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Dear Stakeholder

Condition 5 of the Station and Passenger licence: Statement of National Regulatory Provisions (SNRP)

The purpose of this letter is to remind licence holders as to their obligations under Condition 5 of the Station and Passenger licence: Statement of National Regulatory Provisions (SNRP).

Under this condition the licence holder must establish and comply with a statement of policy and detailed body of arrangements, procedures, services and other benefits to be implemented or provided by the licence holder designed to protect the interest of people with disabilities (together the DPPP).

This letter focuses on the obligation for licence holders when establishing or making changes to their DPPPs to:

“have due regard to the code of practice published by the Secretary of State pursuant to section 71B of the Act...” **(the Code)**.

The Code

The Code is a detailed document that ensures that any infrastructure work at stations is carried out in recognition of accessibility needs. It applies at the point at which a licence holder installs, renews or replaces infrastructure or facilities.

The latest version of the Code '*Design Standards for Accessible Railway Stations*', March 2015 can be found at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/425977/desi



[gn-standards-accessible-stations.pdf](#)]. Published jointly by the Department for Transport and Transport Scotland (DfT and TS respectively) it fulfils the statutory obligation under section 71B of the Railways Act 1993 (RA93) for the Secretary of State to:

- “(a) prepare and from time to time revise, and
- (b) publish and otherwise promote the adoption and implementation of,
a code of practice for protecting the interests of users of railway passenger services or station services who are disabled.”

We have identified some instances where licence holders have:

- misinterpreted the point at which the Code comes into effect i.e. what is and is not a qualifying work;
- not followed due process in terms of applying to the DfT for a dispensation or derogation when unable to comply with a national or European standard respectively; and/or
- misunderstood that their obligations under licence continue even where works are designed and implemented by a third party such as a local authority.

We are not sure that these problems are widespread but to assist in ensuring future compliance this letter provides advice on each of these aspects.

When is the Code triggered?

The Code applies in all public circulation areas within railway stations. A station is defined at section 83 (1) of RA93 as:

“Any land or other property which consists of premises used as, or for the purposes of, or otherwise in connection with, a railway passenger station or railway passenger terminal (including approaches, forecourt, cycle store or car park), whether or not the land or other property is, or the premises are, used for other purposes.”

With certain exceptions set out in Annex II operators are required to meet the European and national standards, as set out in the main body of the Code, **when providing new, renewed or replacement facilities at stations.**



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It is important to note that the trigger for activating the Code is low and is not confined to major works such as the introduction of new decks to an existing car park, relocation of a car park or the rebuilding or relocation of ticket halls or access points. It can be triggered for much lesser works within the station confines and the assumption should be that the Code always applies whenever any work is carried out.

In the case of any doubt, licence holders are encouraged to talk to the DfT in situations where they are contemplating new works.

Applications for a dispensation or derogation

Annex IV of the Code sets out the process of applying for a dispensation or derogation from the code. Where a licence holder is unable to comply with the Code national standards, it must apply to the DfT for a dispensation. Where it is unable to comply with the European PRM TSI standards, it must apply to the DfT for a derogation.

The Code makes clear that an application for a dispensation or derogation must be made as early in the process as possible, and well before finalising designs, arranging finance, seeking planning and other consents (including station change), and *well before any construction is commenced*. Retrospective applications will not be accepted.

The DfT Railways for All team at: railwaysforall@dft.gsi.gov.uk can provide further information and the appropriate forms where required.

Third party design and delivery

It has come to our attention that some licence holders may be working on the mistaken assumption that works that receive planning consent and have been undertaken jointly or through a third party such as a local authority and are deemed to be Equality Act compliant will then be automatically compliant with the Code.

We are taking this opportunity to remind licence holders that responsibility for ensuring compliance with the Code rests with the licence holder irrespective of the identity and/or process adopted by the third party and that Equality Act compliance does not necessarily fulfil all of the requirements of the Code. Equally, meeting the standards in the Code does not automatically mean compliance with the Equality Act. Licence holders are encouraged



to seek the views of local disability groups when planning station works and where necessary to seek legal advice.

Monitoring and enforcement

Compliance with the Code should be treated in the same manner as compliance with any other licence condition. **By failing to comply with the Code, an operator is in breach of its licence and may be subject to enforcement action by the ORR.**

In order to support our monitoring activity in this area we will, in future, use our role in the approval of modifications to Station Access Agreements to trigger information requests with the purpose of ensuring that licence holders have followed due process.

On receipt of either a request for Registration of an agreed Station Change proposal in advance of approval, or of an approval submission¹ the ORR team responsible for monitoring compliance against the Code will write separately to the licence holder asking for confirmation that the relevant licence holder has reviewed its obligations under the Code. The team will also ask the licence holder to give its view on:

- the sections of the Code that are triggered as a result of the Change Proposal or the reasons why the Code is not triggered; and
- any intention of the licence holder to seek a derogation or dispensation from the DfT for all or part of the works and the reasons for this.

We will also ask the licence holder to advise on completion of the works that they have been carried out in compliance with the Code. We will also expect the licence holder, at that time, to identify and provide reasons for any variation to the information provided in response to our earlier enquiries.

For the avoidance of doubt these new enquiries will remain parallel to and are not part of the process for approval of Station Change proposals. For this reason they should not extend or otherwise have a bearing on the existing regulatory approval process.

We acknowledge that we will not pick up all changes at stations that might trigger the Code, in particular those that fall under the definition of “*Non-Discretionary Change*” i.e.

¹ Which in the case of Material Change could be submitted by a Station Investor, Network Rail or a station licence holder and submitted for specific approval or by way of the General Approval



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changes that are required as a result of any change of law, direction of a 'Competent Authority'², or to comply with any safety obligation. Such changes do not need to come to ORR for approval. This does not mean, however, that the Code does not come into play and it is the responsibility of licence holders to ensure that they discharge their obligations under the Code when undertaking a Non-Discretionary Change.

We will continue to monitor failure in compliance with the Code by way of complaints and from spot audits that we might undertake from time to time.

Next steps

We intend to start the new enquiry process described above with effect from 21 December 2017.

We are now asking each licence holder to provide a key contact within its organisation who is responsible for ensuring compliance with the DPPP licence condition and, in particular, the Code and for that person to confirm understanding of the contents of this letter.

Please direct any enquiries on the Code to railwaysforall@dft.gsi.gov.uk and on the new process triggered by Station Change proposals to Anna Saunders (DPPP@orr.gsi.gov.uk):

Yours sincerely

Stephanie Tobyn, for Office of Rail and Road

Bill Reeve, for Transport Scotland

Brian Etheridge, for Department for Transport

² Defined broadly within the conditions to include local and national agencies, courts and so on.