

PUBLIC SECTOR EQUALITY DUTY ASSESSMENT

Proposed Changes to Disabled People's Protection Policy Guidance sections relating to Assisted Travel

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Considered by: ORR Board

Section 1: Introduction

This document records the analysis undertaken by the Office of Rail and Road (ORR) to enable the organisation to fulfil the requirements placed on them by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010. The PSED requires the decision maker to pay due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a protected characteristic and those who do not.

In undertaking the analysis that underpins this document, where applicable, ORR has also taken into account the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), and in particular:

- Article 9: (Accessibility), which requires appropriate measures to be taken to ensure disabled people have access to transportation on an equal basis with others; and
- Article 31: (Statistics and Data), which requires appropriate information, including statistical and research data, to be collected and disseminated.

Section 2: Brief outline of policy or service

Train and station operators (hereafter referred to as “operators”) are required by their operating licences to establish and comply with an Accessible Travel Policy (or ATP)¹, which must be approved by the ORR (licence condition 5). An ATP sets out, amongst other things, to set out the arrangements and assistance that an operator will provide under the Passenger Assist programme to protect the interests of disabled people using its services and to facilitate such use.

In order to inform its approval of ATPs, ORR relies on a document now titled “Accessible Travel Policy; Guidance for Train and Station Operators” (the “Guidance”). The previous iteration of this document was published in 2009 by the Department for Transport under the title “How to Write Your Disabled People’s Protection Policy: A Guide for Train and Station Operators”. This Equality Impact Assessment considers the impact of changes made to this 2009 Guidance in producing the revised Accessible Travel Policy Guidance.

The changes primarily concern the delivery of Assisted Travel, which is a service train and station operators must provide to passengers who require assistance with their journey. Decisions on the funding and delivery of accessibility improvements to station infrastructure, and consideration of the overall levels of staffing at stations and on trains, is currently the responsibility of operators, the Government, devolved administrations and rail franchising and concession authorities. In our response to the Williams Rail Review we recommended that the Disabled Persons Transport Advisory Committee (DPTAC)² is best placed to provide advice to operators when making improvements to accessibility and/or changes to staffing arrangements, as part of a ‘whole-system’ approach to making the railway more inclusive.

Assisted Travel is provided in two ways. The first is ‘Passenger Assist’, which is booked in advance – as a matter of practice the notice period varies between operators, but must not exceed 24 hours (48 hours for international journeys). Currently, following the 2009 Guidance, assistance must be provided at all stations during the hours in which trains are scheduled to serve the station. Staff can help with journey planning, booking tickets and making reservations. They can also assist passengers at stations and onboard trains, for example boarding and alighting from trains, changing platforms or finding a seat. Passenger Assist is free and available to anyone – although the intention is that it is for people who need assistance due to a disability, a temporary impairment, or due to age.

In some cases, operators must provide alternative accessible transport to take disabled passengers to the nearest or most convenient accessible station. This

¹ We are amending this licence condition to replace all references to “Disabled People’s Protection Policy” (DPPP) with “Accessible Travel Policy”, following a public consultation, and then a statutory consultation with licence holders, on the change.

² DPTAC is a statutory body that advises the government on transport legislation, regulations and guidance on the transport needs of disabled people.

applies where: the station is inaccessible to the passenger (e.g. due to steps); where substitute transport is provided due to e.g. engineering works, and this is inaccessible; or where there is disruption to services at short notice that makes services inaccessible.

The second way in which operators must also provide assistance is known informally as 'turn up and go.' Operators must provide assistance to passengers, when it has not been booked in advance, where reasonably practicable. The ability of operators to assist in such instances will depend on various conditions at the time, including e.g. staff availability.

Operators must provide ramps at all staffed stations to facilitate the boarding or alighting from the train, whether assistance has been booked in advance or not. Where this assistance is needed at an unstaffed station and has been booked, the operator must make a member of staff with a ramp available to deliver the assistance.

To support the reliable delivery of assistance as described above, the Guidance places several obligations on operators, including regarding: staff training; communication and awareness raising.

Research, and feedback from users and non-users of Assisted Travel, indicates potential improvement opportunities, in particular regarding reliability and training.

To address these, the following changes to the 2009 Guidance have been made (following a formal public consultation that took place between 14 November 2018 and 15 February 2019).

