building Standard 4.1 requires that “Every building must be designed and constructed in such a way that all occupants and visitors are provided with safe, convenient and unassisted means of access to the building.” Detailed technical guidance on how architects and building industry professionals can design buildings to meet this requirement are set out in the [Building standards technical handbook 2019: non-domestic](#). It highlights additional guidance on the accessible design of buildings and refers to BS 8300 – “Design of buildings and their approaches to meet the needs of disabled people – code of practice”.

There is also the Scottish Government’s : [Planning and Building Standards Advice Note: Inclusive Design](#).

Transport Scotland

Transport Strategy

The Cabinet Secretary for Transport, Infrastructure and Connectivity, Michael Matheson, launched Transport Scotland's [Transport Strategy for the next 20 years](#) on 5 February 2020.

One of the four priorities is to [reduce inequalities](#) which includes:

- **Will provide fair access to services we need:** we have a duty to reduce inequalities and advance equality of opportunity and outcome, including the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. We will ensure that our disadvantaged communities and individuals have fair access to the transport services they need. The transport system will enable everyone to access a wide range of services and to realise their human rights.
- **Will be easy to use for all:** people have different needs and capabilities. Our transport system will recognise these and work to ensure that everyone can use the system with as few barriers as possible.

Ferries Accessible Fund

Transport Scotland administers the [Ferries Accessible Fund](#). The purpose of the Fund is to improve the accessibility of ferries and ports and to enhance the ferry travelling experience of disabled people.

There is £160,000 of funding available. Deadlines for the most recent round of funding applications closed at 5pm Friday 15 November 2019.

Paragraph 9.4 of the [guidance note](#) includes a non-exhaustive list of the type of adaptations the fund might support. This includes "Ramps and elevators (if not required by legislation)"

Accessible Travel Framework for Scotland

The Ferries Accessible Fund supports the [Accessible Travel Framework for Scotland](#) (2016). This was a framework to make travel more accessible for disabled people.

[Scotland's Accessible Travel Framework: Our Delivery Plan for 2019-2020](#)

sets out achievements and actions for 2019-2020. One priority area was on passenger assistance – "More people with reduced mobility, using public transport who require passenger assistance use trains and ferries."

In respect of the Ferries Accessible Fund, it notes that it was launched in 2014 and that "the last round of the fund is due to be completed in 2019-2020."

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6 March 2020

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