

# Getting Nowhere

Reviewing the Government's Approach  
to Accessible Public Transport



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*As a wheelchair user, I don't feel safe getting to the floating bus stops by traversing across a cycle lane. I feel it is an accident waiting to happen.*

**- Annette Costello**



*I exit the bus backwards via ramp onto the narrow bus island. Because of this, it is often scary to navigate my small chair on such a narrow floating island with other passengers sharing the same small space, and with cycle lanes intersecting the crossing to the footpath. Sometimes the ramps at the crossings, which span across cycle lanes, are also not dished properly so I need to navigate those backward as well. I have had near misses with cyclists who have nearly clipped me, as I try to navigate the small island. If they hit me, that's it.*

**- Anonymous**

## The Issue

For years, Irish Wheelchair Association (IWA) has been supplied with numerous cases where critical aspects of the public transport infrastructure<sup>1</sup> are inaccessible in Ireland.

Our members have routinely reported inaccessible pedestrian infrastructure and issues in accessing public transportation. IWA members are not alone in this observation. The National Disability Authority (NDA's) 2023 Wellbeing and Social Inclusion Report found that 70% of respondents who identified as a wheelchair user reported difficulties accessing public transport.<sup>2</sup> Similarly, 53% of respondents who identified as having a disability to a great extent reported difficulties accessing public transport.<sup>3</sup>

These observed gaps in public transport infrastructure by our members led to Irish Wheelchair Association's "Getting Nowhere" report and transport campaign.

When investigating, we have found that the underlying issues that have led to inaccessible infrastructure are present throughout all stages of public transport infrastructure projects.

The primary conclusion of our report is that there is a critical need for **national mandatory minimum accessibility standards** negotiated by people with disabilities.

As a result, IWA is calling for legislative change to include the implementation of legally binding standards, monitoring mechanisms, and enforcement mechanisms for noncompliance, such as sanctions and fines.

Transport is fundamental to the inclusion of people with disabilities, both socially and economically. Without accessible transport, people with disabilities will be endangered by the public infrastructure, cut off from vital pathways to employment, and will be further socially excluded. Ireland's current public transport infrastructure is not accessible, and not fit for purpose.

*For over 40 years, as a person with impaired vision I could navigate my way around Dublin without giving it a second thought. I knew my usual bus stops and stations and getting to them was fairly straightforward for me. Over the last few years things have changed dramatically. I can no longer be the carefree, confident, and competent traveller I once was, and yet my level of vision has remained exactly the same. When I leave home to travel for work and daily life, I need to be in a constant state of high alert. I am now living with the knowledge that at any time I can be wiped out by silent cyclists and scooters zooming across in front of me as I disembark from the bus stop, on the path, or as I cross the road. Sometimes, cyclists have even shouted to get out of their way when I haven't even seen them. Sometimes, the road feels safer to walk on than the footpath! We are literally being pushed off the paths and discouraged from using public transport by designs that exclude us. I have been nearly knocked over and have been shouted at by cyclists as I have not seen them coming and they are not slowing down. My life is changing, and my independence is being reduced, as my anxiety levels increase and it's all down to poor design and no one prioritising my needs and my safety.*

**- Elaine Howley**

## The Investigation

The Minister for Transport has committed to “progressively making [public transport offerings] accessible for all, especially for persons with disabilities.”<sup>4</sup> The Department of Transport’s strategy for doing so is to retrofit old infrastructure, and to build “accessibility features, such as wheelchair accessibility and audio/visual aids into all new public transport infrastructure projects and vehicles from the design stage,” to “[ensure] that new infrastructure and services are accessible from the start.”<sup>5</sup> However, we know that new public transport and accompanying infrastructure are not being designed to be accessible, “from the start.”

Despite promises to the contrary, we know that new public transport and the accompanying infrastructures are not being designed to be adequately accessible. This is because we have taken a detailed look at the current processes in the planning and design stage of public transport infrastructure projects. This included a review and analysis of the following:

Type of Resource	Number Reviewed
Government Policies	12
Planning and Design Manuals/Guidelines	15
National Laws	4
Sources of Regional Law (EU)	6
Sources of International Law	4

Instead, we have found an inconsistent and haphazard approach in the development of public transport infrastructure resulting in development of an infrastructure that does not appropriately consider the needs of people with disabilities.