Section 3: Changes to the Guidance

Format of 'Passenger' and 'Policy' documents

3.1 Renaming policy

We require Disabled People's Protection Policies (DPPPs) to be renamed 'Accessible Travel Policies' (ATPs). This was favoured by consultation respondents over the proposed alternative, 'Inclusive Travel Policies.'

3.2 Communication of policy

ATPs will be formed of shorter 'Passenger Leaflets', available at staffed stations, and longer 'Policy' documents. We consulted on whether stations and/or rolling stock information should be located in the Policy document (with instructions on how to obtain this information contained in the revised 'Passenger Leaflet'). On the advice of respondents, confirmed at a subsequent meeting of stakeholders, we require this information to be available online, separately from the 'Passenger Leaflet' and 'Policy' document, in accessible and downloadable formats.

The structure of the 'Passenger Leaflet' is as follows:

- Introduction

- Assistance (what is available and how to get it)
- What to expect: commitments to passengers
 - Before travelling
 - At the station
 - On the train
 - If things do not go as planned
- Where to get information and how to get in touch.

This will mean a more user-friendly 'Passenger Leaflet' is available at stations whilst ensuring more detailed policy information is available online (where it can easily be kept up to date) and in print and alternative accessible formats on request.

Network Rail, which does not provide rail passenger services, is not required to produce a 'Passenger Leaflet' in the same way. Instead it is now required to produce Station Guides to provide useful information on the accessibility of each of its managed stations and the services provided at those stations.

3.3 Provision of accessible journey information

We require operators to classify all stations according to step-free access conditions. Our working assumption prior to public consultation was that the 5 categories specified in the 2015 RDG 'On Track' report would be used. With some exceptions, consultation respondents (including disabled people's organisations) were more in favour of using 3 categories, which they considered would be more passenger-friendly. We are therefore requiring the use of 3 categories for information provided directly to passengers, whilst ensuring that the differences in accessibility between stations within each of those 3 categories is explained.

The use and wording of several text fields appearing on the National Rail Enquiries website will be mandated (data entered via the 'Knowledgebase' system). These include fields relevant to: step-free access; availability of assistance; and staffing information.

This will enable a clearer and more consistent communication of step-free access and assistance availability to both passengers and staff, helping raise awareness of accessible journey opportunities, giving passengers warning of likely barriers to access, and supporting reliable Assisted Travel.

3.4 Assisted Travel reliability

Subject to trial of its use on particular routes, we are mandating a 'Handover Protocol' which will ensure that, for both booked and unbooked assistance, necessary information is passed reliably and accurately from staff assisting with boarding to staff due to assist with alighting.

This will be supported by a requirement to allocate a dedicated assistance phone number for each station by June 2020 (with responsibility to answer the phone allocated to a specific staff member at all times). All stations would have a dedicated

number, but the phone and the person answering it need not be at the station - providing they are in a position to ensure assistance is delivered. The phone would be a mobile or another device capable of recording calls made. If an operator is using the mobile Passenger Assist staff application or another technology approved by the ORR to handover necessary information, it will not need to comply with this requirement.

These improvements are designed to reduce the incidence of failed alighting assistance, due to communication issues and/or uncertainty regarding who is responsible for providing assistance.

3.5 Staff training

We have revised the training requirements to include up to 9 specified key elements (depending on their role), and specified timescales for their inclusion in training and for staff to receive training. Other new requirements include: refresher training to be delivered every 2 years; that classroom based training must be used when new employees are inducted into the business; that the lived experience and expertise of people with a range of disabilities is utilised in disability awareness or disability equality training course development and delivery; that training must be up to date; and that agency and contracted staff must receive condensed training where reasonably practicable.

These proposals aim to give staff the skills, knowledge and support to help passengers travel with confidence and dignity, and improve reliability.

3.6 Raising Passenger Awareness

We have amended the Guidance to require operators to work with charities, local authorities, local service providers, local or regional access groups, and a group of users to promote Assisted Travel and obtain feedback, as well as reporting on this activity to ORR. We will also require that the term 'Passenger Assist' is used on each operator's website when describing the system to book and provide assistance, and key information, reflecting that presented in the passenger leaflet, is provided on a single page linked to on each operator's website homepage.

3.7 Notice period for assisted travel

We are requiring reductions to the Passenger Assist notice period to which operators must as a minimum commit, from the current 24 hours so that passengers can book:

1. Up to 10pm the day before travel, from 1 April 2020;
2. A minimum of 6 hours before travel, from 1 April 2021; and
3. A minimum of 2 hours before travel, from 1 April 2022.

We are requiring that operators advertise the National Freephone Passenger Assist number so that passengers know they can book assistance 24 hours a day, seven days a week and do not need to rely on an operator's contact centre being open.

This will reduce network-wide inconsistency and passenger confusion regarding notice periods, and improve journey flexibility (in particular from 1 April 2021, regarding the time of return travel).

3.8 Modes of train operation

Assistance should be based on passenger needs, staff availability and station accessibility, in order that passengers are able to complete as much of their journey as is reasonably practicable by rail. We have revised the Guidance to ensure operators consider a variety of means for providing assistance (e.g. alternative accessible transport) and consider the ability to use staff flexibly to ensure that assistance can be delivered either by train staff, station staff or mobile staff where such working practices are routinely operated or can reasonably be accommodated. If an operator is considering a change to train or station staffing levels, we require that it has alternative measures in place to ensure that passengers who have not booked assistance in advance can still receive assistance in a safe manner. Operators must, where reasonably practicable, offer an option that most resembles the service provided to passengers not requiring assistance.

3.9 Assessment of risk of passengers not being provided with assistance

New licence holders, and those planning a change in train or staffing levels, must submit to the ORR an assessment of where passengers are most at risk of not being able to receive the required assistance, and of the plans to mitigate this risk.

3.10 Redress

We have introduced a requirement that when booked assistance has not been provided as confirmed, the operator on whose train the passenger was travelling, or was due to travel, must provide appropriate redress to the passenger. The form and value of the redress may be determined on a case-by-case basis. The claim process must be promoted to passengers.

This will ensure every passenger is able to claim redress when things go wrong with booked assistance, regardless of which operator they are travelling with. It will provide further incentive for operators to improve the reliability of Passenger Assist.

3.11 Accessible substitute transport and accessible alternative transport

We have amended the Guidance so that, in addition to the existing requirements in this area, we also mandate that operators:

- make reasonable endeavours to ensure drivers of rail replacement bus services and taxis have been trained to provide appropriate assistance to rail passengers. This includes where access by private hire vehicles to stations is regulated under contract with the station operator;
- set out how, in cases of planned disruptions, they will make reasonable endeavours to secure accessible rail replacement services and taxis. For operators that are unable to secure accessible vehicles that are appropriate for the routes they would be used on, the operator must set out in its policy why this is the case;

- report periodically to ORR on the accessibility of rail replacement bus services they use (alongside the existing data we collect on the use of alternative accessible transport when train services are inaccessible).

This will help to ensure that when substitute or alternative transport is provided, it is accessible and the driver understands how to provide assistance.

3.12 Text Relay

We have amended the Guidance so that, instead of having only a Text Phone, operators are required to be able to take a call via text relay from a deaf or speech-impaired caller (including from Text Phones). In addition operators may also provide a video relay service, to enable communication using British Sign Language.

This should ensure that passengers who are deaf or have hearing loss, and other people, will benefit from text relay and where applicable Video Relay, and have the same access to an operator's customer contact centre as other passengers.

3.13 Other proposals

Operators must ensure where reasonably practicable that at every station it is clearly set out how passengers can speak to a human operator (e.g. via Freephone), including to obtain service information.

Operators' mobility scooter policies must be as inclusive as possible; any exclusions must only be as a result of an evidenced safety or physical restriction on carriage and be clearly set out; policies must also extend to other mobility aids.

These proposals will help provide passengers with the confidence that assistance can be easily obtained and reliably and professionally delivered.

Section 4: Evidence and analysis

Our proposals have been developed based on responses to our consultations on Improving Assisted Travel – first beginning in November 2017 and then again beginning in November 2018, along with further informal consultation and stakeholder engagement across 2018/19:

- We met with campaigning groups to understand their issues, and with operators to explore their Improving Assisted Travel consultation responses in more depth;
- Our Assisted Travel Advisory Group (ATAG) of experts from disability organisations, industry bodies, passenger champions and governments met three times in 2018 prior to publication of the most recent consultation;
- We held a separate workshop with disability groups that responded to the consultation to discuss Guidance revisions; this was followed up with a workshop with train operators;

- We held five cross-industry workshops in 2018 to discuss more reliable provision of Assisted Travel and inform the most recent consultation proposals;
- Informed by consultation responses, we held two further stakeholder workshops in May 2019 to help finalise the revised Guidance
- We visited a number of stations, including major hubs operated by Network Rail, to understand how assistance is currently provided to passengers; and
- Following receipt of consultation responses, we explored our training proposals in further depth with some operators that had raised concerns to discuss options for implementation; we attended two training sessions for frontline staff to see first-hand the changes made in light of our consultation proposals.