Government policies and strategies similarly fall short. The National Disability Inclusion Strategy addresses accessible transport, buildings, and streets as key factors in enabling people with disabilities to participate in work, as well as cultural and social activities. However, this strategy has not been sufficiently implemented, monitored, or enforced.

The failure to create mandatory, legally binding access standards and the failure to enforce government strategies have left us with inaccessible infrastructure. Accessibility in Ireland's public transport infrastructure is not just about gaining access to the physical environment, it is about people with disabilities being able to realise their right to live life to its full potential with equity and independence. IWA members and the broader disability community have continuously reported on the inaccessibility of Irish public transport. Inaccessible transport presents a real obstacle for autonomy and personal development. The issues we see in public transport infrastructure are not isolated. They are a symptom of a larger issue which poses a danger to people with disabilities every day.

Inaccessible transport infrastructure results in exclusion, isolation, and discrimination. It is imperative that the needs of people with disabilities are considered to ensure that changes to infrastructure and services are beneficial to all. This is not happening today.

The "Getting Nowhere" report seeks to address inaccessible public transport infrastructure by highlighting the overarching issues identified, providing context and explanation of each issue area, and articulating what is the necessary solution to delivering a public transport infrastructure that can be fit for purpose for all.

## Transport Project Stages

It is important to understand the stages involved in managing a public transport infrastructure project and the issues we've identified in each of them. We have broken the process into three stages: Planning, Design, Post-Construction (Audits).

### 1. Planning

There are many processes involved in the planning stage of a public transportation infrastructure project. Very few of them mention disability, and where it is mentioned, it is not done so sufficiently to account for the needs of people with disabilities.

While there are several issue areas within the planning stage broken down in the 'Getting Nowhere' report, for the purposes of this summary we will focus on one mechanism routinely evoked in discussions of accessibility in the planning stage: the Disability Impact Assessments. The Disability Impact Assessment is a disability proofing mechanism that is intended to be mandatory. The assessments contain only five questions for project planners to answer; answering five questions about the degree to which disability has been included in your project won't result in sufficient inclusion. However, the issue goes even further: as there is very little evidence that these assessments are being carried out.

Most other planning mechanisms minimally mention accessibility, resulting in little to no consideration of disability in planning documents generated under these frameworks. Additionally, timely and meaningful public consultations are not taking place. Worse, at times public consultation has been represented as taking place but hasn't been deployed as intended by the UNCRPD.

Frequently, opinions from the disability community are dismissed by public entities when it conflicts with other community stakeholders. Unfortunately, because the nature of public consultation produces conflicting opinions, public entities need only to simply cite a reason that any opinion proffered in consultation will not be incorporated into their plan before moving forward. This is not meaningful consultation.

*As a wheelchair user and a representative on multiple consultative committees, I have highlighted the issue of potentially dangerous interactions between cyclist and pedestrians at floating bus islands, bus unloading zones that share spaces with cycle lanes, and cycle lanes that border parking spaces on numerous occasions along with many others by stating how dangerous they are for wheelchair users. The standard response is 'we have had cyclists and people with disabilities in a room together and they could not agree on a design, so this is what we have.' The current design is unsafe for everyone; this is not finding a solution; this is not consultation: this is ignoring the dangerous situation that will lead to the injury and social exclusion of people with disabilities.*

**- Joan Carthy**

Without sufficient accessibility requirements in place in the planning stage and without adequate consultations, public transport infrastructure projects are not being appropriately disability proofed.

## 2. Design

The Design Stage in the transport infrastructure project is the most essential for the functional accessibility of a space. Disability proofing and stakeholder consultation (which are supposed to adequately take place in the planning stage) are clearly not enough to establish accessible transportation infrastructure.

Technical accessibility requirements is a major area of weakness. Current guidelines on accessibility are littered throughout different manuals, with varying degrees of mandatory status. Sources for accessibility requirements are not cohesive and are not strong. In the main, accessibility requirements are not mandatory, even when referenced in mandatory manuals. Despite national legislation meant to ensure accessibility, here exists no cohesive set of minimum accessibility requirements for public streets and public transport infrastructure.

Evoking the need for accessibility in policy documents without providing mandatory mechanisms leads to systematic gaps where human rights of people with disabilities can be overshadowed by other policy objectives, for example, cycling. Currently, there is a call to incorporate a disability lens within the upcoming national cycle manual to ensure that new cycling infrastructure is designed safely for persons with disabilities. However, any such guidance would not be binding.

Interestingly, by conservative estimates, cyclists are mentioned three times more than any reference to disability in DMURS. The two objectives, safety for cyclists and safety for pedestrians with disabilities, are not inherently in conflict with one another. Yet, cyclists are a priority in national and regional transport policy and projects, and in design. People with disabilities are not. Human rights are not prioritised in the same way that cycling infrastructure has been.

Again, the core issue is that no national mandatory minimum accessibility standards have been codified in law, despite a wealth of voluntary standards available.

### 3. Post-Construction and Audits

After design and construction, there are further gaps in ensuring that spaces have been built accessibly. Part of this owes to the fact that there are no national mandatory minimum accessibility standards that clarify the obligations of construction. However, within the current framework there exists gaps worth pointing out. In the Department of Transport's document on audits, they acknowledge that the current audits do not sufficiently include the needs of people with disabilities. The audits suggested to compensate for this gap, Quality Audits, would take place in the design stage and are voluntary and not customary in Ireland. Given that they are voluntary, there is no mechanism for monitoring or enforcement. The result is another gap in ensuring accessibility of public transport infrastructure.

#### UNCRPD and Government Commitments:

In March of 2018, Ireland ratified the UN Convention on the Rights of Persons with Disabilities (UNCRPD). The UNCRPD is a human rights treaty from the United Nations recognising the need to promote and protect the human rights of all persons with disabilities. Ireland has therefore accepted responsibility for implementing all the rights and articles contained therein.

Article 9 of the UNCRPD enshrines accessibility as a human right and makes clear what is needed to realise that right. Article 9.1(a) outlines clearly the right to access public transport, services, and the physical environment on "an equal basis with others."<sup>6</sup> Article 9.2(a) goes further, detailing that State parties must take appropriate measures, "To develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public."<sup>7</sup>

The general comment on Article 9 ties several other international human rights instruments to the right to accessibility. This underscores the grave breach of multiple, interdependent human rights that flow from the failure to create public transport and accompanying public spaces that are accessible. Failure to realise this right constitutes a violation of multiple, international human rights and multiple UNCRPD articles. Without accessible transport, the right to independent living, employment, personal mobility, participation in cultural life, and access to emergency services are all jeopardised.

The UNCRPD is clear about what is required of States to meet the obligations of Article 9. As such, our key focus has been on using the UNCRPD as the assessment tool for the Irish current system.



<b>Requirements on States via UNCRPD Article 9 and UNCRPD General Comment on Article 9</b>	<b>Does Ireland meet this Requirement?</b>
Right to access public transport on an equal basis with others	Yes, Disability Act (2005), part 3 provides a statutory basis for accessible public services. <sup>8</sup>
Broad and standardised, mandatory accessibility standards negotiated by people with disabilities	No
Monitoring mechanism with sufficient capacity to maintain compliance process for the implementation of minimum standards	No
Sanctions and fines for failure to apply the standards	No

People with disabilities in Ireland currently have a right to access public services but there is no mechanism to realise that right nor a current State process that can deliver it. A right unrealised is a right in name only.

Despite the clear instruction from the UNCRPD to implement minimum standards, currently, there are no national mandatory minimum accessibility standards for public transport infrastructure that are enshrined in Irish national law.

Currently what we find is the absence of agreed and consistent mandatory standards in planning and design resulting in inconsistent and inappropriate public transport infrastructure. Furthermore, there are no monitoring mechanisms for the implementation of these design minimums that can ensure that noncompliance does not go unnoticed or unpunished. Without these critical features, there will always be gaps that individuals and civil society will have to discover and uncover, necessitating us to continuously advocate for basic human rights that Ireland has already committed to realise.

## What needs to be included?

The proposed national mandatory minimum accessibility standards must be mandatory and broad accessibility requirements.

Mandatory means that there is enforcement through monitoring. Monitoring is defined as the persistent oversight by an independent, public body that has sufficient capacity to engage in a thorough review through an established compliance process, which must include enforcement mechanisms, such as fines for noncompliance, to ensure implementation.