We have also ensured our work in this area is aligned across the railway industry. We have worked with the Railway Safety and Standards Board (RSSB) on its research into the development of metrics to measure the accessibility of the railways, and provided input to the UK Government's Inclusive Transport Strategy and Network Rail's Railway for Everyone study. We have also worked closely with the Rail Delivery Group on the development of a new, app-based replacement for the current Passenger Assist system. This new system is due to be rolled out across the GB rail network in 2020.

We continue to work closely with the Rail Sector Disability Champion, the Disabled Persons Transport Advisory Committee (DPTAC), the Mobility and Access Committee for Scotland (MACS), Transport Focus, Network Rail, the Rail Delivery Group, the UK Department for Transport, Transport Scotland and the Welsh Assembly Government.

This engagement helped us to develop our thinking, and provided a range of good practice and suggestions for improvements.

Evidence used in the formulation of the proposed improvements also included:

Restructuring the Guidance

- Stakeholder feedback indicated that the former requirements for the 'Passenger' document meant that it was difficult for operators to produce a concise and user-friendly leaflet. The leaflet also contained information which was not of immediate interest to the traveller e.g. the industry process operators must follow to update station accessibility information. The size of the leaflet could result in large printing and distribution costs, particularly when there were material changes to facilities and services that meant revisions were necessary. This could happen several times a year when there was significant investment in stations and rolling stock taking place. The evidence from our stakeholder engagement, including passenger champions, has been that such information is better located online where it can easily be kept up to date.

- Our mystery shop of spontaneous Assisted Travel found that the leaflet was available over the counter on just three out of ten journeys, and less than one in five respondents to a survey said that they found out about Assisted Travel from a leaflet. Our stakeholder engagement provided anecdotal confirmation that even regular users of rail travel rarely read the document.

Accessible journey information

- Analysis of existing information on National Rail Enquiries shows that across the network, information regarding step-free access and staff assistance is inconsistent and at times incorrect. There is no common approach to the communication of step-free access information on maps – leading to substantially different assumptions, interpretations and visual presentation. In many cases, this inconsistency exists between different information available from the same operator.
- Anecdotal evidence from operators supports the assumption that using incorrect accessibility information when journey planning and booking assistance has adverse impacts on the reliability of Assisted Travel

Assisted Travel reliability

- ORR data shows that 10% of alighting assistance fails – in general due to staff not being present to deliver this.
- Anecdotal evidence suggests that staff often complain they are unable to get an answer at destination stations, or that they have not received a call regarding an arriving passenger.
- Station-to-station calls are currently usually made via landlines, which do not provide a call log. Without a system to record when calls were made it is very difficult to establish the cause of a communication failure.

Staff training

- ORR research found that only 78% of unbooked requests for assistance met with staff positive and happy to help. Mystery shoppers identified staff attitude and training as a key area for improvement.
- ORR qualitative research identified that at times passengers felt hurried or dehumanised and that staff do not relate to their needs or concerns.
- The 2018 DfT consultation regarding the draft Accessibility Action Plan (Inclusive Transport Strategy) highlighted significant concerns over the consistency and standard of staff training.
- ORR assessment of operator training materials in 2018 found inconsistencies and gaps in provisions, as set out in our 2018/19 consultation.

Raising passenger awareness

- According to our qualitative research, 70% of potential Passenger Assist users had either not heard of the scheme or knew nothing about it. 86% of

potential users of unbooked assistance were either unaware they could travel spontaneously, or knew nothing about this.

- The research indicated there is significant untapped demand to travel by rail with assistance.

Notice period

- There is a wide variation in the advertised minimum notice period required, with 10 operators having notice periods shorter than the standard 24 hours before travel. This complexity is likely to be confusing for passengers – in some cases different notice periods will apply to trains at the same station.
- Operators have different policies and practices in the operation of booking contact centres.
- In some cases notice periods offered by one operator cannot be delivered by other operators (acting as subcontractors) with a longer notice period.

Modes of operation

- In recent years, a number of train operators have introduced what has been termed Driver Controlled Operation (DCO) –where a second person is usually present on board the train for customer service and/or ticket inspection but not responsible for door operation; in certain circumstances, the train may run without the second person.
- Our work with GTR regarding assistance provision under DCO on Southern routes and Driver Only Operation (DOO - where there is no second person on board the train) on Thameslink routes indicates that operators need to consider the options that may be available to provide passengers with assistance under a number of differing scenarios. This must include an assessment of passenger needs, station facilities and staff availability (both on the train and at the station).
- Several operators have recently taken the decision to employ mobile staff on the part of their networks where DOO is in operation to ensure assistance is provided at accessible stations when station staff are not present.
- The presence of staff makes a station immediately accessible to some disabled passengers. We recommended in our advice to the Williams Rail Review that DPTAC develops criteria for operators when making improvements to accessibility and/or changes to staffing arrangements, as part of a 'whole-system' approach to making the railway more inclusive.

Redress

- Our research into Passenger Assist found that one in five users do not receive all the assistance they have booked.
- There is a varied approach to the provision of redress across the industry, in terms of the redress provided, and whether information on their approach to redress is easily available or actively promoted.

Text Relay

- Based on evidence from operators, ORR is aware that the use of textphones is becoming less common.
- ORR has received advice from Action on Hearing Loss that the national text relay service should be adopted more widely.
- From the information available on National Rail Enquiries and current operator DPPPs ORR understood that only four operators have text relay contact numbers. However, in their responses to our November 2018 consultation a number of operators indicated they offer the service or are looking to do so.

Accessible substitute transport and accessible alternative transport

- ORR figures show that alternative accessible transport was provided on almost 6,000 occasions in 2017/18.
- Operators are also obliged to ensure that passengers have up to date information on the implications of disruption for their travel plans and arrange alternative transport for passengers that have booked assistance if required.
- Overall, around 58% of taxi and private hire vehicles (PHVs) in England are already wheelchair accessible, but these tend to be concentrated in urban locations and taxi fleets. The proportion of wheelchair accessible PHVs remains very low, at about 2%. In Scotland, 47% of licensed taxis are wheelchair accessible. Under the Equality Act, local authorities have the power to issue lists of wheelchair accessible vehicles and publish them.
- ORR knows from complaints received that the availability of accessible taxis, private hire vehicles and buses varies considerably. In some locations passengers can wait a long time for an accessible taxi to be provided.
- In March 2018, Article 16 of EU Regulation on the rights of bus and coach passengers (EC181/2011) came into force, requiring all bus drivers to undergo disability awareness training. The Government's 2012 consultation on whether to exempt UK bus and coach services from duties under the regulation provided evidence to show that approximately 75% of drivers had already received some sort of disability awareness training as part of achieving a Certificate of Professional Competence. There is no requirement for taxi drivers to have been similarly trained – ORR is aware from stakeholder engagement and incidents reported on social media that passengers do not always get the service they need from taxi drivers.

Other proposals

- (Staff contact) Only 307 of the 1554 stations advertised as 'step-free' are staffed from first to last train. 73% of stations have Help Points, although there are franchise commitments to increase the number of stations that have Help Points or Wi-Fi. The current Guidance does not require that operators inform passengers at stations how they can make contact.

- (Mobility scooters) All operators restrict or prohibit the carriage of mobility scooters in some circumstances. There is a wide variation in policies across the network.

Section 5: Analysis

Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the 2010 Act.

The changes to the Guidance are designed to improve Assisted Travel and to help widen access to the railway network and eliminate the disadvantages that prevent access. Although all protected characteristics have been considered, as the amendments are limited to the issue of improved access, it is believed that the only groups of people likely to be affected, are disabled people; certain age groups who are more likely to have reduced mobility; and those who are pregnant or on parental leave.

The proposed amendments to the Guidance remove some existing barriers to access for disabled and older people, and as such reduce the likelihood that existing policies and practices, and physical features, amount to unlawful discrimination.

Importantly, none of the changes are considered to increase the likelihood of discrimination.

The evidence obtained by the ORR suggests that the following positive impacts on existing discrimination will result from the proposals:

Restructuring the Guidance

- A more focussed 'Passenger Leaflet' will make it easier for operators to produce a concise, user-friendly and accessible document focussed on key information – including in leaflet form at stations, and in alternative formats on request. Network Rail's new Station Guides will provide information on the accessibility of Network Rail stations available to passengers at those stations, which is not provided at most of its stations.
- In addition, as supported by DPTAC, station and rolling stock information will be kept up-to-date online (and provided in downloadable accessible formats and in print and accessible formats on request) rather than go out of date in leaflets. This will reduce the likelihood of reduced mobility passengers experiencing discrimination when accessing this information by being provided with out of date information.
- We are strengthening the accessibility requirements for operators' websites and will monitor operators' progress towards achieving these requirements in July 2020. However, we recognise that digitalising the provision of some information may mean some service users are less able to access it, and although station and rolling stock information will be available on request from operators, they may not always be able to contact operators in advance.