Broad in this context is referring to the UNCRPD Committee's General Comment on Article 9 and is taken to mean encapsulating the needs of many disability groups and in many contexts. The UNCRPD General Comment specifically calls out the need for accessibility standards specified for builders and other relevant stakeholders. The UNCRPD General Comment also makes clear that any minimum standards 'must be negotiated with organisations of persons with disabilities,' meaning that people with disabilities and their representative organisations are engaged in the decision-making process of defining the standards.<sup>9</sup>

## Conclusion

In summary, the lack of enforceable accessibility standards in all stages of public transport and infrastructure projects flow from the absence of robust national law focused on the implementation of Article 9 of the UNCRPD. Where the terms accessibility and inclusion are used in government policy, guidelines and manuals, there is not a sufficient mechanism to achieve this through mandatory processes with sufficient monitoring and enforcement. There needs to be legislative change to include the implementation of legally binding standards, monitoring mechanisms, enforcement by way of sanctions and fines to ensure compliance.

Critically, any national mandatory minimum accessibility standards must be "negotiated with organisations of persons with disabilities," meaning that people with disabilities with decision making authority must be a key negotiating party in the evaluation of the mandatory minimums, along with recurring consultation throughout periodic reviews of the law.<sup>10</sup>

The differing levels of investment between disability retrofitting and inclusive design in ongoing projects paints a good picture of the inequities entrenched in transport priorities and projects. For example, the Department of Transport funds the multi-annual ringfenced Public Transport Accessibility Retrofit Programme. And yet, this retrofit programme receives significantly less funding than other transport initiatives and has not been updated since 2021.

In new government policies aimed at meeting climate action plan objectives, shared spaces are often proposed in public transport infrastructure. Shared spaces are spaces that are shared by pedestrians and cyclists. Shared spaces are, “generally not supported by people with a disability and [are] not recommended by IWA as a safe and inclusive design approach to the design of urban streetscapes.”<sup>11</sup> The recommendation to include shared spaces ignores the needs of people with disabilities and flies in the face of objections by people with disabilities voiced during consultation periods. This underscores the fact that current mechanisms are failing to ensure that the needs of people with disabilities are considered when planning pedestrian spaces.

Meaningful public consultation must be central in the development, protection, and propagation of disability rights. However, sourcing opinions without meaningful action is not in and of itself sufficient to establish the right to access. Human rights cannot be realised through a public forum; the right to access public spaces and the mechanism to ensure this need to be legally enshrined. We reiterate that throughout all transport project stages, national mandatory minimum accessibility standards negotiated by people with disabilities are missing—and the result is dangerous, inaccessible infrastructure for people with disabilities.

There needs to be legislative change to include the implementation of legally binding accessibility standards, monitoring mechanisms, and enforcement to ensure compliance.

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<sup>1</sup> For the purposes of our campaign, we have defined public transport infrastructure as the pedestrian spaces alongside roads, and all the infrastructure on the roads (including, but not limited to, footpaths bus lanes, cycle lanes, bus loading docks, floating islands, pedestrian crosswalks, and street parking).

<sup>2</sup> National Disability Authority, ‘How’s it going? Wellbeing and Social Inclusion Survey Report’ (January 2023), 34.

<sup>3</sup> Ibid.

<sup>4</sup> Minister Eamon Ryan’s response when asked about his plans to make transport accessible for people with disabilities: House of Oireachtas, ‘Public Transport: Dáil Éireann Debate, Thursday - 3 March 2022’ <<https://www.oireachtas.ie/en/debates/question/2022-03-03/24/>> accessed 20 June 2023.

<sup>5</sup> Ibid.

<sup>6</sup> UNGA A/RES/61/106, Convention on the Rights of People with Disabilities, (13 December 2006), Article 9.1(a).

<sup>7</sup> Ibid, Article 9.2(a).

<sup>8</sup> Disability Act 2005, s 31(4)(a); The Disability Act is limited by the qualification contained therein: “Unless it would not be practicable or justifiable on cost grounds or would result in an unreasonable delay.”

<sup>9</sup> UN Committee on the Rights of Persons with Disabilities, ‘General Comment on Article 9: Accessibility (UNCPRD)’, (11 April 2014), CRPD/C/11/3, para. 22, 26, and 28.

<sup>10</sup> Ibid.

<sup>11</sup> Irish Wheelchair Association, ‘Best Practices Access Guidelines: Designing Accessible Environments’ (November 2020), Edition 4, 71.



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