- This may mean some people find it more difficult to access information necessary for them to travel. In a small number of cases, despite the mitigations set out above, this may mean that passengers wrongly expect facilities which are not present (e.g. accessible toilets), which could contribute to the likelihood of unlawful discrimination.

Accessible journey information

- Current issues regarding consistency and accuracy of information mean many existing and potential passengers are not made aware of important accessibility information. This may amount to indirect discrimination and/or failure to make a reasonable adjustment.
- Improving the availability and consistency of accessibility information to both passengers and staff will reduce the likelihood that prospective passengers are unaware of journey opportunities or barriers to access, and will support the delivery of reliable Assisted Travel. This is likely to reduce the prospect of discrimination.

Assisted Travel reliability

- The current failure rate for alighting assistance raises the concern that operators are failing to meet their legal duties to passengers under the Equality Act 2010. Improving station-to-station / station-to-train handover and communication is intended to increase the reliability of alighting assistance and will mean that Assisted Travel can be established as a reasonable adjustment.

Staff training

- Inadequate staff training may result in discrimination – especially if inappropriate staff behaviour is systemic rather than resulting from an isolated incident. Poorly trained staff may also mean that the operator cannot deliver its services in an age-inclusive way, which may amount to discrimination against older people.
- Our new requirements will improve the quality and consistency of training, and the frequency of refresher training. This is likely to reduce the discrimination experienced by older and disabled people.

Raising passenger awareness

- The current low awareness of the availability of assistance is likely to mean many potential older and disabled passengers are excluded from travelling by rail, or do not receive assistance when they do. This may amount to direct or indirect discrimination.
- The proposed changes are designed to increase awareness which will reduce the likelihood of this.

Notice period

- The current arrangements have the potential to suppress passengers' confidence to travel, and may have an impact on Assisted Travel reliability. The inconsistency across the network in terms of notice period is also likely to hamper access to assistance and could, depending on the circumstances, mean an operator with a longer notice period is acting unlawfully, if it could be established that it has failed to make a reasonable adjustment.
- Having to provide advance notice of travel to ensure assistance is provided generates regular complaints from disabled passengers, who may feel that this represents substantial disadvantage when compared to non-disabled passengers.
- Our new requirements will incrementally reduce the standard minimum notice period across the industry. From April 2022 the notice period will be reduced to two hours. Although some operators will continue to offer a shorter notice period than 2 hours (either 1 hour or a 'Turn Up and Go' service), this will ultimately result in a much more consistent approach amongst operators and result in better availability of assisted travel provision. Although having a notice period creates some disparity in the treatment between passengers with reduced mobility and those without, it is considered that operators still need to be provided with some time in order to be able to organise the necessary assistance. A consistent notice period of two hours helps to prevent unlawful discrimination.
- However, it is possible that for some longer journeys two hours' notice will be insufficient to secure a seat or wheelchair space reservation. Similarly, where it is not reasonably practicable to provide assistance to board or alight the train, alternative accessible transport may be more difficult to secure at two hours' notice in locations where provision of accessible vehicles is very limited. Operators are obliged to set out in Passenger Leaflets whether seat reservations and wheelchair space bookings are possible on the day of travel.

Modes of operation

- Where an operator fails to consider options that enable the passenger to complete as much of their journey as is reasonably practicable by rail this may be discriminatory.
- Our requirement that operators consider a variety of means for providing assistance, including the ability to use staff flexibly, and mitigate the risk of assistance not being provided where reductions in the levels of staff on board trains or at stations are being considered, will reduce the likelihood of such discrimination occurring.

Redress

- The current inconsistency of policies and information is likely to limit the number of passengers seeking redress, which in turn may contribute to a lack of focus by the operator on improving the reliability of Passenger Assist. Improved redress policies will reinforce that assistance failure is unacceptable, and will contribute to a network-wide culture of improvement, reducing the likelihood of discrimination.

Text Relay

- Text relay offers hearing and speech-impaired users an improved real-time experience when communicating. As such it reduces the likelihood that older and disabled people will experience discrimination when accessing information through Customer Contact Centres.

Accessible substitute transport and accessible suitable alternative transport

- Where accessibility to trains is not practical, if an operator does not source alternative accessible transport this would be likely to reduce access to travel for those with reduced mobility.
- Where bus and taxi drivers have not been trained, this may result in direct discrimination by the driver, a failure to provide an auxiliary aid on their part, and/or a failure to make a reasonable adjustment by the driver.
- The changes to the Guidance to increase transparency of the provision of accessible vehicles exert pressure on operators to source these and ensure drivers are trained – which will reduce the likelihood of discrimination occurring. Ultimately, the ORR does not regulate the provision of public service vehicles, private hire vehicles or taxis.

Other proposals

- (Staff contact) Poor information on how to contact staff is likely to act as a barrier to some older and disabled passengers obtaining information and assistance at some stations. Improving access to staff will benefit some older and disabled passengers and reduce the likelihood of discrimination.

However, the proposals do allow some contact methods which will exclude some people – for example Help Points which usually rely on verbal communication. Although we propose that operators undertake risk assessments of their services and facilities, some passengers may still experience discrimination – for example hearing or speech impaired people in locations where text relay cannot be used.

- (Mobility scooters) The proposals will result in operators having a policy of accepting mobility scooters and other mobility aids, unless they can demonstrate to the ORR there are reasonable grounds for refusal. This has the potential to increase the number of older and disabled people who can travel who are currently unable to do so. The extent to which operators will be able to reduce the disadvantage experienced by scooter users is constrained

by station and rail vehicle design issues – in particular: the available turning circle on platforms and within trains; and the gradient of platform-train ramps (minimum new-build standards, specified for wheelchair users, do not in general support safe and accessible use by mobility scooter users).

Section 6: Further elimination of discrimination

ORR has only considered the provision of Assisted Travel which for the reasons set out above is believed to further eliminate discrimination. Decisions on the funding and delivery of accessibility improvements to station infrastructure, and consideration of the levels of staffing at stations and on trains, are the responsibility of operators, the Government, devolved administrations and rail franchising and concession authorities. In our response to the Williams Rail Review we recommended that DPTAC is best placed to provide advice to operators when making improvements to accessibility and/or changes to staffing arrangements, as part of a ‘whole-system’ approach to making the railway more inclusive.

There are additional measures that could reduce further the likelihood of unlawful discrimination that are outside the scope of our amendments to the Guidance:

- strengthening further the requirements regarding turn-up-and-go assistance, beyond the measures already included in the revised Guidance to improve the reliability of assisted travel more generally – which include, in particular, the required improvements to the lines of communication between staff at boarding and alighting stations and making train operators accountable for failures of this communication. Whilst further measures would make industry processes for delivering both booked and unbooked assistance more robust, our evidence is that satisfaction with the service is good and we recognise that - without the certainty of numbers that booked assistance provides - operators will continue to face challenges where demand exceeds their ability to respond immediately.
- mandating that at stations information must also be provided on how to contact the operator via methods other than voice – i.e. to ensure hearing and speech impaired people are not excluded, for instance with video-linked Help Points with access to BSL-fluent operators, text relay etc.
- current industry publicity regarding Assisted Travel refers to the availability of assistance to ‘disabled people’ or ‘people with reduced mobility’ or, as per the title of passenger leaflets, ‘older and disabled people’. We could require that where appropriate references to assistance also specifically refer to people with the protected characteristic of Pregnancy and Maternity who may also require assistance, and that these people are also targeted by operators when seeking to raise awareness. However this would go beyond the scope of licence condition 5.
- mandating that, where assistance is booked, on-train staff must be notified and must make contact with the passenger to confirm how alighting

assistance is to be provided, must take all reasonable steps to ascertain whether this is delivered, and, if not, must either deliver this themselves or seek assistance from station staff before the train departs. Given their other duties, on-train staff are not necessarily able to provide the full range of assistance that may be required at a station. In addition, of the 1554 stations in Great Britain that provide step-free access to the platform, 1247 are either not staffed or are staffed for only part of the time during which services call. In such differing circumstances we expect operators to consider a variety of means of providing passengers with the assistance that they require to complete their journey, of which this might be one.

Advance equality of opportunity between people who share a particular protected characteristic and people who do not share it.

The changes all either require or encourage operators to take steps which will have a positive impact on the disadvantages suffered by older and disabled people. In particular, raising passenger awareness, reducing the assistance notice period, improving staff training, and improving assistance reliability will positively impact on a significant number of current and potential passengers – advancing equality of opportunity between older and disabled people, and others.

Several of the new requirements will address needs that are different from the needs of other people. In particular, older and disabled people are significantly more likely to need assistance when travelling than others – these changes will help address this, as will proposals relating to alternative accessible transport. Older and disabled people are also more likely to need to communicate with staff, including in alternative formats (for example via text relay). Requirements to promote and improve relevant information will also help advance equality of opportunity. Improvements to staff training will help ensure that operators' employees can take appropriate steps to meet the different needs of passengers, including those with invisible disabilities.

It is well established that disabled people in particular travel by train less than other passengers. Proposed improvements to the service provided, as well as requirements to promote train travel to relevant people, will support an increase in the use of rail services by older and disabled people. The ability to use transport is a key factor in the ability to access goods, services, leisure and employment – increased use of the railway supports increased participation in public life.

No significant specific impacts are expected regarding other people with Protected Characteristics. However, in general terms, a greater focus on Disability / Age equality issues by operators may support an organisational culture where other equality improvements can be identified and implemented.

Possible measures to advance further equality of opportunity

As above, although we recognise the benefits this would provide passengers in terms of equal access to rail services, we have not strengthened even further the requirements regarding turn-up-and-go assistance given the challenges presented

by inaccessible infrastructure and the difficulties operators will continue to face where demand exceeds their ability to respond immediately

Foster good relations between people who share a particular protected characteristic and people who do not share it.

The proposals are not specifically focussed on this objective, as they mainly concern processes, policies and the relationship between operators and passengers.

Improvements to training may have wider positive impacts on the participants, beyond just their actions at work. Training may also contribute to improved organisational culture, which may have associated benefits – including with regard to good relations between employees.

Improvements to training will help ensure that assistance is delivered professionally, without delay, and in a way that does not draw attention to the assisted passenger – e.g. while the train is held briefly while a ramp is attached. Trained staff can provide assistance with the minimum of fuss - helping support wider understanding that meeting older and disabled people's travel needs is part of the day-to-day running of the railway, which can help foster good relations between all passengers.

Possible additional measures

We will explore with the Rail Delivery Group whether consideration could be given to extending to the national network Transport for London's 'Please Offer Me a Seat' campaign. This encourages passengers to offer the Priority seats onboard trains to those that need them.

Decision making

The changes have no adverse or negative impact on people who share a protected characteristic. It is likely that they will contribute towards a reduction in discrimination, an advancement of equality of opportunity, and may help foster good relations. As such, there is no barrier to progressing with the proposals as planned.

Monitoring and evaluation

Disabled people remain much less likely to use rail than people without disabilities³, but demand for rail travel and for the Passenger Assist service is increasing: as the UK population ages, the number of disabled people has grown to almost 14 million, and the number of assistance requests and Disabled Person Railcard holders continues to increase year on year⁴. Disability is not limited to one section of society:

³ The National Travel Survey (2017) indicates that people with a 'mobility difficulty' take 10 surface rail trips per year on average, compared with 26 trips for people with no 'mobility difficulty'.

⁴ In 2017-18, the number of Disabled Person's Railcards increased by 7.4%; the number of passenger assists increased by 5.7%.

19 per cent of working age adults are disabled and 45 per cent of pension age adults are disabled. Many disabilities may not be immediately obvious: a quarter of disabled people have a mental health impairment, whilst around 4 in 10 disabled children have a learning, social or behavioural impairment.⁵

The following sources of data will be used by ORR to monitor the impact of the proposals on an ongoing basis:

- Passenger Assist research (sample of actual users)
- ‘Turn up and go’ assistance research (mystery shopping)
- Desk-based research into accessibility and Assisted Travel information, including a review of operators’ websites in July 2020
- Ongoing ORR monitoring data relating to Passenger Licences/ ATPs
- Operator reporting to ORR across a range of relevant measures – including assistance failure and compensation

The data will be used when approving operators’ ATPs, when carrying out enforcement activity, and to provide evidence for any subsequent proposed amendments to the ATP Guidance, or clarification notes.

We will also require from operators in July 2020 evidence of progress towards meeting our training requirements. This may include the provision of updated training materials.

⁵ Source: Family Resources survey 2016/17: <https://www.gov.uk/government/statistics/family-resources-survey-financial-year-201617>